

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS STATE OF WASHINGTON**

ORDINANCE NO. 2007 - 06

**BLACK HORSE AT WHISKEY CREEK REZONE (Z-06-15)
AND PRELIMINARY PLAT (P-06-22)**

**IN THE MATTER OF AMENDING THE KITTITAS COUNTY ZONING ATLAS FOR A
PORTION OF SECTION 27 OF TOWNSHIP 18 N., RANGE 18 E., FROM AGRICULTURE-3 TO
PLANNED UNIT DEVELOPMENT
AND DIVISION OF THE PLANNED UNIT DEVELOPMENT INTO 375 LOTS**

WHEREAS, according to Kittitas County Code Titles 15A & 17, relating to general rezones, adopted pursuant to RCW 36.70B & 36.70 respectively, and according to Kittitas County Code Title 16, relating to Subdivision of Land, adopted pursuant to RCW 58.17, an open record hearing was held by the Kittitas County Planning Commission on December 12, 2006 for the purpose of considering a zone change consisting of approximately 73.34 acres from Agriculture-3 to Planned Unit Development (PUD), and a 375-lot preliminary plat of the Planned Unit Development and described as follows:

ALL OF AND PORTIONS OF A PARCEL LYING EAST OF REECER CREEK DRIVE AND NORTH OF BENDER ROAD AT 1406 WEST BENDER ROAD, ELLENSBURG, WA 98926 WITHIN SECTION 27 described as being a portion of section 27 of T.18N., R.18E., W.M., in the County of Kittitas, State of Washington; all of map number 18-18-27010-002. And,

WHEREAS, testimony was taken from those persons present who wished to be heard during said open record hearing before the Planning Commission; and,

WHEREAS, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such zone change; and,

WHEREAS, the Planning Commission recommended approval of said proposed rezone and preliminary plat in a 4-0 decision; and,

WHEREAS, a closed record public meeting was held by the Board of County Commissioners on January 16, 2007 to consider the Planning Commission's recommendation on this matter; and,

WHEREAS, the following FINDINGS OF FACT and CONCLUSIONS AT LAW have been made concerning said proposed rezone and preliminary plat:

1. Jennifer Steig, authorized agent for SSHI, LLC dba D.R. Horton, landowner has submitted applications for the following: 1. Black Horse at Whiskey Creek Rezone (Z-06-15), rezone from Agriculture-3 to Planned Unit Development (PUD) for approximately 73.34 acres, and 2.

Black Horse at Whiskey Creek Preliminary Plat (P-06-22) which is a 375-lot subdivision.

2. The subject property is located east of Reecer Creek Drive and north of Bender Rd at 1406 West Bender Rd, Ellensburg, WA 98926 in Section 27, T18N., R18E., W.M. in Kittitas County. Parcel number 18-18-27010-0002.
3. Pursuant to KCC 17.36: Planned Unit Development any persons or corporation applying for a planned unit development zone shall file a preliminary development plan with an application for zone change. The total acreage for the proposed PUD is 73.34 acres with a total of 375 units being proposed. The submitted application is proposing a phased approach into two phases.
4. Pursuant to KCC 17.36.040: final development plan for Planned Unit Development, following approval of the preliminary development plan by the county and before lot sales or building construction commences, the developer (owner) shall submit a final development plan for approval by the Board of County Commissioners.
5. The subject property was used in the past for agricultural and grazing activities. Currently on-site is a single family residence and associated accessory structures. Surrounding uses include a mixture of uses which includes residential and agricultural.
6. Zoning to the north is Agriculture-3, west and south is suburban, and zoning to the east is Agriculture-3.
7. A Notice of Application was issued on June 14, 2006 by Kittitas County Community Development Services. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners, and other interested parties.
8. Written comments were solicited and the final date to submit written comments was on July 17, 2006 by 5:00pm. Comments were received and have been made part of the project record.
9. Based on the review of the submitted application materials (including an environmental checklist), correspondence received during the 30 day comment period and other information on file with our office, a SEPA Mitigated Determination of Non-Significance (MDNS) was issued by Kittitas County Community Development Services on October 31, 2006. No SEPA Appeals were received. The mitigations contained within the SEPA are as follows:

I. Transportation

- A. Internal roads shall be constructed in accordance with Kittitas County or the City of Ellensburg standards, whichever is more restrictive.
- B. Half street improvements, including sidewalk, full height curb and gutter, asphalt, street lighting, and storm drainage improvements will be required along Bender Road, Reecer Creek Road and Bowers Road frontages of the development. The developer shall install full street improvements, including sidewalk, curb and gutter, asphalt, street lighting, and storm drainage improvements along the interior

streets.

