

May 4, 2018

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

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

**SUBJECT:** Department of Natural Resources and Parks file no. **E17CT036**  
Proposed ordinance no. **2018-0088**  
Parcel no. **0620069017**

**ROMAN AND VIKTOR TISHCHUK**

Open Space Taxation Application (Public Benefit Rating System)

**Location:** Northeast of and adjacent to 39609 188th Avenue SE, Auburn

**Applicants:** **Roman and Viktor Tishchuk**  
31037 44th Avenue S  
Auburn, WA 98001  
Email: victoryconstructionllc@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 19.83 acres for 10% of assessed value
Examiner's Recommendation:	Approve 19.83 acres for 10% of assessed value

## PRELIMINARY REPORT:

On April 13, 2018, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E17CT036 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 April 26, 2018, in the Fred Conference Room, 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington. The Examiner received the affidavit of notice publication on March 7, 2018.

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:

Owners:	Roman and Viktor Tishchuk 31037 44th Avenue S Auburn, WA 98001
Location:	Northeast of and adjacent to 39609 188th Avenue SE, Auburn
STR:	SE 06-20-06
Zoning:	A-35
Parcel no.:	0620069017
Total acreage:	38.08 acres

2. The Applicants timely filed an application to King County for PBRS program current use valuation of the property to begin in 2019. 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> <u>Buffer to public or current use classified land</u> 3
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*Farm and agricultural conservation land*	
*Forest stewardship land*	
Rural open space	5
Significant wildlife or salmonid habitat	5
Surface water quality buffer	5
Urban open space	
<u>Bonus Categories</u>	
<del>Resource restoration</del>	
Additional surface water quality buffer	3
Conservation easement or historic easement	15
	<hr/>
	36

The DNRP-recommended score of 36 points results in a current use valuation of 10% of assessed value for the enrolled portion of the property. Additional credit may be awarded administratively under the farm and agricultural conservation and forest stewardship land categories.

Award of credit for the farm and agricultural conservation land category is subject to submittal of a King Conservation District-approved farm management plan by **October 31, 2018**. Award of credit under this category will increase the point total by 5 points, and the enrolled acreage by 16.25, for a new total of 36.06 acres.

Award of the forest stewardship land category is subject to submittal of a forest stewardship plan by **October 1, 2018**, and subsequent approval by **December 3, 2018**. Award of credit under this category will increase the point total by 5 points, with no change to the current use valuation, though it allows for the option of approved forestry activities to occur on the property.

4. As to the land area recommended for PBRs enrollment, the Applicant requested 30.00 acres and DNRP recommends 19.83 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 DNRP's preliminary report and testimony at the April 26, 2018, 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: on page 8, at the "NOTE," the department refers to an "increase" to the reduction of assessed value to 90%. However, the recommended points total already qualifies the property for that level of reduction, and 90% is the highest level of reduction.

6. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 36 points and a current use valuation of 10% of assessed value for 19.83 acres of the property and conditional approval of 10 additional points (which will bring the total to 46 points and the enrolled area to 36.06 acres, also at 10% of assessed value), 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.
7. The subject property is currently enrolled in the farm and agricultural land 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.

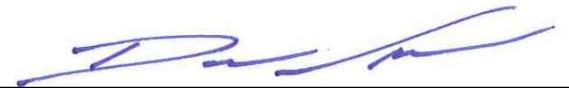
RECOMMENDATION:

1. APPROVE current use valuation of 10% of assessed value for the 19.83-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the farm and agricultural conservation and forest stewardship land categories.

Award of credit for the farm and agricultural conservation land category is subject to submittal of a King Conservation District-approved farm management plan by **October 31, 2018**. Award of credit under this category will increase the point total by 5 points, and the enrolled acreage by 16.25, for a new total of 36.06 acres.

Award of the forest stewardship land category is subject to submittal of a forest stewardship plan by **October 1, 2018**, and subsequent approval by **December 3, 2018**. Award of credit under this category will increase the point total by 5 points, with no change to the current use valuation, though it allows for the option of approved forestry activities to occur on the property.

DATED May 4, 2018.



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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 29, 2018*, an electronic copy of the appeal statement must be sent to [Clerk.Council@kingcounty.gov](mailto: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 29, 2018*, 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 29, 2018*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

### **MINUTES OF THE APRIL 26, 2018, HEARING ON THE APPLICATION OF ROMAN AND VIKTOR TISHCHUK, FILE NO. E17CT036**

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>Reserved for open space taxation agreement</i>
Exhibit no. 2	<i>Reserved for final ordinance</i>
Exhibit no. 3	<i>Reserved for Hearing Examiner’s report and recommendation</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            *Reserved for future submission of 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            *Reserved for future submission of farm management plan*
- Exhibit no. 14            Farm preservation program deed and map
- Exhibit no. 15            Notification of hearing date change
- Exhibit no. 16            *Reserved for future submission of a forest stewardship plan*

DS/vsm