

**KING COUNTY
DEPARTMENT OF NATURAL RESOURCES AND PARKS
WATER AND LAND RESOURCES DIVISION**

**Report to the King County Hearing Examiner for Property
Enrollment in the Public Benefit Rating System (PBRS)**

June 30, 2022 – Public Hearing

APPLICANT: Development Services of America, Inc. File No. E22CT002a

A. GENERAL INFORMATION:

- 1. Owner: Thomas J Stewart Living Trust (represented by Richard Wilson)
P.O Box 25139
Scottsdale, AZ 85255
- 2. Property location: 11828 SW 232nd Street and 11819 and 11706 SW 220th Street
Vashon, WA 98070

NOTE: The submitted application also includes parcels 132202-9083 and 132202-9089. Because the parcels are not all contiguous, the application has been split with those parcels being evaluated under PBRS file #E22CT002.

- 3. Zoning: RA5 and RA10
- 4. STR: NE-13-22-02 and SE-12-22-02
- 5. PBRS categories requested by applicant:

NOTE: The property is currently participating in the farm and agricultural land program (RCW 84.34.020(2)). The purpose of this application is to reclassify the property and enroll it in PBRS.

Open space resources

- *Aquifer protection area
Buffer to public or current use classified land
- *Farm and agricultural conservation land
Rural open space
Rural stewardship land
Scenic resource, viewpoint or view corridor
Significant wildlife or salmonid habitat
Special animal site
Surface water quality buffer

EXHIBIT 1

Exhibit no.	1
Case name	Development Services of America, Inc.
Case number	E22CT002a
Date received	6/30/2022
KING COUNTY HEARING EXAMINER	

Urban open space
Watershed protection area

NOTE: *Staff recommends credit be awarded for these PBRs categories.

6. Parcel:	122022-9062	132202-9001	132202-9045
Total acreage:	39.31	20.00	9.86
Requested PBRs:	not specified	not specified	not specified
Home site/excluded area:	2.30	0.00	1.00
Recommended PBRs:	37.01	20.00	8.86
	132202-9051	132202-9094	
Total acreage:	10.00	9.86	
Requested PBRs:	not specified	not specified	
Home site/excluded area:	0.00	1.00	
Recommended PBRs:	10.00	8.86	

NOTE: The attached map (2021 aerial photo) outlines in yellow the parcel boundaries and in blue the areas proposed to be *excluded* from PBRs. The portion recommended for enrollment in PBRs (84.73 acres) is the entire property (89.03 acres) less the excluded areas as measured (4.30 acres). In the event the Assessor's official parcel size is revised, PBRs acreage should be administratively adjusted to reflect that change.

B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned RA5, RA10 and A10.
2. Development of the subject property and resource characteristics of open space area: Parcel -9062 contains two private residences, a farm office, several agricultural storage buildings and associated parking, portion of irrigation pond, with maintained shoreline and landscaping and access road adjacent and east/north of the pond, pastureland and farm service roads. Parcel -9001 contains cattle pens, hay storage/barn, sileage pits, pastureland and portions of farm service road. Parcel -9045 and -9094 each contain a small residence, driveway, areas of personal use and additional areas of pastureland and farm service road. The open space portion of the property consists of all the pastureland, farm service roads, cattle pens, farm related management and storage structures as well as pockets of native forest (mostly on parcel -9062).
3. Site use: The property is used both for several single-family residences and farmland (historically a commercial cattle operation).
4. Access: The property is accessed from SW 232nd Street and SW 220th Street.

5. Appraised value for 2021 (based on Assessor's information dated 6/16/2022):

<u>Parcel #</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
<u>Parcel #122202-9062</u>			
Appraised value	\$668,000*	\$729,000	\$1,397,000
Tax applied	\$7,530	\$8,218	\$15,748
<u>Parcel #132202-9001</u>			
Appraised value	\$501,000*	\$130,000	\$631,000
Tax applied	\$5,648	\$1,465	\$7,113
<u>Parcel #132202-9045</u>			
Appraised value	\$317,000*	\$571,000	\$888,000
Tax applied	\$3,574	\$6,438	\$10,010
<u>Parcel #132202-9051</u>			
Appraised value	\$292,000*	\$0	\$292,000
Tax applied	\$3,292	\$0	\$3,292
<u>Parcel #132202-9094</u>			
Appraised value	\$301,000*	\$504,000	\$805,000
Tax applied	\$3,393	\$5,682	\$9,075

NOTE: *These values are presently impacted by the land's participation in the farm and agriculture program (RCW 84.34), which is reflected in the land's current and lower taxable value of \$487,017 (tax applied \$5,490) Participation in PBRs, for taxation purposes, reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value.

C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

KCC 20.36.010 Purpose and intent.

