

RESOLUTION NO. R- 3629

A RESOLUTION OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PROCESS IIB ZONING PERMIT AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. IIB-90-15 BY SALLY MUSEMECHE OF THE EASTSIDE EQUESTRIAN CENTER BEING WITHIN A PLANNED AREA 16 ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PROCESS IIB PERMIT SHALL BE SUBJECT.

WHEREAS, the Department of Planning and Community Development has received an application for a Process IIB permit, filed by Sally Musemeche of the Eastside Equestrian Center, the owner of said property described in said application and located within the Planned Area 16 zone.

WHEREAS, the application has been submitted to the Hearing Examiner who held hearing thereon at a special evening meeting of June 19, 1990; and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 4321C, and the Administrative Guideline and local ordinance adopted to implement it, this action is exempt from the environmental checklist process; and

WHEREAS, the Kirkland Hearing Examiner, after his public hearing and consideration of the recommendations of the Department of Planning and Community Development did adopt certain Findings, Conclusions, and Recommendations and did recommend approval of the Process IIB Zoning permit subject to the specific conditions set forth in said recommendation; and

WHEREAS, the City Council, in regular meeting, did consider the recommendation of the Hearing Examiner.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1. The findings, conclusion, and recommendation of the Kirkland Hearing Examiner, as signed by him and filed in the Department of Planning and Community Development File No. IIB-90-15 are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The Process IIB Zoning permit shall be issued to the applicant subject to the conditions set forth in the recommendations hereinabove adopted by the City Council.

Section 3. Nothing in this resolution shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinance, or regulations applicable to this project, other than expressly set forth herein.

Section 4. Failure on the part of the holder of the permit to initially meet or maintain strict compliance with the standards and conditions to which the Process IIB Zoning permit is subject shall be grounds for revocation in accordance with Ordinance 2740, as amended, the Kirkland Zoning Ordinance.

Section 5. A certified copy of this resolution, together with the findings, conclusions, and recommendations herein adopted shall be attached to and become a part of the Process IIB Zoning permit or evidence thereof delivered to the permittee.

Section 6. Certified or conformed copies of this resolution shall be delivered to the following:

- (a) Department of Planning and Community Development of the City of Kirkland
- (b) Fire and Building Departments of the City of Kirkland
- (c) Public Works Department of the City of Kirkland
- (d) The City Clerk for the City of Kirkland.

PASSED by majority vote of the Kirkland City Council on the 18th day of September, 1990.

SIGNED IN AUTHENTICATION thereof on the 18th day of September, 1990.



Mayor

Attest:



City Clerk

MUSEMECH.SEP/JS:cw

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

APPLICANT: Sally Musemeche

FILE NO. IIB-90-15

APPLICATION:

1. Site Location: 5550 127th Avenue NE, Kirkland, in the Bridle Trails neighborhood (see Exhibit A, Attachments 2 and 3).
2. Request: Process IIB permit for the Eastside Equestrian Center to allow for the reconfiguration of the outdoor paddock areas and the conversion of some prior paddocks into an outdoor riding and training area in the southern portion of the site (see Exhibit A, Attachment 4).
3. Review Process: Process IIB - Hearing Examiner conducts public hearing and makes recommendation; City Council makes final decision.
4. Major Issues:
 - a. Zoning Code compliance.
 - b. Dust control.

SUMMARY OF RECOMMENDATIONS:

Department of Planning and Community Development: Approve with conditions.

Hearing Examiner: Approve with conditions.

PUBLIC HEARING:

After reviewing the official file which included the Department of Planning and Community Development Advisory Report and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Musemeche application was opened at 7:08 p.m., June 19, 1990, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington, and was closed at 10:05 p.m. It was agreed at the hearing that the Hearing Examiner recommendation would not be released before July 9, 1990 at the request of one of the neighbors. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the City Clerk's office.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION/DECISION:

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

I. FINDINGS:

A. The findings of fact recommended on pages 4 to 17 of the Department of Planning and Community Development Advisory Report (Hearing Examiner Exhibit A) and on pages 3 to 6 of the staff memo dated June 18, 1990, (Hearing Examiner Exhibit C) are found by the Hearing Examiner to be supported by the evidence presented during the hearing and, by this reference, are adopted as part of the Hearing Examiner's findings of fact. Copies of said reports are available in the Department of Planning and Community Development.

B. At the hearing, the applicant and her attorney reviewed the changes which had recently taken place in the neighborhood and at the Equestrian Center. The applicant submitted written information (Exhibit D) which discussed issues relating to arena footing, watering, use of the arena, trees, parking and discussed what the Eastside Equestrian Center would agree to do to address the concerns raised by the neighbors.

The items that the Center agreed to do essentially correspond to the revised conditions recommended by staff in Exhibit C.

C. There were 107 letters of support received for the application. In addition, 11 persons testified at the hearing in general support of the application. Some of the reasons given for support of the application follow:

1. Fewer horses are boarded at the facility now than had been boarded there by the previous owners.
2. No horse shows or tack sales occur at the facility any longer.
3. Parking has been improved by the present owner and since there are no longer horse shows or tack sales, parking is no longer a problem. Overflow parking from the Central Park Tennis Club does occur, however.
4. The screening proposed by the staff is reasonable.
5. The well-drained outdoor ring is a definite bonus to the facility. Regardless of weather, the ring has become an excellent place to ride.
6. There is less dust now than in the past when there were ramshackle turn out paddocks. Those paddocks were mud pits in rainy weather and dusty in hot dry weather.
7. Washed sand, which has been placed in the arena, provides the best footing from the standpoint of safety and is relatively dust-free.

8. The revised dust mitigation measures proposed by staff are reasonable and should be effective.
 9. The size of the arena should not be reduced in size since it is barely large enough for dressage training at the present time.
- D. Seven letters and written statements which raised objections or concerns were received (Exhibits B-1, B-60, B-61, B-104, B-110, B-111 and E). The five people who wrote letters or statements of concern also testified at the hearing. In addition, one person testified with concerns about the application, but did not submit a letter. Concerns and objections expressed included:
1. One of the central issues is the change from a passive to an active use. The outdoor area of the site was reconfigured from three usable paddocks to 11 small paddocks and one large arena.
 2. The newly configured arena should meet the zoning requirements for setbacks, landscape buffers and parking. All of those who voiced concerns or objections, discussed the fact that the applicant has removed a significant number of trees and shrubs from the property in order to expand the outdoor portion of the facility.
 3. The arena should be reduced in size and be located on the eastern portion of the property. This would help with the problem of dust because the arena would then be adjacent to a pasture instead of a home.
 4. Noise has become bothersome since the use of the facility has changed. Trainers can now be heard out in the arena instructing their students.
 5. Hogs fuel or bark should be spread in the arena and in the paddocks instead of washed sand to help with the problem of dust.
 6. The fence which has been installed by the applicant on the south property line is ugly, is of irregular height and is often well in excess of six feet in height. The fence should be reduced to six feet in height so at least it can be screened by a fence installed by the neighbor to the south.
 7. Parking has been a problem in the past and the application is so vague that it is impossible to determine how much demand there will be for parking in the future.
 8. Information in the application was also insufficient with regard to hours of operation and whether or not there will be horse shows.

9. Additional concerns relating to the lack of information provided in the application include concerns over night operations or lighting, loudspeaker systems and any structural covering of the paddocks or the arena.
- E. The neighbor to the south of the subject property responded to the revised conditions proposed by staff (Exhibit E) and while he agreed with some of the revised conditions, he objected to the idea that the horses would continue to use the buffer zone along the south side of the subject property to get to and from the paddocks. He felt the buffer area was already too small and the horses would be tough on the single row of trees which is proposed to be planted there.
- F. The Examiner made six site visits to the property on different days, including weekends, and different times of the day. The separate visits were done so that parking and dust issues could be observed first hand. In addition to the dust and parking issues, the issue of screening was reviewed on site. It was noted on site visits following the hearing that a fence had been constructed along the west property line. Neither the new fence nor the fence along the south property appear to be in total compliance with the Kirkland Code.

II. CONCLUSIONS:

- A. The conclusions recommended by the Department of Planning and Community Development, as set forth on pages 9 to 17 of the Department's Advisory Report, as modified by pages 3 to 6 of the staff memorandum dated June 18, 1990 (Exhibit C), accurately set forth the conclusions of the Hearing Examiner and, by this reference, are adopted as part of the Hearing Examiner's conclusions, except for conclusion for recommended Condition 3.b which is not adopted. Copies of said reports are available in the Department of Planning and Community Development.
- B. Recommended conclusion for Condition 3.b is modified as follows:

A row of evergreen trees at least 8 feet high and shrubs at least 18 inches high should be planted along the south property line to provide a vegetative screen and to aid in dust control. Trees 8 feet high at the time of planting, instead of the minimum required 5-foot height should be installed to provide screening and dust control sooner. Two rows of trees should not be required because the trees would eventually overhang into the paddock areas and cause problems. The shrubs should be installed, because they will help control dust. Horses should be walked, but not ridden, to the paddocks on the gravel path between the paddocks and the row of evergreens.
- C. The overflow parking noted on each of the Hearing Examiner's several visits to the area appeared to be caused by patrons of the Central Park Tennis Club who seem to prefer to park as close to the club as possible. No overflow parking was noted in the area of the Eastside Equestrian Center. In order to insure that parking does not become a problem at Eastside Equestrian Center, horse shows and tack sales should not be permitted.

- D. No dust clouds were observed during any of the visits even though a tractor was leveling sand on one visit and horses were in the paddocks and in the arena on another visit. It was apparent that the outside area had been watered on a regular basis and the watering appeared to be effective as a means of dust control.
- E. Compatibility between the Equestrian Center and nearby residences can be assisted by limiting hours of operation of the outdoor arena and paddocks and by limiting outdoor lighting and loudspeakers.
- F. All fences constructed by the applicant should be brought into compliance with City Code.
- G. It is understood that the size of the arena is barely adequate for dressage. If the arena were to be reduced in size as requested by some of the neighbors, then the opportunity to conduct dressage training at the equestrian facility would likely be eliminated. After reviewing all of the letters of support and letters of opposition, it is believed the existing arena should be allowed to remain in its present size and location on the site.

