CITY OF KIRKLAND
Planning and Building Department
123 Fifth Avenue, Kirkland, WA 98033
425.587-3225 - www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager **QUASI-JUDICIAL**

From: Désirée Goble, Planner
Eric Shields, Planning Director

Date: May 9, 2016

Subject: Bridlestone Estates Rezone and Subdivision

RECOMMENDATION

Staff recommends that the Council consider the quasi-judicial matter pending for the proposed Bridlestone Estates rezone, preliminary subdivision and multiple sensitive area decisions application and consider the draft ordinance that could be amended on Council direction.

1. Direct staff to return to the June 7, 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 challenge to the recommendation, the response to the challenge to the recommendation, and the e-mails from the Challenger and Applicant identifying their concerns regarding the oral statements made to Council on May 3, 2016.

BACKGROUND DISCUSSION

Council Meeting

At the May 3, 2016 Council meeting, staff provided a presentation to Council regarding the Bridlestone Estate Rezone and Subdivision. The Challenger and Applicant also made presentations. The Challenger provided a handout to Council and Staff (see Enclosure 1). Following is a link to the Council memo and enclosures from the May 3, 2016 Council Meeting (Agenda Item 11A). Both the challenger and applicant had concerns regarding new information being introduced during their respective oral statements. Council allowed the challenger and applicant one day to provide a written summary of their concerns about the other's presentation, and each did (See Enclosure 2 and 3).

ENCLOSURES

1) Challenger's Handout
2) Applicant's response to Challenger's oral statements and handouts
3) Challenger's response to Applicant's oral statements
4) Draft Ordinance 4516
5) Hearing Examiner Recommendation and Exhibits
6) Legal Description

A PORTION OF THE W. 1/2 OF THE SW. 1/4, SEC. 16, TWP. 25 N., RGE 5 E., W.M.

triad

PRELIMINARY PLAT

KLN CONSTRUCTION, INC.

BRIDLESTONE ESTATES

CITY OF KIRKLAND, WASHINGTON

PRELIMINARY

JOB NO. 13-097

SHEET NO. 11 of 14

Kirkland Criteria for Horse Keeping

KZC 115.20(5) provides:

(d)(1) The applicant must provide a suitable barn to house the horses setback from adjoining lots a minimum of 40 feet, and must maintain it in a clean condition. The City may permit barns 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 barn complies with all other regulations pertaining to setbacks in that zone.

(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.

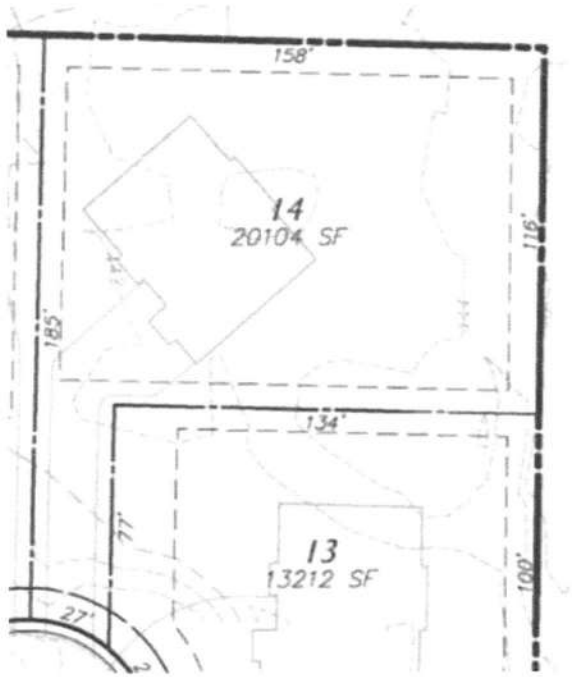
ii) Direct access to this area must be available for trucks to deliver feed and pick up manure from an alley, easement, or an adjacent right-of-way across a side yard of the lot.

(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.

