



**CITY OF KIRKLAND**  
Planning and Building Department  
123 Fifth Avenue, Kirkland, WA 98033  
425.587-3225 - [www.kirklandwa.gov](http://www.kirklandwa.gov)

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## MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** Désirée Goble, Planner  
Eric Shields, Planning Director

**Date:** April 24, 2016

**Subject:** Bridlestone Estates Rezone and Subdivision

**QUASI-JUDICIAL**

### **RECOMMENDATION**

Staff recommends that the Council consider the Hearing Examiner recommendation for the proposed Bridlestone Estates rezone, preliminary subdivision and multiple sensitive area decisions application and take one of the following actions.

1. Direct staff to return to the May 17, 2016 City Council meeting with a final ordinance to either:
  - Grant the application as recommended by the Hearing Examiner;
  - Modify and grant the application; or
  - Deny the application.
2. Alternatively, if the Council concludes that the record compiled by the Hearing Examiner is incomplete or inadequate for the Council to make a decision on the application, the Council may, by motion, remand the matter to the Hearing Examiner with directions to reopen the hearing and provide supplementary findings and conclusions on the matter or matters specified in the motion.

### **RULES FOR CITY COUNCIL CONSIDERATION**

The Council shall consider the application based on the record before the Hearing Examiner, the recommendation of the Hearing Examiner, the challenges to the recommendation and the responses to the challenges to the recommendation. Process IIB does not provide for testimony and oral arguments. However, the Council in its discretion may ask questions of the applicant, the challenger or staff regarding facts in the record, and may permit oral argument on legal issues.

## **BACKGROUND DISCUSSION**

### **Proposal**

Cher Anderson of KLN Construction, Inc. submitted an application for a rezone and preliminary subdivision to subdivide 5 parcels totaling 17.59 acres into 35 lots (see Enclosure 1). The property is located at 4600 – 4646 116<sup>th</sup> Ave NE predominantly in a RS 35 zone and partially in a RSX 35 zone.

Components of the development proposal are described below:

- 1) Rezone the 17.59 acre subject property from RS/RSX 35 (single-family residential, minimum lot size of 35,000 square feet (s.f.)) to RS 12.5 (single-family residential, minimum lot size of 12,500 s.f.).
- 2) Subdivide the property into 35 lots for construction of single-family homes. Access to the lots will be provided via a new public access road off of 116th Avenue NE.
- 3) The following modifications to the sensitive areas:
  - a) Fill and “paper fill” a portion of a wetland to provide vehicular access that meets City requirements. Proposed compensatory mitigation includes wetland creation, restoration, and enhancement.
  - b) Reduce the wetland buffer only where necessary to provide access to the property. Mitigation is proposed through enhancement.
  - c) Install a stream culvert to create vehicular access and install utilities that comply with the City’s requirements.
  - d) Discharge stormwater using a piped outfall to the wetland buffer.
  - e) Install a bioswale along the south side of the new access road to treat stormwater runoff prior to water reaching stream/wetlands or their associated buffers.

### **Public Hearing**

The Hearing Examiner held a public hearing on March 9, 2016. City Staff, the applicant the applicant’s representatives, and nineteen individuals testified during the hearing. Twenty additional exhibits were submitted at the Hearing. The [staff advisory report](#) including attachments and public comments received prior to the hearing are available for viewing at the Hearing Examiner’s page on the Planning and Building Department webpage. (This can be viewed by clicking on the links to the four parts of the staff recommendation for the March 9, 2016 meeting.)

On March 16, 2016, the Hearing Examiner recommended approval of the application as outlined in her report (see Enclosure 1). A challenge to the Hearing Examiner's recommendation was received on March 28, 2016 (see Enclosure 2) and a subsequent response from the applicant was received on April 1, 2016 (see Enclosure 3).

## **Challenge**

A primary issue raised in the challenge is that "the proposed Bridlestone Estates would take the last of the large property blocks (17.59 acres in total) abutting Bridle Trails Park and eliminate all equestrian use and orientation in favor of suburban style residential subdivision (2 units per acre)." The challenge identifies three main claims related to the application and the Hearing Examiner's recommendation:

- The applicant has no right to the requested rezone or subdivision. The applicant has the burden of convincing the City that their application complies with the rezone approval criteria.
- The proposed rezone is inconsistent with the City's Comprehensive Plan. The Bridle Trails Neighborhood Plan provides that the subject property should be limited to low density, equestrian oriented residential development. It will not be possible to keep horses at the Bridlestone Estates as it is presently configured.
- The proposed rezone and subdivision do not bear a substantial relationship with public health, safety or welfare, and are not in the public interest.

The Applicant submitted a response to the challenge on April 1, 2016 (see Enclosure 3). The response addresses each area of the challenge.

The specific portion of the Hearing Examiner's recommendation that is the subject of the Challenge can be found in Section 4.E.1, beginning on page 4 of Enclosure 1.

## **Overview of Remedy Requested in Challenge**

The Challenge requests that "...the City Council deny the proposed rezone and subdivision and retain the current zoning at RS/RSX 35 to enable low-density, equestrian-oriented residential development on the subject property." Alternatively, the challengers request "...that the City Council remand this application to the Planning Department with the direction to the applicant either: (1) to redesign its subdivision configuration to enable horse-keeping on the lots consistent with the City's Code requirements; or (2) to work with representatives of the Bridle Trails neighborhood (for a specified period of time – e.g., 90 days) to identify ways to redevelop the subject property that both preserve its equestrian-oriented nature and achieve a higher residential yield than is permitted at RS/RSX 35."

## **Staff Response**

Even if the requested rezone is not approved and the property retains the RS/RX 35 zoning designation, there currently is no requirement in the Zoning Code that the subject property be developed in a manner that would retain the potential for equestrian oriented uses. There are regulations that require retention of an area for actual or potential paddock on residential properties in the RS/RX 35 and PLA16 zoned properties to the north and east of Bridle Trails State Park. However, these regulations do not apply west of Bridle Trails State Park where the subject property is located.

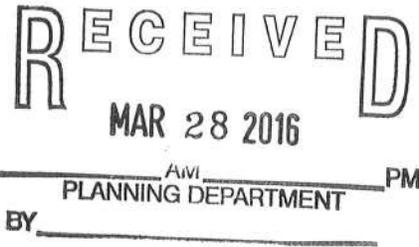
The City Council has the option of remanding the application to the Hearing Examiner to reopen the hearing to consider specific issues where the Council believes that the record is inadequate. They do not have the option of remanding the application to staff for further refinement as suggested by the challengers.

## **ENCLOSURES**

- 1) Challenge to the Hearing Examiner's Recommendation
- 2) Applicant's response to Challenge
- 3) Draft Ordinance 4516
- 4) Hearing Examiner Recommendation and Exhibits
- 5) Legal Description

March 28, 2016

Kirkland City Council  
c/o Kirkland Planning and Building Department  
123 5th Avenue  
Kirkland WA 98033



Re: Challenge to Bridlestone Estates Preliminary Subdivision and Rezone  
SUB15-00572

Dear Council Members:

This challenge to the Hearing Examiner's recommendation regarding the Bridlestone Estate rezone and subdivision is submitted by Amy Supple, Jim Erckmann, Jennifer Duncan, on her own behalf and behalf of the Lake Washington Saddle Club, Suzanne Kagen and Molly Lawrence. Details regarding each of the challengers are set forth in Attachment A below. We believe that the Hearing Examiner fundamentally erred when she recommended approval of the Bridlestone Estates rezone and subdivision. Specifically, she wrongly recommends that the application is consistent with the City's Comprehensive Plan; bears a substantial relationship to public health, safety or welfare; and is in the public interest and the best interest of the community. It is none of these.

The proposed Bridlestone Estates would take the last of the large property blocks (17.59 acres in total) abutting Bridle Trails Park and eliminate all equestrian use and orientation in favor of suburban style residential subdivision (2 units per acre). Because this development is not consistent with the City's rezone or subdivision criteria or the City's vision for this unique neighborhood, we urge the Council to reject the application and retain the existing zoning of RS/RSX 35 on the subject property. At RS/RSX 35, the subject property may be developed as a low-density *equestrian-oriented* development consistent with the City's Comprehensive Plan and the community's best interest.

I. The Applicant Has No Right to the Requested Rezone of Subdivision.

The City may approve the requested quasi-judicial rezone only if the applicant demonstrates that the proposal meets the following four criteria:

1. [T]he proposed rezone implements the policies of the Comprehensive Plan; and
2. The proposed rezone is compatible with existing land uses in the immediate vicinity of the subject property; and
3. The proposed rezone bears a substantial relationship to the public health, safety or welfare; and
4. The proposed rezone is in the best interests of the community of Kirkland...

KZC 130.40.<sup>1</sup> Similarly, the City may approve the requested subdivision only if the applicant demonstrates that it will serve the public interest and is consistent with public health, safety and welfare. KZC 22.12.230.

It is the applicant's burden to "convinc[e] the City that [it] is entitled to the requested decision." KZC 152.55. The applicant has no right to approval. In this case, the applicant has not met its burden. The proposed development is inconsistent with the Comprehensive Plan, counter to the public welfare and the community's best interests. As a result, the City should deny the rezone and subdivision.

II. The Proposed Rezone Is Inconsistent with the City's Comprehensive Plan.

A. *The Bridle Trails Neighborhood Plan Provides that the Subject Property Should Be Limited to Low-Density, Equestrian-Oriented Residential.*

Until the applicant placed the subject properties under contract, they contained three private equestrian facilities capable of stabling more than 60 horses.<sup>2</sup> The proposed rezone and subdivision, by comparison, would eliminate all equestrian uses and make horse keeping impossible with the resulting lots.

This plan of development is not consistent with, and in some cases plainly conflicts with, the Kirkland Comprehensive Plan and Bridle Trails Neighborhood Plan. Most notably, for this area of the Bridle Trails neighborhood east of I-405, the Bridle Trails Neighborhood Plan provides:

[D]evelopment in this area should be limited to low-density *equestrian-oriented* residential (one to three dwelling units per acre). In addition, the existing stable facilities should be encouraged to remain, and new equestrian facilities should be allowed as appropriate to complement Bridle Trails State Park."

Bridle Trails Neighborhood Plan (1986 Ed.), p. XV.C-4 (emphasis added).

The Hearing Examiner inexplicably rewrote these provisions to eliminate "equestrian-oriented" from the phrase "low-density equestrian oriented residential," and instead concluded that the Bridle Trails Neighborhood Plan provided that in the subject area "low density development and equestrian facilities should be permitted." Hearing Examiner's Recommendation ("HE Rec"), p. 7. That is mis-reading of the plain language of the Bridle Trails Neighborhood Plan.<sup>3</sup>

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<sup>1</sup> Of note, KZC 130.40 includes one additional rezone criteria related to overlay zoning, and a variant on the first criteria where the applicant demonstrates changed conditions. Neither applies in this case. The Applicant has not attempted to assert changed conditions in the Bridle Trails areas, and the property is not subject to an overlay. Consequently, we have listed only the criteria applicable in this case.

<sup>2</sup> In fact, the Bridle Trails Neighborhood Plan calls for the retention of the pre-existing stables, which will be demolished to enable the proposed development. Bridle Trails Neighborhood Plan (1986 Ed.), p. XV.C-4.

