



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

June 2, 2004

Ordinance 14933

Proposed No. 2004-0135.2

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 Judith L. Abraham
5 and Donald R. Toenyan, Jr., for property located at 15309
6 Northeast 160th Street, Mark and Valentina Giovannetti for
7 property located at 15717 – 154th Avenue Northeast,
8 Cydney Gross for property located at 15236 Northeast
9 156th Street, Jan and Max Hunt for property located at
10 15707 – 154th Avenue Northeast, Steve and Patty Stivala
11 for property located at 15227 Northeast 160th Street, J.B.
12 West and Kay B. Odegard for property located at 15215
13 Northeast 160th Street and Byron and Pamela Dazey for
14 property located at 15228 Northeast 156th Place,
15 Woodinville, WA 98072, designated department of natural
16 resources and parks, water and land resources division file
17 no. E03CT053.

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BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. This ordinance does hereby adopt and incorporate herein as its findings and conclusions the findings and conclusions contained in the report and recommendation of the hearing examiner dated May 10, 2004, to approve subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Judith L. Abraham and Donald R. Toenyan, Jr., for property located at 15309 Northeast 160th Street, Mark and Valentina Giovannetti for property located at 15717 – 154th Avenue Northeast, Cydney Gross for property located at 15236 Northeast 156th Street, Jan and Max Hunt for property located at 15707 – 154th Avenue Northeast, Steve and Patty Stivala for property located at 15227 Northeast 160th Street, J.B. West and Kay B. Odegard for property located at 15215 Northeast 160th Street and Byron and Pamela Dazey for property located at 15228 Northeast 156th Place, Woodinville, WA 98072, designated department of natural resources and parks, water and land resources

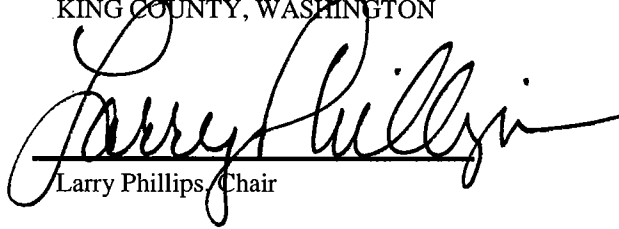
Ordinance 14933

33 division file no. E03CT053, and the council does hereby adopt as its action the
34 recommendation or recommendations contained in the report.
35

Ordinance 14933 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.
E03CT053
Proposed Ordinance No. **2004-0135**

Open Space Taxation (Public Benefit Rating System)

<u>Application of</u>	<u>Location of Property</u>
Judith Abraham & Donald Toenyan Jr 15309 NE 160th St. Woodinville, WA 98072	15309 NE 160th Street Woodinville, WA 98072
Mark & Valentina Giovannetti P.O. Box 1686 Woodinville, WA 98072	15717 – 154th Avenue NE Woodinville, WA 98072
Cydney Gross 15236 NE 156th St. Woodinville, WA 98072	15236 NE 156th Street Woodinville, WA 98072
Jan & Max Hunt P.O. Box 2792 Woodinville, WA 98072	15707 – 154th Avenue NE Woodinville, WA 98072
Steve & Patty Stivala 15227 NE 160th St. Woodinville, WA 98072	15227 NE 160th Street Woodinville, WA 98072
JB West & Kay B. Odegard 15215 NE 160th St. Woodinville, WA 98072	15215 NE 160th Street Woodinville, WA 98072
Byron & Pamela Dazey 15228 NE 156th Place Woodinville, WA 98072	15228 NE 156th Place Woodinville, WA 98072

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve 5.63 acres for 20% of market value
Department's Final:	Approve 5.63 acres for 20% of market value
Examiner:	Approve 5.63 acres for 30% of market value

PRELIMINARY REPORT:

The Department of Natural Resources & Parks, Water and Land Resources Division, report on item no. E03CT053 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. E03CT053 was opened by the Hearing Examiner at 1:42 p.m., April 28, 2004, in the Hearing Examiner's conference room, 400 Yesler Way, Room 404, Seattle, Washington, and closed at 2:05 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
Locations:	See "SUBJECT" above

PBRS Resources Requested:	High Priority Resources
	Aquifer protection area
	Surface water quality buffer area
	Significant plant, wildlife or salmonid habitat area
	Trail linkage
	Forest stewardship land
	Medium Priority Resource
	Public land or right of way buffer
	Bonus Resources
	Bonus surface water quality buffer area
	Contiguous parcels under separate ownership

Public Access

Unlimited access (open year-round to general public)

Super Bonus Category

Zoning:	RA-2.5			
Parcels	#113610-0146	#113610-0142	#113610-0135	#113610-0140
Total acreage:	1.02	2.64	1.65	1.22
Requested PBRs:	0.63	2.11	1.10	0.78
Recommended PBRs:	0.56	2.11	1.08	0.70
	#113610-0147	#113610-0148	#113610-0133	
Total acreage:	1.02	1.02	1.00	
Requested PBRs:	0.31	0.47	0.59	
Recommended PBRs:	0.21	0.46	0.51	

Please note: Total size of parcels is 9.57 acres. Total requested open space area is 5.99 acres.
Recommended PBRs area is 5.63 acres.

