

April 5, 2017

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
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**REPORT AND RECOMMENDATION TO THE
METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: Department of Natural Resources and Parks file no. **E16CT046**
Proposed ordinance no. **2017-0060**
Parcel nos. **40457006106, 40457006650**

JERRY MORIARTY

Open Space Taxation Application (Public Benefit Rating System)

Location: 3424 S 360th Street, Auburn

Applicant: **Jerry Moriarty**
3424 S 360th Street
Auburn, WA 98001
Telephone: (253) 927-3320
Email: jscjj5@aol.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 6.12 acres for 50% of market value
Examiner's Recommendation:	Approve 6.12 acres for 50% of market value

PRELIMINARY REPORT:

On March 10, 2017, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E16CT046 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 March 23, 2017, in the Ginger Conference Room, 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington. The Examiner received the affidavit of notice publication on March 16, 2017.

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:	Jerry Moriarty 3424 S 360th Street Auburn, WA 98001
Location:	3424 S 360th Street, Auburn
STR:	NW 27-21-04
Zoning:	RA-4
Parcel nos.:	40457006106, 40457006650
Total acreage:	8.61 acres

2. The Applicant 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 *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>	
	Farm and agricultural conservation land	*5*
	<u>Urban open space</u>	
		5

The DNRP-recommended score of 5 points results in a current use valuation of 50% of market value for the enrolled portion of the property. Award under the farm and agricultural conservation land category is contingent upon submittal of a King Conservation District-approved farm management plan for the property by **October 31, 2017**. Because the property is not eligible under any other PBRs resource category, failure to qualify as farm and agricultural conservation land will preclude the property from enrollment in the PBRs program.

4. As to the land area recommended for PBRs enrollment, the Applicant requested 8.61 acres and DNRP recommends 6.12 acres. Up to 2.45 acres of additional acreage may be awarded administratively, under this same farm and agricultural conservation land category, if the farm plan discussed above addresses eradication of Himalayan blackberry and the reseeded of pasture grass. (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 DNRP's preliminary report and testimony at the March 23, 2017, public hearing are correct and incorporated herein by reference. Copies of this report and DNRP's report will be provided to the Metropolitan King County Council for final approval.
 - A. Change to Department staff report: DNRP filed a revised report to the Hearing Examiner. Revisions can be found in page 1, A. General Information, 6. asterisk, and page 6, first paragraph.
6. Award under all categories must be conditioned upon the control and removal of invasive plant species on the property within a three-year period. Such control and removal is mandatory for the property to qualify as credited open space. Failure to meet this condition will cause disenrollment of the property from the PBRs program.
7. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 5 points and a current use valuation of 50% of market value for 6.12 acres of the property and conditional approval of up to 2.45 additional acres, are 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.

RECOMMENDATION:

1. APPROVE current use valuation of 50% of market value for the 6.12-acre enrolled portion of the property, CONTINGENT on submittal of a King Conservation District-approved farm management plan for the property by **October 31, 2017**. Because the property is not eligible under any other PBRs resource category, failure to qualify as

farm and agricultural conservation land will preclude the property from enrollment in the PBRS program.

2. **CONDITIONALLY APPROVE** up to 2.45 additional acres, to be awarded administratively, subject to submittal of a farm management plan that addresses eradication of Himalayan blackberry and the reseeding of pasture grass in this 2.45-acre area.

DATED April 5, 2017.



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 *May 1, 2017*, 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 *May 1, 2017*, 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 *May 1, 2017*, the Examiner will notify all parties and interested persons and provide information about "next steps."

MINUTES OF THE MARCH 23, 2017, HEARING ON THE APPLICATION OF JERRY MORIARTY, DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E16CT046.

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. 4A	DNRP revised 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	<i>Reserved for: Legal description of area to be enrolled</i>
Exhibit no. 11	Email to applicant regarding received application and approval schedule
Exhibit no. 12	Arcview and orthophoto/aerial map
Exhibit no. 13	Email re revised report, dated March 13, 2017
Exhibit no. 14	<i>Reserved for farm management plan</i>

DS/vsm

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CERTIFICATE OF SERVICE

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JERRY MORIARTY

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I, Elizabeth Dop, 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 April 5, 2017.



Elizabeth Dop
Legislative Secretary

All Parties of Record

Akada, Irene

Department of Assessments

Bernstein, Bill

Department of Natural Resources and Parks

Clark, Debra

Department of Assessments

Freitag, Ivy

Department of Natural Resources and Parks

Kim, Megan

Department of Natural Resources and Parks

Moriarty, Jerry

mailed paper copy

Pedroza, Melani

Metropolitan King County Council

Reed, Mike

Metropolitan King County Council