

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**REPORT AND RECOMMENDATION TO THE
METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: Department of Natural Resources and Parks file no. **E22CT013**
Proposed ordinance no. **2023-0043**
Parcel nos. **3121069046 and 3121069010**

BARRY WALLIS

Open Space Taxation Application (Public Benefit Rating System)

Location: 37901 183rd Avenue SE, Auburn

Applicant: **Barry Wallis**
1101 Fawcett Avenue Suite 300
Tacoma, WA 98402
Telephone: (206) 607-7777
Email: BarryW@wallislawfirm.com

King County: Department of Natural Resources and Parks
represented by **Megan Kim**
201 S. Jackson Street Suite 5600
Seattle, WA 98104
Telephone: (206) 477-4788
Email: megan.kim@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 16.90 acres for 20% of assessed value
Conditionally approve 38.85 acres for 10% of assessed value
Examiner's Recommendation: Approve 16.90 acres for 20% of assessed value
Conditionally approve 38.85 acres for 10% of assessed value

PRELIMINARY REPORT:

On February 16, 2023, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT013 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a Zoom public hearing on the application on March 2, 2023.

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

FINDINGS AND CONCLUSIONS:

1. General Information:

Owner:	Barry Wallis 1101 Fawcett Avenue Suite 300 Tacoma, WA 98402
Location:	37901 183rd Avenue SE, Auburn
STR:	SW-31-21-06
Zoning:	A10
Parcel no.:	3121069046 and 3121069010
Total acreage:	39.85 acres

- The Applicant timely filed an application to King County for the Public Benefit Rating System (PBRs) program current use valuation of the property to begin in 2023. As required by law, notification of the application occurred.
- The property is currently enrolled in the State's farm and agricultural land program. The purpose of this application is to reclassify the property and enroll it in PBRs. Any new open space taxation agreement must supersede the existing agreement.
- A summary of relevant PBRs categories follows below. (Plain text represents a category an applicant requested an award for and that DNRP agrees is warranted. Any ~~strike through~~ represents a category an applicant requested an award for but that DNRP disagrees is warranted. Any *italics* represents a category an applicant did not request an award for, but that DNRP nonetheless concludes is warranted. And any *asterisk* represents a category where DNRP finds an award is warranted, but only if certain contingencies or conditions are met.)

PBRS categories:	<u>Open Space Resources</u>	
	Aquifer protection area	5
	Buffer to public or current use classified land	3
	Farm and agricultural conservation land	*
	Forest stewardship land	**
	Rural open space	5
	Significant wildlife or salmonid habitat	5
	Surface water qualify buffer	5*
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	Total	23

The DNRP-recommended score of 23 points results in a current use valuation of 20% of assessed value for the enrolled portion of the property.

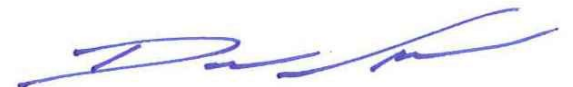
5. Additional credit may be awarded administratively under the farm and agricultural conservation land, subject to submittal of a King Conservation District-approved farm management plan by **October 31, 2023**. Award of credit under this category will increase the point total by five points (from 23 to 28), which will not by itself change the assessed value but will allow 21.95 additional acres to enroll in PBRS.
6. Additional credit may be awarded administratively under the forest stewardship land category, subject to submittal of a forest stewardship plan by **September 1, 2023**, and subsequent DNRP approval of that plan by **November 1, 2023**. Award of credit under this category will increase the point total by five more points (from 28 to 33), which will still not, even in combination with five farm and agricultural conservation land points, change the current use valuation. It could, however, allow approved forestry activities to occur on the property.
7. The determining factor for whether the proposal reaches 35 points and a current use valuation of 10% comes down to stream buffers. Under an approved farm plan, creek buffer widths can be reduced to 25 feet. If the Applicant’s farm plan addresses this, and sufficiently enhances and expands the otherwise-required buffer (as required by KCC 20.36.100.C.18), additional points may be awarded administratively, qualifying the property for the maximum 90% property tax reduction. See page 7 of DNRP’s report and the attached map.
8. As to the land area recommended for PBRS enrollment, the Applicant requested 38.85 acres and DNRP recommends 16.90 acres, with the possibility (explained above) of increasing enrollment to 38.85 acres. (Enrollment acreage is the entire parcel less the excluded area, as calculated by DNRP. In the event the County Assessor’s official parcel size is revised, the PBRS acreage shall be administratively adjusted to reflect that change.)
9. Except as modified herein, we find the facts set forth in DNRP’s preliminary report and testimony at the March 2, 2023, public hearing correct and we incorporate them by reference. We will provide copies of this report and DNRP’s report to the Metropolitan King County Council for final approval.

- A. Page 1 of the report incorrectly lists the location of the parcel as NW-06-20-06, which appears to be a carryover from the staff report in *Tislenok—E22CT025*. The published notice listed the correct SW-31-21-06 location.
 - B. The report lists “additional surface water quality buffer” as a “bonus category.” The recent KCC chapter 20.36 changes eliminated this as a bonus category and merged it into KCC 20.36.100.C.18’s “surface water quality buffer” category, under which an applicant can earn five, eight, or ten points.
10. Approval of 23 points and a current use valuation of 20% of assessed value for 16.90 acres, and conditional approval of a current use valuation of 10% of assessed value for 38.85 acres, are consistent with KCC Chapter 20.36 and with the purposes and intent of King County to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of King County and its citizens.

RECOMMENDATION:

1. APPROVE a current use valuation of 20% of assessed value for the 16.90-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE credit under the farm and agricultural conservation land and enrollment of an additional 21.95 acres, subject to submittal of a King Conservation District-approved farm management plan by **October 31, 2023**.
3. CONDITIONALLY APPROVE credit under the forest stewardship land category, subject to submittal of a forest stewardship plan by **September 1, 2023**, and subsequent DNRP approval of that plan by **November 1, 2023**.
4. CONDITIONALLY APPROVE more points under the surface water quality buffer category, dependent of the farm plan adequately meeting the creek buffer requirements.

DATED March 16, 2023.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

A person appeals an Examiner recommendation by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD). Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal. KCC 20.22.230 also requires that the appellant provide copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner’s recommendation.

Prior to the close of business (4:30 p.m.) on *April 10, 2023*, an electronic copy of the appeal statement must be sent to Clerk.Council@kingcounty.gov and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. If the Office of the Clerk is not officially open on the specified closing date, delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

Unless both a timely and sufficient appeal statement and filing fee are filed by *April 10, 2023*, the Clerk of the Council shall place on the agenda of the next available Council meeting a proposed ordinance implementing the Examiner’s recommended action. At that meeting the Council may adopt the Examiner’s recommendation, defer action, refer the matter to a Council committee, or remand to the Examiner for further hearing or further consideration.

If a timely and sufficient appeal statement and filing fee are filed by *April 10, 2023*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE MARCH 2, 2023, HEARING ON THE APPLICATION OF BARRY WALLIS, FILE NO. E22CT013

David Spohr was the Hearing Examiner in this matter. Megan Kim participated in the hearing.

The following exhibits were offered and entered into the hearing record:

Exhibit no. 1	DNRP report to the Hearing Examiner
Exhibit no. 2	<i>Reserved for future submission of the affidavit of hearing publication</i>
Exhibit no. 3	Legal notice and introductory ordinance to the King County Council
Exhibit no. 4	Arcview/orthophotograph and aerial map
Exhibit no. 5	Application signed and notarized