

March 27, 2012

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
King County Courthouse, Room 1200
516 Third Avenue
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-0198
Email hearingexaminer@kingcounty.gov

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Natural Resources and Parks File No. **E11CT026**
Proposed Ordinance No. **2012-0028**
Parcel No. **0920069046**

RUSSELL AND CARI TRUSSELL
Open Space Taxation (Public Benefit Rating System (PBRs))

Location: 40608 212th Avenue SE

Applicants: **Russell and Cari Trussell**
PO Box 521
Black Diamond, WA 98010
Telephone: (360) 886-0823
Email: rat98010@msn.com

King County: Department of Natural Resources and Parks (DNRP)
represented by **Ted Sullivan**
201 S Jackson Street Suite 600
Seattle, WA 98104
Telephone: (206) 205-5170
Email: ted.sullivan@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve 8.53 acres for 90% of market value (contingent)
Department's Final Recommendation:	Approve 8.53 acres for 90% of market value (contingent)
Examiner's Recommendation:	Approve 8.53 acres for 90% of market value (contingent)

PRELIMINARY REPORT:

The DNRP Report on file no. E11CT026 was received by the Examiner on January 20, 2012.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a public hearing on the application on February 1, 2012, in the West 1201 Conference

Room, 12th Floor, KC Courthouse, 516 Third Avenue, Seattle, Washington. The hearing was continued administratively for receipt of the affidavit of notice publication. That was received March 8, 2012, at which time the hearing record closed.

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, CONCLUSIONS AND RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information:**

Owners:	Russell and Cari Trussell PO Box 521 Black Diamond, WA 98010
Location:	40608 212th Avenue SE
PBRS categories proposed:	Open Space Resources Public recreation area Equestrian-pedestrian-bicycle trail linkage Farm and agricultural conservation land Rural open space Scenic resource, viewpoint or view corridor
Categories recommended:	Open Space Resources Farm and agricultural conservation land (contingent)
STR:	NW 9-20-6
Zoning:	A-35
Parcel no.:	0920069046
Recommended PBRS:	8.53 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.)

- The subject property is currently enrolled in the farm and agriculture program. Timely application was made to King County for PBRS program current use valuation of the property to begin in 2013. Notice of the application was given as required by law.
- Except as modified herein, the facts set forth in the DNRP Preliminary Report and testimony at the February 1, 2012, public hearing are found to be 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.
- Change to Department staff report: The Applicants reduced their original home site acreage exclusion from 1.70 to 1.34 acres. This change increases the Department's recommended enrolled acreage from 8.08 to 8.53 acres.
- Award under the farm and agricultural conservation land category is contingent upon submittal of a King Conservation District-approved farm management plan for the property by **July 1, 2012**. Failure

to qualify under this category would preclude the property from enrollment in the PBRs program at present due to lack of sufficient qualifying points.

6. Subject to the above-noted contingency, the property contains priority open space resources and is eligible for a total award of 5 points under the King County Public Benefit Rating System. The resulting current use valuation therefore would be 90% of market value for 8.53 acres.

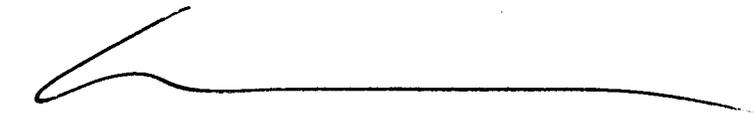
CONCLUSION:

1. Subject to the above-noted contingency, approval of current use valuation of 90% of market value for 8.53 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 90% of market value for 8.53 acres of the property, subject to the contingency noted above and the conditions recommended in the DNRP report.

DATED March 27, 2012.



Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

In order to appeal the recommendation of the Hearing Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250 (check payable to King County Office of Finance) on or before **April 10, 2012**. If a notice of appeal is filed, the original and two 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, 2012**.

Filing requires actual delivery to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third 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. 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.

If a written notice of appeal and filing fee are not filed within 14 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 that 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, defer action, refer the matter to a Council committee, or remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within 21 days from the date of the action an aggrieved party or person applies for a writ of certiorari from Superior Court for the purpose of review of the action taken.

MINUTES OF THE FEBRUARY 1, 2012, PUBLIC HEARING ON DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E11CT026.

Mr. Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Bill Bernstein and Ted Sullivan, both on behalf of the department.

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
<i>Exhibit no. 5</i>	<i>Affidavit of Publication</i>
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
<i>Exhibit no. 10</i>	<i>Legal description of area to be enrolled</i>
Exhibit no. 11	Letter to applicant re: received application and approval schedule
Exhibit no. 12	Arcview and orthophoto/aerial map
Exhibit no. 13	<i>Reserved for future submission of farm management plan</i>
Exhibit no. 14	Email string between Ted Sullivan and Applicant Russ Trussell regarding changes to the home site acreage

PTD/vsm