

March 16, 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. **E21CT021**
Proposed ordinance no. **2022-0041**
Parcel no. **6390020130**

DOUGLAS KUSCHNER AND DAN HAN

Open Space Taxation Application (Public Benefit Rating System)

Location: [REDACTED] Auburn

Applicants: **Douglas Kushner and Dan Han**

[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 5600
Seattle, WA 98104
Telephone: (206) 477-4788

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 2.66 acres for 40% of assessed value
Conditionally approve 2.66 acres for 30% of assessed value

Examiner's Recommendation: Approve 2.66 acres for 40% of assessed value
Conditionally approve 2.66 acres for 30% of assessed value

PRELIMINARY REPORT:

On February 18, 2022 the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E21CT021 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 March 3, 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:	Douglas Kushner and Dan Han 33340 203rd CT SE Auburn, WA 98092
Location:	33340 203rd Court SE, Auburn
STR:	SW-17-21-06
Zoning:	RA5
Parcel no.:	6390020130
Total acreage:	3.88 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 2022. 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 ~~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	5
	Buffer to public or current use classified land	3
	Forest stewardship land	0
	Significant wildlife or salmonid habitat	5
	<i>Watershed protection area</i>	5

Bonus Categories

Resource restoration

*

Total 13

The DNRP-recommended score of 13 points results in a current use valuation of 40% of assessed value for the enrolled portion of the property.

4. Additional credit may be awarded administratively under the resource restoration category, subject to submittal of a resource restoration plan by **November 1, 2022**, and DNRP approval that plan by **December 1, 2022**. Award of credit under this category will increase the point total by 5 points, resulting in a current use valuation of 30% of assessed value for the enrolled portion of the property.
5. As to the land area recommended for PBRS enrollment, the Applicant requested 3.00 acres and DNRP recommends 2.66 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.)
6. Except as modified herein, the facts set forth in DNRP’s preliminary report and testimony at the March 3, 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. The report listed November 1 and December 1, 2021, as the resource restoration deadlines, when the year should read “2022.”
7. Approval of 13 points and a current use valuation of 40% of assessed value for 2.66 acres, and conditional approval of 18 points and a current use valuation of this 30% of assessed value for those 2.66 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 a current use valuation of 40% of assessed value for the 2.66-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the resource restoration category, subject to submittal of a resource restoration plan by **November 1, 2022**, and DNRP approval that plan by **December 1, 2022**. Award of credit under this category will result in a current use valuation of 30% of assessed value for the enrolled portion of the property.

DATED March 16, 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 *April 11, 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 *April 11, 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 *April 11, 2022*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE MARCH 3, 2022, HEARING ON THE APPLICATION OF DOUGLAS KUSCHNER AND DAN HAN, FILE NO. E21CT021

David Spohr was the Hearing Examiner in this matter. Megan Kim 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 |

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CERTIFICATE OF SERVICE

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DOUGLAS KUSCHNER AND DAN HAN

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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 16, 2022.



Jessica Oscoy
Office Manager

Akada, Irene

Department of Assessments

Bernstein, Bill

Department of Natural Resources and Parks

Clark, Debra

Department of Assessments

Douglas Kuschner, Dan Han

Hardcopy

Kim, Megan

Department of Natural Resources and Parks

Ngo, Jenny

Metropolitan King County Council

Pedroza, Melani

Metropolitan King County Council