



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

April 17, 2007

Ordinance 15721

Proposed No. 2007-0043.2

Sponsors Gossett

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 Martin Baker and
5 Donna Klemka for property located at 23707 Landers Road
6 Southwest, Vashon, WA 98070, designated department of
7 natural resources and parks, water and land resources
8 division file no. E06CT044.

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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 March 27, 2007, to approve subject to
15 conditions, the application for public benefit rating system assessed valuation for open
16 space submitted by Martin Baker and Donna Klemka for property located at 23707
17 Landers Road Southwest, Vashon, WA 98070, designated department of natural

Ordinance 15721

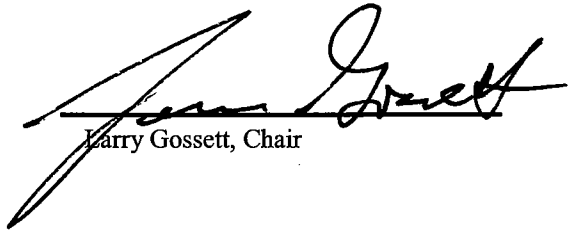
18 resources and parks, water and land resources division file no. E06CT044, and the
19 council does hereby adopt as its action the recommendation or recommendations
20 contained in the report.

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Ordinance 15721 was introduced on 1/22/2007 and passed by the Metropolitan King
County Council on 4/16/2007, by the following vote:

Yes: 7 - Mr. Gossett, Ms. Patterson, Mr. von Reichbauer, Mr. Ferguson, Mr.
Phillips, Ms. Hague and Mr. Constantine
No: 0
Excused: 2 - Ms. Lambert and Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments A. Hearing Examiner Report dated March 27, 2007

March 27, 2007

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

400 Yesler Avenue, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654
Email: hearex@metrokc.gov

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Natural Resources & Parks (DNRP), Water and Land Resources Division,
file no. **E06CT044**
Proposed Ordinance No. **2007-0043**

Open Space Taxation (Public Benefit Rating System)
Application of

MARTIN BAKER and DONNA KLEMKA

23707 Landers Road Southwest
Vashon, WA 98070

Location of Property: 23707 Landers Road Southwest
Vashon, Washington

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve up to 2.89 acres for 20% of market value
Department's Final:	Approve up to 2.89 acres for 20% of market value
Examiner:	Approve up to 2.89 acres for 20% of market value

PRELIMINARY REPORT:

The Department of Natural Resources & Parks, Water and Land Resources Division Report on item no. E06CT044 was received by the Examiner on February 16, 2007.

PUBLIC HEARING:

After reviewing the report and examining available information on file with the application, the Examiner conducted a public hearing on the application as follows:

The hearing on item no. E06CT044 was opened by the Examiner at 1:47 p.m., on February 28, 2007, in the Hearing Examiner's Conference Room, 400 Yesler Way, Room 404, Seattle, Washington and continued at 1:58 p.m. to March 21, 2007, on which date the hearing was recommenced at 2:04 p.m.

for receipt of a revised staff report and closed at 2:08 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: Martin Baker and Donna Klemka
23707 Landers Road SW
Vashon, WA 98070

Property location: Same as above

PBRS categories requested and recommended: **Open space resources**
Aquifer protection area
Buffer to public land
Significant wildlife or salmonid habitat
Surface water quality buffer (contingent)
Watershed protection (contingent)
Additional categories
Additional surface water buffer (contingent)
Resource restoration (contingent)

COMMENT: A portion of the property is currently participating in PBRS, receiving credit for the categories above in italics. Award of the additional requested categories underlined are contingent upon approval of a resource restoration plan.

Zoning: RA-5
Parcel no.: 142202-9071
Total acreage: 4.40
Home site/excluded area: 1.51
Requested for PBRS: 1.29*
Recommended PBRS: 2.89 (contingent)

COMMENT: *Implementation of the approved restoration plan would add all or part of 1.29 acres to the already participating 1.60 acres for a total of up to 2.89 acres recommended for PBRS.

STR: SW 14-22-02

(The land area recommended for PBRS enrollment is the entire parcel less the excluded area(s), which is what has been 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.)