III. RECOMMENDATIONS:

Based upon the foregoing findings of fact and conclusions, approval of this application is recommended subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. There are no comments from the other City departments, so there is no Development Standards attachment.
2. The Department of Planning and Community Development shall be authorized to approve modifications to the approved site plan, unless:
 - a. There is a change in use and the Zoning Code establishes different or more rigorous standards for the new use than for the existing use; or
 - b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change (see Exhibit A, Conclusion II.D.9.b); and
3. Within 30 days of City Council final approval, the applicant shall:
 - a. Install one row of evergreen trees (Douglas Fir or Cedar trees) in the 15-foot-wide setback buffer along the entire south property line. The trees shall be eight feet on center and be at least eight feet in height at the time of planting (see Hearing Examiner Conclusion B).

- b. Install two evergreen trees (Douglas Fir or Cedar trees) along the west property line, the locations as shown in Attachment 1 of Exhibit C. The trees shall be eight feet high at the time of planting (see Exhibit C, Conclusion 3).
 - c. Install one shrub 18 inches high between each tree planted along the south property line and between each existing tree or cluster of trees along the west property line (see Exhibit A, Conclusion II.D.4.b).
 - d. Sign, notarize, and submit to the City the Landscape Greenbelt Easement document of Attachment 18, along with the appropriate recording fee for recording for the 15-foot-wide landscape buffer along the south side and the 9-foot-wide landscape buffer along the west side of the property. The document shall include a provision to allow for use of the easement along the south property line as a circulation path to walk horses to and from the paddock entrances along the south side (see Exhibit C, Conclusion 5).
 - e. Submit a two-year maintenance bond and administrative cash deposit for the required landscaping, using the City's standard bond form (see Exhibit A, Conclusion II.D.6.b and Attachment 4.j).
4. A watering schedule shall be implemented immediately to control dust as follows (see Exhibit A, Conclusion II.D.4.b and Exhibit C, Conclusion 6):
- a. The applicant shall designate a specific person responsible for implementing the watering schedule. The City shall review and approve the method of watering. If the presently-used watering truck is not effective in thoroughly watering the areas, the applicant shall use some other more effective method (i.e., hand spray with a hose or an above-ground mounted spray system).
 - b. During any hot, dry period of two or more consecutive days, the outdoor arena and paddock areas shall be watered thoroughly every morning before use, and then throughout the day as needed to control dust.
 - c. On any given day that the temperature exceeds 65^o, the applicant shall thoroughly water the outdoor arena and paddock areas at least twice: once in the morning before use and then again around 1 p.m. During any hot, dry period of two or more consecutive days exceeding 70^o, the areas shall be watered more than twice a day as needed to control dust.

- d. During the summers of 1990 and 1991, the applicant shall keep a watering record from May through September. In October of each year, the applicant shall submit the watering schedule to the City to confirm that the outdoor areas are being watered as needed.
 - e. In the event that the Planning Department receives complaints about dust, the applicant and the Puget Sound Air Pollution Control Authority (Compliance Director at 296-7426) shall be contacted. The City shall ask the PSAPCA to investigate the problem and recommend any solutions. The Planning Department shall invite the applicant to review and comment on the recommendations. Subsequently, the Planning Department will determine what measures need to be implemented and will establish a deadline for implementing the measures. The applicant shall then be responsible to implement the measures by the established deadline.
 - f. In the event the Department of Planning and Community Development receives any further complaints after measures have been implemented following 4.e. above, and the PSAPCA cannot offer any further assistance, the City will select a qualified environmental consultant specializing in dust monitoring and control. The City, the applicant, and the consultant will enter into a three-part contract at the expense of the applicant. The Planning Department shall invite the applicant to review and comment on the consultant's recommendations. Subsequently, the Planning Department will determine what measures need to be implemented based on the consultant's recommendations and will establish a deadline for implementing the measures. The applicant shall then be responsible to implement the measures by the established deadline.
5. The existing gravel walkway in the 15-foot wide setback buffer along the south property line shall only be used for walking horses to and from the paddock areas. No riding is allowed in the 15-foot wide setback buffer. The existing paddock fences along the south side shall not be moved closer to the south property line (see Hearing Examiner Conclusion B).
 6. No horse shows or tack sales shall be permitted at the Eastside Equestrian Center (see Hearing Examiner Conclusion C).
 7. No loudspeaker system, either permanent or portable, shall be allowed at the facility (see Hearing Examiner Conclusion D).
 8. Hours of operation of the outdoor portion of the facility shall be limited to 7:30 a.m. to sunset each day. No new outdoor lighting may be installed (see Hearing Examiner Conclusion D).

9. Within seven (7) calendar days after the final public hearing, the applicant shall remove all public notice signs and return them to the Department of Planning and Community Development. The signs shall be disassembled with the posts, bolts, washer and nuts separated from the sign board (see Exhibit A, Conclusion II.D.10.b).

EXHIBITS:

The following exhibits were offered and entered into the record:

- A. Department of Planning and Community Development Staff Advisory Report
- B. Application (see Official File)
- C. Vicinity Map
- D. Aerial Map dated April 1985
- E. Letter from Applicant dated January 2, 1990 with the following attachments:
 1. Site Plan before Reconfiguration of Southern Lot 11
 2. Site Plan after Reconfiguration of Southern Lot 11
 3. Site Plan of Southern Lot Containing Four Fenced Paddock Areas, dated December 1986
 4. Site Plan of Southern Lot Containing Twelve Fenced Paddock Areas, dated May 1987 and July 1988
 5. Site Plan of Southern Lot Containing Nine Paddocks and One Riding and Training Area, dated July 1989
 6. Letter from John Eddy, dated August 22, 1989
 7. Letter from Teresa Swan, dated July 20, 1989
 8. Letter from Applicant, dated September 12, 1989
 9. Letter from Applicant, dated September 21, 1989
 10. City of Kirkland Maintenance Security Device Instructions for Landscaping
 11. Zoning Code, Planned Area 16 Use Zone Chart, Section 60.85.c
- F. Tree Plan per Staff Inspection and Notation of Expanded Area
- G. Assessor's Map
- H. Letter to Mr. Whittaker from King County, dated June 9, 1983
- I. Letter from Teresa Swan, dated September 8, 1987
- J. Letter from Applicant, dated September 8, 1987
- K. Letter from Applicant, dated October 27, 1987
- L. Letter from Joseph Tovar, dated October 5, 1989
- M. Zoning Code, Section 95.25.2, page 257 - Landscaping Requirements
- N. Zoning Code, Section 115.25, page 313a - Keeping of Large Animals
- O. Zoning Code, Section 162.35.3, page 431 - Nonconformance and Review Process
- P. Zoning Code, Section 115.75.3.k - Removal of Significant Trees
- Q. Zoning Code, Section 162.35.4 - Nonconforming Parking
- R. Zoning Code, Section 162.35.6 - Nonconforming Landscaping, Buffers, and Paving
- S. Landscape Greenbelt Easement Document
- T. Land Use Policies Plan, Land Use Map, Bridle Trails Neighborhood - Figure BT-1
- U. Land Use Policies Plan, Bridle Trails Neighborhood Text, page BT-8

PARTIES OF RECORD:


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Kellie Harmon, 12529 26th NE, Seattle, WA 98119
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

Entered this 18th day of July, 1990, per authority granted by Section 152.70, Ordinance 2740 of the Zoning Code. This recommendation is final unless a request for reconsideration is filed within five (5) working days as specified below. A final decision on this application will be made by the City Council. My recommendation may be challenged to the City Council within ten (10) working days as specified below.


Ronald L. McConnell
Hearing Examiner

RECONSIDERATIONS, APPEALS, CHALLENGES AND JUDICIAL REVIEW

The following is a summary of the deadline and procedures for filing reconsiderations and challenges. Any person wishing to file or respond to a recommendation or challenge should contact the Planning Department for further procedural information.

A. REQUEST FOR RECONSIDERATION

Section 152.80 of the Zoning Code allows the applicant or any person who submitted written or oral testimony to the Hearing Examiner to request that the Hearing Examiner reconsider his/her recommendation. The request must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department within five (5) working days following the postmarked date when the Hearing Examiner's written recommendation was distributed (by 7/26/90). Within this same time period, the person making the request for reconsideration must also mail or personally deliver to the applicant and all

other people who submitted testimony to the Hearing Examiner a copy of the request letter together with notice of the deadline and procedures for responding to the request.

Any response to the request for reconsideration must be delivered to the Planning Department within five (5) working days after the request letter was filed with the Planning Department. Within the same time period, the person making the response must also mail or personally deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, attached to the request and response letters, and delivered to the Planning Department. The affidavit form is available from the Planning Department.

B. 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 testimony to the Hearing Examiner. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by August 2, 1990, ten (10) working days following the postmarked date of 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 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 five (5) working 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 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.

C. JUDICIAL REVIEW (FOR ZONING PERMIT ONLY)

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 30 days following the postmarked date when the City's final decision was distributed.

If issues under RCW 43.21C (the State Environmental Policy Act--SEPA) are to be raised in the judicial appeal, the "SEPA" appeal must be filed with the King County Superior Court within 30 days following the postmarked date when the City's final decision was distributed.

LAPSE OF APPROVAL

ZONING PERMIT

Under Section 152.115.1 of the Zoning Code, the applicant must begin approved development activity within one year after the final decision on the matter, or the decision becomes void. In the event that judicial review proceedings are initiated pursuant to Section 152.110, the decision would be void one year after the termination of judicial review proceedings. Furthermore, the applicant must substantially complete construction of the development activity, use of land, or other actions approved under Chapter 152 and complete the applicable conditions listed on the Notice of Approval within five (5) years after the final decision on the matter, or the decision becomes void. Application and appeal procedures for a time extension are described in Section 152.115.2 and 152.115.3.

CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (206) 828-1257

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
ADVISORY REPORT
FINDINGS, CONCLUSION, AND RECOMMENDATIONS

To: Hearing Examiner

From: Teresa J. Swan, Associate Planner
Joseph Tovar, Planning Director

Date: May 31, 1990

File: IIB-90-15

Hearing Date, Time, and Place: June 19, 1990, 7:00 p.m.
City Hall BOUGHTON ROOM
123 Fifth Avenue, Kirkland

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I. INTRODUCTION

A. APPLICATION

1. Applicant: Sally Musemeche, owner of the Eastside Equestrian Center (see Attachment 1).
2. Site Location: 5550 127th Avenue NE, Kirkland, in the Bridle Trails neighborhood (see Attachments 2 and 3).
3. Request: Process IIB permit for the Eastside Equestrian Center to allow for the reconfiguration of the outdoor paddock areas and the conversion of some prior paddocks into an outdoor riding and training area in the southern portion of the site (see Attachment 4).
4. Review Process: Process IIB - Hearing Examiner conducts public hearing and makes recommendation; City Council makes final decision.
5. Major Issues:
 - a. Zoning Code compliance.
 - b. Dust control.

B. RECOMMENDATIONS

Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, we recommend approval of this application subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. There are no comments from the other City departments, so there is no Development Standards attachment.
2. The Department of Planning and Community Development shall be authorized to approve modifications to the approved site plan, unless:
 - a. There is a change in use and the Zoning Code establishes different or more rigorous standards for the new use than for the existing use; or
 - b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change (see Conclusion II.D.9.b); and
3. Within 30 days of City Council final approval, the applicant shall:

- a. Provide a 15-foot-wide setback buffer along the entire south property line between the existing fence and existing paddock areas. The gravel material in the 15-foot-wide setback buffer shall be removed. Circulation to the paddock areas along the south side should be reconfigured so that no access is available along the south property line (see Conclusion II.D.4.b).
 - b. Install one row of evergreen trees (Douglas Fir or Cedar trees) in the 15-foot-wide setback buffer along the entire south property line. The trees shall be eight feet on center and be eight feet at the time of planting (see Conclusion II.D.4.b).
 - c. Install four evergreen trees (Douglas Fir or Cedar trees) along the west property line, the locations as shown in Attachment 5. The trees shall be eight feet high at the time of planting (see Conclusion II.D.4.b).
 - d. Install shrubs 18 inches high planted to attain a coverage of at least 60 percent of the buffer within two years along the south property line. One row of 18-inch high shrubs shall be planted along the west property line (see Conclusion II.D.4.b).
 - e. Sign, notarize, and submit to the City the Landscaped Greenbelt Easement document of Attachment 18, along with the appropriate recording fee for recording for the 15-foot-wide landscape buffer along the south side and the 9-foot-wide landscape buffer along the west side of the property (see Conclusion II.D.4.b).
 - f. Submit a two-year maintenance bond and administrative cash deposit for the required landscaping, using the City's standard bond form (see Attachment 4.j) (see Conclusion II.D.6.b).
4. A watering schedule shall be implemented immediately to control dust as follows (see Conclusion II.D.4.b):
- a. Watering shall occur on a regular basis every few days as needed to control dust in the outdoor arena (riding and training area) and paddock areas.
 - b. During any hot, dry period of two or more consecutive days, the outdoor arena and paddock areas shall be watered thoroughly every morning before use, and then throughout the day as needed to control dust.

- c. In the event that the Planning Department determines that watering of the outdoor arena and paddock area is not sufficient to control dust, the Department shall give one written notice to the applicant that additional action must be taken to control the dust.
 - d. After the one written notice, if the Planning Department determines that a dust problem persists, the Planning Department shall send a written notice requiring the applicant to pay for, install, and use an underground irrigation system throughout the outdoor arena and paddock areas. The irrigation system shall be installed within 45 days of receipt of the written notice from the Department of Planning and Community Development.
 - e. In the event that the Department of Planning and Community Development determines that a dust problem continues to persist because the irrigation system is not being used or for other reasons, the Department will give written notice to the applicant to immediately cease using the outdoor paddocks and arena areas until it is shown that the irrigation system will be used on a regular basis and/or additional improvements are made to control dust (i.e., cover ground with hog fuel).
5. Within seven (7) calendar days after the final public hearing, the applicant shall remove all public notice signs and return them to the Department of Planning and Community Development. The signs shall be disassembled with the posts, bolts, washer and nuts separated from the sign board (see Conclusion II.D.10.b).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:

a. Facts:

- (1) Size: The entire site contains three separate lots for a total of 120,761 square feet. The southern lot, containing the outdoor arena and paddock areas, is 40,230 square feet (see Attachments 4.a and 6).
- (2) Land Use: The Eastside Equestrian Center is a commercial equestrian facility. The use contains two enclosed buildings, outdoor paddocks, and an outdoor arena. One building contains a barn area for 31 horse stalls, a covered arena, and an office/club house. The other building is a barn containing stalls for 68 horses.

Currently, in the southern portion of the site are nine outdoor paddock areas and one arena for riding and training (see Attachments 4.b and 4.e).

- (3) Zoning: The property is zoned Planned Area 16, which allows for commercial equestrian uses.
- (4) Terrain and Vegetation: The site is relatively flat. There are some trees along all sides of the property (see Attachments 3 and 5).

b. Conclusions: Site development and zoning is not a constraint on the proposal

2. Neighboring Development and Zoning:

a. Facts:

- (1) North: NE 59th Street is directly north of the subject property. To the northwest is the Central Park Tennis Club, a commercial recreational facility. The area is also zoned Planned Area 16.

On the north side of NE 60th Street is the Silver Spurs equestrian-oriented single-family neighborhood. The area is zoned for single-family use (RSX 35).

- (2) South: John and Carolyn Eddy own the single-family home located directly south of the subject property. Further south is a single-family home owned by Mrs. Thurber. Both lots contain horses. The area is also in Planned Area 16.
- (3) East: Bridle Trails State Park is located to the east.
- (4) West: There are several equestrian-oriented single-family homes to the west. The area is also zoned Planned Area 16. West of the single-family homes is a new equestrian commercial facility (arena, barns, and parking lot) called the Kirkland Hunt Club in an area also zoned Planned Area 16).

b. Conclusion: The commercial equestrian use of the Eastside Equestrian facility is compatible with the equestrian orientation of the neighborhood and the commercial nature of the Central Park Tennis Club to the northwest.

B. HISTORY

See Section D.1.a. and b. for a summary of the history for the site.

C. STATE ENVIRONMENTAL POLICIES ACT (SEPA)

1. Fact: The proposal is exempt under WAC 197-11-800(2)(e), State Environmental Policies Act.
2. Conclusion: The applicant and the City have satisfied the requirements of SEPA.

D. ZONING CODE COMPLIANCE

1. a. Facts:

- (1) Section 162.35.3 - Expansion or modification of an existing use or structure or the addition of new structures - authorizes the Planning Director to determine if the changes in the outdoor activity at the subject property require a Process IIB Zoning Permit (see Attachment 14).
- (2) Here are the facts which led the Department of Planning and Community Development to require the Eastside Equestrian facility to make an application for a IIB Zoning Permit:
 - (a) June 9, 1983 - At this time, the property was in King County. Mr. Peterson, Code Enforcement Officer for King County, sent a letter to Mr. Whittaker, prior owner of the subject property, stating that an outdoor arena was not allowed in the southern portion of the site. Mr. Peterson said that the southern portion of the site was only to be used for roaming and exercising and not training and riding. Supposedly, the equestrian facility was a nonconforming use because it was located in a single-family neighborhood (see Attachment 7).
 - (b) July 7, 1986 - By Ordinance 2960, the Hoskins-Burgess Annexation was approved, which brought in the entire area now known as Planned Area 16. With the annexation, the City created the Zoning Code Use Zone Charts for Planned Area 16 which allowed for a commercial equestrian facility (see Attachments 2 and 4.k).
 - (c) August 16, 1986 - The applicant purchased the property from Mr. Whittaker.

- (d) August 1987 - The Planning Department went out to the site in response to a call from a neighbor and found that several trees had been cut down along the west and southwest property lines.
- (e) September 8, 1987 - Teresa Swan of the Planning Department sent a letter to Ms. Musemeche asking for a letter verifying how many trees were removed and notifying her that any future changes to the site would require prior approval of the Planning Department. Also, the issue of dust control was raised in the letter (see Attachment 8).

Subsequent to the letter, the Planning Department established a Violation File No. 87-79.

- (f) September 8, 1987 - Sally Musemeche sent a letter explaining what improvements had occurred and would occur on the property. Attached to the letter was a plan showing the location of the six healthy trees and four diseased trees which had been removed. In the letter the applicant indicated that one of the reasons for removing the trees was to enlarge the parking area (see Attachment 9).

In the letter, the applicant said that the existing paddock in the southwest corner was a "high-use" paddock. However, the paddock was small and had been used strictly as an exercise paddock, which staff considered a "low use." Rather, a "high-use" activity would be a large arena for riding and training. In addition, the plants as shown on the drawing attached to the letter dated October 27, 1987, were never installed. Last, the drawing is misleading because the dashed lines along the west side appear to be the existing split-rail fence adjacent to the right-of-way, so it looks as if there is a substantial setback from the split rail fence to the proposed new, high-use area.

Staff never approved an outdoor riding and training arena.

- (g) October 27, 1987 - In response to neighbors' complaints, the applicant sent a letter proposing to no longer use the paddock in the southwest corner, and instead erect a

new paddock area to the north (see Attachment 10).

(h) Sometime during the summer of 1989, vegetation was removed along the south property line that had previously provided screening for the property owner to the south. The paddocks along the south property line were redesigned so that access to the paddocks was from the south. Gravel was laid to provide a circulation path to these paddocks. The Planning Department has not been notified of the changes (see Attachment 4.e).

(i) July 1989 - The Planning Department received calls from neighbors about the applicant converting some of the paddocks into one large arena and placing sand on the ground in the arena.

- Planning staff received complaints from several neighbors about the exterior changes to the site. The neighbors sent written letters and made telephone contact with the Planning Department complaining about the impacts from the changes. These impacts included dust problems, vegetation removal, and further encroachment of the commercial activities to the west and south.

A new Violations File No. 89-108 was established.