- C. Bowers Road and Reecer Creek Road are both identified as arterials on the City's comprehensive plan. The developer will need to dedicate additional right of way on Reecer Creek Road, from approximately the north side of the canal crossing and extending south to Bender Road. Arterial roadways are 48' wide face to face of full height curbs, with 7' sidewalks.
- D. Bender Road is identified as a collector, and also listed on the city bike plan. The existing right of way of Bender is 60' wide. The Bender Road improvements shall be 44' wide face to face of full height curbs, with 6' sidewalks.
- E. All proposed interior roadways will be local access roadways, with 50' wide right of way. Local access roadways are 38' wide face to face of rolled curbs, with 5' sidewalks.
- F. The proposed Lariat Street on the preliminary site plan is proposed as an 80' wide right of way, and the proposed 29th Avenue is proposed as a 60' wide right of way. At time of project civil plans submittal, the developer shall provide a proposed roadway section at these two streets to the city.
- G. The proposed roadway names shown on the preliminary plat map have been reviewed and approved by the City of Ellensburg and the fire department.
- H. The developer shall include on their site plan the 185 foot long right turn lane from Bender Road into the development with appropriate striping. The developer shall include on their site plan the 160 foot long right turn taper from Reecer Creek Road into the development as described in the GTC Traffic Impact Analysis for the development. Improvements shall be built or bonded prior to final approval.
- I. Prior to final plat approval the developer shall pay \$15,000 towards the total estimated current cost for offsite traffic improvements of \$200,000 (a semi-actuated signal at the intersection of Reecer Creek Road and University Way). This amount is 7.5% of the total cost to construct and install the signal to include mast arms, detection loops, and advance warning signs. The County will invest these funds until the signal is constructed in approximately six years in order to keep up with inflation

II. Light and Glare

- A. Any proposed lighting should be shaded and directed down towards the site.
- B. Street lighting shall conform to city street lighting requirements and standards.

III. Water

- A. Any filling of the onsite Category IV wetland will be in accordance with Kittitas County Code 17A: Critical Areas. Design and development of mitigations for the impact of wetlands shall be reviewed and approved prior to disturbance. Development mitigations shall be reviewed by the County, DOE, and other jurisdictional agencies. The mitigation plan shall contain a maintenance plan which demonstrates a physical and legal maintenance of the wetlands by the appropriate Homeowner's Association (HOA) or other entity.
- B. The development shall comply with Cascade Irrigation District and Ellensburg Water requirements, and shall not interfere with irrigation delivery to any downstream users. Prior to final approval, a certificate/letter of approval must be received by CDS from the irrigation entity representative stating that the proposed

- development meets the irrigation entity requirements (KCC 16.18.030).
- C. The project shall comply with Kittitas County Code 17A: Critical Areas and 14.08: Flood Damage Prevention.
 - D. A 100 foot setback from the Ordinary High Water Mark (OHWM) of Whiskey Creek, location of wetlands and the boundary of the 100 year flood plain shall be shown on the final mylar. The allowed uses within the Whiskey Creek buffer shall comply with applicable jurisdictional requirements and the appropriate permits shall be obtained as necessary.
 - E. Proper signage shall be incorporated on-site and CC&R restrictions shall be put in place to encourage the maintenance of the buffer to retain the natural condition of Whiskey Creek.
 - F. Site grading and development shall be designed as to minimize loss of existing flood storage or flood conveyance capacity, and shall have adequate drainage provided to reduce exposure to flood damage.
 - G. The applicants design engineer shall determine groundwater elevations in the vicinity of proposed stormwater treatment and flow control facilities. The water surface elevation shall be utilized in the facility designs and shall be verified when groundwater is at its highest.
 - H. Storm water and irrigation conveyance shall be kept separate.
 - I. Stormwater and surface runoff generated by this project must be retained and treated on-site in accordance with regulating agencies' standards.
 - J. Stormwater shall not be discharged to Whiskey Creek or on-site wetlands without treatment.
 - K. The project shall comply with all requirements of the Department of Ecology Storm Water Manual for Eastern Washington, County and the City of Ellensburg standards for stormwater, whichever is more stringent; and shall be collected, retained and disposed of on-site accordingly.
 - L. The developer shall provide for the ongoing maintenance of drainage swales and shall identify long term maintenance in CCRs. A plat note shall be included in the final mylar as follows *As long as the detention tract is privately and not publicly owned, the detention tract shall be maintained by the Homeowner's Associations (HOA), as per the latest Department of Ecology's "Best Management Practices" Manual.*
 - M. Erosion control measures must be in place prior to any clearing, grading or construction.
 - N. The project shall meet the requirements for a NPDES Construction Storm Water permit.
 - O. On-site drainage features associated with construction shall be designed such that off-site adjacent wetlands are not dewatered or impacted.
 - P. The project shall comply with the requirements of the Army Corps of Engineers Nationwide Permit.

