

CLEARANCES:	Initial	Date	Date Received in Council Office	Agenda Date	Assigned To
Originator-jrg c:\f2\2\15-93.Ab		JZ	RECEIVED MAY 18 1993 WHATCOM COUNTY COUNCIL	5/25/93	P&D/Council/Intro
Division Head-				6/8/93	
Department Head-		OWD 5/18/93			
Prosecutor Review-		ZHF 5/17/93			
Purchasing/Budget Dir.-					
Executive-					

SUBJECT: FILE REF: 15-93:ZT AN ORDINANCE AMENDING THE TEXT OF THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, CHAPTER 72, POINT ROBERTS SPECIAL DISTRICT, TO EXTEND THE PROHIBITION ON TREE CUTTING AND TO SET BURNING AND VEGETATIVE CLEARING LIMITATIONS IN AND AROUND THE GREAT BLUE HERON ROOKERY AND ASSOCIATED BUFFER AREAS.

ATTACHMENTS: Agency Report with attached Staff Report
 Excerpts from Planning Commission Minutes
 Draft Ordinance

Public Hearing Needed? Yes /___/ No /XX/

SUMMARY STATEMENT: This proposal extends the moratorium on timber cutting in and around the great blue heron rookery in Point Roberts which expires on June 30. The proposal also limits outdoor burning activities that may disrupt the colony, and establishes vegetative clearing requirements. This will help to protect the rookery on an interim basis and allow additional time for land purchase options by the Washington Department of Natural Resources and possibly other organizations.

Legal notification requirements have been met and there was also coverage in the Pt. Roberts All Point Bulletin. In addition, major property owners are being notified. Because of limited time available, however, individual land owners were not notified prior to the Planning Commission hearing. If Council decides an additional hearing is necessary, it should be scheduled for June 8 so action can occur that evening.

RECOMMENDED ACTION: The Director of Land Use and Economic Planning recommends that Council accept the Planning Commission's recommendation by adopting the proposal. Planning asked that this issue go to Planning and Development to decide if they would like to have a hearing. This would give staff enough time to advertise a hearing.

COMMITTEE ACTION (including dates):

COUNCIL ACTION (including dates):

- 5/25/93: Council Introduction
- 6/8/93: Council adopted the ordinance with amendments. 7-0.

Related File Numbers: _____ Ordinance or Resolution Number: 093-028

ORDINANCE NO. 93-028

AN ORDINANCE AMENDING THE TEXT OF THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, CHAPTER 72, POINT ROBERTS SPECIAL DISTRICT, TO EXTEND THE PROHIBITION ON TREE CUTTING AND TO SET BURNING AND VEGETATIVE CLEARING LIMITATIONS IN AND AROUND THE GREAT BLUE HERON ROOKERY AND ASSOCIATED BUFFER AREAS.

WHEREAS, the Planning Department has recommended to amend the text of the Official Whatcom County Zoning Ordinance, Title 20, Chapter 72, Point Roberts Special District, to extend the prohibition on tree cutting and to consider burning and vegetative clearing limitations in and around the great blue heron rookery and associated buffer areas; and

WHEREAS, pursuant to RCW 36.70.590 legal notice was published in the Bellingham Herald on Thursday, April 29, 1993; and

WHEREAS, a Mitigated Determination of Nonsignificance was issued by the Deputy SEPA Official on May 6, 1993; and

WHEREAS, the Planning Commission held a public hearing on the amendment on May 12, 1993, and heard all public testimony on the issues and after due deliberation made a determination that the application be approved with some adjustments; and

WHEREAS, the Council reviewed the Planning Commission recommendation at a public meeting on June 8, 1993, and

WHEREAS, the Council has adopted the following findings and conclusions:

FINDINGS

1. When the Point Roberts Subarea Comprehensive Plan and zoning were adopted, a temporary restriction on timber cutting in the great blue heron rookery and associated buffer area was imposed so that negotiations to purchase the area could be completed. This restriction was extended twice and now will expire on June 30, 1993.
2. Although the Washington State Department of Wildlife was not able to complete negotiations with landowners, the Point Roberts Heron Preservation Committee received support and assurance from the Department of Natural Resources that they would aggressively pursue funding options.
3. It is well documented that the heron rookery at Point Roberts is of major regional biological significance.
4. The referendum on the Critical Areas Ordinance severely limits, if not prevents, the County from protecting the Point Roberts Heron Rookery through that Ordinance.
5. The adopted policies of the Pt. Roberts Subarea Comprehensive Plan support protection of the Pt. Roberts Heron Rookery.

