



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

October 18, 2005

Ordinance 15305

Proposed No. 2005-0376.2

Sponsors Patterson

1 AN ORDINANCE authorizing the county executive to
2 convey to the city of Kent, under threat of eminent domain,
3 farmland development rights on property necessary for the
4 Johnson creek relocation and restoration project, and to
5 receive just compensation for the conveyance.
6
7

8 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

9 SECTION 1. Findings of fact.

10 A. Ordinance 4341 established the King County farmland preservation program
11 and had as its major purpose the protection and preservation of prime farmland and
12 associated open space lands through the acquisition of development rights voluntarily
13 offered by their owners for lands that met special soils classification criteria, and that
14 were threatened by expanding urbanization.

15 B. The voters of King County approved the acquisition of the development rights
16 for prime farmland and associated open space lands, as proposed by Ordinance 4341, and
17 approved the issuance of general obligation bonds in the amount of \$50,000,000 to

18 acquire such development rights in order to protect and preserve prime farmland and
19 associated open space lands in perpetuity.

20 C. Under the authorization provided in Ordinance 4341, the county currently
21 holds the development rights to more than 12,600 acres of prime farmland and associated
22 open space lands that serve as buffers for the farmlands, and the vast majority of this
23 acreage is located within Agricultural Production Districts as designated in the King
24 County Comprehensive Plan. The lands for which the county owns the development
25 rights and which are located in Agricultural Production Districts serve an important
26 public purpose and the protection and preservation of these lands constitute an important
27 public use for the citizens of the county and for the county's farmland preservation
28 program.

29 D. The county currently holds the development rights to prime farmland and
30 associated open space lands in areas outside of the designated agricultural production
31 districts and outside of municipal boundaries. These lands have been involved in
32 ongoing agricultural activities since the county purchased their development rights. The
33 protection and preservation of such lands as farmlands and associated open space land as
34 buffers to farmlands serve an important public purpose and constitute an important public
35 use for the citizens of the county and for the county's farmland preservation program.

36 E. The county currently holds the development rights to farmland and associated
37 open space buffers for 6 properties lying wholly or partially within the boundaries of
38 municipalities, and all such properties, save the Muth/Polygon property, have been
39 actively farmed or been used as a buffer for actively farmed land since the acquisition of
40 their development rights by the county. The protection and preservation of these

41 properties as farmland, or in the case of the Muth/Polygon property due to its special
42 condition, as open space land, serve an important public purpose and constitute an
43 important public use for the citizens of the county and for the county's farmland
44 preservation program.

45 F. Ordinance 4341, in addition to authorizing the acquisition of development
46 rights interest, also authorized the fee acquisition of suitable farmlands and required that
47 the county sell the underlying property interest as soon as practicable while retaining the
48 development rights.

49 G. In June 1986, the farmland preservation program acquired in fee the 15.03-
50 acre Muth/Polygon property located within the municipal boundaries of the city of Kent.

51 H. In August 1988, the county sold the underlying property interest while
52 retaining the development rights to the Muth/Polygon property.

53 I. The Muth/Polygon property is a unique property. It does not lie within the
54 agricultural production district. It lies wholly within the municipal boundaries of the city
55 of Kent. It has not been farmed since the purchase of its development rights almost 20
56 years ago by the county. It is not within the current use taxation program. It is not
57 contiguous to any other farmland for which the county holds the development rights and
58 does not act as an open space buffer to agricultural land. Approximately half of the
59 property is occupied by wetlands, another portion is subject to the wetland buffer
60 requirements and restrictions under the city of Kent Critical Areas Ordinance, and
61 drainage patterns onto this parcel from development in the area make it highly unlikely
62 that the property will ever be farmed in the future.

63 J. The Muth/Polygon property contains important habitat resources, including a
64 salmonid-bearing stream, that the city of Kent is committed to protecting and enhancing
65 through the Johnson creek relocation and restoration project (the "project"). This project,
66 within the currently existing wetland area, is consistent with the property's ongoing open
67 space use.

68 K. Kent's relocation and restoration project includes relocating Johnson creek,
69 restoring and enhancing its buffer and constructing a regional storm water detention and
70 water quality facility on the property.

71 L. The proposed storm water detention and water quality facility will have dual
72 functions. It will serve to accommodate future development in the vicinity and water
73 from the facility will be used to replenish the wetland and Johnson creek, thereby
74 maximizing the natural resource preservation and enhancement benefits of the project.
75 These uses are not inconsistent with the ongoing open space character of the property.