2. Except as modified herein, the facts set forth in the King County Department of Natural Resources & Parks, Water and Land Resources Division, Revised Preliminary Report for the March 21, 2007, public hearing are found correct and are incorporated herein by reference. Copies of the department report will be provided with the copies of this report submitted to the King County Council.
3. Timely application was made to King County for current use valuation of the subject property to begin in 2008. Notice of the application was given as required by law.
4. The property, which is already enrolled in the open space taxation program, is found to contain additional priority open space resources and is contingently eligible for a total award of up to 31 points pursuant to the King County Public Benefit Rating System. The resulting current use value therefore would be as low as 20% of market value for up to 2.89 acres of the property.
5. Credit for each of the categories noted below is contingent upon approval and implementation of a Resource Restoration Plan and the following category-specific requirements:
 - A. Surface Water Quality Buffer – replanting and creation of a buffer to the pond in the southwest corner of the property that is greater than 1.5 times that required.
 - B. Watershed Protection Area – completion of the proposed restoration plan and reforestation of not less than 0.24 acres.
 - C. Resource Restoration – approval and commencement of implementation of a Resource Restoration Plan by **July 1, 2007**. Failure to qualify for this category will result in no changes to the currently enrolled acreage, categories and current use taxation.
 - D. Additional Surface Water Quality Buffer – replanting and creation of a buffer to the pond in the southwest corner of the property which is, on average, greater than 200 feet in width.

CONCLUSIONS:

1. Contingent approval of current use valuation of 20% of market value for up to 2.89 acres of the 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. As the property is currently enrolled in the program, any agreement executed pursuant to approval of the application should be worded to supersede any previous PBRS participation agreement for the property.

RECOMMENDATIONS:

APPROVE current use valuation of 20% of market value for up to 2.89 acres of the subject property, subject to the conditions recommended in the Department of Natural Resources & Parks report for the February 28, 2007, public hearing, and the following additional conditions of approval:

1. Any agreement executed pursuant to approval of the application shall contain a provision that the agreement supersedes any previous PBRS participation agreement for the subject property.
2. Credit for each of the Surface Water Quality Buffer, Watershed Protection Area, Resource Restoration and Additional Surface Water Quality Buffer categories is contingent on approval and implementation of a Resource Restoration Plan and upon meeting the specific requirements outlined for each category in Finding no. 5 above. Failure to qualify for the Resource Restoration category will result in no changes to the currently enrolled acreage, categories and current use taxation.

Current use valuation shall be subject to all terms and conditions of RCW Chapter 84.34 and KCC Chapter 20.36, as 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 March 27, 2007.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED March 27, 2007, to the following parties and interested persons:

Martin Baker & Donna Klemka
23707 Landers Rd. SW
Vashon, WA 98070

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

**NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED**

In order to appeal the recommendation 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 April 10, 2007**. If a notice of appeal is filed, the original and 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 April 17, 2007**. 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 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

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 FEBRUARY 28 AND MARCH 21, 2007, PUBLIC HEARING ON DEPARTMENT OF NATURAL RESOURCES & PARKS FILE NO. E06CT044:

Peter T. Donahue 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 on February 28, 2007:

- Exhibit No. 1 *Not Submitted*
- Exhibit No. 2 *Not Submitted*
- Exhibit No. 3 *Not Submitted*
- Exhibit No. 4 DNRP Preliminary Report to the Hearing Examiner
- 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/Timber program
- Exhibit No. 8 Legal notice and introductory ordinance to County Council
- Exhibit No. 9 Application and signed/notarized affirmation
- Exhibit No. 10 Assessor's map

- Exhibit No. 11 King County Assessor's database printout
- Exhibit No. 12 Arcview and orthophoto/aerial map
- Exhibit No. 13 Letter to neighbors re: notification of PBRs application
- Exhibit No. 14 Restoration plan
- Exhibit No. 15 *Reserved for future submission of* legal description of area to be enrolled

The following exhibit was offered and entered into the hearing record on March 21, 2007:

Exhibit no. 4a Revised - DNRP Preliminary Report to the Hearing Examiner

PTD:ms
E06CT044 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)

Property Owner: **XXX**
Property Address: **XXXX**
Granting Authority **King County, Washington**
Legal Description

Assessor's Property Tax Parcel or Account Number: **XXX**
Department of Natural Resources & Parks File Number: **E0XXX**
This agreement is between **XXX** hereinafter called the "Owner", and
King County, Washington 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. 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. 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.
 10. This agreement shall supersede any previous open space taxation agreement entered into for the subject property.

This agreement shall be subject to the following conditions:

See attached Hearing Examiner Report and Recommendation

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 _____

_____ King County, Washington

Council Chair

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

Signature

Date signed agreement received by Legislative Authority _____

For tax assistance, visit <http://dor.wa.gov> or call 1-800-647-7706. To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users may call 1-800-451-7985.
REV 64 0022e (w) (7/27/05)