

March 9, 2021

**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. **E20CT027**
Proposed ordinance no. **2021-0053**
Parcel nos. **0722039018 and 0722039167**

ROGER DOUGLAS

Open Space Taxation Application (Public Benefit Rating System)

Location: [REDACTED] Vashon

Applicant: **Roger Douglas**

[REDACTED]
Vashon, WA 98070

Telephone: [REDACTED]

Email: [REDACTED]

King County: Department of Natural Resources and Parks
represented by **Bill Bernstein**
701 S Jackson Street Suite 701
Seattle, WA 98104
Telephone: (206) 477-4643
Email: bill.bernstein@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 34.65 acres for 10% of assessed value
Conditionally approve 35.30 acres for 10% of assessed value

Examiner's Recommendation: Approve 34.65 acres for 10% of assessed value
Conditionally approve 35.30 acres for 10% of assessed value

PRELIMINARY REPORT:

On January 14, 2021, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E20CT027 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a telephonic public hearing on the application on February 25, 2021. The following day, at our request DNRP submitted an additional map. Ex. 6.

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:	Roger Douglas 21951 107th Avenue SW Vashon, WA 98070
Location:	21951 and 21831 107th Avenue SW, Vashon
STR:	SW-7-22-3
Zoning:	RA-10
Parcel nos.:	0722039018 and 0722039167
Total acreage:	37.91 acres

2. 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 2021. As required by law, notification of the application occurred. Parcel 0722039167 is currently participating in PBRS (E10CT002) and parcel 0722039018 is currently participating in the timberland program (E98CT032). The purpose of this application is to enroll 0722039018 in PBRS. The new open space tax agreement should supersede any existing agreement.
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 ~~struck 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	5
	Buffer to public or current use classified land	3
	Farm and agricultural conservation land	5
	*Forest stewardship land	*
	Historic landmark or archaeological site: eligible	3
	Rural open space	5
	Significant wildlife or salmonid habitat	5
	Surface water quality buffer	5
	Watershed protection area	5
	<u>Bonus Categories</u>	
	Additional surface water quality buffer	5
	Total points	41

4. The DNRP-recommended score of 41 points results in a current use valuation of 10% of assessed value for the enrolled portion of the property.
5. Parcel 0722039018 has a forest stewardship plan which needs updating to continue invasive species control and to potentially restore old pasture areas no longer being actively farmed. *See* Ex. 6 (1.00- and 0.40-acre areas outlined in white). If DNRP approves an updated forest management plan by **December 31, 2021**, then credit for this category may be awarded administratively. Because the property is already at the maximum 90% reduction, additional points will not change the current use valuation, but may allow more forestry activities.
6. Parcel 0722039167 already has traditional farmland being managed under a King Conservation District (KCD) farm management plan. If, by **October 31, 2021**, the Applicant submits a *revised* KCD plan incorporating the 0.65-acre area outlined in green, additional credit for these 0.65-acres may be awarded administratively.
7. As to the land area recommended for PBRS enrollment, the applicant did not specify a requested acreage. DNRP recommends enrolling 7.59 acres (and conditionally enrolling an additional 0.65 acres) of parcel 0722039018 and recommends enrolling 27.06 acres of parcel 0722039167. (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.)
8. Except as modified herein, the facts set forth in DNRP's preliminary report and testimony at the February 25, 2021, public hearing, and later-filed exhibit 6 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. Page nine of the staff report listed 18 points and 30% of market value, instead of the correct 41 points and 10% of market value.

9. Approval of 41 points and a current use valuation of 10% of assessed value for 34.65 acres (and conditional approval of 46 points and 35.30 acres) of the property 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 a current use valuation of 10% of assessed value for a 34.65-acre enrolled portion of the property.
2. CONDITIONALLY approve the same valuation and acreage, but with additional credit under the forest stewardship land category, if DNRP approves an updated forest management plan by **December 31, 2021**.
3. CONDITIONALLY APPROVE the same valuation, but increasing the enrolled area to 35.30 acres, if, by **October 31, 2021**, the Applicant submits a *revised* KCD plan incorporating the 0.65-acre area outlined in green.

DATED March 9, 2021.



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 2, 2021*, 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 2, 2021*, 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 2, 2021*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE FEBRUARY 25, 2021, HEARING ON THE APPLICATION OF ROGER DOUGLAS, FILE NO. E20CT027

David Spohr was the Hearing Examiner in this matter. Bill Bernstein 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
Exhibit no. 6	Supplemental Map, received February 26, 2021

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CERTIFICATE OF SERVICE

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I, Jessica Oscoy, 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 9, 2021.



Jessica Oscoy
Office Manager

Akada, Irene

Department of Assessments

Bernstein, Bill

Department of Natural Resources and Parks

Clark, Debra

Department of Assessments

Douglas, Roger

Hardcopy

Kim, Megan

Department of Natural Resources and Parks

Ngo, Jenny

Metropolitan King County Council

Pedroza, Melani

Metropolitan King County Council