



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 13, 2003

Ordinance 14641

Proposed No. 2003-0068.2

Sponsors Sullivan

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 Douglas Donaldson
5 for property located at 19428 Southeast 118th Street,
6 Issaquah, WA 98027, designated department of natural
7 resources, water and land resources division file no.
8 E02CT032.

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11 **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

12 **SECTION 1.** This ordinance does hereby adopt and incorporate herein as its
13 findings and conclusions the findings and conclusions contained in the report and
14 recommendation of the hearing examiner dated April 18, 2003, to approve subject to
15 conditions, the application for public benefit rating system assessed valuation for open
16 space submitted by Douglas Donaldson for property located at 19428 Southeast 118th
17 Street, Issaquah, WA 98027, designated department of natural resources, water and land

Ordinance 14641


18 resources division file no. E02CT032, and the council does hereby adopt as its action the
19 recommendation or recommendations contained in the report.

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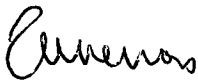
Ordinance 14641 was introduced on 2/24/2003 and passed by the Metropolitan King
County Council on 5/12/2003, by the following vote:

Yes: 11 - Ms. Sullivan, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr.
Phillips, Mr. Pelz, Mr. McKenna, Mr. Constantine, Mr. Gossett, Ms. Hague
and Mr. Irons
No: 0
Excused: 1 - Ms. Patterson

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Cynthia Sullivan, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments A. Hearing Examiner Report dated April 18, 2003

14641
April 18, 2003

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
850 Union Bank of California Building
900 Fourth Avenue
Seattle, Washington 98164
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Natural Resources, Water and Land Resources Division File No. **E02CT032**
Proposed Ordinance No. **2003-0068**

Open Space Taxation (Public Benefit Rating System)
Application of **Douglas Donaldson**
P.O. Box 88921
Seattle, WA 98138

Location of Property: 19428 Southeast 118th Street
Issaquah, Washington

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve 4.66 acres for 20% of market value
Department's Final:	Approve 4.66 acres for 20% of market value
Examiner:	Approve 4.66 acres for 30% of market value

PRELIMINARY REPORT:

The Department of Natural Resources, Water and Land Resources Division Report on Item No. E02CT032 was received by the Examiner on March 24, 2003.

PUBLIC HEARING:

After reviewing the Department of Natural Resources, 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. E02CT032 was opened by the Examiner at 11:27 a.m., April 2, 2003, in the Fifth Floor Conference Room, Union Bank of California Building, 900 Fourth Avenue, Seattle, Washington, and continued administratively at 11:35 a.m. The record closed on April 16, 2003.

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:**

Owner: Douglas B. Donaldson
PO Box 88921
Seattle, WA 98138

Location: 19428 SE 118th Street
Issaquah, WA 98027

PBRS Resources Requested:

HIGH PRIORITY RESOURCES

Surface water quality buffer area
Significant plant, wildlife or salmonid habitat area
Trail linkage
Forest stewardship land

BONUS RESOURCE

Bonus surface water quality buffer area

Zoning: RA-5

Parcel

Total acreage: 5.33

Requested for PBRS: 4.66

Recommended PBRS: 4.66

STR: SE-SE-07-23-06

2. Except as modified herein, the facts set forth in the King County Department of Natural Resources, Water and Land Resources Division preliminary report to the King County Hearing Examiner for the April 2, 2003, 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.
3. Page 4 of the Division's preliminary report contains the following recommendation:

Medium Priority Resource

Public land or right of way buffer

Although credit was not requested for this category, the property's northwest corner is within 75 feet of the southeast corner of a property enrolled in PBRS (file #E94CT041). Credit for this category is recommended.

After questions from the Examiner regarding the propriety of granting credit for this category, the hearing held on April 2, 2003, was continued administratively to allow Division staff to further research this issue. An April 15, 2003, e-mail from Mr. Sullivan contains the following further information:

The northwest corner of the Donaldson's property is within 75 feet of a property enrolled in PBRS (file #E94CT041). This adjacent property is 70 acres in size and is forested. Both properties are providing a buffer of native growth to one another.

The recommendation is to award credit for the public lands or right-of-way buffer category. The Applicant's property is providing a buffer of native vegetation to a large forested area of property classified as open space under the open space taxation act.

