

April 28, 2026

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

**REPORT AND RECOMMENDATION TO THE KING
COUNTY COUNCIL FOR CURRENT USE
ASSESSMENT APPLICATION**

SUBJECT: Department of Natural Resources and Parks file no. **E25CT014**
Proposed ordinance no. **2026-0055**
Parcel nos. **142202-9010, 142202-9012, and 142202-9136**

PENELOPE CLAY

Application for Current Use Assessment under the Public Benefit Rating System

Location: 22747 Wax Orchard Road SW, Vashon, WA 98070

Applicant: **Penelope Clay**
PO Box 13149
Burton, WA 98013
Telephone: (206) 463-9232
Email: clayland@aol.com

King County: Department of Natural Resources and Parks
represented by **Bill Bernstein**
201 S. Jackson Street Suite 5601
Seattle, WA 98104
Telephone: (206) 477-4643
Email: bill.bernstein@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 23.05 acres for 80% reduction in appraised value.

Examiner's Recommendation: Approve 23.05 acres for 80% reduction in appraised value.

PROCEDURAL BACKGROUND:

Per Ch. 20.36 KCC, the Department of Natural Resources and Parks (DNRP) transmitted the subject application along with its Report for Property Enrollment in the Public Benefit Rating System (PBRS) File No. E25CT014, to the Examiner.

The Examiner conducted a remote public hearing on the application on April 23, 2026. Bill Bernstein, representing DNRP, presented the application and DNRP's recommendation. Applicant Penelope Clay did not participate.

FINDINGS AND CONCLUSIONS:

1. Except as modified herein, the facts set forth in DNRP's staff report and testimony at the April 23, 2026, public hearing are correct and incorporated here by reference. We will provide copies of this report and DNRP's staff report to the King County Council for final action.
2. The property at issue is at 22747 Wax Orchard Road SW, Vashon, WA 98070, Parcel Nos. 142202-9010, 142202-9012, and 142202-9136, owned by the Applicant Penelope Clay.
3. The Applicant timely filed an application with King County for current use assessment of the above identified property under the PBRS to begin in 2026.
4. Timely and proper legal notice of the public hearing on the application was provided.
5. Parcels 142202-9010 and 142202-9012 are currently enrolled in the Designated Forestland program (RCW 84.33). The landowner has applied to PBRS as she no longer intends to manage the property for commercial timber purposes. The owner also would like to enroll portions of parcel 142202-9136 in PBRS.
6. A list of the PBRS Open Space Resource categories identified by DNRP as relevant to the property are provided below. Categories that DNRP determined were eligible (or eligible with contingencies) for credit are assigned the applicable number of points.

PBRS categories:	Aquifer protection area	5
	Buffer to public or current use classified land	3
	Forest stewardship land	*
	Significant wildlife or fish habitat	5
	Rural open space	5
	Surface water quality buffer	10
	Watershed protection area	5
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	Total points awarded	33

The DNRP-recommended score of 33 points results in an 80% reduction in the appraised value of the enrolled portion of the property. Each category where points are recommended is discussed below.

