

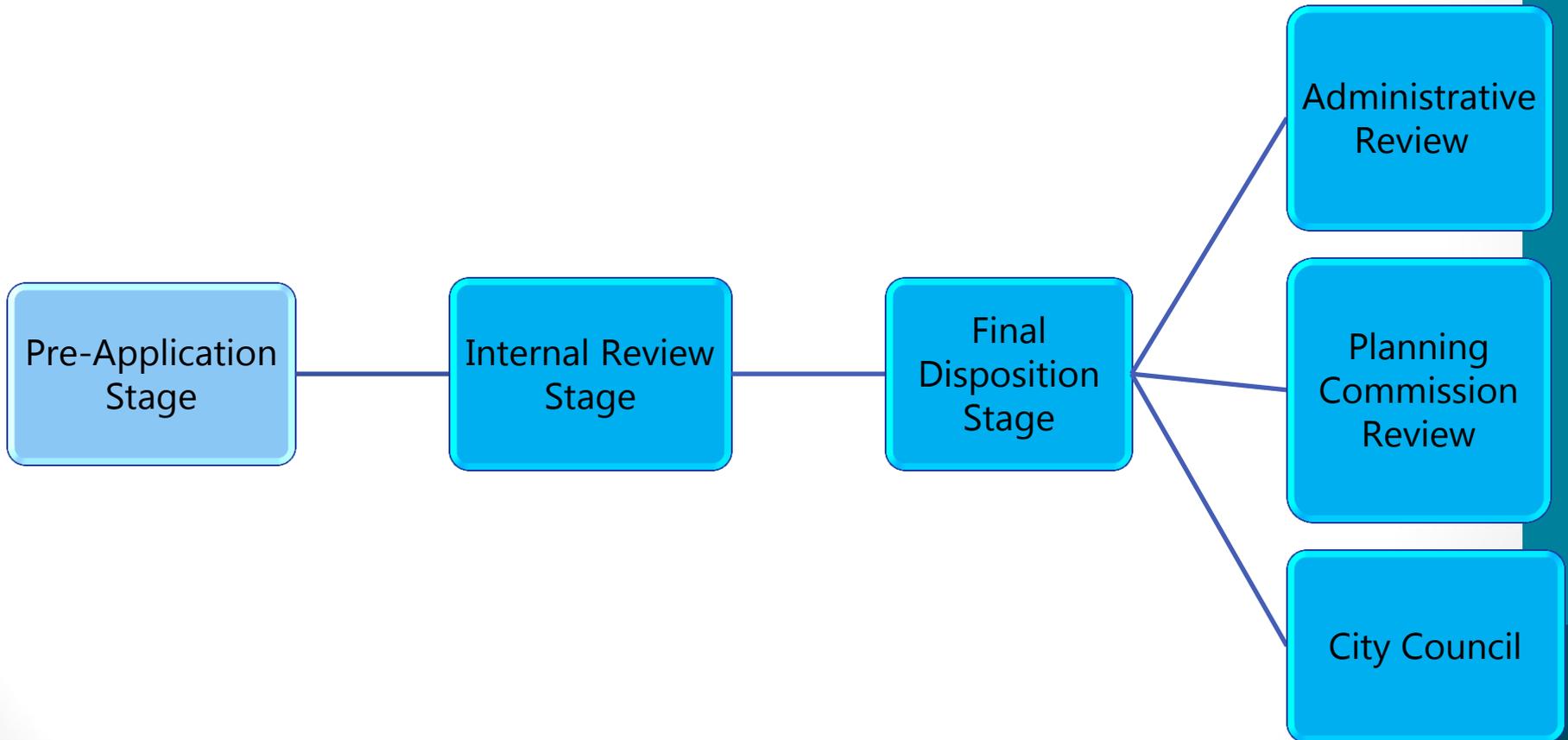
Neighborhood, Adjoining Owner and Appeals Issues

