



Development Review Center
281 North College Avenue
PO Box 580
Fort Collins, CO 80522-0580
970-221-6689
fcgov.com/DevelopmentReview

September 19, 2024

Carlos Medina
Fort Collins Loveland Water District
5150 Snead Dr, Fort Collins, CO 80525

RE: DETERMINATION OF APPLICABILITY OF 1041 REGULATIONS - FONSI

Dear Applicant:

On August 12, 2024, the City of Fort Collins Development Review Division received a complete submittal and processed a pre-application to determine if a 1041 permit is required for the proposed development plan. Fort Collins Loveland Water District (FCLWD) is proposing to install a new 30-inch water line that connects to their existing 36-inch water line at the corner of S. Taft Hill Road and Trilby Road in Fort Collins. Approximately 100-feet of new 30-inch water main will be installed within City limits and the Cathy Fromme Natural Area. This new water line and permanent easement meets the threshold criteria established by the City for 1041 review for projects of statewide significance. This request has been reviewed in accordance with 6.27.6.3 –Pre-Application Area or Activity Review, of the City of Fort Collins Land Use Code and pursuant to the review criteria within Section 6.27.6.5 - Determination of Applicability of Regulations– FONSI.

The Director hereby makes the following findings of fact:

1. **The Trilby Water Tank Feeder Line, SPA240001, meets the following criteria of Section 6.27.6.5(A)(1-8) for review.**
 - a. Is located wholly or partly on, under, over or within an existing or planned future City natural area or park, whether developed or undeveloped;
 - b. Has potential to significantly impact a natural feature as defined by the Land Use Code.
2. **The Trilby Water Tank Feeder Line, SPA240001, has provided mitigation including a prairie dog management plan, and revegetation plan for the areas of disturbance within the City-owned Natural Areas.**
3. **Pursuant to Section 6.27.6.4, a public notice was mailed to the property owners and occupants within one thousand feet (1,000) in all directions of the location of the proposed development plan. Five public comments were received and provided to the Director to make a final decision.**

Based on these findings of fact, the Director makes the following decision:

The Trilby Water Tank Feeder Line, SPA240001, has been issued a Finding of No Significant Impact (FONSI). The Director's decision includes consideration of proposed mitigation, and so the applicant must provide the City with a guarantee to ensure the completion of all mitigation to be constructed as shown on the approved 1041 Development Plan (herein known as the Plan). Fort Collins Loveland Water District (herein known as the Applicant) must provide a City-approved means to guarantee the completion of all mitigation prior to receiving final approval of a Natural Areas Easement. If the Applicant subsequently makes material changes to the Development Plan, the Applicant is required to schedule another pre-application area or activity review pursuant to Section 6.27.6.3 to discuss the changes. Based on the new information and whether the revised development could result in significant impacts, the Director may rescind the FONSI by issuing a written determination.

The Final 1041 Development Plan

Upon issuance of the FONSI, the applicant must contact the Natural Areas Department to begin the easement approval process which requires staff and Land Conservation Stewardship Board review and Council approval as well as the additional costs outlined in the Natural Areas' Easement Policy and Easement Application Packet.

The Applicant must submit a City-approved Plan prior to receiving final approval of a Natural Areas Easement. This Plan must consist, at minimum, of the following sections and specifications to ensure the successful revegetation and management of the project site after construction and until final closeout based on the success criteria established by the common review standards for all 1041 applicants.

- A. The Applicant shall provide a Revegetation and Weed Management Plan that encompasses revegetation techniques, monitoring methodology and timeline, and weed management before, during, and after construction. It should also include a discussion of how adaptive management techniques will be utilized as the site progresses over time. This document shall be prepared by a qualified natural resource professional and reviewed and approved by the City of Fort Collins.
- B. The Applicant shall ensure that all revegetation activities within the Limits of Disturbance (LOD) in City limits are properly maintained for a three (3) year-minimum period following construction thereof to ensure that the vegetation is fully established and maintained in accordance with the Plan. The restoration efforts will ensure that the goals and requirements of the Plan are accomplished. Total vegetative ground cover will be determined using a reference area approach, where the reference area is representative of the target vegetative community(ies) found within the Cathy Frome Prairie Natural Area.

