

April 7, 2016

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
Facsimile (206) 296-0198

hearingexaminer@kingcounty.gov

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

SUBJECT: Department of Natural Resources and Parks file no. **E15CT029**
Proposed ordinance no. **2016-0129**
Parcel nos. **3221069019, 3221069020, 3221069082, 3221069108, 3221069107,
3221069106**

JAMES AND KAREN FLYNN

Open Space Taxation Application (Public Benefit Rating System)

Location: 38105 208th Avenue SE, Auburn

Applicants: **James and Karen Flynn**
38105 208th Avenue SE
Auburn, WA 98092
Telephone: (206) 498-4409
Email: jkrv6a2@skynetbb.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 67.62 acres for 20% of market value
Examiner's Recommendation: Approve 67.62 acres for 20% of market value

PRELIMINARY REPORT:

On March 18, 2016, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E15CT029 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 30, 2016, in the Horiuchi Conference Room 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington. The Examiner received the affidavit of notice publication on March 28, 2016.

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:	James and Karen Flynn 38105 208th Avenue SE Auburn, WA 98092
Location:	38105 208th Avenue SE, Auburn
STR:	SE 32-21-06
Zoning:	A-35
Parcel nos.:	3221069019, 3221069020, 3221069082, 3221069108, 3221069107, 3221069106
Total acreage:	73.33 acres

2. The Applicants timely filed an application to King County for PBRS program current use valuation of the property to begin in 2017. 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 ~~strikethrough~~ 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>	
	Aquifer protection area	5
	Farm and agricultural conservation land	5
	Forest stewardship land	
	<i>Rural open space</i>	5
	<i>Significant wildlife or salmonid habitat</i>	5
	<i>Surface water quality buffer</i>	5
	<u>Urban open space</u>	
		<hr/> 25

The DNRP-recommended score of 25 points results in a current use valuation of 20% 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 **August 1, 2016**, and subsequent approval by **October 1, 2016**. Award of credit under this category would increase the point total by 5 points, with no change to the current use valuation. Award of this category affords the opportunity to conduct forest activities on the property, subject to any applicable regulatory approvals.

4. As to the land area recommended for PBRS enrollment, the Applicant requested 65 acres and DNRP recommends 67.62 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 March 30, 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.
 - A. Change to Department staff report: Section A.5, page 1: include 3221069107 in the list of parcels currently enrolled in PBRS.

CONCLUSION:

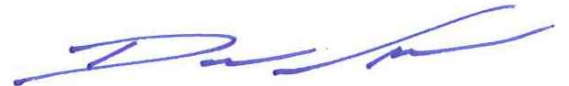
1. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 25 points and a current use valuation of 20% of market value for 67.62 acres of the property and conditional approval of 5 additional points (which would bring the total to 30 points with no change to the enrolled acreage or market valuation), 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 PBRs program. Any open space taxation participation agreement signed as a result of approval of this application should be worded to supersede any prior agreements for the parcel.

RECOMMENDATION:

1. APPROVE current use valuation of 20% of market value for the 67.62-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 management plan by August 1, 2016, and that plan is approved by October 3, 2016. Award of this category would have no effect on the market valuation or enrolled acreage, but it would afford the opportunity to conduct forest activities on the property, subject to any applicable regulatory approvals .

DATED April 7, 2016.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

In order to appeal the recommendation of the Hearing Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250 (check payable to King County Office of Finance) on or before ***April 21, 2016***. If a notice of appeal is filed, the original and two copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before ***April 28, 2016***.

Filing requires actual delivery to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, prior to the close of business (4:30) p.m. on the date due. 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.

If a written notice of appeal and filing fee are not filed within 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the

date of this report, the Clerk of the Council shall place a proposed ordinance that implements the Examiner’s recommended action on the agenda of the next available Council meeting. 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.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within 21 days from the date of the action an aggrieved party or person applies for a writ of certiorari from Superior Court for the purpose of review of the action taken.

MINUTES OF THE MARCH 30, 2016, HEARING ON THE APPLICATION OF JAMES AND KAREN FLYNN, DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E15CT029.

David Spohr was the Hearing Examiner in this matter. Megan Kim 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	<i>Reserved for</i> 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	Farm management plan
Exhibit no. 14	<i>Reserved for</i> Forest stewardship plan
Exhibit no. 15	Navigation agreement

DS/vsm

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CERTIFICATE OF SERVICE

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3221069106

JAMES AND KAREN FLYNN

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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 of record/interested persons and primary 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 of record/interested persons at the addresses indicated on the list attached to the original Certificate of Service.

DATED April 7, 2016.



Elizabeth Dang
Legislative Secretary

All Parties of Record

Akada, Irene

Department of Assessments
ADM-AS-0708
Seattle

WA 98104

Bernstein, Bill

Department of Natural Resources and Parks
KSC-NR-0600
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WA 98104

Flynn, James and Karen

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Auburn

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Kim, Megan

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Morse, Wendy

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Noris, Anne

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Reed, Mike

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Sundberg, Charlie

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