



CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Teresa Swan, Senior Planner
Eric Shields, AICP, Planning Director

Date: December 13, 2007

Subject: **Annexation Zoning**

I. RECOMMENDATION:

Review key issues for the annexation zoning and provide staff with policy direction for preparation of a draft zoning ordinance.

II. BACKGROUND:

If the Kirkland City Council decides to move forward with an annexation vote, the Council needs to adopt annexation zoning as part of the annexation question on the ballot. The City Council must hold two public hearings, at least 30 days apart, on an annexation zoning ordinance prior to making an annexation application to the Boundary Review Board.

In Kirkland, zoning regulations are divided into 2 general types:

- **Zone specific regulations** for each zone found in the individual use zone charts. Some of these regulations are permitted uses, density, building height and setback, lot coverage, and some special regulations. For example of a use zone chart in the Kirkland Zoning Code, click on link and open Chapter17 RSX http://kirklandcode.ecitygov.net/CK_KZC_Search.html.
- **General city-wide regulations** that apply to all zones, such as tree management and landscaping, critical areas, accessory dwelling units, home occupations and signage.

For the **zone-specific regulations**, the staff's recommendation is to propose annexation zoning that attempts to reflect the existing built environment in the annexation area, the desires of most of the residents and the existing development potential under the County regulations. To achieve this objective, staff proposes new use zone charts tailored to the annexation area that address the zone specific standards. This is the same approach that the City took with the 1988 annexation.

For **general city-wide regulations**, the staff's recommendation in most cases is to apply the City's regulations to the annexation area. This is because it would not be feasible or practical to have two complete zoning codes within one city.

III. PUBLIC COMMENTS:

At the various public forums that the City held over the past several months, interested annexation residents were asked to sign up if they wished to participate in zoning workshops. The purpose of the workshops was to review and discuss key zoning issues identified by City staff. On November 14th, the first workshop was held in which approximately 32 people attended. City staff provided an overview of the key issues to the entire group and then three working groups were formed by neighborhood area to discuss the issues. Then during the week of November 26th, a second set of workshops were held for the three working groups in which 31 people attended to complete the discussions.

Each working group was presented with background information about each zoning issue and alternatives on how to regulate the issue. At the end of the discussion on each issue and alternatives on regulating, the issue, a vote was taken as to whether to continue applying the County's regulations, apply the City's regulations or in some cases if they had any concerns with the City's general regulations. Overall, the participants were interested in applying the City's regulations to the annexation area.

The participants were told that their vote would be forwarded to the City Council as part of the consideration of the draft zoning annexation ordinance. In the section below, a summary of the workshop votes have been included.

IV. KEY ZONING ISSUES:

Provided below is a summary of each issue, input from the zoning workshops, options for City Council to consider and a staff recommendation. The 18 issues are divided into 2 sections: zone specific regulations and general regulations that apply city-wide. Within the sections, the issues are further divided into those without a consensus vote and those with a consensus vote from the zoning workshops.

Once the City Council provides policy direction on the key zoning issues, staff will finish preparing a draft annexation zoning ordinance for the two potential future public hearings.

A. Zone Specific Regulations:

ISSUES WITHOUT A CONSENSUS VOTE FROM THE WORKSHOP

1. Height of single family homes

- County allows homes to be 35' high (3 stories) and can be increased to 45' (potentially up to 4 stories) with increased yard setbacks.
- City allows 25' or 30' (generally 2 stories) depending on the neighborhood.

Background: In 1995, the County increased the allowable height of single family homes in conjunction with providing more residential density (see discussion below on residential zoning). The maximum allowable height went from 30' to 35' with a special provision to go to up to 45' with increased setbacks. The annexation area appears to have very few homes over 35' in height that took advantage of increasing the height by increasing the setbacks.

Workshop response: More people (17 people) want to stay with the 35 foot height limit because they have concerns about making existing homes non-conforming and they see no reason to change. A smaller group (13 people) would like to go to the 30 foot height limit similar to the RSX zones in Kirkland. No one wanted to continue to allow the increased height up to 45', but some people thought that those with homes over 35' in height who wanted to add an addition should be able to match the existing roofline.

Council options:

- Adopt current King County height of 35'.
- Adopt height limit of 30' (same as Kirkland's RSX zone).

Staff recommendation: Adopt the current King County height of 35'. As was done with the 1988 annexation, the City should accept the existing allowable height. Those few homeowners with homes above 35' may apply for an administrative variance to match the existing roofline of any addition.

2. Floor area ratio (FAR)

- City limits square footage of house to 50% of the size of the lot.
- County does not limit the size of a house.

Workshop response: Most (23 people) wanted FAR to apply to the annexation area while some thought that it may be too restrictive but they were not certain (8 people). Many thought that some of the new homes in the area are too large and out of character with the neighborhood.

Council options:

- Adopt the City's FAR regulation.
- Do not apply the City's FAR regulation.

Staff recommendation: Apply the City's regulation on FAR. It was evident from the zoning workshops that most people wanted some control over the size of homes.

3. Auto and boat sales and leasing

- County does not allow these uses in the annexation's commercial areas.
- City does allow them in most commercial areas.

Background: Both the Juanita and Kingsgate commercial centers contain a wide range of uses, are served by major arterials and are generally surrounded by medium to high-density residential developments. They are currently zoned in the County as Commercial Business. (Click on link to PAA map http://www.ci.kirkland.wa.us/shared/assets/Annexation_Map_0614076158.pdf)

The north Finn Hill commercial center is smaller in scale than the Juanita and Kingsgate commercial centers, but also has a variety of uses. It is surrounded on three sides by multifamily and office uses with Saint Edward Park located to the west. The north Finn Hill commercial area is currently zoned in the County as Neighborhood Business. Staff recommends that the commercial center be rezoned to Commercial Business because it contains several uses that are not allowed in the City's Neighborhood Business zone, such as a large grocery store and a fitness center. (Click on link to PAA map http://www.ci.kirkland.wa.us/shared/assets/Annexation_Map_0614076158.pdf)

The south Finn Hill commercial center is much smaller than the other centers and is more of a neighborhood convenience center. It is currently zoned in the County as Neighborhood Business and staff recommends keeping the same zoning designation if the area is annexed into the city. (Click on link to PAA map http://www.ci.kirkland.wa.us/shared/assets/Annexation_Map_0614076158.pdf)

Workshop response: Most people (27 people) thought that locating the uses in some of the commercial centers would be acceptable compared to those that did not agree (3 people). There was a mix of response as to where to locate them (7 for all areas but lower Finn Hill and 6 for only in Juanita and Kingsgate) and whether the uses should only be allowed as indoor sales (13 people).