The success criteria prior to release of the city-guarantee includes the following:

The total vegetative ground cover shall be analogous to the adjacent Cathy Frome Prairie Natural Area and will be measured annually at the end of the growing season (late summer to early fall) to the point of demonstrating sample adequacy using a line-point intercept methodology. The survival rate of any planted shrubs and trees must be equal to or greater than eighty percent (80%). No more than five percent (5%) of the species noted on the site may be weedy or noxious species as defined by City Code Section §20-41.

- C. The submitted Prairie Dog Mitigation Plan must be updated to include the completion of a Burrowing Owl Survey, performed by a qualified wildlife biologist, immediately prior to prairie dog fumigation at the site. The qualified professional must submit a report to the City stating the that no threatened or endangered species were harmed by prairie dog removal activities.
- D. Temporary Limits of Disturbance: Construction activities within the limits of disturbance may only take place between September 1 and March 31 to avoid impacts to foraging migratory birds within the adjacent natural areas.
- E. The City shall periodically inspect the limits of disturbance to ensure compliance with the requirements established in the Plan.



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A City-Approved Security or Guarantee

Prior to the issuance of a Natural Areas Easement, the Applicant must provide the City an acceptable form of security (escrow, bond, or letter of credit) or guarantee to ensure completion of the revegetation improvements and prairie dog mitigation that meet City standards for acceptability. The Applicant may select one option from the accepted forms of security listed herein:

Option 1: The Applicant may select their own contractor to complete and implement the Plan

The Applicant shall provide the City an acceptable form of security (escrow, bond, or letter of credit) to guarantee completion of the Plan improvements that meets City standards for acceptability. The security must match the cost of mitigation, restoration, and landscape improvement efforts, which shall include plant material and irrigation system improvements, weed management, and a minimum of three years of monitoring and annual reporting equal to 125% of the cost to be held until said improvements are constructed and accepted by the City. The City shall return the security to the Applicant upon the Applicant’s installations of the landscape improvements and the City’s Environmental Planner acceptance thereof. If the seeded areas have not been established in accordance with the Plan Documents, then the Applicant shall promptly provide the City’s Environmental Planner with a written proposal of steps and timing to bring the areas into conformance with such Documents for the City’s approval and, after receipt of approval shall promptly take such steps as are necessary to implement the approved plan and bring the areas into conformance. If the Applicant does not take action to bring any and all areas and plantings into conformance with the approved Plan documents, the City shall use the security provided by the Applicant to install said LOD landscape improvements and the Applicant forfeits any right to the security.

Option 2: Hire a Natural Areas Department-approved Contractor to complete and implement the Plan

The Applicant may choose to subcontract with a contractor who is already pre-approved with the Natural Areas Department, and who has proven experience drafting and implementing 1041 Development Plans. If this option is selected, the City will work directly with the approved contractor to ensure the Plan is designed and implemented appropriately. The act of securing the approved contractor is the guarantee and the City will not require any additional security for the project. The City will work with the approved Contractor to ensure that the Plan and its implementation are in conformance.

No Permit is Required - FONSI
Decision

9/18/2024
Date

Signed by:

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Kim Meyer, City of Fort Collins, Interim Community Development and Neighborhood Services Director

The Director’s determination whether to issue or not issue a FONSI is subject to appeal to the Planning and Zoning Commission pursuant to Land Use Code Section 6.3.12(D). The Planning and Zoning Commission decision on the appeal is further subject to appeal to City Council pursuant to the Code of the City of Fort Collins Ch. 2, Art. 2, Div. 3. The filing of a timely notice of appeal shall reset any time period set forth in 6.27.6.8 and 6.27.6.12 and such time period shall begin from the date the appeal is decided as previously described.

