



February 5, 2014

Planning Commission  
City of Kirkland  
123 Fifth Avenue  
Kirkland, Washington 98033

Re: Holmes Point Overlay Zone

Dear Planning Commissioners:

I am writing on behalf of the board of directors of the Finn Hill Neighborhood Alliance ("FHNA") with respect to the Holmes Point Overlay ordinance (HPO) amendments that the Planning Commission will consider at its next meeting on February 13.

As you recall, in its letter of January 22 to the Planning Commission, FHNA endorsed the HPO amendments that have been proposed by the Planning Department staff with the exception that "feasible" be replaced by "possible" in proposed Sections 3.c and 4.b.2. After this issue was discussed at the Planning Commission's meeting on January 23, I promised that FHNA would consult with the Planning Department staff regarding the appropriate language to use in Sections 3.c and 4.b.2.

After further discussions with Planning Department staff, and subject to the comments set forth below, FHNA concurs that "feasible" is an acceptable word to describe the standard for locating a PNA over existing native vegetation that meets the requirements set forth in Section 4(a) of the HPO ("Section 4(a) vegetation"). While not free from ambiguity, "feasible" does signify that an owner or developer must provide a strong case for why a PNA cannot be designated to protect such vegetation. FHNA is now confident that the City staff shares this understanding of the word's meaning. Given this definition, "feasible" signifies a more rigorous standard than "reasonable", which in this context would leave exceptionally broad discretion to planning staff to determine when it would be "appropriate" for a PNA to be located elsewhere. If the HPO is to achieve its intended goal of preserving mature trees and native vegetation to mitigate erosion on the steep ravines of Finn Hill, a strong standard is essential.

FHNA's willingness to accept the use of "feasible" in the ordinance is conditioned on the City's providing a transparent process in which PNA decisions will be made. FHNA understands that Chapters 145 and 150 of the City's zoning code incorporate requirements for public notification, provision for the submission of public comments, and appeals. These chapters require that notice be given to affected property owners, that signs be posted and that an advertisement be published in a local newspaper. Significantly, the City's current practice is also to provide electronic notice of subdivision. Because subdivision approvals will require the preliminary designation of PNAs on parcels, Holmes Point neighbors who receive notice of subdivision applications will have an ability to address PNA determinations before vegetation is removed. Nevertheless, the current notification process can be improved. Chapters 145 and 150 do not explicitly require the City to provide the electronic notice that it currently offers. This deficiency should be rectified. FHNA recommends that Chapter 145.22 and

Chapter 150.22 of the zoning code be revised to specify that the public notice requirements for subdivision applications be revised to require that notice be given to all residents who apply for electronic notice using a registration (i.e. list serve) process available on the City's website.

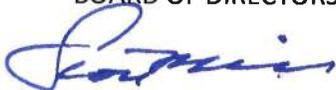
While the foregoing improvement to Chapters 145 and 150 would ensure that the public will have input on preliminary PNA designations when subdivision applications are submitted, a critical gap in the public's ability to comment on the location of PNAs remains at the stage in which an owner or developer applies for a building permit. FHNA understands that, unless an integrated development plan was filed in conjunction with the subdivision application, a PNA's location can be revised at the building permit stage without notice to or an opportunity for comment from the public. Thus, a satisfactory preliminary decision regarding the location of a PNA at the subdivision stage can be undone at the time a building permit is considered, without the public's prior knowledge. Furthermore, parcels that were subdivided before annexation never underwent a preliminary PNA analysis by King County. To ensure that the public has meaningful opportunity to comment on a final PNA determination, FHNA urges that the City revise the HPO to provide that the same notification, comment, and appeal procedures as are used in the Process 1 subdivision application process (Chapter 145) will apply to final PNA determinations if no preliminary PNA determination has been made by the City or if a preliminary determination to locate a PNA over Section 4(a) vegetation would be revised, such that a portion of the Section 4(a) vegetation covered in the preliminary PNA would not be covered by the proposed final PNA. Hopefully, this circumstance would not arise frequently; however, should such a situation develop, it is important that all interested parties, including Holmes Point neighbors, have an opportunity to be heard.

Finally, FHNA notes that the first sentence of Section 3.c of HPO establishes that all PNA determinations – regardless of when they are made – must be located so as to cause the least alteration of existing vegetation. In other words, if it is not feasible to locate a PNA so that it consists of Section 4(a) vegetation, the PNA must be sited in a manner that causes the least damage to existing native vegetation on the parcel. We trust that the City and property owners will bear this overarching principle in mind when considering the designation of a preliminary and a final PNA.

Attached to this letter are proposed revisions of Section 3.c of the HPO and Chapter 145.22 of the zoning code, implementing the recommendations stated above. FHNA endorses the adoption of the proposed revision of the HPO with these recommendations. As always, we appreciate the opportunity to work with the City on this important regulation and we are grateful to have the cooperation of a responsive and knowledgeable Planning Department staff.

Sincerely,

BOARD OF DIRECTORS OF THE FINN HILL NEIGHBORHOOD ALLIANCE



Scott Morris, President

cc: Joan Lieberman-Brill  
Jeremy Mc Mahan

Attachment

**Attachment to FHNA letter to Kirkland Planning Commission**

**February 5, 2014**

**Proposed amendment to Section 3.c**

Add the following sentence at the end of the final paragraph of Section 3.c:

Prior to any determination that it is not feasible to designate a PNA on a lot so that the PNA protects an existing area meeting the vegetation requirements of subsection 4(a), the City shall comply with the public notice and comment provisions of Chapter 145.22 and the provisions of Chapter 145.25 through 145.110 with respect to the PNA designation.

**Proposed amendment to Chapter 145.22**

Revise subsection (2)(5) to read as follows:

The notice will be posted on the City's website and the City will provide the public with a means to register to receive all such notices on a timely basis via email or equivalent means of electronic communication.