<sup>3</sup> The Hearing Examiner's Recommendation implies, but does not state or conclude, that the "equestrian-oriented" provision of the Bridle Trails Neighborhood Plan applies to other portions of the Bridle Trails

We acknowledge that the proposed development could be viewed as implementing certain City-Wide Comprehensive Plan policies. Specifically, the Hearing Examiner cites Land Use Policy LU-2.2, Land Use Policy LU-2.3, Land Use Policy LU 4.3, and Natural Environment Policy NE-1.8. HE Rec., p. 5. But nearly any residential redevelopment – *including redevelopment under the existing RS/R SX 35 zoning* – would also implement those policies.<sup>4</sup> As the Hearing Examiner noted, according to the Citywide Element of the Comprehensive Plan, the Neighborhood Plans reflect “a more detailed examination of issues affecting smaller geographic areas and clarify how broader City goals and policies in the Citywide Elements apply to each neighborhood.”<sup>5</sup> HE Rec., p. 6. In this case, the Bridle Trails Neighborhood Plan calls for this property to be developed in a way that is both low-density and equestrian-oriented; not just low-density. The Bridlestone Estates development proposal is not consistent with this City policy.

It is worth noting that just last year when the Council revised the Bridle Trails Neighborhood Plan, the Council renewed and in fact strengthened this policy direction for this area. With regard to the area at issue in this application – east of I-405 on 116<sup>th</sup> Street – the updated Bridle Trails Neighborhood Plan now acknowledges the existing low-density residential, the commercial stables – that the subject project seeks to demolish and replace – and provides: “Due to the equestrian nature of this area, development in the vicinity should be limited to low-density equestrian-oriented residential (one to three dwelling units per acre).” Bridle Trails Neighborhood Plan (2015), p. 11-12 (emphasis added). The proposed Bridlestone Estates is plainly not equestrian oriented and consequently is inconsistent with these applicable policies.

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neighborhood, and not necessarily the subject property. HE Rec., p.7-8. We encourage the Council to review the Bridle Trails Neighborhood Plan closely. The provision quoted above, stating that the area “should be limited to low-density equestrian-oriented residential (one to three dwelling units per acre)” is part of the discussion of the areas east of I-405 on 116<sup>th</sup>. Even if the Hearing Examiner’s implication were correct, this provision still applies to the Bridle Trails neighborhood at large, and particularly to areas designated LDR 1-3 – including the subject property.

<sup>4</sup> It is not clear that the Bridlestone Estates would best implement Land Use Policy LU-2.2, which provides: “Use land efficiently, facilitate infill development or redevelopment, and where appropriate, preserve options for future development.” The proposed Bridlestone Estates would lock the subject property into a suburban density residential (2 units per acre) with no realistic opportunity for additional future infill until the subdivision had reached its useful life (40+ years). By comparison, developing the property into “horse acres” under the RS/R SX 35 zoning would implement LU-2.2. If in twenty years the City changed its vision for this area and eliminated the equestrian-oriented policy in favor of higher densities, the horse-keeping areas could be subdivided and redeveloped as additional residential lots.

<sup>5</sup> The Hearing Examiner’s Recommendation also implies without expressly stating that perhaps the Bridle Trails Neighborhood Plan should be discounted in this case because it dates back to before 1995. HE Rec., p. 6. The City Council, however, recently reviewed and updated the Bridle Trails Neighborhood Plan, and the subject policies were retained. Furthermore, there is no conflict between the City-Wide policies in favor of infill development and the Bridle Trails Neighborhood Plan, which calls for equestrian-oriented, low-density residential on the subject properties. Development under the existing zoning would implement both policies – promoting infill *and* equestrian-oriented low-density residential.

*B. It Will Not Be Possible to Keep Horses at the Bridlestone Estates As Presently Configured.*

The Hearing Examiner's Recommendation attempts to allay our concerns by noting that "as the subdivision is presently configured, it may be possible for a few of the lots to support horse keeping." HE Rec., p. 3. A closer review of the subdivision layout and City Code demonstrates that is incorrect. While it is possible to keep horses on lots zoned RS 12.5 (the requested zone), the property must meet several specific development standards. As currently proposed, the Bridlestone Estates subdivision does not meet these development standards. Specifically, KZC 115.20(5) provides:

(d)(1) The applicant must provide a suitable barn to house the horses, and must maintain it in a clean condition.

(e)(2)(a) Size – Each lot must contain an area of at least 14,500 square feet capable of being used as a horse paddock area and configured to meet the following standards:

- i) The paddock must be designed in a contiguous and usable manner to accommodate the feed storage and manure pile for two (2) horses. This area must be exclusive of any structures, including storage sheds, barns, residential units and carports.
- ii) Direct access to this area must be available for trucks to deliver feed and pick up manure from an alley, easement, or an adjacent right-of-way across a side yard of the lot.

(e)(2)(b) Setbacks – Paddocks must be a minimum of 20 feet from each property line. The City may permit horse paddocks to extend into the property line in common with the abutting property; provided, that:

- i) An abutting property owner files a signed and notarized statement with the City in support of the request; and
- ii) The paddock complies with all other regulations pertaining to setback in that zone.

Review of the Bridlestone Estates proposed subdivision layout – particularly the outlines of the locations on each lot where they anticipate constructing the homes – demonstrates that none of the lots meet these requirements. In particular, none has adequate contiguous horse-keeping area (14,500 sq ft), none contain any indication of a planned barn structure, and none identify access for truck delivery or manure pickup. Instead, each lot is designed to accommodate only one single family residence generally centered on the lot (subject to critical areas limitations). Indeed, the applicant conceded during the hearing that it had made no effort to consider either the practical or legal feasibility of keeping horses on any of the lots in the proposed subdivision.

As evidenced at the hearing, there is significant demand for "horse-acres" (35,000 ft lots with a residential site and paddock/barn area) around Bridle Trails State Park. The Cor-Sun development to the south does not undermine this conclusion. The combination of the subdivision layout and CC&Rs (covenants, conditions and restrictions) applicable to Cor-Sun make clear that horse keeping was not intended and is not permitted as part of that development.

HE Rec., Ex. I and K. The same result will befall the subject property if the Council approves the proposed rezone and subdivision. By comparison, by laying out and developing the subject property in a way that enables and in fact promotes horse-keeping, the City could achieve its vision for this area of low-density equestrian-oriented residential.

III. The Proposed Rezone and Subdivision Do NOT Bear a Substantial Relationship with Public Health, Safety or Welfare, and Are NOT in the Public Interest or the Best Interests of the Community.

The third and fourth rezone criteria require the applicant to demonstrate that the proposed rezone “bears a substantial relationship with public health, safety or welfare” and is “in the best interest of the community of Kirkland.” KZC 130.40(3)&(4). The subdivision criteria similarly require the applicant to demonstrate the plat will serve the public interest. The Hearing Examiner’s only discussion or conclusion related to these criteria reads:

- (4) The rezone bears a substantial relationship to public health, safety, or welfare because the proposal will create infill development while meeting the goals and policies of the Comprehensive Plan, including the applicable Neighborhood Plan.
- (5) The proposed rezone would be in the best interest of the community of Kirkland because it would increase the housing stock, thereby assisting the City in meeting its housing targets while protecting the stream and wetlands to the maximum extent possible.

HE Rec. p. 8. (The Hearing Examiner’s Recommendation contains no independent analysis of the subdivision criteria.) This analysis and conclusions are entirely generic and would apply equally to redevelopment of the subject properties at the current RS/R SX 35 zoning, which would enable an additional 20 residential units in the City while protecting the critical areas to the maximum extent possible.

More importantly, the Hearing Examiner’s analysis ignores the more than 60 people who appeared at the hearing against the proposed rezone and subdivision, many of whom made impassioned oral or written statements explaining why this proposed development would be bad for the Bridle Trails community. These individuals explained how the neighborhoods near Bridle Trails State Park are distinctive and unique, and they add considerable character to Kirkland’s wonderful and diverse mix of neighborhoods. They explained how the equestrian opportunities in Bridle Trails drew them to this unique neighborhood, and how horses and horse keeping on properties around the Park are an integral part of the community’s identity. Eliminating horse keeping on these properties would be a substantial blow to the equestrian character of Bridle Trails.

Further, these members of the community spoke about how outdoor recreation in Bridle Trails State Park depends a great deal on maintaining the capability of adjacent neighborhoods to keep horses. The residents of Kirkland have a substantial stake in maintaining and sustaining the Park. They expressed their desire for this property, which is adjacent to Bridle Trails State Park,

to be developed in a manner that preserves the equestrian-character of the Bridle Trails neighborhood.

It was clear during that hearing that the applicant had made no effort to reach out to the community to hear, much less consider, their needs or interests. Members of the equestrian community – including several of the individuals filing this challenge – expressed their frustration that they had not heard from the applicant at any time during the application process. These community members suggested several options that would enable the development to retain the equestrian-oriented nature of the property, including retaining one or more of the existing commercial stables for community use, while developing the balance of the property with single family residences; or a clustered development that would enable horse keeping on some portions of the property and higher density residential in others to achieve the applicant's desired unit yield.

These people represent the life blood of the Bridle Trails neighborhood and the Bridle Trails State Park. Their statements represent the interests of hundreds of homeowners in the area and thousands of equestrian who use the Park each year. Approving the rezone and subdivision as currently proposed would represent the loss of nearly twenty acres of property that has been used for horse keeping for more than twenty years. This would be a major loss for this equestrian community and a significant erosion of the equestrian orientation of the Bridle Trails neighborhood.

Finally, the applicant has made no effort since the hearing to reach out to any of these equestrian-community representatives to identify a way to identify and achieve our *collective* goals and objectives. As you are aware, Kirkland has a history of strongly encouraging, if not requiring, developers to work with their neighbors/communities to find a mutually acceptable development proposal.

#### IV. Conclusion and Requested Relief

Bridle Trails is a unique neighborhood in Kirkland. We are not asking that the Council deny redevelopment of the subject property, but only that the Council preserve this property for redevelopment that is *consistent with* that unique equestrian-oriented character. Further, this is not a circumstance where we are clinging to the past; just last year the City Council updated the Bridle Trails Neighborhood Plan and reaffirmed that, if developed, this property should be low-density *equestrian-oriented* residential. We simply ask that the Council implement that policy now.

For the reasons set forth herein, we request that the City Council deny the proposed rezone and subdivision and retain the current zoning at RS/RSX 35 to enable low-density, equestrian-oriented residential development on the subject property. The proposed rezone and subdivision do not accomplish that outcome. In the alternative, we request that the City Council remand this application to the Planning Department with direction to the applicant either: (1) to redesign its subdivision configuration to enable horse-keeping on the lots consistent with the City's Code requirements; or (2) to work with representatives of the Bridle Trails neighborhood (for a specified period of time – e.g., 90 days) to identify ways to redevelop the subject property that

both preserve its equestrian-oriented nature and achieve a higher residential yield than is permitted at RS/RSX 35. The community is eager to work with the developer to identify a mutually beneficial outcome – one where the people who ultimately move onto the resulting properties are considered neighbors continuing the unique character of this area.

