



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19600

Proposed No. 2023-0044.2

Sponsors Upthegrove

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 Larry and Susan
5 Lorack for property located at 13105 Burma Road SW,
6 Vashon, WA, designated department of natural resources
7 and parks, water and land resources division file no.
8 E22CT012.

9 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

10 SECTION 1. This ordinance does hereby adopt and incorporate herein as its
11 findings and conclusions the findings and conclusions contained in Attachment A to this
12 ordinance, the report and recommendation of the hearing examiner dated March 16,
13 2023, to approve subject to conditions, the application for public benefit rating system
14 assessed valuation for open space submitted by Larry and Susan Lorack for property
15 located at 13105 Burma Road SW, Vashon, WA, designated department of natural
16 resources and parks, water and land resources division file no. E22CT012. The council

Ordinance 19600

- 17 does hereby adopt as its action the recommendation or recommendations contained in the
18 examiner's report.

Ordinance 19600 was introduced on 1/31/2023 and passed by the Metropolitan King County Council on 4/18/2023, by the following vote:

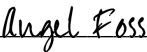
Yes: 9 - Balducci, Dembowski, Dunn, Kohl-Welles, Perry, McDermott, Upthegrove, von Reichbauer and Zahilay

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:

E76CE01F07B14EF...
Dave Upthegrove, Chair

ATTEST:

DocuSigned by:

C267B914088E4A0...
Melani Pedroza, Clerk of the Council

Attachments: A. Hearing Examiner Report dated March 16, 2023

March 16, 2023

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860

hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

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

SUBJECT: Department of Natural Resources and Parks file no. **E22CT012**
Proposed ordinance no. **2023-0044**
Parcel nos. **1823039029** and **1823039117**

LARRY AND SUSAN LORACK

Open Space Taxation Application (Public Benefit Rating System)

Location: 13105 Burma Road SW, Vashon

Applicants: Burma Beach Cabin LLC
represented by **Larry and Susan Lorack**
5409 298th Avenue NE
Carnation, WA 98014
Telephone: (425) 880-4831
Email: llorack@aol.com

King County: Department of Natural Resources and Parks
represented by **Bill Bernstein**
201 S. Jackson Street Suite 5600
Seattle, WA 98104
Telephone: (206) 477-4643
Email: bill.bernstein@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 2.17 acres for 40% of assessed value
Examiner's Recommendation: Approve 2.17 acres for 40% of assessed value

PRELIMINARY REPORT:

On February 16, 2023, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT012 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a Zoom public hearing on the application on March 2, 2023.

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 Hearing Examiner’s Office.

FINDINGS AND CONCLUSIONS:

1. General Information:

Owners:	Larry and Susan Lorack 5409 298th Avenue NE Carnation, WA 98014
Location:	13105 Burma Road SW, Vashon
STR:	NW-18-23-03
Zoning:	RA2.5
Parcel nos.:	1823039029 and 1823039117
Total acreage:	2.45 acres

2. The Applicants timely filed an application to King County for the Public Benefit Rating System (PBRS) program current use valuation of the property to begin in 2023. As required by law, notification of the application occurred.

3. A summary of relevant PBRS categories follows below. (Plain text represents a category an applicant requested an award for and that DNRP agrees is warranted. Any ~~striketrough~~ represents a category an applicant requested an award for but that DNRP disagrees is warranted. Any *italics* represents a category an applicant did not request an award for, but that DNRP nonetheless concludes is warranted. And any *asterisk* represents a category where DNRP finds an award is warranted, but only if certain contingencies or conditions are met.)

PBRS categories:	<u>Open Space Resources</u>	
	Aquifer protection area	5
	Buffer to public or current use classified land	3
	Watershed protection area	5
	Total	13

The DNRP-recommended score of 13 points results in a current use valuation of 40% of assessed value for the enrolled portion of the property. There are no contingencies.

4. As to the land area recommended for PBRS enrollment, the Applicant requested 2.11 acres and DNRP recommends 2.17 acres. (Enrollment acreage is the entire parcel less

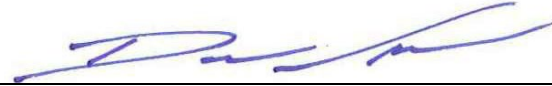
- the excluded area, as calculated by DNRP. In the event the County Assessor’s official parcel size is revised, the PBRS acreage shall be administratively adjusted to reflect that change.)
5. Except as modified herein, we find the facts set forth in DNRP’s preliminary report and testimony at the March 2, 2023, public hearing correct and we incorporate them by reference. We will provide copies of this report and DNRP’s report to the Metropolitan King County Council for final approval.
 6. Approval of 13 points and a current use valuation of 40% of assessed value for 2.17 acres is consistent with KCC Chapter 20.36 and 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.
 7. Finally, there is one additional feature here only tangentially related to this application. Applicants’ properties are bisected by a public right-of-way that continues through the neighbor’s property to the south before dead-ending. Ex. 1 (map). That right-of-way appears to be mere lines on a map, likely created by a century-old plat, and never built out, as owners developed other ways to access the properties. Heavily forested, it does not appear to provide future access to any properties.
 8. Property owners can petition to “vacate” rights-of-way useless to the road system, meaning the owners acquire the right-of-way, increase their square footage, and remove an encumbrance to their private property. *See* <https://kingcounty.gov/depts/local-services/roads/road-vacations.aspx>. Vacating solely the right-of-way section through Applicants’ properties would probably not “benefit the public” (a bedrock requirement), because that would leave an isolated, orphaned public right-of-way section in the middle of the neighbor to the south’s property—how could the County respond to, for example, illegal dumping on what would become a landlocked public right-of-way? But vacating the right-of-way through all three properties appears, on first-blush, appropriate.¹
 9. Where vacation is warranted, we calculate the compensation the petitioner has to pay to expand their property by starting with the increase in property value their parcel will garner from the extra square footage the (formerly) public right-of-way area adds, and then adjusting downward to reflect the expected value to the public from avoided costs (such as potential management/maintenance). Our most recent recommendations have resulted in compensation requirements of: \$809, \$0, \$6648, \$0, \$890, \$0, and \$0.