4. Review of the aerial orthophoto and associated mapping (exhibit no. 13) in the application file confirms that a large forested parcel lies a small distance northwest of the northwest corner of the Applicant's property, as described by staff, with portions of two other parcels intervening. The intervening parcel to the north is wooded, while the one lying west of the Applicant is a five-acre lot developed with a house and outbuildings on its northern half. Neither intervening parcel is enrolled in the Open Space Taxation program.

CONCLUSIONS:

1. Approval of current use valuation for 4.66 acres of the subject property, pursuant to the Public Benefit Rating System adopted by King County Ordinance No. 10511, 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 2004. Notice of said application was given in the manner required by law.
3. The Public Benefit Rating System Requirements and Resources criteria adopted pursuant to Ordinance No. 12969 define a Public Land or Right-of-way Buffer as "Native growth land lying adjacent to parks, forests, wildlife preserves, natural reservations, sanctuaries, parkways, trails, county, state or interstate highways, or greenways."

The definition also specifies that a qualifying buffer must be no more than "100 yards from the protected resource".

4. The section on Public Land or Right-of-way Buffers also provides eligibility criteria. An eligible parcel "must be dedicated to native growth and must buffer land either in public ownership or land in private ownership which is classified as Open Space under the Open Space Taxation Act and shall be no less than 25 feet in width."

Conversely, a site is deemed ineligible if it consists of "property within 100 yards of a public park, open space or right-of-way *but separated by other land not enrolled in the Open Space Taxation Act*" (emphasis added).

5. Thus, two basic criteria must be met for a parcel to receive credit as a Public Land or Right-of-way Buffer. First, it must lie within 100 yards of a protected resource that is either publicly owned or enrolled in the Open Space Taxation program. While we would not agree that every parcel in the PBRs program automatically meets the definition of a protected resource, the evidence shows that the 70-acre tract near the Applicant's property is undeveloped, relatively mature timberland and enrolled in PBRs. It would, therefore, be within staff's discretion to conclude that such tract is a qualifying "forest" within the meaning of the definitional criterion.
6. The second requirement that must be met is that the eligibility criteria not be violated, in this instance specifically that the Applicant's property and the protected resource not be "separated by other land not enrolled in the Open Space Taxation Act." This requirement is not met by the Applicant's property. It is separated from the protected resource by about 70 feet, and neither of the intervening private parcels are enrolled in the open space program. Therefore, credit for a Public Land or Right-of-way Buffer cannot be awarded due to non-compliance with eligibility criteria.
7. 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 18 points. The resulting current use value is 30% of market value for 4.66 acres of the subject property.

RECOMMENDATION:

APPROVE the request for current use valuation of 30% of market value for 4.66 acres of the subject property, subject to the conditions recommended in the Department of Natural Resources report for the April 2, 2003, public hearing.

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 18th day of April, 2003.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 18th day of April, 2003, to the following parties and interested persons:

Douglas Donaldson
PO Box 88921
Seattle, WA 98138

Monica Clarke, Metropolitan King County Council
Susan Monroe, Department of Assessments
Ted Sullivan, Department of Natural Resources
Charlie Sundberg, Office of Cultural Resources

**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 2, 2003*. 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 9, 2003*. 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 2, 2003 PUBLIC HEARING ON DEPARTMENT OF NATURAL
RESOURCES FILE NO. E02CT032:**

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Ted Sullivan. There were no other participants in the 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 Office of the Hearing Examiner
- Exhibit No. 7 Notice of hearing from the PBRs Program
- Exhibit No. 8 Legal notice and introductory ordinance to Council
- Exhibit No. 9 Application—signed and notarized
- Exhibit No. 10 Letter to Applicant regarding received application and approval schedule
- Exhibit No. 11 Assessor map
- Exhibit No. 12 King County Assessor's database
- Exhibit No. 13 Arcview map and orthophoto
- Exhibit No. 14 Not submitted
- Exhibit No. 15 Forest Stewardship Plan

The following exhibit was entered pursuant to administrative continuance:

- Exhibit No. 16 April 15, 2003, E-mail from T. Sullivan regarding award of Public Lands or Right-of-way Buffer category

SLS:ms
E02CT032 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 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 Land

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. **Withdrawal:** 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. **Breach:** 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(5)(f)).
 - g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(d).
 - 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.
 - 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.
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. 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 may be annulled or canceled at any time by the Legislature.

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.

Owner(s)

Dated _____

(Must be signed by all owners)

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.