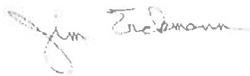
Options for responding to this challenge: Pursuant to KZC 152.85(3)(c), “[a]ny person receiving a copy of the challenge letter, pursuant to subsection (3)(b) of this section, may file a written response to the challenge. Such response shall be submitted to the Planning and Building Department within seven (7) calendar days after the day the challenge letter was filed with the Planning and Building Department.”

Sincerely,

Amy Supple



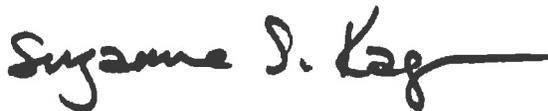
Jim Erckmann



Jennifer Duncan, as herself and on behalf of the Lake Washington Saddle Club



Suzanne Kagen



Molly Lawrence



## Attachment A

Amy Supple lives adjacent to Bridle Trails State Park in Redmond. Amy discovered Bridle Trails State Park and the fantastic neighborhoods surrounding the park 16 years ago. She and her horses have been here ever since. Amy rides daily in Bridle Trails State Park, and is concerned that the Bridlestone Estates development will negatively affect the equestrian nature of the area and patronage of the Park.

Address:

4649 137th Ave NE  
Bellevue, WA 98005

Jim Erckmann has been a resident of the Bridle Trails neighborhood since 1993 and a resident of the Eastside since 1976. He is Vice President of the Bridle Trails Park Foundation. He has used Bridle Trails State Park extensively since the 1970s and supports the Park in many ways. He believes that the ability of the neighborhoods around the Park to keep horses is important to the long-term well-being of this unique equestrian/pedestrian Park.

Address:

Jim Erckmann  
26 Bridlewood Circle  
Kirkland, WA 98033

Jennifer Duncan is a 20 year resident of the Bridle Trails/South Rose Hill area. She is the current president of Lake Washington Saddle Club and a past board member of Bridle Trails Park Foundation and King County Executive Horse Council. Jennifer boards her horse at a home in Bridle Trails. She cares deeply about the equestrian nature of the Bridle Trails area because that is what keeps the Park and LWSC vibrant and thriving. Also, it is the horses in the yards and the rural feel of the neighborhood that make it so special.

Address:

13219 NE 75<sup>th</sup> St.  
Redmond, WA 98052

Suzanne Kagen is a 20 year resident of Bridle Trails and long-time community advocate for state, regional and local parks. She is a past President of Lake Washington Saddle Club and an avid equestrian. She maintains that preserving the unique equestrian nature of Bridle Trails is in the best interest of Kirkland, protecting its ecological, historical, and cultural diversity.

Address:

36 Bridlewood Circle  
Kirkland, WA 98033

Molly Lawrence is a land use attorney in Seattle. Until the applicant pursued the subject rezone and subdivision, Molly stabled her horse at Flicka Farms, one of the three equestrian facilities that will be demolished by the applicant to develop the Bridlestone Estates. Molly regularly uses Bridle Trails Park for equestrian activities.

Address:

719 Second Avenue, Suite 1150  
Seattle, WA 98104

AFFIDAVIT OF SERVICE

I, Molly Lawrence, being first duly sworn on oath deposes and says that I am 18 years of age or older. That I served the above Challenge to Bridlestone Estates Preliminary Subdivision and Rezone SUB15-00572 by the manner indicated below upon the following-named persons who are parties entitled to receive same and to participate in the land use proceeding identified in Kirkland Planning and Building Department File No. SUB15-00572. Those named below and in the Affidavit of Service of Jennifer Duncan constitute all of the parties to this proceeding.

EXECUTED at Seattle, Washington on this 28<sup>th</sup> day of March, 2016.

Molly Lawrence  
Molly Lawrence

DATED at Seattle, Washington, this 28<sup>th</sup> day of March, 2016.

**MARYA ANGELOU PIRAK**  
Notary Public  
State of Washington  
My Commission Expires  
November 18, 2018

Notary's Signature Marya Angelique Pirak  
Print Notary's Name Marya Angelique Pirak  
Notary Public in and for the State of Washington  
Residing at: Seattle, WA  
My commission expires: November 18, 2018

Cher Anderson  
KLN Construction, Inc.  
19000 33<sup>rd</sup> Avenue, Suite 200  
Lynwood, WA 98036

- By U.S. Mail
- By Legal Messenger
- By Facsimile
- By Email

Brian Holtzclaw  
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Candice Boyd  
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Lynn Erckmann  
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Karen Walter  
Watersheds and Land use Team Leader  
Muckleshoot Indian Tribe Fisheries  
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Patrick McGraner  
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- By Facsimile
- By Email

Jack Goldberg  
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- By U.S. Mail
- By Legal Messenger
- By Facsimile
- By Email

Dr. & Mrs. H.G. Plut, Jr.  
17 Bridlewood Circle  
Kirkland, WA 98033

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- By Legal Messenger
- By Facsimile
- By Email

Susan Shecket  
1214 25<sup>th</sup> Ave E  
Seattle, WA 98112

- By U.S. Mail
- By Legal Messenger
- By Facsimile
- By Email

Bruce & Alene Patterson  
6 Bridlewood Circle  
Kirkland, WA 98033

- By U.S. Mail
- By Legal Messenger
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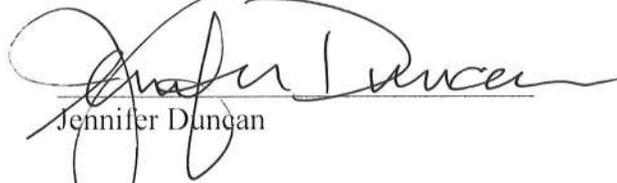
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AFFIDAVIT OF SERVICE

I, Jennifer Duncan, being first duly sworn on oath deposes and says that I am 18 years of age or older. That I served the above Challenge to Bridlestone Estates Preliminary Subdivision and Rezone SUB15-00572 by the manner indicated below upon the following-named persons who are parties entitled to receive same and to participate in the land use proceeding identified in Kirkland Planning and Building Department File No. SUB15-00572. Those named below and in the Affidavit of Service of Molly Lawrence constitute all of the parties to this proceeding.

EXECUTED at Seattle, Washington on this 28<sup>th</sup> day of March, 2016.

  
Jennifer Duncan

DATED at Seattle, Washington, this 28<sup>th</sup> day of March, 2016.

**MARYA ANGELOUE PIRAK**  
Notary Public  
State of Washington  
My Commission Expires  
November 18, 2018

Notary's Signature Marya Angelioue Pirak  
Print Notary's Name Marya Angelioue Pirak  
Notary Public in and for the State of Washington  
Residing at: Seattle, WA  
My commission expires: November 18, 2018

City of Kirkland  
Planning and Building Department  
c/o Desiree Goble, AICP  
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RECEIVED

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AM  
PLANNING DEPARTMENT PM  
BY \_\_\_\_\_

April 1, 2016

Kirkland City Council  
c/o Ms. Desiree Goble, Planner  
Planning and Building Department  
123 Fifth Avenue  
Kirkland, WA 98033-6189

Re: Applicant's Response to Challenge of Hearing Examiner's Recommendation to Approve Rezone and Subdivision for Bridlestone Estates  
File No. SUB15-00572

Dear Council Members,

I am General Counsel for KLN Construction, Inc. ("**KLN**"), the applicant for the above-referenced project, which is an application for approval of a rezone of approximately 17.6 acres from RS-35 to RS-12.5 zoning together with a preliminary plat for a 35-lot single family subdivision commonly known as "*Bridlestone Estates*". The City's Hearing Examiner, Sue Tanner (the "**Examiner**"), recommended approval of the Bridlestone Estates proposal by her "Findings, Conclusions and Recommendation" dated March 16, 2016 (the "**Examiner's Recommendation**"). This letter responds to the challenge dated March 28, 2016 (the "**Challenge**") to the Examiner's Recommendation filed by Amy Supple, Jim Erckmann, Jennifer Duncan, individually and on behalf of the Lake Washington Saddle Club, Suzanne Kagen and Molly Lawrence (collectively, the "**Challengers**") and is submitted pursuant to Kirkland Zoning Code ("**KZC**") § 152.85.

Challengers assert that "the Hearing Examiner fundamentally erred when she recommended approval of the Bridlestone Estates rezone and subdivision." Challenge, at p. 1. Challengers entirely fail to present any argument as to how the Bridlestone Estates proposal fails to comply with the City's subdivision requirements and other applicable development regulations. Challengers instead focus solely on the proposed rezone. However, the Challenge fails to present any argument for denying the rezone that was not already presented to, duly considered by, and then rejected by the Examiner. Challengers fail to demonstrate that the applicable criteria for a site-specific, quasi-judicial rezone set forth in KZC § 130.40 have not been met. The City Council should, therefore, deny the Challenge and approve the proposed rezone and subdivision for Bridlestone Estates consistent with the Planning and Building

Department's "Advisory Report, Findings, Conclusions and Recommendation" dated March 1, 2016 (the "**Staff Recommendation**") and the Examiner's Recommendation.

1. *Applicant is entitled to approval of the proposed rezone because all of the applicable rezone criteria are met.*

Challengers first argue that KLN "has no right" to the requested rezone. However, the rezone should be approved if the four applicable rezone criteria are satisfied. The record overwhelmingly demonstrates that KLN has shown how the applicable rezone criteria are satisfied. KLN submitted with its application an analysis as to how the rezone criteria are satisfied. See Staff Recommendation, Attachment 7. The Staff Recommendation (at pp. 8, and 12-16) includes a thorough analysis as to how the rezone criteria are met. At the March 9<sup>th</sup> public hearing KLN provided detailed testimony to the Examiner regarding satisfaction of the rezone criteria. The Examiner -- after reviewing the Staff Recommendation and written record, hearing applicant's testimony, and hearing comments from the Challengers and other members of the public -- issued detailed findings and conclusions, recommending approval of the rezone and subdivision (and related code approvals). See Examiner's Recommendation, at pp. 4-8. The Challenge presents no argument or legal basis for the City to deny the rezone.

2. *The proposed rezone is consistent with the Comprehensive Plan and Bridle Trails Neighborhood Plan ("BTNP").*

Challengers primarily make two arguments as to why the proposed rezone is purportedly inconsistent with the Comprehensive Plan and BTNP. Their first argument is that the rezone should be denied because the BTNP requires single family development to be "equestrian oriented". The crux of their argument is that "equestrian oriented" requires "horse acre" lots under the current RS-35 zoning. Challengers cite the following language in the BTNP to support their argument:

"[D]evelopment in this area should be limited to low-density equestrian-oriented residential (one to three dwelling units per acre). In addition, the existing stable facilities should be encouraged to remain, and new equestrian facilities should be allowed as appropriate to complement Bridle Trails State Park."

BTNP, p. XV.C-4.<sup>1</sup> Challengers' argument is premised on the erroneous assumption that only lots capable of supporting equestrian use, and specifically the keeping of

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<sup>1</sup> In December 2015 the City Council completed the "2035 Update" to its Comprehensive Plan, including a Bridle Trails Neighborhood Plan Update (the "**BTNP Update**"). The BTNP Update is described in the document itself as a "minor update" and does not reflect any substantive change in policy from the BTNP which was in effect on the date the application for Bridlestone Estates was filed. Because the original application materials reference the version of the BTNP identified as "(printed September 2011)", for ease of review all additional references are to that same version and, if changes were made in the BTNP Update, those changes are noted.

horses, are “equestrian oriented.” That is simply not the case. Nothing in the BTNP requires that all residential properties within the Bridle Trails neighborhood be able to allow for keeping horses. In fact, the BTNP expressly identifies a “Vision Statement” (page XV.C-1) that the “[t]he primary policy direction for this neighborhood is to maintain the low-density residential character with some areas containing large lots capable of keeping horses.” (Emphasis added.)

