



CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600- www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Janice Coogan, Senior Planner
Jeremy McMahan, Planning Manager Development Services
Eric R. Shields, AICP, Planning and Building Director

Date: August 24, 2017

Subject: PUBLIC HEARING FOR HOLMES POINT OVERLAY MORATORIUM,
FILE CAM17-00408

RECOMMENDATION

Conduct a public hearing and enact the attached ordinance, which adopts findings of fact and continues the existing moratorium in the Holmes Point Overlay zone for six (6) months as provided by RCW 35A.63.220 and RCW 36.70A.390.

The moratorium prohibits the acceptance of applications for short subdivisions and subdivisions proposing phased review of tree retention plans in the Holmes Point Overlay (HPO) zone and instead requires comprehensive review of tree retention plans known as an Integrated Development Plan (IDP) review process. The ordinance continues the moratorium for up to six months from the date it was first enacted and directs the Planning Commission to review and recommend amendments to the Comprehensive Plan and zoning regulations pertaining to development and tree retention in the HPO.

BACKGROUND DISCUSSION

On July 18, 2017, City Council adopted Ordinance 4584 which prohibits within the Holmes Point Overlay zone, the acceptance of short plat and subdivision applications proposing phased tree retention plans as described in KZC 95.30.6a, and instead requires a comprehensive review of tree retention plans (referred to as an Integrated Development Plan or "IDP") at the time of short plat and subdivision review.

The moratorium was part of a request from the Finn Hill Neighborhood Alliance that City Council: (1) require the IDP review process instead of phased review described in Chapter 95 of the Zoning Code; and (2) prohibit removal of trees from public rights of way in connection with new development activity. The primary purposes of the FHNA requests were to protect tree canopy and slope stability from the impacts of development. The staff memo for the [July 18, 2017](#) packet describes the implications of both requests. The City Council enacted a moratorium on "phased review" as requested above, Ordinance 4584, but tabled the second request regarding prohibiting removal of right of way trees.

The purpose of the moratorium ordinance is to comply with the City's Comprehensive Plan policies for tree retention associated with development activity in the Holmes Point Overlay Zone while permanent code amendments are being considered in the HPO zone pursuant to KZC 70 and 95. These amendments are associated with the new Finn Hill Neighborhood Plan due to be completed in December 2017.

Integrated Development Plan Review

An IDP review process is a term used administratively for the *comprehensive* tree plan review option outlined in KZC Chapter [95.30](#). An IDP review process requires a site plan to show all of the proposed improvements at the beginning of review, such as locations for utilities, vehicular access, building footprint, and proposed tree retention and removal plan. With regard to tree retention and removal, an arborist report must be submitted and, in the HPO zone, the proposed location for the required Native Protection Area (PNA) must also be identified.

The intent of the IDP is to have the complete tree retention plan agreed to up front. It allows all of the tree decisions to be front-loaded in the development process so the developer can do all necessary site work and tree removal with the grading permit, rather than defer the review and site work with each phase of development.

Using the IDP review process does not ensure that all trees will be retained with a plat, but may result in greater tree retention. At a minimum, it will provide the City and neighbors with a more complete upfront disclosure of all of the tree impacts associated with build-out of the development.

Length of Moratorium

Moratorium Ordinance 4584, adopted in July, has a sixty day duration unless extended, following the public hearing, to six months. If the extension is adopted, the moratorium will be in effect until January 14, 2018. At that time it automatically expires unless the Council decides to renew, repeal or modify the ordinance by amending it. If a moratorium is adopted without a public hearing (as was the case with this moratorium), then a public hearing to consider public comment is required to be held within 60 days of its adoption. Following the hearing, the City Council may adopt a new Ordinance continuing the moratorium to no more than six months. The moratorium should be in place long enough to maintain the status quo with tree retention in the HPO zone while staff considers permanent code amendments in the HPO zone pursuant to KZC 70 and 95; including amendments associated with the new Finn Hill Neighborhood Plan, which is due to be completed in December 2017. Staff does not anticipate that the moratorium will need to be extended past its current expiration date of January 14, 2018. However, an extension may come before the Council for consideration if the above listed code review and amendments are not completed before that date.

Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council must adopt findings of fact justifying the imposition of a moratorium. Section 1 of the attached Ordinance includes proposed findings of fact for the City Council's consideration.