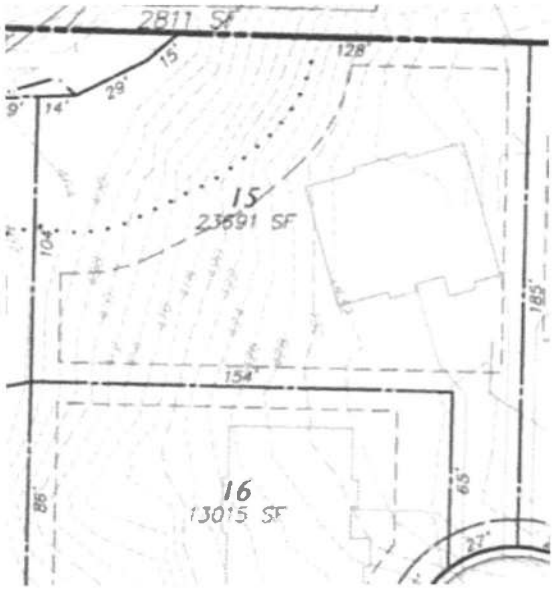
Lot #14 – 20,104 square feet



Narrow Access = 1,764 square feet
Actual usable area = 18,340 square feet
Does not meet criteria for horse keeping (KZC 115.20(5)(d)&(e)):

- No barn
- No adequate paddock area (min 14,500 square feet of contiguous area paddock area)
- No access to potential paddock/barn area that meets code requirements

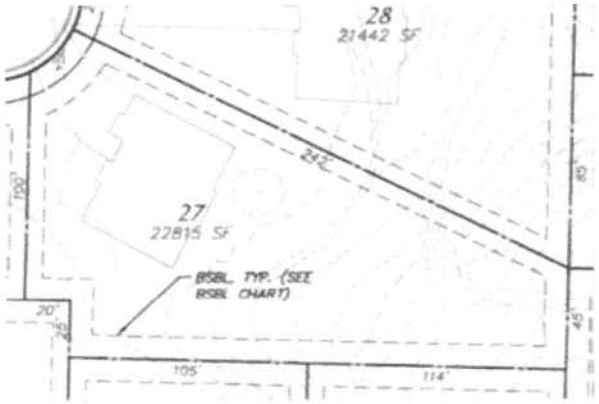
Lot #15 – 23,691 square feet



Narrow Access = 1,488 square feet
Wetland Buffer = 4,809 square feet
Actual usable area = 17,394 square feet
Does not meet criteria for horse keeping (KZC 115.20(5)(d)&(e)):

- No barn
- No adequate paddock area (min 14,500 square feet of contiguous area paddock area)
- No access to potential paddock/barn area that meets code requirements

Lot #27 – 22,815 square feet



Narrow frontage = 4,701 square feet
Actual usable area = 18,114 square feet
Does not meet criteria for horse keeping (KZC 115.20(5)(d)&(e)):

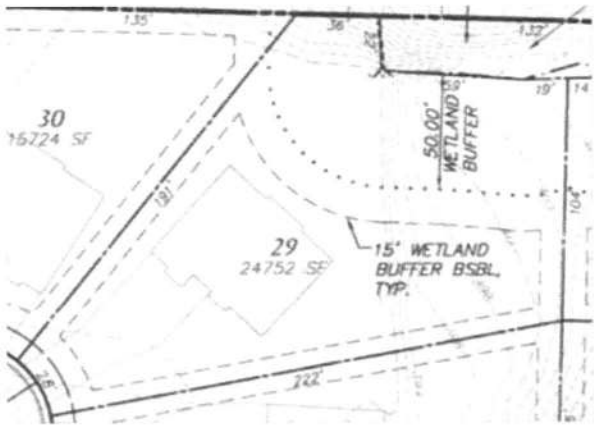
- No barn
- No adequate paddock area (min 14,500 square feet of contiguous area paddock area)
- No access to potential paddock/barn area that meets code requirements

Lot #28 – 21,442 square feet

Narrow frontage (area forward of the house) = 5215 square feet
Actual usable area = 16,997
Does not meet criteria for horse keeping (KZC 115.20(5)(d)&(e)):

