

Article 2: Required Steps in Processing

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

Division 6: Decision Process – Capital Improvement Program Projects

(“Decision Process – Capital Improvement Program Projects”

added 10-22-2013 by O-20309 N.S.)

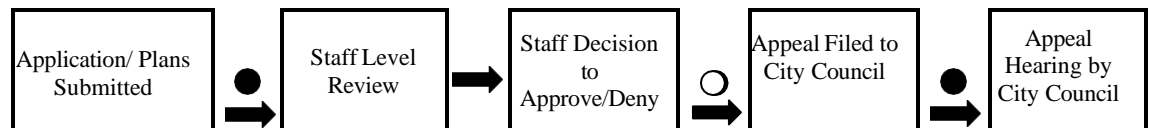
§112.0601 Overview of Decision Process

Applications for *capital improvement program projects* or *public projects* requiring a Site Development Permit in accordance with the Environmentally Sensitive Lands Regulations and Historical Resources Regulations shall be acted upon in accordance with one of the decision processes established in this division and depicted on Diagram 112-06A. Applications for *capital improvement program projects* requiring a City-issued Coastal Development Permit in the *appealable area* of the Coastal Overlay Zone shall be made in accordance with Process Three, as set forth in Sections 112.0505 and 112.0506 and depicted on Diagram 112-06A. The subject matter of the *development* application determines the process that shall be followed for each application. The provisions of Chapter 12 that pertain to each permit, map, or other matter describe the decision process in more detail. Diagram 112-06A is provided for convenience of reference only and does not define, describe, or limit the scope, meaning, or intent of any provision of the Land Development Code. This diagram does not describe the decision processes that may be required by other agencies, such as the State Coastal Commission.

Diagram 112-06A

**Decision Processes for Capital Improvement Program Projects and
Public Projects**

PROCESS CIP/Public Project-Two



PROCESS CIP/Public Project-Three



PROCESS CIP/Public Project-Five



Key

- Public Notice to all Property Owners, Tenants, Community Planning Groups within 300 feet of the *development*, and Anyone Requesting Notice
- Public Notice to Applicant, Community Planning Groups within 300 feet, and Anyone Requesting Notice

(“Overview of Decision Process” added 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

(Amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)

(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)

§112.0602 Process CIP/Public Project-Two

An application for a Site Development Permit for a *capital improvement program project* or a public project determined to be in compliance with the Environmentally Sensitive Lands Regulations, Historical Resources Regulations without deviation, or a City-issued Coastal Development Permit in the non-*appealable area* of the Coastal Overlay Zone shall be acted upon in accordance with Process CIP/Public Project-Two. An application for a Process CIP/Public Project-Two decision may be initially approved, conditionally approved, or denied by a staff person designated by the City Manager pursuant to Section 111.0205. A public hearing will not be held. An appeal hearing is available upon written request, in accordance with Section 112.0603. A Process CIP/Public Project-Two decision shall be made in the following manner.

- (a) Notice. The designated staff person shall mail a Notice of Future Decision to the persons identified in Section 112.0302(b). Persons who wish to receive notice of the approval or denial of the application may request this information from the staff person. The request must be received no later than 10 *business days* after the date on which the Notice of Future Decision is mailed.
- (b) Decision Process. The designated staff person may approve, conditionally approve, or deny the application without a public hearing. The decision shall be made no less than 11 *business days* after the date on which the Notice of Future Decision is mailed to allow for sufficient time for public comment.

Notification of the decision shall be given to the *applicant* and to those persons who request notification in accordance with this section, no later than 2 *business days* after the *decision date*.

(“Process CIP-Two” added 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

(Retitled from “Process CIP-Two” to “Process CIP/Public Project-Two” and amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)

(Amended 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)

(Amended 10-12-2022 by O-21546 N.S.; effective 11-11-2022.)

§112.0603 Process CIP/Public Project-Two Appeal Hearing

The City Council shall hear appeals of Process CIP/Public Project -Two decisions subject to the following requirements.

- (a) **Persons Who Can Appeal.** The following persons may request an appeal hearing after the designated staff person's decision:
 - (1) An *applicant*; or
 - (2) Any other person who files an application for a Process CIP/Public Project-Two appeal hearing in accordance with Section 112.0603(b).
- (b) **Request for a Process CIP/Public Project-Two Appeal Hearing.** A Process CIP/Public Project-Two decision may be appealed by filing an application for a Process CIP/Public Project-Two appeal hearing with the City Clerk no later than 10 *business days* after the *decision date*.
- (c) **Grounds for Appeal.** A Process CIP/Public Project-Two decision may be appealed on any of the following grounds:
 - (1) **Factual Error.** The statements or evidence relied upon by the decision maker when approving, conditionally approving, or denying a permit, map, or other matter were inaccurate;
 - (2) **New Information.** New information is available to the applicant or the interested person that was not available through reasonable efforts or due diligence at the time of the decision;
 - (3) **Findings Not Supported.** The decision maker's stated *findings* to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker; or
 - (4) **Conflicts.** The decision to approve, conditionally approve, or deny the permit, map or other matter is in conflict with a *land use plan*, a City Council policy, or the Municipal Code.
- (d) The appellant(s) may withdraw an appeal at any time prior to the commencement of the appeal hearing before the City Council. The withdrawal of the appeal must be filed in writing with the City Manager. If all appellants withdraw their appeals, no appeal hearing shall be conducted. The withdrawal of the appeal does not entitle the appellant(s) to any refund of appeal-related costs or fees incurred as of the date of the withdrawal.

- (e) **Scheduling an Appeal Hearing.** The City Manager shall assign a date for an appeal hearing before the City Council no later than 60 calendar days after the date on which an application for the appeal hearing is filed, unless there are more than 60 calendar days until the next regularly scheduled City Council meeting, in which case the appeal hearing shall be held at the first regularly scheduled City Council meeting after the 60 calendar days have passed. Failure to hold the hearing within the 60 calendar days shall not limit the authority of the City Council to consider the appeal. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing. The appeal hearing shall be noticed in accordance with Section 112.0308.
- (f) **Power to Act on the Decision at Appeal Hearing.** At the conclusion of the appeal hearing, the City Council may affirm, reverse, or modify the staff decision.

(“Process CIP-Two Appeal Hearing” added 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

(Amended 10-25-2017 by O-20863 N.S.; effective 11-24-2017; O-20863 was readopted on 3-19-2019.)

(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)

(Retitled from “Process CIP-Two Appeal Hearing” to “Process CIP/Public Project-Two Appeal Hearing” and amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)

§112.0604 Process CIP/Public Project-Five

An application for a Site Development Permit for a *capital improvement program project* or a *public project* that deviates from the Historical Resources Regulations shall be acted upon in accordance with Process CIP/Public Project-Five. An application for a Process CIP/Public Project-Five decision may be approved, conditionally approved, or denied by the City Council. A Process CIP/Public Project-Five decision shall be made in the following manner.

- (a) **Notice.** The City Manager shall mail a Notice of Application to the persons described in Section 112.0302(b) no later than 10 *business days* after the date on which an application for a permit, map, or other matter is *deemed complete*.

- (b) **Decision Process.** The City Council shall hold a public hearing to consider the application. The hearing shall be noticed in accordance with Sections 112.0301(c), 112.0302, and 112.0303. The City Council may approve, conditionally approve, or deny the application at the conclusion of the hearing.

(“Process CIP-Five” added 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

(Retitled from “Process CIP-Five” to “Process CIP/Public Project-Five” and amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)

(Amended 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)

(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)