Infill Steering Committee
December 16, 2014

This is Not Planning and Zoning 101

- But staff are available, and follow-up off-line questions are welcome
- Building permit process (including City role) is not a focus of this presentation

Development Review Process



Comparative Numbers 2013 and 2014 YTD

- Pre-application Meetings
 - **1,470**
 - 50%+ result in a project application
- Administrative Applications **1,292**
- Planning Commission **193**
 - Smaller number go on to City Council
- Downtown Review Board **23**

- Projects with notices sent **562**
- Projects with neighborhood meetings - around **100**

Administrative Review

- Final decision at staff level- but appealable to CPC
- Uses permitted by “right”
- **Most administrative review includes public notification and neighborhood meetings**
 - Concept plans and development plans
 - Major amendments to concept plans and all amendments of development plans
 - Minor amendments and adjustments to master plans
 - Nonuse variances and minor amendments or modifications thereto
 - Major or minor amendments or minor modifications to conditional uses
 - Major or minor amendments or minor modifications to use variances
 - Most administrative relief and amendments and minor modifications
 - Final plats
 - Similar use determinations and interpretations

City Planning Commission Review

- **Recommendation** to the City Council on:
 - Comprehensive plan and area master plans.
 - Annexations
 - Zone changes
- **Final action unless appealed to City Council:**
 - Conditional uses
 - Nonuse variances referred to the Planning Commission or associated with other development applications;
 - Development plans, concept plans including any amendments submitted, referred, or appealed to the Planning Commission;
 - All applications and interpretations referred to the Planning Commission;
Street name changes;
 - Subdivision procedural requirements and design standard waivers
 - Use variances.

Downtown Review Board

- Final action unless appealed to City Council
 - Warrants (variances from FBZ standards)
 - Conditional Uses
- Recommendations to City Council
 - Changes to the FBZ

City Council Review

- Appeals of Planning Commission action
- Zone changes (including CPs and any concurrent DPs)
- Comprehensive Plan/amendments, and area master plans
- Right-of-way vacations
- Entitlement forfeiture

note there are less bullets here

Typical Infill Applications

Outside the Downtown Form-Based Code

- Zone Change
- Concept Plan
- Development Plan
- Non-use Variance
- Use Variance

Within the DT Form-Based Code

- Development Plan
- Warrant (variance)

Neighborhood Notification

Administrative applications:

- Direct mailing to property owners within 150, 500, or 1000 feet – City Code allows discretion
- List generated by staff based on County Assessor's property information
- On-site posting of a 24" by 36" poster
- HOA or neighborhood association

CPC, DRB and CC applications

- On-site posting of a 24" by 36" poster
- Direct mailing
- HOA or neighborhood association
- Agendas

