

May 2, 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](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**REPORT AND RECOMMENDATION TO THE  
METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: Department of Natural Resources and Parks file no. **E21CT032**  
Proposed ordinance no. **2022-0140**  
Parcel no. **7937600810**

**OTTER LAKE LLC**

Open Space Taxation Application (Public Benefit Rating System)

Location: [REDACTED] Renton

Applicant: Otter Lake LLC  
*represented by* **Michael O'Brien and Leah Mickelson**  
[REDACTED]  
Renton, WA 98058  
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  
Email: [megan.kim@kingcounty.gov](mailto:megan.kim@kingcounty.gov)

**SUMMARY OF RECOMMENDATIONS:**

Department's Recommendation: Approve 5.20 acres for 40% of assessed value  
Conditionally approve 5.20 acres for 10% of assessed value

Examiner's Recommendation: Approve 5.20 acres for 40% of assessed value  
Conditionally approve 5.20 acres for 10% of assessed value

## PRELIMINARY REPORT:

On April 8, 2022, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E21CT032 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 April 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:	Michael O'Brien and Leah Mickelson 18214 W Spring Lake Drive SE Renton, WA 98058
Location:	182xx W Spring Lake Drive SE, Renton
STR:	NW-31-23-06
Zoning:	RA5SO
Parcel no.:	7937600810
Total acreage:	5.20 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 at least conditionally 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>	
	Buffer to public or current use classified land	3
	Forest stewardship land	5
	*Significant wildlife or salmonid habitat	*
	Watershed protection area	5

Bonus Categories


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<i>Conservation easement or historic easement</i>	*
<i>Environmental education access</i>	
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 significant wildlife or salmonid habitat category, subject to the Washington Department of Fish and Wildlife (WDFW), by **December 31, 2022**, providing written confirmation that the western toad is present on the property and entering the property into its database. (WDFW has informally indicated that it is satisfied the toad uses this property, but DNRP is waiting on formal confirmation.) Award of credit under this category will increase the 13-point total by 5 points, resulting in a current use valuation of 30% of assessed value for the enrolled portion of the property.
5. Additional credit may be awarded administratively under the environmental education access category, provided schools or other qualifying organizations submit, by **December 31, 2022**, letters of support to use this property for educational purposes. Assuming a significant wildlife or salmonid habitat category award boosts the point total to 18, the 3 additional points that come with the environmental education access category will result in 21 points and a current use valuation of 20% of assessed value for the enrolled portion of the property.
6. Additional credit may be awarded administratively under the conservation easement or historic preservation easement category, provided a conservation easement is recorded with the King County Recorder's Office by **December 31, 2022**. Assuming a significant wildlife or salmonid habitat category award and an environmental education access category award boosts the total to 21 points, the 15 additional points that come with the conservation easement or historic preservation easement category will result in 36 points and a current use valuation of 10% of assessed value for the enrolled portion of the property.
7. As to the land area recommended for PBRS enrollment, the Applicant requested 5.20 acres and DNRP recommends 5.20 acres. (Enrollment acreage here is the entire parcel, 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 revised report and testimony at the April 21, 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.
9. Approval of 13 points and a current use valuation of 40% of assessed value for the 5.20 enrolling acres, and conditional approval of up to 23 additional points and 10% of assessed value for the same acreage, 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 5.20-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the under the significant wildlife or salmonid habitat category, subject to the Washington Department of Fish and Wildlife (WDFW) by **December 31, 2022**, providing written confirmation that the western toad is present on the property and entering the property into its database. Award of credit under this category will result in a current use valuation of 30% of assessed value.
3. CONDITIONALLY APPROVE additional credit under the environmental education access category, provided schools or other qualifying organizations submit, by **December 31, 2022**, letters of support to use this property for educational purposes. On top of a significant wildlife or salmonid habitat category award, this will result in a current use valuation of 20% of assessed value.
4. CONDITIONALLY APPROVE additional credit under the conservation easement or historic preservation easement category, provided a conservation easement is recorded with the King County Recorder's Office by **December 31, 2022**. On top of a wildlife or salmonid habitat category award and an environmental education access award, this will result in a current use valuation of 10% of assessed value.

DATED May 2, 2022.



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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 26, 2022*, an electronic copy of the appeal statement must be sent to [Clerk.Council@kingcounty.gov](mailto: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 26, 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 *May 26, 2022*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

### **MINUTES OF THE APRIL 21, 2022, HEARING ON THE APPLICATION OF OTTER LAKE LLC, FILE NO. E21CT032**

David Spohr was the Hearing Examiner in this matter. Megan Kim and Michael O’Brien 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	Forest Plan
Exhibit no. 7	Revised DNRP report to the Hearing Examiner

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**CERTIFICATE OF SERVICE**

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Open Space Taxation Application (Public Benefit Rating System)

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 May 2, 2022.



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Jessica Oscoy  
Office Manager

**Akada, Irene**

Department of Assessments

**Bernstein, Bill**

Department of Natural Resources and Parks

**Clark, Debra**

Department of Assessments

**Kim, Megan**

Department of Natural Resources and Parks

**Leah Mickelson, Michael O'Brien**

Hardcopy

**Ngo, Jenny**

Metropolitan King County Council

**Pedroza, Melani**

Metropolitan King County Council