

May 3, 2019

**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. **E18CT038**
Proposed ordinance no. **2019-0042**
Parcel no. **1521059006**

GABRIEL HESS

Open Space Taxation Application (Public Benefit Rating System)

Location: [REDACTED] Auburn

Applicant: **Gabriel Hess**

[REDACTED]
Auburn, WA 98092

Telephone: [REDACTED]

Email: [REDACTED]

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 17.80 acres for 20% of assessed value

Examiner's Recommendation:

Approve 17.80 acres for 20% of assessed value

PRELIMINARY REPORT:

On March 28, 2019, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E18CT038 to the Examiner. On April 18, the DNRP submitted a revised report.

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 April 9, 2019, in the Fred 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 AND CONCLUSIONS:

1. General Information:

Owner:	Gabriel Hess 13404 SE Auburn Black Diamond Road Auburn, WA 98092
Location:	13404 SE Auburn Black Diamond Road, Auburn
STR:	NW 15-21-05
Zoning:	RA-5
Parcel no.:	1521059006
Total acreage:	25.19 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 2020. 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 *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> <u>Aquifer protection area</u>
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<i>Buffer to public or current use classified land</i>	3
<i>*Forest stewardship land*</i>	*
Rural open space	5
Rural stewardship land	
Scenic resource, viewpoint or view corridor	
Significant plant site or ecological site	
Significant wildlife or salmonid habitat	5
Special animal site	3
Surface water quality buffer	
Watershed protection area	5
 <u>Bonus Categories</u>	
Resource restoration	
Additional surface water quality buffer	
<i>*Conservation easement or historic easement*</i>	*
	26

The DNRP-recommended score of 26 points results in a current use valuation of 20% of assessed value for the enrolled portion of the property. Additional credit may be awarded administratively for the forest stewardship land category and for the conservation easement or historic easement category.

Award for the forest stewardship land category is subject to submittal of a forest stewardship plan by **November 29, 2019**, and subsequent approval by **December 31, 2019**. Award of credit under this category will increase the point total by 5 points and, if the plan addresses its restoration, an additional 6.04 acres will be enrolled.

Award for the conservation easement or historic easement category is subject to recording of a conservation easement by **February 29, 2020**. Award of credit under this category will increase the point total by 15 points.

An increase in the points total by 5 points will not change the current use valuation. An increase by 15 points will result in a current use valuation of 10% of assessed value for the enrolled portion of the property. Award of this category may allow approved forestry activities to occur on the property.

4. As to the land area recommended for PBRS enrollment, the Applicant requested 25.00 acres and DNRP recommends 17.80 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 DNRP's testimony at the April 9, 2019, public hearing and April 18 revised report 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 correct point award for the special animal site category is 3 points, not the 5 points listed on page 9 of the revised report.
6. Approval of 26 points (and a current use valuation of 20% of assessed value for 17.80 acres) and conditional approval of 20 additional points (and 10% of assessed value for 23.84 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 current use valuation of 20% of assessed value for the 17.80-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the forest stewardship land category and for the conservation easement or historic easement category.

Award for the forest stewardship land category is subject to submittal of a forest stewardship plan by **November 29, 2019**, and subsequent approval by **December 31, 2019**. Award of credit under this category will increase the point total by 5 points and, if the plan addresses its restoration, an additional 6.04 acres will be enrolled.

Award for the conservation easement or historic easement category is subject to recording of a conservation easement by **February 29, 2020**. Award of credit under this category will increase the point total by 15 points.

An increase in the points total by 5 points will not change the current use valuation. An increase by 15 points will result in a current use valuation of 10% of assessed value for the enrolled portion of the property. Award of this category may allow approved forestry activities to occur on the property.

DATED May 3, 2019.



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 *May 28, 2019*, 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 *May 28, 2019*, 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 *May 28, 2019*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE APRIL 9, 2019, HEARING ON THE APPLICATION OF GABRIEL HESS, FILE NO. E18CT038

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 DNRP report to the Hearing Examiner
- Exhibit no. 2 *Reserved for future submission of the affidavit of hearing publication*
- 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

The following exhibit was entered into the hearing record on April 16, 2019:

- Exhibit no. 6 Email dated April 16, 2019, from Megan Kim, with map attached showing portions of the subject property are within areas identified by the Washington Department of Fish and Wildlife as biodiversity area and corridors

The following exhibit was entered into the hearing record on April 18, 2019:

- Exhibit no. 7 REVISED DNRP report to the Hearing Examiner

DS/vsm

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CERTIFICATE OF SERVICE

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Open Space Taxation Application (Public Benefit Rating System)

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/interested persons and parties with e-mail addresses on record.
- placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED May 3, 2019.

Vonetta Mangaoang

Vonetta Mangaoang
Senior Administrator

Akada, Irene

Department of Assessments

Bernstein, Bill

Department of Natural Resources and Parks

Blossey, Linda

Metropolitan King County Council

Clark, Debra

Department of Assessments

Hess, Gabriel

Hardcopy

Kim, Megan

Department of Natural Resources and Parks

Lorenz, Chuck

Lorenz Forestry LLC

Hardcopy

Pedroza, Melani

Metropolitan King County Council

Reed, Mike

Metropolitan King County Council