

May 7, 2012

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Natural Resources and Parks File No. **E12CT002**
Proposed Ordinance No. **2012-0101**
Parcel Nos. **0824079029, 0924079080**

FIRST CITIZENS BANK AND TRUST COMPANY
Current Use Taxation (Public Benefit Rating System (PBRs) Open Space)

Location: 307xx SE 31st Street, Fall City

Applicant: First Citizens Bank and Trust Company
represented by **Darren Krattli**
1201 Pacific Avenue Suite 1200
Tacoma, WA 98402
Telephone: (253) 620-2537
Email: dkrattli@eisenhowerlaw.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 11.51 acres for 30% of market value (20% conditionally)
Department's Final Recommendation: Approve 11.51 acres for 30% of market value (20% conditionally)
Examiner's Recommendation: Approve 11.51 acres for 30% of market value (20% conditionally)

PRELIMINARY REPORT:

The DNRP Report on file no. E12CT002 was received by the Examiner on March 22, 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 April 4, 2012, in the Fred 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:	First Citizens Bank and Trust Company 1201 Pacific Avenue Suite 1200 Tacoma, WA 98402
Location:	307xx SE 31st Street, Fall City
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 Watershed protection area
Categories recommended:	Open Space Resources Buffer to public or current use classified land Forest stewardship land (conditional) Rural open space Significant wildlife or salmonid habitat Watershed protection area
STR:	NE 08-24-07
Zoning:	RA-5 and A-35
Parcel nos.:	<u>0824079029</u> <u>0924079080</u>
Recommended PBRs:	5.20 acres 6.31 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 land 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 April 4, 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. Changes to Department staff report and recommendation:

Page 5, Section E., forest stewardship land category recommendation: plan received deadline is changed to September 1, 2012 and plan approval deadline is changed to November 1, 2012.

5. The property contains priority open space resources and is eligible for a total award of 18 points under the King County Public Benefit Rating System. The resulting current use valuation therefore would be 30% of market value for 11.51 acres.
6. Additional credit may be awarded administratively under the forest stewardship land category subject to submittal of forest stewardship plan by **September 3, 2012** and subsequent approval by **November 1, 2012**. Award of credit under this category would increase the point total by 5 points, resulting in a current use valuation of 20% of market value for the enrolled portion of the property.

CONCLUSION:

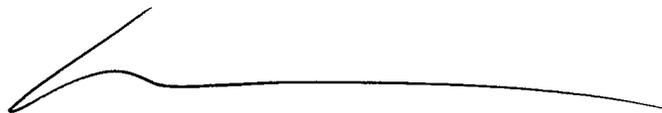
1. Approval of current use valuation of 30% of market value (20% conditionally) for 11.51 acres of the property pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC would be consistent with the purposes and intent of King County to maintain, preserve, conserve and otherwise continue 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 (20% conditionally) for 11.51 acres of the property, subject to the conditions recommended in the DNRP report and the following conditional allowance:

- A. Additional credit may be awarded administratively under the forest stewardship land category subject to submittal of forest stewardship plan by **September 3, 2012** and subsequent approval by **November 1, 2012**. Award of credit under this category would increase the point total by 5 points, resulting in a current use valuation of 20% of market value for the enrolled portion of the property.

DATED May 7, 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 **May 21, 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 **May 29, 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 APRIL 4, 2012, PUBLIC HEARING ON DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E12CT002.

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
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>
Exhibit no. 14	Email from DNRP to Applicant's attorney correcting forest stewardship plan submission and approval deadlines

PTD/vsm