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## MEMORANDUM

**DATE:** May 14, 2019

**TO:** Mayor Troxell and City Councilmembers

**THRU:** Darin A. Atteberry, City Manager *DA*  
Jeff Mihelich, Deputy City Manager *J.M.*  
Laurie Kadrich, Director of Planning, Development and Transportation *LK*  
Tom Leeson, Director of Community Development and Neighborhood Services

**FROM:** Cameron Gloss, Long Range Planning Manager *CG*

**RE:** **Read Before Memo: Item #2 Harmony Gateway Plan Update - Response to Harmony Gateway Permitting Requirements Citizen Inquiry**

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The purpose of this memo is to share information with City Council in response to a citizen inquiry regarding stormwater and environmental permitting requirements within the Harmony Gateway area.

### **Harmony Gateway Plan Amendment:**

This evening's City Council Work Session is limited to discussions about a proposed amendment to the *Harmony Corridor Plan* and corresponding *Harmony Corridor Standards and Guidelines* that pertain to the 'Gateway Area' at I-25 and Harmony Road. The proposed Plan Amendment is not associated with an individual development plan and would apply to any potential future development proposals. There has not been a formal development plan submitted within the Gateway Area south of Harmony Road and east of Strauss Cabin Road.

### **Responses to Citizen Inquiry:**

***I've heard an EIS is needed because the project abuts, and will impact, a federal interstate highway, correct?***

Currently, no development projects in the Harmony Corridor (and Gateway) area are proposed that impact Interstate-25 (I-25). An Environmental Impact Statement (EIS) is a requirement for federal projects. Any future changes to I-25, including an EIS, would be coordinated through the Colorado State Department of Transportation (CDOT). The I-25 improvements currently under construction have already completed the EIS process. If/when a new development project is proposed in the Harmony Gateway area, project compliance with state and federal agencies would be verified by City staff through the City's development review and permitting processes.

***Does the project need a Clean Water Act 404 permit because it will dredge and fill wetlands in "Waters of the U.S."?***

If/when a development project is proposed within the Harmony Gateway, it must comply with relevant environmental study and permitting requirements. Any development proposal potentially impacting federal waters requires a federal jurisdictional letter of determination from the United States Army Corps of Engineers (USACE), the agency determining "Waters of the United States." If the USACE determines a 404 permit is needed, then, the development project would complete permitting and wetland mitigation requirements through that agency. Per the Colorado Division of Water Resources, please note there exists illegally exposed groundwater at the southwest corner of I-25 and Harmony Road and needs to be addressed under separate processes from the Harmony Gateway Area Plan. If/when a development project is proposed, then, project compliance with state and federal regulations would be verified by City staff throughout the City's development review and permitting processes.

***Is there an Endangered Species Act 'biological opinion' needed due to Bald Eagles nesting on the property?***

City staff is not aware of Bald Eagles nesting in the Harmony Gateway or within ½ mile of the area. If actively nesting Bald Eagles and/or other endangered species are discovered, all United States Fish and Wildlife Service and Colorado Parks and Wildlife regulations would apply. If/when a development proposal is submitted in the Harmony Gateway area, then, an Ecological Characterization Study (ECS) would need to address active nesting sites.

***Are there any other federally listed endangered species on the property, or with historic range on the property? (including Preble's Meadow Jumping Mouse)***

City staff is not aware of federally listed endangered species on properties within the Harmony Gateway area. If/when a development proposal is submitted, an Ecological Characterization Study (ECS) must address the presence of endangered species. There have been no observations of Preble's Meadow Jumping Mouse in the area. The City coordinates with the Colorado Natural Heritage Program on locations of endangered and threatened species throughout Larimer County, including Preble's Meadow Jumping Mouse.

***Does the project need a State 401 Water Quality Certification?***

If/when a development project is proposed in the Harmony Gateway area, then, local, state and federal water quality requirements apply. State 401 certifications are required by the Colorado Water Quality Control Division (WQCD) of the Colorado Department of Public Health and Environment (CDPHE) in connection with certification of federal licenses and permits under Section 401 of the federal Clean Water Act (CWA).

Colorado 401 Certification Regulation No. 82 applies to certification of permits issued by the U.S. Army Corps of Engineers under Section 404 of the CWA. If/when a development project is proposed with a requirement for a federal license or permit, then, project compliance with state and federal regulations would be verified by City staff throughout the City's development review and permitting processes.



***Are there any other state listed endangered species on the property, or with historic range on the property?***

City staff is not aware of state endangered species on properties within the Harmony Gateway area. The City coordinates with the Colorado Natural Heritage Program on locations of these species throughout Larimer County.

***Does the project need any kind of permit from Larimer County?***

If/when a development project is proposed within the Harmony Gateway area, a Fugitive Dust Control Permit might be needed from the Larimer County Department of Health and Environment.

***What permits and processes are needed from the City? Will the project require an "Ecological Characterization Study"?***

If/when a development project is proposed in the Harmony Gateway area, project compliance with state and federal regulations would be verified by City staff through the City's development review and permitting processes.

A development project proposal within the planned Harmony Gateway area would likely require an Ecological Characterization Study (ECS) and past project proposals in this area have submitted ECS documentation in October 2014 and January 2015.

If/when a development project proposal is submitted to the City of Fort Collins and the project is within 500-ft of a "natural habitat and feature" area, an Ecological Characterization Study (ECS) is required. The ECS must address all items (a)-(l) of LUC 3.4.1(D)(1) available for view online. This includes feature(s) size, the "top of bank" of any stream or ditch, the edge(s) of wetlands, and whether jurisdictional wetlands may be impacted by the proposed project. The ECS must also address whether any and all endangered, sensitive and/or special habitat features identified by federal and state agencies and/or City of Fort Collins Natural Areas Department are found on or near the proposed development site.

The ECS is due a minimum of 10 days prior to a Project Development Plan (PDP) submittal. For further information see: [https://library.municode.com/co/fort\\_collins/codes/land\\_use](https://library.municode.com/co/fort_collins/codes/land_use)

Floodplain exists in several locations in this area. All development proposals within a designated floodplain within the City limits must obtain a Floodplain Use Permit and comply with the safety regulations of Chapter 10 of Municipal Code. Any development proposal that potentially impacts water surface elevations, floodplain boundaries and/or floodway boundaries may need to prepare and submit a Conditional Letter of Map Revision and/or Letter of Map Revision to the Federal Emergency Management Agency (FEMA) and the City of Fort Collins.