

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

SUBJECT: Department of Natural Resources and Parks file no. **E16CT020**
Proposed ordinance no. **2016-0450**
Parcel no. **3321079046**

CHRIS AND ROBYN PORTER

Open Space Taxation Application (Public Benefit Rating System)

Location: parcel no. 3321079046, Enumclaw

Applicants: **Chris and Robyn Porter**
44504 228th Avenue SE
Enumclaw, WA 98022
Telephone: (258) 797-4828
Email: daytonatunnel@hotmail.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 7.75 acres for 50% of market value
Examiner's Recommendation:	Approve 7.75 acres for 50% of market value

PRELIMINARY REPORT:

On September 23, 2016, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E16CT020 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:	Chris and Robyn Porter 44504 228th Avenue SE Enumclaw, WA 98022
Location:	parcel no. 3321079046, Enumclaw
STR:	NE 33-21-07
Zoning:	RA-10
Parcel no.:	3321079046
Total acreage:	10.25 acres

- 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.
- 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>	
	Forest stewardship land	
	Rural open space	
	Surface water quality buffer	
	Watershed protection area	5
	<u>Bonus Categories</u>	
	Additional surface water quality buffer	
		<hr/> 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. Additional credit may be awarded administratively under the forest stewardship land category, surface water quality buffer, and additional surface water quality buffer categories.

Credit for the forest stewardship land category is 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, and would reserve the option to conduct approved-forestry activities.

Credit for the surface water quality buffer (5 points) and additional surface water quality buffer categories (3 or 5 points) are subject to submittal of a critical areas report that details locations and types of aquatic features by **January 9, 2017**, and then subsequent review by staff that determines whether (given the baseline critical area buffers) sufficient additional buffers are being protected to meet credit requirements. Award of credit under one or both of these categories could increase the point total by 5, 8, or 10 points.

Market valuation as a result of award of the forest stewardship land, surface water quality buffer, and additional surface water quality buffer categories will be dependent on the final point total, and could be reduced as low as 30% of market value.

4. As to the land area recommended for PBRS enrollment, the Applicant requested 8.00 acres and DNRP recommends 7.75 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 5 points and a current use valuation of 50% of market value for 7.75 acres of the property and conditional approval of up to 15 additional points (which would bring the total to 20 points and 30% of market value for the enrolling 7.75 acres of 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 50% of market value for the 7.75-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the forest stewardship land category, surface water quality buffer, and additional surface water quality buffer categories.

Credit for the forest stewardship land category is 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. And, reserve the option to conduct approved-forestry activities.

Credit for the surface water quality buffer (5 points) and additional surface water quality buffer categories (3 or 5 points) are subject to submittal of a critical areas report that details locations and types of aquatic features by **January 9, 2017**, and then subsequent review by staff that determines whether (given the baseline critical area buffers) sufficient additional buffers are being protected to meet credit requirements. Award of credit under one or both of these categories could increase the point total by 5, 8, or 10 points.

Market valuation as a result of award of the forest stewardship land, surface water quality buffer, and additional surface water quality buffer categories will be dependent on the final point total, and could be reduced as low as 30% of market value.

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 CHRIS AND ROBYN PORTER, DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E16CT020.

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>
Exhibit no. 14	<i>Reserved for future submission of critical area report</i>

DS/vsm

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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

Noris, Anne

Metropolitan King County Council

Porter, Chris and Robyn

mailed paper copy

Reed, Mike

Metropolitan King County Council

Sundberg, Charlie

Department of Natural Resources and Parks