



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

June 1, 2004

Ordinance 14927

Proposed No. 2004-0128.2

Sponsors Phillips

1 AN ORDINANCE concurring with the recommendation of
2 the hearing examiner to approve, subject to conditions, the
3 application for public benefit rating system assessed
4 valuation for open space submitted by Marcia Houdek
5 Jimenez and Richard A. H. Jimenez for property located at
6 15026 – 152nd Avenue Northeast, Woodinville, WA
7 98072, designated department of natural resources and
8 parks, water and land resources division file no.
9 E03CT033.

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11

12 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

13 SECTION 1. This ordinance does hereby adopt and incorporate herein as its
14 findings and conclusions the findings and conclusions contained in the report and
15 recommendation of the hearing examiner dated May 10, 2004, to approve subject to
16 conditions, the application for public benefit rating system assessed valuation for open
17 space submitted by Marcia Houdek Jimenez and Richard A. H. Jimenez for property

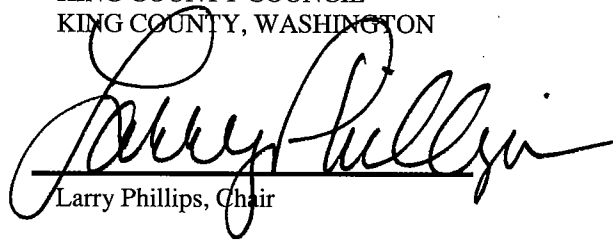
Ordinance 14927

18 located at 15026 – 152nd Avenue Northeast, Woodinville, WA 98072, designated
19 department of natural resources and parks, water and land resources division file no.
20 E03CT033, and the council does hereby adopt as its action the recommendation or
21 recommendations contained in the report.
22

Ordinance 14927 was introduced on 3/15/2004 and passed by the Metropolitan King
County Council on 6/1/2004, by the following vote:

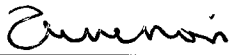
Yes: 10 - Mr. Phillips, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr.
Pelz, Mr. Ferguson, Mr. Hammond, Mr. Gossett, Ms. Hague and Mr. Irons
No: 0
Excused: 3 - Mr. McKenna, Ms. Patterson and Mr. Constantine

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments A. Hearing Examiner Report dated May 10, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Natural Resources & Parks, Water and Land Resources Division File No.
E03CT033
Proposed Ordinance No. **2004-0128**

Open Space Taxation (Public Benefit Rating System)
Application of **Marcia Houdek Jimenez and Richard A. H. Jimenez**
15026 – 152nd Ave. NE
Woodinville, WA 98072

Location of Property: 15026 – 152nd Ave. NE
Woodinville, Washington

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve 4.70 acres for 50% of market value
Department's Final:	Approve 4.70 acres for 50% of market value
Examiner:	Approve 4.70 acres for 30% of market value

PRELIMINARY REPORT:

The Department of Natural Resources & Parks, Water and Land Resources Division, report on item no. E03CT033 was received by the Examiner on April 14, 2004.

PUBLIC HEARING:

After reviewing the Department of Natural Resources & Parks, Water and Land Resources Division, report and examining available information on file with the application, the Examiner conducted a public hearing on the subject as follows:

The hearing on item no. E03CT033 was opened by the Hearing Examiner at 2:12 p.m., April 28, 2004, in the Hearing Examiner's conference room, 400 Yesler Way, Room 404, Seattle, Washington, and closed at 2:15 p.m.

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 office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owners: See "SUBJECT" above
 Location: See "SUBJECT" above

Priority Resources Requested: **High Priority Resources**
 Surface water quality buffer area
 Significant plant, wildlife or salmonid habitat area
 Forest stewardship land
Medium Priority Resource
 Special animal site
Bonus Resource
 Bonus surface water quality buffer area
Public Access
 Unlimited access (open year-round to general public)

Zoning: RA-2.5
 Parcel no.: 340170-0085
 Total acreage: 6.95
 Requested for PBRs: 4.51
 Recommended PBRs: 4.70
 STR: SE-NW-14-26-05

2. Except as modified herein, the facts set forth in the King County Department of Natural Resources & Parks, Water and Land Resources Division, Preliminary Report to the King County Hearing Examiner for the April 28, 2004, public hearing are found to be correct and are incorporated herein by this reference. Copies of the said report will be attached to the copies of this report submitted to the King County Council.

