

**KING COUNTY
DEPARTMENT OF NATURAL RESOURCES AND PARKS
WATER AND LAND RESOURCES DIVISION**

**Report to the King County Hearing Examiner for Property
Enrollment in the Public Benefit Rating System (PBR)**

February 14, 2017 – Public Hearing

APPLICANT: Randolph Hays

File No. E16CT030

A. GENERAL INFORMATION:

1. Owner: Randolph Hays
22002 129th Place SE
Kent, WA 98031
2. Property location: 35800 301st Place SE
Enumclaw, WA 98022
3. Zoning: RA5
4. STR: NE-29-21-07
5. PBR categories requested by applicants *and suggested by staff:*

NOTE: The property is currently participating in the Timber Land program, file E06CT004, (RCW 84.34). The new landowners are pursuing reclassification into PBR as they are not interested in harvesting timber for commercial purposes, which is a requirement for continued enrollment in Timber Land. **The new open space taxation agreement should supersede any existing agreement for this property's PBR participation.**

Open space resources

- *Buffer to public or current use classified land
- *Forest stewardship land
- ***Surface water quality buffer*
- *Watershed protection area

Bonus Category

- ***Additional surface water quality buffer*

NOTE: *Staff recommends credit be awarded for these PBR categories. **Award of these categories is also possible, but will be dependent upon specific category

requirements being met (see resource category discussion under Section E beginning on page 6).

6. Parcel:	292107-9046
Total acreage:	6.10
Requested PBRs:	5.10
Home site/excluded area:	1.00
Recommended PBRs:	5.10*

***Recommended PBRs acreage is dependent upon the property’s qualification for the forest stewardship land category, which requires an approved forest stewardship plan be implemented to address understory restoration needs throughout much of the area to be enrolled. Without award of this category, the property would not eligible to participate in PBRs.**

NOTE: The portion recommended for enrollment in PBRs is the entire property less the excluded area as measured. The attached 2015 aerial photo outlines the parcel in yellow and the areas proposed to be excluded from PBRs in blue. In the event the Assessor’s official parcel size is revised, PBRs acreage should be administratively adjusted to reflect that change.

B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned RA5.
2. Development of the subject property and resource characteristics of open space area: The property is currently undeveloped. A residence will be built in the next year. The open space is mostly coniferous forest. The understory of the property has been removed as it was maintained as a timber property. The replanting of the understory and the eradication of holly and blackberry will be addressed in a forest stewardship plan. Additionally, there is an aquatic feature on site, however, the location and type are unidentified. An inspection of the property will be forthcoming and will identify the aquatic feature and its associated buffer.
3. Site use: The property will be used as a single family residence.
4. Access: The property is accessed from 301st Place SE.
5. Appraised value for 2016 (Based on Assessor’s information dated 01/25/2017)

<u>Parcel #292107-9046</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	\$219,000.00*	\$0.00	\$219,000.00
Tax applied	\$2,584.29	\$0.00	\$2,584.29

NOTE: *This value is presently impacted by the land's participation in the Timber land program (RCW 84.34), which is reflected in the land's current and lower taxable value of \$37,087 (tax applied \$437.64). Similar to the Timber land program, participation in PBRs reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value.

C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

KCC 20.36.010 Purpose and intent.

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessed valuation on "open space land" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the application. In making such recommendation, the department will utilize the point system described in section B. and C. below.
- B. The following open space resources are each eligible for the points indicated:
1. Public recreation area – five points
 2. Aquifer protection area – five points
 3. Buffer to public or current use classified land – three points
 4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
 5. Active trail linkage – fifteen or twenty-five points
 6. Farm and agricultural conservation land – five points
 7. Forest stewardship land – five points
 8. Historic landmark or archaeological site: buffer to a designated site – three points
 9. Historic landmark or archaeological site: designated site – five points
 10. Historic landmark or archaeological site: eligible site – three points
 11. Rural open space – five points
 12. Rural stewardship land – five points
 13. Scenic resource, viewpoint, or view corridor – five points

14. Significant plant or ecological site –five points
15. Significant wildlife or salmonid habitat – five points
16. Special animal site – three points
17. Surface water quality buffer – five points
18. Urban open space – five points
19. Watershed protection area – five points

C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:

1. Resource restoration - five points
2. Additional surface water quality buffer - three or five points
3. Contiguous parcels under separate ownership - two points
4. Conservation easement of historic easement – fifteen points
5. Public access - points dependent on level of access
 - a. Unlimited public access - five points
 - b. Limited public access - sensitive areas - five points
 - c. Environmental education access – three points
 - d. Seasonal limited public access - three points
 - e. None or members only – zero points
6. Easement and access – thirty-five points

D. 2012 COMPREHENSIVE PLAN POLICIES AND TEXT:

E-101 In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives should be monitored to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRs staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B11.

E-106 The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40 percent or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;
- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and

h. Volcanic hazard areas.

E-421 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

E-429 King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants.

NOTE: Participation in PBRS requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

E-443 The county should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

E-476 King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

E-504 King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRS provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRS requirement.

E-449 The county shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

R-605 Well-managed forestry and agriculture practices are encouraged because of their multiple benefits, including natural resource protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

E. PBRs CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:

Open space resources

- Buffer to public or current use classified land

The property is adjacent to King County parks land (parcel 292107-9038 to the south and east) and Designated Forestland (parcel 292107-9078 to the north). The enrolling open space area is providing a buffer of native vegetation of more than 50 feet to the adjacent lands, which exceeds the category's requirement. Credit for this category is recommended.