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 5.63 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 is entitled to bonus points pursuant to the King County Public Benefit Rating System, which justify a total award of 17 points. The resulting current use value is 30% of market value for 5.63 acres of the subject property.

4. Credit for the Forest Stewardship Land category is contingent upon County forester approval of the Applicants' forest stewardship plan by December 31, 2004.
5. This application consists of seven contiguous parcels located east of the Gold Creek Park each of which contains a portion of an extensive forested area. The PBRS Requirements and Resources appendix allows "contiguous parcels of land with the same open space resources" but under different ownerships to be combined into a single application and to receive a two-point bonus credit for being so conjoined. Our reading of this language is that each parcel in the application package must make at least a minimal contribution to each qualifying resource category. Resource categories found on some (but not all) parcels cannot be included in the joint application.
6. The staff report identifies ten potential resource categories for this application and concludes that seven of them apply to the parcel grouping as a whole. Our review indicates that only four categories are unequivocally supported by the record (Aquifer Protection; Significant Plant, Wildlife or Salmonid Habitat Area; Forest Stewardship Land; and Contiguous Parcels Under Separate Ownership), with the remaining categories being problematic.
7. It is not clear that all parcels qualify for either the standard or bonus Surface Water Quality Buffer Area categories. Two class 3 seasonal streams having 25-foot regulatory buffers traverse the neighborhood. PBRS provides credit for exceptional buffer widths that extend between two and three times the regulatory minimum. For the West/Odegard parcel it is unclear whether any part of its forested area is within 75 feet (three times the regulatory buffer) of the unnamed seasonal creek. While Gold Creek appears to cross both the Dazey and Gross parcels, both properties are already restricted by a fairly broad Native Growth Protection Area. For either of these to qualify for the standard Surface Water Quality Buffer Area category, each would need to have an additional buffer width of at least 25 feet outside the Native Growth boundary; and for the bonus category, an additional 50 feet of buffer width would be required.
8. With regard to the Public Land or Right-of-way Buffer category, only the Giovannetti and West/Odegard parcels are directly adjacent to Gold Creek Park. However, the PBRS Requirements and Resources appendix allows the qualifying buffer width to extend 100 yards from the park boundary. This would pull in the Stivala parcel and perhaps the western edge of the Abraham property. But from the document record it appears that the Hunt parcel is beyond the 100-yard limit and the portions of the Dazey and Gross properties within 100 yards of the park boundary are located within developed areas excluded from PBRS. It appears at a minimum that the Hunt and Gross properties do not contribute to the 100-yard park buffer.
9. Staff has concluded correctly that only the Giovanetti parcel is capable of qualifying for the Trail Linkage category and, by extension, the Public Access and Super Bonus categories. Credit for these categories cannot be conferred within the framework of this joint application.

RECOMMENDATION:

APPROVE the request for current use valuation of 30% of market value for 5.63 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. Approval of a forest stewardship plan as indicated in conclusion no. 4 above.
2. Credit may be awarded administratively by the Division for the Surface Water Quality Buffer category upon satisfactory documentation that the forested area on the West/Odegard parcel lies within 75 feet of the unnamed class 3 creek and that the Dazey and Gross parcels each possess a forested buffer width that extends at least 25 feet beyond the boundary of the recorded Native Growth Protection Area; for the bonus category to be awarded the Division must further document a forested buffer width outside the Native Growth Protection Area of at least 50 feet on both the Dazey and Gross parcels.

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 XX day of May, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this XX day of May, 2004, to the parties listed above and the following interested persons:

Susan Monroe, Department of Assessments
Charlie Sundberg, Office of Cultural Resources

Ted Sullivan, Dept. of Natural Resources & Parks
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. E03CT053:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Ted Sullivan representing the Department and Applicant J. B. West.

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 Applications signed/notarized
- Exhibit No. 9a Dazey application, signed/notarized and Gross notarized affirmation
- 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 Draft Forest Stewardship Plan

SLS:ms
E03CT053 2004-0135 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)