



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

June 1, 2009

Ordinance 16536

Proposed No. 2009-0143.2

Sponsors Constantine

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 Joyce Shaw for
5 property located at 19707 - 288th Avenue SE, Hobart, WA
6 98025, designated department of natural resources and
7 parks, water and land resources division file no.
8 E08CT089.

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 May 8, 2009, to approve subject to
14 conditions, the application for public benefit rating system assessed valuation for open
15 space submitted by Joyce Shaw for property located at 19707 - 288th Avenue SE, Hobart,
16 WA 98025, designated department of natural resources and parks, water and land

17 resources division file no. E08CT089, and the council does hereby adopt as its action the
18 recommendation or recommendations contained in the report.

19

Ordinance 16536 was introduced on 3/2/2009 and passed by the Metropolitan King
County Council on 6/1/2009, 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

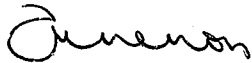
Excused: 1 - Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Dow Constantine, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments A. Hearing Examiner Report dated May 8, 2009

May 8, 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
Email: hearingexaminer@kingcounty.gov

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Natural Resources & Parks (DNRP), Water and Land Resources Division,
file no. **E08CT089**
Proposed Ordinance No. **2009-0143**

Open Space Taxation (Public Benefit Rating System; PBRs)
Application of
JOYCE SHAW
P.O. Box 216
Hobart, Washington 98025

Location of Property: 19707 – 288th Avenue SE
Hobart, Washington

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve 28.72 acres for 10% of market value
Department's Final:	Approve 28.72 acres for 10% of market value
Examiner:	Approve 28.72 acres for 10% of market value

PRELIMINARY REPORT:

The Department of Natural Resources & Parks, Water and Land Resources Division Report on item no. E08CT089 was received by the Examiner on April 2, 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. E08CT089 was held by the Examiner on April 15, 2009, in the Hearing Examiner's Conference Room, 400 Yesler Way, Room 404, Seattle, Washington, and was administratively continued for submission of supplemental information from DNRP staff regarding

qualification under the watershed protection area category. The hearing record closed on April 28, 2009.

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: Joyce Shaw

Location: 19707 – 288th Avenue SE, Hobart

PBRS categories requested:

- Open space resources**
- Aquifer protection area
- Buffer to public land
- Forest stewardship land
- Rural open space
- Rural stewardship land
- Shoreline: conservancy environment
- Shoreline: natural environment
- Significant plant site
- Significant wildlife or salmonid habitat
- Special animal site
- Surface water quality buffer
- Bonus categories**
- Resource restoration
- Additional surface water quality buffer

Categories recommended:

- Open space resources**
- Aquifer protection area
- Buffer to public land
- Farm and agricultural conservation land (contingent)
- Forest stewardship land (conditional)
- Rural open space
- Significant wildlife or salmonid habitat
- Special animal site
- Surface water quality buffer
- Bonus categories**
- Additional surface water quality buffer

STR:	NE 06-22-07	
Zoning:	RA-5	
Parcel nos.:	062207-9113	062207-9127
Total acreage:	22.20 acres	10.27 acres

Recommended PBRS: 18.45 acres 10.27 acres

(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. The subject property is currently enrolled in the farm and agriculture open space program. 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.
3. Except as modified herein, the facts set forth in the King County Department of Natural Resources & Parks, Water and Land Resources Division, Preliminary Report and testimony for the April 15, 2009, public hearing and in supplemental communication 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.
4. Although the Applicant did not specifically request award under the watershed protection area category, eligibility was researched by DNRP staff during an administrative continuance of the hearing.

Award under the watershed protection area category is given if "the enrolling forested area...consist[s] of an additional fifteen percent of forest cover beyond that required by county...regulation." [KCC 20.36.100.A.20] The property has not been shown to qualify by providing forest cover substantially in excess of currently effective regulations. Nevertheless, award should continue to be granted based on the clearing limits of KCC 16.82.150 effective prior to its recent judicial invalidation. Even though that regulatory basis of award consideration has been undercut by the invalidation, the established award structure was in part predicated on its effectiveness, and the policy principle behind the award structure remains and should be respected as intended. The principle is that forest cover is valuable for watershed protection and is eligible for PBRS award if its area is substantially over and above the base expressed as the minimum value, whether expressed by the prior regulation or by any regulations which are currently effective.

Award under this category would accordingly require the enrollment of 24.26 acres of forest area; the Applicant is enrolling only 23.87 acres and therefore does not qualify for award.

5. Award of credit under the farm and agricultural conservation land category is contingent upon Applicant submittal of a King Conservation District-approved farm management plan by October 1, 2009. Failure to qualify under this category would reduce the total award points by 5 points and may result in a less reduced valuation for the enrolled portion of the property. If the area marked in blue on Exhibit no. 4 is not managed as provided for in an approved farm management plan or if the farm management plan is not implemented, that area would be subject to removal from the PBRS program resulting in a reduction in enrolled acreage to as low as 23.87 acres.
6. Subject to the above-noted contingency, the property contains priority open space resources and is eligible for a total award of 36 points under the King County Public Benefit Rating System. The resulting current use valuation therefore would be 10% of market value for 28.72 acres of the property.

7. Additional credit may be awarded administratively under the forest stewardship land category subject to Applicant submittal of a forest stewardship plan for more than four acres of contiguous forest by August 1, 2009, and subsequent approval by October 1, 2009. Award of credit under this category would increase the total point award by 5 points with an adjusted current use valuation as may be in order.

CONCLUSION:

1. Subject to the above-noted contingency, approval of current use valuation of 10% of market value for 28.72 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 10% of market value for 28.72 acres of the property, subject to the conditions recommended in the Department of Natural Resources & Parks report for the April 15, 2009 public hearing, the above-noted contingency and the following conditional allowance:

- A. Credit may be awarded administratively under the forest stewardship land category as stated in Finding no. 7 above. Award of credit under this category would increase the total point award by 5 points with an adjusted current use valuation as may be in order.

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 May 8, 2009.

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 May 22, 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 May 29, 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 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 APRIL 15, 2009 PUBLIC HEARING ON DEPARTMENT OF NATURAL RESOURCES & PARKS FILE NO. E08CT089:

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 *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 signed/notarized
- 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 Letter to applicant re: received application and approval schedule
- Exhibit No. 15 *Reserved for future submission of* Farm Management Plan
- Exhibit No. 16 *Reserved for future submission of* legal description of area to be enrolled
- Exhibit No. 17 *Reserved for future submission of* Forest Stewardship Plan
- Exhibit No. 18 April 28, 2009, email from DNRP staff re: follow-up on watershed category award

PTD:mls
E08CT089 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)