CONCLUSIONS:

1. Approval of current use valuation for 4.70 acres of the subject property, pursuant to the Public Benefit Rating System adopted by King County Ordinance No. 10511, as amended, would be consistent 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.
2. Timely application has been made to King County for the current use valuation of the subject property to begin in 2005. Notice of said application was given in the manner required by law.

3. The subject property contains priority open space resources and may be entitled to bonus points pursuant to the King County Public Benefit Rating System, which justify a total award of 20 points. The resulting current use value is 30% of market value for 4.70 acres of the subject property.
4. Although more than 400 feet in buffer width to a class 2S stream is being provided by the owners, staff has recommended denial of credit for both the standard and bonus Surface Water Buffer Area categories on the theory that a forested open space and native growth retention covenant for drainage dispersion already encumbers this buffer.

The Requirements and Resources attachment to Ordinance no. 12969 states that among the open space areas being considered for PBRS credit, those open space areas “required by zoning and other land use regulation” and buffer areas “required as part of a development, subdivision, zoning, or other regulatory requirement” are ineligible for PBRS credit unless the amount of buffer or open space area offered by the applicant significantly exceeds the quantity set aside pursuant to the regulatory scheme. While the question of proper treatment of native growth retention areas was dealt with at considerable length in the report for file no. E02CT002, Mr. Sullivan’s position apparently remains that all regulatory development limitations are ineligible *per se* for PBRS credit under the program.

5. Surface Water Design Manual section 5.2.1 deals with implementation of the forested open space alternative and at page 5-14 reads in pertinent part as follows:

“The forested open space must be placed in a separate tract or protected through recorded easements on the individual lots. Open space on individual lots can be established through conservation easements, with tax benefits available through the Public Benefit Rating System program.”

It is clear, therefore, that the Water and Land Development Division in proposing and the County Council in adopting the 1998 Surface Water Design Manual did not intend that the dedication of property under the forested open space exemption alternative should deprive the property owner of PBRS credit. Accordingly, the Applicants are entitled to credit for both Surface Water Quality Buffer Area categories as requested.

6. Additional award points may be added administratively for the Forest Stewardship Land category if a forest stewardship plan is submitted to the Water and Land Resources Division by October 1, 2004, and approved by a County forester by November 1, 2004. No public access bonus points can be awarded because the property has not qualified for a category requiring public access. Credit for the Forest Stewardship Land category would result in a total award of 25 points and a current use valuation for the enrolled property of 20% of market value.

RECOMMENDATION:

APPROVE the request for current use valuation of 30% of market value for 4.70 acres of the subject property, subject to the conditions recommended in the Department of Natural Resources & Parks report for the April 28, 2004, public hearing, and the following condition of approval:

1. Total award points and the resulting current use valuation may be adjusted administratively upon meeting the requirements for approval of the Forest Stewardship Land category specified in conclusion no. 6 above.

Current use valuation shall be subject to all terms and conditions of RCW 84.34 and King County Code Chapter 20.36, as the same may be amended from time to time, and all regulations and rules duly adopted to implement state law and county ordinances pertaining to current use valuation.

RECOMMENDED this 10th day of May, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 10th day of May, 2004, to the following parties and interested persons:

Marcia & Richard Jimenez
15026 – 152nd Ave. NE
Woodinville, WA 98072

Susan Monroe, Department of Assessments
Ted Sullivan, Dept. of Natural Resources & Parks
Charlie Sundberg, Office of Cultural Resources
Marilyn Cope, KCC – Committee Staff

NOTICE OF RIGHT TO APPEAL AND ADDITIONAL ACTION REQUIRED

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before May 24, 2004*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before May 31, 2004*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

Action of the Council is final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE APRIL 28, 2004, PUBLIC HEARING ON DEPARTMENT OF NATURAL RESOURCES & PARKS FILE NO. E03CT033:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Ted Sullivan. No others participated in this hearing.

The following exhibits were offered and entered into the hearing record:

- Exhibit No. 1 *Not Submitted*
- Exhibit No. 2 *Not Submitted*
- Exhibit No. 3 *Not Submitted*
- Exhibit No. 4 PBRs Staff Report
- Exhibit No. 5 Affidavit of Publication
- Exhibit No. 6 Notice of hearing from the Hearing Examiner's Office
- Exhibit No. 7 Notice of hearing from the PBRs program
- Exhibit No. 8 Legal notice and introductory ordinance to County Council
- Exhibit No. 9 Application signed/notarized
- Exhibit No. 10 Letter to Applicant re: received application and approval schedule
- Exhibit No. 11 Assessor's map
- Exhibit No. 12 King County Assessor's database printout
- Exhibit No. 13 Arcview/orthophoto map
- Exhibit No. 14 Native Growth Retention Area Covenant

SLS:ms
E03CT033 2004-0128 RPT

Attachment

This document is provided for information only. DO NOT complete and return. A completed copy will be furnished to the Applicant(s) by the Office of the Hearing Examiner after an application has been approved by the Metropolitan King County Council.