7. **Aquifer protection area – 5 points.** The entire property is in an area designated as a critical aquifer recharge area (CARA 3). The natively forested area is greater than one acre in size and meets the minimum required acreage for this category.
8. **Buffer to public or current use classified land – 3 points.** The property is abutting land participating in the PBRs program to the west (parcels 142202-9090 and 142202-9091). The enrolling open space area is providing a buffer of native vegetation of more than fifty feet to this adjacent land, which exceeds the category's requirement.
9. **Rural open space – 5 points.** The property is in the rural area and contains more than 23 acres of contiguous forested open space, which is more than the category's required five acre minimum.
10. **Significant wildlife habitat – 5 points.** The property contains foraging and nesting habitat for the pileated woodpecker, which is identified in King County's Comprehensive Plan as a Species of Local Importance (E-328(e)). Upon conducting a site visit, program staff determined areas of the forest on the property are of sufficient age and diversity to support the species regular use of the property and the landowner has made visual observations of pileated woodpeckers actively utilizing the property. Award of this category is consistent with habitat as defined by KCC 20.36.100, section B.15.a(1).
11. **Surface water quality buffer – 10 points.** The property contains a tributary to Christensen Creek (likely Type N), originating in a ravine on parcel -9012 and running west into the main creek on parcel -9010. As required by county code (KCC 21A.24.358.B), the buffer width required for Type N waters is 100 feet. In order to be eligible for this category, the participating land must provide a buffer greater than 1.5 times that required (or 150 feet) for five points to be awarded, provide a buffer greater than two times that required (or 200 feet) for eight points to be awarded, or provide a buffer greater than three times that required (or 300 feet) for ten points to be awarded. The owner is providing a qualifying buffer of native vegetation to the north of this stream that averages 340 feet in width, which is more than three times the buffer required. Credit for this category is therefore recommended at the ten-point award level.
12. **Watershed protection area – 5 points.** To be eligible for this category, the enrolling forested area must consist of additional forest cover beyond that required by county or applicable local government regulation and must be at least one acre or sixty-five percent of the property acreage, whichever is greater. The enrolling open space contains 23.05 acres of native forest cover which is more than 65% of the total property acreage and there are no additional forest retention regulations in place for this property.
13. **Contingencies, Conditions, and Requirements.**

- A. An additional 5 points may be awarded administratively for the “forest stewardship land” category. The property contains more than 23 acres of contiguous forest. The owner does have a forest stewardship plan, but it needs to be updated. At this time, credit for this category cannot be recommended because the plan has not yet been updated and approved by county forestry staff. However, if this plan is approved by the department on or before December 31, 2026, then credit for this category should be awarded administratively.
 - B. Award of credit under this category will increase the point total by 5 points, resulting in 38 points total and a 90% reduction in assessed property value for the enrolled area.
 - C. The Examiner incorporates all conditions and requirements identified in the PBRS Staff Report. Ex. 1.
14. **Enrollment Acreage.** There are three lots subject to this application, all owned by Ms. Clay. The Applicant requested 23 acres and DNRP recommends 23.05 acres of the subject property be enrolled in the PBRS program. (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.)
15. Approval of 33 points and an 80% reduction in the of assessed value for 23.05 acres, and conditional approval of 5 additional points and a 90% reduction in the of assessed value, is consistent with Ch. 20.36 KCC 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 credit for the CATEGORY, on 23.05 acres on parcels 142202-9010, 142202-9012, and 142202-9136, for an 80% reduction of assessed value for the enrolled portion of the property. Approval should be subject to any conditions and requirements listed herein or incorporated from the DNRP staff report.
- 2. CONDITIONALLY APPROVE additional credit for the “forest stewardship land” category, subject to submittal of forest management plan to be approved by the Department on or before December 31, 2026. Award of credit under this category will increase the point total by 5 points, resulting in 90% reduction of assessed value of the enrolled area portion of the property. Administrative approval should be subject to any conditions and requirements listed herein or incorporated from the DNRP staff report.

DATED April 28, 2026.



Devon Shannon
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

A party may appeal an Examiner report and recommendation by following the steps described in KCC 20.22.230. By **4:30 p.m.** on **May 22, 2026**, an electronic appeal statement must be sent to Clerk.Council@kingcounty.gov, to hearingexaminer@kingcounty.gov, and to the party email addresses on the front page of this report and recommendation. Please consult KCC 20.22.230 for the exact filing requirements.

If a party fails to timely file an appeal, the Council does not have jurisdiction to consider that appeal. Conversely, if the appeal requirements of KCC 20.22.230 are met, the Examiner will notify parties and interested persons and will provide information about next steps in the appeal process.

MINUTES OF THE APRIL 23, 2026, HEARING ON THE APPLICATION OF PENELOPE CLAY, FILE NO. E25CT014

Devon Shannon was the Hearing Examiner in this matter. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

The following exhibits were offered by DNRP and entered into the record:

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| Exhibit no. 1 | DNRP staff report |
| 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 |