Council options:

- Allow in Juanita, Kingsgate and north Finn Hill but not in south Finn Hill.
- Allow in Juanita and Kingsgate only.
- Limit to indoor sales at one or more of the centers above.
- Do not allow in any of the commercial centers.

Staff recommendation: Allow outdoor or indoor sales at the Juanita and Kingsgate commercial centers, but not at the two Finn Hill commercial centers. The Juanita

and Kingsgate centers are larger in size than the two commercial areas in Finn Hill and serve as area-wide commercial centers, whereas the two Finn Hill commercial areas serve more of the immediate neighborhood.

4. Juanita Commercial Center

- County does not allow hotels and self storage uses.
- City does allow them in most commercial areas.

Background: The County does not permit hotels and self service storage facilities in the Juanita commercial center. (Click on link to PAA map http://www.ci.kirkland.wa.us/shared/assets/Annexation_Map_0614076158.pdf) Staff has been unable to determine from the County why these uses are not allowed. The County permits these uses in other business commercial zones, such as in Kingsgate. The City permits hotels in all commercial zones and self storage in most commercial zones.

Examples of existing uses in the Juanita commercial center include two large grocery stores, two retail pharmacy stores, auto service stations and auto repair shops, restaurants, office uses, a veterinary clinic and a mix of general retail. These are typical businesses that would be located near hotels and self storage uses.

Workshop response: Most (21 people) thought that the uses should be allowed in the Juanita commercial area. All of those from one of the Finn Hill working groups (9 people) were concerned that a low quality hotel would locate in the area rather than a higher quality hotel like the new Marriott Hotel to the south in Totem Lake on NE 124th Street and thus voted to not allow the hotel use.

Council options:

- Apply the City's regulations and allow the uses in Juanita commercial area.
- Apply the County regulations and not allow the uses.

Staff recommendation: Apply the City's regulations and allow the uses in the Juanita commercial area.

ISSUES WITH A CONSENSUS VOTE FROM THE WORKSHOP

5. Townhouses and apartments permitted in single family neighborhoods

- County allows them anywhere with no zoning permit required.
- City allows 2 to 3 unit homes with a Process I permit.

Background: The County permits townhouses (attached units) and apartments (stacked units) outright in single family residential zones with simply a building permit. The annexation area currently has 11 sites ranging from 4-36 units. The

City permits 2 to 3 unit homes under the new cottage housing regulations that require a Process I zoning permit with design and location standards.

Workshop response: No one at the workshops (32 people) wanted the uses allowed outright in single family neighborhoods without a review process and design and location standards.

Council options:

- Apply the City's regulations, including the new cottage housing regulations.
- Apply the County regulations that permit the uses without a public process.

Staff recommendation: Apply the City's regulations.

6. Commercial uses permitted in single family neighborhoods

- County allows certain commercial uses in residential zones.
- City does not allow them.

Background: The County allows limited commercial uses located on main arterials in residential zones through a public review process. Uses include grocery stores, variety stores and restaurants of 5,000 square feet or less, and medical office. To our knowledge, none exist in the annexation area. The City does not allow these uses in residential zones.

Workshop response: Only one person out of 32 people supported allowing commercial uses in residential zones.

Council options:

- Apply the City's regulations and not allow the uses.
- Apply the County regulations and allow the uses.

Staff recommendation: Apply the City's regulations.

7. Rear yard setback

- County requires at least 5'.
- City requires at least 10'.

Background: In 1995, the County decreased the rear yard setback requirement in conjunction with providing more residential density and reducing the minimum lot size to 2500 square feet (see discussion below on residential zoning). Prior to 1995, the rear yard setback was 10'.

Workshop response: All (31 people) but one person would prefer to require a 10 foot wide rear yard setback. Participants indicated that they had rear yard setbacks of at least 10' and several indicated displeasure in the loss of privacy when recently some new large homes were built very close to their back yards.

Council options:

- Apply the City's regulations and require a 10' rear yard setback.
- Apply the County regulations and continue the 5' rear yard setback.

Staff recommendation: Apply the City's regulations. Based on the comments from the workshops, the City's 10' rear yard setback should apply to the annexation area. Any addition to a house with a 5' rear yard setback could apply for an administrative variance if needed.

8. Lot coverage (impervious surfaces) for single family zones

- County allows home, driveway, patio and other paved areas to cover 55% in the R-4 zone, 70% in the R-6 zone and 75% in the R-8 zone.
- City allows a maximum of 50% of lot to be covered in both the RS and RSX zones.

Background: The County increased its maximum allowable lot coverage in conjunction with adoption of its critical areas ordinance a few years ago. Prior to that time, the maximum lot coverage was 50% for single family zones. The County's current residential lot coverage standards are considerably higher than the City's standards. As a comparison, the City's lot coverage standard for multi-family is 60%, for office is 70%, for most commercial is 80% and industrial is 90%.

The City calculates concrete pavers used for walkways and patios, and wood decks at 50% impervious and not at 100% when water can go through the gaps in the improvements, provided that the surface underneath is pervious. Swimming pools are excluded from the lot coverage provision. The County code does not have such provisions in its Zoning Code. (Note that this level of detailed information was not provided to the workshop participants.)

Workshop response: Most (26 people) wanted to apply the existing 55% to all single family residential zones and some (4 people) wanted to adopt the City's regulation of 50%. One person suggested a sliding scale of R-4 at 55%, R-6 at 60% and R-8 at 65%. This is one zoning concept that the participants struggled with because they could not visualize how much impervious surface looks like at the different percentages.

Council options:

- Apply the City's maximum allowable lot coverage of 50%.
- Apply the County regulations at 55% in the R-4 zone, 70% in the R-6 zone and 75% in the R-8 zone (no change).
- Apply the County's regulation for the R-4 zone at 55% to the R-6 and R-8 zones.