Public notice for the public hearing was published in the Seattle Times; on the City's

website; cable television station; posted at City Hall on the bulletin board; and sent to potential short subdivision and subdivision applicants; the Master Builders Association; and the Finn Hill Neighborhood Plan listserv.

SEPA Compliance

The adoption of a moratorium or interim ordinance is subject to compliance with the State Environmental Policy Act (SEPA). To fulfill the environmental requirements for SEPA for moratorium Ordinance 4584, a SEPA addendum to the City of Kirkland 2015 Comprehensive Plan Update Draft and Final Environmental Impact Statement (EIS) was issued on July 31, 2017 (See Attachment 1). It was determined that the moratorium requirements will not result in significant environmental impacts not already addressed in the 2015 EIS.

City's Work Plan: Proposed code amendments related to the Holmes Point Overlay zone and tree regulations

As part of the Finn Hill Neighborhood Plan work program, on August 24, 2017, the Planning Commission will discuss draft amendments to the Holmes Point Overlay, Chapter 70 and 95 Tree Management regulations related to implementation for the Finn Hill Neighborhood Plan. Among other changes, the proposed draft amendments support the moratorium ordinance to require Integrated Development Plan review for short subdivisions and subdivisions in the HPO area. Staff will update the City Council on the Planning Commission discussion at the September 5th public hearing. The Planning Commission is scheduled to forward its recommendation to City Council for adoption by the middle of December 2017.

Attachments:

1. SEPA Addendum

cc: Finn Hill Neighborhood Plan File CAM15-01754
File CAM17-00408

Fact Sheet

Action Sponsor and Lead Agency City of Kirkland
Planning and Building Department

Proposed Action Moratorium Ordinance O-4584 in Holmes Point Overlay Zone prohibits acceptance of phased tree retention plans otherwise allowed by KZC 95.30.6.a and instead requires comprehensive tree retention plans for short plats and subdivisions (also known as an Integrated Development Plan).

Responsible Official



Eric R. Shields, AICP
Planning Director

Contact Person Janice Coogan, Senior Planner City of Kirkland 425.587.3257

Required Approvals Ordinance adopted by Kirkland City Council on July 18, 2017. Public Hearing on moratorium ordinance September 5, 2017.

Location of Background Data Case #: CAM17-00408/SEP17-00470
City of Kirkland
Planning and Building Department
123 Fifth Avenue
Kirkland, WA 98033

Date of Issuance July 31, 2017

City of Kirkland**SEPA Addendum to the 2015 Comprehensive Plan Update Draft and
Final Environmental Impact Statement
For
Holmes Point Overlay Zone Moratorium Ordinance****Case No: CAM17-00408/SEP17-00470****I. Background**

The City of Kirkland adopted Ordinance 4584, which prohibits within the Holmes Point Overlay zone, the acceptance of short plat and subdivision applications with phased tree retention plans described in KZC 95.30.6a. and instead requires a comprehensive review of tree retention plans (referred to as an Integrated Development Plan) at the time of short plat and subdivision review. The purpose of the moratorium ordinance is to encourage greater tree retention associated with development activity. Permanent code amendments are being considered in the Holmes Point Overlay zone KZC 70 and 95 related to the new Finn Hill Neighborhood Plan due to be completed in December 2017. The amendments will be reviewed using Chapter 160 KZC, Process IV with adoption by City Council.

This SEPA Addendum is to the *City of Kirkland 2015 Comprehensive Plan Update Draft and Final Environmental Impact Statement (EIS)* and is intended to fulfill the environmental requirements pursuant to the State Environmental Policy Act (SEPA) for the moratorium ordinance. The moratorium requires a comprehensive tree retention review for short plats and subdivisions in the Holmes Point Overlay zone with the goal of greater tree retention with development activity. The moratorium requirements will not result in significant environmental impacts not already addressed in the 2015 EIS.

II. EIS Addendum

According to the SEPA Rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document (WAC 197-11-600(2)). An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document (WAC 197-11-600(4)(c), -625 and -706).

The City published the *City of Kirkland 2015 Comprehensive Plan Update Draft and Final Environmental Impact Statement*. This EIS addressed the 2015 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). Elements of the environment addressed in this EIS include population and employment growth, earth resources, air quality, water resources, plants and animals, energy, environmental health (noise, hazardous materials), land use, socioeconomics, aesthetics, parks/recreation, transportation, and public services/utilities.

