

Planning Commission to vote Thursday, Feb 13, on Holmes Point Overlay amendments

The Holmes Point Overlay ordinance (also known as the Special District Overlay) was originally drafted in the 1990s by King County in conjunction with the Denny Creek Neighborhood Alliance (FHNA's former name) and was incorporated into the Kirkland zoning code when Finn Hill was annexed a few years ago. The Holmes Point Overlay applies to properties west of Juanita Drive. In general terms, it requires that a certain portion of residential lots be set aside for natural vegetation and that significant trees be preserved. The ordinance was drafted, in part, to reduce erosion and slides on the western face of Finn Hill.

Proposed amendments

During last fall, the Kirkland Planning Department staff prepared several ordinance modifications designed to provide greater clarity on how the native vegetation area on a property should be defined and on the types of shrubs and trees that should be planted and maintained in these "protected natural areas." Overall the proposed amendments indicate that the protected natural area on a lot should be designated so that it covers mature native vegetation and requires the least amount of disturbance to such vegetation. (This makes sense given the HPO's intent to minimize erosion resulting from surface water runoff.)

FHNA comments

The staff presented its recommendations to the Planning Commission in late January. At that time, FHNA expressed support for the revisions but noted its concern about one aspect of the proposed amendments that would relieve an owner from designating the protected natural area to encompass existing native vegetation if would not be "feasible" to do so. FHNA recommended that "feasible" be replaced with "possible" in order to establish a more rigorous standard for exceptions to the general rule that mature native vegetation should be protected. See FHNA letter of January 22.

At the Planning Commission's public hearing on January 23, the Planning Department staff and several commissioners commented that a "possible" standard would be too strict. Some commissioners suggested that "feasible" be replaced with "reasonable." The commissioners did not vote on the matter. FHNA and the Planning Department staff agreed to discuss the issue further.

After discussions with Planning Department staff, FHNA submitted a letter to the Planning Commission on February 5 stating that FHNA is willing to accept the feasibility language that staff has proposed; FHNA has been assured by the staff that it will require owners and developers to present a strong case whenever they seek to locate a protected natural area on a portion of a lot other than an area with mature existing vegetation. FHNA's letter noted, however, that FHNA's comfort with a "feasible" standard was conditioned on the public's having notice and an opportunity to comment when protected natural areas are being designated on lots. FHNA therefore asked that the City codify its practice of allowing interested

residents to receive electronic notification of applications that require such designations. It also asked the City to provide a public notice, comment and appeal process to protected natural area designations in cases where a property owner or developer contends that it *isn't* feasible to locate the protected natural area to cover existing native vegetation. See FHNA letter of February 5.

Planning Department position

The Planning Department has prepared a briefing memo for the Planning Commission on the HPO and on other zoning issues to be considered by the Commission at its meeting later this week.

The Planning Department memo appears to agree with FHNA the electronic notification of protected natural area designations should be codified. However, it expresses reservations about creating new procedures for public comment with respect to these designations, particularly in regard to building permits. In essence, the Planning Department takes the view that protected natural area designations made at the time a building permit is submitted are part of a “ministerial” process, for which public review is not required today. The staff states that creating a special public comment process for building permits that entail a protected natural area designation would be burdensome both for property owners and for staff. [See pages 8-10 of the memo.](#)

In essence, the staff position would give members of the public an opportunity to comment on the preliminary location of protected natural areas when subdivision applications are submitted. However, it is possible that final determinations on the location of protected natural areas could change at the building permit stage. The public would not have an opportunity to comment on these changes, although the Planning Department staff would remain responsible for locating protecting native existing vegetation to the extent it is feasible to do so.

Planning Commission vote on February 13

The Planning Commission will vote this Thursday on the HPO language that it will recommend to the City Council for final approval. If you wish to comment on the HPO generally or on the specific questions of how protected natural areas should be designated, please send your comments as soon as possible to PlanningCommissioners@kirklandwa.gov.

You can also testify at the beginning of the Planning Commission meeting at 7pm on Thursday, February 13, in the City Council Chambers at City Hall, 123 Fifth Avenue, Kirkland.

Finn Hill Neighborhood Alliance, Scott Morris, President