Staff recommendation: Apply the City's maximum allowable lot coverage of 50%. With the City's provisions of calculating wood decks and concrete pavers at 50% impervious, the difference between 55% and 50% is very minor. Where differences are minor, the City should have the same regulations.

9. Single family residential density

This is a very complex issue so the format of presenting the information is different than the other issues and three options have been proposed.

Background: Part of the annexation zoning includes preparing a Zoning Map for the annexation area. At the time of the 1988 annexation, the County was using the same minimum lot size standard as the City with comparable minimum lot sizes so it was a simple matter of designating the new annexation residential zones as "RSX" to make a distinction in the differences between the existing City and County regulations for allowable height and yard setbacks. In 1995, the County switched to a new standard of residential zoning to achieve greater density in the annexation area in an effort to meet its housing targets under the Growth Management Act.

Below is a comparison of the County and City zoning standard:

- County uses a **units-per-acre standard** that includes counting all roadway, wetlands, streams and associated buffer areas in the density calculation. An example would be a 1 acre property zoned at R-6 would achieve 6 residential lots acre, regardless of road dedication, wetlands, streams or steep slopes. Absolute minimum lot size is **2,500 square feet**. The zones range from R-1 through R-8 with R-6 as the most common zone (click on link to PAA map http://www.ci.kirkland.wa.us/_shared/assets/Annexation_Map_0614076158.pdf). The result of the new County density standard is much smaller lots compared to the prior system.
- City uses **minimum lot size standard only**. Easement roads are generally excluded from the lot area in the subdivisions of 4 or more lots. Road dedications as well as wetland and stream areas are not included in the lot size. A portion of the buffer area is included. The minimum lot size standard varies by zoning area with a range for single family from 5,000 square feet to 35,000 square feet with the most common at 7,200 and 8,500 square feet. Using the same example above for a 1 acre site zoned at RS 7.2 (which is 6 units per acre), road dedication and most of any critical areas are excluded from the density calculation resulting in fewer than 6 developable lots.

Analysis in developing the options:

The initial goals of staff in establishing the comparable residential zoning designations were to stay with a minimum lot size system to avoid two different

zoning systems in Kirkland and to tailor the minimum lot sizes for each zone to minimize loss in development or redevelopment potential. Staff spent a great deal of time working with GIS to understand the range of existing lots sizes and potential platting opportunities in the annexation area.

Staff tried several different minimum lot size options ranging from 95% down to 80% of the County zone (see Option 3 below for a few of those options) to account for not including road area for the medium to large subdivisions, but then not making the minimum lot size by zone too small. The smaller the minimum lot size, the more lots that the 2-3 lot plats could gain beyond what would be achieved now and the larger the minimum lot size, the more lots that the 4 or more plats would lose. Staff concluded that no reasonable minimum lot size match could be found that did not end up with “winners and losers.”

Also, the **R-1 zone** (1 unit per acre) in the annexation area would need to continue to be regulated using the County’s unit per acre standard. The zone is located entirely in the most easterly portion of King County just north of the annexation area’s industrial zone. The R-1 zone has a special overlay designation called a Greenbelt/Urban Separator. Under the Countywide Planning Policies, new development must be clustered with 50% of the area left in a continuous open space, wildlife corridor. The County will not accept the City reducing the minimum lot size in that area slightly to account for not including road area in the lot size calculations.

Following extensive research and analysis, staff has developed three options as described below:

Option 1: Adopt the current County standard of **units per acre** with a **minimum lot size of 2500 square feet**. Include road area in the density calculation, but use the City’s regulations of only including a portion of the associated buffers in the density calculations and not the wetland and stream areas. This option can result in very small lots.

Option 2: Same as **Option 1**, but establish a **minimum lot size of 70% of the County’s average lot area per unit** (see table below) rather than the existing 2500 square foot minimum lot size (70% reflects the worse case situations for several past subdivisions in Kirkland in which up to 70% of the land area was developable after 30% of the land area was needed for road dedication).

| County Zone | Average lot area/unit | 70% of average lot area/unit |
|-------------|-----------------------|------------------------------|
| R-4 | 10890 sq ft | 7623 sq ft |
| R-6 | 7260 sq ft | 5082 sq ft |
| R-8 | 5445 sq ft | 3812 sq ft |

Option 3: Adopt the **City’s approach of a minimum lot size standard** for each zone set at (**X%**) of the **average lot area per unit** to account for not including road area in the minimum lot size. Use either at 90% or 85% of the average lot area per unit (see table below). This option results in winners and losers for subdivision applicants – those with no road dedication or easement area excluded from the lot area will gain extra lots and those with road dedication or easement area excluded from the lot area will lose lots.

| County Zone | Average lot area/unit | Minimum lot size at 90% of the average lot area/unit | Minimum lot size at 85% of the average lot area/unit |
|--------------------|------------------------------|---|---|
| R-4 | 10,890 square feet | 9,800 square feet | 9,250 square feet |
| R-6 | 7,260 square feet | 6,500 square feet | 6,100 square feet |
| R-8 | 5,445 square feet | 5,000 square feet | 4,600 square feet |

It should be noted that most if not all **multi-family developments** are served by private driveways that are included in the density calculations. This is confirmed by the fact that the existing County multi-family developments are built at or close to the minimum densities of their underlying zoning. Staff recommends applying the City’s comparable minimum lot size per unit to the County’s multifamily zones. Examples are the County’s R-12 would be converted to RM 3.6, R-18 to RM 2.4 and R-24 to RM 1.8.

Workshop response: Most (27 people) wanted to apply Option 2 to keep the same density standard in place, but to raise the absolute minimum lot size above 2500 square feet while a few (4 people) wanted to apply Option 3 so that all future lots in each zone had comparable minimum lot sizes. Many of those voting for Option 2 recognized the importance of not reducing the existing development potential of vacant or under developed land in the annexation area.