This addendum to the *City of Kirkland 2015 Comprehensive Plan Update- Draft and Final Environmental Impact Statement* is being issued pursuant to WAC 197-11-625 to meet the City's SEPA responsibilities. The EIS evaluated plan alternatives and impacts that encompass the same general policy direction, land use pattern, and environmental impacts that are expected to be associated with the moratorium for the Holmes Point Overlay zone and discussed herein. While the specific location, precise magnitude, or timing of some impacts may vary from those estimated in the *City of Kirkland 2015 Comprehensive Plan Update- Draft and Final Environmental Impact Statement*, they are still within the range of what was evaluated and disclosed there. No new significant impacts have been identified.

III. Non-Project Action

Decisions on the adoption or amendment of zoning ordinances are referred to in the SEPA rules as "non-project actions" (WAC 197-11-704(2)(b)). The purpose of an EIS in analyzing a non-project action is to help the public and decision-makers identify and evaluate the environmental effects of alternative policies, implementation approaches, and similar choices related to future growth. While plans and regulations do not directly result in alteration of the physical environment, they do provide a framework within which future growth and development – and resulting environmental impacts – will occur. Both the adoption of the Comprehensive Plan evaluated in the *City of Kirkland 2015 Comprehensive Plan Update- Draft and Final Environmental Impact Statement* and action on the Holmes Point Overlay zone moratorium related to KZC 95.30.6.a are "non-project actions".

IV. Environmental Analysis

The *City of Kirkland 2015 Comprehensive Plan Update- Draft and Final Environmental Impact Statement* evaluated the environmental impacts associated with adoption of proposed policies and land use designations. The plan's policies are intended to accomplish responsibilities mandated by the Washington State Growth Management Act (GMA), and to mitigate the impacts of future growth. In general, environmental impacts associated with the

moratorium Ordinance 4584 interim regulations are similar in magnitude to the potential impacts disclosed in the *City of Kirkland 2015 Comprehensive Plan Update- Draft and Final Environmental Impact Statement*. As this proposal is consistent with the policies and designations of the Comprehensive Plan and the environmental impacts disclosed in the *City of Kirkland 2015 Comprehensive Plan Update- Draft and Final Environmental Impact Statement*, no additional or new significant impacts beyond those identified in the EIS for the Comprehensive Plan are anticipated.

V. Description of the Proposed

Ordinance 4584 prohibits within the Holmes Point Overlay zone, the acceptance of short plat and subdivision applications with phased tree retention plans described in KZC 95.30.6a. Ordinance 4584 requires a comprehensive review of tree retention plans (referred to as an Integrated Development Plan) at the time of short plat and subdivision review. The purpose of the moratorium ordinance is to encourage greater tree retention associated with development activity while permanent code amendments are being considered in the Holmes Point Overlay zone KZC 70 and 95 associated with the new Finn Hill Neighborhood Plan (to be completed in December 2017).

VI. Public Involvement

The City Council will hold a hold public hearing on September 5, 2017 on the moratorium Ordinance 4584. Public notice of the public hearing is being provided in accordance with State law. The City Council will take final action on the proposal in by the end of 2017. All dates are subject to change.

VII. Conclusion

This EIS Addendum fulfills the environmental review requirements for the moratorium ordinance. The impacts of the proposal are within the range of impacts disclosed and evaluated in the *City of Kirkland 2015 Comprehensive Plan Update- Draft and Final Environmental Impact Statement* no new significant impacts have been identified. Therefore, issuance of this EIS Addendum is the appropriate course of action.

Attachment: Ordinance 4584

ORDINANCE O-4601

AN ORDINANCE OF THE CITY OF KIRKLAND, CONTINUING A MORATORIUM WITHIN THE HOLMES POINT OVERLAY ZONE ON THE ACCEPTANCE OF APPLICATIONS FOR SHORT PLATS AND SUBDIVISIONS PROPOSING PHASED REVIEW OF TREE RETENTION PLANS AND REQUIRING COMPREHENSIVE REVIEW OF TREE RETENTION PLANS WITH SHORT PLAT OR SUBDIVISION APPLICATIONS IN THE HOLMES POINT OVERLAY ZONE VIA AN INTEGRATED DEVELOPMENT PLAN (IDP); AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