OPEN SPACE TAXATION AGREEMENT

Chapter 84.34 RCW

(To be used for "Open Space", "Timber Land" Classification or "Reclassification" Only)

Owner(s)
Granting Authority
Legal Description

Assessor's Property Tax Parcel or Account Number:
Department of Natural Resources & Parks File Number:

This agreement between _____ hereinafter called the "Owner", and
_____ hereinafter called the "Granting Authority".

Whereas the owner of the above described real property having made application for classification of that property under the provisions of Chapter 84.34 RCW.

And whereas, both the owner and granting authority agree to limit the use of said property, recognizing that such land has substantial public value as open space and that the preservation of such land constitutes an important physical, social, esthetic, and economic asset to the public, and both parties agree that the classification of the property during the life of this agreement shall be for:

Open Space

Now, therefore, the parties, in consideration of the mutual covenants and conditions set forth herein, do agree as follows:

1. During the term of this agreement, the land shall be used only in accordance with the preservation of its classified use.
2. No structures shall be erected upon such land except those directly related to, and compatible with, the classified use of the land.
3. This agreement shall be effective commencing on the date the legislative body receives the signed agreement from the property owner and shall remain in effect until the property is withdrawn or removed from classification.
4. This agreement shall apply to the parcels of land described herein and shall be binding upon the heirs, successors and assignees of the parties hereto.
5. The landowner may withdraw from this agreement if, after a period of eight years, he or she files a request to **withdraw** classification with the assessor. Two years from the date of that request the assessor shall withdraw classification from the land, and the applicable taxes and interest shall be imposed as provided in RCW 84.34.070 and 84.34.108.
6. After the effective date of this agreement, any change in use of the land, except through compliance with items (5), (7), or (9), shall be considered a **breach** of this agreement, and shall be subject to removal of classification and liable for applicable taxes, penalties, and interest as provided in RCW 84.34.080 and RCW 84.34.108.
7. A breach of agreement shall not have occurred and the additional tax shall not be imposed if removal of classification resulted solely from:
 - a) Transfer to a governmental entity in exchange for other land located within the State of Washington.
 - b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power in anticipation of the exercise of such power and having manifested its intent in writing or by other official action.
 - c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the land owner changing the use of such property.
 - d) Official action by an agency of the State of Washington or by the county or city where the land is located disallowing the present use of such land.

- e) Transfer of land to a church when such land would qualify for exemption pursuant to RCW 84.36.020.
 - f) Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108(6)(f)).
 - g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(e).
 - h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification.
 - i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120.
 - j) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.
 - k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as forest land under chapter 84.33 RCW, or under chapter 84.34 RCW continuously since 1993.
 - l) The sale or transfer of land after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as forest land under chapter 84.33 RCW, or under chapter 84.34 RCW continuously since 1993 and the sale or transfer takes place within two years after July 22, 2001, and the death of the owner occurred after January 1, 1991.
 - m) The date of death shown on the death certificate is the date used.
8. The county assessor may require an owner to submit data relevant to continuing the eligibility of any parcel of land described in this agreement.
9. The owner may apply for reclassification as provided in Chapter 84.34 RCW.
This agreement shall be subject to the following conditions: _____
- _____
- _____

It is declared that this agreement specifies the classification and conditions as provided for in Chapter 84.34 RCW and the conditions imposed by this Granting Authority. This agreement to tax according to the use of the property is not a contract and can be annulled or canceled at any time by the Legislature (RCW 84.34.070).

Granting Authority:

Dated _____

City or County

Title

As owner(s) of the herein-described land I/we indicated by my/our signature(s) that I am/we are aware of the potential tax liability and hereby accept the classification and conditions of this agreement (must be signed by all owners).

Print Name

Owner(s)

Date signed agreement received by Legislative Authority _____

To inquire about the availability of this notice in an alternative format for the visually impaired or in a language other than English, please call (360)753-3217. Teletype (TTY) users may call (800)451-7985.

REV 64 0022-2 (7/23/02)