

**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
www.kingcounty.gov/independent/hearing-examiner

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

SUBJECT: Department of Natural Resources and Parks file no. **E22CT001**
Proposed ordinance no. **2022-0200**
Parcel no. **0822039106**

JEAN LENIHAN

Open Space Taxation Application (Public Benefit Rating System)

Location: 9713 SW 216th Street, Vashon, WA 98070

Applicant: **Jean Lenihan**
9713 SW 216th Street
Vashon, WA 98070
Telephone: (206) 369-3501
Email: freshpencil@gmail.com

King County: Department of Natural Resources and Parks
represented by **Bill Bernstein**
201 S. Jackson Street Suite 5600
Seattle, WA 98104
Telephone: (206) 477-4643
Email: bill.bernstein@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 4.70 acres for 50% of assessed value
Conditionally approve 4.70 acres for 40% of assessed value

Examiner's Recommendation: Approve 4.70 acres for 50% of assessed value
Conditionally approve 4.70 acres for 40% of assessed value

PRELIMINARY REPORT:

On June 17, 2022, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT001 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a Zoom public hearing on the application on June 30, 2022. 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 from the Hearing Examiner.

FINDINGS AND CONCLUSIONS:

1. General Information:

Owner:	Jean Lenihan 9713 SW 216th Street Vashon, WA 98070
Location:	9713 SW 216th Street, Vashon, WA 98070
STR:	SW-08-22-03
Zoning:	RA5
Parcel no.:	0822039106
Total acreage:	8.59 acres

- The Applicant timely filed an application to King County for the Public Benefit Rating System (PBRS) program current use valuation of the property to begin in 2023. As required by law, notification of the application occurred.
- The property is currently enrolled in the timberland program, but the landowner is not interested in commercially harvesting timber. The purpose of this application is to reclassify the property and enroll it in PBRS. Any new open space taxation agreement must supersede the timberland agreement.
- 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>	
	Aquifer protection area	5
	*Forest stewardship land	*
	Rural open space	0
	Surface water quality buffer	0
	Total	5

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

5. Additional credit may be awarded administratively under the forest stewardship land category, subject to submittal of a forest stewardship plan by **June 1, 2023**, and DNRP approval of that plan by **August 1, 2023**. Award of credit under this category will increase the point total by 5 points, resulting in a current use valuation of 40% of assessed value for the enrolled portion of the property. Award of this category may allow approved forestry activities to occur on the property.
6. As to the land area recommended for PBRS enrollment, the Applicant requested 4.50 acres and DNRP recommends 4.70 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.)
7. Except as modified herein, the facts set forth in DNRP’s preliminary report and testimony at the June 30, 2022, 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. The narrative section on page 6 of the staff report related to surface water quality buffer explained why the property was not eligible for that category. However, on page 7 the point figured next to surface water quality buffer erroneously listed as five points.
8. Approval of five points and a current use valuation of 50% of assessed value for 4.70 acres, and conditional approval of five additional points and 40% of assessed value for the enrolling 4.70 acres, 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 a current use valuation of 50% of assessed value for the 4.70-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the forest stewardship land category, subject to submittal of a forest stewardship plan by **June 1, 2023**, and DNRP approval of that plan by **August 1, 2023**. Award of credit under this category will increase the point total by five points, resulting in a current use valuation of 40% of assessed value for the enrolled portion of the property.

DATED July 8, 2022.



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 *August 1, 2022*, 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 *August 1, 2022*, 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 *August 1, 2022*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE JUNE 30, 2022, HEARING ON THE APPLICATION OF JEAN LENIHAN, FILE NO. E22CT001

David Spohr was the Hearing Examiner in this matter. Bill Bernstein participated in the hearing.

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