

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](mailto:hearingexaminer@kingcounty.gov)

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

SUBJECT: Department of Natural Resources and Parks file no. **E15CT027**  
Proposed ordinance no. **2016-0128**  
Parcel nos. **0821079097, 0821079087**

**VICTOR SIVITILLI**

Open Space Taxation Application (Public Benefit Rating System)

Location: 29921 SE 312th Way, Black Diamond

Applicant: **Victor Sivitilli**  
PO Box 1039  
Black Diamond, WA 98010  
Telephone: (203) 723-3537  
Email: blackforestsaddles@gmail.com

King County: Department of Natural Resources and Parks  
*represented by* **Bill Bernstein**  
201 S Jackson Street Suite 600  
Seattle, WA 98104  
Telephone: (206) 477-4643  
Email: bill.bernstein@kingcounty.gov

**SUMMARY OF RECOMMENDATIONS:**

Department's Recommendation:	Approve 8.55 acres for 30% of market value
Examiner's Recommendation:	Approve 8.55 acres for 30% of market value

**PRELIMINARY REPORT:**

On March 18, 2016, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E15CT027 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:

Owner:	Victor Sivitilli PO Box 1039 Black Diamond, WA 98010
Location:	29921 SE 312th Way, Black Diamond
STR:	NW 08-21-07
Zoning:	RA-5
Parcel nos.:	0821079097, 0821079087
Total acreage:	10.85 acres

- The Applicant 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.
- 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 \*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
	*Farm and agricultural conservation land*	
	*Forest stewardship land*	
	<del>Rural open space</del>	
	Significant wildlife or salmonid habitat	5
	<i>Special animal site</i>	3
	<i>Surface water quality buffer</i>	5
	<del>Urban open space</del>	
	<u>Bonus Categories</u>	
	Additional surface water quality buffer	3
	<u>Conservation easement or historical easement</u>	
		19

The DNRP-recommended score of 19 points results in a current use valuation of 30% of market value for the enrolled portion of the property. Additional credit may be awarded administratively under the farm and agricultural conservation land and forest stewardship land categories.

Award of credit under the farm and agricultural conservation land category is subject to submittal of a King Conservation District-approved farm management plan by **October 31, 2016**. Award of credit under this category would increase the point total by 5 points, increasing the points total to 24 and resulting in a market valuation of 80%, and increasing the enrolled acreage by 1, for a total of 9.55 acres.

Award of credit under the forest stewardship land category is subject to submittal of a forest stewardship plan by **November 30, 2016**, and subsequent approval by **December 30, 2016**. Award of credit under this category would increase the point total by 5 points, with no effect on the market valuation, though it 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 7 acres and DNRP recommends 8.55 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.

**CONCLUSION:**

1. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 19 points and a current use valuation of 30% of market value for 8.55 acres of the property and conditional approval of up to 10 additional points (which would bring the total to up to 29 points and 20% of market value for 9.55 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 Forestland 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.

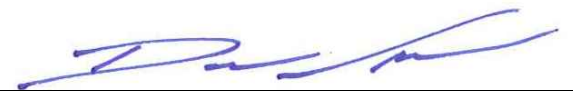
**RECOMMENDATION:**

1. APPROVE current use valuation of 30% of market value for the 8.55-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit under the farm and agricultural conservation land and forest stewardship land categories.

Award of credit under the farm and agricultural conservation land category is subject to submittal of a King Conservation District-approved farm management plan by **October 31, 2016**. Award of credit under this category would increase the point total by 5 points, increasing the points total to 24 and resulting in a market valuation of 80%, and increasing the enrolled acreage by 1, for a total of 9.55 acres.

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DATED April 7, 2016.



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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 VICTOR SIVITILLI, DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E15CT027.

David Spohr was the Hearing Examiner in this matter. Bill Bernstein 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	<i>Reserved for</i> Forest stewardship plan
Exhibit no. 14	<i>Reserved for</i> Farm management plan

DS/vsm

April 7, 2016

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**CERTIFICATE OF SERVICE**

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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.



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Elizabeth Dang  
Legislative Secretary

*All Parties of Record*

**Akada, Irene**

Department of Assessments  
ADM-AS-0708  
Seattle

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**Bernstein, Bill**

Department of Natural Resources and Parks  
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**Kim, Megan**

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**Sundberg, Charlie**

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KSC-NR-0700  
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