

Kopachuck Ridge Estates

Protective Covenants Paragraph 2.13, Landscaping Guidelines

In accordance with paragraph 8.6 of the Declaration of Protective Covenants, Restrictions, Easements, and Agreements for the Plat of Kopachuck Ridge Estates (Protective Covenants), the Design Review Committee (DRC) is charged with the responsibility to "interpret the provisions" of the Protective Covenants. The purpose of this guideline is to provide information for Kopachuck Ridge Estates (KRE) property owners and guidance to DRC members in regard to compliance with paragraph 2.13 of the Protective Covenants, governing "Landscaping."

General Interpretation of Paragraph 2.13

Paragraph 2.13 of the Protective Covenants provides as follows:

2.13 LANDSCAPING. Planting materials used shall not exceed 25 feet in height at maturity, nor shall any tree or vegetation other than fir or hemlock be permitted to grow on any lot to a height that exceeds the ridge line height of the building on that lot. This covenant is intended to prevent the interruption of view from growth of alder, madrona or other bush-type trees.

The DRC interprets this paragraph to require the following:

1) A "Blocking Tree" is defined to mean the following:

Any tree within the boundary of KRE that is located on a lot that has a ridge height restriction (exhibit A Protective Covenants). Other lots should be dealt with on a case by case basis.

a) Significantly blocks the saltwater and/or Mountain View from a lot within KRE, other than the lot on which the particular tree is located, and

b) i) has germinated after February 25, 1985 and exceeds 25 feet in height, or

ii) has germinated after February 25, 1985 and exceeds the ridge line of the building on the lot on which it is located, or

iii) has germinated or was planted on February 25, 1985 or earlier, and exceeds 25 feet in height or the ridge line of the building on the lot on which it is located, unless the tree is a fir or a hemlock.

iiii) is not specified "preserved" under Article III section 3.3.1 and/or subject to Article V of the Protective Covenants.

2) A Blocking Tree may be pruned or removed. A Blocking fir or hemlock that germinated or was planted on February 25, 1985 or earlier may be pruned. Any and all expenses related to such pruning or removal to restore the view and/or bring the tree to a height that is at or below the lower of either a) 25 feet in height or b) the ridge line of the building on the lot, shall be the expense of the owner of the lot (the Blocking Lot) on which the Blocking Tree is located. Benefiting homeowner(s) may contribute to the expenses. Any pruning or removal of a Blocking Tree must first be approved by the DRC.

3) Any tree may be pruned or removed for safety or to reduce view blockage with the agreement of the owner of the tree and approval by the DRC. It is the primary responsibility of the person(s) paying for, performing or authorizing the pruning/removal to first obtain permission from the DRC.

Specific Interpretation of Paragraph 2.13

Trees and views run the full gamut of emotions among homeowners, from indifference to deep passion. A major part of the DRC's time and effort go into resolving question involving trees and views. Unauthorized and unannounced tree remove/trimming can have unpleasant repercussions among different homeowners so it is in everyone's interest to have the DRC involved in every stage of the operation. We do however; encourage property owners to work with one another to develop a plan to present to the DRC for possible approval. In some cases homeowners may differ in their interpretation of these requirements, and be unable to reach accommodation with one another. In each situation however, it will still be the DRC responsibility to make an interpretation of the requirements of paragraph 2.13, and render a decision.

A property owner seeking such a specific interpretation of paragraph 2.13 by the DRC shall make such request in a letter or writing delivered personally or through the United States Postal Service to a current member of the DRC. The DRC shall schedule and conduct a hearing to consider such a request within 60 days of receipt of the written request. The hearing shall provide an opportunity for potentially affected Property Owners to present their position, and supporting evidence. It shall be conducted informally without applying rules restricting admission of evidence. The DRC shall reach its determination based upon a majority vote of its members at the hearing, and shall record its decision in a short written statement. A copy of the written determination shall be delivered to the Property Owner or Owners who requested the determination. In the event that the DRC determines that there is a violation of paragraph 2.13, it shall also deliver a copy of the written determination to the owner of the Blocking Lot. Such delivery may be by personal delivery, United States Mail, or any other reasonable means.

In reaching its determination, the DRC will presume that any Blocking Tree that is greater than 25 feet in height, or is higher than the ridge line height restriction of the building on the lot, and in any significant way obstructs the view of the waters of Puget Sound, the Olympic Mountains, or Mt Rainier, as viewed from any lot in KRE, other than the lot on which the tree is located, is in violation of paragraph 2.13, and may be pruned or removed, as described above.

If the owner of the Blocking Lot contends that the Blocking Tree germinated on February 25, 1985 or earlier, both parties shall share the cost to prove the age of the Blocking Tree. In the absence of a signed written report from a certified arborist as to the age of the tree, or other compelling evidence to the contrary, the DRC will decide the age of the tree.

Procedure Following Specific Interpretation by DRC

A determination of the DRC in accordance with these guidelines shall be "final and binding," as provided by paragraph 8.6 of the Protective Covenants. If the DRC determines that a Blocking Tree is in violation of paragraph 2.13, the owner of the Blocking Lot shall remove or prune the Blocking Tree, as provided above, within 60 days of the date of the written determination. In the event that the owner of a Blocking Lot fails to remove or prune the Blocking Tree within 60 days, as provided herein, then any Property Owner, or the DRC, shall have the right to enforce paragraph 2.13, as interpreted by the DRC, through an action at law or at equity, as provided in paragraph 8.1 of the Protective Covenants.

Amended and adopted this 17th day of June, 2010

Kopachuck Ridge Estates Design Review Committee