- No barn
- No adequate paddock area (min 14,500 square feet of contiguous area paddock area)
- No access to potential paddock/barn area that meets code requirements

Lot #29 – 24,752 square feet



Wetland buffer = 6891 square feet
Narrow frontage = 4207 square feet
Actual usable area = 13,654 square feet
Does not meet criteria for horse keeping (KZC 115.20(5)(d)&(e)):

- No barn
- No adequate paddock area (min 14,500 square feet of contiguous area paddock area)
- No access to potential paddock/barn area that meets code requirements

Lot #33 – 22,866 square feet

Wetland buffer = 9,167 square feet
Actual usable area = 13,699 square feet
Does not meet criteria for horse keeping (KZC 115.20(5)(d)&(e)):

- No barn
- No adequate paddock area (min 14,500 square feet of contiguous area paddock area)
- No access to potential paddock/barn area that meets code requirements

Kevin Raymond

From: Brian Holtzclaw <brian@village-life.net>
Sent: Wednesday, May 04, 2016 4:36 PM
To: Kevin Raymond
Subject: Bridlestone Estates
Attachments: SKMBT_C552D16050409140.pdf

Mr. Raymond (and Council members),

This email is to, among other things, follow up on KLN's objection to the purported "illustrative" exhibit introduced last night by the Challengers.

KLN's objection is threefold.

First, members of the public testified generally at the public hearing before the Examiner on March 9th that lots within Bridlestone Estates could not meet the City's code requirements for horse keeping. However, no specific analysis/information to support that contention was submitted into the public record during the open record hearing. KLN pointed out to the Examiner that 6 proposed lots were over 20,000 square feet on which the City's requirements for horse keeping could potentially be met. Based on the information presented into the record, the Examiner concluded that "[a]s the subdivision is presently configured, it may be possible for a few lots to support horse keeping." HE Recommendation, C.5. at page 3. The exhibit introduced last night appears to be new substantive analysis by Challengers to refute the Examiner's findings and conclusions. The time for submitting such evidence was during the open record hearing. This exhibit is substantive, not illustrative, and therefore should be precluded from the Council's closed record consideration of this matter.

Second, the exhibit asserts that on 6 proposed lots the City's requirements cannot be met based on the house footprints shown on the preliminary plat. However, as I stated in my April 1st letter responding to the Challenge, those footprints are conceptual and do not represent what may actually be built on each lot. Accordingly, those footprints fail to demonstrate that the City's requirements for horse keeping could not be met on those lots. (Specific building plans for individual lots have not yet been identified. How a lot will be graded and how it could be laid out to support horse keeping cannot be known until building plans are selected and then reviewed by the City through the extensive building permit process. That is an entirely separate process that follows preliminary plat approval.)

Third, as I pointed out in my comments to the Council last night and in my April 1st letter, whether the City's code requirements for horse keeping can be met on any lots within Bridlestone Estates is irrelevant to determining whether the rezone criteria are satisfied because the Comprehensive Plan and Bridle Trails Neighborhood Plan (BTNP) do not require lots in this area along 116th to be of sufficient size for horse keeping (unlike other areas where this is specifically required by the BTNP, as I pointed out last night).

For these reasons, KLN respectfully renews its objection to the introduction of the Exhibit (at least pages 6-8 of the exhibit that includes Challengers' lot specific analysis) and asks that it be stricken from the Council's consideration of this matter.

Also, Ms. Lawrence interrupted my rebuttal testimony to object to my statements about the property owners' decisions to shut down their equestrian facilities previously operated on some of the parcels that are part of the Bridlestone Estates proposal. As I stated last night, the information in the record from those property owners supporting my testimony is found at Exhibits E (Declaration from Michael Crooks) and pages 16-17 of Exhibit C (March 4, 2016 email from Andrea Lorig, which I erroneously referred to in my April 1st letter as Exhibit L) from the Hearing Examiner proceeding (copies of which are attached).

