

March 15, 2019

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

King County Courthouse  
516 Third Avenue Room 1200  
Seattle, Washington 98104  
Telephone (206) 477-0860  
[hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

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

SUBJECT: Department of Natural Resources and Parks file no. **E18CT047**  
Proposed ordinance no. **2019-0046**  
Parcel no. **3120079064**

**JESSICA AND RYAN MCCARTHY**

Open Space Taxation Application (Public Benefit Rating System)

Location: 47929 288th Avenue SE, Enumclaw

Applicants: **Jessica and Ryan McCarthy**  
47929 288th Avenue SE  
Enumclaw, WA 98022  
Telephone: (253) 375-2122  
Email: [mrs.jess.mccarthy@gmail.com](mailto:mrs.jess.mccarthy@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](mailto:bill.bernstein@kingcounty.gov)

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation:	Approve 3.70 acres for 50% of assessed value
Examiner's Recommendation:	Approve 3.70 acres for 50% of assessed value

## PRELIMINARY REPORT:

On February 13, 2019, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E18CT047 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 February 26, 2019, in the Fred 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 AND CONCLUSIONS:

### 1. General Information:

Owners:	Jessica and Ryan McCarthy 47929 288th Avenue SE Enumclaw, WA 98022
Location:	47929 288th Avenue SE, Enumclaw
STR:	SE 31-20-07
Zoning:	RA-5
Parcel no.:	3120079064
Total acreage:	4.45 acres

2. The Applicants timely filed an application to King County for the Public Benefit Rating System (PBRS) program current use valuation of the property to begin in 2020. 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 ~~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 \*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
	*Significant wildlife or salmonid habitat*	

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\*Surface water quality buffer\*

Bonus Categories

\*Resource restoration\*

~~Limited public access because of resource sensitivity~~

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5

The DNRP-recommended score of 5 points results in a current use valuation of 50% of assessed value for the enrolled portion of the property.

4. Additional credit may be awarded administratively under the significant wildlife/salmonid habitat, surface water quality buffer, and resource restoration categories, all dependent on an award of the resource restoration category. How those categories intersect is a little trickier than in most conditional approval scenarios.
  - a. Award of the resource restoration category requires Applicants to work with King Conservation District and then submit to DNRP a riparian buffer restoration plan by **August 31, 2019**. DNRP will need to approve the plan by **October 31, 2019**. If accomplished, this adds 5 points, bringing the total to 10 points. Standing alone, that has no impact on current use valuation. However, award of the resource restoration category opens up one or two other categories, depending on the width of the restored buffer.
  - b. If the Applicants restore, with native vegetation, the buffer (east or west of the stream) to an average of between 28.75 feet and 37.49 feet, they will meet the significant wildlife/salmonid habitat category requirements. This category adds 5 additional points, bringing the total to 15 points. This kicks the valuation down to 40% of current use.
  - c. Finally, if the Applicants restore, with native vegetation, the buffer (east or west of the stream) to an average of at least 37.50 feet, they also will meet the surface water quality buffer category requirements. This category adds 5 additional points, bringing the total to 20 points. This kicks the valuation down to 30% of current use.
5. As to the land area recommended for PBRS enrollment, the Applicant requested 3.30 acres and DNRP recommends 3.70 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.)
6. Except as modified herein, the facts set forth in DNRP's preliminary report and testimony at the February 26, 2019, 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.

7. Approval for the 3.70 acres of enrolled property of 5 points (and a current use valuation of 50%) and conditional approval of either 10 points, 15 points, or 20 points (and a commensurate current use valuation of either 50%, 40%, or 30%), are consistent with KCC chapter 20.36 and 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 assessed value for the 3.70-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE:
  - a. Current use valuation of 50% of assessed value for the 3.70-acre enrolled portion of the property, provided Applicants submit to DNRP a riparian buffer restoration plan by **August 31, 2019**, and DNRP approves that plan by **October 31, 2019**.
  - b. Current use valuation of 40% of assessed value for the 3.70-acre enrolled area if the Applicants restore, with native vegetation, the buffer (east or west of the stream) to an average of between 28.75 feet and 37.49 feet.
  - c. Current use valuation of 30% of assessed value for the 3.70-acre enrolled area if the Applicants restore, with native vegetation, the buffer (east or west of the stream) to an average of at least 37.50 feet.

DATED March 15, 2019.



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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 *April 8, 2019*, 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 *April 8, 2019*, 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 *April 8, 2019*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

**MINUTES OF THE FEBRUARY 26, 2019, HEARING ON THE APPLICATION OF  
JESSICA AND RYAN MCCARTHY, FILE NO. E18CT047**

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	DNRP report to the Hearing Examiner
Exhibit no. 2	<i>Reserved for future submission of the affidavit of hearing publication</i>
Exhibit no. 3	Legal notice and introductory ordinance to the King County Council
Exhibit no. 4	Arcview/orthophotograph and aerial map
Exhibit no. 5	Application signed and notarized
Exhibit no. 6	King Conservation District Farm management plan

DS/vsm