The proposed rezone for Bridlestone Estates would result in approximately 2 dwelling units per acre, which is entirely consistent with the 1 to 3 dwelling units per acre contemplated by the LDR 1-3 designation for the site. The BTNP expressly contemplates that “some” – but not all – lots within the Bridle Trails neighborhood should be sufficiently sized for equestrian use. Indeed, the BTNP identifies that “[t]he single-family area north of Bridle Trails State Park and south of NE 70<sup>th</sup> Street contains some large lots capable of keeping horses.” BTNP, p. XV.C-3 (emphasis added). Those areas are designated on the BTNP Land Use Map as LDR 1 for lots sufficiently sized to accommodate horse keeping. Other areas are also designated on the BTNP Land Use Map for LDR 5 and 5-8 (5 to 8 dwelling units per acre), as well as areas designated for multi-family and commercial use.<sup>2</sup>

Thus, the BTNP Land Use Map on its face, and the text of the BTNP, refutes any argument that “equestrian-oriented” residential use requires horse-acre lots in the area designated as LDR 1-3 on the BTNP Land Use Map. As noted above, the Bridlestone Estates property is within an area along 116<sup>th</sup> Ave. NE where low density residential development “should be permitted” and the BTNP specifically identifies the appropriate density as LDR 1-3 (1 to 3 dwelling units per acre). In focusing solely on the “equestrian oriented” language in the BTNP Challengers entirely ignore the qualifying language that such residential development can be “1 to 3 dwelling units per acre.” Accepting Challengers’ argument – that anything more dense than 1 dwelling unit per acre (“horse acre” lots) under the current RS-35 zoning is not “equestrian oriented” – would render meaningless the language of the BTNP (and the map designation) allowing densities of “1 to 3 dwelling units per acre.” (Emphasis added.)

Based on these provisions from the BTNP cited above, the Examiner agreed with KLN’s analysis and concluded that “equestrian oriented” does not require lots capable of keeping horses. The Examiner specifically concluded that:

“[t]he rezone would also implement the Bridle Trails Neighborhood Plan. It is clear from the explanatory statement under the vision statement that maintenance of the low-density residential character in the area is key, and that ‘some areas’ should continue to maintain large lots for horses. The Neighborhood Plan expressly directs that in the single family area

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<sup>2</sup> Challengers also entirely ignore the language at page XV.C-1 of the BTNP, which recognizes that: “[t]he major policy direction for this area is to maintain the low density quality of the neighborhood, except as described below. New residential development should be low density (up to five dwelling units per acre) and conform with existing development.” (Emphasis added.)

north of the State Park and south of NE 70<sup>th</sup> Street, residential sites within areas that are equestrian-oriented should be designated to allow for keeping horses. It also expressly directs that Bridlewood Circle, Silver Spurs Ranch and Bridle View should remain 'very low' residential density, which is stated to be one dwelling unit per acre. But for the area in question, southwest of the State Park along 116<sup>th</sup> Avenue NE, both 'low density development and equestrian facilities should be permitted.' 'Low density' is repeatedly explained as being from one to three dwelling units per acre.

The Neighborhood Plan's discussion of 'very low density' as one dwelling unit per acre and 'low density' as one to three dwelling units per acre is consistent with the comparable zoning classifications for those densities listed in Table LU-3 of the Comprehensive Plan. Thus, the Neighborhood Plan does not conflict with the Comprehensive Plan."

Examiner's Recommendation, Conclusion E.1.b.(2), at p. 7-8 (emphasis added). Challengers have not demonstrated that the Examiner's findings and conclusions regarding consistency with the Comprehensive Plan and BTNP are either unsupported by substantial evidence or in any way erroneous. For all these reasons, "equestrian oriented" cannot simply mean lots sized to accommodate horse keeping without rendering the language "1 to 3 dwelling units per acre" meaningless. (Emphasis added.) The proposed rezone is in fact "equestrian oriented" consistent with the BTNP in that the proposal includes equestrian-friendly frontage improvements (i.e., a separated bike lane, as well as a separated equestrian/pedestrian trail along 116<sup>th</sup> Ave. NE) as well as providing a pedestrian/equestrian access between Lots 9 and 10 to maintain public access to Bridle Trails State Park.<sup>3</sup>

Challengers second argument as to why the proposed rezone is inconsistent with the BTNP is that "it will not be possible to keep horses at Bridlestone Estates as presently configured", citing the City's code requirements in KZC § 115.20 for keeping horses in residential areas. Challenge, at p. 4. This argument is a "red herring." As noted above, there simply is no requirement for any of the lots in Bridlestone Estates to support horse keeping. But even if there was such a requirement, the record before the Examiner reflects that the proposed lots for Bridlestone Estates range from 12,400 to over 24,000 square feet, and that 6 of the lots are over 20,000 square feet and could *potentially* satisfy the City's code requirements (although KLN has not, and is not required, to make

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<sup>3</sup> In addition to compliance with the LDR 1-3 land use designation in the BTNP, City Staff (Staff Recommendation, II.E.1.a.(a)) and the Examiner (Examiner's Recommendation, E.1.a.(4)) found the rezone would be consistent with specific policies in the Comprehensive Plan. KLN agreed with that analysis and provided testimony at the March 9<sup>th</sup> hearing as to how the rezone would also implement specific policies in the BTNP, including those calling for protection of open water courses such as Yarrow Creek (BTNP, p. XV.C-1), providing equestrian/pedestrian access to Bridle Trails State Park (BTNP, p. XV.C-7), undergrounding of utilities (BTNP, p. XV.C-10), providing a pedestrian/equestrian trail along 116<sup>th</sup> Ave. NE (BTNP, p. XV.C-8.1), and requiring adequate water and sewer service (BTNP, p. XV.C-10).

that evaluation to justify the proposed rezone). The Examiner concluded that “[a]s the subdivision is presently configured, it may be possible for a few lots to support horse keeping.” See Examiner’s Recommendation, Conclusion C.5, at p. 3.

Challengers make the unsubstantiated assertion that the Examiner’s conclusion is “incorrect”. In doing so, Challengers merely speculate that horse use could not be accommodated because none is shown on the proposed plat. But that is because KLN is not proposing horse use on any lots. They argue the proposed development could not support horse keeping based on the “outlines of the locations on each lot where they anticipate constructing the houses” (Challenge, at p. 4) shown on the proposed plat. However, the footprints of house locations shown on the preliminary plat are conceptual and do not necessarily reflect where houses will be constructed. The fact that KLN is not proposing horse keeping fails to demonstrate that certain lots could not meet the City’s requirements for keeping horses, just as the Examiner concluded. Indeed, if the demand for lots capable of keeping horses is as strong as asserted by the Challengers, it is possible that one or more of the planned larger lots could be sold and developed for that purpose.

Regardless, whether some or all of the proposed lots could support equestrian use is irrelevant because, as noted above, the BTNP does not require all lots in the Bridle Trails neighborhood – let alone within the areas designated as LDR 1-3 on the BTNP Land Use Map – to be capable of supporting horse keeping in order to be “equestrian oriented.” Moreover, whether members of the public believe there is demand for “horse-acre” lots is entirely irrelevant in determining whether KLN’s rezone application meets the applicable rezone criteria, including consistency with the Comprehensive Plan and BTNP.<sup>4</sup>

For all these reasons, the Examiner correctly concluded that the proposed rezone for Bridlestone Estates is consistent with the Comprehensive Plan and BTNP.

3. *The proposed rezone is compatible with the existing land uses in the immediate vicinity of the subject property (KZC §130.40(2)).*

The proposed rezone is consistent with the land uses in the immediate vicinity, including the property to the north (the existing single-family residential subdivision of Sablewood (recorded in 1989) with lots slightly smaller in size on average to those proposed for Bridlestone Estates) and south of Bridlestone Estates (the existing single-family subdivision Cor-Sun Ranch Estates (recorded in 1982) with lots a half-acre and larger). In fact, KLN is requesting a rezone to the same RS-12.5 zoning that applies to the Sablewood subdivision. One of the Challengers acknowledged in his written comments to the Examiner (see Staff Recommendation, Attachment 5, at p. 88) that the proposed

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<sup>4</sup> Challengers also assert that the CC&R’s for Cor-Sun Ranch Estates do not permit horse keeping. Challenge, at p.

4. KLN respectfully submits that is not what the CC&R’s provide. The CC&R’s (Hearing Examiner Ex. I, at p. 3) appear to allow horse keeping provided the lot owner obtains approval from the HOA’s Architectural Control Committee.

rezone for Bridlestone Estates would be consistent with those existing developments. The record reflects that the proposed rezone would also be compatible with Bridle Trails State Park by providing a public equestrian/pedestrian trail connection for citizens generally as well as the residents of Bridlestone Estates to enjoy the extensive trail system in the park as well as the environmental stewardship and other cultural programs sponsored by the Bridle Trails Park Foundation. The Examiner, therefore, correctly concluded the rezone is compatible with existing land uses in the immediate vicinity. See Examiner's Recommendation, Conclusion E.1.b.(3), at p. 8. Challengers do not argue in their Challenge that the rezone for Bridlestone Estates is incompatible with existing land uses in the immediate vicinity.

4. *The proposed rezone bears a substantial relationship to the public health, safety, or welfare (KZC §130.40(3)), and is in the best interest of the community of Kirkland (KZC §130.40(4)).*

Challengers combine their arguments regarding the criterion requiring a rezone "to bear a substantial relationship to the public health, safety or welfare" with the criterion requiring a rezone to be in the "best interest of the community." In challenging the Examiner's Recommendation on these criteria, Challengers cite only to the Examiner's Conclusions E.1.b.(3) and (4) (Examiner's Recommendation, at p. 8) in which she concluded these criteria were met. Challengers baldly assert that "[t]his analysis and conclusions are entirely generic and would apply equally to redevelopment of the subject property at the current RS/RSX 35 zoning." Challenge, at p. 5.

Challengers argument, however, entirely ignores the detailed factual findings made by the Examiner upon which her Conclusions were based. Those findings are anything but "generic." See Examiner's Recommendation, § E.1.a., at pp. 4-7. Moreover, whether the Examiner's conclusions would apply equally to redevelopment under the existing zoning is irrelevant. The issue is whether the proposed rezone is consistent with the applicable rezone criteria. Washington law recognizes that a rezone consistent with applicable development regulations and applicable comprehensive plan furthers the public health, safety, morals and general welfare. See Henderson v. Kittitas Cy., 124 Wn. App. 747, 756 (2004) (holding a development that increases tax revenues and is consistent with the comprehensive plan is a benefit to the public health, safety, and welfare). KLN details above how the proposed rezone is consistent with the Comprehensive Plan and BTNP.