IV. Noise and Aesthetics

- A. All county noise ordinances shall apply to the project.
- B. Construction activities shall comply with KCC 9.45 (Noise).
- C. Landscaping shall be provided consisting of a mixture of native plantings, and mixed deciduous and conifer trees as reflected in the draft landscaping plan in

order to provide a buffer to the surrounding area.

V. Land Use

- A. A final development plan pursuant to Kittitas County Code 17.36.040 shall be submitted for approval by the Board of County Commissioners.
- B. All proposals of the applicant included within their application that are not in conflict with these mitigations shall be conditions of approval and shall be considered as mitigations.
- C. Pursuant to Kittitas County Code 17.74.060A, a Plat Note regarding the Right to Farm Ordinance is required. The note shall read as follows: "The subject property is within or near land used for agriculture on which a variety of commercial activities may occur that are not compatible with residential development for periods of varying duration. (RCW 36.70A.060(1)) Commercial natural resource activities performed in accordance with county, state and federal laws are not subject to legal action as public nuisances." (RCW 7.48.305).

VII. Utilities and Services

- A. As required in the outside utility agreement, the installation of utility, street and other public improvements shall conform to the standards and specifications approved by the City of Ellensburg and such development standards shall use the current City development design requirements as the standard for review of the development.
 - B. The project shall be served by City water and sewer services. The applicant shall work with the city to establish the appropriate connections per the City of Ellensburg processes and standards.
 - C. All requirements from the local fire jurisdictions shall be incorporated into the project. This project shall comply with International Fire Code (IFC) and Appendices.
 - D. "No parking: fire lane" shall be posted within 20 feet of all internal intersections. The signs must comply with IFC Appendix D.
 - E. The subject property shall conform to the minimum requirements for fire apparatus access.
 - F. Location and amount of fire hydrants on-site shall meet local fire jurisdiction requirements.
 - G. Mail routes shall be approved by the postmaster. The postmaster shall also approve mailbox locations. Mailbox locations shall not create sight obstructions.
 - H. The applicant shall work with the local school district to provide for a safe location and passageway for a school bus stop. This location shall be delineated on the final mylar.
10. An administrative site analysis was completed by the staff planner in compliance with Title 17A. The subject property is impacted by Whiskey Creek along the lower southeast boundary line, the 100 year flood plain the southeast corner of the subject property, and Palustrine Emergent Seasonal (PEMC) wetlands. The following are findings from the review: **Whiskey Creek:** Whiskey Creek, a Type 3 waster, is located on the subject property. All development will need to comply with the KCC 17A: Critical Areas, KCC 14.08: Flood Damage Prevention and SEPA mitigations. **Wetlands:** Category IV wetlands

have been identified on-site per the submitted wetlands analysis and addendum, and per review and consultation with the Washington State Department of Ecology. All development will need to comply with the KCC 17A: Critical Areas, KCC 14.08: Flood Damage Prevention and SEPA mitigations. **100 year flood plain:** The 100 year floodplain is located within the subject property, particularly in relation to Whiskey Creek. All development will need to comply with the KCC 17A: Critical Areas, KCC 14.08: Flood Damage Prevention and SEPA mitigations.