76 M. The original purposes of acquiring development rights under King County
77 Ordinance 4341 and the farmlands preservation program were to preserve a farming
78 resource base. It is highly unlikely that these purposes can be met on the Muth/Polygon
79 property, given the current physical conditions of the property and the surrounding area.

80 N. All other properties in the farmland preservation program serve an important
81 public purpose and benefit. The protection and preservation of such properties constitute
82 an important public use for the citizens of King County and for the farmlands
83 preservation program. In light of such public use, these lands are not available to cities
84 for any other public use through condemnation, threat of condemnation, or other method
85 of acquisition, unless in accordance with the terms of Ordinance 4341.

86 O. On June 7, 2005, the Kent city council passed Ordinance No. 3754 authorizing
87 the acquisition of the Muth/Polygon property by condemnation for the purpose of
88 implementing the Johnson Creek Relocation and Restoration Project.

89 P. Kent Ordinance No. 3754 authorizes the payment of just compensation and the
90 county will be compensated for the loss of its property interest.

91 SECTION 2. The King County executive is hereby authorized, under threat of
92 eminent domain, to convey King County's interest in the lands, as described in
93 Attachment A to this ordinance, to the city of Kent for the Johnson creek relocation and
94 restoration project.

95 SECTION 3. The King County executive is hereby authorized to accept
96 compensation for King County's interest in the land described in Attachment A. Said
97 compensation will be returned to the farmland preservation program and, in accordance
98 with K.C.C. 26.04.040, be used to purchase development rights on replacement farmland
99 located within the Upper Green and Lower Green River Valleys and the Enumclaw
100 Plateau.

	<u>Parcel Tax Account Nos.</u>	<u>Compensation</u>
102 Development Rights	102204-9004, 102204-9139	\$325,000.00

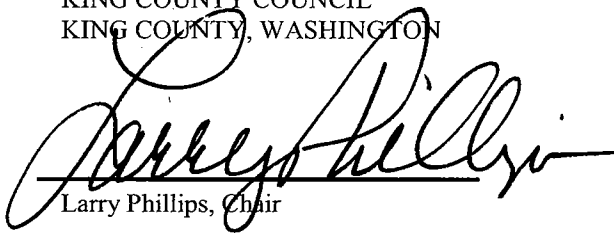
103 SECTION 4. Based upon the findings contained in section 1 of this ordinance, a
104 unique set of circumstances exists on the Muth/Polygon parcels that prevent their use as
105 farmland or for other purposes of the farmland preservation program. Furthermore, other
106 lands within cities that are part of the farmland preservation program continue to serve an
107 important public purpose and benefit, and their protection and preservation constitute an
108 important public use for the citizens of King County and for the farmlands preservation

109 program. Therefore, the King County council declares that this action does not
110 constitute a precedent for condemnation of other lands in the farmland preservation
111 program by cities, and such lands are not available to cities for any other public use
112 through condemnation, threat of condemnation, or other method of acquisition, unless in
113 accordance with the terms of Ordinance 4341.
114

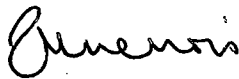
Ordinance 15305 was introduced on 9/6/2005 and passed by the Metropolitan King
County Council on 10/17/2005, by the following vote:

Yes: 10 - Mr. Phillips, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr.
Dunn, Mr. Ferguson, Mr. Hammond, Ms. Hague, Ms. Patterson and Mr.
Constantine
No: 0
Excused: 3 - Mr. Pelz, Mr. Gossett and Mr. Irons

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

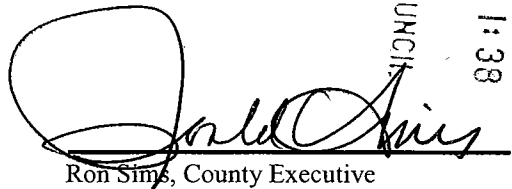

Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 26 day of OCTOBER, 2005.


Ron Sims, County Executive

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2005 OCT 28 PM 1:38
CLERK
KING COUNTY COUNCIL

Attachments A. Property Legal Description, B. Parcel Map, C. Vicinity Map

ATTACHMENT A

The North $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 10, Township 22 North, Range 4 East, W.M.;

EXCEPT the East 195.52 feet thereof;

AND EXCEPT that portion thereof lying within 42nd Avenue South (Wm. A. Johnson Road No. 1432); established pursuant to Volume 30 of King County Commissioners Records, page 191;

AND EXCEPT that portion thereof lying within the right-of-way of Drainage Ditch No. 2;

AND EXCEPT that portion thereof conveyed to King County for Orillia Road, by deeds recorded under Recording Nos. 5975361 and 5975362;

Situate in the city of Kent, County of King, State of Washington.