KLN respectfully submits that the best expression of the public health, safety and welfare, and the interests of the community, is demonstrated by compliance with the City's Comprehensive Plan (and, here, the BTNP) and adopted development regulations. The record before the Examiner overwhelmingly demonstrates that the Bridlestone Estates proposal is consistent with the City's adopted development regulations – including those for critical areas, storm water management, and tree preservation. The Bridlestone Estates proposal, including the rezone to RS-12.5

zoning, will bear a substantial relationship to the public health, safety, and welfare, and is in the best interests of the City, in many different respects:

- The past equestrian use of the site has had a negative impact on the on-site wetlands and associated buffers, which have become degraded over the years. The current proposal includes removal of existing encroachments upon the wetlands and their associated buffers, and significant wetland re-establishment, enhancement and mitigation that will result in a net increase in function and values of wetlands and buffers.
- The proposal will substantially benefit Yarrow Creek through installation of a new culvert that will enhance fish passage over existing conditions.
- The site in the past has had extensive equestrian use with no comprehensive storm water management, resulting in impacts to both the wetlands and Yarrow Creek. Numerous existing septic systems onsite will be replaced. The proposed development will include the design and construction of a storm water management system consistent with the City's adopted storm water management requirements, which will be a significant enhancement over existing conditions.
- The proposal substantially exceeds the requirements for retention of "significant" trees and further includes extensive planting of new trees and shrubs as part of the critical areas mitigation plan.
- The proposed development preserves a pedestrian/equestrian connection to Bridle Trails State Park consistent with the equestrian nature of the neighborhood.
- The proposed development will include frontage improvements along 116<sup>th</sup> Ave. NE that will include a bike lane and equestrian/pedestrian trail, which will improve safety over existing conditions.

Other than the proposed rezone, Challengers have not argued the proposal fails to meet any particular development regulations. Moreover, the proposed rezone for Bridlestone Estates is consistent with and fully implements the BTNP Land Use Map for all the reasons stated above. The proposed rezone therefore furthers the public health, safety and welfare, and is in the best interest of the community.

Challengers also assert that the proposed rezone is not in the best interest of the community because "the Hearing Examiner's analysis ignores the more than 60 people who appeared at the hearing against the proposed rezone and subdivision, . . .", and that "[e]liminating horse keeping on these properties would be a substantial blow to the equestrian character of Bridle Trails." Challenge, at p. 5. While the concerns of the equestrian community are understandable, KLN respectfully submits the City must also consider the issues and concerns of the property owners themselves. The BTNP (at p. XV.C-4) does not require, but only "encourages", existing equestrian facilities to remain. In addition, as the Staff Recommendation (II.C.1.b., at p. 8) notes, "[t]here are no specific statements in the Comprehensive Plan requiring that equestrian facilities must

be provided within this area.”<sup>5</sup> Nothing in the City’s Comprehensive Plan or development regulations can compel equestrian use even if lots are big enough for such use.

The prior owner of Evergreen Equestrian Center, Michael Crooks, submitted written testimony to the Examiner as to his decision to shut down his facilities and sell his property because they were no longer financially feasible to operate. See Hearing Examiner Exhibit E. Similarly, Andrea Lorig, owner of the property on which Park Place Farm was previously operated, provided written comments how she had been operating her facility at a loss for years. See Hearing Examiner Exhibit L. While KLN can understand that the loss of those facilities is disappointing to the equestrian community, the fact that those facilities have been shut down by the property owners is not a basis for denying the proposed rezone. That is especially so where the City has no policies or regulations requiring existing equestrian facilities to remain or new equestrian facilities to be provided.

More importantly, Washington law recognizes that land use decisions cannot be based on community displeasure but must be based on adopted policies and standards. See *Maranatha Mining, Inc., v. Pierce Cy.*, 59 Wn. App. 795, 804-805 (1990) (holding that “[c]ommunity displeasure cannot be the basis of a permit denial”); see also *Washington State Dept. of Corrections v. City of Kennewick*, 86 Wn. App. 521, 533-534 (1997). Challengers fail to demonstrate that the proposed rezone is inconsistent with any of the applicable rezone criteria, or with any applicable development regulation.

5. *KLN did reach out to the community regarding its proposed development.*

In arguing that the proposed rezone is not in the best interest of the community, Challengers argue that: “[i]t was clear during that hearing that the applicant had made no effort to reach out to the community to hear, much less consider, their needs or interests.” Challenge, at p. 6 (emphasis added). That is simply not true.

KLN presented testimony to the Examiner at the March 9<sup>th</sup> public hearing regarding its efforts to reach out to three different groups.

First, KLN sent notices of a public open house to the property owners at the Sablewood and Cor-Sun Ranch Estates subdivisions. That open house was held in September 2015. Of the 70+ property owners in those two developments who were sent notices, only four people (two couples) came to the open house.

---

<sup>5</sup> It should be noted that the City’s zoning prohibits any new commercial equestrian facilities. Thus, if any equestrian facility were provided or required to be provided it would have to be a non-commercial facility maintained at the sole cost and expense of the homeowners. Thus, the homeowners would incur the cost and expense of maintaining such an equestrian facility even if none of the homeowners actually keep a horse(s) on their property.

Second, KLN attempted for several months to set up a meeting with the South Rose Hill/Bridle Trails Neighborhood Association. Unfortunately, KLN was never able to set up a meeting time and location. (It should be noted that the Hearing Examiner's public hearing was specifically moved from March 8<sup>th</sup> to March 9<sup>th</sup> so as not to conflict with the Neighborhood Association's monthly meeting thereby allowing its members to attend the public hearing on Bridlestone Estates.)

Third, KLN did attempt to reach out to representatives of the equestrian community. As the City Council can tell from the public comments and list of parties of record, there is a wide range of people and groups all purporting to represent the "equestrian community." KLN acknowledges that it did not reach out to each and every person or group. But KLN did reach out to two persons/groups referred to KLN by City Staff as representing the interests of the equestrian community. One of those persons was contacted by KLN's public relations consultant, and chose not to respond. The representative of the second group to which KLN was referred (which group previously operated a training/boarding facility at the Evergreen Equestrian Center on the project site) stated there was probably no reason to meet unless KLN was willing modify its development proposal to provide a further equestrian amenity as part of the proposed development.

KLN respectfully submits it is disingenuous for Challengers to take KLN to task (falsely) for making "no effort" to reach out to the community. Indeed, KLN made multiple attempts to reach out to the various groups referred to KLN by City Staff as being representative stakeholders of the community. In addition, public notice of the application for Bridlestone Estates was sent out to the public, and City Staff established a project website which included information regarding how to communicate with the applicant. Yet KLN received no substantive communications or inquiries from members of the public, or anyone from the "equestrian community", seeking to begin a dialogue regarding their issues/concerns with the proposed development.

Challengers assert that the rezone should be denied because "[a]pproving the rezone and subdivision as currently proposed would represent the loss of nearly twenty acres of property that has been used for horse keeping for more than twenty years." Challenge, at p. 6. That argument ignores the unrefuted fact that, as noted above, the decisions to shut down those facilities were made by the prior owners because they were no longer financially feasible and/or were operating at a loss. Denying the rezone and subdivision will not bring those facilities back. As noted above, the BTNP merely "encourages" existing facilities to be maintained. There is no legal authority for the City to deny the proposed rezone based on the past/current property owners' decisions to shut down their equestrian facilities and sell their properties.

### Conclusion

There is simply no legal basis in the City's Comprehensive Plan, the BTNP or the City's development regulations to remand this proposal and require KLN to negotiate with the "equestrian community" on a new configuration for the project that would enable horse

keeping. The BTNP has for 30 years recognized that this property could be developed at 1-3 dwelling units per acre. The proposed rezone and subdivision (2 dwelling units per acre) is entirely consistent with those densities. Nothing in the Comprehensive Plan, BTNP or development regulations requires the applicant to either retain existing equestrian facilities or provide new equestrian facilities as part of the development. The Bridlestone Estates proposal is "equestrian oriented", consistent with the BTNP, in that it (a) provides equestrian-friendly frontage improvements on 116<sup>th</sup> Ave. NE, (b) provides a pedestrian/equestrian trail connection to Bridle Trails State Park, and (c) has 6 lots over 20,000 square feet on which an owner could potentially apply to the City for keeping a horse.

For all these reasons, KLN respectfully submits that the proposed rezone to RS 12.5 zoning for Bridlestone Estates is fully consistent with the Comprehensive Plan, the BTNP, the rezone criteria and all applicable development regulations. KLN respectfully requests the City Council approve the Bridlestone Estates rezone and subdivision consistent with the Staff Recommendation and the Examiner's Recommendation.

Thank you for considering these comments.

Best regards,



Brian L. Holtzclaw  
General Counsel  
KLN Construction, Inc.  
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Lynnwood, WA 98036  
brian@village-life.net  
Office: (425) 778-4111, ext. 108  
Fax: (425) 778-0409  
Cell: (425) 478-7453

Cc: Desiree Goble, Planning and Building Department (via delivery)  
Parties or Record (see attached affidavit of service)

AFFIDAVIT OF SERVICE

I, Cher Anderson, being first duly sworn on oath deposes and says that I am 18 years of age or older. That I served the above Response from KLN Construction, Inc. to Challenge by Amy Supple, Jim Erckmann, Jennifer Duncan (individually and on behalf of the Lake Washington Saddle Club), Suzanne Kagen and Molly Lawrence regarding the Hearing Examiner's March 16, 2016 Findings, Conclusions and Recommendation to approve Bridlestone Estates Preliminary Subdivision and Rezone SUB15-00572, by the manners indicated below upon the following-named persons who are parties entitled to receive same and to participate in the land use proceeding identified in Kirkland Planning and Building Department File No. SUB15-00572. Those named below constitute all of the parties to this proceeding.

EXECUTED at Lynnwood, Washington on this 1<sup>st</sup> day of April, 2016.

Cher Anderson  
Cher Anderson

DATED at Lynnwood, Washington, this 1<sup>st</sup> day of April, 2016.