Discretionary neighborhood meetings



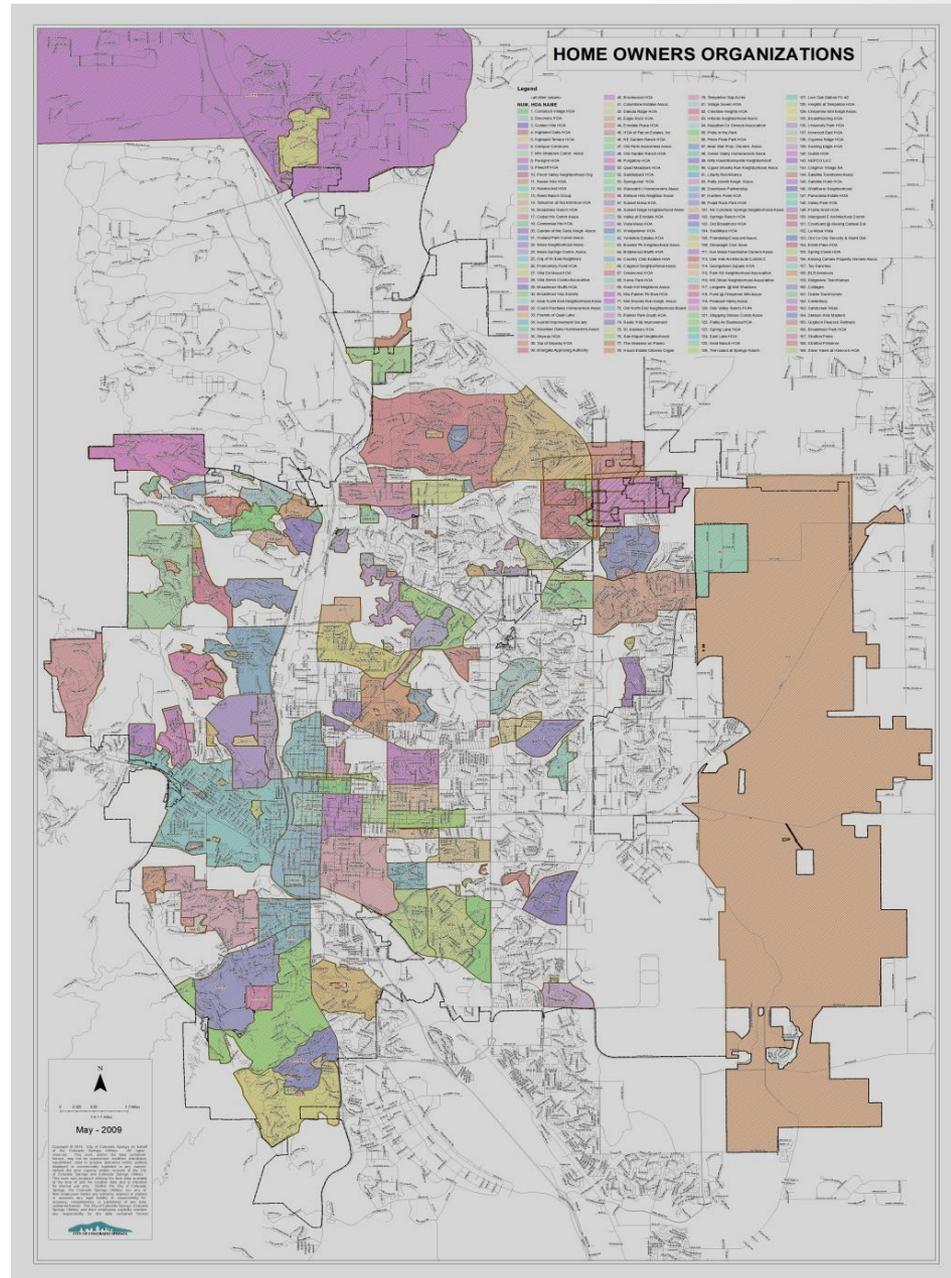
Neighborhood Process Concerns

- Neighborhood expectations
- Mitigation (e.g. less density or intensity, more buffering, fix existing neighborhood problems)
- Time and Delay (including project redesign to appease and garner “no objection” to avoid denial or appeals)
- “Harmonious and Compatible” (subjective, open to interpretation, easy to appeal)
- Unpredictability and equal standards
- Influence and power of surrounding neighbors

Neighborhood Process Positives

- Ability to address concerns
- Reduce risk of an appeal
- Make project “harmonious and compatible”
- Potentially higher quality design
- Public has a voice

Map of Neighborhoods and HOAs



Neighborhood Meetings

- Discretionary determination by planners
 - 50/50 split before and after submittal
 - 50+ per year total
 - some planners have up to 20
- Primarily set up and run by the applicant
 - Staff provides list for notice and attends as resource
 - Other departments might participate
- Occur most often in residential context
 - But could be adjoining non-residential
- Adds cost to process but not necessarily any more days to the process

Review Criteria

- Established by City Code for each application type
- Projects must meet *all* criteria to be approved