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessed valuation on "open space land" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the application. In making such recommendation, the department will utilize the point system described in section B. and C. below.
- B. The following open space resources are each eligible for the points indicated:
1. Public recreation area – five points
 2. Aquifer protection area – five points
 3. Buffer to public or current use classified land – three points
 4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
 5. Active trail linkage – fifteen or twenty-five points
 6. Farm and agricultural conservation land – five points
 7. Forest stewardship land – five points
 8. Historic landmark or archaeological site: buffer to a designated site – three points
 9. Historic landmark or archaeological site: designated site – five points
 10. Historic landmark or archaeological site: eligible site – three points
 11. Rural open space – five points
 12. Rural stewardship land – five points
 13. Scenic resource, viewpoint, or view corridor – five points
 14. Significant plant or ecological site – five points
 15. Significant wildlife or salmonid habitat – five points
 16. Special animal site – three points
 17. Surface water quality buffer – five points
 18. Urban open space – five points
 19. Watershed protection area – five points
- C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:
1. Resource restoration - five points
 2. Additional surface water quality buffer - three or five points
 3. Contiguous parcels under separate ownership - two points
 4. Conservation easement of historic easement – fifteen points
 5. Public access - points dependent on level of access
 - a. Unlimited public access - five points
 - b. Limited public access - sensitive areas - five points
 - c. Environmental education access – three points
 - d. Seasonal limited public access - three points
 - e. None or members only – zero points
 6. Easement and access – thirty-five points

D. 2020 COMPREHENSIVE PLAN POLICIES AND TEXT:

E-101 In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives shall be monitored and periodically reviewed to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRS staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B11.

E-112a The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected in King County:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40% or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;
- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and
- h. Volcanic hazard areas.

E-421 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

E-429 King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants, such as providing technical assistance or access to appropriate native plants.

NOTE: Participation in PBRS requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

E-443 King County should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and

incentive programs.

E-476 King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

E-504 King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRs provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRs requirement.

E-449 King County shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

R-605 Forestry and agriculture best management practices are encouraged because of their multiple benefits, including natural resource preservation and protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

E. PBRs CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:

Open space resources

- Aquifer protection area

The entire property is located in an area designated as a critical aquifer recharge area (CARA 1 and 3). The natively forested area on parcel -9062 is greater than one acre in size and meets the minimum required acreage for this category. Credit for this category is recommended.

- Buffer to public or current use classified land

Parcel -9001 is abutting land participating in the Timberland program to the east (parcel 182203-9156). However, the enrolling open space area consists mostly of maintained pastureland and is not providing a qualifying buffer of native vegetation to this adjacent land. Credit for this category is not recommended.

- Farm and agricultural conservation land

The property is presently participating in the farm and agricultural program (RCW 84.34) and consists of traditional farmland managed according to an approved King Conservation District farm management plan. Credit for this category is recommended.

Please note: Upon sale of any parcel(s), a new farm plan is required for its new ownership.

- Rural open space
In order to be eligible for this category, a property must be located in the rural area and be enrolling at least ten acres of contiguous native vegetation. Although the property is located in the rural area and is greater than ten acres in size, there is less than ten acres of native open space being enrolled. Credit for this category is not recommended.
- Rural stewardship land
In order to be eligible for this category, the enrolling property must contain a minimum of one acre of natively vegetated open space that is being managed according to an approved rural stewardship plan. After further discussions with staff, the owner has decided not to pursue award of this category. Credit for this category is not recommended.
- Scenic resource, viewpoint or view corridor
In order to be eligible for this category, a property must meet at least one of the following criteria - a) contain ten or more acres of scenic natural or cultural resource features significant to the character of the county, b) provide a significant public viewpoint, identified by permanent signage, of a scenic natural or recognized cultural resource accessible from the property or c) contribute to a recognized county view corridor. Although the property is larger than ten acres in size, it does not consist of a significant natural or cultural resource significant to the aesthetic character of the county that is visible by the public from a public right-of-way. Since the general public does not access the property to view a scenic natural or recognized cultural resource, it would not be considered a viewpoint. Finally, the property is not part of a recognized view corridor. Credit for this category is not recommended.
- Significant wildlife or salmonid habitat
Although the property contains habitat for numerous wildlife species, it's unlikely any are listed as endangered, threatened, sensitive or candidate species of concern by the Washington Department of Fish and Wildlife, which is required for the award of this category. There is no evidence, provided or observed during site visit that would lead to a different conclusion. Credit for this category is not recommended.
- Special animal site
In order to be eligible for this category, the enrolling land must be adjacent to or contain a portion of the county's designated wildlife habitat network or contain a biodiversity area or corridor as identified by the Washington Department of Fish and Wildlife's priority habitat and species project. Neither recognized wildlife coverage is identified on or near the property. Credit for this category cannot be recommended.
- Surface water quality buffer
In order to be eligible for this category, the enrolling land must provide a qualifying buffer of native vegetation to a portion of a lake, stream, wetland or shoreline that is within the enrolling portion of a property. The property does contain a portion of what appears to be manmade pond (since it does not exist in older aerial photos) and not a naturally occurring aquatic feature. Regardless of being manmade or natural, there is not an undisturbed buffer of native vegetation provided to this pond and therefore it would not qualify for this category. Credit for this category cannot be recommended.

