

April 9, 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. **E11CT057**
Proposed Ordinance No. **2012-0059**
Parcel Nos. **3224079109, 3224079110, 3224079111, 3224079112, 3224079021**

**JOHN AND RENE WESTMAN, JOHN AND TERESA SCHMOE, VYTENIS BABRAUSKAS, JERRY
TIERNEY AND JAN DRANGE AND KENNETH AND TERRY ROBERTS**
Current Use Taxation (Public Benefit Rating System (PBRs) Open Space)

Location: 9313 300th Place SE, 9211 300th Place SE, 9000 300th Place SE, 90xx 300th
Place SE, 30115 SE 88th Street, Issaquah

Applicants: **John and Rene Westman**
9313 300th Place SE
Issaquah, WA 98027
Telephone: (425) 392-2266
Email: jwes757487@aol.com

John and Teresa Schmoe
9211 300th Place SE
Issaquah, WA 98027
Telephone: (206) 793-0778
Email: mikeschmoe@yahoo.com

Vytenis Babrauskas
9000 300th Place SE
Issaquah, WA 98027
Telephone: (425) 222-9499
Email: vytob@doctorfire.com

Jerry Tierney and Jan Drange
43916 SE 168th Street
North Bend, WA 98045
Telephone: (425) 888-5424
Email: jdrange@aol.com

Kenneth and Terry Roberts
30115 SE 88th Street
Issaquah, WA 98027
Telephone: (425) 222-7727
Email: ken@gmnameplate.com

King County: Department of Natural Resources and Parks (DNRP)
represented by **Bill Bernstein**
201 S Jackson Street Suite 600
Seattle, WA 98104
Telephone: (206) 296-8351
Email: bill.bernstein@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department’s Preliminary Recommendation:	Approve 19.90 acres for 20% of market value
Department’s Final Recommendation:	Approve 19.90 acres for 20% of market value
Examiner’s Recommendation:	Approve 19.90 acres for 20% of market value

PRELIMINARY REPORT:

The DNRP Report on file no. E11CT057 was received by the Examiner on February 16, 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 29, 2012, in the West 1201 Conference Room, 12th Floor, KC Courthouse, 516 Third Avenue, 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 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:

Owner(s):	John and Rene Westman 9313 300th Place SE Issaquah, WA 98027
	John and Teresa Schmoe 9211 300th Place SE Issaquah, WA 98027
	Vytenis Babrauskas 9000 300th Place SE Issaquah, WA 98027

Jerry Tierney and Jan Drange
 43916 SE 168th Street
 North Bend, WA 98045

Kenneth and Terry Roberts
 30115 SE 88th Street
 Issaquah, WA 98027

Location: 9313 300th Place SE, 9211 300th Place SE, 9000 300th Place SE, 90xx 300th Place SE, 30115 SE 88th Street, Issaquah

PBRS categories proposed: **Open Space Resources**
 Buffer to public or current use classified land
 Forest stewardship land
 Rural open space
 Significant wildlife or salmonid habitat
 Surface water quality buffer
 Watershed protection area

Bonus Categories
 Additional surface water quality buffer
 Contiguous parcels under separate ownership

Categories recommended: **Open Space Resources**
 Forest stewardship land (contingent)
 Rural open space
 Significant wildlife or salmonid habitat
 Watershed protection area

Bonus Categories
 Contiguous parcels under separate ownership

STR: SE 32-24-07
 Zoning: RA-5 and RA-10
 Parcel nos.: 3224079109 3224079110 3224079111 3224079112 3224079021
 Recommended PBRS: 4.39 acres 5.16 acres 3.49 acres 4.04 acres 2.82 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. 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.
3. Except as modified herein, the facts set forth in the DNRP Preliminary Report and testimony at the February 29, 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.
4. Award under the forest stewardship land category is contingent upon submittal of a forest stewardship plan for the property by **August 1, 2012** and subsequent approval by **October 1, 2012**. Failure to qualify under this category would reduce the point total by 5 with no direct effect on the current use valuation for the enrolled portion of the property.

5. The property contains priority open space resources and is eligible for a total award of 28 points under the King County Public Benefit Rating System. The resulting current use valuation therefore would be 20% of market value for 19.90 acres.

CONCLUSION:

1. Approval of current use valuation of 20% of market value for 19.90 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 20% of market value for 19.90 acres of the property, subject to the conditions recommended in the DNRP report.

DATED April 9, 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 23, 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 30, 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 29, 2012, PUBLIC HEARING ON DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E11CT057.

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:

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| 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. 9 | Application signed/notarized |
| Exhibit no. 10 | Legal description of area to be enrolled |
| 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 forest stewardship plan</i> |

PTD/vsm