Staff recommendation: **Adopt Option 2.** Since the County’s R-1 zone needs to continue under the units per acre density standard and Option 3 (the minimum lot size option) results in “winners and losers,” Option 2 appears to be a reasonable compromise. The absolute minimum lot size is raised from 2500 square feet (which is now only 22% of the R-4 average lot size per unit, 34% of the R-6 average lot size per unit and 46% of the R-8 average lot size per unit) to 70% of the average lot size per unit. The absolute minimum lot size of 70% provides a reasonable lot area for a single family home and also allows a property owner with extensive right-of-way dedication to still achieve the established units per acre density.

B. General Regulation Issues

ISSUES WITHOUT A CONSENSUS WORKSHOP VOTE

1. Garage setback from main house

- City requires garages to be setback 5 feet from main house if garage exceeds 50% of front façade. With this provision, garages would have to be setback 25 feet from street if the main house is setback 20 feet from street. Porches can extend to within 13 feet of the front yard.
- County requires that garages be setback 20 feet from the street, but the main house is permitted (not required) to be as close as 10 feet from the street.

Background: The purpose of the City's regulation is to make the front façade of a home more prominent and the garage less prominent. The regulation often results in the main house setback 20 feet and the garage setback 25 feet from the street. The County has no such provision. Based on what has been found in the annexation area and comments from the workshops, existing front facade of homes and garage are generally both 20 feet from the street.

Workshop response: Many (20 people) do not want to apply the City's regulations while some (10 people) thought applying the regulations would be acceptable. Some of those who voted to not apply the regulation were interested in considering the regulation in the future. This was a design issue that most of the people had never thought about and no one felt strongly about applying the regulation.

Concerning the front yard setback, one Finn Hill working group of 11 people discussed having the City's front yard setback of 20 feet apply to the annexation area instead of 10 feet. They said that their homes were already setback 20 feet from the street.

Council options:

- Apply the City's regulation of a garage setback.
- Do not apply the City's regulation.

Staff recommendations: Do not apply the City's garage regulation at this time, but wait until after annexation to address the design concept with the annexation area.

Based on the general comments from the workshop groups, staff recommends applying the City's front yard setback regulation of 20' to the annexation area.

2. Height of detached accessory dwelling units

- City limits the height of detached dwelling units (typically built above a detached garage) to 25 feet in height.

- County allows detached accessory dwelling units to be the same height as the primary house at 35', whether located above a garage or as a free standing structure.

Background: All detached single family structures, including garages, accessory units (ADUs), sheds and barns cannot exceed 25 feet in height in Kirkland. However, by limiting the height of a detached ADU (commonly built above the garage) to 25 feet in height, the roofline and design of ADUs above the garages may not match the roofline and design of the main house in the annexation area.

Workshop response: More than half (20 people) thought that the height limit should be 35' or at least 30' with a smaller group (10 people) voting for the 25 foot height limit for detached ADUs.

Council options:

- Adopt current King County height of 35' for detached ADU's.
- Amend Section 115.80 to allow detached ADUs to reach 30' in height in the annexation area.
- Apply Kirkland's 25' height limit to detached ADUs.

Staff recommendation: Adopt a 30' height limit. This height is adequate for a garage with an ADU above to provide enough height to match the design and pitch of the main house roof.

3. Size of vehicles parked in residential zones

- City prohibits RVs, trucks and boats greater than 9' high and 22' in length parked for more than 48 hours (proposed amendment would change to 24 hours).
- County does not limit the parking of RV's, trucks and boats.

Background: The City's regulation is enforced on a complaint basis only. An owner may apply for a Process IIA permit at a current cost of \$5,290.00 to request keeping the vehicle on the property. Screening is typically required. The City has not received very many applications over the years so most people either keep them parked on site without complaints or the vehicles are parked off-site.

Workshop response: More than half (19 people) thought that the vehicle size restriction should not apply to the annexation with a smaller group (11 people) voting to apply it, but to simplify the City's process and reduce the fee to allow the vehicles on site if properly screened. One person suggested allowing existing vehicles if registered within 6 months of annexation. Many were concerned that the annexation vote would fail if the regulation was applied and suggested waiting until after annexation to consider the regulation. The same group who did not want to apply the regulation over concerns of the vote thought that the large vehicles were unsightly and were a traffic hazard when parked in the street.

Council options:

- Adopt City's regulation.
- Do not apply City's regulation.
- In conjunction with the first option, reduce the review process to allow the vehicles to be located on site with screening and/or grandfather existing vehicles.

Staff recommendation: Apply City's regulation, reduce the review process for locating on site with screening, and allow existing vehicles to remain if they are registered with the City shortly after annexation. The grandfathering provision will take some initial staff time, but at least the regulation would start applying to the annexation area for new vehicles.

4. Tree removal on lot with existing home

- County allows any tree to be removed on the property, unless the trees are in a greenbelt, wetland/stream area or steep hillside.
- City allows up to 2 significant trees per year to be removed, but none in greenbelt or wetland/stream area. Last 2 remaining significant trees may not be cut unless 2 new trees are planted.
- For both the County and City, all hazardous and nuisance trees can be removed outside of greenbelts, wetland, stream and steep hillside areas. Within these critical areas, hazardous trees can be cut as snags or in some cases removed.

Background: The main difference between the City and County regulations is that the City limits the number of trees each year that can be removed and requires that at least 2 trees remain on the property.

Workshop response: More than half (21 people) thought that the City's regulations are acceptable or a good idea. The Kingsgate/Juanita working group (9 people) were concerned about not being able to remove more than two trees per year. Some people have older trees on their property and want to thin out trees as their properties get overgrown.

Council options:

- Apply the City's regulation.
- Do not apply City's regulation.

Staff recommendation: Apply the City's regulations. It would not be practical to have two different tree management regulations in the City.

ISSUES WITH A CONSENSUS WORKSHOP VOTE

5. Wetland, Stream and Associated Buffers

Background: The City's critical area regulations were adopted in 2002. The County's critical area regulations were adopted just a few years ago. By 2011, the City will be required to review its critical area regulations and potentially make changes to also reflect this new information.

