

April 12, 2016

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
Facsimile (206) 296-0198

hearingexaminer@kingcounty.gov

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

SUBJECT: Department of Natural Resources and Parks file no. **E15CT033**
Proposed ordinance no. **2016-0133**
Parcel nos. **3021069035, 1921069055**

JUDY FREMOUW AND ROBERT GORSUCH

Open Space Taxation Application (Public Benefit Rating System)

Location: 18204 SE Green Valley Road, Auburn

Applicants: **Judy Fremouw and Robert Gorsuch**
18204 SE Green Valley Road
Auburn, WA 98092
Telephone: (206) 288-9598
Email: mmwnc_xy@outlook.com

King County: Department of Natural Resources and Parks
represented by **Megan Kim**
201 S Jackson Street Suite 600
Seattle, WA 98104
Telephone: (206) 477-4788
Email: megan.kim@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation:	Approve 13.98 acres for 10% of market value
Examiner's Recommendation:	Approve 13.98 acres for 10% of market value

PRELIMINARY REPORT:

On March 18, 2016, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E15CT033 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 March 30, 2016, in the Horiuchi Conference Room 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington. The Examiner received the affidavit of notice publication on March 28, 2016.

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.

The record opened and closed on March 30. The examiner re-opened the record again on April 8 to seek clarifying information. Having received that this morning, the record now re-closes.

FINDINGS, CONCLUSIONS AND RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owners:	Judy Fremouw and Robert Gorsuch 18204 SE Green Valley Road Auburn, WA 98092
Location:	18204 SE Green Valley Road, Auburn
STR:	NW 30 and SW 19-21-06
Zoning:	RA-5
Parcel nos.:	3021069035, 1921069055
Total acreage:	16.42 acres

2. 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.

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 ~~striketrough~~ 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>	
	<i>Aquifer protection area</i>	5
	<i>Buffer to public or current use classified land</i>	3
	Farm and agricultural conservation land	5
	Forest stewardship land	
	<i>Rural open space</i>	5
	Significant wildlife or salmonid habitat	5
	<i>Surface water quality buffer</i>	5
	<i>Watershed protection area</i>	5
	<u>Bonus Categories</u>	
	Resource restoration	
	Conservation easement or historic easement	15
		<hr/> 48

The DNRP-recommended score of 48 points results in a current use valuation of 10% of market value for the enrolled portion of the property. Additional credit may be awarded administratively under the resource restoration category, subject to submittal of a resource restoration plan by **October 31, 2016**, and subsequent approval by **December 31, 2016**. Award of credit under this category would increase the point total by 5 points (to 53), with no effect on the market valuation; it would increase the enrolled acreage by 0.44 acres.

4. As to the land area recommended for PBRS enrollment, the Applicant did not specify an acreage request, while DNRP recommends 13.98 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 March 30, 2016, 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.
 - A. Change to Department staff report: Section A. 5, page 1, "Open space resources" section should include "Watershed protection" area as a department-suggested and recommended category.
 - B. Between the time DNRP submitted its preliminary report and this decision, DNRP received an updated farm management plan that explicitly acknowledges the blackberry issue. This increased the eligible acreage on parcel -9035 by 0.42

acres, and made the farm and agricultural conservation land points awardable outright, instead of conditioned on a future submittal.

6. Award under all categories must be conditioned upon the control and removal of invasive plant species on the property within a three-year period. Such control and removal is mandatory for the property to qualify as credited open space. Failure to meet this condition will cause disenrollment of the property from the PBRs program.

CONCLUSION:

1. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 48 points and a current use valuation of 10% of market value for 13.98 acres of the property, and conditional approval of 5 additional points (which would bring the total to 53 points, not changing the market value but increasing the enrolled acreage by 0.44), 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.
2. The subject property is currently enrolled in the farm and agricultural land program. Any open space taxation participation agreement signed as a result of approval of this application should be worded to supersede any prior agreements for the parcel.

RECOMMENDATION:

1. **APPROVE** current use valuation of 10% of market value for the 13.98-acre enrolled portion of the property.
2. **CONDITIONALLY APPROVE** additional 5 points under the resource restoration category, subject to submittal of a resource restoration plan by **October 31, 2016**, and subsequent approval by **December 30, 2016**. Award of credit under this category would increase the point total to 53 and would increase the enrolled acreage by 0.44, but it would have no effect on the market valuation.

DATED April 12, 2016.



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 ***April 26, 2016***. 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 ***May 3, 2016***.

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 MARCH 30, 2016, HEARING ON THE APPLICATION OF JUDY FREMOUW AND ROBERT GORSUCH, DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E15CT033.

David Spohr was the Hearing Examiner in this matter. Megan Kim 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 program
Exhibit no. 8	Legal notice and introductory ordinance to the King County Council
Exhibit no. 9	Application signed/notarized
Exhibit no. 10	<i>Reserved for</i> 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	Farm management plan
Exhibit no. 14	<i>Reserved for</i> Resource restoration plan
Exhibit no. 15	Farm preservation program easement

DS/vsm

April 12, 2016

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CERTIFICATE OF SERVICE

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JUDY FREMOUW AND ROBERT GORSUCH
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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 April 12, 2016.



Vonetta S. Mangaoang
Clerk/Manager

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

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