

November 21, 2015

**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. **E15CT015**
Proposed ordinance no. **2015-0429**
Parcel no. **0520069014**

KIRK AND DEBBRA HABERLY

Open Space Taxation Application (Public Benefit Rating System)

Location: 21100 SE 394th Street, Enumclaw

Applicants: **Kirk and Debra Haberly**
21100 SE 394th Street
Enumclaw, WA 98022
Telephone: (253) 334-3240
Email: kwdjhaberly@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 8.75 acres for 50% of market value (CONTINGENT)
Examiner's Recommendation: Approve 8.75 acres for 50% of market value (CONTINGENT)

PRELIMINARY REPORT:

On November 6, 2015, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E15CT015 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 November 18, 2015, in the Ginger 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, CONCLUSIONS AND RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owners:	Kirk and Debra Haberly 21100 SE 394th Street Enumclaw, WA 98022
Location:	21100 SE 394th Street, Enumclaw
STR:	SE 05-20-06
Zoning:	A-10
Parcel no.:	0520069014
Total acreage:	9.55 acres

- The Applicants 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>	
	Farm and agricultural conservation land	*5*
	<u>Rural open space</u>	
		5

The DNRP-recommended score of 5 points results in a current use valuation of 50% of market value for the enrolled portion of the property. Award under the farm and agricultural land category is contingent upon submittal of a King Conservation District-approved farm management plan for the property by **October 31, 2016**. Because the property is not eligible under any other PBRS resource category, failure to qualify as farm and agricultural conservation land will preclude the property from enrollment in the PBRS program.

4. As to the land area recommended for PBRS enrollment, the Applicant requested 8.30 acres and DNRP recommends 8.75 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 November 18, 2015, 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.

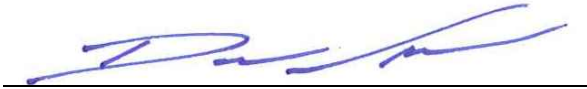
CONCLUSION:

1. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 5 points and a current use valuation of 50% of market value for 8.75 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.

RECOMMENDATION:

1. APPROVE current use valuation of 50% of market value for the 8.75-acre enrolled portion of the property, CONTINGENT on submittal of a King Conservation District-approved farm management plan for the property by **October 31, 2016**. Because the property is not eligible under any other PBRS resource category, failure to qualify as farm and agricultural conservation land will preclude the property from enrollment in the PBRS program.

DATED November 20, 2015.



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 ***December 7, 2015***. 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 ***December 14, 2015***.

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 NOVEMBER 18, 2015, HEARING ON THE APPLICATION OF KIRK AND DEBBRA HABERLY, DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E15CT015.

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	<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/Timber program
Exhibit no. 8	Legal notice and introductory ordinance to the King County Council
Exhibit no. 9	Application signed/notarized
Exhibit no. 10	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 future submission of farm management plan</i>

DS/vsm

November 20, 2015

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CERTIFICATE OF SERVICE

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Proposed ordinance no. **2015-0429**
Parcel no(s). **0520069014**

KIRK AND DEBBRA HABERLY

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I, Vonetta Mangaoang, 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 November 20, 2015.



Vonetta S. Mangaoang
Clerk/Manager

*All Parties of Record***Akada, Irene**

Department of Assessments
ADM-AS-0708
Seattle

WA 98104

Bernstein, Bill

Department of Natural Resources and Parks
KSC-NR-0600
Seattle

WA 98104

Haberly, Kirk and Debra

21100 SE 394th Street
Enumclaw

WA 98022
mailed paper copy

Kim, Megan

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Morse, Wendy

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Noris, Anne

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Reed, Mike

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Sundberg, Charlie

Department of Natural Resources and Parks
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