



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**April 6, 2009**

**Ordinance 16437**

**Proposed No.** 2009-0032.2

**Sponsors** Patterson

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 Paul and Nancy  
5 Harvey and Maryellen Elcock for property located at 35408  
6 and 35534 – 277th Avenue SE, Auburn, WA 98092,  
7 designated department of natural resources and parks, water  
8 and land resources division file no. E08CT071a.

9  
10 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

11 SECTION 1. This ordinance does hereby adopt and incorporate herein as its  
12 findings and conclusions the findings and conclusions contained in the report and  
13 recommendation of the hearing examiner dated March 5, 2009, to approve subject to  
14 conditions, the application for public benefit rating system assessed valuation for open  
15 space submitted by Paul and Nancy Harvey and Maryellen Elcock for property located at  
16 35408 and 35534 – 277th Avenue SE, Auburn, WA 98092, designated department of  
17 natural resources and parks, water and land resources division file no. E08CT071a, and

18 the council does hereby adopt as its action the recommendation or recommendations  
19 contained in the report.

20

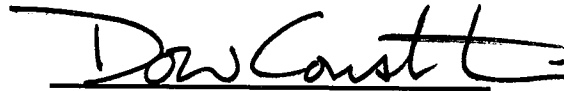
Ordinance 16437 was introduced on 1/26/2009 and passed by the Metropolitan King  
County Council on 4/6/2009, by the following vote:

Yes: 8 - Mr. Constantine, Mr. Ferguson, Ms. Hague, Ms. Lambert, Mr. von  
Reichbauer, Mr. Gossett, Mr. Phillips and Ms. Patterson

No: 0

Excused: 1 - Mr. Dunn

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



Dow Constantine, Chair

ATTEST:



Anne Noris, Clerk of the Council

**Attachments**      A. Hearing Examiner Report dated March 5, 2009

March 5, 2009

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

400 Yesler Avenue, Room 404

Seattle, Washington 98104

Telephone (206) 296-4660

Facsimile (206) 296-1654

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

**SUBJECT:** Department of Natural Resources & Parks (DNRP), Water and Land Resources Division,  
file no. **E08CT071a**  
Proposed Ordinance No. **2009-0032**

Open Space Taxation (Public Benefit Rating System; PBRs)

Application of

**PAUL & NANCY HARVEY**

P.O. Box 767

Black Diamond, WA 98010

**MARYELLEN ELCOCK**

26828 Maple Valley Hwy. #244

Maple Valley, WA 98038

Location of Property: 35408 and 35534 – 277th Avenue SE  
Auburn, Washington

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary:	Approve 6.71 acres for 30% of market value
Department's Final:	Approve 6.71 acres for 30% of market value
Examiner:	Approve 6.71 acres for 30% of market value

**PRELIMINARY REPORT:**

The Department of Natural Resources & Parks, Water and Land Resources Division Report on item no. E08CT071a was received by the Examiner on February 12, 2009.

**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. E08CT071a was held by the Examiner on February 25, 2009, in the Hearing Examiner's Conference Room, 400 Yesler Way, Room 404, Seattle, Washington.

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:	<b>PAUL &amp; NANCY HARVEY</b> P.O. Box 767 Black Diamond, WA 98010	<b>MARYELLEN ELCOCK</b> 26828 Maple Valley Hwy. #244 Maple Valley, WA 98038
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Location: 35408 and 35534 – 227th Avenue SE, Auburn WA

PBRS categories requested: **Open space resources**  
Rural open space  
Significant plant site  
Significant wildlife or salmonid habitat  
Special animal site  
Surface water quality buffer  
Watershed protection area

**Bonus category**  
Contiguous parcels under separate ownership

Categories recommended: **Open space resources**  
Aquifer protection area  
Significant wildlife or salmonid habitat  
Watershed protection area

**Bonus category**  
Contiguous parcels under separate ownership

STR:	NE 28-21-06	
Zoning:	RA-10	
Parcel no.:	282106-9050 (Harvey)	282106-9052 (Elcock)
Total acreage:	4.48	5.00
Recommended PBRS:	2.61	4.10

(The land area recommended for PBRS enrollment is the entire parcel less the excluded area, 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, Preliminary Report for the February 25, 2009, 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 Metropolitan King County Council.
3. Page 5, section E, second bullet is revised to read, “The enrolling PBRs area does not contain ten or more qualifying acres...” rather than, “The enrolling PBRs area does not contain more than the qualifying ten acres...”
4. Timely application was made to King County for PBRs current use valuation of the property to begin in 2010. Notice of the application was given as required by law.
5. The property contains priority open space resources and is eligible for a total award of 17 points under the King County Public Benefit Rating System. The resulting current use valuation therefore would be 30% of market value for 6.71 acres of the property.

CONCLUSION:

1. Approval of current use valuation of 30% of market value for 6.71 acres of the property pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC 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.

RECOMMENDATION:

APPROVE current use valuation of 30% of market value for 6.71 acres of the subject property, subject to the conditions recommended in the Department of Natural Resources & Parks report for the February 25, 2009 public hearing.

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 5, 2009.

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Peter T. Donahue  
King County Hearing Examiner

**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 March 19, 2009*. 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 March 26, 2009*. 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 3<sup>rd</sup> 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 25, 2009 PUBLIC HEARING ON DEPARTMENT OF NATURAL RESOURCES & PARKS FILE NO. E08CT071a:**

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Bill Bernstein. There were no other participants in this hearing.

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

Exhibit No. 1	<i>Not submitted</i>
Exhibit No. 2	<i>Not submitted</i>
Exhibit No. 3	<i>Not submitted</i>
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. 9a-b	Applications signed/notarized
Exhibit No. 10	Assessor's map

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- 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 Letter to applicant re: received application and approval schedule
- Exhibit No. 15 *Not submitted*
- Exhibit No. 16 *Reserved for future submission of legal description of area to be enrolled*

PTD:mls  
E08CT071a RPT  
Attachment





- 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)