Notary's Signature Teresa L. Gash  
Print Notary's Name Teresa L. Gash  
Notary Public in and for the State of Washington  
Residing at: Snodhish, WA  
My Commission expires: 6-20-2017

By Delivery:

The following party received the above Response to Bridlestone Estates Preliminary Subdivision and Rezone SUB15-00572 by Hand Delivery:

City of Kirkland  
Planning & Building Department  
ATTN: Desiree Goble  
123 5th Avenue  
Kirkland, WA 98033

By U.S. Mail:

The following parties received the above Response to Bridlestone Estates Preliminary Subdivision and Rezone SUB15-00572 by U.S. Mail:

Linda Lambert  
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Kirkland, WA 98033

Jim Erckmann  
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Kirkland, WA 98033

Karen Walter  
Muckleshoot Indian Tribe  
Fisheries Division  
39015 172nd AVE SE  
Auburn, WA 98092  
Meryl Keim  
4531 112th AVE NE  
Kirkland, WA 98033

Rick Ostrander  
9 Bridlewood Circle  
Kirkland, WA 98033

Peter Speer and Marian  
Osborne  
1520 2nd Street  
Kirkland, WA 98033

Sarah J Sanford  
8050 122nd AVE NE  
Kirkland, WA 98033

Lynn Erckmann  
26 Bridlewood Circle  
Kirkland, WA 98033

Dave and Shannon Gies  
5 Bridlewood Circle  
Kirkland, WA 98033

Laura Fisher  
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Kirkland, WA 98033

Reiner and Mary Decher  
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Bellevue, WA 98005

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Department of Ecology/NWRO  
3190 160th AVE SE  
Bellevue, WA 98008

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24 Bridlewood Circle  
Kirkland, WA 98033

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17 Bridlewood Circle  
Kirkland, WA 98033

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Kirkland, WA 98033

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4 Bridlewood Circle  
Kirkland, WA 98033

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Bellevue, WA 98007

Keeston Chin  
Leader - Golden Wings 4-H  
Club  
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Kirkland, WA 98033

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Paula Munson  
6115 130th AVE NE  
Kirkland, WA 98033

Nilufer & Robert Norsworthy  
2829 140th AVE NE  
Bellevue, WA 98005

Ksenia Nasielski  
6540 116th AVE NE  
Kirkland, WA 98033

By Email (no mailing addresses provided in written comments):

The following parties received the above Response to Bridlestone Estates Preliminary Subdivision and Rezone SUB15-00572 via Email:

Victoria Holland	vholland.inc@gmail.com	
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Klara Lukacs	klaracemily@gmail.com	
Don Samdahl	don@filmjabber.com	
Judy Willman (President, King County Executive Horse Council)		rayjudywillman@me.com

ORDINANCE O-4516

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND APPROVAL OF A REZONE, PRELIMINARY SUBDIVISION, AND MULTIPLE SENSITIVE AREA DECISIONS AS APPLIED FOR BY KLN CONSTRUCTION, INC. IN DEPARTMENT OF PLANNING AND BUILDING FILE NOS. SUB15-00572, REZ15-00575, SAR15-00573, SAR15-00574, SAR15-00580 AND SETTING FORTH CONDITIONS OF APPROVAL.

1           WHEREAS, the Department of Planning and Building received an  
2 application, pursuant to Process IIB, for a Rezone ("REZ"), Preliminary  
3 Subdivision ("SUB"), and multiple Sensitive Area Decisions ("SAR") as  
4 filed by KLN Construction, Inc. ("Applicant") for a 35 lot development  
5 within a Single-Family Residential (RS/RXS) 35 zone known as  
6 Bridlestone Estates Rezone and Subdivision ("Development"). The  
7 application is contained in Department of Planning and Building File Nos.  
8 SUB15-00572, REZ15-00575, SAR15-00573, SAR15-00574, and SAR15-  
9 00580 (collectively, "Application"); and

10  
11           WHEREAS, pursuant to the City of Kirkland's Concurrency  
12 Management System, Kirkland Municipal Code Title 25, a concurrency  
13 application was submitted to the City of Kirkland ("City"), reviewed by  
14 the responsible Public Works official, the concurrency test applied for  
15 and successfully passed, and a concurrency test notice issued; and

16  
17           WHEREAS, pursuant to the State Environmental Policy Act,  
18 chapter 43.21C RCW, and the Administrative Guidelines and local  
19 ordinance adopted to implement it, an environmental checklist was  
20 submitted to the City, reviewed by the responsible official of the City,  
21 and a determination of non-significance was issued; and

22  
23           WHEREAS, the environmental checklist and determination have  
24 been available and have accompanied the Application through the entire  
25 review process; and

26  
27           WHEREAS, the Application was submitted to the Kirkland Hearing  
28 Examiner who held a hearing on March 9, 2016; and

29  
30           WHEREAS, the Kirkland Hearing Examiner after her public hearing  
31 and consideration of the recommendations of the Department of  
32 Planning and Building adopted Findings, Conclusions and  
33 Recommendation dated March 16, 2016 ("Recommendation")  
34 recommending approval of the Application and issuance of a Process IIB  
35 Permit subject to the specific conditions set forth in the  
36 Recommendation; and

37  
38           WHEREAS, the City Council, in a regular meeting, considered the  
39 environmental documents received from the responsible official of the  
40 City, together with the Recommendation of the Hearing Examiner and  
41 the record developed in connection with the March 9, 2016 hearing; and

42  
43           WHEREAS, the Section 130.45 of the Kirkland Zoning Ordinance  
44 requires approval of the application for a rezone to be made by  
45 ordinance.

46 NOW, THEREFORE, the City Council of the City of Kirkland do  
47 ordain as follows:  
48

49 Section 1. The Findings, Conclusions, and Recommendation of the  
50 Kirkland Hearing Examiner dated March 16, 2016 and filed in Department of  
51 Planning and Building File Nos. REZ15-00575, SUB15-00572, SAR15-  
52 00573, SAR15-00574, and SAR15-00580, a copy of which is attached to  
53 this ordinance as Exhibit A and incorporated herein by this reference,  
54 are adopted by the Kirkland City Council.  
55

56 Section 2. The City Council approves the Application for a rezone  
57 preliminary subdivision, and multiple sensitive area decisions subject to  
58 the conditions set forth in the Findings, Conclusions, and  
59 Recommendation referenced in Section 1 of this ordinance.  
60

61 Section 3. The Process IIB Permit shall be issued to the Applicant  
62 subject to the conditions set forth in the Findings, Conclusions, and  
63 Recommendations adopted by the City Council in Section 1 of this  
64 ordinance.  
65

66 Section 4. The real property within the city of Kirkland and  
67 described in more detail in Exhibit B to this ordinance is rezoned from  
68 RS 35 and RSX 35 to RS 12.5. Exhibit B is incorporated herein by this  
69 reference.  
70

71 Section 5. The Director of the Planning and Building Department  
72 is directed to amend the official Kirkland Zoning Map, Ordinance No.  
73 2699, as amended, to conform with this ordinance, indicating thereon  
74 the date of ordinance adoption. Copies of this ordinance shall be filed  
75 with the Planning and Building Department and the office of the City  
76 Clerk.  
77

78 Section 6. Nothing in this ordinance shall be construed as excusing  
79 the Applicant from compliance with any federal, state or local statutes,  
80 ordinances or regulations applicable to this Application, other than  
81 expressly set forth in this ordinance.  
82

83 Section 7. Failure on the part of the Applicant as the holder of the  
84 Process IIB Permit issued hereby to meet and maintain strict compliance  
85 with the standards and conditions to which the Process IIB Permit is  
86 subject shall be grounds for revocation in accordance with Ordinance  
87 No. 3719, as amended, the Kirkland Zoning Ordinance.  
88

89 Section 8. This ordinance shall be in full force and effect five (5)  
90 days from and after its passage by the City Council and publication  
91 pursuant to Kirkland Municipal Code 1.08.017, in the summary form  
92 attached to the original of this ordinance and by this reference approved  
93 by the City Council as required by law.  
94

95 Section 9. A complete copy of this ordinance, including the  
96 Findings, Conclusions and Recommendation adopted by reference, shall  
be certified by the City Clerk, who shall then forward a certified copy  
thereof to the King County Department of Assessments.

97            Section 10. A certified copy of this ordinance, together with the  
98 Findings, Conclusions, and Recommendation adopted by reference,  
99 shall be attached to and become a part of the Process IIB Permit  
100 provided to the Applicant as permittee.

101  
102            Passed by majority vote of the Kirkland City Council in open  
103 meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

104  
105            Signed in authentication thereof this \_\_\_\_\_ day of  
106 \_\_\_\_\_, 2016.

\_\_\_\_\_  
MAYOR

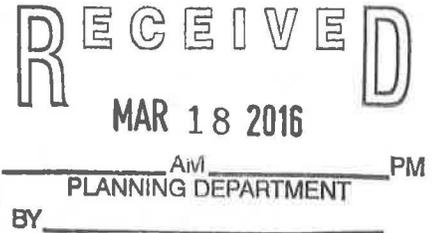
Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

DRAFT



**CITY OF KIRKLAND  
HEARING EXAMINER FINDINGS,  
CONCLUSIONS AND RECOMMENDATION**

**APPLICANT:** Cher Anderson, KLN Construction, Inc.

**FILE NO:** SUB15-00572

**APPLICATION:**

1. Site Location: 4600 – 4646 116<sup>th</sup> Avenue NE
2. Requests: The applicant requests approval of a rezone and preliminary subdivision as follows:
  - a. Rezone the 17.59 acre subject property from RS/RSX 35 (single-family residential, minimum lot size of 35,000 square feet (s.f.)) to RS 12.5 (single-family residential, minimum lot size of 12,500 s.f.).
  - b. Subdivide the property into 35 lots for construction of single-family homes. Access to the lots will be provided via a new public access road off of 116th Avenue NE.
  - c. Fill and “paper fill” a portion of a wetland to provide vehicular access that meets City requirements. Proposed compensatory mitigation includes wetland creation, restoration, and enhancement.
  - d. Reduce the wetland buffer only where necessary to provide access to the remainder of the property. Mitigation is proposed through enhancement.
  - e. Install a stream culvert to create vehicular access and install utilities that comply with the City’s requirements.
  - f. Discharge stormwater using a piped outfall to the wetland buffer.
  - g. Install a bioswale along the south side of the new access road to treat stormwater runoff prior to water reaching stream/wetlands or their associated buffers.
3. Review Process: Process IIB, the Hearing Examiner conducts a public hearing and makes a recommendation to the City Council, which makes a final decision.
4. Key Issues:
  - Compliance with rezone criteria
  - Compliance with subdivision criteria
  - Compliance with various sensitive area criteria

- Equestrian and pedestrian access to Bridle Trails State Park

### **SUMMARY OF RECOMMENDATIONS:**

Department	Approve with conditions
Hearing Examiner	Approve with conditions

### **PUBLIC HEARING:**

The Hearing Examiner held a public hearing on the applications on March 9, 2016, at 7:00 p.m. in the Peter Kirk Room, City Hall, 123 Fifth Avenue, Kirkland, Washington. A verbatim recording of the hearing is available at the City Clerk's office. The minutes of the hearing and the exhibits are available for public inspection in the Planning and Building Department. The Examiner visited the site in advance of the hearing.

### **TESTIMONY AND PUBLIC COMMENT:**

A list of those who testified at the public hearing, and a list of the exhibits offered at the hearing are included at the end of this Recommendation. The testimony is summarized in the hearing minutes.

For purposes of this recommendation, all section numbers refer to the Kirkland Zoning Code ("KZC") or Kirkland Municipal Code ("KMC") unless otherwise indicated.

### **FINDINGS, CONCLUSIONS AND RECOMMENDATION**

Having considered the evidence in the record and reviewed the site, the Hearing Examiner enters the following:

#### **Findings of Fact and Conclusions:**

##### **A. Site Description**

The reference to "Attachment 2, Sheet 2 of 14" on page 5 of the Staff Report (at II.A.1(4)) is corrected to read Attachment 2, Sheet 3 of 14. With that correction, the Facts and Conclusions on site development and zoning, and on neighboring development and zoning, set forth at Subsection II.A of the Staff Report are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

##### Additional Facts:

1. The Sablewood development, located to the north of the subject property, is zoned RS 12.5 and has lot sizes ranging from 10,500 to 19,353 square feet.

