

**KING COUNTY
DEPARTMENT OF NATURAL RESOURCES AND PARKS
WATER AND LAND RESOURCES DIVISION**

**Report to the King County Hearing Examiner for Property
Enrollment in the Public Benefit Rating System (PBRs)**

February 14, 2017 – Public Hearing

APPLICANT: Joseph Storm

File No. E16CT039

A. GENERAL INFORMATION:

1. Owner: Joseph Storm
24606 SE 424th Street
Enumclaw, WA 98022
2. Property location: same as above
3. Zoning: A35
4. STR: NW-14-20-06
5. PBRs categories requested by applicants *and recommended by program staff:*

Open space resources

Aquifer protection area
Buffer to public or current use classified land
Farm and agricultural conservation land
Significant wildlife and salmonid habitat
Special animal site
Surface water quality buffer
Watershed protection area

Bonus categories

Resource restoration
Additional surface water protection area

6. Parcel: 142006-9009
Total acreage: 8.76
Requested PBRs: 4.50
Home site/excluded area: 1.36
Recommended PBRs: 7.40*

***Recommended PBRs acreage is dependent upon the property's qualification for the farm and agricultural conservation land category, which requires participating acreage be managed according to an approved farm management plan. Without award of this category, the property is not eligible to participate in PBRs.**

NOTE: The portion recommended for enrollment in PBRs is the entire property less the excluded area as measured. The attached 2015 aerial photo outlines the parcel in yellow and the areas proposed to be excluded from PBRs in blue. In the event the Assessor's official parcel size is revised, PBRs acreage should be administratively adjusted to reflect that change.

B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned RA5, A10 and A35.
2. Development of the subject property and resource characteristics of open space area: The property contains a single family residence, driveway, septic drain field, well, lawn and garden. There are also plans to build a barn. The open space portion of the property consists of pasture, a small Christmas tree lot and adjacent forested wetland, which includes areas heavily impacted by Himalayan blackberry that will be addressed in a farm management plan. Additionally, the forested area has a Type F stream that flows both from the pond on the property and from a tributary that enters the property from the north. The stream then flows southwesterly where it exits the property through the west property line.
3. Site use: The property is used as a single family residence and farm.
4. Access: The property is accessed from SE 472nd Street.
5. Appraised value for 2016 (Based on Assessor's information dated 12/12/2016):

<u>Parcel #142006-9009</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	\$211,000.00	\$257,000.00	\$468,000.00
Tax applied	\$2,706.14	\$3,296.11	\$6,002.25

NOTE: Participation in PBRs reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value.

C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

KCC 20.36.010 Purpose and intent.

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessed valuation on "open space land" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the application. In making such recommendation, the department will utilize the point system described in section B. and C. below.
- B. The following open space resources are each eligible for the points indicated:
1. Public recreation area – five points
 2. Aquifer protection area – five points
 3. Buffer to public or current use classified land – three points
 4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
 5. Active trail linkage – fifteen or twenty-five points
 6. Farm and agricultural conservation land – five points
 7. Forest stewardship land – five points
 8. Historic landmark or archaeological site: buffer to a designated site – three points
 9. Historic landmark or archaeological site: designated site – five points
 10. Historic landmark or archaeological site: eligible site – three points
 11. Rural open space – five points
 12. Rural stewardship land – five points
 13. Scenic resource, viewpoint, or view corridor – five points
 14. Significant plant or ecological site – five points
 15. Significant wildlife or salmonid habitat – five points
 16. Special animal site – three points
 17. Surface water quality buffer – five points
 18. Urban open space – five points
 19. Watershed protection area – five points

- C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:
1. Resource restoration - five points
 2. Additional surface water quality buffer - three or five points
 3. Contiguous parcels under separate ownership - two points
 4. Conservation easement of historic easement – fifteen points
 5. Public access - points dependent on level of access
 - a. Unlimited public access - five points
 - b. Limited public access - sensitive areas - five points
 - c. Environmental education access – three points
 - d. Seasonal limited public access - three points
 - e. None or members only – zero points
 6. Easement and access – thirty-five points

D. 2012 COMPREHENSIVE PLAN POLICIES AND TEXT:

E-101 In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives should be monitored to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRS staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B10.

