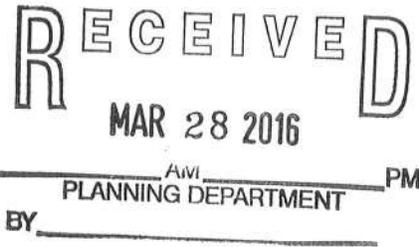


March 28, 2016

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 130.40.¹ 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.² 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.³

¹ 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.

² 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.

³ 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.⁴ 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.”⁵ 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 116th 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.

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 116th. 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.

⁴ 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.

⁵ 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.

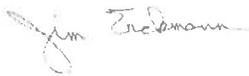
Options for responding to this challenge: Pursuant to KZC 152.85(3)(c), “[a]ny person receiving a copy of the challenge letter, pursuant to subsection (3)(b) of this section, may file a written response to the challenge. Such response shall be submitted to the Planning and Building Department within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

Sincerely,

Amy Supple



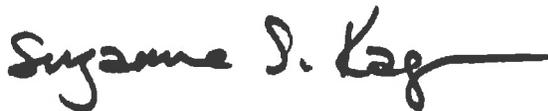
Jim Erckmann



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 75th 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 28th day of March, 2016.

Molly Lawrence
Molly Lawrence

DATED at Seattle, Washington, this 28th day of March, 2016.

MARYA ANGELIQUE 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

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- By Legal Messenger
- By Facsimile
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Jessica Reaves
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- By Email

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 28th day of March, 2016.


Jennifer Duncan

DATED at Seattle, Washington, this 28th day of March, 2016.

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

Notary's Signature Marya Angeliqye Pirak
Print Notary's Name Marya Angeliqye 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
123 5th Ave
Kirkland, WA 98033

- By Hand Delivery
- By Legal Messenger
- By Facsimile
- By Email

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- By Email

Judy Willman, President
King County Executive Horse Council

- By Email

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