

**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. **E22CT006**
Proposed ordinance no. **2022-0367**
Parcel nos. **0223059005, 0223059079, 0223059072, and 0223059071**

CRAIG AND MARY CELIGOY

Open Space Taxation Application (Public Benefit Rating System)

Location: 15329 SE May Valley Road, Renton

Applicants: **Craig and Mary Celigoy**
10736 154th Place SE
Renton, WA 98059
Telephone: (206) 200-7874
Email: maryceligoy@comcast.net

King County: Department of Natural Resources and Parks
represented by **Megan Kim**
201 S. Jackson Street Suite 5600
Seattle, WA 98104
Telephone: (206) 477-4788
Email: megan.kim@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 64.63 acres for 20% of assessed value
Conditionally approve 64.63 acres for 20% of assessed value

Examiner's Recommendation: Approve 64.63 acres for 20% of assessed value
Conditionally approve 64.63 acres for 20% of assessed value

PRELIMINARY REPORT:

On October 17, 2022, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT006 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 October 27, 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 in the Hearing Examiner's Office.

FINDINGS AND CONCLUSIONS:

1. General Information:

Owners:	Craig and Mary Celigoy 10736 154th Place SE Renton, WA 98059
Location:	15329 SE May Valley Road, Renton
STR:	SE-02-23-05
Zoning:	RA10 and RA5
Parcel nos.:	0223059005, 0223059079, 0223059072, and 0223059071
Total acreage:	66.77 acres

- 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 2023. As required by law, notification of the application occurred.
- The property is currently enrolled in the state's farm and agricultural land category program. The purpose of this application is to reclassify the property and enroll it in PBRS. Any new open space taxation agreement must supersede the farm and agricultural land 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 ~~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 *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
	<i>Farm and agricultural conservation land</i>	5
	*Forest stewardship land	*
	Historic landmark or archaeological site: —designated site	0
	<i>Historic landmark or archaeological site: eligible site</i>	3
	Rural open space	5
	Scenic resource, viewpoint, or view corridor	5
	*Significant wildlife or salmonid habitat	5
	*Surface water quality area	*
	Water quality protection area	0
	<u>Bonus Categories</u>	
	*Additional surface water quality buffer	*
	*Conservation easement or historic easement	*
	*Environmental education awareness	*
	<hr/> Total	28

The DNRP-recommended score of 28 points results in a current use valuation of 20% of assessed value for the enrolled portion of the property.

5. This application is somewhat complicated. In addition to the above-listed categories where an award seems clearly warranted (and the water quality protection area where it seems clearly not), there are several categories and bonus categories where additional credit may be administratively awarded if certain benchmarks are reached.
6. Three of these are straightforward. Credit may be awarded administratively under the:
 - forest stewardship land category, subject to submittal of a forest stewardship plan by **April 3, 2023**, and DNRP approval of that plan by **July 1, 2023**;
 - conservation easement or historic easement bonus category, if the Applicants record an approved conservation easement by **December 31, 2023**; and
 - environmental education access, if the Applicants: enter into an agreement with a school or other appropriate community organization to allow public access and provide environmental education; submit this documentation to DNRP by **April 3, 2023**; and DNRP approves it by **June 1, 2023**.
7. The other three are more involved, and turn on the May Creek buffer. Although the required regulatory stream buffer width is normally 165 feet, such regulatory buffers are reduceable to a 25-foot buffer via a farm plan. If the Applicants then:

- provide an average buffer at least 15% wider than 25 feet (i.e., 28.75 feet) on either side of the creek, five points are awardable under the significant wildlife or salmonid habitat category;
 - provide an average buffer at least 50% wider than 25 feet (i.e., 37.5 feet) on either side of the creek, five more points are awardable under the surface water quality buffer category;
 - provide an average buffer at least 100% wider than 25 feet (i.e., 50 feet) on either side of the creek, three additional points are awardable under the additional surface water quality buffer bonus category; and
 - provide an average buffer at least 200% wider than 25 feet (i.e., 75 feet) on either side of the creek, two extra points are awardable under the additional surface water quality buffer bonus category.
8. DNRP noted in its staff report that the avenue for awarding points is the Applicants completing an update to their existing farm management plan that addresses the buffer and their planting plan. DNRP did not, in its staff report, suggest a deadline for submitting such an updated farm management plan, but given the complexity of the undertaking DNRP described at hearing, we will push the date out as far as possible, matching the **December 31, 2023**, deadline for recording an easement.
 9. As to the tax impact, with no administrative awards the Applicant would be at 28 points and a current use valuation of 20% for the enrolled portion of the property. An administrative award under credit in one or more of the categories that push the point total to 35 or higher would reduce the current use valuation to 10% of assessed value for the enrolled portion of the property.
 10. As to the land area recommended for PBRS enrollment, the Applicant did not request a specific acreage, while DNRP recommends a total of 64.63 acres spread across the four parcels. (Enrollment acreage is the entire parcels less the excluded area, as calculated by DNRP. In the event the County Assessor revises the official parcel size, the PBRS acreage shall be administratively adjusted to reflect that change.)
 11. We find the facts set forth in DNRP's preliminary report and testimony at the October 27, 2022, public hearing correct, and we incorporate them by reference. Copies of this report and DNRP's report will be provided to the Metropolitan King County Council for final approval.
 12. Approval of 28 points and a current use valuation of 20% of assessed value for 64.63 acres, and conditional approval of additional points and 10% of assessed value for the enrolling 64.63 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 20% of assessed value for the 64.63-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE a current use valuation of 10% of assessed value for the 64.63-acre enrolled portion of the property, provided additional credit in one or more of the categories discussed in paragraphs 6 through 8 is awarded, according to the criteria and deadlines set in those paragraphs, and the award or awards bring the point total to 35 or greater.

DATED November 10, 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 *December 5, 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 *December 5, 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 *December 5, 2022*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE OCTOBER 27, 2022, HEARING ON THE APPLICATION OF CRAIG AND MARY CELIGOY, FILE NO. E22CT006

David Spohr was the Hearing Examiner in this matter. Megan Kim 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
Exhibit no. 6	Farm management plan