2. Cor Sun Ranch Estates to the south is zoned RSX 35 and has lots sizes ranging from 28,002 to 47,502 square feet.
3. Only one of the 40 lots to the south of the subject property and within the Kirkland city limits has a paddock area.

## **B. History**

The Facts and Conclusion on the subject property's tax history, set forth in Subsection II.B of the Staff Report are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusion.

## **C. Public Comment**

The Facts and Conclusion on public comment set forth at Subsection II.C of the Staff Report are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

### Additional Facts:

1. Public comments at the hearing reiterated some of the concerns expressed in the comment letters included in the record as Attachment 5 to the Staff Report, particularly those expressing opposition to the requested rezone as failing to comply with the applicable Neighborhood Plan and threatening the area's equestrian lifestyle.
2. Some members of the public emphasized that the market for "horse properties" remains strong but that such properties are in short supply in the area. They pointed out that the lots in the Cor-Sun development to the south of the subject property allow keeping of horses only with special approval of an architectural control committee. *See* Exhibit I at 3. They also stated that the Zoning Code would prohibit the keeping of horses on most of the lots in the development for the subject property.
3. The lots in the proposed subdivision range in size from 12,506 to 24,752 square feet. Six of the lots exceed 20,000 square feet.
4. KZC 115.20.5.b(3) provides that in zones other than "RS 35 and RSX 35 within the Bridle Trails neighborhood north and northeast of Bridle Trails State Park," the City may approve the keeping of up to two horses on lots less than 35,000 square feet using Process I in Chapter 145 KZC and specific setback regulations.
5. Conclusion: As the subdivision is presently configured, it may be possible for a few of the lots to support horse keeping. *See* Attachment 2 to the Staff Report, Sheet 11 of 14.

#### **D. State Environmental Policy Act and Concurrency**

The Facts and Conclusion on this application set forth at Subsection II.D of the Staff Report are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

#### **E. Approval Criteria**

##### **1. REZONE**

###### **a. Facts:**

- (1) Zoning Code section 130.40 states that a quasi-judicial rezone may be approved only if:
  - Conditions have substantially changed since the property was given its present zoning or the proposed rezone implements the policies of the comprehensive plan; and
  - The proposed rezone is compatible with the existing land uses in the immediate vicinity of the subject property; and
  - The proposed rezone bears a substantial relationship to the public health, safety, or welfare; and
  - The proposed rezone is in the best interest of the community of Kirkland; and
  - If the rezone is to place or remove an overlay zoning designation on the Zoning Map, the proposal meets the applicable designation criteria of chapters 70 through 80 of the Zoning Code.
- (2) Figure BT-1 on page XV.C-2 of the Neighborhood Plan designates the subject property for low density residential development, 1-3 dwelling units per acre. *See* Attachment 9 to the Staff Report. Table LU-3 in the Land Use Section of the Comprehensive Plan lists RS 35,000 as the comparable zoning classification for low density residential development "Up to 1 d/a," and RS 12,500 as the comparable zoning classification for low density residential development "Up to 3 d/a". The applicant seeks RS 12,500 zoning and proposes a development density of 2 dwelling units per acre.
- (3) Historical information regarding annexation, land use designation, and zoning on the subject and adjoining properties includes the following:
  - (a) On February 21, 1989, Ordinance 3158 was signed agreeing to the property owners' petition for annexation. The annexation included the entire subject property, Cor-Sun Ranch Estates, and the properties located on the east side of Cor-Sun Ranch Estates and west of Bridle Trails State Park. At the time of annexation the entire area was zoned RS 35.
  - (b) Sablewood, the adjoining subdivision to the north of the subject property, was originally part of the City of Houghton and zoned for approximately 12 dwelling units per acre. After the cities of Houghton and Kirkland consolidated,

the property was downzoned, but the downzone was overturned in court. A subsequent development proposal was denied pursuant to SEPA, and an appeal followed. Ultimately, a negotiated agreement led to the property being rezoned to RS 12.5 in 1985, and the Sablewood subdivision was approved in 1987.

- (c) Cor-Sun Ranch Estates, to the south of the subject property, was already developed when it was annexed into the City of Kirkland in 1989. Based on size alone, most of the lots in Cor-Sun are large enough to keep a horse without any special Zoning Code review or process although, as noted, covenants require a special approval by an architectural review committee. No horses or paddock areas are visible on the aerial maps for Sablewood or Cor-Sun Ranch Estates. *See* Attachment 8 to the Staff Report.
- (d) One residential parcel between Cor-Sun Ranch Estates and Bridle Trails State Park shows evidence of a paddock area and active horse use. In 2008 a stable and paddock area was located on the most southeasterly property between Cor-Sun Ranch Estates and Bridle Trail State Park. It has been demolished and the site is currently unimproved.

(4) Comprehensive Plan policies relevant to the rezone include the following:

- (a) Land Use Policy LU-2.2: Use land efficiently, facilitate infill development or redevelopment, and where appropriate, preserve options for future development.

This land use policy supports a rezone to a maximum of three units per acre as designated on Comprehensive Plan Figure BT-1, the Bridle Trails Land Use Map. *See* Attachment 9 to the Staff Report.

- (b) Land Use Policy LU-2.3: Ensure an adequate supply of housing units ... to meet the required growth targets through efficient use of land.

If developed to the maximum allowed development potential under the Comprehensive Plan of 3 units per acre, the property could provide 15 dwelling units more than the number that could be provided under the existing zoning designation of 1 unit per acre. *See* Section II.F.1 of the Staff Report. (As noted, the development proposal is for two dwelling units per acre.)

- (c) Land Use Policy LU 4.3: Continue to allow for new residential growth throughout the community, consistent with the basic pattern of land use in the City.
- (d) Natural Environment Policy NE-1.8: Strive to minimize human impact on habitat areas.

As discussed in Sections II.E.3 through II.E.8 of the Staff Report, if the rezone is approved, multiple existing encroachments into the critical areas and their associated buffers would be removed, and the proposed project would conform to critical areas regulations. The northern access, which bisects Wetland B, would be reestablished as wetland, and the southern access, which is between Wetlands B and C, would become wetland buffer. Additional wetland and buffer mitigation would compensate for new encroachments proposed with the development.

- (e) The introduction to the Comprehensive Plan addresses the relationship between the Citywide Elements of the Plan and the Neighborhood Plans:

The Neighborhood Plans allow a more detailed examination of issues affecting smaller geographic areas within the City and clarify how broader City goals and policies in the Citywide Elements apply to each neighborhood. It is intended that each neighborhood plan be consistent with the Citywide Elements. However, because many of the neighborhood plans were adopted prior to the 1995 Plan update, portions of some of the neighborhood plans may contain inconsistencies. Where this is the case, the conflicting portions of the Citywide Elements will prevail.

- (f) Under the vision statement for the Bridle Trails Neighborhood Plan, it is explained that the “primary policy direction for this neighborhood is to *maintain the low-density residential character with some areas containing large lots capable of keeping horses.*” Emphasis added.

- (g) The Neighborhood Plan addresses specific geographic areas, including:

- (1) an area east of I-405 with “relatively new” residential developments, where new residential development “*should be low density (up to five dwelling units per acre);*”
- (2) the single-family area north of the State Park and south of NE 70<sup>th</sup> Street, which “contains some large lots capable of keeping horses,” and in which “[r]esidential sites ... should be designed to allow sufficient space to provide ... for horses, and to appropriately buffer development bordering equestrian areas;”
- (3) the Bridlewood Circle, Silver Spurs Ranch, and Bridle View areas, which “should remain *at a very low density (one dwelling unit per acre)* with private stable facilities permitted;” and
- (4) the area “southwest of Bridle Trails State Park and adjacent to 116<sup>th</sup> Avenue NE,” which includes the subject property and is described as an area that, at the time the Neighborhood Plan was adopted, “*contains low-density*

*residential development (one to three dwelling units per acre) and large stable facilities. Existing equestrian access to Bridle Trails State Park from this area should be preserved.”*

Emphasis added.

- (h) The Neighborhood Plan then addresses “[p]roblems with utilities and traffic in the area southwest of the State Park and adjacent to 116<sup>th</sup> Avenue NE. It states that the extension of water and sewer services should always be a condition of development in the area, and that “higher-density residential uses” would increase traffic volumes, noise and hazards and should not be permitted. “Based upon the above considerations, development in this area should be limited to *low-density equestrian-oriented residential (one to three dwelling units per acre)*. In addition, the existing stable facilities should be encouraged to remain ....”

Emphasis added.

- (5) As noted above, the area to the north of the subject property was developed at a density of 3 dwelling units per acre (RS 12.5 zoning), and the area to the south of the subject property was developed at a density of 1 dwelling unit per acre (RSX 35 zoning). The proposal would be developed at a density of two dwelling units per acre.
- (6) The proposal would preserve the subject property’s existing equestrian/pedestrian access to Bridle Trails State Park.
- b. Conclusions: The proposed rezone is consistent with the criteria set forth in KZC 130.40:
- (1) The proposed rezone would implement the Comprehensive Plan’s Land Use policies supporting infill housing and ensuring an adequate housing supply. It would also protect the wetlands and streams and their associated buffer to the maximum extent possible, including removing existing non-conforming wetland encroachments and bringing non-conforming wetland buffers into conformance with existing regulations, thereby implementing policies in the Plan’s Natural Environment element.
- (2) The rezone would also implement the Bridle Trails Neighborhood Plan. It is clear from the explanatory statement under the vision statement that maintenance of the low-density residential character in the area is key, and that “some areas” should continue to maintain large lots for horses. The Neighborhood Plan expressly directs that in the single family area north of the State Park and south of NE 70<sup>th</sup> Street, residential sites within areas that are equestrian-oriented should be designed to allow for keeping horses. It also expressly directs that Bridlewood Circle, Silver Spurs Ranch and Bridle View should remain at “very low” residential density, which is stated to be one dwelling unit per acre. But for the area in question, southwest of the State Park along 116<sup>th</sup> Avenue NE, both “low density development and equestrian facilities should be

permitted.” “Low density” is repeatedly explained as being from one to three dwelling units per acre.

The Neighborhood Plan’s discussion of “very low density” as one dwelling unit per acre and “low density” as one to three dwelling units per acre is consistent with the comparable zoning classifications for those densities listed in Table LU-3 of the Comprehensive Plan. Thus, the Neighborhood Plan does not conflict with the Comprehensive Plan.

- (3) The rezone would be compatible with existing land uses in the immediate vicinity of the subject property. Properties to the north and south are developed with low-density residential development and, with one exception, the lots are not used for keeping horses.
- (4) The rezone bears a substantial relationship to public health, safety, or welfare because the proposal will create infill residential development while meeting the goals and policies of the Comprehensive Plan, including the applicable Neighborhood Plan.
- (5) The proposed rezone would be in the best interest of the community of Kirkland because it would increase the housing stock, thereby assisting the City in meeting its housing targets while protecting the stream and wetlands to the maximum extent possible.
- (6) The rezone will not place or remove an overlay zoning designation on the Zoning Map.

2. PRELIMINARY PLAT
3. CRITICAL AREAS

The Facts and Conclusions concerning the proposal’s consistency with the approval criteria for a preliminary subdivision and with critical area requirements are set forth in Subsections II.E.2 through II.E.3 through II.E.8 of the Staff Report and are adopted by reference as the Hearing Examiner’s Findings and Conclusions.