E-106 The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40 percent or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;
- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and
- h. Volcanic hazard areas.

E-421 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

E-429 King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants.

NOTE: Participation in PBRs requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

E-443 The county should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

E-476 King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

E-504 King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRs provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRs requirement.

E-449 The county shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

R-605 Well-managed forestry and agriculture practices are encouraged because of their multiple benefits, including natural resource protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

E. PBRs CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:

NOTE: The forested 4.85 acres (outline in green on the attached map) of the property is part of a larger wetland complex. This wetland also contains a section of a salmon bearing stream. At this point, a natively vegetated buffer to the wetland that meets or exceeds buffer requirements of King County code for either aquatic feature is not

provided, nor is it foreseen that a buffer of this width will be created under existing uses. However, KCC 20.36.190 states “a plant community where native plants are dominant that does not independently contain a qualifying open space resource can participate if it is contiguous to and provides a benefit to a portion of the property being awarded credit for a qualifying open space priority resource.” Because this wetland area is adjacent to the farm and contains important shade opportunities for livestock during hot summer months and will also be managed by a farm management plan to address control and eradication of invasive plant species, its acreage enrollment is recommended.

Open space resources

- Aquifer protection area

To be eligible for this category, a property must have a minimum of one acre of which native plants are dominant that is located within a designated critical aquifer recharge area. This property is not located in an area designated as a critical aquifer recharge area therefore credit for this category cannot be recommended.

- Buffer to public or current use classified lands

To be eligible for this category, a property must be adjacent and provide a natively vegetated buffer not less than fifty feet in length and width to a publicly owned park, trail, forest, or property participating in a current use taxation program. Although the forested portion of the property is adjacent to land owned by King County to the north and west, and provides a natively vegetated buffer of more than fifty feet in length and width, the area is entirely encumbered by streams, wetland and regulated buffer protections. A qualifying buffer beyond what is already required by county regulation is therefore not being provided. Credit for this category cannot be recommended.

- Farm and agricultural conservation land

Although credit for this category was not requested, the property has over two acres of traditional farmland and is located in the Enumclaw Agricultural Production District (APD). In order for the property to qualify for this category and enroll in PBRs, an approved farm management plan must be implemented. This farm management plan will also address the eradication of Himalayan blackberry in the 4.85 acre forested area (outlined in green) so that portion of the property can also be enrolled. The owner must work with the King Conservation District to develop a farm management plan. Credit for this category is recommended dependent upon this plan being received by the department on or before **October 31, 2017**.

- Significant wildlife or salmonid habitat

The property does contain a salmon bearing stream. To receive credit for salmonid habitat, the owner must provide a buffer of native vegetation to this stream that is at least fifteen percent greater in width than required by county code. Because the property is not providing a qualifying buffer to this stream beyond that which is already required by county regulation credit for this category cannot be recommended.

- Special animal site

To be eligible for this category, the property must include or be adjacent to a portion of the county’s designated wildlife habitat network, or be identified as an urban natural area by the State’s priority habitat and species project. In this case, neither recognized

wildlife coverage is identified on or near the property. Credit for this category cannot be recommended

- Surface water quality buffer
To be eligible for this category, a property must have or be adjacent to a wetland, creek, or pond, etc, and must be providing a buffer of native vegetation to a surface water feature that is greater than one and a half times that required by county code. Although the property does contain portions of wetland and Type F stream, the property is not providing a qualifying buffer to either water feature beyond that which is already required by county regulation. Credit for this category cannot be recommended.
- Watershed protection area
To be eligible for this category, the enrolling forested area must be contiguous, consist of additional native forest cover beyond that required and be at least 65% of the property acreage. For this property, at least 5.69 contiguous forested acres are required to participate for credit to be awarded. The landowner plans to enroll 4.85 acres of forest, which is less than 65%. Credit for this category therefore cannot be recommended.