Development Plans

All new non-single family projects require development plans

Criteria

- Will the project design be harmonious with the surrounding land uses and neighborhood?
- 2. Will the proposed land uses be compatible with the surrounding neighborhood? Will the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities?
- 3. Will the structures be located to minimize the impact of their use and bulk on adjacent properties?
- 4. Will landscaping, berms, fences and/or walls be provided to buffer the site from undesirable views, noise, lighting or other off site negative influences and to buffer adjacent properties from negative influences that may be created by the proposed development?
- 5. Will vehicular access from the project to streets outside the project be combined, limited, located, designed and controlled to channel traffic to and from such areas conveniently and safely and in such a manner which minimizes traffic friction, noise and pollution and promotes free traffic flow without excessive interruption?
- 6. Will all the streets and drives provide logical, safe and convenient vehicular access to the facilities within the project?

DP Criteria cont.

- 7. Will streets and drives within the project area be connected to streets outside the project area in such a way that discourages their use by through traffic?
- 8. Will adequately sized parking areas be located throughout the project to provide safe and convenient access to specific facilities?
- 9. Will safe and convenient provision for the access and movement of handicapped persons and parking of vehicles for the handicapped be accommodated in the project design?
- 10. Will the design of streets, drives and parking areas within the project result in a minimum of area devoted to asphalt?
- 11. Will pedestrian walkways be functionally separated from vehicular traffic and landscaped to accomplish this? Will pedestrian walkways be designed and located in combination with other easements that are not used by motor vehicles?
- 12. Does the design encourage the preservation of significant natural features such as healthy vegetation, drainage channels, steep slopes and rock outcroppings? Are these significant natural features incorporated into the project design? (Ord. 94-107; Ord. 95-125; Ord. 01-42; Ord. 02-64; Ord. 03-74; Ord. 03-157; Ord. 09-50; Ord. 09-78; Ord. 12-72)
- DP Criteria:

Appeals

- Administrative → CPC
- CPC or DRB → CC

- Can be filed by any person “aggrieved” by the decision
- Acts as a stay (suspension) of action
- Limited periods to file initially:
 - 10 calendar days for administrative decisions, Planning Commission or Downtown Review Board (DRB)
- Allowances for continuances
 - For Council either party can be granted at one time automatic, if requested
 - No similar “free bump” option with PC
 - Both PC and Council can continue further

Appeal Numbers 2013 and 2014 YTD

- Administrative to Planning Commission- **5**
- Planning Commission to City Council- **12**
- Relatively few decisions are appealed
- Prospect of appeals may be more concerning

Criteria for Appeal to CPC or DRB

Identify the explicit ordinance provisions which are in dispute.

Show that the administrative decision is incorrect because of one or more of the following:

- (1) It was against the express language of this zoning ordinance, or
- (2) It was against the express intent of this zoning ordinance, or
- (3) It is unreasonable, or
- (4) It is erroneous, or
- (5) It is clearly contrary to law.

Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant

Appeals of CPC, DRB or HPB to City Council

- Council can grant the appeal, uphold decision, modify approval or refer back to CPC, DRB, HPB
- Council may limit the review only to issue raised in appeal or *de novo* (Typically reviews *de novo*)
- Currently, no appeal criteria for City Council

Other Communities - Appeals

- Few appear to have high costs for appeals, but still higher than COS
 - Boulder has a very high fee
- Some communities have more limited standing for appeals
 - Example: limited to developer, directly adjoining owner or any member of City Council
- Board of adjustment/zoning board of appeals model is common in Colorado for non-use (dimensional) variances and sometimes for appeal of zoning interpretations
 - Recourse is directly to District Court
 - Pluses and minuses to this option

Items to Consider

- Is current public process appropriate for administrative reviews?
- Are Development Plan review criteria too subjective and open to interpretation?
- Do we really have a “use by right” process?
- Should appeals be more “strict”?
- Form-based zoning for specific infill areas?
- Change development standards?
- Ideas for neighborhood planning process?

Private Master Plans- Operative