CONCLUSIONS

2 Policies clearly direct Whatcom County to provide for suitable protection for the great
3 blue heron colony at Point Roberts, and to work with other organizations to that end.
4 The proposed text amendment, as mitigated by the SEPA Official, would help to continue
5 to provide protection of a regionally important biological resource in Whatcom County.
6 An extension of the moratorium should either coincide with funding options being
7 explored by the DNR or with the adoption of the final Critical Areas Ordinance. The
8 amount of time required by the Department of Natural Resources is unknown. It is
9 expected, however, that it will take at least two more years before the final CAO is
10 adopted.

11 **NOW THEREFORE BE IT ORDAINED BY THE WHATCOM COUNTY COUNCIL THAT:**

12 Section 1. Title 20, Chapter 72, of The Official Whatcom County Zoning Ordinance, is
13 hereby amended as shown in the attached Exhibit A.

14 Section 2. The Council finds the public health, safety and general welfare are promoted
15 by this change.

16 Section 3. Adjudication of invalidity of any of the sections, clauses, or provisions of this
17 Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof
18 other than the part so declared to be invalid.

19 PASSED this 8th day of June, 1993.

20 WHATCOM COUNTY COUNCIL
21 WHATCOM COUNTY, WASHINGTON

22 Marge Laidlaw
23 Marge Laidlaw, Chairperson

24 ATTEST:

() APPROVED () VETOED

25 Ramona Ren
26 Clerk of the Council

27 Shirley Van Zanten
28 Shirley Van Zanten, County Executive

29 APPROVED AS TO FORM:

Date 6-9-93

30 Karen Frakes
31 Karen Frakes
Civil Deputy Prosecuting Attorney

EXHIBIT A

POINT ROBERTS SPECIAL DISTRICT

20.72.650 DEVELOPMENT STANDARDS

.652 Areas of Special Significance: Tree Retention

Section preamble. Point Roberts contains a unique forest habitat which supports a number of unusual or rare animal species. Lily Point at Point Roberts is recognized as a significant Native American burial ground and a place of special natural, spiritual, cultural, and archaeological significance; the cliffs at Lily Point are dangerously unstable. Permitted development at Point Roberts should take into account its unique forest habitat, and permitted development at Lily Point shall be consistent with its special significance.

In addition to compliance with all other landscaping requirements of this Title and other titles of the Whatcom County Code, development other than a single family house on an individual lot must comply with the following provisions ~~[except that all development must comply with provision # (6)]:~~

- (1) The applicant shall retain existing trees over eight inches in caliper as measured four feet above ground level to the maximum extent feasible. The County shall require site plan alterations to achieve maximum tree retention.
- (2) Existing vegetation may be used to meet all or part of the landscaping requirements of this Title.
- (3) If any vegetation designated for retention is damaged or destroyed through the fault of the applicant, agent or successor, the applicant, his agent or successor shall restore the site pursuant to a restoration plan approved by the County.
- (4) The County may require a bond or other security to guarantee retention of existing trees during construction. In the event any trees designated by the County to be retained are removed, the County shall have the option of enforcing any bond posted, or require additional trees which may be in excess of those previously in existence.
- (5) Any primary development permits, clearing permits, conversion plans, or logging operations shall require, as part of the permit, an approved logging plan designed to preserve as reasonably feasible the area's woodland character. Standards for such permits may be approved by Council resolution.
- (6) ~~No tree cutting, clearing or removal of vegetation other than normal residential yard maintenance, or smoke from outdoor burning, shall be permitted within the heron rookery proper nor within a buffer located 2300 meters from its outer perimeter before June 30, 19935, provided, that on lots located at least 200 meters from the outer perimeter of the rookery, vegetation removal as required for the development of a single family residence may be allowed between September 1 and January 31.~~
- (7) Buffering which recognizes the need for safety and the unique features of Lily Point shall be required on the Point and in such areas no development shall take place.