

Email letter to

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Wednesday, February 1, 2017

Comments regarding the Holmes Point Overlay Ordinance

As a follow up to our meeting last Thursday, I am writing to summarize the issues we raised about potential revisions to the Holmes Point Overlay ordinance. These notes represent my understanding of concerns raised by Holmes Point neighbors who have expressed an interest in amendments to the ordinance. To ensure that the Finn Hill Neighborhood Alliance fairly represents the views of the Holmes Point community, we will circulate the points highlighted in this summary to Holmes Point residents and will solicit their reactions in the next few weeks.

- Tree canopy: The fundamental objective of the Holmes Point Overlay ordinance should be to protect the neighborhood's existing tree canopy, and the ordinance should be written with the goal of preserving a measurable and robust canopy threshold as the area's inventory of vacant and underdeveloped parcels undergo residential construction. As Finn Hill residents, we have difficulty equating the city's general standard of 30 tree credits/acre in residential areas and 150 tree credits/acre in the PNA of the Holmes Point Overlay ordinance with actual tree canopy coverage and with the prevention of erosion or landslides in the Holmes Point area. We need to understand how these tree credit standards relate to the tree canopy coverage that exists in the residential areas (not the parks) of Holmes Point today, so that we can assess how the tree canopy will change as Holmes Point's parcels are developed to their maximum zoning densities in the decades to come. Furthermore, we feel that a simple tree canopy standard (% of a parcel that is under canopy) is a clearer measure of what is an acceptable threshold for foliage than the more abstract criterion of tree credits.
- Impervious surface coverage: The HPO should be amended to include all impervious surfaces – including roads and driveways – in the calculation of permissible coverage. We should also look closely at whether the lot coverage standards in the HPO allow for the planting and retention of an adequate number of trees (based on tree canopy/tree credit standards), particularly in RSA 6 zones (or RSA 8 zones, if they are retained).
- Reasonable economic use: The HPO should make clear that reasonable economic use does not mean that a developer is entitled to build to the full capacity permitted by existing zoning if doing so comprises established tree canopy/credit requirements. It would be helpful to

specify in the ordinance that all significant trees on a lot must be retained except to the extent that compliance with that requirement would deprive the owner of all reasonable economic use of the property. (This language appears in the Carmel, California, tree ordinance.) Similarly, trees of exceptional value (referred to as heritage trees in some ordinances), should not be removed at all, or allowed to be removed only under compelling circumstances. Exceptions would be appropriate for diseased or nuisance trees, subject to replanting requirements if, as a result of the tree removal, the relevant parcel would fall below established tree canopy/credit standards.

- Maintenance: Developers or owners who are required to replant (in order to mitigate the loss of significant trees due to permissible construction or permissible removal) should post a bond to ensure that new trees are properly maintained. Regular site inspections by City personnel or a qualified tree professional selected by the City may also be appropriate.
- PNA designation: The HPO ordinance should specify that the final PNA must be designated before site alteration is permitted (i.e. an integrated development review regime should be mandated for the HPO area). This requirement would require a developer to site the PNA on a parcel at the beginning of the process as opposed to committing to a PNA location only after mature vegetation on a home site has been compromised by grading and other construction activities. We should also consider revising the HPO so that any removal of significant trees is subject to prior public notice and the opportunity for an appeal if a tree removal permit is granted.
- PNA design: The ordinance should provide that each PNA should be compact (as opposed to being formatted as a skinny side yard), with some notion that it can support a minimum number of large canopy trees. There is language in the current ordinance that encourages the creation of PNAs that are compact and located next to PNAs on adjacent properties, but it probably needs to be strengthened.
- Enforcement: We need to understand how rigorously the current ordinance has been enforced, how often fines have been imposed, and whether fines are sufficiently large to incent developers and property owners to comply with the terms of the ordinance. We should require developers and tree companies operating in the Holmes Point area to sign affidavits acknowledging the HPO's provisions. Repeat offenders should be at risk of losing licenses to operate in the Holmes Point neighborhood.
- Exemptions for owner-occupants: While there is significant support for strengthening the Holmes Point Overlay ordinance, some property owners have expressed concern that the current ordinance is both too permissive

in allowing property developers to remove trees during the construction process and too restrictive of a property owner who wishes to remove a tree on his or her home site. We have not yet formulated a specific recommendation on whether (or how) to accommodate the desire of an owner-occupant to remove a significant tree on his or her property, but will solicit recommendations from Holmes Point residents over the next few weeks.

- Education: It would be helpful to establish a mechanism, perhaps funded with permit fees, to educate Holmes Point residents about the terms of the overlay ordinance and the value of maintaining a robust tree canopy, such as mitigating landslide risk, controlling surface water runoff, and promoting cleaner air.

Finally, I attach a draft, prepared by Holmes Point resident Ken Goodwin, of the terms that a revised Holmes Point Overlay ordinance might include. The draft incorporates provisions from tree ordinances that have been adopted by other jurisdictions, such as Redmond and Bothell, and provisions from a new ordinance that the City of Lake Forest Park Planning Commission has recommended to its city council. Please note that this draft has not yet been reviewed by other Holmes Point residents and that, as Ken would point out, it is a rough draft that includes clauses that may be duplicative or may cover matters that are addressed in other Kirkland land use legislation, such as the City's general tree ordinance. The Finn Hill Neighborhood Alliance intends to use Ken's draft as a tool to focus discussion within the Holmes Point community on the specific revisions that should be made to the current overlay ordinance.

Thank you for your continued focus on the Finn Hill neighborhood plan and on the overlay ordinance, which we hope will play an important role in ensuring that land use is managed responsibly in the future. We look forward to working with you on these issues.

Best regards,

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