



5309 Shilshole Avenue NW  
Suite 200  
Seattle, WA 98107  
206.789.9658 **phone**  
206.789.9684 **fax**

[www.esassoc.com](http://www.esassoc.com)

# memorandum

date      October 31, 2016

to         Linda Bentley, City of Olympia

from      Ilon Logan

subject   Critical Areas Ordinance Update Phase II: **Locally Important Species and Associated Habitats Recommendations**

This memo is a follow-on to our previous memo *Locally Important Species and Associated Habitats Recommendations Overview and Options* (dated August 5, 2016) and includes high-level recommendations for implementing some of the previously discussed options. The intent is to provide a basis for discussion and decision-making by the City regarding protections for wildlife and wildlife habitats in Olympia.

Based on the review of existing information, published literature, and input from the CAO working group, we suggest the City consider a combination of regulatory and non-regulatory methods to expand and/or increase protections for wildlife and wildlife habitat. Our recommendations fall into two categories: 1) general protections for priority species and habitats, and 2) protections specific to great blue heron.

## **General Protections**

As reported in our previous memo, the City of Olympia contains a low number of sensitive and/or rare habitats and species as documented by the Washington Department of Fish and Wildlife (WDFW) in the Priority Habitats and Species (PHS) database (WDFW, 2016). This is due to the developed-nature of lands within the City and urban growth area boundaries, the limited extent of stream corridors and wetland areas, and the lack of native prairie or oak woodland habitats. The PHS database does include records for wood duck breeding areas and mink occurrences (both from the early 1990s), great blue heron rookeries, bald eagle and peregrine falcon breeding sites, and bat communal roosts. Additional, several of the species identified by the CAO working group as important and/or potentially declining (see July 26, 2016 meeting notes), including western grebe, purple martin, osprey, Vaux's swift, several bat species, and Olympic mudminnow, are on the PHS list.

To provide regulatory protections for individual wildlife species, we have the following high-level recommendations for the City:

- Rely on the current regulations for important habitats and species (OMC 18.32.305B) for peregrine falcon and bald eagle. Both are state sensitive species (<http://wdfw.wa.gov/conservation/endangered/status/SS/>) and federal species of concern, which puts them within the City's current definition of important habitats and species. In addition, these two bird species were not a major concern by the CAO working group as neither are currently experiencing population declines.
- Rely on the current regulations for streams (OMC 18.32.405A), wetlands (OMC 18.32.505), and small lakes (OMC 18.32.305D) for habitat protection of wood duck breeding areas, western grebe, and Olympic mudminnow.
- Rely on the current regulations for streams (OMC 18.32.405A) and important riparian areas (OMC 18.32.405B) for habitat protection of bat communal roosts (including Yuma myotis, California myotis, big brown bat, little brown bat, and Townsend's big-eared bat).

In terms of a nomination process for adding new locally important species and habitats, the City should have a nomination and designation process in place. The Department of Commerce (formerly CTED) has developed an example step-wise process (see our previous memo) that can be used as a guide. We note that some counties and cities (e.g., Thurston County and City of Bellevue) have codified their version of the process in the CAO regulations. Based on our experience, this approach is not necessary as the nomination and designation process is rarely used and is an optional requirement of the GMA. We recommend that the City prepare its guidelines and have them available upon request from the City manager or other representative.

Lastly, to increase protection of general wildlife habitats in the City, we recommend the City continue to work with the Olympia Coalition for Ecosystems Preservation and pursue opportunities to purchase properties near known rookery locations as they did in 2016 when 2.5 acres of the West Bay Woods were acquired (The Olympian, August 16, 2016). In addition to outright purchase, the City could consider innovative ways of acquiring property for open space such as Transfer of Development Rights (TDR) and development incentives for set asides. These programs provide reduced property tax rates for property owners who voluntarily commit a portion of land to open space or avoiding activities harmful to specific species or habitat.

### **Great Blue Heron Protections**

To protect the population of great blue heron and their breeding habitat, we suggest the City follow an approach similar to the City of Kenmore, which includes:

- Adoption of a fixed-width buffer around mapped heron rookeries
- Timing restrictions on some types of activities (e.g., clearing, grading)
- Consultation with the City and WDFW during project planning

For specifics, we recommend the City follow WDFW's guidelines for identifying, mapping, and managing heron habitats as detailed in *Management Recommendations for Washington's Priority*

*Species: Great Blue Heron* (Azerrad, 2012). An abbreviated set of guidelines is provided with this memo.

Following the WDFW guidelines would address and document the known rookery locations in both the West Bay woods and East Bay forested ravine and establish those areas as Heron Management Areas (HMAs). The WDFW-recommended buffers for nesting colonies in urban areas include a year-round buffer of 60 meters (197 feet) and an additional seasonal buffer of 200 meters (656 feet) for unusually loud activities during breeding season (i.e., February-September). Buffer protections are based on the premise that adequate buffers result in greater longevity and colony productivity because they are a physical and visual barrier to potentially intrusive activities, can protect nest trees from being blown down, and provide habitat for birds when they move from one nest tree to another. The City should require a site-specific habitat management plan to be developed whenever a land use proposal is submitted in or near the HMA.

As an alternative to the WDFW-recommended buffer widths, we recommend the City consider the City of Seattle's protections for great blue heron drafted in 2016, but not yet adopted (City of Seattle, 2016). The proposed regulations establish a year-round buffer of 197 feet and seasonal buffers that are less than the WDFW-recommended width. The proposed seasonal buffers include a 500-foot buffer applied to the colonies in the Kiwanis and North Beach Ravines and a 300-foot buffer applied to all other nesting colonies. The City maintains that heron colonies within the City of Seattle are in part habituated to urban conditions and notes that WDFW did not establish smaller seasonal buffers for urban areas.

To address the sometimes transitory nature of nesting colonies, we recommend the City stipulate the period in which a HMA remains in effect from the last known active nesting season. As referenced in the WDFW recommendations, the Migratory Bird Treaty Act (MBTA) states that protections applying to an active colony should remain in effect for 10 years after the last recorded nesting season. The City of Seattle draft protection adopt this time period as well.

We suggest that City project planners actively consult the WDFW guidelines for carrying out the heron recommendations. During project review, a habitat management plan should be developed whenever a land use proposal is submitted in or near the HMA. Consultation with WDFW about known heron activity and breeding confirmation should also occur.

Lastly, the WDFW guidelines also recommend non-regulatory incentive programs for protecting great blue herons, such as those described previously. While many local governments protect the nesting colony through regulatory measures, habitats that indirectly benefit a colony sometimes go unprotected. WDFW suggests local governments offer incentives to landowners who want to permanently protect any type of breeding season habitat. Specifically, proposals near breeding season habitat deserve high priority when choosing between candidates for new Conservation Futures sites. Furthermore, land trusts should also consider these areas when developing their conservation portfolios.

## **References**

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