- Forest stewardship land

The property contains more than five acres of contiguous forest. The owners are choosing to develop a forest stewardship plan to improve on the health and diversity of the understory as well as address the Himalayan blackberry and holly on site. In order to qualify for this category and enroll the property in PBRs, a forest stewardship plan must be provided by the owners, approved by the department, and implemented. This plan must address the control and removal of invasive plant species (primarily Himalayan blackberry) and address the revegetation strategy of the understory. Credit for this category is recommended dependent upon this plan being **provided by July 3, 2017**, and **approved by the department on or before September 1, 2017**. Award of this category may allow forestry activities to occur in the participating open space area. It is the landowner's responsibility to apply for and receive the necessary approvals from the applicable state and local governmental agencies for forestry activities that require a permit or approval, such as clearing and grading.

- Surface water quality area buffer

Although credit was not requested for this category, there is an unidentified aquatic feature on site. The property is currently being inspected for sensitive areas so that a house can be built on the property. Because the aquatic feature is unidentified and the buffer width cannot be determined, credit for this category cannot be recommended. However, if a map and/or report that provides detailed locations and types of aquatic features is **provided by April 3, 2017, AND it can be determined that there is a buffer greater than 1.5 times that required AND an approved forest stewardship plan is implementing with includes the re-vegetation of the understory**, then credit for this category should be awarded administratively.

- Watershed protection area

The enrolling open space contains 5.10 acres of native forest cover which is more than 65% of the total property acreage and is more forest cover than required by county regulation for this property. Much of the enrolling area understory needs to be revegetated and the owners do intend on restoring the area with native vegetation. **Credit for this category is recommended dependent upon the award of the forest stewardship category and the implementation of an approved forest stewardship plan.**

Bonus category

- Additional surface water quality buffer

Although credit was not requested for this category, there is an unidentified aquatic feature on site. The property is currently being inspected for sensitive areas so that a house can be built on the property. Because the aquatic feature is unidentified and the buffer width cannot be determined, credit for this category cannot be recommended. However, if a map and/or report that provides detailed locations and types of aquatic features is **provided by April 3, 2017, AND it can be determined that there is a buffer greater than 1.5 times that required**, then credit for this category should be awarded administratively. However, if a map and/or report that provides detailed locations and types of aquatic features is **provided by April 3, 2017, AND it can be determined that there is a buffer greater than two or three times that required AND an approved forest stewardship plan is implementing with includes the re-vegetation of the understory**, then credit for this category should be awarded administratively.

NOTE: It is important to note that enrollment in the PBRS program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS:

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.
3. Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

Open space resources

Buffer to public or current use classified land	3
Forest stewardship land	5*
Surface water quality buffer	**
Watershed protection area	5*

Bonus category

Additional surface water quality buffer	**
---	----

TOTAL 13 points

NOTE: * Award of these categories and enrollment in PBRS is dependent upon the approval and implementation of a forest stewardship plan.

** If a map and/or report that is provided details locations and types of aquatic features **AND it can be determined that there is a buffer greater than that is required for the surface water quality buffer categories** then point total could further increase to a maximum of 23 and the percent reduction to 80% for the portion of the property being enrolled.

PUBLIC BENEFIT RATING

For the purpose of taxation, 13 points result in 40% of market value and a 60% reduction in taxable value for the portion of land enrolled.

B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of 13 points, subject to the following requirements:

**Requirements for Property Enrolled in the
Public Benefit Rating System Current Use Taxation Program**

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRS) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The County Assessor and the King County Rural and Regional Services Section or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.
2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the King County

Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the Assessor and the King County Rural and Regional Services Section or its successor of a change in circumstance with regard to the Property.

4. When a portion of the open space Property is withdrawn or removed from the program, the King County Rural and Regional Services Section or its successor and the Assessor shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining portion meets the criteria for priority resources, it may continue under current use taxation.
5. Except as provided for in sections 6, 7 and 10 below, no alteration of the open space land or resources shall occur without prior approval by the King County Rural and Regional Services Section or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: (*Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.*)
 - a. erecting structures;
 - b. grading;
 - c. filling;
 - d. dredging;
 - e. channelizing;
 - f. modifying land or hydrology for surface water management purposes;
 - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
 - h. applying herbicides or pesticides or any hazardous or toxic substance;
 - i. discharging pollutants excepting stormwater;
 - j. paving, construction, application of gravel;
 - k. storing of equipment, household supplies, play equipment, or compost;
 - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the King County Rural and Regional Services Section or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the King County Rural and Regional Services Section or its successor, in order to replace such species with native species or other appropriate vegetation.

8. There shall be no motorized vehicle driving or parking allowed on the open space. Property, except for the purpose of forestry and in areas of the Property being used as forest stewardship land.
9. Grazing of livestock is prohibited on the open space Property.
10. For land designated as forest stewardship land, activities that are consistent with forestry uses and that are consistent with an approved Forest Stewardship Plan for the Property shall be permitted as long as those activities do not cause a significant adverse impact to the resource values of other awarded categories.
11. An owner of property receiving credit for farm and agricultural conservation land, forest stewardship land, or rural stewardship land, all of which require a stewardship or management plan, must annually provide a monitoring report that describes progress of implementing the plan. The owner must submit this report, which must include a brief description of activities taken to implement the plan and photographs from established points on the property, to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.
12. Enrollment in PBRs does not exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

TRANSMITTED to the parties listed hereafter:

Office of the King County Hearing Examiner
Randolf Hays, applicant
Debra Clark, King County Department of Assessments
Bill Loeber, King County Forester



1.00 acres

2921079046

2015 Aerial Photo