RECOMMENDATION:

APPROVE a current use valuation of 40% of assessed value for the 2.17-acre enrolled portion of the property.

¹ We cannot tell how far to the north the right-of-way goes, but participation by northerly owners seems optional, since—unlike the scenario where Applicants petitioned but the neighbor to the south did not join in—the lack of northerly participation would presumably not result in an orphaned public right-of-way section. There is a bar to vacating rights-of-way abutting a body of water, but the right-of-way here does not seem to do that. And all this is just speculation based on looking at one piece of paper. If a vacation petition comes in, we will analyze it on its merits.

DATED March 16, 2023.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

A person appeals an Examiner recommendation by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD). Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal. KCC 20.22.230 also requires that the appellant provide copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner’s recommendation.

Prior to the close of business (4:30 p.m.) on *April 10, 2023*, an electronic copy of the appeal statement must be sent to Clerk.Council@kingcounty.gov and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. If the Office of the Clerk is not officially open on the specified closing date, delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

Unless both a timely and sufficient appeal statement and filing fee are filed by *April 10, 2023*, the Clerk of the Council shall place on the agenda of the next available Council meeting a proposed ordinance implementing the Examiner’s recommended action. At that meeting the Council may adopt the Examiner’s recommendation, defer action, refer the matter to a Council committee, or remand to the Examiner for further hearing or further consideration.

If a timely and sufficient appeal statement and filing fee are filed by *April 10, 2023*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

**MINUTES OF THE MARCH 2, 2023, HEARING ON THE APPLICATION OF
LARRY AND SUSAN LORACK, FILE NO. E22CT012**

David Spohr was the Hearing Examiner in this matter. Bill Bernstein participated in the hearing.

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

- | | |
|---------------|-------------------------------------------------------------------------------|
| Exhibit no. 1 | DNRP report to the Hearing Examiner |
| Exhibit no. 2 | <i>Reserved for future submission of the affidavit of bearing publication</i> |
| Exhibit no. 3 | Legal notice and introductory ordinance to the King County Council |
| Exhibit no. 4 | Arcview/orthophotograph and aerial map |
| Exhibit no. 5 | Application signed and notarized |

Certificate Of Completion

Envelope Id: BA5FB40F8A5E41DFB5C95E3688BBAB87	Status: Completed
Subject: Complete with DocuSign: Ordinance 19600.docx, Ordinance 19600 Attachment A.pdf	
Source Envelope:	
Document Pages: 2	Signatures: 2
Supplemental Document Pages: 5	Initials: 0
Certificate Pages: 5	Envelope Originator:
AutoNav: Enabled	Cherie Camp
Envelopeld Stamping: Enabled	401 5TH AVE
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	SEATTLE, WA 98104
	Cherie.Camp@kingcounty.gov
	IP Address: 198.49.222.20

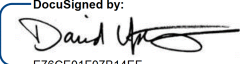
Record Tracking

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4/19/2023 3:50:55 PM	Cherie.Camp@kingcounty.gov	
Security Appliance Status: Connected	Pool: FedRamp	
Storage Appliance Status: Connected	Pool: King County-Council	Location: DocuSign

Signer Events

Dave Upthegrove
dave.upthegrove@kingcounty.gov
Chair
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

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Signature Adoption: Uploaded Signature Image
Using IP Address: 198.49.222.20

Timestamp

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Signed: 4/20/2023 11:30:38 AM

Electronic Record and Signature Disclosure:
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ID: 80bdb284-c46f-40cd-9bba-212839b9ca5a

Angel Foss
Angel.Foss@kingcounty.gov
Deputy Clerk of the Council
King County Council
Security Level: Email, Account Authentication (None)

DocuSigned by:

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Signature Adoption: Pre-selected Style
Using IP Address: 198.49.222.20

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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Gavin Muller gavin.muller@kingcounty.gov Legislative Clerk - Ccl King County Council Security Level: Email, Account Authentication (None)	COPIED	Sent: 4/20/2023 11:30:40 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	4/20/2023 11:50:36 AM
Completed	Security Checked	4/20/2023 11:50:36 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, King County-Department of 02 (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact King County-Department of 02:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: cipriano.dacanay@kingcounty.gov

To advise King County-Department of 02 of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at cipriano.dacanay@kingcounty.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from King County-Department of 02

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to cipriano.dacanay@kingcounty.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with King County-Department of 02

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to cipriano.dacanay@kingcounty.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

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- Until or unless you notify King County-Department of 02 as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by King County-Department of 02 during the course of your relationship with King County-Department of 02.