Bonus categories

- Resource restoration
In order for credit to be awarded for this category, a resource restoration plan must be provided and approved. Much of the forested area is in need of Himalayan blackberry removal and the owner would like to address this issue. The control and eradication of invasive plant species will be captured in farm management plan, which will allow the 4.85 acres outlined in green to qualify for enrollment by receiving credit for the farm and agricultural land category. Credit for this category cannot be recommended.
- Additional surface water quality buffer
To be eligible for this category, a property must have or be adjacent to a wetland, creek, or pond, etc, and must be providing a buffer of native vegetation to a surface water feature that is greater than one and a half times that required by county code. Although the property does contain portions of wetland and Type F stream, the property is not providing a qualifying buffer to either water feature beyond that which is already required by county regulation. Credit for this category cannot be recommended.

NOTE: It is important to note that enrollment in the PBRS program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS:

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.

- Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

Open space resources	
Aquifer protection area	0
Buffer to public or current use classified land	0
Farm and agricultural conservation land	5*
Significant wildlife and salmonid habitat	0
Special animal site	0
Surface water quality buffer	0
Watershed protection area	0
Bonus categories	
Resource restoration	0
Additional surface water quality buffer	0

TOTAL 5 points

NOTE: *Without award of this category, the entire property would not be eligible to participate in PBRs. If the farm plan does not address the restoration needs within the 4.85 acres outline in green, then it is possible only 2.55 acres can be enrolled in PBRs.

PUBLIC BENEFIT RATING

For the purpose of taxation, 5 points result in 50% of market value and a 50% reduction in taxable value for the portion of land enrolled.

B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of 5 points, subject to the following requirements:

**Requirements for Property Enrolled in the
Public Benefit Rating System Current Use Taxation Program**

- Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRs) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The County Assessor and the King County Rural and Regional Services Section or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.

2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the King County Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the Assessor and the King County Rural and Regional Services Section or its successor of a change in circumstance with regard to the Property.
4. When a portion of the open space Property is withdrawn or removed from the program, the King County Rural and Regional Services Section or its successor and the Assessor shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining portion meets the criteria for priority resources, it may continue under current use taxation.
5. Except as provided for in sections 6, 7 and 9 below, no alteration of the open space land or resources shall occur without prior approval by the King County Rural and Regional Services Section or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: *(Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.)*
 - a. erecting structures;
 - b. grading;
 - c. filling;
 - d. dredging;
 - e. channelizing;
 - f. modifying land or hydrology for surface water management purposes;
 - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
 - h. applying herbicides or pesticides or any hazardous or toxic substance;
 - i. discharging pollutants excepting stormwater;
 - j. paving, construction, application of gravel;

- k. storing of equipment, household supplies, play equipment, or compost;
 - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
 7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the King County Rural and Regional Services Section or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the King County Rural and Regional Services Section or its successor, in order to replace such species with native species or other appropriate vegetation.
 8. There shall be no motorized vehicle driving or parking allowed on the open space Property, except for the purpose of farm and agriculture and in areas of the Property being used as farm and agricultural conservation land.
 9. For land designated as farm and agricultural conservation land, activities that are consistent with farm or agriculture uses and that are consistent with the approved farm management plan shall be permitted as long as those activities do not cause a significant adverse impact to the resource values of other awarded categories.
 10. An owner of property receiving credit for farm and agricultural conservation land, forest stewardship land, or rural stewardship land, all of which require a stewardship or management plan, must annually provide a monitoring report that describes progress of implementing the plan. The owner must submit this report, which must include a brief description of activities taken to implement the plan and photographs from established points on the property, to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.
 11. Enrollment in PBRS *does not* exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

TRANSMITTED to the parties listed hereafter:

Office of the King County Hearing Examiner
Joseph Storm, applicant
Debra Clark, King County Department of Assessments
Liz Clark, King Conservation District



4.85 acres

1420069009

1.36 acres

2015 Aerial Photo