(j) July 20, 1989 - Teresa Swan of the Planning Department sent a letter to the applicant requesting that one row of trees be planted eight feet on center, six feet in height along the entire south property line to replace the vegetation that was removed along the south side and to control the dust. In addition, the applicant was requested to establish a regular watering program to control dust. In the letter, the applicant was told that no zoning permit was needed if the trees were planted and a watering program was implemented (see Attachment 4.g).

(k) August 1989 - The Planning Department continued to receive complaints from the neighbors concerning dust problems and lack of screening at the Eastside Equestrian Center. In addition, the neighbors complained about the lack of on-site parking

and the blocking of 127th Avenue NE during events at the Eastside Equestrian Center.

- (l) August 29, 1989 - Planning staff met with the applicant to try to resolve the concerns of the neighbors.
- (m) September 26, 1989 - Planning staff met with the neighbors to discuss their concerns.
- (n) October 5, 1989 - Joseph Tovar, Director of the Planning Department, sent a letter to the applicant telling her that a Process IIB would be required. The concerns of the neighbors led Mr. Tovar to believe that the changes to the outdoor activities had created significant impacts which had not been mitigated (see Attachment 11).
- (o) October 16, 1989 - Staff met with the applicant and her attorney to discuss why the Planning Department had decided that a Process IIB Zoning Permit was required with the changes in the outdoor activities and improvements.

b. Conclusions:

- (1) Pursuant to Section 162.35.3, the Planning Director determined that the changes to the outdoor activities had significant impacts on the surrounding area than did the prior outdoor activities, and thus require a Process IIB Permit. The significant impacts include lack of buffering, reduction in yard setback along the west side, and dust control problems due to the intensification of the use from the outdoor arena.
- (2) After more than two years of exterior changes to the site, followed by numerous complaints from neighbors and many attempts to try to resolve the issues, the Planning Department determined that the most appropriate forum to review and approve the changes in outdoor improvements to the site was through a Process IIB Zoning Permit.

- 2. a. Fact: The fundamental site development standards pertaining to a commercial equestrian use in a Planned Area 16 zone are set forth in Section 60.85.a (see Attachment 4.k).

- b. Conclusion: The proposal complies with the regulations for the Planned Area 16 zone as set forth in Section 60.85.c, except as discussed below.
3. a. Fact: The following is a list of some of the Development Standards applicable to the subject property (see Attachments 4.k, and 12 through 17):

<u>Regulation</u>	<u>Required by Code</u>	<u>Present Condition</u>	<u>Status</u>	<u>Impacts</u>
Zoning Permit (Section 60.85.c)	Process IIB	None-built while in King County	Nonconformance	Use has not been reviewed by the City or neighbors
Lot Size (Section 60.85.c)	3 acres	2.77 acres	Nonconformance	99 horses kept on substandard lot is an over-intensification of the use resulting in dust control and occasional parking problems and lack of setbacks on west side to provide buffers.
Yard Setbacks for roaming and grazing (Section 115.25)	20'	South-15' for outdoor paddock	Nonconformance	Lack of privacy and adequate vegetative buffers, and dust control problems.
Yard Setbacks for structures and pens used to house animals (Section 115.25)	40'	West-9' for outdoor arena	Nonconformance	Lack of privacy and adequate vegetative buffers, and dust control problems.

<u>Regulation</u>	<u>Required by Code</u>	<u>Present Condition</u>	<u>Status</u>	<u>Impacts</u>
Landscaping Category C (Section 95.25.2)	15' wide landscape strip with 2 rows of trees and shrubs	South-15' wide with 1 tree and used for circulation West-9' wide with a few trees.	Nonconformance	Lack of privacy and adequate vegetative buffers, and dust control problems.
Lot Coverage (Impervious Surface) (Section 60.85.c)	80%	Unknown-but substantially less than 80%	Conforms	Non-issue for proposal because no change to existing condition.
Parking	Case by case basis (parking study based on other similar uses)	No paved parking lot. Parking occurs in front of Barns 1 & 2 and on the street.	Nonconformance	Non-issue for proposal because no change to existing condition.
Tree Removal (115.75.3.k)	5 healthy trees per acre per year can be removed without a permit.	Applicant says 6 healthy and 4 diseased were removed in 1987 on 2.77 acres.	Conforms	Lack of privacy and adequate vegetative buffers, and dust control problems.

b. Conclusion: The commercial equestrian use has nonconforming lot size, yard setbacks, landscaping, and parking. These nonconformances do not have to be brought into conformance, because the use was constructed when it was in the jurisdiction of King County, unless changes are made to the site .

4. a. Facts:

(1) Section 162.35.6 - Nonconforming Landscaping, Buffers, and Paving, requires that landscaping requirements must be brought into conformance as much as feasible, based on available land area, when there is an increase in gross floor area.

(2) Section 115.105.5 states that an outdoor activity or storage area will be used in calculating the gross floor area of any use or development

if this area will be used as an outdoor area use activity, or storage area for at least two months in every year.

- (3) Section 162.35.7 - Nonconforming Setbacks must be brought into compliance when any roof or exterior wall is altered.
- (4) Between 1987 and 1989, three existing large paddocks and one small paddock were converted to nine small paddocks and one large riding and training arena. Sand was placed in the arena. Gravel was placed along the south property line for circulation and access to the paddocks. The western portion of the newly converted riding and training area had never been used in the past for horses. This area once contained trees and had been used to store various types of equipment (see Attachments 3, 4.c, 4.d, and 4.e).
- (5) In 1987 and 1989, the applicant removed trees along the west and south property lines which provided some landscaping buffer (see Attachments 3 and 9).
- (6) An arena is a more intense use than a paddock area because it is used for riding and training. Both activities can create more dust from running and jumping.
- (7) Section 95.45 authorizes the City to require the applicant to dedicate development rights, airspace, or an open space easement to the City to ensure compliance with any of the requirements of Chapter 95 - Landscaping (see Attachment 18).
- (8) The parking areas on the site are not paved and thus are nonconforming.
- (9) Section 162.35.4, Nonconforming Parking, requires that the number of parking stalls be brought into conformance if there is a change in use on the subject property.

b. Conclusion:

- (1) The landscape buffers should be brought into conformance, because the changes to the outdoor activities intensified the use. Also, removal of trees on the site increased the nonconforming buffers.

- (2) To conform to the landscape buffer requirements to the maximum extent feasible, one row of trees 8 feet high and shrubs 18 inches high should be planted along the south property lines to provide a vegetative screen and to aid in dust control. Trees eight feet high at the time of planting, instead of the minimum required 5-foot height, should be installed to provide screening and dust control sooner. Two rows of trees should not be required because the trees would eventually overhang into the paddocks areas and cause problems. The shrubs should be installed, because they will help control dust on the south and west sides and will screen the outdoor activities from the west where no solid fence exists.
- (3) To improve the screening along the west side, four trees and a row of shrubs should be installed to supplement the trees that already exist along the west.
- (4) Pursuant to Section 95.45, the applicant should record a Landscape Greenbelt Easement for the buffer areas in order to ensure that the required buffer along the west and south property lines are continually maintained in accordance with City standards.
- (5) The parking surface should not be required to be improved, because the change in the outdoor activities do not affect parking.
- (6) The yard setbacks do not need to be brought into conformance because no exterior walls were altered.

5. a. Facts:

- (1) In the applicant's letter dated January 2, 1990 (see Attachment 4), the applicant mentioned a requirement for an equestrian trail along the south side of the property within the buffer area. Section 60.85.c, Special Regulation No. 3, requires an equestrian trail across a property connecting to the State Park. This trail would not be required until there was major redevelopment of the site. The location of the trail would be determined at that time, but could not be located within the 15-foot-wide yard setback and landscape buffer.
- (2) In the applicant's letter dated January 2, 1990, the applicant mentions that the Central Park Tennis Club completed an addition to the

site which did not require a Process IIB Permit (see Attachments 2 and 4).

- (3) Pursuant to 162.35.3, the Planning Director determined that a Process IIB Permit was not required because the addition was less than 10 percent of the gross floor area of the use and did not have significant impacts. The addition was a small exercise room added onto an existing building and was located in the central portion of the site. The addition is not visible from the surrounding single-family homes. A temporary dirt road was constructed off of NE 60th Street to access the construction area and has now been closed and removed.

b. Conclusions:

- (1) An equestrian trail across the property should not be required at this time because substantial redevelopment has not occurred.
 - (2) It was the Planning Director's position that the minor addition added to the Central Park Tennis Club building met the criteria of Section 162.35.3 and thus did not require a Process IIB Permit.
6. a. Fact: Sections 95.40 and 175.10.1 allow the City to require a maintenance bond to ensure continued compliance with code requirements.
b. Conclusion: Pursuant to Sections 95.40 and 175.10.1, a maintenance bond should be required to ensure that the landscape buffers are maintained in good condition for a period of two years following installation of the plants.
 7. a. Fact: Section 110.10 exempts the applicant from meeting the requirements of Chapter 110 - Required Public Improvements, because the proposed improvements are less than 50 percent of the replacement cost of any improvements that exist on the subject property.
b. Conclusion: The applicant is exempt from the requirements of Chapter 110.
 8. a. Facts: Section 152.70.2 states that a Process IIB application may be approved if:
 - (1) It is consistent with the intent of the goals and policies and of the applicable neighborhood plan provisions of the Comprehensive Plan;

- (2) It is consistent with all applicable Zoning Code regulations, including those adopted by reference from the Comprehensive Plan; and
- (3) It is consistent with the public health, safety and welfare.

b. Conclusion: The proposal complies with the criteria in Section 152.70.2 provided that a landscape buffer is provided and measures are taken to control dust. It is consistent with the goals and policies of the Land Use Policies Plan (LUPP) (see Section II.G) and is consistent with all applicable Zoning Code regulations except where noted (see Section II.D). In addition, it is consistent with the public health, safety, and welfare provided that a landscape buffer is provided and dust control measures are taken.

9. a. Facts: Section 155.125.2 permits modification to the specific use or site plan approved through Process IIB without having the modifications reviewed using that process, unless:

- (1) There is a change in the use and the Zoning Code establishes different or more rigorous standards for the new use than for the existing use; or
- (2) The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change.

b. Conclusion: Minor modifications to the proposal should be allowed pursuant to the above criteria.