## **F. Development Regulations**

The Facts and Conclusions on the proposal’s consistency with applicable development regulations are set forth at Subsection II.F of the Staff Report are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner’s Findings and Conclusions.

## **G. Comprehensive Plan**

The proposal’s consistency with the Comprehensive Plan is addressed above in Section E.

## H. Development Standards

The Fact and Conclusion on this matter set forth at Subsection II.H of Exhibit A are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

## I. Process IIB Decisional Criteria

As noted above, the application for the rezone, preliminary subdivision and sensitive area approvals is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, with the Comprehensive Plan, and it is also consistent with the public health, safety and welfare. It therefore meets the requirement of KZC 152.70.3.

### Recommendation:

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner recommends that the City Council approve the entire application subject to the conditions set forth in Section I.B of the Staff Report.

Entered this 16<sup>th</sup> day of March, 2016.

  
Sue A. Tanner  
Hearing Examiner

### EXHIBITS:

The following exhibits were entered into the record:

- Exhibit A Department's Advisory Report with Attachments 1 through 17
- Exhibit B Department's PowerPoint presentation
- Exhibit C Packet of public comments sent to the Department after release of Department recommendation
- Exhibit D Illustrative Site Plan, Site Enlargements & Photos, Engineering Plans & Sections, Vicinity Map and Site Vicinity Enlargement (total 5 sheets)
- Exhibit E Declaration of Michael Crooks, former owner of subject property
- Exhibit F Traffic data for 116<sup>th</sup> Ave.NE/NE 60<sup>th</sup> St. before and after start of I-405 tolling
- Exhibit G Illustration of "paper fill" of wetland
- Exhibit H Comments of Jennifer Duncan
- Exhibit I Protective Covenants – Plat of Con-Sun Ranch Estates
- Exhibit J Illustration re balancing development with community character
- Exhibit K Enlarged aerial photos of Con-Sun Ranch Subdivision
- Exhibit L Comments of Ann Shilling
- Exhibit M Comments of Molly Lawrence
- Exhibit N Comments of Jim Erckmann

Hearing Examiner Recommendation  
File: SUB15-00572  
Page 10 of 11

Exhibit O      Comments of Mary Decher  
Exhibit P      Comments of Deborah Giddings  
Exhibit Q      Comments of Jessica Reaves  
Exhibit R      Comments of Jana Hobbs  
Exhibit S      Comments of Klara Lukacs  
Exhibit T      Comments of Andrea Lorig, former owner of subject property

#### **PARTIES OF RECORD:**

Cher Anderson, KLN Construction, Inc., applicant  
Brian Holtzclaw, attorney-at-law, on behalf of applicant  
Jim Erckmann  
Jennifer Duncan  
Suzanne Kagen  
Amy Supple  
Molly Lawrence  
Mary Decher  
Rob Hemingson  
Carolyn Adams  
Jana Hobbs  
Gavin Wissler  
Andy Held  
Ann Shilling  
Lynn Erckmann  
Kay Brossard  
Mehri Kaufman  
Alice Prince  
Suki Steiner  
Amy Itkin  
Paula Munson  
Parties of Record prior to hearing  
Planning and Building Department  
Department of Public Works

#### **SUBSEQUENT MODIFICATIONS**

Modifications to the approval may be requested and reviewed pursuant to the applicable modification procedures and criteria in effect at the time of the requested modification.

#### **CHALLENGES AND JUDICIAL REVIEW**

The following is a summary of the deadlines and procedures for challenges and appeals. Any person wishing to file or respond to a challenge or appeal should contact the Planning Department for further procedural information.

#### **CHALLENGE**

Section 152.85 of the Zoning Code allows the Hearing Examiner's recommendation to be challenged by the applicant or any person who submitted written or oral comments or

testimony to the Hearing Examiner. A party who signed a petition may not challenge unless such party also submitted independent written comments or information. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., March 28, 2016, seven (7) calendar days following distribution of the Hearing Examiner's written recommendation on the application. Within this same time period, the person making the challenge must also mail or personally deliver to the applicant and all other people who submitted comments or testimony to the Hearing Examiner, a copy of the challenge together with notice of the deadline and procedures for responding to the challenge.

Any response to the challenge must be delivered to the Planning Department within seven (7) calendar days after the challenge letter was filed with the Planning Department. Within the same time period, the person making the response must deliver a copy of the response to the applicant and all other people who submitted comments or testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, available from the Planning Department. The affidavit must be attached to the challenge and response letters, and delivered to the Planning Department. The challenge will be considered by the City Council at the time it acts upon the recommendation of the Hearing Examiner.

### **JUDICIAL REVIEW**

Section 152.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within twenty-one (21) calendar days of the issuance of the final land use decision by the City.

### **LAPSE OF APPROVAL**

Under KMC 22.16.010, "Final plat – Submittal – Time limits," if the final plat is not submitted to the City Council within the time limits set forth in RCW 58.17.140, it shall be void.

**Link to Exhibit A:**

[http://www.kirklandwa.gov/depart/planning/Boards\\_and\\_Commissions/Hearing\\_Examiner\\_Meeting\\_Information.htm](http://www.kirklandwa.gov/depart/planning/Boards_and_Commissions/Hearing_Examiner_Meeting_Information.htm)

March 9, 2016 Meeting Packet (This can be viewed by clicking on the links to the four parts of the staff recommendation for the March 9, 2016 meeting.)

**Link to Exhibit B through D:**

[http://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/KHE+Recommendation+Exhibits+Combined+-+Bridlestone+Estates+SUB15-00572\\_Part1.pdf](http://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/KHE+Recommendation+Exhibits+Combined+-+Bridlestone+Estates+SUB15-00572_Part1.pdf)

March 9, 2016 Exhibits Received at the Hearing Examiner Meeting

**Link to Exhibit E through I:**

[http://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/KHE+Recommendation+Exhibits+Combined+-+Bridlestone+Estates+SUB15-00572\\_Part2.pdf](http://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/KHE+Recommendation+Exhibits+Combined+-+Bridlestone+Estates+SUB15-00572_Part2.pdf)

March 9, 2016 Exhibits Received at the Hearing Examiner Meeting

**Link to Exhibit J through L:**

[http://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/KHE+Recommendation+Exhibits+Combined+-+Bridlestone+Estates+SUB15-00572\\_Part3.pdf](http://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/KHE+Recommendation+Exhibits+Combined+-+Bridlestone+Estates+SUB15-00572_Part3.pdf)

March 9, 2016 Exhibits Received at the Hearing Examiner Meeting

**Link to Exhibit M through T:**

[http://www.kirklandwa.gov/Assets/KHE+Recommendation+Exhibits+Combined+-+Bridlestone+Estates+SUB15-00572\\_Part4.pdf](http://www.kirklandwa.gov/Assets/KHE+Recommendation+Exhibits+Combined+-+Bridlestone+Estates+SUB15-00572_Part4.pdf)

March 9, 2016 Exhibits Received at the Hearing Examiner Meeting

**PARCEL # 162505-9017:**

THE EAST 397.36 FEET OF THE NORTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON;

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS PER DRIVEWAY EASEMENT RECORDED UNDER KING COUNTY RECORDING NUMBER 6367183;

ALSO TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS, AND UTILITIES AS STATUTORY WARRANTY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 8708201403;

SITUATE IN THE CITY OF KIRKLAND, COUNTY OF KING, STATE OF WASHINGTON.

**PARCEL # 162505-9021:**

THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M.;

EXCEPT THE EAST 214 FEET THEREOF;

EXCEPT THE NORTH 15 FEET THEREOF;

AND EXCEPT THE WEST 30 FEET THEREOF FOR 116TH AVE NE AS ESTABLISHED BY ORDER OF ESTABLISHMENT RECORDED IN COUNTY COMMISSIONER'S RECORDS BOOK 33, PAGE 175;

SITUATE IN THE CITY OF KIRKLAND, COUNTY OF KING, STATE OF WASHINGTON.

**PARCEL # 162505-9022:**

THAT PORTION OF THE NORTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID SUBDIVISION NORTH 88° 18' 48" WEST 1,055.61 FEET FROM THE NORTHEAST CORNER THEREOF;

THENCE SOUTH 88° 18' 48" EAST 658.25 FEET;

THENCE SOUTH 01° 02' 42" WEST PARALLEL TO THE EAST LINE OF SAID SUBDIVISION 327.52 FEET TO THE SOUTH LINE THEREOF;

THENCE NORTH 88° 21' 20" WEST ALONG THE SOUTH LINE OF SAID SUBDIVISION 655.90 FEET;

THENCE NORTH TO THE POINT OF BEGINNING;

**PARCEL # 162505-9031:**

THE NORTH HALF OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, EXCEPT THE WEST 30 FEET FOR 116TH AVENUE NORTHEAST AS ESTABLISHED IN VOLUME 33 OF COMMISSIONERS RECORDS ON PAGE 175;

SITUATE IN THE CITY OF KIRKLAND, COUNTY OF KING, STATE OF WASHINGTON.

**PARCEL # 162505-9034:**

THE EAST 214 FEET OF THE SOUTH HALF OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;

TOGETHER WITH THE NORTH 15 FEET OF THE SOUTH HALF OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;

EXCEPT THE EAST 214 FEET THEREOF; AND

EXCEPT THAT PORTION THEREOF LYING WITHIN 116TH AVENUE NORTHEAST.

PUBLICATION SUMMARY  
OF ORDINANCE O-4516

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND APPROVAL OF A REZONE, PRELIMINARY SUBDIVISION, AND MULTIPLE SENSITIVE AREA DECISIONS AS APPLIED FOR BY KLN CONSTRUCTION, INC. IN DEPARTMENT OF PLANNING AND BUILDING FILE NOS. SUB15-00572, REZ15-00575, SAR15-00573, SAR15-00574, SAR15-00580 AND SETTING FORTH CONDITIONS OF APPROVAL.

SECTION 1. Adopts the Findings, Conclusions and Recommendations of the Kirkland Hearing Examiner.

SECTION 2. Approves the application for a rezone preliminary subdivision and multiple sensitive area decisions subject to certain conditions.

SECTION 3. Provides that after completion of final review of the rezone, preliminary subdivision and sensitive area decisions, the Process IIB Permit shall be issued and subject to the adopted Recommendations in Section 1 of the Ordinance.

SECTION 4. Rezones the property described from RS 35 and RSX 35 to RS 12.5.

SECTION 5. Directs the Director of the Planning and Building Department to amend the Kirkland Zoning Map and file a copy with the Planning and Building Department and the City Clerk.

SECTION 6. Provides that the applicant is not excused from compliance with any federal, state or local statutes, ordinances or regulations applicable to the project, other than as expressly set forth in the Ordinance.

SECTION 7. Provides grounds for revocation of the Process IIB Permit.

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 five days after publication of summary.

SECTION 9. Establishes requirement for certification of the Ordinance by City Clerk and notification of King County Department of Assessments.

SECTION 10. Provides that the certified Ordinance and adopted Findings, Conclusions and Recommendations are part of the Process IIB Permit and shall be delivered to the applicant.

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 \_\_\_\_\_, 2016.

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

\_\_\_\_\_  
City Clerk

DRAFT