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July 21, 2010

Ms. Sue O'Halloran
Kohler, Myers, O'Halloran
15 NE Third St.
Gresham OR 97030

RE: Habitat Conservation Area (HCA) issues in Deer Glen

Dear Mr. Perrault:

Since our meeting, the City has developed the following information and list of Frequently Asked Questions (FAQs) in order to assist homeowners when dealing with HCA issues in Deer Glen. We are hoping this information meets your needs. If more explanatory materials or information is needed, please contact me.

In order to provide you with some context, the HCA standards were developed as a result of a combined effort with Metro and its regional partners. These parties established regional rules for protecting wildlife habitat and water quality which ultimately resulted in the Metro Title 13 Model Ordinance which is the foundation for Gresham's HCA. Please refer to Section 5.0400 of the Community Development Code for further details on the HCA overlay district. You may also contact the Planner on Duty at 503-618-2780 for additional questions.

HCA FAQs:

1. How does the Gresham Community Development Code (GCDC) define "development"?

The GCDC defines development as: Any man-made change to improved or unimproved real estate, including but not limited to construction, installation or alteration of buildings or other structures; condominium conversion; land division; establishment or termination of a right of access; storage on real property; tree removal; drilling and site alteration such as that due to land surface mining, dredging, grading, paving, excavation, or clearing.

2. When did the Habitat Conservation Area (HCA) overlay district go into effect?

It went into effect on January 15, 2009.

3. What is a "developed site" as it relates to site work done prior to the HCA

requirements and how is further development regulated on such sites?

If a property has been cleared and graded (otherwise developed) prior to 1/15/09, an HCA permit is not required for further clearing, grading (including filling) and landscaping as long as the grading does not encroach into new areas of the lot that were not graded prior to 1/15/09. Areas cleared and graded prior to 1/15/09 are not required to limit new landscape materials to native vegetation. Any existing buildings, paving or other impervious surfaces that are within the HCA can be maintained, repaired or replaced. Any new buildings, additions, or other impervious surfaces within the HCA must either meet the exemption requirements (Item 5 below) or apply for an HCA permit.

As an example, during the course of our recent discussions, evidence came forward that a Deer Glen homeowner had allowed for the storage of fill material from another lot to be placed on his property. As the placement of the fill material occurred on an already disturbed portion of the lot, no HCA permit will be required.

4. What must be done if clearing and grading happened after the HCA went into effect?

If an HCA permit was not issued to authorize the development, and if not exempted, the homeowner must apply for an HCA permit to make the development legal. The main application requirements, fee and process for an HCA permit is discussed below.

5. What activities/development are exempted and do not require an HCA permit?

Apart from clearing, grading and landscaping allowed on a developed site within an HCA, developed before 1/15/09, the following limited types of activities are also allowed:

- Maintenance, alteration, expansion, repair and replacement of existing structures that do not increase the building footprint.
- Alteration, expansion, or replacement of existing structure that will not intrude more than 500 sq. ft. into the HCA
- The new intrusion is no closer to the protected water feature than the pre-existing structure or improvement.
- Encroachment (new buildings/paving) not to exceed 120 sq. ft. of impervious surface (this includes decks).
- Temporary and minor clearing not to exceed 200 sq. ft. for the purpose of site investigations.
- Maintenance of existing gardens, pastures, lawns and landscape perimeters.

- Removal of plants identified as nuisance or prohibited plants on the City of Gresham Native Plant List.
- Maintenance, alteration, repair and replacement of roads and utilities without further incursion into the HCA.
- Planting of native vegetation and removal of non-native, invasive vegetation provided the work is done using hand-held equipment, done outside of wetlands and tops of banks and is pre-approved by the City.
- Installation of fences subject to the 120 sq. ft. encroachment.

6. What are the main requirements that must be addressed in an HCA application?

There are three main requirements:

- A description of the proposed area disturbance.
- A mitigation plan for this disturbance.
- A construction management plan that shows how HCA areas not proposed for disturbance are to be protected.

There are limits to the amount of disturbance allowed and options for mitigation. For further information on how these calculations and requirements apply to individual properties, it is advisable to call the Planner on Duty with site specific questions.

7. What is the HCA Permit Application Process? What are the fees involved?

This is a Type II administrative process that requires a pre-application conference, early neighborhood meeting, and public notification. The current pre-application fee is \$1,509 + 1% Technology Fee; the HCA permit fee is \$1,775 + 1% Technology Fee.

As noted earlier, if you still need further clarification regarding these issues, we are more than happy to assist you. Please do not hesitate to contact me at 503-618-2378.

Sincerely,



Mike Abbate
Director
Urban Design & Planning

Cc: Steve Perrault, Deer Glen HOA B of D