10. a. Fact: Section 152.30 requires that the applicant remove the public notice sign(s) within seven (7) calendar days after the final public hearing.

b. Conclusion: The applicant should remove all public notice signs pursuant to Section 152.30.

E. DUST CONTROL

1. a. Facts:

- (1) The neighbors surrounding the subject property have told staff and the applicant by telephone, letters, and at meetings that their houses and backyards are sometimes covered with dust from use of the outdoor activities on the southern lot at the Eastside Equestrian site (see Attachments 4.g, 8, and 11).

- (2) The applicant agreed to a watering schedule (see Attachment 4.i), but the neighbors contend that the watering schedule has not been followed and dust continues to be a problem.
- (3) In the applicant's letter dated January 2, 1990 (see Attachment 4), the applicant contends that there is dust coming from construction at the Kirkland Hunt Club, located west of the single-family homes along 127th Avenue NE (see Attachment 2). Staff has not received dust complaints from the single-family homes surrounding the new Kirkland Hunt Club. The Eastside Equestrian site is approximately 358 feet from the construction site.
- (4) An alternative to above-ground watering would be installation of a below-ground irrigation system hooked up to a timer. Another equestrian barn operator told staff that hog fuel is more effective than sand for controlling of dust.

b. Conclusions:

- (1) Dust is a significant impact on the neighbors. The outdoor paddock and arena areas need to be watered regularly, and particularly on a daily basis in dry weather periods.
- (2) If hand-watering is not effective in reducing dust, an underground irrigation system should be installed to ensure watering on a daily basis.
- (3) In the event that the underground irrigation system is installed but the dust problem continues, the outdoor paddocks and arena should not be used until some other solution to the dust problem is found.
- (4) It is very unlikely that the dust problems cited by the neighbors is related to the Kirkland Hunt Club because staff received no complaints about the new construction.

F. TECHNICAL COMMITTEE

1. a. Fact: Other City departments had no comments or requirements on the proposal.
- b. Conclusion: Not applicable.

G. LAND USE POLICIES PLAN (LUPP)

1. Facts:

- a. Figure BT-1 on page BT-1 designates the subject property as Planned Area 16 which allows for mixed uses (see Attachment 19).
- b. Text in the Bridle Trails area states that commercial equestrian facilities should be permitted in the Central Park area if the facilities are designed and maintained in a manner compatible with nearby residential uses (see Attachment 20).

2. Conclusion: The proposed use is consistent with the policies of the Land Use Policies Plan provided that landscape buffers are provided and the dust problem is controlled to be compatible with nearby residential uses.

III. RECONSIDERATIONS, APPEALS, CHALLENGES AND JUDICIAL REVIEW

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

A. REQUEST FOR RECONSIDERATION

Section 152.80 of the Zoning Code allows the applicant or any person who submitted written or oral testimony to the Hearing Examiner to request that the Hearing Examiner reconsider his/her recommendation. The request must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department within five (5) working days following the postmarked date when the Hearing Examiner's written recommendation was distributed (by _____). Within this same time period, the person making the request for reconsideration must also mail or personally deliver to the applicant and all other people who submitted testimony to the Hearing Examiner a copy of the request letter together with notice of the deadline and procedures for responding to the request.

Any response to the request for reconsideration must be delivered to the Planning Department within five (5) working days after the request letter was filed with the Planning Department. Within the same time period, the person making the response must also mail or personally deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, attached to the request and response letters, and delivered to the Planning Department. The affidavit form is available from the Planning Department.

B. 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 testimony to the Hearing Examiner. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by _____, ten (10) working days following the postmarked date of distribution of the Hearing Examiner's written recommendation on the application or decision on a Request for Reconsideration. 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 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 five (5) working 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 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.

C. 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 30 days following the postmarked date when the City's final decision was distributed.

If issues under RCW 43.21C (the State Environmental Policy Act--SEPA) are to be raised in the judicial appeal, the "SEPA" appeal must be filed with the King County Superior Court within 30 days following the postmarked date when the City's final decision was distributed.

IV. APPENDICES

Attachments 1 through 20 are attached.

1. Application (see Official File)
2. Vicinity Map
3. Aerial Map dated April 1985

4. Letter from Applicant dated January 2, 1990 with the following attachments:
 - a. Site Plan before Reconfiguration of Southern Lot 11
 - b. Site Plan after Reconfiguration of Southern Lot 11
 - c. Site Plan of Southern Lot Containing Four Fenced Paddock Areas, dated December 1986
 - d. Site Plan of Southern Lot Containing Twelve Fenced Paddock Areas, dated May 1987 and July 1988
 - e. Site Plan of Southern Lot Containing Nine Paddocks and One Riding and Training Area, dated July 1989
 - f. Letter from John Eddy, dated August 22, 1989
 - g. Letter from Teresa Swan, dated July 20, 1989
 - h. Letter from Applicant, dated September 12, 1989
 - i. Letter from Applicant, dated September 21, 1989
 - j. City of Kirkland Maintenance Security Device Instructions for Landscaping
 - k. Zoning Code, Planned Area 16 Use Zone Chart, Section 60.85.c
5. Tree Plan per Staff Inspection and Notation of Expanded Area
6. Assessor's Map
7. Letter to Mr. Whittaker from King County, dated June 9, 1983
8. Letter from Teresa Swan, dated September 8, 1987
9. Letter from Applicant, dated September 8, 1987
10. Letter from Applicant, dated October 27, 1987
11. Letter from Joseph Tovar, dated October 5, 1989
12. Zoning Code, Section 95.25.2, page 257 - Landscaping Requirements
13. Zoning Code, Section 115.25, page 313a - Keeping of Large Animals
14. Zoning Code, Section 162.35.3, page 431 - Nonconformance and Review Process
15. Zoning Code, Section 115.75.3.k - Removal of Significant Trees
16. Zoning Code, Section 162.35.4 - Nonconforming Parking
17. Zoning Code, Section 162.35.6 - Nonconforming Landscaping, Buffers, and Paving
18. Landscape Greenbelt Easement Document
19. Land Use Policies Plan, Land Use Map, Bridle Trails Neighborhood - Figure BT-1
20. Land Use Policies Plan, Bridle Trails Neighborhood Text, page BT-8

V. PARTIES OF RECORD

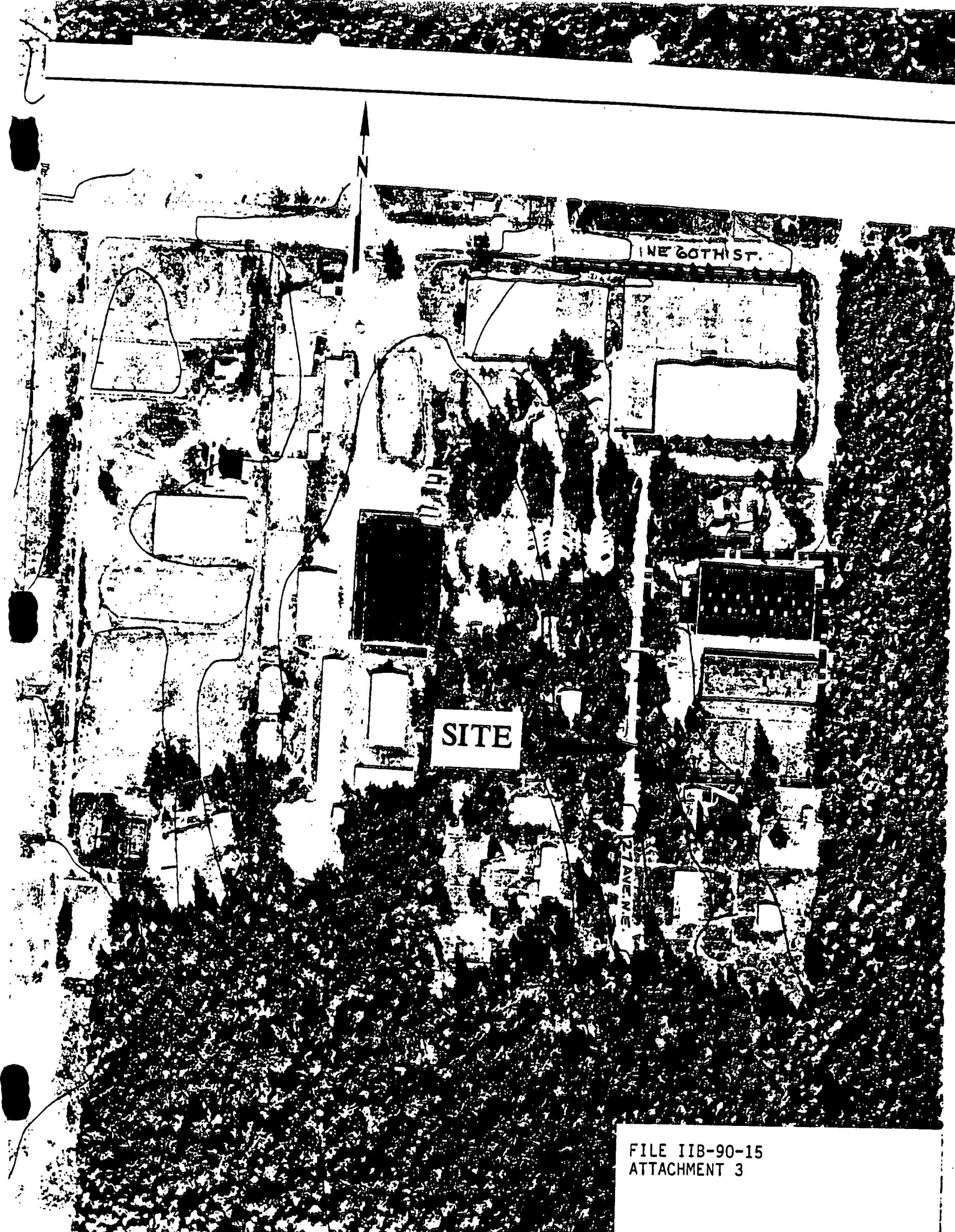
Applicant
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

A written recommendation will be issued by the Hearing Examiner within two weeks of the close of the public hearing. If you have any questions about the timing or content of the report, contact Hearing Examiner Ron McConnell at 827-6550.



