

January 27, 2022

**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. **E21CT010**
Proposed ordinance no. **2022-0005**
Parcel nos. **1222029034 and 1322029080**

CLAIRE, RYAN, CARLA AND PATRICK MCSHANE
Open Space Taxation Application (Public Benefit Rating System)

Location: [REDACTED]
Vashon

Applicants: **Claire, Ryan, Carla, and Patrick McShane**
[REDACTED]
Seattle, WA 98144
Telephone: [REDACTED]
Email: [REDACTED]

King County: Department of Natural Resources and Parks
represented by **Bill Bernstein**
201 S. Jackson Street
Suite 5600
Seattle, WA 98104
Telephone: (206) 477-4643

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Contingently approve 36.54 acres for 10% of assessed value
Examiner's Recommendation: Contingently approve 36.54 acres for 10% of assessed value

PRELIMINARY REPORT:

On January 7, 2022, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E21CT010 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a Zoom public hearing on the application on January 20, 2022. We closed the record on January 21, 2022.

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:

Owners:	Claire, Ryan, Carla, and Patrick McShane 2653 Cascadia S. Seattle, WA 98144
Location:	Property south and abutting 22212 Wax Orchard Road SW, Vashon
STR:	SW-12 and NW 13-22-02
Zoning:	A10
Parcel nos.:	1222029034 (22.57 acres) and 1322029080 (14.97 acres)
Total acreage:	38.54 acres

- The Applicants timely filed an application to King County for the Public Benefit Rating System (PBRS) program current use valuation of the property to begin in 2022. As required by law, notification of the application occurred.
- The property is currently enrolled 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. Any new open space taxation agreement must supersede the previous agreement.
- 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>	
	Equestrian-pedestrian-bicycle trail linkage	*35
	Farm and agricultural conservation land	*5
	Rural open space	0
	Scenic resource, viewpoint, or view corridor	0
	<u>Bonus Categories</u>	
	Contiguous parcels under separate ownership	2*
	Conservation easement or historic easement	15*
	Unlimited public access	5*

The contingent, DNRP-recommended score of 62 points results in a current use valuation of 10% of assessed value for the enrolled portion of the property.

5. As to the enrollment categories:
 - A. Qualification for the farm and agricultural conservation land category (and thus also qualification under the bonus category of conservation easement and historic easement) is contingent on submittal of a King Conservation District-approved farm management plan to DNRP by **October 31, 2022**.
 - B. Qualification for the equestrian-pedestrian-bicycle trail linkage is contingent on recording, with the King County Recorder's Office by **December 31, 2022**, an easement with DNRP providing trail access in perpetuity.
 - C. Qualification for the equestrian-pedestrian-bicycle trail category would, by itself, result in 35 points and 10% of assessed value for the enrolled portion of the property (albeit, as explained below, over a much smaller acreage.)
 - D. Qualification for the farm and agricultural conservation land category, but not the for the equestrian-pedestrian-bicycle trail category, would result in 27 points and 20% of assessed value.
6. As to the land area recommended for PBRS enrollment, the Applicant requested 36.54 acres and DNRP recommends the same. If the farm and agricultural conservation land category contingency is met, the entire 36.54 acres will be enrolled. However, without credit for the farm and agricultural conservation land category, the enrollable acreage dips to the 2.15 acres associated with the trail. (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.)
7. Except as modified herein, the facts set forth in DNRP's preliminary report and testimony at the January 20, 2022, 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.

- A. Pursuant to our discussion at the hearing, DNRP sent a follow-up email (Exhibit 6) explaining that, absent qualification for the farm and agricultural conservation land category, the property could still qualify for PBRs, albeit at a greatly reduced enrolled area (the 2.15 acres associated with the trail).
8. Contingent approval of 62 points and a current use valuation of 10% of assessed value for 36.54 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 a current use valuation of 10% of assessed value for the 36.54-acre enrolled portion of the property, CONTINGENT on submittal of a King Conservation District-approved farm management plan to DNRP by **October 31, 2022**, and on recording, with the King County Recorder's Office by **December 31, 2022**, an easement with DNRP providing trail access in perpetuity.

DATED January 27, 2022.



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 *February 21, 2022*, 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 *February 21, 2022*, 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 *February 21, 2022*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

**MINUTES OF THE JANUARY 20, 2022, HEARING ON THE APPLICATION OF
CLAIRE, RYAN, CARLA AND PATRICK MCSHANE, FILE NO. E21CT010**

David Spohr was the Hearing Examiner in this matter. Bill Bernstein and Patrick McShane participated in the hearing.

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 | January 21, 2022, email from Bill Bernstein clarifying acreage |

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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 January 27, 2022.



Jessica Oscoy
Office Manager

Akada, Irene

Department of Assessments

Bernstein, Bill

Department of Natural Resources and Parks

Claire, Ryan, Carla, Patrick, McShane

Hardcopy

Clark, Debra

Department of Assessments

Kim, Megan

Department of Natural Resources and Parks

Ngo, Jenny

Metropolitan King County Council

Pedroza, Melani

Metropolitan King County Council