

October 12, 2016

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
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www.kingcounty.gov/independent/hearing-examiner

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

SUBJECT: Department of Natural Resources and Parks file no. **E16CT018**
Proposed ordinance no. **2016-0448**
Parcel no. **2221079042**

EDWARD AND SUSAN MOSER

Open Space Taxation Application (Public Benefit Rating System)

Location: 32717 SE Kuzak Road, Enumclaw

Applicants: **Edward and Susan Moser**
32717 SE Kuzak Road
Enumclaw, WA 98022
Telephone: (206) 459-3931
Email: susan@ottorosenau.com

King County: Department of Natural Resources and Parks
represented by **Megan Kim**
201 S Jackson Street Suite 600
Seattle, WA 98104
Telephone: (206) 477-4788
Email: megan.kim@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation:	Approve 18.40 acres for 40% of market value
Examiner's Recommendation:	Approve 18.40 acres for 40% of market value

PRELIMINARY REPORT:

On September 23, 2016, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E16CT018 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a public hearing on the application on October 6, 2016, in the Ginger Conference Room, 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington.

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, CONCLUSIONS AND RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owners:	Edward and Susan Moser 32717 SE Kuzak Road Enumclaw, WA 98022
Location:	32717 SE Kuzak Road, Enumclaw
STR:	SW 22-21-07
Zoning:	F
Parcel no.:	2221079042
Total acreage:	20.00 acres

2. The Applicants timely filed an application to King County for PBRS program current use valuation of the property to begin in 2018. As required by law, notification of the application occurred.

3. 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 ~~striketrough~~ 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 *asterisks* represent 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>	
	<i>Buffer to public or current use classified land</i>	3
	<i>*Forest stewardship land*</i>	
	Rural open space	5
	<u><i>Watershed protection area</i></u>	<u>5</u>
		13

The DNRP-recommended score of 13 points results in a current use valuation of 40% of market value for the enrolled portion of the property. Additional credit may be awarded administratively under the forest stewardship land category subject to submittal of a forest stewardship plan by **April 3, 2017**, and subsequent approval by **June 1, 2017**. Award of credit under this category would increase the point total by 5 points, resulting in a current use valuation of 30% of market value for the enrolled portion of the property. It would also preserve the option to conduct approved-forestry activities.

4. As to the land area recommended for PBRS enrollment, the Applicant requested 17.00 acres and DNRP recommends 18.40 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.)
5. Except as modified herein, the facts set forth in the DNRP preliminary report and testimony at the October 6, 2016, public hearing are correct and incorporated herein by reference. Copies of this report and the department report will be provided to the Metropolitan King County Council for final approval.

CONCLUSION:

1. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 13 points and a current use valuation of 40% of market value for 18.40 acres of the property and conditional approval of 5 additional points (which would bring the total to 18 points and 30% of market value for the enrolling 18.40 acres of the property), is consistent 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.
2. The subject property is currently enrolled in the designated forest land program. Any open space taxation participation agreement signed as a result of approval of this application should be worded to supersede any prior agreement for the parcel.

RECOMMENDATION:

1. **APPROVE** current use valuation of 40% of market value for the 18.40-acre enrolled portion of the property.

2. **CONDITIONALLY APPROVE** additional credit under the forest stewardship land category, to be awarded administratively, if the Applicants submit a forest stewardship plan by **April 3, 2017**, and that plan is approved by **June 1, 2017**. This would result in a 5-point increase and in-turn a current use valuation of 30% of market value for the 18.40-acre enrolled portion of the property.

DATED October 12, 2016.



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 *November 7, 2016*, 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 *November 7, 2016*, 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 *November 7, 2016*, the Examiner will notify all parties and interested persons and provide information about "next steps."

MINUTES OF THE OCTOBER 6, 2016, HEARING ON THE APPLICATION OF EDWARD AND SUSAN MOSER, DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E16CT018.

David Spohr was the Hearing Examiner in this matter. Bill Bernstein and Megan Kim both participated in the hearing on behalf of the department.

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

Exhibit no. 1	<i>Not submitted</i>
Exhibit no. 2	<i>Not submitted</i>
Exhibit no. 3	<i>Not submitted</i>
Exhibit no. 4	DNRP report to the Hearing Examiner
Exhibit no. 5	Affidavit of publication
Exhibit no. 6	Notice of hearing from the Hearing Examiner's Office
Exhibit no. 7	Notice of hearing from the PBRs program
Exhibit no. 8	Legal notice and introductory ordinance to the King County Council
Exhibit no. 9	Application signed/notarized
Exhibit no. 10	Legal description of area to be enrolled
Exhibit no. 11	Email to applicant regarding received application and approval schedule
Exhibit no. 12	Arcview and orthophoto/aerial map
Exhibit no. 13	<i>Reserved for future submission of forest stewardship plan</i>

DS/vsm

October 12, 2016

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CERTIFICATE OF SERVICE

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Open Space Taxation Application (Public Benefit Rating System)

I, Elizabeth Dang, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- caused to be placed with the United States Postal Service, with sufficient postage, as **FIRST CLASS MAIL** in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED October 12, 2016.



Elizabeth Dang
Legislative Secretary

All Parties of Record

Akada, Irene

Department of Assessments

Bernstein, Bill

Department of Natural Resources and Parks

Kim, Megan

Department of Natural Resources and Parks

Moser, Edward-Susan

mailed paper copy

Noris, Anne

Metropolitan King County Council

Reed, Mike

Metropolitan King County Council

Sundberg, Charlie

Department of Natural Resources and Parks