Y LIMITS

Bridle Trail State Park



SITE

INE 60TH ST

KLAWE

FILE IIB-90-15
ATTACHMENT 3

LANDSCAPED GREENBELT EASEMENT

Parcel Data File: 5550 - 127th Avenue NE

Project Planner: Teresa J. Swan

Grantor: Sally Musemeche, Eastside Equestrian Center, owner of the hereinafter described real property hereby grants to

Grantee: The City of Kirkland, a municipal corporation.

The undersigned grantors covenant to the City of Kirkland that they are all of the fee owners of the real property described in Exhibit B and hereby grant and convey a landscaped greenbelt easement over and across the following described real property to-wit:

Exhibit A

Landscaping within the area of this easement shall be installed and maintained in accordance with the plan approved by the City of Kirkland in connection with File/Permit No. IIB-90-15 at the grantors expense.

Except for ordinary landscape maintenance, no tree trimming, tree topping, tree cutting or tree removal, nor shrub or brush-cutting, or removal, nor construction, clearing or alteration activities shall occur within the easement area without prior written approval from the City of Kirkland. Application for such written approval to be made to the Kirkland Department of Planning and Community Development who may require inspection of the premises before issuance of the written approval and following completion of the activities. Any person conducting or authorizing such activity in violation of this paragraph or the terms of any written approval issued pursuant hereto, shall be subject to the enforcement provisions of Chapter 170, Ordinance 2740, the Kirkland Zoning Code. In such event, the Kirkland Department of Planning and Community Development may also require within the immediate vicinity of any damaged or fallen vegetation, restoration of the affected area by planting shrubs of comparable size and/or trees of three inches or more in diameter measured one foot above grade. The Department also may require that the damaged or fallen vegetation be removed.

Each undersigned grantor further agrees to maintain all vegetation within the landscaped greenbelt easement.

Each of the undersigned owners agree to defend, pay, and save harmless the City of Kirkland, its officers, agents, and employees from any and all claims of every nature whatsoever, real or imaginary, which may be made against the City, its officers, agents, or employees for any damage to property or injury to any person arising out of the maintenance of said landscaped greenbelt easement over said owner's property or the actions of the undersigned owners in carrying out the responsibilities under this agreement, excepting therefrom only such claims as may arise solely

out of the gross negligence of the City of Kirkland, its officers, agents, or employees.

This easement is given to satisfy a condition of the development permit approved by the City of Kirkland under Kirkland File/Permit No. IIB-90-15, for construction of an outdoor arena and paddocks in conjunction with the commercial equestrian use, upon the following described real property:

Exhibit B

This easement shall be binding upon the parties hereto, their successors and assigns, and shall run with the land. This Easement shall, at the expense of the undersigned grantors, be recorded by the City of Kirkland with the King County Department of Elections and Records.

DATED this _____ day of _____, 19____.

(Partnerships Only)

OWNER(S) OF REAL PROPERTY

(Name of Partnership or Joint Venture)

By General Partner

By General Partner

By General Partner

STATE OF WASHINGTON }
County of King } SS.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, _____, and _____ to me, known to be general partners of _____

_____, the partnership that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of each personally and of said partnership, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument.

(Corporations Only)

OWNER(S) OF REAL PROPERTY

(Name of Corporation)

By President

By Secretary

STATE OF WASHINGTON }
County of King } SS.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ and _____ to me, known to be the President and Secretary, respectively, of _____

_____, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument and that the seal affixed is the corporate seal of said corporation.

(Individuals Only)

OWNER(S) OF REAL PROPERTY
(INCLUDING SPOUSE)

STATE OF WASHINGTON }
County of King } SS.

On this day personally appeared before me _____ and _____ to me known to be the individual(s) described herein and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

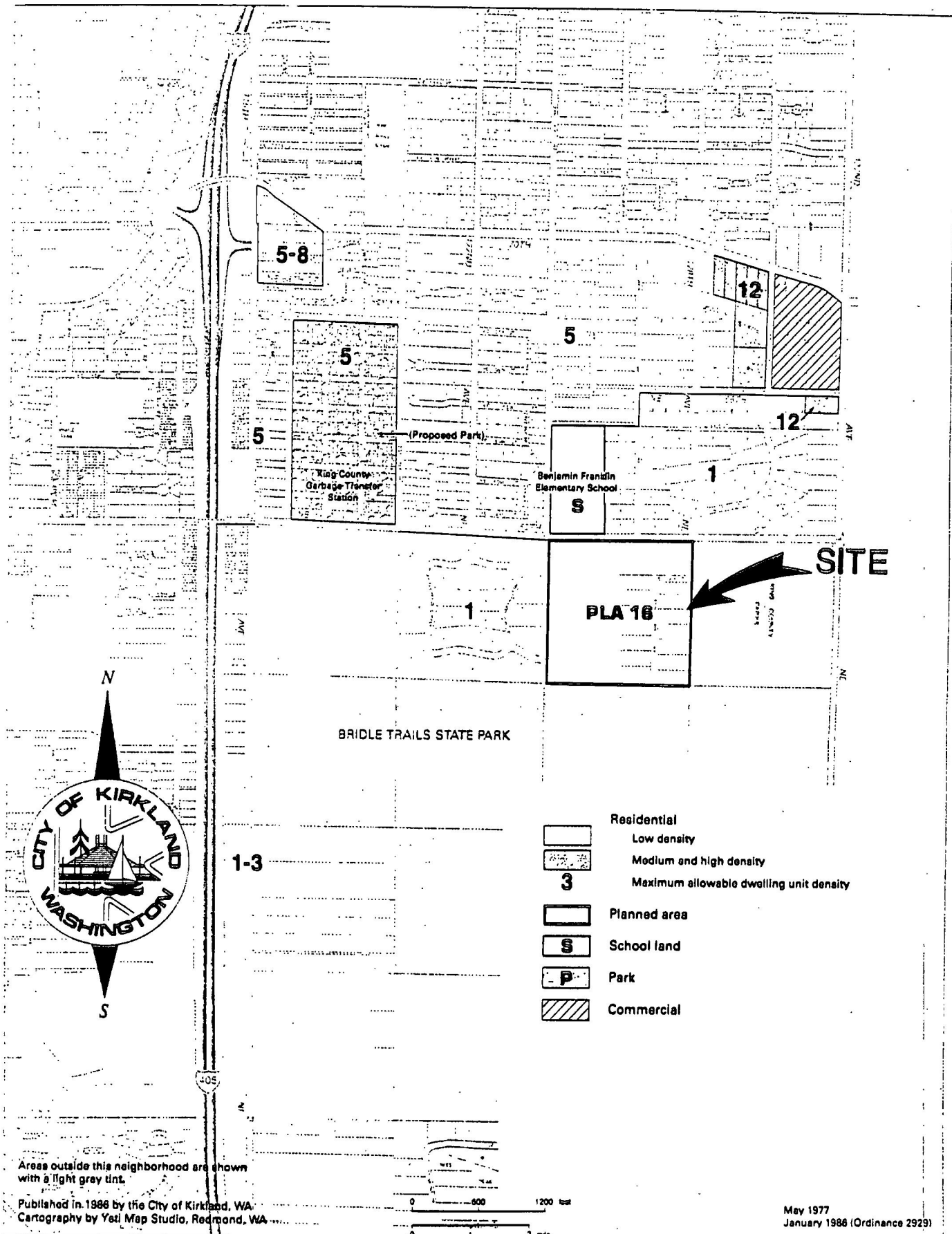
WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the
State of Washington
Residing at: _____
My commission expires: _____

The foregoing Agreement is accepted by the City of Kirkland this
_____ day of _____, 19____.

CITY OF KIRKLAND

BY: _____



**BRIDLE TRAILS NEIGHBORHOOD
LAND USE**

Area outside this neighborhood are shown with a light grey tint.
Published in 1986 by the City of Kirkland, WA
Cartography by Yaxi Map Studio, Redmond, WA

May 1977
January 1986 (Ordinance 2929)

BRIDLE TRAILS NEIGHBORHOOD

Very low density development should be maintained and commercial equestrian facilities should be permitted in the Central Park Area.

To be compatible with nearby residential density and the adjacent equestrian park permitted development should include very low density residential (one dwelling unit per acre) and equestrian facilities. The equestrian facilities could include private or commercial stables, pastures, arenas, and appropriate ancillary equestrian activities. Private and commercial equestrian stables and arena buildings should be permitted if the following performance standards are met:

- (1) To the extent possible, commercial buildings are placed below existing grade, have large yard setbacks and are screened by vegetated earthen berms.
- (2) Parking areas are aggregated and visually screened from adjoining single-family development.
- (3) Facilities are designed and maintained in a manner compatible with nearby residential uses.

Slightly more than one dwelling unit per acre should be permitted in the planned area subject to standards.

To encourage a more creative development and still be in character with the surrounding very low density equestrian-oriented residential development, low density residential uses (slightly more than one dwelling unit per acre, but no less than a minimum lot size of 26,000 square feet) should be permitted in the planned area if the following performance standards are met:

- (1) A master plan for a development of at least 16 contiguous acres is reviewed through a public hearing process.

file

CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (206) 828-1257

**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Hearing Examiner

From: Teresa J. Swan, Associate Planner *TJS*

Date: June 18, 1990

Subject: REVISED CONDITIONS FOR THE EASTSIDE EQUESTRIAN CENTER, FILE NO. IIB-90-15

Staff recommends the following revised conditions found in the staff report dated May 31, 1990.

REVISED CONDITIONS

- 1. 3.a. be deleted. Instead add a new Condition 5 which reads:
 - 5. The existing gravel walkway in the 15 foot wide setback buffer along the south property line shall only be used for walking horses to and from the paddock areas. No riding is allowed in the 15-foot-wide setback buffer. The existing paddock fences along the south side shall not be moved closer to the south property line.
- 2. Condition 3.b., c., d. and e. shall be revised to read as follows:
 - 3.b. Install one row of trees in the 15-foot wide setback buffer along the entire south property line. No more than 50% of the required trees may be deciduous. At the time of planting, deciduous trees must be at least two inches in diameter and coniferous trees must be at least six to eight feet in height as measured using the Standards of the American Association of Nurserymen.
 - 3.c. Install two evergreen trees along the west property line at midpoint as shown in Attachment 1. The trees shall be six to eight feet high at the time of planting.
 - 3.d. Install one shrub 18 inches high between each tree planted along the south property line and between each existing tree or cluster of trees along the west property line.

EXHIBIT <u>C</u>
FILE NO. <u>IIB-90-15</u>

3.e. Sign, notarize, and submit to the City the Landscape Greenbelt Easement document of Attachment 18, along with the appropriate recording fee for recording of the 15-foot wide landscape buffer along the south side and the 9-foot wide landscape buffer along the west side of the property. The document shall include a provision to allow for use of the easement along the south property line as a circulation path to walk horses to and from the paddock entrances along the south side.

Since Condition 3.a. is being deleted, Conditions 3.b, 3.c, 3.d, and 3.e. would be relabeled as 3.a, 3.b, 3.c, and 3.d.

3. Condition 4 shall be revised as follows:

4.a. The applicant shall designate a specific person responsible for implementing the watering schedule. The City shall review and approve the method of watering. If the presently-used watering truck is not effective in thoroughly watering the areas, the applicant shall use some other more effective method (i.e., hand spray with a hose or an above-ground mounted spray system).

4.b. No change to condition.

4.c. On any given day that the temperature exceeds 65°, the applicant shall thoroughly water the outdoor arena and paddock areas at least twice: once in the morning before use and then again around 1 p.m. During any hot, dry period of two or more consecutive days exceeding 70°, the areas shall be watered more than twice a day as needed to control dust.

4.d. During the summers of 1990 and 1991, the applicant shall keep a daily watering record from May through September. In October of each year, the applicant shall submit the watering schedule to the City to confirm that the outdoor areas are being watered as needed.

4.e. In the event that the Planning Department receives complaints about dust, the applicant and the Puget Sound Air Pollution Control Authority (Compliance Director at 296-7426) shall be contacted. The City shall ask the PSAPCA to investigate the problem and recommend any solutions. The Planning Department shall invite the applicant to review and comment on the recommendations. Subsequently, the Planning Department will determine what measures need to be implemented and will establish a deadline for implementing the measures. The applicant shall then be responsible to implement the measures by the established deadline.

4.f. In the event the Department of Planning and Community Development receives any further complaints after measures have been implemented following 4.e. above, and the PSAPCA cannot offer any further assistance, the City will select a qualified environmental consultant specializing in dust monitoring and control. The City, the applicant, and the consultant will enter into a three-part contract at the expense of the applicant. The Planning Department shall invite the applicant to review and comment on the consultant's recommendations. Subsequently, the Planning Department will determine what measures need to be implemented based on the consultant's recommendations and will establish a deadline for implementing the measures. The applicant shall then be responsible to implement the measures by the established deadline.

4. Condition 5 of the staff report shall be renumbered to be Condition 6.

NEW FINDINGS OF FACTS AND CONCLUSIONS:

1. Facts for Condition 5:

Currently horses are not ridden in the gravel area along the south property line. Rather, horses are guided by rope and are only taken in and out of the paddocks once a day. According to the applicant, the paddocks along the south side cannot be accessed through the arena because it would disturb the horse and rider using the arena.

Conclusion for Condition 5:

The applicant should be able to use the 15-foot buffer area on a limited use basis for guiding the horses by hand into the paddocks along the south side. No horses should be allowed to be ridden in the buffer area. Guiding horses by rope into the paddock area would not disturb the one row of trees to be planted along the south side.

2. Facts for Condition 3.b.:

Exactly 8 foot high trees can be difficult to find at local nurseries. A leeway of 6 to 8 foot high trees would be reasonable. At the first year of planting, the trees would be at the same height at the fence and by the next growing season, the trees would exceed the height of the fence. Also, a mix of evergreen and deciduous trees would be appropriate because deciduous trees would provide a screen from May through October when the arena is mostly used. Also, the Landscape chapter of the Zoning Code allows a 15-foot wide buffer be planted with a mix of deciduous and evergreen trees at a starting height of five feet for coniferous trees, and two inches in diameter for deciduous trees.

Conclusion for Condition 3.b.:

A mix of evergreen and deciduous trees planted along the south side would provide a sufficient screen during six months of the year when the outdoor arena is used the most. A varying height of 6 to 8 feet for coniferous trees should be allowed because of the limited availability of trees 8 feet in height.

3. Fact for Condition 3.c.:

Staff and the applicant met to discuss the landscape buffer along the west side. Staff agreed with the applicant that only two trees are needed to fill the gap in front of the arena along the west property line. The existing trees provide a sufficient screen for the remaining area along the west property line in front of the arena.

Conclusion for Condition 3.c.:

Only two evergreen trees need to be installed along the west property line to fill the gap at the center of the arena along the west property line.

4. Facts for Condition 3.d.:

Since there is a 6-foot high solid screening fence along the south property line, the shrubs will not be visible from adjacent neighbors. One shrub planted between each of trees along the south property line would provide some ground cover and absorb some of the dust coming from the paddock areas immediately adjacent to the north. Along the west side, one shrub planted between each of the existing trees or cluster of trees would provide some low level screening for the residents to the west in addition to the existing low brush.

Conclusion for Condition 3.d.:

One shrub planted between each of the trees would be sufficient to provide some ground cover and to absorb some of the dust coming from the paddock areas. Since the shrubbery along the south side will not be visible from adjacent properties, it is not necessary to provide a coverage of at least 60 percent of the buffer area along the south side within two years. The west side already has some low brush so a few additional shrubs would provide more screening.

5. Facts for Condition 3.e.:

As discussed above for Condition 5, the required Landscaped Easement document should provide for limited access to the paddock areas along the south side by allowing horses to be guided by rope to these paddock areas.

Conclusion for Condition 3.e.:

The Landscaped Greenbelt Easement document should be revised to allow for a limited access to the paddock areas along the south. No riding should be allowed along the buffer area to control dust and provide privacy to the neighbors to the south.

6. Facts for Condition 4:

Concerning 4.a, the applicant has several employees. One person needs to be held responsible to water and to keep a record of the watering. Also, the method of watering is an important factor in controlling dust.

According to the applicant, an underground irrigation system would be difficult to install such that horses will not be injured from walking on the sprinkler heads. Rather, other watering systems would be more appropriate for an equestrian facility such as an above-ground watering system. Other dust control measures could include not using the arena on hot dry days.

There is no change to 4.b.

Concerning 4.c, in certain past enforcement situations, the Planning Department has established a temperature by which a watering schedule must be followed (i.e., Evergreen Bark and Topsoil). At 65°, dust is more likely to begin. To control dust on a dry warm day, watering needs to occur more than once in the morning.

Concerning 4.d, daily record keeping of the watering schedule would provide the City with confirmation that the applicant has been watering on a regular basis. Should the City receive a complaint from a neighbor, the City could review the watering records to determine if inadequate watering was occurring during a particular hot dry period.

Concerning 4.e, Section 115.15 states that any inquiry, complaint, or violation regarding air quality will be referred to the Puget Sound Air Pollution Control Authority (see Attachment 2). This agency investigates complaints and has the technical ability to measure the amount of dust in the air. Also, the Washington Clean Air Act establishes the air quality standards which the PSAPCA enforce. The Planning Department does not have the expertise in determining if any possible dust coming from the site is creating a potential health hazard. Also, the Department has no threshold standards to decide if a dust problem exists.

Concerning 4.f, there are qualified environmental consultants that have monitoring equipment to calculate dust levels. If a dust problem persists and the Puget Sound Air Pollution Control Authority does not have the staff time to continue investigating

the possible dust problems at the site, a consultant can be hired to investigate the situation and make recommendations. The consultant would be hired using the City's standard three-party contract and at the expense of the applicant

Conclusion for Condition 4:

Concerning 4.a, a specific person should be given the task of watering all of the outdoor areas and checking the areas throughout the day for dust. The same person should also keep a daily record of watering. The current method of watering should be examined to see if it is effective in thoroughly watering all areas.

No change to condition 4.b.

Concerning 4.c, a specific watering schedule based on the temperature should be established. At 65° or hotter, dust starts to become a problem.

Concerning 4.d, the applicant should keep a record of watering to document that adequate watering is occurring on the site.

Concerning 4.e. and f, specific standards should be established for the amount of acceptable dust. Professionals with expertise in dust monitoring and control should be called in to handle the situation. The Puget Sound Pollution Control Authority would provide this service with little or no cost to the applicant. If the dust control problem persists and the PSPCA cannot be of further assistance, then the applicant should be responsible to fund the services of a qualified consultant to investigate the dust situation and make recommendations to the City. The applicant should then be responsible to install or follow the recommendations.

Attachments:

- 1 - Revised Attachment 5 - Tree Plan per Staff Inspection
- 2 - Section 115.15 of the Zoning Code - Air Quality Regulations

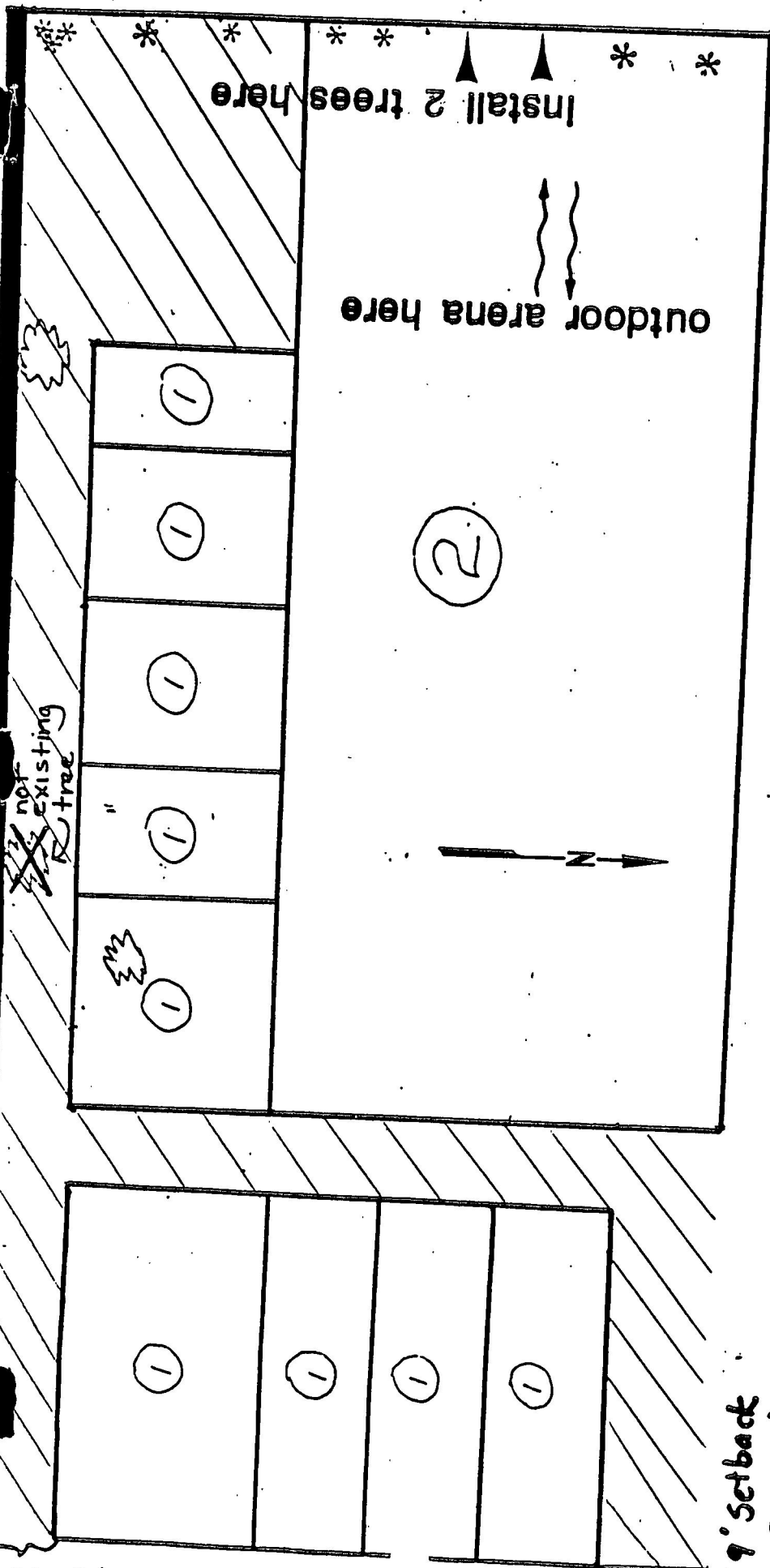
15' Setback

South Property Line

Attachment #4

FILE IIB-90-15
ATTACHMENT 1

NE 127th



EST 9' TO
Property line +
24' TO street

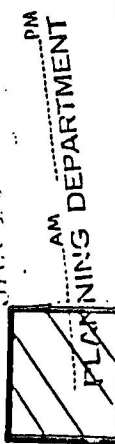
* existing trees

TOTAL LOT SIZE: 40,230 sq. ft

FENCED PADDOCK AREA: 24,662 sq. ft.

RECEIVED

JAN 10 1989



Area NOT USED
for roaming OR
Riding

Current use:

- ①: non-riding exercise area
- ②: non-riding exercise area
Riding & Throwing area

July 1989

2. Authority of the Planning Director - The Planning Director is specifically authorized to determine if a particular accessory use, facility or activity is normally associated with a particular permitted use and if a particular accessory use, facility or activity is clearly secondary to the permitted use.
3. Exceptions and Limitations - This Code establishes specific limitations and regulations for some accessory uses and facilities for some uses in some zones. Where applicable, those specific regulations supercede the general statement of paragraph 1 of this Section.
4. On-Site Hazardous Waste Treatment and Storage - Pursuant to Chapter 70.105 RCW, on-site hazardous waste treatment and storage facilities are considered accessory facilities in all zones, except residential, that allow the processing or handling of hazardous substances. These facilities must comply with the state siting criteria as adopted in accordance with RCW 70.105.210, and/or all applicable DOE standards.

115.15

Air Quality Regulations

1. State Regulation - Air quality is regulated by the Washington Clean Air Act, RCW 70.94. Any inquiry, complaint, or violation regarding air quality will be referred to the Puget Sound Air Pollution Control Authority.
2. Public Nuisance - Any emission of air contaminants which annoys; injures; endangers the comfort, repose, health or safety of persons; or in any way renders persons insecure in life, or in the use of property is a violation of this Code.

115.20

Animals in Residential Zones

1. General - This Section establishes special regulations that govern the keeping of animals in any zone where a dwelling unit is permitted.
2. Types of Animals - Animals will be regulated according to the following categories:
 - a. Household pets - The following animals will be regulated as household pets:
 - 1) 3 dogs or less per dwelling unit.
 - 2) 3 cats or less per dwelling unit.
 - 3) A total of 4 dogs and cats per dwelling unit.
 - 4) 4 rabbits or less per dwelling unit.
 - 5) Gerbils.
 - 6) Guinea pigs.
 - 7) Hampsters.
 - 8) Mice.
 - 9) Cage birds.
 - 10) Non-venomous reptiles and amphibians.
 - 11) Other animals normally associated with a dwelling unit, and which are generally housed within the dwelling unit.
 - b. Small Domestic Animals - The following animals will be regulated as small domestic animals:
 - 1) More than 3 dogs per dwelling unit.
 - 2) More than 3 cats per dwelling unit.
 - 3) More than a total of 4 dogs and cats per dwelling unit.
 - 4) More than 4 rabbits per dwelling unit.
 - 5) Fowl.

CITY OF KIRKLAND
HEARING EXAMINER RESPONSE TO REQUEST
FOR RECONSIDERATION ON FILE NO. IIB-90-15

FILE NO. IIB-90-15

I. FINDINGS

- A. Jonathan A. Eddy, Deborah H. Eddy, Rosemary Carey and Jeffrey Hoover, all parties of record, requested reconsideration of my recommendations 3.a, 3.b, 3.c, 3.d, and 5, and asked for clarification of the west side setback (Exhibits A and B).

Mr. and Mrs. Eddy requested reconsideration of several recommendations relating to the scope and character of the southerly and westerly setback/greenbelt areas. They felt that adversely affected neighbors received inadequate notice of the revised staff recommendations and were therefore not afforded a meaningful opportunity to comment upon them. They felt my recommendations would allow the applicant to profit by a) ignoring and destroying the greenbelt configuration established by prior zoning authority; b) ignoring zoning ordinances of the city of Kirkland applicable at the time; and c) using an understaffed City Planning Department to attain actual commercial use of a grandfathered greenbelt area.

They also asked for clarification of the westerly setback area. They were joined in this request by Rosemary Carey and Jefferey Hoover.

- B. Department of Planning and Community Development staff responded to the issue of screening along the west property line (Exhibit C). Staff's position is that while it is acknowledged that the location of the west property line had been incorrectly identified, the existing fence line along the west property line has not changed. Furthermore, the existing trees, with the requirement for two additional trees, will provide some buffer for the single-family residents to the east.
- C. The applicant responded to both requests for reconsideration (Exhibit D). She addressed the issue of the location of the westerly property line and the issue of the buffer along the south boundary. She also asked that recommended Condition 7 be restated to clearly exclude the existing intercom system serving the barns and indoor arena.

II. CONCLUSIONS

- A. After reading both of the letters for reconsideration (Exhibits A and B) and after reviewing both responses to the requests for reconsideration (Exhibit C and D), it is believed my recommended conditions issued the 18th of July, 1990, are reasonable.
- B. The responses offered by the applicant and City staff regarding the westerly property line adequately address that issue.
- C. The issues raised regarding the south boundary area were considered by me prior to my July 18, 1990, report and my recommendations regarding the south boundary area should remain.
- D. The applicant's request to clarify my recommendation number 7 follows:

My recommended condition was not intended to apply to an indoor intercom; however, if that intercom can be heard at any of the property lines when the volume is turned up and the barn doors are open, then the intercom should not be allowed.

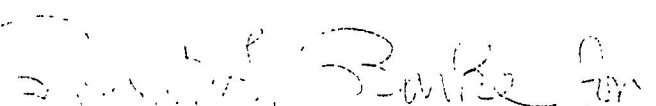
III. RECONSIDERATION:

Based upon the foregoing findings of fact and conclusions, the request for reconsideration is DENIED.

EXHIBITS:

- A. Request for reconsideration from Jonathan and Deborah Eddy, dated 7/25/90
- B. Request for reconsideration from Rosemary Carey and Jeffery Hoover, dated 7/26/90
- C. Department of Planning and Community Development response to request for reconsideration by Rosemary Carey and Jeffery Hoover, dated 8/1/90
- D. Applicant's response to requests for reconsideration by Mr. and Mrs. Eddy and Mrs. Carey

Entered this 27th day of August, 1990, per authority granted by Section 152.70, Ordinance 2740 of the Zoning Code. A final decision on this application will be made by the City Council. My recommendation may be challenged to the City Council within ten (10) working days as specified below.



Ronald L. McConnell
Hearing Examiner

APPEALS AND JUDICIAL REVIEW

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

A. 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 testimony to the Hearing Examiner. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by September 11, 1990, ten (10) working days following the postmarked date of 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 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 five (5) working days after the challenge letter was filed with the Planning Department. Within the same time period, the person making the response must also mail or personally deliver a copy of the response to the applicant and all other people who submitted 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.

B. 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 30 days following the postmarked date when the City's final decision was distributed.

If issues under RCW 43.21C (the State Environmental Policy Act--SEPA) are to be raised in the judicial appeal, the "SEPA" appeal must be filed with the King County Superior Court within 30 days following the postmarked date when the City's final decision was distributed.