Two important issues to consider when comparing the County and City buffer widths are the greater level of density and percent of impervious surface that the County allows next to its wetlands and streams compared to the City. As discussed earlier in the memo, the County's standard for determining allowable density includes all wetlands, streams and associated buffer areas. The means that more lots and smaller lots can be located next the County critical areas compared to similar zones in the City. Also as noted earlier in the memo, the County allows more impervious surface than the City that can result in more contaminated storm runoff into the critical areas.

Below is a general comparison of the County and City critical areas ordinances:

- County and the City use totally different rating systems, buffer standards for wetland and stream areas, allowable buffer reduction provisions and review processes for reducing the buffers. The County's rating system is more complex than the City's rating system in that it has many more criteria to evaluate. According to the City's consultant, The Watershed Company, each system has its pros and cons.
- County's required buffer widths are generally greater than the City's standards, but overall the County's buffer reductions and intrusions into the critical areas appear to be more generous.

Below is a table showing the range of buffer widths:

| Jurisdiction | Wetland Buffer Widths | Stream Buffer Widths |
|--------------|-----------------------|---|
| City | 25' – 100' | 25' – 75' (no regulations for lakes at this time) |
| County | 50' – 225' | 25' – 115' (includes lakes) |

- County potentially allows more intrusion into the buffer and building setbacks than the City and without a public review process. Examples include the following:
 - Allows within the buffer and building setback areas and with no required mitigation the expansion or replacement of existing structures of up to

1,000 square feet and construction on existing impervious surfaces with no limitation on size. The City has no such provisions.

- Allows a 25-foot reduction in wetland buffer widths with no public review process. In the City, an applicant can propose up to 1/3 of the buffer width be reduced with mitigation through a public review process for all critical areas, except no public process is required for Type 3 Wetlands in a Secondary Basin and Class C Streams (the lowest types).
- Allows more generous modifications to critical areas for public features, such as roads and utilities.

Workshop response: No one had concerns about the City's regulations for wetlands and streams.

Council options:

- Apply the City's regulation.
- Adopt the County's critical area ordinance in its entirety, including buffer reduction provisions and review process.

Staff recommendation: Apply the City's regulations. As discussed earlier in the memo, it would not be feasible or practical to have two codes to regulate. In addition, staff found the County's critical area ordinance confusing, unclear and poorly organized. Any changes to the County's critical area ordinance probably need to be reviewed and approved by various state agencies prior to City adoption.

Instead of applying the County's critical area ordinance to the annexation area when and if annexation occurs in late 2009 or later, a better approach is to wait until the City reviews its critical area ordinance before 2011 as required under State law. When reviewing the City's critical area ordinance, the City can study the County's ordinance along with other jurisdictions' ordinances and the latest in scientific literature to select the most appropriate rating system, buffer width and buffer reduction provisions for the entire city.

If the City Council decides to apply the County's critical area regulations to the annexation area, then the City should consider allowing all critical areas to be calculated in the density calculations and to select Option 1 above under the Staff Recommendation section of Issues No. 9 for Single Family Density to continue allowing the minimum lot size of 2500 square feet for all residential zones.

6. Signs

- County allows 15' - 20' high pole signs and billboards.
- City allows 12' high monument signs that must have a wide base and does not allow billboards.

Background: The County allows much higher free standing signs in all of its commercial centers. Billboards are permitted in the annexation area, except for the Juanita commercial center. There are currently 3 billboards in the annexation area - one in the Kingsgate commercial area and two in the Totem Lake industrial area.

If the City's regulations are applied, the free standing signs in the annexation area would need to be brought into conformance upon annexation if and when a business owner wants to reface the sign, such as changing the colors or name of the business. For the billboards, these need to be removed with redevelopment of the site.

Workshop response: No one had concerns about the City's sign regulations.

Council options:

- Apply the City's regulation.
- Do not apply City's regulation.
- One additional option is to provide a grace period to allow owners of pole signs to reface the sign within a certain period of time after annexation without bringing the entire sign into conformance.

Staff recommendation: Apply the City's regulations. Staff does not see a need for a grace period. Business owners will have ample time to make changes to their signs prior to annexation.

7. Home occupations

- County limits number of non resident employees to 1 person and customers must come by appointment.
- City limits number of non resident employees to 2 people and 6 customers per day with no more than 2 at a time.
- For both County and City, no exterior activity.

Background: The County and City regulations are similar. However, based on conversations with residents from the various forums, it sounds as if there is a lack of County enforcement when exterior activities are causing impacts.

Workshop response: No one had concerns about the City's home occupation regulations.

Council options:

- Apply the City's regulations.
- Apply the County's regulations.

Staff recommendation: Apply the City's regulations.

8. Tree removal on lot with new home or major addition to home

- County requires 10 significant trees or 5% of all trees to be saved, whichever is greater, excluding critical areas. Some trees can be counted as 2 tree credits if certain size and quality of tree are met.
- City requires significant trees in front, side and rear setback yards are kept, excluding diseased or hazardous trees. Also, a minimum tree density of 30 tree credits per acre must be provided on site. The number of tree credits assigned to each tree depends on the diameter of the tree trunk. In most cases, tree density is met with existing trees on the site. If not, typically one or two trees need to be planted on the property.

Background: The City and County regulations are different. The location and number of trees on a site would be the determining factor as to which set of regulations would be more or less restrictive. The County does not have a minimum tree density requirement.

Workshop response: No one had concerns about the City's tree regulations.

Council options:

- Apply the City's regulation.
- Apply the County's regulation.

Staff recommendation: Apply the City's regulations.

9. Holmes Point Disturbance and Significant Tree Retention Ordinance

- County has special ordinance for the Holmes Point area of Finn Hill (see Attachment A) that limits grading, tree removal and lot coverage (impervious area). However, the Ordinance does not require a minimum tree density on each lot as the City does and the City has a slightly lower threshold of what is considered a significant tree that must be retained. In the City, a significant tree is 6 inches or greater whereas in the County a significant tree is either 8 inches or greater evergreen tree or 12 inches or greater deciduous tree (this is the City's prior standard of tree size).

Background: The County has a free standing ordinance for Holmes Point not incorporated into its Zoning Code. Ordinance 13576, adopted on July 7, 1999, provides a significant tree retention special district overlay for Holmes Point. The purpose of the ordinance is to provide a higher level of surface water control and significant tree protection retention beyond the County's general requirements in order to protect wildlife habitat, address area wide erosion, landslide or other hazardous conditions, and neighborhood character. The regulations include a significantly lower allowance for impervious surface coverage, a set aside of 25% of the land in its natural form, retaining all significant trees other than the allowable impervious surface areas.

