

March 12, 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. **E18CT042**
Proposed ordinance no. **2019-0045**
Parcel no. **3120079098**

DAVID LONEY

Open Space Taxation Application (Public Benefit Rating System)

Location: 46530 276th Avenue SE, Enumclaw

Applicant: **David Loney**
46530 276th Avenue SE
Enumclaw, WA 98022
Telephone: (206) 355-3729
Email: david.loney@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 (contingent) 8.45 acres for 50% of assessed value
Examiner's Recommendation: Approve (contingent) 8.45 acres for 50% of assessed value

PRELIMINARY REPORT:

On February 13, 2019, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E18CT042 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 February 26, 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: | David Loney 46530 276th Avenue SE Enumclaw, WA 98022 |
| Location: | 46530 276th Avenue SE, Enumclaw |
| STR: | NW 31-20-7 |
| Zoning: | A-35 |
| Parcel no.: | 3120079098 |
| Total acreage: | 9.45 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> | |
| | Aquifer protection area | |
| | <u>*Farm and agricultural conservation land*</u> | *5* |

~~Rural open space
Scenic resource, viewpoint or view corridor
Watershed protection area~~

Bonus Categories

~~Resource restoration
Contiguous parcels under separate ownership
Conservation easement or historic easement
Easement and access~~

5


The DNRP-recommended score of 5 points results in a current use valuation of 50% of assessed value for the enrolled portion of the property. Award for the farm and agricultural land category is contingent on submittal of a King Conservation District-approved farm management plan by **November 29, 2018**. Because the property is not eligible for 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 8.75 acres and DNRP recommends 8.45 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 preliminary report and testimony at the February 26, 2019, public hearing 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.
6. Approval of 5 points (and a current use valuation of 50% of assessed value for 8.45 acres) is 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:

APPROVE current use valuation of 50% of assessed value for the 8.45-acre enrolled portion of the property, CONTINGENT on submittal of a King Conservation District-approved farm management plan by **November 29, 2018**. Because the property is not eligible for 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 March 12, 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 *April 5, 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 *April 5, 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 *April 5, 2019*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

**MINUTES OF THE FEBRUARY 26, 2019, HEARING ON THE APPLICATION OF
DAVID LONEY, FILE NO. E18CT042**

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 | <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 |

DS/vsm

March 12, 2019

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CERTIFICATE OF SERVICE

SUBJECT: Department of Natural Resources and Parks file no. **E18CT042**
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DAVID LONEY

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 March 12, 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

Kim, Megan

Department of Natural Resources and Parks

Loney, David

Hardcopy

Pedroza, Melani

Metropolitan King County Council

Reed, Mike

Metropolitan King County Council