

May 6, 2014

**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. **E13CT055**
Proposed ordinance no. **2014-0134**

FRANK AND LINDA SEBENIUS

Open Space Taxation Application (Public Benefit Rating System)

Location: 5030 NE Ames Lake-Carnation Road, Carnation

Applicants: **Frank and Linda Sebenius**
5030 NE Ames Lake-Carnation Road
Carnation, WA 98014
Telephone: (425) 466-5362
Email: seben@msn.com

King County: Department of Natural Resources and Parks
represented by **Bill Bernstein**
201 S Jackson Street Suite 600
Seattle, WA 98104
Telephone: (206) 477-4643
Email: bill.bernstein@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 5.02 acres for 30% of market value (contingent)
Examiner's Recommendation: Approve 5.02 acres for 30% of market value (contingent)

PRELIMINARY REPORT:

On April 18, 2014, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E13CT055 to the Examiner.

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 30, 2014, in the Horiuchi Conference Room 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington. The Examiner received the affidavit of notice publication on May 1, 2014.

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:

Owners:	Frank and Linda Sebenius 5030 NE Ames Lake-Carnation Road Carnation, WA 98014
Location:	5030 NE Ames Lake-Carnation Road, Carnation
STR:	NW 18-25-07
Zoning:	RA-5
Parcel no.:	1825079028
Total Acreage:	6.27 acres

- The Applicants timely filed an application to King County for PBRS program current use valuation of the property to begin in 2015. As required by law, notification of the application occurred.
- 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 ~~strickethrough~~ 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 *asterisks* represent a category where DNRP finds an award is warranted, but only if certain contingencies or conditions are met.)

PBRS categories:

Open Space Resources

Aquifer protection area	*5*
Forest stewardship land	*5*
Significant wildlife or salmonid habitat	*5*
Watershed protection area	*5*
	<hr/>
	20

The DNRP-recommended score of 20 points results in a current use valuation of 30% of market value for the enrolled portion of the property. Award of the aquifer protection area, forest stewardship land, significant wildlife or salmonid habitat, and watershed protection area category are all contingent upon submittal of a forest stewardship plan for the property by **September 1, 2014**, and approval by **November 3, 2014**. Because the property's enrollment depends upon submittal and implementation of a forest stewardship plan, failure to do so will preclude the property from enrollment in the PBRS program.

4. As to the land area recommended for PBRS enrollment, the Applicant requested 5.00 acres and DNRP recommends 5.02 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.)
5. Except as modified herein, the facts set forth in the DNRP preliminary report and testimony at the April 30, 2014, public hearing are correct and incorporated herein by reference. Copies of this report and the department report will be provided to the Metropolitan King County Council for final approval.
 - A. Change to Department staff report: Page 7, **PUBLIC BENEFIT RATING**: For the purpose of taxation, 20 points result in 50%-30% of market value and a 50% 70% reduction in taxable value for the portion of land enrolled.
6. Award under all categories is conditioned upon the control and removal of invasive plant species on the property within a three-year period. Such control and removal is mandatory for the property to qualify as credited open space. Failure to meet this condition will cause disenrollment of the property from the PBRS program.

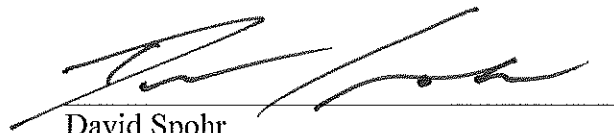
CONCLUSION:

1. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 20 points and a current use valuation of 30% of market value for 5.02 acres of the property, is 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:

1. APPROVE current use valuation of 30% of market value for the 5.02-acre enrolled portion of the property, CONTINGENT on submittal of a forest stewardship plan for the property by **September 1, 2014**, and approval by **November 3, 2014**. Because the property's enrollment depends on submittal and implementation of said forest stewardship plan, failure to do so will preclude the property from enrollment in the PBRIS program

DATED May 6, 2014.



David Spohr
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 20, 2014**. 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 27, 2014**.

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 30, 2014, HEARING ON DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E13CT055.

David Spohr was the Hearing Examiner in this matter. Bill Bernstein and Megan O'Brian both participated in the hearing 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 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 the King County Council
Exhibit no. 9	Application signed/notarized
Exhibit no. 10	Legal description of area to be enrolled
Exhibit no. 11	Letter to applicant regarding received application and approval schedule
Exhibit no. 12	Areview and orthophoto/aerial map
Exhibit no. 13	<i>Reserved for future submission of a forest stewardship plan</i>

DS/vsm