COMMUNITY DEVELOPMENT DEPARTMENT

ADMINISTRATIVE DETERMINATION

TOPIC: Mazama Pocket Gopher Screening

APPROVED: _____ DATE: 7/25/18

Michael Matlock, AICP
Community Development Director

BACKGROUND: The Mazama Pocket Gopher (MPG) became a federally listed endangered species in April 2014. This memo addresses the City regulatory structure. The Endangered Species Act (ESA) is a separate regulatory structure from the Growth Management Act, the State statute the City does implement, so compliance with City regulations does not necessarily mean an applicant complies with the ESA. While the City routinely addresses questions from property owners on how to comply with its local development regulations, it does not do so with respect to the ESA.[1] ESA compliance is the property owner's responsibility.

FINDINGS: In implementing the City's critical areas ordinance (CAO), and based on analysis prepared by qualified professionals, staff have found that projects in certain areas and with certain features lack gopher habitat, so do not require CAO review by a qualified professional. While the CAO governs these issues, the below summarizes what staff have found to date.

DETERMINATION: Based on the findings above, Tumwater summarizes assessment findings for MPG presence as follows:

1. **Geographic** – Due to lack of habitat, no properties in the City north of Trosper Road have required CAO review.
2. **Vegetative Cover** – Project Sites, parcels, or portions of these sites with 30% or greater forested cover have not required CAO review, although where there are adjacent unforested and undeveloped lots exceeding 7,600 square feet (SF) in area, CAO review may be needed.
3. **Project Use Level** –
   a. Single-family, manufactured homes, and duplexes for lots 7,600 SF or less
      1) New or additions to single-family, manufactured homes, and duplexes – CAO review has typically not been required on existing lots 7,600 SF

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[1] For land owners seeking guidance on ESA compliance, while the City cannot assist, see USFWS Memorandum, Guidance on Trigger for an Incidental Take Permit Under Section 10(a)(1)(B) of the Endangered Species Act Where Occupied Habitat or Potentially Occupied Habitat is Being Modified, issued April 26, 2018.

or less in size. Unforested and undeveloped lots exceeding 7,600 SF may require CAO review.

2) Developed lots surrounded by existing development (homes, streets, storm ponds, sidewalks, etc.) that are of a similar size have not required CAO review. This would not exclude sites on the periphery areas where adjacent lands are not developed at an urban density level.

3) Single-family lots vested under RCW 58.17 and/or TMC 15.44.040 will likely not require CAO review.

b. Commercial/Industrial/Institutional

1) New or additions to buildings proposed in areas with 30% or greater forested coverage, existing impervious surfaces or significantly disturbed pervious areas (i.e. evidence of compacted gravel, formal landscape areas or other scenarios that would exclude the proposed developed area as being defined as habitat) have typically not required CAO review.

4. **Approved United States Fish and Wildlife Service (USFWS) Avoidance/Mitigation Strategy** – Any projects that have consulted with USFWS and have a documented avoidance/mitigation strategy that is acceptable to USFWS can typically proceed with normal permitting.

5. **Site Screening** – Properties may be screened by a qualified professional. Alternately, USFWS may screen properties by arrangement between the property owner and USFWS. At least two screenings, no less than 30 days apart, between June 1 and October 31, are consistent with best available science to determine the presence or absence of MPG.

PRIOR GUIDANCE: This Administrative Determination supersedes and replaces the City's prior Administrative Determination on Mazama Pocket Gopher Screening Protocol dated October 31, 2017.

APPEAL: This code determination shall become effective on the above date. Any person affected by this determination may appeal this decision to the Tumwater Hearing Examiner pursuant to Chapter 18.62 of the Tumwater Municipal Code.