The Denny Creek Neighborhood Alliance group and other interested residents actively worked to have King County adopt the ordinance for the area. The ordinance should be incorporated into various sections of the City's codes.

However, upon reviewing the ordinance, staff would also recommend amendments to the ordinance to clarify sections and provide clearer implementation provisions. For example, the 25% natural set aside should be in a recorded greenbelt easement and be required to include any critical area and/or grove of significant trees (which the ordinance does not).

Workshop response: No one had concerns about applying the City's tree management regulations to the Holmes Point area. (Note that only 2 people from Holmes Point attended the workshops).

Council options:

- Apply the City's tree management regulation to the Holmes Point area in addition to Ordinance 13576.
- Do not apply City's regulation.

Staff recommendation: Apply the City's tree management regulations along with the special ordinance. In cases where a Holmes Point property does not contain any trees, the City's tree density regulations should apply. Also, it would be much simpler to apply the City's definition of a significant tree to the Holmes Point area rather than to have two separate definitions to administer in the area.

V. OTHER ZONING REGULATIONS:

The discussion above under the section on Key Zoning Issues highlighted differences between the City and the County regulations that staff thought needed public input at the zoning workshops. Below is a list of other differences between the City and Council regulations with a staff recommendation that staff concluded did not need public input.

1. County programs that allow increasing of density

a. Transfer Development Rights program

The County has a program where density rights from nearby rural areas may be transferred and used in the urban areas. The annexation area has been designated as a "receiving area." The property owners of two sites in the annexation area have purchased these rights. One subdivision has been developed in Kingsgate in which the density was increased from R-4 to R-6 without rezoning the property. The other site has not been developed yet. The County administers the program and will work with local cities to find interested developers.

Staff recommendation: Not continue the PAA as a receiving area under the Transfer Development Rights program upon annexation. The City Council could decide to a look at the program after annexation if this is a program that it would like to consider, possibly with location and design criteria.

b. Density Incentives

The County offers density incentives for affordable housing, energy efficiency, open space and historic preservation. The City has similar incentives through the planned unit development process, under affordable housing provisions and the new cottage housing regulations, and with the historic overlay zone.

Staff recommendation: Staff recommends that the City’s incentive provisions apply to the annexation area rather than the County’s incentive program to increase density.

2. Building height in zones other than single family zones

The County’s allowable maximum height for each zone is greater than what is allowed in the City, but the actual heights constructed in the PAA are lower than what is allowed.

Below is a list of the allowable heights and staff recommendations:

| King County | Comparable Kirkland zones | Existing Height in PAA | Recommendation |
|---|----------------------------------|--|-----------------------|
| Multi-family zones: R-12: 60’ R-18 to 48: 60’ - 80’ | 30’ | 3 stories | 35’ |
| Juanita Commercial: 35’ | 30’ | 1 and 2 stories | 35’ |
| Finn Hill Commercial: 35’ to 45’ | 30’ | 1 and 2 stories | 35’ |
| Kingsgate Commercial: 35’ to 60’ | 30’ | 1 and 2 stories | 35’ |
| Light Industrial: 45’ | 35’ | 1 to 3 stories (Graham Steel building will be removed) | 35’ |

Staff recommendations: Staff recommendations are outlined above in the table. The recommendations are based on looking at existing buildings in the annexation area and comparable zones in the City.

Concerning the recommended height for the industrial zone in the annexation area, taller buildings encourage more office buildings rather than low rise

industrial buildings. If the intent of the City is to encourage industrial uses in the LI zone of the annexation area, the height limit should be set at 35 feet and not 45 feet. This is the policy that the City took when setting the height limit in the industrial area of the Totem Lake 7 (TL7) zone just west of the annexation area's industrial zone. As discussed in the following section, staff proposes that the existing annexation area's industrial zone be rezoned as TL7.

3. Front yard setbacks for zones other than single family zones

The County's and the City's building setbacks are either the same or very similar. Only the differences are noted below in the table:

| King County regs. | Kirkland regs | Recommendation |
|--|----------------------|-----------------------|
| Front yard: Multifamily at R-12 thru R-48: 10' Commercial: 10' Industrial: 10' | 20': all zones | County regs |

Staff recommendation: Adopt County's regulations.

4. High water line setback along Lake Washington

Both King County and Kirkland are in the process of preparing new Shoreline Master Program (SMP) as required by Dept of Ecology (DOE). The current required setbacks from the shoreline for both jurisdictions will change, but the final setbacks are not known at this time. The County is further along in preparing a new SMP than the City and has issued a draft of new shoreline zoning regulations.

King County is proposing to go from a 20 foot setback for single family and a 50 foot setback for multifamily to a 115 foot setback (treated as a critical area buffer for a lake) with the possibility of reducing the setback by buffer averaging with mitigation. In fact, the County has been applying its critical areas ordinance along its shoreline for the past few years.

The City's current setback is 15 feet or 15% of the average parcel width whichever is greater. The City has not begun the process of preparing draft shoreline regulations yet.

Depending on when annexation occurs, it is likely that the City will need to adopt the County's SMP (either existing or new) on an interim basis prior to annexation because the City's SMP will likely not be approved by DOE before the annexation would take effect.

5. Lot coverage in zones other than single family zones

The County allows for much more lot coverage (building and paved areas) than does the City. Below are the differences and the staff recommendations:

| King County regs. | Kirkland regs | Recommendation |
|---------------------------------------|---|---|
| Multifamily zones: R-12-R-24: 85 % | 60% | 70% |
| Office: 75% | 70% | 70% |
| Commercial: 85% | 80% for most zones | 80% |
| Industrial: 90% | 90% for industrial and 80% for commercial | 90% for industrial and 80% for commercial |

Staff recommendations: Staff recommendations are outlined above in the table.

