

April 6, 2023

**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. **E22CT022**  
Proposed ordinance no. **2023-0080**  
Parcel no. **0123059065**

**LORRAINE SWALLEY AND RAYMOND CUNNINGHAM**  
Open Space Taxation Application (Public Benefit Rating System)

Location: 9905 174th Avenue SE, Renton

Applicants: **Lorraine Swalley and Raymond Cunningham**  
9905 174th Avenue SE  
Renton, WA 98059  
Telephone: (425) 228-8850  
Email: [lorryswal@hotmail.com](mailto:lorryswal@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](mailto:megan.kim@kingcounty.gov)

**SUMMARY OF RECOMMENDATIONS:**

Department's Recommendation: Approve 4.37 acres for 40% of assessed value  
Conditionally approve 4.37 acres for 10% of assessed value

Examiner's Recommendation: Approve 4.37 acres for 40% of assessed value  
Conditionally approve 4.37 acres for 10% of assessed value

## PRELIMINARY REPORT:

On March 9, 2023, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT022 to the Examiner.

## PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a Zoom public hearing on March 23, 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: Lorraine Swalley and Raymond Cunningham  
9905 174th Avenue SE  
Renton, WA 98059

Location: 9905 174th Avenue SE, Renton

STR: NE-01-23-05

Zoning: RA5

Parcel: 0123059065

Total acreage: 5.00 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. A summary of relevant PBRS categories follows below. (Plain text represents a category an applicant requested an award for and that DNRP agrees is warranted. Any ~~strikethrough~~ 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>	
	<del>Aquifer protection area</del>	0
	Buffer to public or current use classified land	3
	*Forest stewardship land	*
	<del>Scenic resource, viewpoint or view corridor</del>	0
	*Significant plant or ecological site	*
	*Significant wildlife or salmonid habitat	*
	Special animal site	3
	*Surface water quality buffer	*
	Watershed protection area	5
	<hr/> Total	<hr/> 11

The DNRP-recommended score of 11 points results in a current use valuation of 40% of assessed value for the enrolled portion of the property.

4. Additional credit may be awarded administratively under:
  - A. The forest stewardship land category, subject to submittal of a forest stewardship plan by **October 29, 2023**, and DNRP approval of that plan by **December 31, 2023**. Award of such credit will increase the point total by five. Award of this category may also allow approved forestry activities to occur on the property.
  - B. The significant wildlife or salmonid habitat category, provided a Washington Department of Fish and Wildlife expert submits, by **December 31, 2023**, sufficient documentation and written support of an endangered, threatened, sensitive, or candidate species. Award of such credit will increase the point total by five.
  - C. The significant plant or ecological site category, provided a Washington Department of Natural Resources expert submits, by **December 31, 2023**, sufficient documentation and written support of a rare plant species or ecosystem. Award of such credit will increase the point total by five.
  - D. The surface water quality buffer category, if a qualified expert submits, by **December 31, 2023**, a delineation report documenting an aquatic area and demonstrating that the buffer to that aquatic area is some multiple of the regulatorily-required buffer (1.5x for five points, 2x for eight points, and 3x for 10 points).
5. Five additional points would result in a current use valuation of 30% of assessed value for the enrolled portion of the property. Ten additional points would result in a current use valuation of 20% of assessed value for the enrolled portion of the property. And 24 or more additional points would result in a current use valuation of 10% of assessed value for the enrolled portion of the property.
6. As to the land area recommended for PBRS enrollment, the Applicant requested 4.51 acres and DNRP recommends 4.37 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.)

7. Except as modified herein, we find the facts set forth in DNRP’s preliminary report and testimony at the March 23, 2023, public hearing correct, and we incorporate them by reference. We will provide copies of this report and DNRP’s report to the Metropolitan King County Council for final approval.
  - A. The staff report listed a bonus category for additional surface water quality buffer. Recent legislation has eliminated that category as a standalone one, and merged the additional point awards for larger buffers into the normal surface water quality buffer category (as described above in paragraph 4.D).
8. Approval of 11 points and a current use valuation of 40% of assessed value for 4.37 acres, and conditional approval of up to 30 additional points and 10% of assessed value for 4.37 acres, are 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.

#### RECOMMENDATION:

1. APPROVE a current use valuation of 40% of assessed value for the 4.37-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the forest stewardship land category, subject to submittal of a forest stewardship plan by **October 29, 2023**, and DNRP approval of that plan by **December 31, 2023**.
3. CONDITIONALLY APPROVE additional credit for the significant wildlife or salmonid habitat category, provided a Washington Department of Fish and Wildlife expert submits, by **December 31, 2023**, sufficient documentation and written support of an endangered, threatened, sensitive, or candidate species.
4. CONDITIONALLY APPROVE additional credit for the significant plant or ecological site category, provided a Washington Department of Natural Resources expert submits, by **December 31, 2023**, sufficient documentation and written support of a rare plant species or ecosystem.
5. CONDITIONALLY APPROVE additional credit for the surface water quality buffer category, if a qualified expert submits, by **December 31, 2023**, a delineation report documenting an aquatic area and demonstrating that the buffer to that aquatic area sufficiently exceeds the regulatorily-required buffer.

DATED April 6, 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 *May 1, 2023*, an electronic copy of the appeal statement must be sent to [Clerk.Council@kingcounty.gov](mailto: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 *May 1, 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 *May 1, 2023*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

### **MINUTES OF THE MARCH 23, 2023, HEARING ON THE APPLICATION OF LORRAINE SWALLEY AND RAYMOND CUNNINGHAM, FILE NO. E22CT022**

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

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

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	Revised DNRP report to the Hearing Examiner