

March 4, 2023

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

King County Courthouse
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www.kingcounty.gov/independent/hearing-examiner

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

SUBJECT: Department of Natural Resources and Parks file no. **E22CT031**
Proposed ordinance no. **2023-0109**
Parcel no. **182309-9057**

NADIA AND ROBERT SCHMIEDER

Open Space Taxation Application (Public Benefit Rating System)

Location: 13028 475th Avenue SE, North Bend

Applicants: **Nadia and Robert Schmieder**
13028 475th Avenue SE
North Bend, WA 98045
Telephone: (425) 677-4734
Email: nadiaschmieder@hotmail.com

King County: Department of Natural Resources and Parks
represented by **Megan Kim**
201 S. Jackson Street Suite 5600
Seattle, WA 98104
Telephone: (206) 477-4788
Email: megan.kim@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 12.59 acres for 20% of assessed value
Examiner's Recommendation: Approve 12.59 acres for 10% of assessed value

PRELIMINARY REPORT:

On April 6, 2023, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT031 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a remote public hearing on the application on April 20, 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:	Nadia and Robert Schmieder 13028 475th Avenue SE North Bend, WA 98045
Location:	13028 475th Avenue SE, North Bend
STR:	NE-18-23-09
Zoning:	RA10
Parcel no:	182309-9057
Total acreage:	15.00 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. The property is currently enrolled in the Timberland program. The purpose of this application is to reclassify the property and enroll it in PBRS. Any new open space taxation agreement must supersede the Timberland agreement.
4. A summary of relevant PBRS categories DNRP analyzed in its staff report follows below. (Plain text represents a category an applicant requested an award for and that DNRP agrees is warranted. Any ~~strike through~~ 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
	Forest stewardship land	5
	Rural open space	5
	Scenic resource, viewpoint or view corridor	0
	<i>Significant wildlife or salmonid habitat</i>	5
	<i>Surface water quality buffer</i>	8
	<i>Watershed protection area</i>	5
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	Total	33

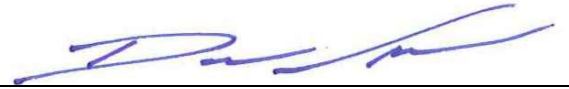
5. Those numbers add up to 33 points, which would result in a current use valuation of 20% of assessed value for the enrolled portion of the property. However, reading through DNRP’s narrative on the surface water quality buffer category, DNRP explained that the normal regulatory buffer for the property’s type N stream is 65 feet. To earn the category’s full 10 points, the buffer must be at least three times the required 65 feet, or 195 feet. The owners are providing a buffer of native vegetation on the south side of the stream averaging 342 feet, which is over five times the required amount. Thus 10 points, not eight, is the appropriate category number.
6. The difference is substantial, because adding two more points raises the point total to 35. And 35 points boosts the property into the highest category, resulting in a current use valuation of 10% of assessed value for the enrolled portion of the property.
7. Except as noted here, we find the facts set forth in DNRP’s preliminary report and testimony at the April 20, 2023, public hearing correct and we incorporate them by reference.¹ We will provide copies of this report and DNRP’s report to the Metropolitan King County Council for final approval.
8. As to the land area recommended for PBRS enrollment, the Applicant requested 12.40 acres and DNRP recommends 12.59 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.)
9. Approval of 35 points and a current use valuation of 10% of assessed value for 12.59 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.

¹ For clarity, the Applicants applied for credit in the aquifer protection area; forest stewardship land; scenic resource, viewpoint or view corridor; and significant wildlife or salmonid habitat categories. Neither DNRP’s chart nor its category writeup quite reflected what was initially requested vs. what DNRP added.

RECOMMENDATION:

APPROVE a current use valuation of 10% of assessed value for the 12.59-acre enrolled portion of the property.

DATED March 3, 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 *March 28, 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 *March 28, 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 *March 28, 2023*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

**MINUTES OF THE APRIL 20, 2023, HEARING ON THE APPLICATION OF
NADIA AND ROBERT SCHMIEDER, FILE NO. E22CT031**

David Spohr was the Hearing Examiner in this matter. Megan Kim participated in the hearing.

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

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| Exhibit no. 1 | DNRP report to the Hearing Examiner |
| Exhibit no. 2 | <i>Reserved for future submission of the affidavit of hearing 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 |
| Exhibit no. 6 | Forest Stewardship Plan |