11. A hearing was originally scheduled before the Kittitas County Planning Commission for November 14, 2006, and due to lack of quorum the hearing was continued to November 28, 2006. The November 28, 2006 hearing was continued to December 12, 2006 due to lack of quorum. The Kittitas County Planning Commission held a public hearing on December 12, 2006 to consider this matter and testimony was taken from those persons who wished to be heard.
12. The Planning Commission finds that the proposed rezone is consistent with the underlying Comprehensive Plan designation of Urban Ellensburg.
13. The Planning Commission finds that the proposed rezone does meet all seven criteria of Kittitas County Code 17.98.020(E) as outlined below:
 - A. *The proposed amendment is compatible with the comprehensive plan. The proposed zone is compatible with the land use designation of Urban Ellensburg. The subject property is located within the Urban Growth Area of Ellensburg.*
 - B. *The proposed amendment bears a substantial relation to the public health, safety or welfare. The project contained within this application is within the Ellensburg Urban Growth Area and will be served by municipal water and sewer if the application is approved. An "Outside Utility Agreement, Annexation Covenant" between the City of Ellensburg and the owners of the subject property was signed on April 19th, 2006.*
 - C. *The proposed amendment has merit and value for Kittitas County or a sub-area of the county. The subject property is located within the Urban Growth Area of the City of Ellensburg and will be served by urban levels of service.*
 - D. *The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property. The subject property is located within the Urban Growth Area where urban levels of development are supported. The proposal allows for reasonable development of the subject property that will be served by municipal services.*
 - E. *The subject property is suitable for development in general conformance with zoning standards for the proposed zone. The subject property is located within the Urban Growth Area of the City of Ellensburg. An "Outside Utility Agreement, Annexation Covenant" between the City of Ellensburg for municipal services has been signed.*
 - F. *The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property. The subject property was used in the past for agricultural and grazing activities. Currently on-site is a single family residence and associated accessory structures. Surrounding uses include a mixture of uses which includes residential and agricultural. Zoning to*

the north is Agriculture-3, west and south is suburban, and zoning to the east is Agriculture-3. Mitigations are contained with the SEPA MDNS that addresses impacts to properties in the immediate vicinity of the property.

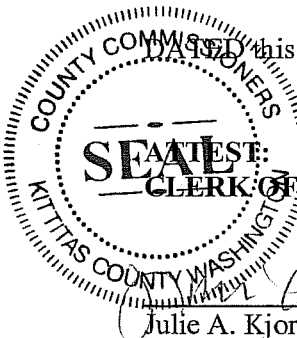
- G. *The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties. Per the SEPA MDNS: The development shall comply with Cascade Irrigation District and Ellensburg Water requirements, and shall not interfere with irrigation delivery to any downstream users. Prior to final approval, a certificate/letter of approval must be received by CDS from the irrigation entity representative stating that the proposed development meets the irrigation entity requirements (KCC 16.18.030).*

14. Additional conditions are not necessary to protect the public's interest.

15. Public testimony was heard.

NOW THEREFORE,

BE IT HEREBY ORDAINED by the Board of County Commissioners of Kittitas County, Washington, after due deliberation and in the best interest of the public, does hereby approve said zone change consisting of approximately 73.34 acres from Agriculture-3 to Planned Unit Development (PUD) known as the Black Horse at Whiskey Creek Rezone (Z-06-15), and a 375-lot preliminary plat known as the Black Horse at Whiskey Creek Plat (P-06-22), and does hereby authorize the amendment of the Kittitas County Zoning Map as set forth in attached Exhibit A and does hereby approve the proposed development configuration for the preliminary plat as set forth in attached Exhibit B.



PASSED this 10th day of February, 2007 at Ellensburg, Washington.

**BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON**

Julie A. Kjorsvik
Julie A. Kjorsvik

Alan A. Crankovich
Alan A. Crankovich, Chairman

David B. Bowen
David B. Bowen, Vice-Chairman

APPROVED AS TO FORM:

Greg Zempel WSBA #19125

Mark McClain
Mark McClain, Commissioner

**Exhibit A: Black Horse at Whiskey Creek Rezone (Z-06-15) and Preliminary Plat (P-06-22)
Property locator maps**

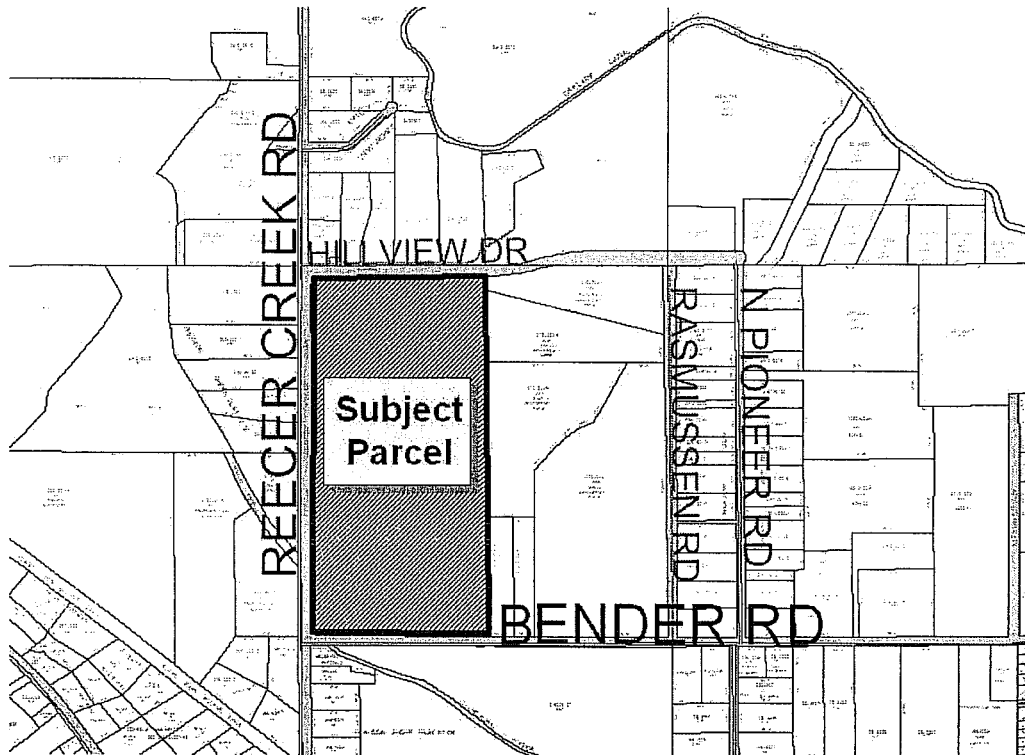