The City's lower lot coverage standards serve several purposes: to reduce storm run off, to provide more open ground that can absorb CO2 emissions (learned about this at the latest planning conference), to contain more area for landscaping and to limit visual massing of buildings. Based on visual surveys of the annexation area, it does not appear that the area has significantly more lot coverage. However, we have no access to the actual lot coverage percentage for each lot in the annexation area.

6. Parking standards in all zones

The County's and the City's parking standards **are similar**. Only the differences are noted in the chart below:

| King County regs. | Kirkland regs | Recommendation |
|---|---|--|
| Multifamily: 1.2 to 2 stalls depending on the number of bedrooms | 1.7 stalls per unit | City regs |
| Medical/Vet: 1 stall for every 300 square feet of area | 1 stall for every 200 square feet of area | City regs |
| Restaurant: 1 stall for every 75 square feet of dining area | 1 stall for every 100 square feet of gross floor area | City regs |
| Church: 1 stall for every 5 seats plus 1 stall for every 50 square feet of assembly | 1 for every 4 seats | City regs |
| Assisted living: 1 for every 2 units | 1 stall per bed | City regs |
| Nursing homes: 1 for every 4 beds | 1 stall per bed | City regs (no nursing homes in PAA) |

Staff recommendations: Staff recommendations are outlined above in the table. For consistency of administration, it is preferable to have a uniform parking standard for each use category throughout the City. If a use in the annexation wants to expand, it would only need to provide the difference in the parking standards for the addition.

VI. REZONES:

As part of adoption of a Zoning Map for the annexation area, the County zones would be converted to comparable City zones. However, staff recommends several rezones as discussed below:

1. Existing multifamily developments located in single family zones

As discussed above under Issues No. 5 for the Zone Specific Regulations section, townhouses and apartments are allowed in single family zones. The annexation area contains 11 multi-family developments that are located in single family zones ranging from 4 to 36 units. All of the sites are located on main arterials and near commercial areas or public facilities.

Staff recommendation: Rezone the 11 properties to the comparable City’s multifamily zone based on their existing densities.

2. Four isolated single family sites in Finn Hill

The County's Comprehensive Plan establishes a range of 4 to 12 dwelling units per acre in the single family areas. This range allows for rezones on a lot by lot basis resulting in the isolation of lower density single family lots being surrounding by slightly higher density single family lots.

During one of the public forums, a property owner approached Planning staff about her isolated lot in the Finn Hill area and asked if the City could rezone her property from R-6 to R-8 as part of the annexation so that her property would have the same density as the surrounding lots. Staff then identified three other Finn Hill sites in the same situation. The three sites totaling 6 lots would be rezoned from R-6 to R-8 and each would achieve one more lot (see Attachment B).

Staff recommendation: Rezone the 4 single-family sites from R-6 to R-8.

3. North Finn Hill commercial center

As discussed above under Issues No. 3 for the Zone Specific Regulations section concerning auto and boat sales, staff recommends that the commercial center be rezoned from Neighborhood Business to Commercial Business because several of the existing anchor businesses (QFC store and fitness facility) in the center are not allowed in the City's Neighborhood Business zone. The Commercial Business designation is more appropriate for the center.

Staff recommendation: Rezone the north Finn Hill commercial center from Neighborhood Business to Commercial Business zone.

4. Office and R-48 (48 units per acre) zones

The annexation area contains one property in an Office zone and two properties in the R-48 (48 units per acre) zone. The site zoned for Office contains a doctor's office. The two sites with R-48 zoning contain the Fairfax Hospital and the Lakeside Milam Recovery Center. The County's permits residential uses at 36 units per acre in its Office zone and permits office uses in its R-48 (48 units per acre) multifamily zone. The City does not have zones with comparable densities to the County's 36 or 48 units per acre. A logical choice would be to rezone all three sites as PR 1.8 (professional office/residential at 1800 square feet per unit) to be consistent with the uses allowed by the County for the sites.

Staff recommendation: Rezone the three properties to PR 1.8 (professional office/residential at 1800 square feet per unit). The 1.8 density is the highest

multifamily density in the City other than in the commercial centers where there is no density limit.

5. Light Industrial zone (LI)

The annexation area's one industrial zone, located north of NE 124th Street and east of 132nd Ave NE in Totem Lake, contains a wide range of uses, including auto sales and a specialized sports fitness center. The County allows a much wider range of commercial uses in its industrial zones than the City allows in its industrial zones. To accommodate the existing uses in the annexation area's LI zone and to permit the uses that the County allows in its LI zone, the area should be rezoned to Totem Lake 7 (TL7) to match the zoning to the west in the City. The TL7 zone permits the same uses as the County's LI zone, except for bowling centers, shooting ranges, racetracks and farming businesses. None of these uses exist in the annexation area's LI zone today.

Staff recommendation: Rezone the LI zone to the City's TL7 zone.

6. Park properties

The City zones its park properties as P zones (park and public use). The County zones its park properties at the underlying single family zone.

Staff recommendation: Rezone the park properties from the underlying single family zones to the City's P (park and public use) zone.

VII. COMPREHENSIVE PLAN'S LAND USE MAP:

The County's Comprehensive Plan's land use map designates its residential areas either as urban residential medium at 4 to 12 units per acre or as urban residential high at greater than 12 units per acre. These ranges are wider than the City's residential ranges and result in rezones on a lot by lot basis and inconsistent density patterns. As mentioned earlier in the memo, the County increased its density potential in 1995 to meet its housing targets under the Growth Management Act.

However, according to County staff, the annexation area does not receive a significant number of rezone applications, only one or two residential rezone applications a year.

The City's residential ranges found on the land use map of its Comprehensive Plan are 1 to 9 units per acre for low density areas, 8 to 14 for medium density areas and 15 to 24 units per acre for high density areas. The overlap in the ranges between the low and medium density areas reflect the RS 5000 low density zone that only allows detached units and the RM 5000 medium density zone that allows attached units.

If annexation occurs, the City would begin the process of preparing new neighborhood plans for the annexation area. At that time, the City would consider the appropriate density ranges for each neighborhood.