15305

JOHNSON CREEK

S. 212TH STREET

CATEGORY II WETLAND

CATEGORY II WETLAND
(709,988 SF)

50' BUFFER

MUTH PROPERTY

CITY OF KENT
WETLAND MITIGATION
SHE

42ND AVENUE S.

Drainage
Pond

APPROXIMATE WETLAND
DITCH LOCATION

S. 216TH STREET

30' DITCH
EASEMENT

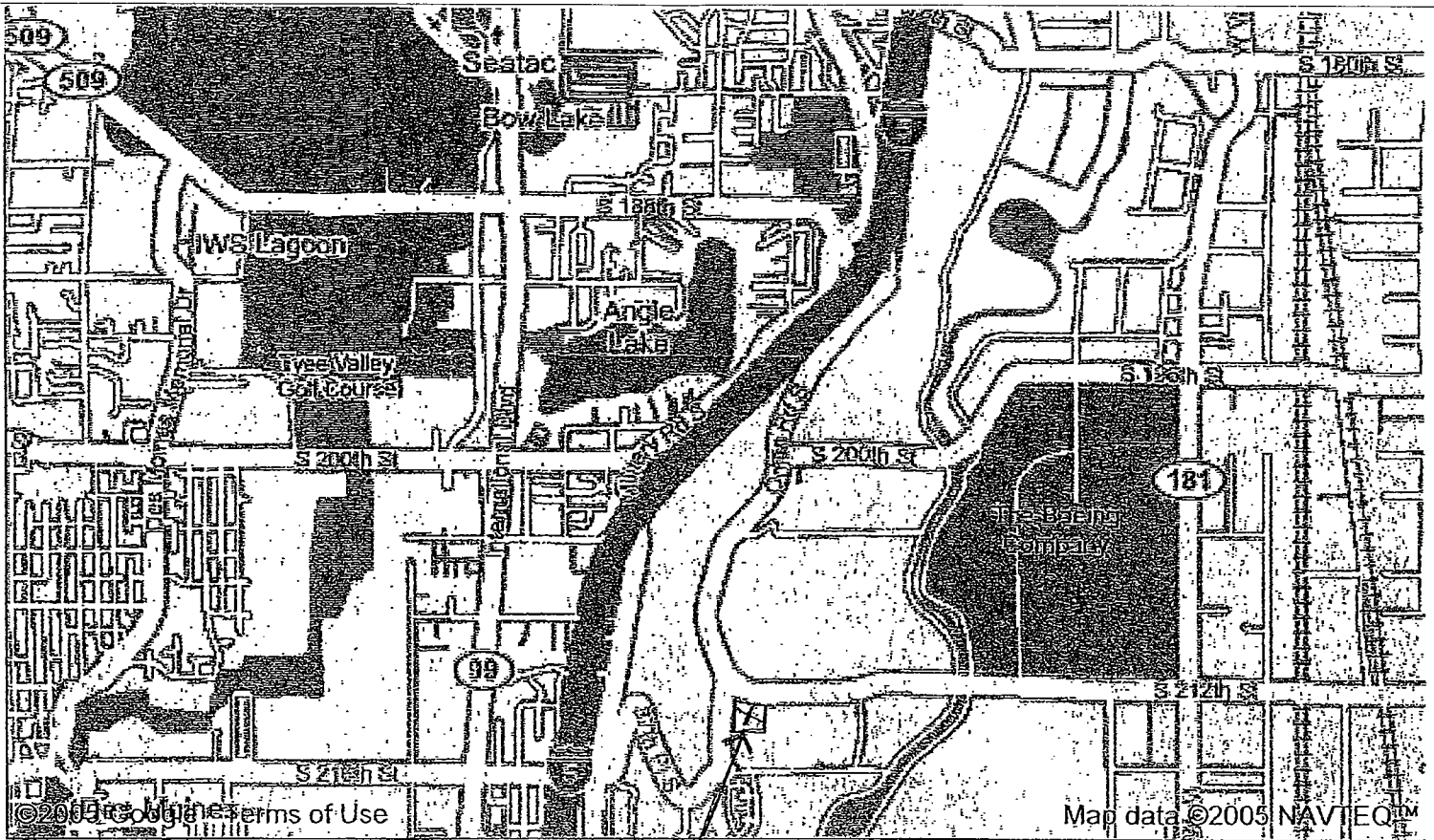
1403 SF

CATEGORY II
WETLAND

WETLAND LOCATION
APPROXIMATE

1294 SF

Attachment B



15305

Site Location for
Johnson Creek Relocation and
Restoration Condemnation Property

Attachment C