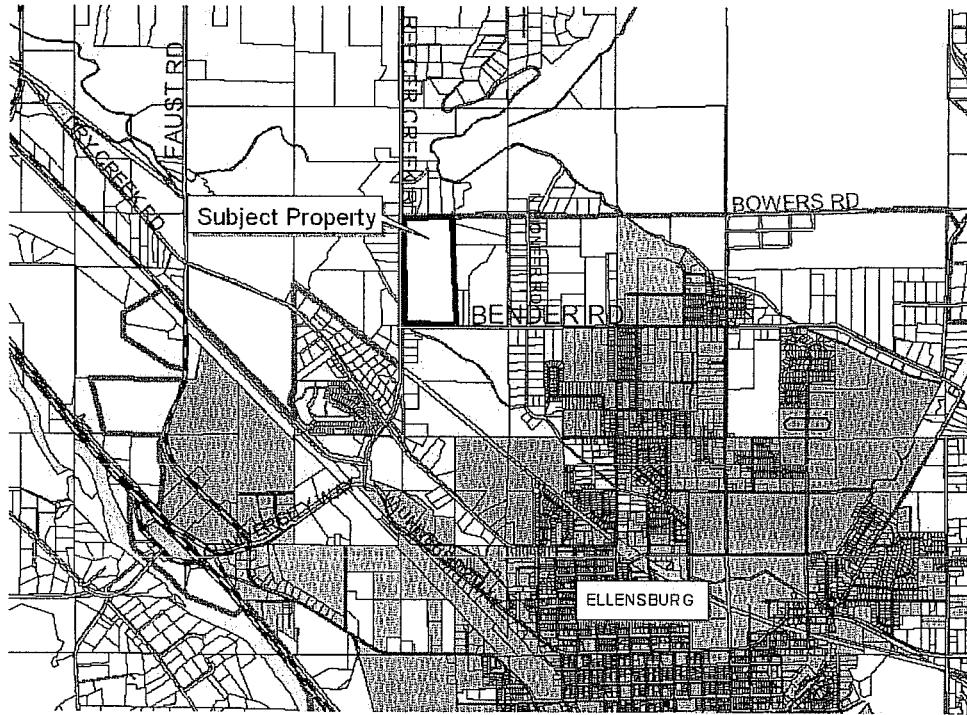
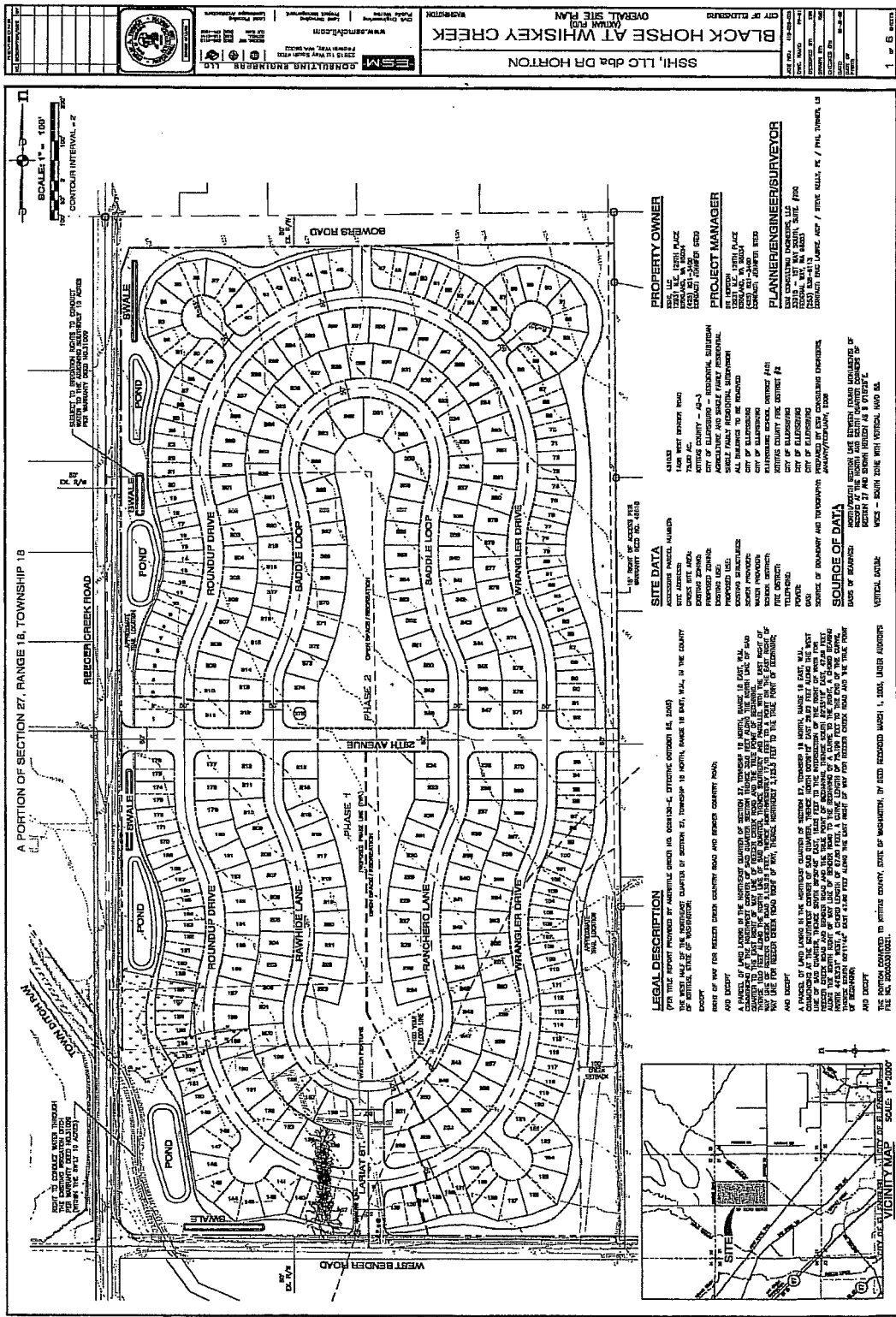


Exhibit B: Black Horse at Whiskey Creek Rezone Preliminary Plat (P-06-22)



*Most recent Preliminary Plat Map
10/27/06*