Staff has identified the following options for adoption of a Comprehensive Plan land use map:

Option 1: Adopt the County’s Comprehensive Plan map. Property owners would be able to apply for rezones as they currently do in the County. This option would allow the City more time after annexation occurs to prepare the new neighborhood plans, but would perpetuate an irregular pattern of residential zones. More importantly, the Comprehensive Plan and the Zoning Map would not be consistent for most of the properties that staff is proposing to rezone – the Office and R-48 properties containing the doctor’s office, Fairfax Hospital and Lakeside Milam, the 11 multi-family developments in single family zones, north Finn Hill commercial center and the park properties.

Option 2: Adopt a new Comprehensive Plan land use map that matches the proposed new Zoning Map. This option would stop all rezones from occurring and take away any increase in development potential available to property owners in the annexation area. It would also maintain the existing irregular pattern of residential zones. With this option, the City should begin preparation of the neighborhood plans shortly after annexation occurs. However, the City may not be fully staffed to start the plans at that time.

Option 3: Adopt a new Comprehensive Plan land use map for the annexation area that uses the same density ranges and classifications as the City’s Comprehensive Plan land use map. This option allows property owners the ability to rezone their properties while narrowing the range of the density increases. It also makes the annexation area’s Comprehensive Plan and new Zoning Map consistent and alleviates the immediate pressure to begin preparing neighborhood plans shortly after annexation.

Below is a table that shows the changes to the County’s Comprehensive Plan land use map for Option 3:

| Existing King County Density Range | Proposed Density Range |
|---|---|
| Greenbelt/urban separator at 1 dwelling unit per acre | Greenbelt/urban separator at 1 dwelling unit per acre |
| Urban medium density at 4 to 12 dwelling units per acre | Low density at 4 to 8 dwelling units per acre |
| Urban high density at greater than 12 units per acre | -Medium density at 8 to 14 dwelling units per acre -High density at 15 to 24 dwelling units per acre |

Memo to David Ramsay

December 13, 2007

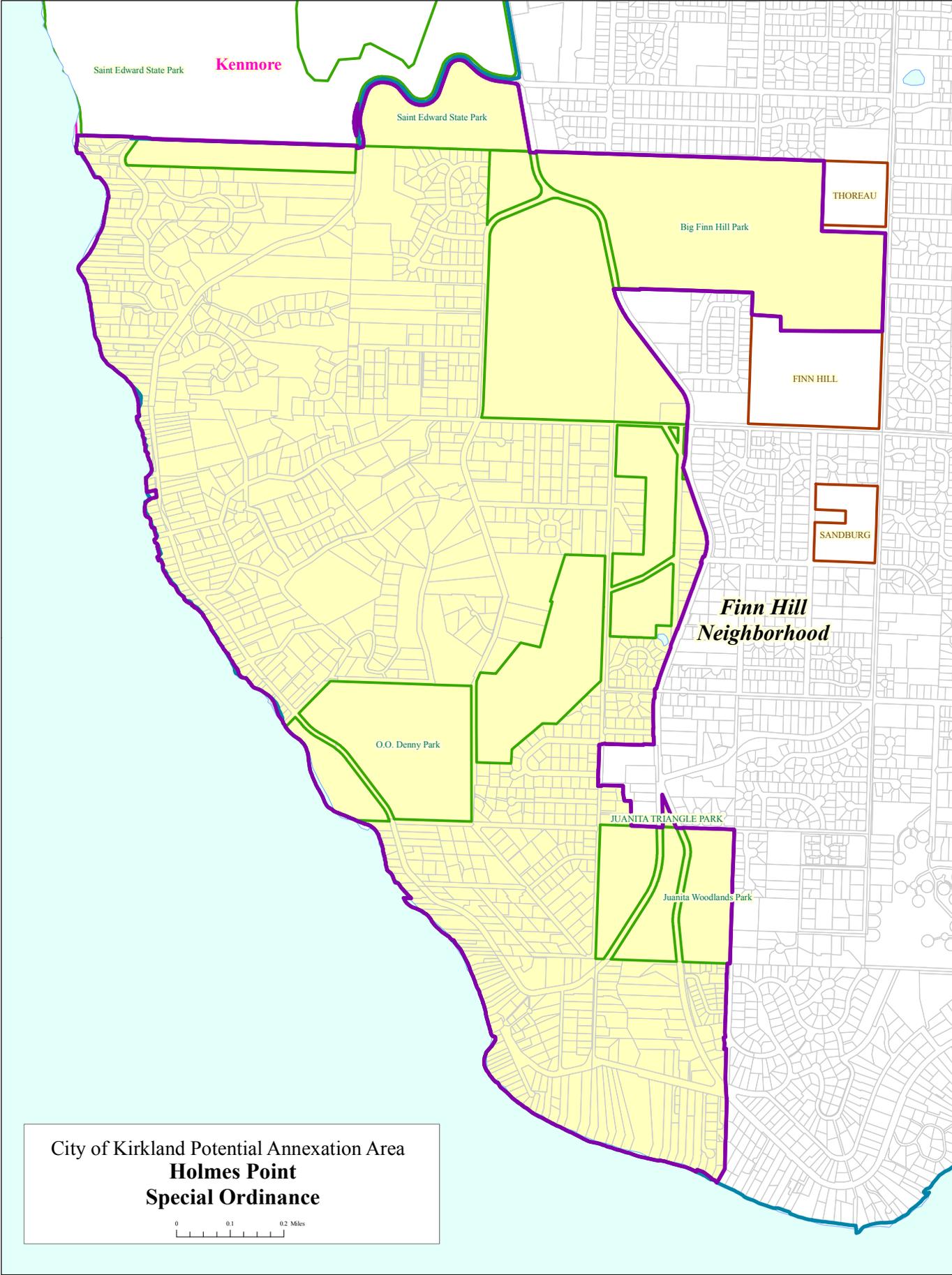
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Staff recommendation: **Adopt Option 3.** This option appears to be the best solution because it retains some future development potential for the residential area while limiting the current maximum rezone potential and makes the annexation area's Comprehensive Plan land use map more consistent with the City's land use map.

Attachments:

Attachment A: Holmes Point area of Finn Hill

Attachment B: Proposed rezones of 4 single family sites from R-6 to R-8



City of Kirkland Potential Annexation Area
**Holmes Point
Special Ordinance**

0 0.1 0.2 Miles