- Urban open space
To be eligible for this category, the property must be located within the boundaries of a city or the urban growth area and contain a minimum of one-half acres of native open space. The property is located in the rural area and not in urban area as required. Credit for this category cannot be recommended.
- Watershed protection area
In order to be eligible for this category, the enrolling area must consist of additional native forest cover beyond that required and be at least one acre or 65% of the property acreage, whichever is greater. At least 57.87 contiguous forested acres would be required for credit to be awarded for this property. The landowner does plan to enroll more than 89 acres of the property, but only a few of these acres are forested with the majority of the acreage being maintained pastureland. Credit for this category cannot be recommended.

NOTE: It is important to note that enrollment in the PBRs program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS:

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.
3. Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

Open space resources

Aquifer protection area	5
Buffer to public or current use classified land	0
Farm and agricultural conservation land	5
Rural open space	0
Rural stewardship land	0
Scenic resource, viewpoint or view corridor	0
Significant wildlife or salmonid habitat	0
Special animal site	0
Surface water quality buffer area	0
Urban open space	0
Watershed protection area	0

TOTAL 10 points

PUBLIC BENEFIT RATING

For the purpose of taxation, 10 points result in 50% of market value and a 50% reduction in taxable value for the portion of land enrolled.

B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of 10 points, subject to the following requirements:

**Requirements for Property Enrolled in the
Public Benefit Rating System Current Use Taxation Program**

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRs) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The King County Department of Assessments (DoA) and the Water and Land Resources Division, Director's Office, Agriculture, Forestry and Incentives Unit (AFI) or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.
2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the King County Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the DoA and the AFI Unit or its successor of a change in circumstance with regard to the Property.
4. When a portion of the open space Property is withdrawn or removed from the program, the AFI Unit or its successor and the DoA shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining

portion meets the criteria for priority resources, it may continue under current use taxation.

5. Except as provided for in sections 6, 7 and 9 and below, no alteration of the open space land or resources shall occur without prior approval by the AFI Unit or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: (*Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.*)
 - a. erecting structures;
 - b. grading;
 - c. filling;
 - d. dredging;
 - e. channelizing;
 - f. modifying land or hydrology for surface water management purposes;
 - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
 - h. applying herbicides or pesticides or any hazardous or toxic substance;
 - i. discharging pollutants excepting stormwater;
 - j. paving, construction, application of gravel;
 - k. storing of equipment, household supplies, play equipment, or compost;
 - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the AFI Unit or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the AFI Unit or its successor, in order to replace such species with native species or other appropriate vegetation.
8. There shall be no motorized vehicle driving or parking allowed on the open space Property, except for the purpose of farm and agriculture and in areas of the Property being used as farm and agricultural conservation land or for medical, public safety or police emergencies.
9. For land designated as farm and agricultural conservation land, activities that are consistent with farm or agriculture uses and that are consistent with the approved farm

management plan shall be permitted as long as those activities do not cause a significant adverse impact to the resource values of other awarded categories.

10. An owner of property receiving credit for farm and agricultural conservation land, forest stewardship land, or rural stewardship land, all of which require a stewardship or management plan, must annually provide a monitoring report that describes progress of implementing the plan. The owner must submit this report, which must include a brief description of activities taken to implement the plan and photographs from established points on the property, to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.
11. An owner of property enrolled in the program may be required to submit a monitoring report on an annual or less frequent basis as requested by program staff. This report must include a brief description of how the property still qualifies for each awarded resource category. It must also include photographs from established points on the property and any observations by the owner. The owner must submit this report to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.
12. Enrollment in PBRS *does not* exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

TRANSMITTED to the parties listed hereafter:

Office of the King County Hearing Examiner
Richard Wilson, representative and agent for the Thomas J Stewart Living Trust
Debra Clark, King County Department of Assessments

SW 22 0TH ST

2021 Aerial Photo

1222029062

0.70 acres

0.30 acres

1.30 acres

1322029001

1322029051

1322029045

1322029094

1.00 acres

1.00 acres

SW 232ND ST

111TH AVE SW

110TH AVE SW

115TH AVE SW

107TH AVE SW

OLD MILL RD SW

es

res