Finally, I would like to make a point of clarification and additional objection for the record regarding last night's hearing. I understood from your correspondence prior to the hearing (your email dated April 12, 2016 to Ms. Lawrence and me) that the Council had decided to allow Applicant and the Challengers 10 minutes each to present argument to the Council and that Ms. Lawrence, one of the identified Challengers, was going to be speaking on behalf of the Challengers. However, the bulk of the Challengers' presentation last night was given by Andy Held. Mr. Held is not identified as one of the Challengers in the March 28, 2016 Challenge and was not identified last night as legal counsel representing the Challengers. (Mr. Held is a party of record from the Hearing Examiner proceeding but was not one of the named Challengers. The persons bringing the Challenge were Amy Supple, Jim Erckmann, Jennifer Duncan (individually and on behalf of the Lake Washington Saddle Club), Suzanne Kagen and Ms. Lawrence.) The Council stated at the outset of the meeting that the Bridlestone Estates matter was a closed record, quasi-judicial proceeding for which public testimony was not allowed. Given that Mr. Held is neither a Challenger nor legal counsel representing the Challengers, his testimony last night constituted public comment that should not have been allowed. KLN therefore objects to Mr. Held's testimony as it was public comment from a member of the public other than the identified Challengers and should have been prohibited.

Best regards,

B

Brian L. Holtzclaw
General Counsel

KLN Construction, Inc.
(425) 478-7453 (cell)
(425) 778-4111 ext. 108 (office)
www.villagelifecommunities.com

Kevin Raymond

From: Molly Lawrence <mol@vnf.com>
Sent: Thursday, May 05, 2016 12:05 PM
To: Kevin Raymond
Cc: brian@village-life.net
Subject: RE: Bridlestone Estates

Thank you Kevin. For purposes of the record, I believe it is important to note that the Challengers contest the Applicant's objections, particularly the new objection raised regarding Mr. Held. As Mr. Held explained, he was speaking on behalf of the Challengers. I am unaware of any restriction in the City's regulations limiting the Challenger's representative to a lawyer; we regularly use land use planners, rather than attorneys, as party representatives before local jurisdictions. Mr. Held's participation was comparable. He did not provide any new evidence not already in the record.

Obviously, we have responses to each of the applicants other objections as well, but will withhold (without waiver) those for the time being unless requested by the City.

Thank you.
Molly Lawrence
For the Challengers

From: Kevin Raymond [mailto:KRaymond@kirklandwa.gov]
Sent: Thursday, May 05, 2016 9:03 AM
To: Molly Lawrence
Cc: brian@village-life.net
Subject: Fwd: Bridlestone Estates

Brian, thank you for your email. Molly, this is for your information only. Brian gave me permission to forward this to you. The City Council does not require anything further from the parties at this time.

Thanks.

Kevin

Sent from my iPhone

Begin forwarded message:

> **From:** Brian Holtzclaw <brian@village-life.net>
> **Date:** May 4, 2016 at 4:35:49 PM PDT
> **To:** Kevin Raymond <KRaymond@kirklandwa.gov>
> **Subject: Bridlestone Estates**
>
> Mr. Raymond (and Council members),
>
> This email is to, among other things, follow up on KLN's objection to the purported "illustrative" exhibit introduced last night by the Challengers.
>
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General Counsel

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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.

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

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

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

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

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

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

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

DRAFT

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

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

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

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

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

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

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

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

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

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

Section 9. A complete copy of this ordinance, including the Findings, Conclusions and Recommendation adopted by reference, shall

DRAFT

be certified by the City Clerk, who shall then forward a certified copy thereof to the King County Department of Assessments.

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

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2016.

Signed in authentication thereof this _____ day of _____, 2016.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

DRAFT

Enclosure 4.A

RECEIVED
MAR 18 2016
_____AM_____PM
PLANNING DEPARTMENT
BY_____

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 116th 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 70th 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 116th 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 116th 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 70th 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 116th 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 16th 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 116th Ave.NE/NE 60th 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

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

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

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

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

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

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.

DRAFT