1 WHEREAS, the City has the authority to adopt moratoria
2 pursuant to RCW 35A.63.220 and RCW 36.70A.390 and KMC 35.30.1;
3 and

4
5 WHEREAS, current City regulations in KZC 95.30.2 through
6 95.30.5 outline a procedure for a comprehensive review of tree
7 retention plans for all aspects of development permits, commonly
8 referred to as Integrated Development Plan (IDP) review; and

9
10 WHEREAS, IDP review of tree retention plans with short plats
11 and subdivisions, based on the regulations contained in KZC 95.30.2
12 through 95.30.5, has been allowable, but not a requirement; instead,
13 developers can choose phased review pursuant to KZC 95.30.6.a,
14 wherein tree retention plans need only address those trees affected by
15 the known improvements at the time of application; and

16
17 WHEREAS, the City needs to better address the impacts short
18 plat and subdivision developments within the Holmes Point Overlay have
19 on the environment and surrounding neighborhood, and a
20 comprehensive review of tree retention plans with short plats and
21 subdivisions will help provide a more integrated review of the entire site
22 with the goal to reduce the loss of tree canopy while still allowing
23 development; and

24
25 WHEREAS, a comprehensive review of tree plans will help meet
26 the need and intent of the Holmes Point Overlay regulations contained
27 in KZC 70 to retain significant trees, where possible, in addition to the
28 tree retention requirements contained in KZC 95; and

29
30 WHEREAS, a public hearing was held on September 5, 2017,
31 with regard to Moratorium Ordinance 4584 and whether it should be
32 continued; and

33
34 WHEREAS, the City Council determines that it is necessary to
35 continue Moratorium Ordinance 4584 and continue to prohibit short plat

36 and subdivision development applications based on phased review of
37 tree retention plans; instead, allowing only comprehensive review of
38 tree retention plans via the IDP process, so as to continue the status
39 quo and encourage development that has less impact on tree canopy in
40 the Holmes Point Overlay zone. The City determines it is necessary to
41 continue this Ordinance until the City completes its review of
42 amendments it intends to make with regard to the Comprehensive Plan
43 and development code applicable to the Holmes Point Overlay zone
44 ("Collectively called the "Holmes Point Overlay Regulations Project"), in
45 addition to adoption of the Finn Hill Neighborhood Plan; and
46

47 WHEREAS, in addition to the findings and conclusions contained
48 above, after public hearing and consideration of the comments made at
49 the public hearing, the City Council adopts the following Findings of
50 Fact:

51
52 NOW, THEREFORE, the City Council of the City of Kirkland do
53 ordain as follows:

54
55 Section 1.

56
57 Findings of Fact

58
59 a. There has been an increase in the number of short plat and
60 subdivision applications to process in the Holmes Point Overlay zone
61 area in the Finn Hill Neighborhood and the Finn Hill Neighborhood
62 Alliance requests a development moratorium be adopted to provide for
63 additional tree protection.
64

65 b. These short plats and subdivisions have an adverse impact on
66 significant trees in the Holmes Point Overlay zone, reduce tree canopy
67 city-wide.
68

69 c. If Moratorium Ordinance 4584 is not continued then it is likely
70 that a greater number of irreplaceable significant trees in the Holmes
71 Point Overlay zone will be lost between now and when the new Holmes
72 Point Overlay regulations take effect.
73

74 d. The loss of too many significant trees in the Holmes Point
75 Overlay zone would affect not only tree canopy, but also wildlife habitat
76 and soil stability, and could create landslide and erosion hazards; and
77

78 e. The City is currently undertaking studies and considering
79 amendments to development regulations in the Holmes Point Overlay
80 zone, and is planning to enact amendments to development regulations
81 in the Holmes Point Overlay zone in late 2017 or early 2018.

82 f. The City is in the process of developing a Finn Hill
83 Neighborhood Plan that is intended to better address impacts that tree
84 removal associated with development activity will have in the Holmes
85 Point Overlay area and the surrounding neighborhood, and is expected
86 to be implemented in late 2017 or early 2018.

87
88 g. Until permanent ordinances amending the development
89 regulations in the Holmes Point Overlay zone are adopted and the Finn
90 Hill Neighborhood Plan can be implemented, there is a need to require
91 a comprehensive review process of tree retention plans via IDP review
92 procedures in the Holmes Point Overlay zone.

