



REGARDING SKAGIT COUNTY PLANNING COMMISSION'S RECOMMENDATION THAT THE COUNTY COMMISSIONERS DENY PDS STAFF RECOMMENDATION P-4, GREAT BLUE HERONS

July 29 2020

Dear Commissioners Dahlstedt, Wesen and Janicki,

Skagit Land Trust (SLT) has been working to clarify how the County will implement its existing code that protects Great Blue Heron nesting sites. **We ask that you approve the Planning and Development Services (PDS) recommendation for P-4 (Option 3) and deny the recommendation by the Planning Commission that will result in no action.** Based on the Findings of Fact and available meeting records, we believe that the Planning Commission made an unsubstantiated deny recommendation without considering the intent of the existing code or the best available science supporting it.

The Planning and Development Department Services Option 3 is a practical and reasonable approach that takes existing Skagit County code and operationalizes it. This will help to minimize negative impacts of increasing urbanization on heronries.

Existing County code states that heron nesting sites a) **shall be protected as species and habitats of local importance 14.24.500(4)**, and that protection shall be achieved by b) **means of a habitat management plan based on the Washington State Priority Habitat and Species (PHS) program 14.24.520(4)**.

By adopting the existing Critical Areas Ordinance (CAO) above, the County has already answered the question of whether heron nesting habitat within the County's jurisdiction should be protected, with a resounding yes ("shall"). It states that management plans to accomplish this goal will be based on WDFW guidance. However, the current code is so brief (two sentences) that it is open to error and is difficult to interpret. It does not have a review area trigger large enough to capture development projects that may impact heronries. Heronries fall under the standard 200 ft. fish and wildlife critical area review trigger, when in fact, WDFW's advised

buffers for some heronries, such as at March Point, can extend well beyond that distance. In the current system many projects will fall through the cracks. In the last few years, several permitted activities inside what should have been a protected area for nesting herons based on WDFW guidance, moved forward without requiring a habitat management plan as called for in the existing code. This was due to a system failure, not an intentional County staff dismissal of need. Development without a heronry management plan is one factor among several that coincided with the abandonment of the Samish Island Heronry.

The Planning and Development Services County's Option 3 is not new legislation. Instead it gives clarity to WDFW guidelines providing easier understanding and use by both the staff and the public. The key additions and clarifications are:

- a) Protected heron nesting sites are defined. Code directs use of WDFW guidance for regular colonies in a variety of settings (urban, rural/suburban, and undeveloped) and for mega colonies;
- b) A review area specific to heronries is placed in the code so that when a permit is applied for within 1000 feet of a heronry, the need for a critical area review process is triggered;
- c) Guidance for protections via WDFW-recommended buffers and mitigation is transparent to both landowners and county staff;
- d) Sensitive mega colonies, such as this March Point Heronry (600+ nests) which is the largest heron-nesting site in the Western United States, has a specific buffer. The buffer width is one that is recommended in WDFW guidance for a sensitive heronry.

The relevant question before the Planning Commission was if the proposal before it -- the PDS proposal (Option 3) or other proposals submitted- would help ensure the County's intent to protect local heronries, is met. We do not think this question was addressed.

The discussions and Findings of Fact show that the Planning Commission instead considered whether the County had any responsibility at all in the matter of protecting local heronries; whether herons as a species need further protection; and their opinions on the Samish Island heronry abandonment. The Findings of Fact acknowledge the existence of the current Critical Areas Ordinance, however this ordinance was not specifically discussed during the Planning Commission's public deliberations. Nor was WDFW guidance discussed. Without discussing the current CAO in relation to WDFW guidance, we believe the Planning Commission did not adequately consider how well the ordinance, as written, works in protecting our local heronries, some of which are nationally recognized.

Public input to the Planning Commission was overwhelmingly in favor of better guidance to protect local heronries. Vagueness invites conflict. Let's avoid contentious and protracted land use conflicts by providing clear guidance. The PDS Option 3 clarifies Washington Department of Fish and Wildlife guidance, which will make it easier for landowners and planning staff alike while providing more consistent protection to heronries. In the end, clear guidance saves costs associated with conservation and development.

Thank you for helping to protect heron nesting sites in Skagit County.

Sincerely



Molly Doran,

Executive Director, Skagit Land Trust, 1020 S 3rd Mt Vernon WA 98273

Cc: Peter Gill, Michael Cerbone, Skagit County Planning and Development Services