

## **Public Outreach – Municipal Code Changes Regarding the Appeals Process**

### **Applicant Focus Group – June 5, 2019**

(Invitation sent to all applicants who had been involved in an appeal in the last three years)

City Staff        Delynn Coldiron, City Clerk  
Present:        Sylvia Tatman-Burruss, Development Review Liaison

Participants:    One Attendee

Meeting  
Specifics:        Wednesday, June 5<sup>th</sup>, 1:00 P.M. 281 North College Ave.

#### **Discussion:**

##### Council Appeals:

- Is there a reason why Councilmembers do not have to pay for an appeal?
  - Councilmembers theoretically are raising issues from a policy standpoint (they are asking questions, not arguing anything). Their appeals are intended to foster additional discussion and Council review of issues of concern.

##### Definitions:

- Does it really make sense to have renters included as party-in-interest?
  - Currently, only property owners receive notification of Development Review projects. If the Municipal Code is updated to include renters in notification, we anticipate a change to match what is happening in Development Review. Members of the Planning and Zoning Board asked that notifications related to development review projects be sent to renters as well as owners. Members of the board expressed a desire for this change because they believe that because nearly 50% of Fort Collins residents are renters, they may also have an interest in how a project will affect them. Sending notification letters to renters is currently being piloted by the Development Review team and has not yet been codified.

##### General:

- What was the catalyst for the change of the appeals process?
  - Changes were initiated by staff to clarify procedures based on questions that have been received by those involved in the appeals process, as well as staff. Some of the changes also document current practices that are occurring. Concerns about due dates for materials and not having enough time to pull things together has been expressed to staff on multiple occasions.
- Will the criteria for filing an appeal remain the same?
  - Yes. The criteria for an appeal is not proposed to change.

New Evidence:

- In what way does it change materials that can be submitted to Council?
  - It establishes deadlines for and clarifies the information that can be submitted as new evidence. New evidence will only be allowed if there is a fair hearing issue as described in Section 2-49:
    1. information considered was false or grossly misleading; or
    2. the hearing body failed to receive all relevant information; or
    3. the hearing body was biased.
- If there are slides at the end of a presentation that are not shown at the hearing, do those need to be included in the appeals documents or only those that have been shown in the hearing?
  - Only the slides that have been shown at the hearing or neighborhood meeting. The additional slides only need to be included if they were presented and were part of the formal record.
- Wouldn't there be new evidence in each hearing?
  - Not necessarily. But new evidence can come up at the time of the hearing which, now, both sides must take time at the meeting to review and Council asks whether there are any objections to the new information provided. The proposed changes try to eliminate this by setting deadlines for new evidence submittal and clarifying the type of information that would be allowed.

Notice:

- Why was the 10 days moved to three weeks?
  - To enable the parties opposing the appeal to have sufficient time to prepare.
  - The applicant should have materials ready; they should be the same as was used at the hearing. It seems unfair to give them time to additional time to rebut what is in the appeal if the same opportunity is not given to the appellants.

Remanding to Another Board:

- When would a decision be remanded and to which decision-making body would the decision be remanded to?
  - This is most likely to occur with a Type 1 Administrative Hearing. If the decision were remanded, it would likely be remanded to a board such as the Planning and Zoning Board.

Timelines:

- The issue of a longer appeals process is troublesome and can potentially be a high cost burden for the developer. That developer may then attempt to pass on the cost to the prospective future property owner, therefore increasing the price of the property. With the current appeals criteria, neighbors can simply use the process to be obstructionist and they do not have to present other evidence at the time of the appeal. Therefore, there seems to be a bias towards the appellant and not the applicant.

- Can the City Clerk's office offer only one date to the appellant for the appeal to speed up the scheduling process?
  - The Clerk's office can try; however, we generally try to work with everyone involved to find a time that is agreeable. Working around schedules can be challenging.