



Planning Commission

Critical Areas Ordinance - Habitat and Species Protections for Great Blue Heron

Agenda Date: 10/2/2017
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Type: recommendation **Version:** 1 **Status:** Passed

Title

Critical Areas Ordinance - Habitat and Species Protections for Great Blue Heron

Recommended Action

Recommend to the City Council the additional protections for great blue heron rookeries in Attachment 1 be adopted as a new section of the Olympia critical areas ordinance (OMC 18.32) and shoreline master program

Report

Issue:

Whether to adopt the proposed amendments to the Critical Areas Ordinance, and to the Shoreline Master Program, which include additional protections for locally important species including the Great Blue Heron rookeries.

Staff Contact:

Leonard Bauer, Deputy Director, Community Planning and Development, 360.753.8206

Presenter(s):

Leonard Bauer, Deputy Director, Community Planning and Development

Background and Analysis:

The Washington State Growth Management Act (GMA) required the City to update its Critical Areas Ordinance (CAO) in 2016 to ensure it was consistent with the Best Available Science (BAS) and to protect anadromous fish. In 2015, the Land Use and Environment Committee (LUEC) directed staff to conduct an update of the City's CAO in two phases:

- Phase 1 - the state-mandated update to include BAS and protect anadromous fish. Phase 1 was completed by City Council adoption of Ordinance 7030 on August 16, 2016 (see Attachment 2).
- Phase 2 - review potential additional protections for locally important habitat and species, including Great Blue Heron.

State law requires that protection measures for critical areas that occur along shorelines must be included in the City's Shoreline Master Program (RCW 36.70A.480). So, to ensure the City's CAO

provisions also apply in shoreline areas, the City's Shoreline Master Program (SMP) adopts the CAO by reference. Amendments to the CAO are then also required to be amended into the SMP and approved by the WA Department of Ecology. Therefore, Ordinance 7030 specified that the Phase 1 CAO amendments will be effective upon approval by Ecology.

At its July 11, 2017, meeting, the City Council approved additional amendments to the CAO, as recommended by the Planning Commission, in Ordinance 7090 (Attachment 3). The City Council directed that Ordinance 7090 and Ordinance 7030 (Phase 1 CAO amendments) be sent to Ecology for review and approval as amendments to Olympia's SMP. The City Council also referred potential additional protections for Great Blue Heron rookeries back to the Planning Commission for a recommendation.

Background - Locally Important Habitat and Species

The City's consultant, ESA, presented information on protections for locally important habitat and species to LUEC on September 15 and November 17, 2016 and to Planning Commission on August 8, 2016, and January 9, 2017 (Attachments 4 & 5). Staff hosted a public open house to discuss proposed amendments, including protections for Great Blue Herons, on January 18, 2017. Planning Commission held a public hearing on January 23, 2017, and deliberated further at its meetings on February 6 & 27, March 6 & 20, and April 3. (Attachment 6 contains all meeting packets, minutes and public comments considered at those Planning Commission meetings.)

On February 27, 2017, the Planning Commission completed its deliberations on part of the recommended changes and unanimously supported the proposed amendments to OMC 18.02, 18.32.500 and 18.20, and amendments to the Shoreline Master Program. Agreement on the proposed amendments to OMC 18.32.300-330 could not be reached and they voted to send no recommendation to Council on those sections. Instead, the Commissioners passed a motion to write a letter to City Council explaining their reasons (see Planning Commission letter in Attachment 7). The City Council reviewed the letter and referred consideration of protections for Great Blue Heron rookeries back to the Planning Commission for a recommendation.

Draft Protections for Locally Important Species

Staff and consultant believe that the city's existing CAO and SMP regulations will adequately protect most species and habitat but proposed a new section be added to the City's Critical Areas code (shown in Attachment 1) to give added protection to the great blue heron rookeries, while continuing to respect private property rights.

Staff also proposed a process by which additional locally important species and/or habitat could be nominated in the future as conditions change. This process was adopted by the City Council in Ordinance 7090 (Attachment 3)

Great Blue Heron and Habitat

In general, staff proposed the following approaches to protect heron nesting colonies when development is proposed:

- Adopt fixed-width buffers around heron nesting colonies
- Require tree and vegetative screening
- Restrict the timing on some types of activities (e.g., loud noise, clearing, grading)
- Require mitigation sequencing where appropriate

- Require consultation with the City and the Washington State Department of Fish & Wildlife (WDFW) during project planning

WDFW recognizes that protections for heron rookeries have a different set of considerations in urban areas than in less developed areas. Consequently, staff proposed smaller buffers - a 200 foot year-round buffer and an additional 300 foot seasonal buffer for nesting colonies - than that recommended by WDFW for nests in rural and less developed areas.

Non-regulatory Approaches

The best way to protect important habitat and species is to acquire and manage land that provides the necessary habitat for important species. Several properties containing and adjacent to a known Great Blue Heron rookery in west Olympia have been purchased by the Olympia Ecosystems Coalition for that purpose.

In its previous deliberations, the Planning Commission also discussed ways in which the City could pursue non-regulatory approaches. For example, the City's existing Habitat Stewardship and Parks programs could include consideration of locally important species and habitats as part of acquisition and stewardship programs.

The City could also:

- research and develop incentives for landowners who want to permanently protect any type of breeding season habitat; and
- help non-profit groups to develop an ongoing citizen-science training program to assist in monitoring the status of locally important habitat and species.

Neighborhood/Community Interests (if known):

Many groups and individuals in the community are interested in protection of the Great Blue Heron. Comments considered by the Planning Commission are included in Attachment 6.

Options:

1. Recommend the attached draft protections for Great Blue Heron rookeries be added to the City's Critical Areas code.
2. Recommend the attached draft protections for Great Blue Heron rookeries not be added to the City's Critical Areas code.
3. Recommend revisions to the attached draft protections for Great Blue Heron rookeries be added to the City's Critical Areas code.

Financial Impact:

Initial review of locally important habitat and species was included in Community Planning and Development Department's budget; however, additional habitat and species protections may require additional resources in the future.

Attachments:

Draft Great Blue Heron CAO provisions
Ordinance 7030 - CAO update Phase 1
Ordinance 7090 - CAO & SMP amendments

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ESA Technical Memo - Options

ESA Technical Memo - Recommendations

Planning Commission meeting packets and minutes

Planning Commission letter to City Council