93
94 h. On July 18, 2017, the City Council passed Ordinance 4584
95 establishing an immediate moratorium within the Holmes Point Overlay
96 Zone on the acceptance of applications for short plats and subdivisions
97 proposing phased review of tree retention plans and, instead, requiring
98 tree retention review via an integrated development plan (IDP).

99
100 i. RCW 35A.63.220 and RCW 36.70A.390 allow the City to adopt
101 a moratorium for up to six months without notice and without a public
102 hearing, so long as a public hearing is conducted within 60 days.

103
104 j. A public hearing on Moratorium Ordinance 4584 was held on
105 September 5, 2017, and the City Council heard from both proponents
106 and opponents of the moratorium.

107
108 Section 2. Continue the Moratorium. With regard to property
109 located within the Holmes Point Overlay zone, the City shall not accept
110 applications for short plats or subdivisions that propose a phased tree
111 retention plan as described in KZC 95.30.6a. Instead, the City shall
112 continue to require submittal of a comprehensive tree retention plan as
113 outlined in KZC 95.30.2 through 95.30.5 for all short plat and subdivision
114 applications filed for property located within the Holmes Point Overlay
115 zone.

116
117 Section 3. Staff will continue to use existing administrative
118 procedures known as Integrated Development Plan (IDP) Review to
119 assist applicants with the processing of short plats, subdivisions and
120 subsequent development permits within the Holmes Point Overlay Zone.

121
122 Section 4. Work Plan. The City is currently engaged in the
123 process of studying and amending the development regulations
124 effective in the Holmes Point Overlay zone. The City shall continue this
125 study. One of the goals is to provide a greater tree canopy in the
126 Holmes Point Overlay zone, which would be more consistent with the
127 City's Comprehensive Plan for tree retention, especially in steep slope
128 areas and lands near steep slopes to help maintain slope stability.

129 Section 5. Public Hearing. Pursuant to RCW 35A.63.220, the
130 City Council held a public hearing on this moratorium within sixty (60)
131 days of its initial adoption.

132
133 Section 6. The moratorium approved by this Ordinance shall
134 continue in effect for a period of six months from the effective date of
135 the initial moratorium ordinance, Ordinance 4584, which was adopted
136 July 18, 2017. Thus, this Ordinance shall remain in full force or effect
137 until January 14, 2018, unless amended or repealed by the Council
138 earlier.

139
140 Section 7. If any provision of this Ordinance or its application to
141 any person or circumstance is held invalid, the remainder of the
142 ordinance or the application of the provision to other persons or
143 circumstances is not affected.

144
145 Section 8. This ordinance shall be in force and effect
146 immediately from and after its passage by the Kirkland City Council and
147 publication pursuant to Section 1.08.017, Kirkland Municipal Code in the
148 summary form attached to the original of this ordinance and by this
149 reference approved by the City Council.

150
151 Passed by majority vote of the Kirkland City Council in open
152 meeting this ____ day of _____, 2017.

153
154 Signed in authentication thereof this ____ day of
155 _____ 2017.

Amy Walen, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Stephanie E. Croll, Senior Assistant City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4601

AN ORDINANCE OF THE CITY OF KIRKLAND, CONTINUING A MORATORIUM WITHIN THE HOLMES POINT OVERLAY ZONE ON THE ACCEPTANCE OF APPLICATIONS FOR SHORT PLATS AND SUBDIVISIONS PROPOSING PHASED REVIEW OF TREE RETENTION PLANS AND REQUIRING COMPREHENSIVE REVIEW OF TREE RETENTION PLANS WITH SHORT PLAT OR SUBDIVISION APPLICATIONS IN THE HOLMES POINT OVERLAY ZONE VIA AN INTEGRATED DEVELOPMENT PLAN (IDP); AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

SECTION 1. Sets forth Findings of Fact for the Ordinance.

SECTION 2. Provides for continuation of the Moratorium.

SECTION 3. Continues existing integrated development plan review.

SECTION 4. Sets forth the work plan for the Holmes Point Overlay zone.

SECTION 5. States that the City held a public hearing on the moratorium within 60 days of its initial adoption.

SECTION 6. Describes that the moratorium shall continue to be in full force and effect until January 14, 2018.

SECTION 7. Provides a severability clause for the Ordinance.

SECTION 8. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as immediately from and after passage by the Kirkland City Council.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ___ day of ____, 2017.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk