Ordinance No. 3885

(Amending or Repealing Ordinances)

CFN=121 - Rezones
Passed – 7/1/2008
Meridian Banks Rezone (RZ-2005-7)

Recorder's # 20080715001925

The date ["Beginning July 1, 1998"] has led to confusion. This date will be deleted from cover sheets of ordinance/resolution revision pages. This cover sheet will be deleted on electronic pages only, no other deletions or changes have been made to the document – 6/21/2012.
ORDINANCE NO. 3885

AN ORDINANCE of the City Council of the City of Kent, Washington, relating to land use and zoning, specifically the rezoning of approximately 6.32 acres of property located at 25840 135th Larie Southeast from SR-4.5 (Single-Family Residential, 4.5 units per acre) to SR-6 (Single-Family Residential, 6 units per acre). (Meridian Banks Rezone RZ-2005-7).

RECITALS

A. An application was filed on June 30, 2005, to rezone approximately 6.32 acres of property located at 25840 135th Lane Southeast (the "Property") from SR 4.5 (Single-Family Residential, 4.5 units per acre) to SR 6 (Single-Family Residential, 6 units per acre). (Meridian Banks Rezone, #RZ-2005-7). A preliminary plat application was also filed for the Property (SU-2005-11).


C. An open record hearing on the rezone was held before the hearing examiner on May 10, 2007; May 23, 2007, and August 15, 2007. On October 15, 2007, the hearing examiner issued findings and conclusions that the Meridian Banks Rezone is consistent with the city's Comprehensive Plan; that the proposed rezone and subsequent development activity would be compatible with the development in the vicinity; that the proposed rezone will not unduly burden the transportation system in the vicinity of the property with significant adverse impacts that cannot be mitigated; that circumstances have changed since the
establishment of the current zoning district to warrant the proposed rezone; and
that the proposed rezone will not adversely affect the health, safety, and general
welfare of the citizens of the City of Kent. Based on these findings and
conclusions, the hearing examiner recommended that "...the [Meridian Banks] application for a rezone from SR-4.5 to SR-6...be GRANTED without conditions."

D. On November 20, 2007, the City Council voted by Motion to remand the Meridian Banks Rezone back to the hearing examiner for consideration of certain issues that were subsequently listed in Resolution 1774 passed by the City Council on December 11, 2007.

E. On December 10, 2007, the applicant filed a Land Use Petition Act Appeal Pursuant To RCW 36A.70C.070; Petition for Extraordinary Writ Relief; Complaint for Declaratory & Injunctive Relief, King County Superior Court, Case No. 07-2-38952-1 KNT. On December 28, 2007, the applicant filed a second Land Use Petition Act Appeal Pursuant To RCW 36A.70C.070; Petition for Extraordinary Writ Relief; Complaint for Declaratory & Injunctive Relief, King County Superior Court, Case No. 07-2-41012-1 KNT.

F. On July 1, 2008, Council accepted the findings and conclusions of the hearing examiner, and adopted the hearing examiner's recommendation, attached as Attachment 1, that "...the [Meridian Banks] application for a rezone from SR-4.5 to SR-6...be GRANTED without conditions."

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Recitals Incorporated as Findings. The foregoing recitals, which are incorporated by this reference, constitute the council's findings on this matter.
SECTION 2. - Rezone. The property located at 25840 135th Lane Southeast in Kent, Washington consisting of approximately 6.32 acres depicted in Exhibit "A" (marked "Vicinity Map"), attached and incorporated by this reference, and legally described in Exhibit "B", attached and incorporated by this reference, is rezoned from SR 4.5 (Single-Family Residential, 4.5 units per acre) to SR 6 (Single-Family Residential, 6 units per acre). The City of Kent zoning map shall be amended to reflect the rezone granted above.

SECTION 3. - Severability. If any one or more sections, sub-sections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 4. - Effective Date. This ordinance shall take effect and be in force five (5) days from and after its publication as provided by law.

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 1st day of July, 2008.
APPROVED: 1st day of July, 2008.
PUBLISHED: 5th day of July, 2008.
I hereby certify that this is a true copy of Ordinance No. **3885** passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK

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ATTACHMENT 1
BEFORE THE HEARING EXAMINER
OF THE CITY OF KENT

IN RE:
MERIDIAN BANKS
APPLICATIONS & APPEALS
Bill Floten
Part III – Rezone Application

No. RZ-2005-7
KIVA #2052281

FINDINGS, CONCLUSIONS AND
RECOMMENDATION

BACKGROUND

On June 30, 2005, property owner Bill Floten submitted a rezone application requesting a change from SR-4.5 Single Family Residential to SR-6 Single Family Residential on approximately 6.32 acres located adjacent to Lake Meridian at 25840 135th Lane SE. Exhibit C-1. On August 29, 2005, Architect Ted Nixon submitted, on behalf of Bill Floten, an application to subdivide the same property into 27 single-family residential lots. The property owner and Mr. Nixon are hereafter referred to as “Applicants”. Exhibit CK-76.

On November 8, 2005, the City requested that the Applicants provide a wetland delineation for the property as part of its environmental review of the preliminary plat application. Exhibit CK-12. On November 18, 2005, the City issued a SEPA Determination of Nonsignificance (DNS) on the rezone, but not on the preliminary plat. Exhibit C-7. On December 16, 2005, James Helm appealed the DNS on the rezone to the Hearing Examiner (Exhibit A-7) and on February 1 and 15, 2006, the Hearing Examiner held consolidated SEPA appeal/rezone hearings. On March 15, 2006, the Hearing Examiner issued a decision granting the appeal of the DNS and remanding the rezone to the City for review of environmental impacts concurrent with preliminary plat application and for review with respect to wetlands, storm drainage, and traffic. Hearing Examiner’s Decision, Meridian Banks, #AP 2005-5/#RZ 2005-7 (March 15, 2006).

On June 14, 2006, the Applicants submitted a critical areas assessment and delineation prepared by Chad Armour, LLC, in response to the City’s request for additional information on

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1 Exhibit numbers are inserted in the background statement for reference by the reader. However, the Background statement is not considered part of the Findings of the Hearing Examiner.

Findings, Conclusions and Recommendation
City of Kent Hearing Examiner
Meridian Banks, Part III, rezone
RZ-2005-7, KIVA #2052281

Page 1 of 10
the preliminary plat application. *Exhibit CK-3.* The City did not approve this submittal and requested a revised delineation report. The Applicants submitted a "supplemental wetland assessment information" prepared by Habitat Technologies on October 23, 2006. *Exhibit CK-24.* The City conducted its own wetland review including a site visit. *Exhibit CK-28.* On November 17, 2006, the City issued a final administrative decision, finding that Category 2 wetlands exist and required the Applicants to correct the delineation boundaries. As a final critical area resource administrative decision, the City's decision was appealable under Chapter 11.06 KCC to the Hearing Examiner. *Exhibit CK-30.* On December 1, 2006, the Applicants appealed the City's administrative decision to the Hearing Examiner. *Exhibit M-15.*

On January 19, 2007, the City determined that, with conditions, the rezone and preliminary plat proposals together would not have a probable significant adverse impact on the environment. The City issued a Mitigated Determination of Nonsignificance (MDNS) with seven mitigation conditions. *Exhibit B-10.* On February 2, 2007, Bill Floten and Ted Nixon appealed all the MDNS conditions. The Appellants and the City agreed that the issues raised in the appeal of the administrative decision would be addressed as part of the SEPA appeal. The Hearing Examiner issued an order dismissing the appeal of the administrative decision on May 22, 2007. On Feb. 16, 2007, Sharon Bosse appealed the MDNS conditions regarding wetland delineation and storm drainage.

The applications and appeals were referred to the Hearing Examiner for hearing and decisions. Following hearings on each of the appeals and applications, the Hearing Examiner now issues a four-part decision related to the Meridian Banks proposal. Part I is the decision on the Applicants' Appeal of the SEPA Threshold Determination; Part II is the decision on Appellant Bosse's Appeal of the SEPA Threshold Determination; Part III is the recommendation of the Hearing Examiner on the rezone application; and Part IV is the Hearing Examiner decision on the preliminary plat application. Attachment A is the Exhibit List; Attachment B is a Pleadings and Hearing Examiner Orders List; Attachment C is a chronology of the rezone, preliminary plat and appeals.

**SUMMARY OF RECORD**

**Hearing:**
The hearing on the rezone application was consolidated with hearings on SEPA Appeals and an affiliated Preliminary Plat Application. The City of Kent Hearing Examiner held an open record hearing on the consolidated SEPA appeals/rezone/plat application on May 10, 2007; May 23, 2007; and August 15, 2007. This recommendation is Part III of a four-part decision. By agreement of the parties, the decisions are all issued together on October 15, 2007.
Testimony:
The following individuals presented testimony under oath on the rezone application:

Lydia Moorehead, City Planner
Mike Gillespie, City Development Engineering Manager
Beth Tan, PE, City Public Works Department
Paul Nitardy, Cramer Northwest, PE, for Applicants
Christopher Brown, Transportation Engineer, for Applicants
James Tuntland
Michelle McDowell
Sally McDonough
Linda Johnson
Patricia Sjoiln

Attorney Bill Williamson represented the Applicants. Attorney Kim Adams Pratt represented the City.

Exhibits:
The exhibits identified on Exhibit A were admitted into the record during the open record hearings on the consolidated applications and appeals. See Exhibit A.

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearings:

FINDINGS
1. Bill Floten, property owner, and Ted Nixon, architect, (collectively referred to as 'Applicants') requested a zoning map amendment to rezone a 6.3 acre parcel from SR-4.5 Single Family Residential to SR-6 Single Family Residential. The property is located at 25840 135th Lane SE, in Kent, Washington. Exhibit C-1; Exhibit CK-64 January 18, 2006, Staff Report, pages 1 – 2.

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2 The Environmental Checklist prepared by the Applicant states that the property measures 257,746 square feet, or 5.8 acres; the March 16, 2006, Hearing Examiner Decision regarding the Meridian Banks appeal also uses the 5.8 acre measurement. Exhibit C-3; Exhibit C-5; Exhibit M-15.H, Hearing Examiner Decision of March 16, 2006. The King County GIS tax parcel information describes the property as measuring 275,299 square feet, or 6.32 acres. The staff reports prepared by the City of Kent describe the property as measuring 6.3 acres. Exhibit CK-62; Exhibit CK-63; Exhibit CK-64.

3 Subsequent to filing the rezone request, the Applicant also submitted a preliminary plat application to subdivide the property into 27 single family residential lots. The preliminary plat application is addressed in a separate decision. See Decision of Hearing Examiner, Meridian Banks Preliminary Plat File No. SU-2005-11, KIVA # RPP3-2053169.

4 The property is identified by King County tax parcel number 2722059164. Exhibit C-1; Exhibit CK-64, page 1. A legal description of the property is included on the preliminary plat map and in the Cascade Sewer Easement. Exhibit CK-40; Exhibit M-53.
2. The City of Kent (City) determined the rezone application was complete on August 11, 2005. Exhibit C-21. The City determined that the preliminary plat application associated with the requested rezone was complete on September 23, 2005. Exhibit M-32. The City provided notice of the rezone application as required by City ordinance. Exhibit C-12; Exhibit C-13; Exhibit C-15; Exhibit C-16; Exhibit CK-64, pages 3 and 5.

3. The City acted as lead agency for review of environmental impacts of the proposal as required by the State Environmental Policy Act (SEPA). Initially, the City separately reviewed the environmental impacts of the rezone application and preliminary plat application and issued a Determination of Nonsignificance (DNS) for the rezone request on November 18, 2005. Exhibit C-7; Exhibit C-8. The DNS was appealed by James Helm on December 16, 2005. Exhibit A-7. The Hearing Examiner issued a decision on the appeal on March 15, 2006, remanding the DNS to the City for review of the environmental impacts of the Applicants' proposed rezone and preliminary plat application, with respect to wetlands, storm drainage, and traffic. Exhibit M-15.H. Pursuant to the Hearing Examiner's decision, the City combined review of the environmental impacts for the proposed rezone application and preliminary plat application. The City determined that with conditions, the rezone and preliminary plat proposals together would not have a probable significant adverse impact on the environment, and issued a Mitigated Determination of Nonsignificance (MDNS) on January 19, 2007. Exhibit B-10. The MDNS included seven conditions addressing traffic mitigation, pedestrian walkways, compliance with City Critical Areas Ordinance through plat redesign, protection of wells, use of low-impact development techniques, minimization of negative impacts to soils, and minimization of grading. The City received appeals of the MDNS from Bill Floten and Ted Nixon (AP-2007-1) and from Sharon Bosse (AP-2007-2). The MDNS appeals are considered separately from the rezone recommendation and are addressed in Parts I and II of the Meridian Banks decisions. Exhibit CK-63, May 10, 2007 Staff Report; Exhibit M-18; Exhibit B-10.

4. The City provided notice of the open record hearing associated with the preliminary plat and rezone applications by posting notice on the subject property and mailing notice to all owners of property within 300 feet of the subject property on April 27, 2007. The City published notice of the hearing in the Kent Reporter in compliance with City ordinances. Exhibit CK-62, Staff Report, page 7; Exhibit CK-70; Exhibit CK-71.

5. The property at issue was annexed to the City in 1996 as part of the Meridian Annexation (Ordinance No. 3241). Based on existing land uses at the time of annexation, the property

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5 The Washington Supreme Court endorsed this combined threshold review process when it found impacts of a specific development proposal can be a useful yardstick to measure rezone impacts. See Citizens Alliance v. Auburn, 126 Wn.2d 356, 365 (1995). Combined threshold review is consistent with KCC 12.01.030(D), is a more efficient use of City, applicant and public resources, and promotes SEPA policies. See 126 Wn.2d at 366 ("The SEPA rules underscore flexibility and gauge the level of detail according to the proposal at issue").
was initially zoned R1-9.6, and then changed to SR-4.5 through a 1996 zoning code update. The Comprehensive Plan Land Use Map designates the property as SF-6, Single Family Residential, allowing for six dwelling units per acre. In 1997, the City Council considered and rejected a former property owner’s request to change the Comprehensive Plan designation to LDMF, Low Density Multifamily. The property maintained the SF-6 designation through the 2001 Land Use Plan review and update, the 2004 Land Use Plan review and update, and through the 2006 Land Use Plan revision. The property is located within an Urban Growth Area. City of Kent Comprehensive Plan Land Use Element (last revised May 4, 2006), Land Use Map Figure 4.7, page 4-53; Exhibit CK-64, pages 2, 3, 7, and 10.

6. Properties to the north and east of the subject property are zoned SR-4.5, carry the SF-6 Comprehensive Plan designation, and are predominately developed with single-family residences and some multifamily development. Property to the west is zoned MHP, Mobile Home Park, and designated as such by the Comprehensive Plan Land Use Map. The subject property is bordered to the south by Lake Meridian. The Land Use Element identifies properties along the northern edge of Lake Meridian as vacant and redevelopable. City Comprehensive Plan Land Use Element (last revised May 4, 2006), Vacant and Redevelopable Land, page 4-17; Comprehensive Plan Land Use Map page 4-53; Exhibit CK-64, page 2.

7. Since the property’s annexation in 1996, the City has improved the roadway infrastructure serving the property and surrounding neighborhoods, increasing traffic capacity in the East Hill portion of the City. The City has improved the 272nd/277th Street corridor, providing improved roadway connectivity and freeway access. The 116th Avenue SE and Kent-Kangley Road intersection and a portion of 116th Avenue SE, south of SE 256th Street has been widened, Exhibit CK-64, page 10.

8. The subject property is currently located in the City’s SR-4.5 Single Family Residential zoning district, which permits a maximum of 4.53 dwelling units per acre and a minimum lot size of 7,600 square feet. A 6.3 acre parcel of land within the SR-4.5 zoning district could be developed with 28 lots. The SR-6 zoning district would permit a maximum density of 6.05 dwelling units/acre with a minimum lot size of 5,700 square feet, allowing

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6 The rezone application was filed prior to the 2006 Comprehensive Plan Land Use Element revision. However, the 2006 revision did not alter the surrounding properties’ SF-6 designation under the 2004 Comprehensive Plan Land Use Map and the identification of properties along Lake Meridian as vacant and redevelopable were not changed with the 2006 Land Use Element revision.

7 The maximum density and minimum lot size for the SR-4.5 zoning district is found in KCC 15.04.170. The City zoning code has been updated since the Applicant filed the rezone request; however, the lot size and density requirements have remained the same for the SR-4.5 and SR-6 zones.

8 The maximum density calculation for dwelling units per acre in the SR-4.5 district is 6.3 acres multiplied by 4.53 dwelling units/acre = 28.5 dwelling units.
for development of up to 38 lots on a 6.3 acre parcel. The January 18, 2006 Staff Report states that even with an approved rezone, the property would not be likely to be developed at the maximum density allowed as some land would be used for stormwater management, roadways, and other improvements. 

9. The Applicants have proposed development of 27 lots, a stormwater drainage tract, and a new public road. The proposed preliminary plat would have a gross density of 4.3 dwelling units per acre. The proposed lots would comply with the SR-6 minimum lot size and setback requirements. Lydia Moorehead, City Planner, testified that if the City Council denies the rezone request, the Applicants would need to reconfigure the preliminary plat to comply with the SR-4.5 zone standards. The 19 residential units currently on the property would be removed with plat development. 

10. The Comprehensive Plan describes the Land Use Element as having “the central role of defining the direction of the Comprehensive Plan, and thereby defining the vision of the community.” City Comprehensive Plan, Land Use Element, page 4-2. The Land Use Element includes the Land Use Map, which designates the subject property as SF-6. In addition, the Land Use Element contains goals and policies promoting new development to meet target housing goals, requiring a minimum density of four units per acre, locating new development near existing services, and encouraging variety in densities, housing types, and lot sizes. Housing Element goals and policies encourage attractive neighborhoods by promoting home ownership and providing for a variety of housing types and site designs to meet projected residential needs. Where appropriate, zoning codes may be revised to increase the supply of affordable housing options such as small lot sizes. Transportation Element goals and policies support the coordination of land use and transportation planning to ensure sufficient transportation infrastructure to serve new development. 

9 The maximum density and minimum lot size for the SR-6 zoning district is found in KCC 15.04.170. The maximum density calculation for dwelling units per acre in the SR-6 district is 6.3 acres multiplied by 6.05 dwelling units/acre = 38.1 dwelling units. 

10 The gross density calculation is 27 dwelling units divided by 6.3 acres = 4.3 dwelling units per acre. 

11 This section of the Land Use Element was not revised with the 2006 Land Use Element revision. 

12 In the January 18, 2006 staff report, the City identified the following Comprehensive Plan goals and policies as particularly relevant to the rezone request: Land Use Element Goals LU-9 and LU-10, and Policies LU-9.1, LU-9.4, and LU-10.4 (these goals and policies were not changed with the 2006 Land Use Element revision); Housing Element Goals H-2, H-5, and H-7, and Policies H-2.2, H-5.1, H-5.2, H-5.3, and H-7.5; and Transportation Element Goal TR-1 and Policies TR-1.2 and TR-1.5. City Comprehensive Plan, Land Use Element (last revised May 4, 2006), pages 4-26, 4-32 and 4-33; City Comprehensive Plan, Housing Element (2004), pages 6-11.
11. The property would be accessed from SE 258th Street. The property also has street frontage along 135th Avenue SE. The Applicants proposed construction of a "U"-shaped roadway to provide internal access to the proposed subdivision. The rezone itself would not generate increased traffic on SE 258th Street and in the surrounding neighborhood. However, the City determined that the preliminary plat associated with the rezone would generate nine new PM peak hour trips. The Applicants would address traffic impacts through the construction of street frontage improvements and the payment of traffic mitigation fees. The Applicants would either construct a sidewalk along the east side of 135th Avenue SE between SE 258th Street and SE 256th Street, or, at the sole discretion of the Public Works Director, may pay a fee-in-lieu of construction. Exhibit CK-64, page 4; Exhibit M-18; Exhibit B-10.

12. Sally McDonough testified that the requested rezone would not be consistent with the Comprehensive Plan goals and policies protecting water quality and the environment in general. She submitted excerpts from *Wetlands in Washington State, Volume 2: Guidance for Protecting and Managing Wetlands*. Linda Johnson testified regarding her concern that more development in the area would lead to more homes, people, and traffic, disturbing the serenity of the neighborhood. Michelle McDowell testified that she believed a rezone would be incompatible with existing development and could adversely affect the health, safety, and general welfare by contributing to school overcrowding. She noted that the City Council has imposed a moratorium on rezones in the Lake Meridian area. Ellyn Ricker, Lake Meridian Resident, submitted a letter of public comment at the May 10, 2007 open record hearing. Ms. Ricker expressed concern that approval of the rezone request would negatively impact school district infrastructure and would result in overcrowding of area schools. David and Deborah Herron sent a comment letter dated April 30, 2007, expressing concern that approval of the rezone request would increase traffic on the lake and vehicle traffic on 256th, impacting wildlife and the quiet lake-side atmosphere. The Herrons also expressed concern that approval of the rezone would set a precedent making it difficult to stop additional development. Exhibit CK-65; Exhibit CK-66; Exhibit CK-68; Exhibit CK-69; Testimony of Ms. McDonough; Testimony of Ms. Johnson; Testimony of Ms. McDowell.

13. The Hearing Examiner's decision of March 15, 2006, states that "Any testimony at the continued hearing on the rezone application must relate to any new information that is provided in the environmental review process that was not available at the time of the hearings in February [2006]." Exhibit M-15.H, page 23. Ms. Moorehead testified that with the environmental review required by the Hearing Examiner in his March 15, 2006 decision, the City Planning Department continues to recommend granting the rezone request. She testified that the rezone requested was vested at the time of application, prior to the...
rezone moratorium. Traffic impacts would be mitigated through compliance with the MDNS conditions. The City identified lake fringe wetlands along the property's southern border with Lake Meridian. Protection of wetlands would be addressed through preliminary plat conditions and compliance with MDNS conditions. The City determined the Applicants’ technical information report and preliminary stormwater detention treatment plans are consistent with the 2002 City of Kent Surface Water Design Manual and the 1998 King County Surface Water Design Manual. Exhibit CK-1; Exhibit CK-2; Exhibit CK-3; Exhibit CK-4; Exhibit CK-5; Exhibit CK-38; Exhibit CK-39; Exhibit CK-43; Exhibit CK-44; Exhibit CK-63; Exhibit M-18; Exhibit B-10; Testimony of Ms. Moorehead.

CONCLUSIONS

Jurisdiction
The Hearing Examiner has jurisdiction to hold an open record hearing on quasi-judicial actions, including this rezone, and to issue a written recommendation for final action to the City Council, pursuant to RCW 35A.63.170 and Chapters 2.32, 12.01 and 15.09 Kent City Code (KCC).

Criteria for Review
KCC 15.09.050.C sets forth the standards and criteria the Hearing Examiner must use to evaluate a request for a rezone. A request for a rezone shall only be granted if:

1. The proposed rezone is consistent with the Comprehensive Plan;
2. The proposed rezone and subsequent development of the site would be compatible with development in the vicinity;
3. The proposed rezone will not unduly burden the transportation system in the vicinity of the property with significant adverse impacts which cannot be mitigated;
4. Circumstances have changed substantially since the establishment of the current zoning district to warrant the proposed rezone; and
5. The proposed rezone will not adversely affect the health, safety and general welfare of the citizens of the City of Kent.

KCC 15.09.050.C.

Conclusions Based on Findings
1. The proposed rezone is consistent with the Comprehensive Plan. The subject property is designated SF-6 by the Comprehensive Plan, allowing for development of up to six dwelling units per acre. The subject property and other properties along the northern edge of Lake Meridian are identified as vacant or redevelopable. Properties to the north and east of the subject parcel are also designated SF-6 under the Comprehensive Plan.
The proposed rezone would bring the property into alignment with the Comprehensive Plan designation. Development on the subject parcel supported by the proposed rezone would not exceed a density of six units per acre. The proposed rezone would support development of single family residences within the City limits near existing streets and services at a density of at least four units per net developable acre, consistent with Comprehensive Plan Land Use goals and policies. The smaller lot sizes made possible by the rezone would support a variety of housing styles, consistent with Housing Element goals and policies. Development of the property would include improvements to area streets, consistent with Transportation Element goals. Future development would be conditioned to ensure consistency with development regulations adopted pursuant to the Comprehensive Plan. Findings 1, 3, 5, 6, 10, 11, 13.

2. The proposed rezone and subsequent development would be compatible with the existing neighborhood. Subsequent development of the property would be single-family residential, in a single-family residential neighborhood. Surrounding properties are developed with single family and multifamily residences, and property to the west is developed with a mobile home park. Properties to the north and east of the subject parcel are designated SF-6 under the Comprehensive Plan. It is unlikely that the property would be developed at the maximum density allowed due to land requirements for roadways, stormwater drainage systems, and other improvements. Findings 1, 5, 6, 8, 9, 13.

3. The proposed rezone would not unduly burden the transportation system. The proposed rezone itself would not generate increased traffic. The Applicants would address traffic impacts resulting from the proposed preliminary plat associated with the rezone by constructing street improvements on 136th Avenue SE and SE 258th Street and paying a traffic mitigation fee. The Applicants would construct sidewalks along the east side of 135th Avenue SE between SE 258th Street and SE 256th Street, or at the sole discretion of the Public Works Department may be permitted to pay a fee-in-lieu of construction. Finding 11.

4. Circumstances have changed substantially to warrant the proposed rezone. Washington state courts have held that proof of changed circumstances are not required for a rezone if the proposed rezone and associated development implement policies contained in the comprehensive plan. Bjarnson v. Kitsap County, 78 Wn. App. 840 (Div. I, 1995); Henderson v. Kittitas County, 124 Wn. App. 747 (Div. III, 2004). Here, the property has been classified as SF-6 by the City Comprehensive Plan since annexation in 1996. The rezone request and associated plat development would implement the City Comprehensive Plan goals and policies to promote home ownership and reduce urban sprawl through flexibility in housing and site design. The rezone would bring the property into line with the SF-6 Comprehensive Plan classification. Improvements to transportation infrastructure would support the additional traffic arising out of any future development. Changed circumstances include roadway improvements of the 272nd/277th Street corridor,
the intersection of 116th Avenue SE and Kent-Kangley Road, and a portion of 116th Avenue SE, increasing traffic capacity and providing improved roadway connectivity and freeway access. The rezone request was filed prior to the moratorium imposed by the City Council. Findings 1, 5 – 7, 10, 12, 13.

5. The proposed rezone would not adversely affect public health, safety and general welfare. The City provided adequate public notice of the rezone application and associated public hearing. The City reviewed the requested rezone and associated preliminary plat application, with particular attention to wetlands, storm drainage, and traffic impacts, and determined that the rezone would not have a probable significant adverse impact on the environment. Approval of the proposed rezone would allow development of the property at the density designated by the Comprehensive Plan. Future development would be conditioned to address impacts on local services, including school districts, parks, stormwater systems and transportation facilities; conditions would also require protection of water quality and the environment in general. Findings 1 – 13.

RECOMMENDATION

Based upon the preceding Findings and Conclusions, the Hearing Examiner recommends that the application for a rezone from SR-4.5 to SR-6 of a 6.3 acre parcel, King County Tax Parcel Number 2722059164, located at 25840 135th Lane SE, in Kent, Washington, be GRANTED without conditions.

DATED this 15th day of October 2007.

[Signature]
THEODORE PAUL HUNTER
Hearing Examiner
EXHIBITS
Exhibit list from May 10, May 23, and August 15, 2007
Meridian Banks Consolidated Open Record Hearing

CITY'S EXHIBITS

[NOTE: The City submitted 163 exhibits, identified by “C” prefix in the Findings, for the February 1 and 15, 2006, consolidated rezone/SEPA open record hearing (see page 7). The following City exhibits identified by “CK” prefix were admitted during the May 10, May 23, and August 15, 2007 consolidated open record hearing.]

CK-1. City of Kent Wetland Inventory Maps - Map #655NW
CK-2. Data sheets completed by Teresa Vanderburg, dated July 12, 2006 – 5 pages
CK-3. Chad Armour, LLC – Critical Areas Assessment and Delineation Study, dated May 24, 2006, received June 14, 2006
CK-5. Habitat Technologies – Wetland Field Mapping – Field Graphic Figure 9 Calculated Areas of Wetland Vegetation – Wetland area added per City of Kent, dated November 17, 2006 (This exhibit is the attachment to Exhibit No. CK-30)
CK-7. Classification of Wetlands and Deepwater Habitats of the United States (USFWS, December 1979, Cowardin, et al.) - General Reference available for review at City Attorney’s Office
CK-8. 2002 and 2006 aerial photos from City of Kent GIS
CK-9. 18 color photos taken by Erin Fehringer on October 31, 2006
CK-10. Memo from Erin Fehringer to Mike Mactutis titled "Meridian Banks Potential Wetland Issue," dated October 13, 2005, with relevant excerpts and references
CK-13. Correspondence from Erin Fehringer to Bill Floten/Floten Investments, II, LLC, dated November 9, 2005
CK-14. Memo from Erin Fehringer to Wetland File No. 05-26, dated November 14, 2005
CK-15. Correspondence from Mike Mactutis to Ted Nixon/Campbell Nixon & Associates, dated November 17, 2005
CK-16. Correspondence from Molly Lawrence/Buck & Gordon to Erin Fehringer, dated November 23, 2005
CK-17. Correspondence from Molly Lawrence/Buck & Gordon to Kim Marousek/SEPA Responsible Official, dated December 2, 2005
CK-18. Correspondence from Erin Fehringer to Molly Lawrence/Buck & Gordon, dated December 6, 2005
CK-20. Correspondence from Molly Lawrence/Buck & Gordon to Erin Fehringer, dated December 20, 2005
CK-23. Correspondence from Teresa Vanderburg to Eric Fehringer, dated July 19, 2006
CK-25. Correspondence from Alison Moss/Deborah & Moss to Lydia Moorehead, dated July 30, 2006
CK-26. Correspondence from Alison Moss/Deborah & Moss to Lydia Moorehead, dated October 11, 2006
CK-27. E-mail correspondence from Lydia Moorehead to Alison Moss/Deborah & Moss, dated October 20, 2006
CK-28. Correspondence from Teresa Vanderburg to Eric Fehringer, dated November 8, 2006
CK-29. Correspondence from Kim Adams Pratt to Bill Williamson, dated November 16, 2006
CK-30. Correspondence/Revised Wetland Delineation Report from Erin Fehringer to Ted Nixon/Campbell Nixon & Associates, dated November 17, 2006. (The exhibit referenced in this correspondence is listed as a separate exhibit, Exhibit No. CK-5)
CK-31. Correspondence from Kim Adams Pratt to Bill Williamson, dated December 4, 2006
CK-32. Curriculum Vitae of Teresa Vanderburg
CK-33. City of Kent Surface Water Design Manual, May 2002 - General Reference available for review at City Attorney's Office
CK-34. Excerpts from the City of Kent Surface Water Design Manual, May 2002, Section 1.2
CK-35. Excerpts from the City of Kent Surface Water Design Manual, May 2002, Section 1.4
CK-37. Excerpt from King County 1998 Surface Water Design Manual, Section 6.1.3
CK-40. Meridian Banks Subdivision Site Plan by CNA Architects, received August 29, 2005
CK-41. Five (5) color photos and narrative regarding the pedestrian walkway path, taken by Jim Storment on March 20, 2007
CK-42. Institute of Transportation Engineers' Trip Generation Rates, Plots and Equations used to calculate Single-Family Detached Housing
CK-43. Conceptual Drainage Plan Map (Existing Condition) by Cramer Northwest, dated August 4, 2005, received August 29, 2005
CK-44. Conceptual Drainage Plan Map (Post Development) by Cramer Northwest, dated August 4, 2005, revised May 16, 2006, received December 8, 2006
CK-45. E-mail correspondence between Larry Blanchard, Mike Mactutis, Ted Nixon, and Larry Krueger, Cramer Northwest, dated July 13-July 19, 2005
CK-46. E-mail correspondence to/from Mike Mactutis and Ted Nixon, dated July 29, 2005

Attachment A, List of Exhibits
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Page 2 of 13
Correspondence from Planner, Lydia Moorehead, to Ted Nixon, CNA Architects, regarding:
Notice of Completeness and Public Notice Board Requirements, dated September 23, 2005

Correspondence from Beth Tan to Larry Krueger, Cramer Northwest, dated October 21, 2005

Correspondence from Beth Tan to Larry Krueger, Cramer Northwest, dated April 17, 2006

Correspondence from Larry Krueger, Cramer Northwest, to Beth Tan, dated May 16, 2006

Correspondence from Beth Tan to Larry Krueger, Cramer Northwest, dated July 28, 2006

Correspondence from Ted Nixon, CNA Architects, to Community Development Department, dated October 9, 2006

Correspondence from Beth Tan to Larry Krueger, Cramer Northwest, dated December 5, 2006

Correspondence from Ted Nixon, CNA Architects, to Beth Tan, dated December 7, 2006

Correspondence from Bill Williamson to Kim Adams Pratt, dated December 15, 2006

Correspondence from Planner, Lydia Moorehead, to Ted Nixon, CNA Architects, dated December 18, 2006


Comment letter from Sharon Bosse, dated February 2, 2007, received February 2, 2007

Comment letter from Charlie and Linda Denny, dated February 5, 2007, received February 7, 2007

Comment letter from Charlie Denny, dated February 6, 2007, received February 7, 2007

Comment letter from Tim and Vicki Kriss, received February 7, 2007

Staff Report for May 10, 2007 Hearing Examiner Meeting – Meridian Banks Preliminary Plat SU-2005-11/ KIVA RPP3-2053169

Staff Report for May 10, 2007 Hearing Examiner Meeting – Meridian Banks Rezone RZ-2005-7 / KIVA 2052281

Staff Report for January 18, 2006 Hearing Examiner Meeting – Meridian Banks Rezone RZ-2005-7 / KIVA 2052281

Public Comment from Michelle McDowell with attached 2007-2008 High School Boundaries Scenario C-2 and excerpts of ENV-2007-8(A) and (B) Reconciling Single Family Zoning and Land Use Map Designations and Parks and Open Space Designations, Comprehensive Plan EIS – Addendum, pages 2 and 3

Public Comment from Sally McDonough with attached excerpts from Wetlands in Washington State Volume 2 (April 2005)

Wetlands in Washington State Volume 2, page 2-5; Wetlands in Washington State Volume 1 (March 2005), pages 3-7 and 3-11; one page excerpt from Protecting Water Resources with Smart Growth, Section I; print-out of KCC 15.04.170 Agricultural and residential zone development standards; one page excerpt from Single Family Designations Reconciliation Aggregated Survey Response Data (Fall 2006); Hearing Examiner Decision of March 15, 2006 File No. AP-2005-5 / KIVA 2054971

Public comment letter from Ellyn Ricker to City, dated May 7, 2007

Public comment letter from David and Deborah Herron to Lydia Moorehead, dated April 30, 2007

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Page 3 of 13
CK-70. Notice of Public Hearing with Affidavit of mailing, posting, and publication, dated April 30, 2007, including mailing list
CK-72. Addendum to Meridian Banks Subdivision Staff Report, prepared for hearing July 25, 2007
CK-73. Memo from Erin Fehringer dated June 15, 2007
CK-74. Letter from Thomas Deming, dated May 27, 2007
CK-75. Voluntary Shoreline Restoration Plan, received June 4, 2007
CK-76. Preliminary Plat Application, with site map; Certificate of Water Availability dated March 15, 2005; proposed water connection map, dated March 9, 2005; Certificate of Sewer Availability, dated April 19, 2005; proposed sewer connection map, dated March 22, 2005

MERIDIAN BANKS’ EXHIBITS

M-1-12 (Applicant’s Exhibits admitted at February 1 and 15, 2006 consolidated hearing)
M-13. Same as CK-54
M-14. Same as CK-29

A. Letter from Erin Fehringer to Ted Nixon, dated November 17, 2006 - Same as CK-30, M-26
B. Letter from Bill H. Williamson to City of Kent, dated November 9, 2006, with exhibits – Same as M-25, B-8
C. Letter from Larry Blanchard to Ted Nixon, dated March 4, 2005 – Same as C-19, M-1
D. Letter from Erin Fehringer to Bill Floten, dated November 9, 2005 – Same as CK-13, M-41
E. Letter from Bill Floten to Erin Fehringer, dated December 20, 2005 – Same as CK-20, M-3D, M-45
F. Letter from Lydia Moorehead to Ted Nixon, dated July 11, 2005 – Same as M-11, M-17
G. Letter from Larry Blanchard to Ted Nixon, dated November 8, 2005 – Same as CK-12
H. Findings, Conclusions and Decision of Hearing Examiner, Meridian Banks #AP-2005-5, dated March 15, 2006 – Same as B-7

M-16. King County Code 16.82.050 and 21.54.280
M-17. Tentative Plat letter from City to Ted Nixon, dated July 11, 2005 – Same as M-11, M-15F
M-19. Same as CK-52
M-20. Kent City Code 11.06.040 Exemptions for utilities and associated structures and residential structures and landscaping
M-21. Same as CK-26
M-22. Same as CK-64
M-23. Letter from Kim Marousek to Attorney Williamson, relating to: Consolidation of all open record appeals with open record plat proceedings, dated December 18, 2006
M-24. Same as CK-56

Attachment A, List of Exhibits
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M-25. Removal of Stay letter from Attorney Williamson, relating to: Pending adjudicative rezone proceedings with attachments, dated November 9, 2006 – Same as B-8, M-15B

M-26. Same as CK-30, M-15A


M-28. Same as CK-55, M-31

M-29. Submittal of Comprehensive Plan Text and Zoning/Development Code Amendment (Docket 2006-3) submitted by the Lake Meridian Community Association, received September 1, 2006

M-30. Letter to City Council by John Marovich opposing Meridian Banks plat, October 24, 2005

M-31. Same as CK-55, M-28

M-32. Same as CK-47

M-33. Same as CK-28

M-34. Letters from Lake Meridian residents and Board Members to Kent City Mayor and Councilmembers in opposition to the adjudicative rezone of the Floten “cabin” property

M-35. Memorandum from Long Range Planner, William Osborne, to Jon Johnson, Land Use and Planning Board Member, dated October 16, 2006, with attached Petition and comments from various residents near Lake Meridian

M-36. Agenda of Kent Land Use & Planning Board Hearing of March 26, 2007, including report of Kent Department of Community Development, regarding: Comprehensive Plan Amendment CPA-2006-5, Reconciling Single Family Zoning & Land Use Designations for Lake Meridian Sub-Basin

M-37. DVD video copy of testimony, arguments, consideration and public in attendance at the Kent Land Use & Planning Board Hearing of March 26, 2007 (Ordered by Appellants from City on April 16, 2007)


M-39. RCW 90.58.190 provisions relating to adoption of Shoreline Master Plans

M-40. Kent’s Comprehensive Plan Land Use Element with Shoreline Management Program – Appendix C & applicable Section 4.7, dated March 8, 2004

M-41. Same as CK-13, M-15D

M-42. Same as CK-16

M-43. Same as CK-17, M-2

M-44. Same as CK-18, M-3B

M-45. Same as CK-20, M-3D, M-15E


M-47. Aerial of Site Vicinity showing inventory of Wetlands

M-48. Aerial of Site and vicinity – King County Records 2005

M-49. Cascade Sewer District drawing documenting fill along shoreline, dated October 1, 1974


M-52. Subdivision standards at time of vestment
M-53. Cascade Sewer Easement, dated October 18, 1986
M-54. Existing site photographs of property (7 photos)
M-55. Historical photos 1936 – 1996 (5 photos)
M-56. Historical Assessor's documents of buildings (7 pages)
M-57. Photos of adjacent property (east showing fill and waterfront) (2 photos)
M-58. New construction activities along Lake Meridian Summer 2006 (8 photos)
M-59. Photos of Lake Meridian shoreline, undated (2 photos)
M-60. Critical Areas Assessment, dated April 26, 2006
M-61. Same as CK-11
M-62. Lake Meridian Upstream drainage map by Cramer NW
M-63. Lake Meridian Water Quality brochure from the City of Kent
M-64. Pollution Sources brochure from the City of Kent
M-65. Mapped Wells from King County imap, dated September 12, 2006
M-66. Letter from Alison Moss to Michael Regeimbal, dated May 15, 2006, with attachments
M-67. Excerpt from Ordinance No. 3746
M-69. Colored version of Revised Plat
M-70. Declaration of Ted Nixon (NOT ADMITTED)
M-71. Declaration of Bill Floten (NOT ADMITTED)
M-72. Email containing eight photos, dated July 10, 2007
SHARON BOSSE’S EXHIBITS

[NOTE: At the February 1 and 15, 2006, consolidated hearing, the Appellant, James Helm, submitted seven exhibits identified by “A” Prefix in the Findings. The following Exhibits are identified by “B” Prefix in the Findings.)

B-1. Letter from Department of Fish and Wildlife to the City of Kent, dated September 26, 2000
B-2. City of Kent Surface Water Design Manual 2002
B-3. Same as CK-13
B-4. Same as CK-30
B-5. Same as CK-19
B-6. Same as CK-18
B-7. Same as M-15H
B-8. Same as M-15B, M-25
B-9. Same as M-18
B-11. Same as CK-58
B-12. Various photos of the subject property
B-13. Print-out of webpage re Chinook Salmon population
B-14. Amended Kent School District map
B-15. Bosse SEPA Appeal, received February 16, 2007
Exhibit list from March 15, 2006 Hearing Examiner Decision,  
File No. AP-2005-5 / KIVA 2054971

**APPELLANT JAMES HELM’S EXHIBITS**

A-1. Aerial Photographs of site
A-2. Sensitive Areas Map from King County iMAP website
A-3. Excerpt from the Soos Creek Basin Plan, including pages i, 1, 3, 11, 24, and 38
A-4. Letter from Teresa Vanderburg, Adolfson Associates, Inc., to Erin Fehringer, City of Kent, dated December 5, 2005
A-5. Table of lot sizes at Lake Meridian
A-6. Photographs of Lake Meridian and wildlife (13 pages with 54 photos total)

**CITY’S EXHIBITS**

C-1. Zoning Map Amendment (Rezone) Application with attachments, dated June 30, 2005
C-2. Rezone Submittal Item A from CNA Architects, received June 30, 2005
C-3. Environmental Checklist, received June 30, 2005
C-4. Site Plan prepared by CNA Architects, received June 30, 2005
C-5. Resubmittal Form, dated July 21, 2005
C-6. Addendum to SEPA Checklist, received July 21, 2005
C-7. Determination of Nonsignificance (DNS) and Certificate of Posting, dated November 18, 2005
C-9. Distribution of SEPA material – Determination of Nonsignificance, dated November 18, 2005
C-10. Public Notice of SEPA Threshold Determination, dated November 18, 2005
C-11. Routing slip sent July 1, 2005, with comments from Peterson and Flemm
C-12. Notice of Application for Rezone, dated August 19, 2005
C-13. Distribution of Notice of Application material on August 19, 2005
C-14. Ordinance No. 3241
C-15. Affidavit of Publication from *King County Journal* of Notice of Application, dated September 5, 2005
C-16. E-mail correspondence to/from *King County Journal* to publish Notice of Application, dated August 16, 2005
C-17. E-mail correspondence to/from *King County Journal* to publish SEPA Threshold Determination, dated November 15, 2005
C-18. E-mail correspondence from Ivana Halvorsen, Barghausen Consulting Engineers, Inc. to Planner, Lydia Moorehead, dated October 19, 2005
C-19. Correspondence from Larry Blanchard to Ted Nixon, dated March 4, 2005
C-20. Correspondence from Lydia Moorehead to Ted Nixon, CNA Architects, regarding: Notice of Incompleteness, dated July 19, 2005
C-21. Correspondence from Planner Lydia Moorehead to Ted Nixon regarding: Notice of Completeness and Public Notice Board Requirements, dated August 11, 2005
C-22. Correspondence to residents, regarding: Comment letters received, dated September 2, 2005
C-23. Comment letter from Charlie and Linda Denny, dated August 21, 2005
C-24. Comment letter from James and Karen Tuntland, dated August 26, 2005
C-25. Comment letter from Laurin McElheran, dated August 26, 2005
C-26. Comment letter from Carole and Rod Hollon, dated August 27, 2005
C-27. Comment letter from Monica Belisle, dated August 27, 2005
C-28. Comment letter from Gary P. Davis, dated August 28, 2005
C-29. Comment letter from Ron Bartels, Ph.D., dated August 28, 2005
C-30. Comment letter from Thomas and Julie Oresman, dated August 28, 2005
C-31. Comment letter from Richard and Ellyn Ricker, dated August 28, 2005
C-32. Comment letter from Nancy McElheran, dated August 28, 2005
C-33. Comment letter from Jerry and Mary Whitten, dated August 28, 2005
C-34. Comment letter from Michael and Holly Long, dated August 28, 2005
C-35. Comment letter from Rod Hoffman, dated August 28, 2005
C-36. Comment letter from Leonard and Rebeca Pyper, dated August 29, 2005
C-37. Comment letter from Lulu Gerber, received August 29, 2005
C-38. Comment letter from Wendy Bosha and Sharon Bosse, dated August 29, 2005, with attached data sheet and iMAP
C-39. Comment letter from Angelo Flores, dated August 29, 2005
C-40. Comment letter from Ann and Jeff Markley, dated August 29, 2005
C-41. Comment letter from Michael and Julia Moriarty, dated August 29, 2005
C-42. Comment letter from William T. Thompson, dated August 29, 2005
C-43. Comment letter from Linda Denny, dated August 30, 2005
C-44. Comment letter from Linda Rae Johnson, dated August 30, 2005
C-45. Comment letter from Duane Fleck, received August 30, 2005
C-46. Comment letter from Chester L. and Kathleen Dunkel Ekstrand, dated August 30, 2005
C-47. Comment letter from Christina Adair, dated August 30, 2005
C-48. Comment letter from Georgia Wardall, received August 31, 2005
C-49. Comment letter from J. Martin Anderson, received August 31, 2005
C-50. Comment letter from Warren and Marian Metzger, received August 31, 2005
C-51. Comment letter from Sally A. and R. Brian McDonough, dated August 31, 2005
C-52. Comment letter from Dennis C. Tyler, dated September 2, 2005
C-53. Comment letter from Sandy Reeder, received September 2, 2005
C-54. Comment letter from Steve and Michelle McDowell, with attached photographs, received September 2, 2005
C-55. Comment letter from Clinton and Betty Pozzi, received September 2, 2005
C-56. Comment letter from Danene M. Saggau, received September 2, 2005
C-57. Comment letter from John and Margaret Stewart, received September 2, 2005
C-58. Comment letter from Jerry and Katherine Hamilton, received September 2, 2005
C-59. Comment letter from Ameil, Ivana, Thomas, and Philip Urban, received September 2, 2005
C-60. Comment letter from Carol and Sam Vass, received September 2, 2005
C-61. Comment letter from Donald West, received September 2, 2005
C-62. Comment letter from Claude and Marie White, received September 2, 2005
C-63. Comment letter from Barb Williams, received September 2, 2005

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C-64. Comment letter from Staci Whitehouse, received September 2, 2005
C-65. Comment letter from Dorothy Meyer, received September 2, 2005
C-66. Comment letter from David R. Mitchell, received September 2, 2005
C-67. Comment letter from Ron and Joyce Norwood, received September 2, 2005
C-68. Comment letter from Michael and Monica O’Neil, received September 2, 2005
C-69. Comment letter from Robert C. Martin, received September 2, 2005
C-70. Comment letter from Arthur Dean Jacot, received September 2, 2005
C-71. Comment letter from Scotty Johnson, received September 2, 2005
C-72. Comment letter from Viola K. Johnson, received September 2, 2005
C-73. Comment letter from Alan MacLurg, received September 2, 2005
C-74. Comment letter from Barbara Baldwin, received September 2, 2005
C-75. Comment letter from Don and Juanita Bell, received September 2, 2005
C-76. Comment letter from Carol and Jim Boespflug, received September 2, 2005
C-77. Comment letter from Steven Brothers, received September 2, 2005
C-78. Comment letter from Thomas and Cassandra Brotherton, received September 2, 2005
C-79. Comment letter from Gregory Byler, received September 2, 2005
C-80. Comment letter from Charles Chahanovich, received September 2, 2005
C-81. Comment letter from Debora Childress, received September 2, 2005
C-82. Comment letter from David Coates, received September 2, 2005
C-83. Comment letter from Linda Austin, received September 2, 2005
C-84. Comment letter from Robert Schuweiler, received September 2, 2005
C-85. Comment letter from Bruce and Linda Axworthy, received September 2, 2005
C-86. Comment letter from John Morovich, received September 2, 2005
C-87. Comment letter from Richard D. Lamb, received September 2, 2005
C-88. Comment letter from Tom and Terri Charlesworth, dated August 29, 2005, received September 6, 2005
C-89. Comment letter from Ann Helm, dated September 1, 2005, received September 6, 2005
C-90. Comment letter from Mrs. Louis Agledal (Laura) received September 6, 2005
C-91. Comment letter from Audrey Agledal, received September 6, 2005
C-92. Comment letter from Timothy and Vicki Kriss, received September 7, 2005
C-93. Comment letter from Douglas G Carrossino, received September 7, 2005
C-94. Comment letter from Steve V. Lund, received September 12, 2005
C-95. Comment letter from CNA Architects, dated September 14, 2005
C-96. Memo from Erin Fehringer to Mike Mactutis titled "Meridian Banks Potential Wetland Issue," dated October 13, 2005
C-97. Correspondence from Larry Blanchard to Ted Nixon titled "Meridian Banks Wetland Delineation Report," dated November 8, 2005
C-98. City of Kent Wetland Inventory Maps - Map #655NW
C-99. Teresa Vanderburg of Adolfson Associates, Inc.’s wetland determination, conducted November 8, 2005, written copy received by City December 5, 2005
C-100. Comment letter from Danene M. Saggau, D.C., dated November 14, 2005, received November 28, 2005
C-101. Comment letter/e-mail from Bruce Anworthy, dated November 29, 2005, received November 29, 2005
C-102. Comment letter/e-mail from Michelle McDowell, received November 29, 2005
C-103. Comment letter from John T. Stewart, dated November 29, 2005, received December 1, 2005
C-104. Comment letter from Diane Lampe, dated November 29, 2005, received December 2, 2005
C-105. Comment letter from Michael Robinett, dated November 29, 2005, received December 2, 2005
C-106. Comment letter from Carole C. Millam, dated November 29, 2005, received December 2, 2005
C-107. Comment letter from Mary M. Gehring, dated November 29, 2005, received December 2, 2005
C-108. Comment letter from Sharon Moen, dated November 29, 2005, received December 2, 2005
C-109. Comment letter from Wanda M. Kolding, dated November 29, 2005, received December 2, 2005
C-110. Comment letter from Patricia Krippaehne Herron, dated November 29, 2005, received December 2, 2005
C-111. Comment letter from Thomas Herron, dated November 29, 2005, received December 2, 2005
C-112. Comment letter from Cass Brotherton, dated November 29, 2005, received December 2, 2005
C-113. Comment letter from Ellyn Ricker, dated November 29, 2005, received December 2, 2005
C-114. Comment letter from Richard Ricker, dated November 29, 2005, received December 2, 2005
C-115. Comment letter from Brian and Tina Lannoye, dated November 29, 2005, received December 2, 2005
C-116. Comment letter from Janet S. Martell, dated November 29, 2005, received December 2, 2005
C-117. Comment letter from Richard T. Tartell, dated November 29, 2005, received December 2, 2005
C-118. Comment letter from Bridget NessCvitkovi, dated November 29, 2005, received December 2, 2005
C-119. Comment letter from James W. Cormier, dated November 29, 2005, received December 2, 2005
C-120. Comment letter from (name unknown) address 11040 B SE 250th Court, Kent WA 98030, dated November 29, 2005, received December 2, 2005
C-121. Comment letter/e-mail from Kelsea Ricker, dated November 30, 2005, received November 30, 2005
C-122. Comment letter/e-mail from Dennis Tyler, dated November 30, 2005, received November 30, 2005
C-123. Comment letter/e-mail from Thomas and Julie Oresman, received November 30, 2005
C-124. Comment letter from Sharon Bosse, dated November 30, 2005, received November 30, 2005
C-125. Comment letter from Wendy L. Basham, dated November 30, 2005, received November 30, 2005
C-126. Comment letter from Robert E. Wagner, dated November 30, 2005, received December 1, 2005
C-127. Comment letter from Margaret Stewart, dated November 29, 2005, received December 1, 2005
C-128. Comment letter from Jack Childress, dated November 30, 2005, received December 2, 2005
C-129. Comment letter from Debora Childress, dated November 30, 2005, received December 2, 2005
C-130. Comment letter from Gregory G. Byler, dated December 1, 2005, received December 1, 2005
C-131. Comment letter/e-mail from Carol Vass, dated December 1, 2005
C-132. Comment letter from Sarah and Ervin Rausch, received December 2, 2005

Attachment A, List of Exhibits
City of Kent Hearing Examiner
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C-133. Comment letter from Sandy Reeder, received December 2, 2005
C-134. Comment letter from Danene M. Saggau, D.C., B.C.A.O., received December 2, 2005
C-135. Comment letter from Dean Saggau, received December 2, 2005
C-136. Comment letter from Michael O’Neill, received December 2, 2005
C-137. Comment letter from Chet and Kathy Ekstrand, received December 2, 2005
C-138. Comment letter from Sally and Brian McDonough, dated December 2, 2005, received December 2, 2005
C-139. Comment letter from Pete and Linda Wagner, received December 2, 2005
C-140. Comment letter from G. Wagner, received December 2, 2005
C-141. Comment letter from Jack E. Wagner, received December 2, 2005
C-142. Comment letter from Nancy McElheran, received December 2, 2005
C-143. Comment letter from Laurie McElheran, received December 2, 2005
C-144. Comment letter from Barbara Dunlop, received December 2, 2005
C-145. Comment letter from Danielle Dickinson, received December 2, 2005
C-146. Comment letter from John William Larson, received December 2, 2005
C-147. Comment letter from Clinton D. Pozzi, received December 2, 2005
C-148. Comment letter from Barbara A. Baldwin, received December 2, 2005
C-149. Comment letter from Duane Fleck, received December 2, 2005
C-150. Comment letter from Marilyn A. Gibbs, received December 2, 2005
C-151. Comment letter from Ronnie and Joyce Norwood, received December 2, 2005
C-152. Comment letter from Daisy King, received December 2, 2005
C-153. Comment letter from Daisy King, received December 2, 2005
C-154. Comment letter from Lulu Gerber, received December 2, 2005
C-155. Comment letter from Molly A. Lawrence of Buck & Gordon, dated December 2, 2005, received via facsimile December 2, 2005, received via mail December 5, 2005
C-156. Comment letter from James N. Helm, received December 5, 2005
C-158. Affidavit of Publication from King County Journal of Public Notice of SEPA Threshold Determination, dated November 18, 2005
C-160. Certificate of Mailing on January 6, 2005, of Public Notice to 200/300 Foot List Parties of Record
C-161. Affidavit of Publication from King County Journal of Notice of Public Hearing for January 18, 2006, dated January 6, 2006
C-162. Revised Agenda – Land Use Hearing Examiner – January 18, 2006
C-163. Agenda – Land Use Hearing Examiner – February 1, 2006

MERIDIAN BANKS’ EXHIBITS

M-1. March 4, 2005 letter from Larry Blanchard to Ted Nixon
M-2. December 2, 2005 letter from Molly Lawrence to Kim Marousek
M-3. Floten Appeal of December 20, 2005, including:
   A. Application for Appeal of Administrative Interpretation, dated December 20, 2005
   B. Letter from Erin Fehringer to Molly Lawrence, dated December 6, 2005

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C. Copy of check for $200 made out to City of Kent, dated December 20, 2005
D. Letter from Bill Floten to Erin Fehringer, dated December 20, 2005
M-4. Inventoried Wetlands map (City of Kent Comprehensive Plan)
M-5. Résumé of Thomas D. Deming
M-6. Letter from Thomas Deming to Bill Floten, dated January 24, 2006, regarding Wetland Assessment for Parcel 2722059164
M-7. Empty item
M-8. Map entitled Density Analysis Map of Surrounding Developments
M-9. Aerial photo of site
M-11. Letter from Lydia Moorehead to Ted Nixon regarding Meridian Banks Tentative Plat, dated July 11, 2005
M-12. Color photo showing trailer park and property line
ATTACHMENT B

PLEADINGS

In addition to the appeals themselves (Floten and Nixon Administrative Decision Appeal, Exhibit M-15; Floten and Nixon SEPA Appeal, Exhibit M-27; and Bosse SEPA Appeal, Exhibit B-15), which have been included in the Exhibit list, the Hearing Examiner received the following pleadings:

Administrative Appeal:

- City’s Letter of Intent to “stay” the administrative decision appeal pending the close of the SEPA appeal period to allow for a consolidated hearing, dated December 18, 2006
- City’s Request to Reschedule Hearing, dated February 27, 2007
- City of Kent’s Motion to Dismiss for Lack of Jurisdiction, dated April 5, 2007
- Appellant’s Response to City’s Motion to Strike Appeal for Lack of Jurisdiction, dated April 9, 2007

SEPA Appeal:

- City’s Request to Reschedule Hearing, dated February 27, 2007
- Floten and Nixon’s Witness and Exhibit List, dated April 19, 2007
- City of Kent’s Disclosure of Primary Witnesses and Exhibit List, dated April 20, 2007
- Sharon Bosse’s Disclosure of Primary Witnesses and Exhibit List, undated
- Sharon Bosse’s additional documents for Exhibit List, dated April 20, 2007
- City of Kent’s Appeal Brief, dated April 20, 2007

PRE－HEARING ORDERS

The Hearing Examiner issued the following pre－hearing orders:

Administrative Appeal:

- Pre－Hearing Order of December 19, 2006, for Appellant’s appeal of City’s November 17, 2006, wetland delineation administrative decision and setting a hearing date
• Order Granting Stay based on the agreement of the parties to stay the hearing through the close of the appeal period of the City’s SEPA determination, dated January 3, 2007
• Pre-Hearing Order of February 23, 2007, setting hearing date of April 4, 2007
• Pre-Hearing Order of March 7, 2007, revising hearing date
• Pre-Hearing Order of March 20, 2007, revising hearing date
• Request for Response to City’s Motion to Dismiss for Lack of Jurisdiction, dated April 10, 2007
• Response to City’s Motion to Dismiss for Lack of Jurisdiction, dated April 12, 2007, denying City’s motion
• Order Dismissing Appeal, dated May 22, 2007

SEPA Appeal:

• Pre-Hearing Order of February 23, 2007, for Bill Floten’s and Ted Nixon’s appeal of the City’s MDNS, for Sharon Bosse’s appeal of the City’s DNS, and setting a consolidated rezone/plat/SEPA appeal hearing date of April 18, 2007
• Response to Request for Clarification, dated March 7, 2007, stating that Appellant’s issues regarding transportation impact mitigation conditions could be considered as part of the SEPA appeal
• Pre-Hearing Order of March 7, 2007, revising hearing date
• Pre-Hearing Order Regarding Hearing Procedures, dated April 13, 2007
• Order of Continuance, dated July 13, 2007

Attachment B, Pleadings
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ATTACHMENT C

MERIDIAN BANKS BACKGROUND

The following chronology are not findings, but are presented in order to clarify the consolidated hearings that have taken place on the SEPA appeals and Administrative Interpretation Appeal in this case. A separate list of all pleadings and pre-hearing orders may be found in Attachment B.

PHASE I (Rezone and Appeal of the DNS)


On August 11, 2005, the City determined that the rezone application was complete. Exhibit C-21.

On August 19, 2005, notice of the rezone application was posted, mailed and published. Exhibit C-12; Exhibit C-13; Exhibit C-15; Exhibit 16.

On August 29, 2005, Ted Nixon, for CNA Architects, submitted an application to subdivide approximately 6.32 acres into 27 single-family residential lots at 25840 135th Lane SE adjacent to Lake Meridian, in Kent, WA. Exhibit CK-76; Exhibit CK-62, Staff Report, page 3.

On September 23, 2005, the City determined that the preliminary plat application was complete. Exhibit CK-47. However, the City had not completed environmental review of the preliminary plat application. Finding 5, March 15, 2006, HE Decision. According to the City’s letter, “This determination of completeness does not preclude the City from requesting additional information or studies if new information is required or where there are substantial changes in the proposal.” Exhibit C-47.

On October 17, 2005, the City issued a Notice of Application for the proposed subdivision with a public comment period ending October 31, 2005. Exhibit CK-62, Staff Report, page 7.

On November 8, 2005, the City requested that the Applicant provide a wetland delineation for the property. Exhibit CK-12.

On December 5, 2005, Teresa Vanderburg, Adolfson and Associates, wrote a letter to the City documenting a site visit on November 8, 2005, which identified wetlands on the site and recommended a formal wetland delineation be conducted. Exhibit CK-19.

On November 18, 2005, the City issued a SEPA Determination of Nonsignificance on the rezone, but not on the preliminary plat. Exhibit C-7.

On **February 1 and 15, 2006**, the Hearing Examiner held consolidated SEPA appeal/rezone hearings.

On **March 15, 2006**, the Hearing Examiner issued a decision granting the appeal of DNS and remanding the rezone to the city:

- Rezone remanded for review of environmental impacts concurrent with preliminary plat application.
- Specifically for review of rezone with respect to wetlands, storm drainage, and traffic.

*Exhibit B-7.*

**PHASE II (Rezone and Preliminary Plat and Appeals of MDNS)**

On **June 14, 2006**, the Applicant submitted a critical areas assessment and delineation, prepared by Chad Armour, LLC, in response to the City's request. It was marked by the City, "NOT APPROVED - EF 7-19-06". *Exhibit CK-3.*

On **July 19, 2006**, the City sent Mr. Nixon a letter concerning its review of the Wetland Delineation Report, prepared by Chad Armour, LLC (May 24, 2006), and requested a revised wetland delineation report. *Exhibit CK-24.*

On **October 11, 2006**, the Applicant requested that the City review a Supplemental Wetland Assessment prepared by Habitat Technologies, confirm the wetland delineation and then place the application on hold to allow the Applicant to explore mitigation opportunities.

*Exhibit CK-26.*

On **October 23, 2006**, the Applicant submitted a supplemental wetland assessment prepared by Habitat Technologies. *Exhibit CK-4.*


On **November 9, 2006**, the Applicant requested that the City proceed with the rezone/preliminary plat applications and schedule hearings before the Hearing Examiner. *Exhibit M-25.*

On **November 16, 2006**, the City sent a letter to the Applicant asking for confirmation that the Applicant would not submit any additional information to enable the City to complete its SEPA threshold determination review. *Exhibit CK-29.*
On **November 17, 2006**, the City issued a final wetland determination, finding Category 2 wetlands and requiring the Applicant to correct the delineation boundaries. As an administrative interpretation and final critical area resource decision, the City's decision was appealable under Chapter 11.06 KCC. *Exhibit CK-30.*

On **December 1, 2006**, the Applicant appealed the City's administrative decision to the Hearing Examiner. *Exhibit M-15.*

On **December 15, 2006**, the Applicant notified the City that no further environmental information would be provided, and requested that the City complete SEPA review and set a hearing date for the rezone/preliminary plat applications and administrative interpretation appeal of the City's wetland determination. *Exhibit CK-29; Exhibit CK-31; Exhibit CK-55.*

On **January 19, 2007**, the City determined that with conditions, the rezone and preliminary plat proposals together would not have a probable significant adverse impact on the environment, and issued a Mitigated Determination of Nonsignificance (MDNS) with seven mitigation conditions. *Exhibit B-10.*


On **February 16, 2007**, Sharon Bosse appealed the MDNS conditions regarding wetland delineation and storm drainage. *Exhibit B-15.*


On **May 10, 2007**, at the consolidated application and appeal hearing, Meridian and the City agreed that the issues raised by Meridian in its administrative appeal of the City’s wetland determination would be addressed as part of Meridian’s SEPA appeal. The Hearing Examiner issued an order dismissing Meridian’s administrative interpretation appeal on May 22, 2007. The issues raised by the Meridian SEPA appeal and Bosse SEPA appeal were heard along with public testimony on the rezone and preliminary plat applications. The hearing was continued to May 23, 2007.

On **May 23, 2007**, after the conclusion of the SEPA appeal portion of the hearing, the Applicant requested an opportunity to submit an alternative plat plan. The City requested an additional 60 days to respond to the Applicant’s submittal.

On **August 15, 2007**, the hearings concluded after testimony by the parties and the public on Meridian’s alternative plat plan.
EXHIBIT "A"
EXHIBIT "B"
LEGAL DESCRIPTION: (PER STWEART TITLE COMPANY ORDER NO 205103805)

THAT PORTION OF GOVERNMENT LOT 2, SECTION 27, TOWNSHIP 22 NORTH, RANGE 5 EAST WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS BEGINNING AT THE INTERSECTION OF SOUTH MARGIN OF SOUTHEAST 258TH STREET WITH WEST MARGIN OF 135TH AVENUE SOUTHEAST AS ON PLAT OF SHORE LANE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 59 OF PLATS, PAGE 62, IN KING COUNTY, WASHINGTON, THENCE SOUTH 01° 07'23" WEST 320 FEET, THENCE SOUTH 29° 59'00" EAST 110 25 FEET, THENCE SOUTH 88° 59' EAST 146 FEET, THENCE SOUTH 01° 07' WEST 90 FEET MORE OR LESS, TO THE SHORE OF LAKE MERIDIAN; THENCE SOUTHEASTERLY ALONG THE SHORELINE OF SAID LAKE MERIDIAN TO THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 2, THENCE SOUTH ON THE EAST LINE THEREOF TO SOUTH MARGIN OF SOUTHEAST 258TH STREET, THENCE WEST ON SAID SOUTH MARGIN TO POINT OF BEGINNING, TOGETHER WITH SECOND CLASS SHORELANDS ADJOINING ALSO, AN UNDIVIDED INTEREST IN THAT PORTION OF GOVERNMENT LOT 2, SECTION 27 TOWNSHIP 22 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF SOUTH MARGIN OF SOUTHEAST 258TH STREET WITH WEST MARGIN OF 135TH AVENUE SOUTHEAST AS ON PLAT OF SHORE LANE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 59 OF PLATS, PAGE 62, IN KING COUNTY, WASHINGTON; THENCE SOUTH 01° 07'23" WEST 320 FEET; THENCE SOUTH 29° 59'00" EAST 110 25 FEET TO THE TRUE POINT OF BEGINNING, THENCE SOUTH 88° 59' EAST 146 FEET, THENCE SOUTH 1° 07' WEST 90 FEET MORE OR LESS, TO THE SHORE OF LAKE MERIDIAN; THENCE NORTHWESTERLY ALONG THE SHORE OF LAKE MERIDIAN TO A POINT WHICH BEARS SOUTH 01° 07'00" WEST FROM THE TRUE POINT OF BEGINNING, THENCE NORTH 01° 07'00" EAST 45 FEET MORE OR LESS, TO THE TRUE POINT OF BEGINNING, TOGETHER WITH SECOND CLASS SHORELANDS ADJOINING.

EXHIBIT "B"
AFTER RECORDING RETURN TO:

City of Kent
220 Fourth Avenue South
Kent, WA 98032
City Clerk

Document type: Ordinance

Reference number(s):

Additional reference numbers on page ______ of document

Grantor(s):
1 City of Kent

Trustee:

Grantee(s):
1 The Public.

Legal description: Abbreviated form: Ptn. STR 27-22-05

Full legal description on page ______ of document,

Property tax account number(s): 272205-9164

NON-STANDARD RECORDING

I am requesting an emergency nonstandard recording for an additional fee of $50.00, as provided in RCW36.18.010. I understand that the processing requirements needed to record this document may cover up or otherwise obscure some part of the text of the original document.

(Signature)
WASHINGTON STATE COUNTY AUDITOR/RECORDER'S COVER SHEET

Document Title: City of Kent Ordinance No. 3885 authorizing the rezoning of approximately 6.32 acres of property located at 25840 135th Lane Southeast from Single Family Residential 4.5 units per acre to Single Family Residential 6 units per acre.

Reference Number(s): N/A

Grantor(s): City of Kent, a Washington municipal corporation

Grantee(s): The Public

Abbreviated Legal Description: Ptn. of STR 27-22-05, City of Kent, W.M., King County

Additional legal description is on Exhibit “B” of document.

Assessor's Property Tax Parcel/Account Number(s): 2722059164

Project Name: Meridian Banks Rezone

Said document(s) were filed for record by Pacific Northwest Title as accommodation only. It has not been examined as to proper execution or as to its effect upon the

Return Address:

Attn: City Clerk
City of Kent
220 Fourth Ave. S.
Kent, WA 98032