

**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)**

April 23, 2026 – Public Hearing

APPLICANT: Penelope Clay

File No. E25CT014

A. GENERAL INFORMATION:

1. Owner: Penelope Clay
P.O. Box 13149
Burton WA 98013
2. Property location: 22747 Wax Orchard Road SW
Vashon, WA 98070
3. Zoning: A10
4. STR: NE-14-22-02
5. PBR categories requested by the applicant and *suggested by staff*:

NOTE: Parcels 142202-9010 and 142202-9012 are currently enrolled in the Designated Forestland program (RCW 84.33). The landowner has applied to PBR 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 PBR.

Open space resources

- *Aquifer protection area
- *Buffer to public or current use classified land
- ***Forest stewardship land*
- *Rural open space
- *Significant wildlife or fish habitat
- *Surface water quality buffer
- *Watershed protection area

Bonus category

Limited public access because of resource sensitivity

NOTE: *Staff recommends credit be awarded for these PBRs categories.
 **Award of this PBRs category is also possible but will be dependent upon specific category requirements being met (see resource category discussion under Section E, page 6).

6. Parcel:	142202-9010	142202-9012	142202-9136
Total acreage:	9.71	14.00	1.00
Requested PBRs:	9.71	12.44	0.85
Home site/excluded area:	0.00	1.43	0.23
Recommended PBRs:	9.71	12.57	0.77

NOTE The attached map (2023 aerial photo) outlines in yellow the parcel boundaries and in blue the areas proposed to be *excluded* from PBRs. The portion recommended for enrollment in PBRs (23.05 acres) is the entire property (24.71 acres) less the excluded areas as measured (1.66 acres). 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 RA2.5, RA5, RA10 and A10.
2. Development of the subject property and resource characteristics of open space area: The property contains a single-family residence, shop, landscaping, septic system, garden, access driveway, neighbor access road (along the north property line of parcel -9012) and additional personal use areas. The open space is a mix of coniferous and deciduous forest with mostly native understory. There is also a portion of Christenson Creek, a Type F stream, bisecting the southwest corner of parcel -9010 as well as a tributary originating in a ravine on parcel -9012 and running west into the main creek on parcel -9010.
3. Site use: The property is used as a single-family residence.
4. Access: The property is accessed from Wax Orchard Road SW.
5. Appraised value for 2025 (based on Assessor’s information dated 4/3/2026):

<u>Parcel #142202-9010</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Appraised value	\$1,430*	\$0	\$1,430
Tax applied	\$15	\$0	\$15
<u>Parcel #142202-9012</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Appraised value	\$2,068*	\$0	\$2,068
Tax applied	\$22	\$0	\$22

<u>Parcel #142202-9136</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Appraised value	\$178,000	\$316,000	\$494,000
Tax applied	\$1,907	\$3,386	\$5,293

NOTE: *These values are presently impacted by the land’s participation in the Designated Forestland program (RCW 84.33) - the Assessor’s office is not required to maintain an appraised land value based on market values if the entire property is participating in forestland. Participation in PBRs, for taxation purposes, 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 residents.

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

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

- A. The definitions in this section apply throughout this section, as well as in K.C.C. 20.36.040 and K.C.C. 20.36.190, unless the context clearly requires otherwise.
- B. To be eligible for open space classification under the public benefit rating system, a property shall contain one or more qualifying open space resources and have at least five points as determined under this section. The department shall review each application and recommend award of credit for current use of the property. In making the recommendation, the department shall utilize the point system described in subsections C. and D. of this section.
- C. The following open space resources are each eligible for the points indicated:
 - 1. Active trail linkage – fifteen or twenty-five points
 - 2. Aquifer protection area – five points
 - 3. Buffer to public or current use classified land – three points
 - 4. Ecological enhancement land – eighteen points
 - 5. Equestrian-pedestrian-bicycle trail linkage – thirty-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. Public recreation area – five points
12. Rural open space – five points
13. Scenic resource, viewpoint, or view corridor – five points
14. Significant plant or ecological site – five points
15. Significant wildlife or fish habitat – five points
16. Special animal site – three points
17. Surface water quality buffer – five points, eight or ten total points
18. Urban open space – five points
19. Watershed protection area – five points

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

1. Conservation easement or historic preservation easement – eighteen points
2. Contiguous parcels under separate ownership – minimal two points
3. Easement and access – thirty-five points
4. Public access - points dependent on level of access
 - a. Unlimited public access - five points
 - b. Limited public access because of resource sensitivity - five points
 - c. Seasonal limited public access - three points
 - d. Environmental education access – three points
 - e. None or members only – zero points
5. Resource restoration – five points

D. 2024 COMPREHENSIVE PLAN POLICIES AND TEXT:

E-102 In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment. Incentives should be monitored and periodically reviewed to determine their effectiveness at protecting and restoring 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 #B12 and 13.

E-105 The protection of lands where development would pose hazards to health and safety, property, important ecological functions, or environmental quality shall be achieved through acquisition, enhancement, incentive programs, and appropriate regulations. The following critical areas and their buffers are particularly susceptible and shall be protected in King County:

- a. Critical aquifer recharge areas;
- b. Fish and wildlife habitat conservation areas;
- c. Frequently flooded areas, regulated as flood hazard areas;
- d. Geologically hazardous areas; and e. Wetlands.

E-323 King County should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

E-325 Through a coordinated approach of incentives and acquisitions, King County should prioritize, enhance, and protect a variety of ecosystems, including urban open space uplands, riparian areas, floodplains, and aquatic systems with the highest conservation value and those supporting equitable access to quality open space.

E-329 King County shall protect Species of Local Importance through measures such as regulations, incentives, capital projects, or purchase, as appropriate.

E-339 King County should seek to support Water Resource Inventory Area salmon recovery plan goals of maintaining intact natural landscapes through: a. Promoting Current Use Taxation and other incentives; b. Promoting stewardship programs including development and implementation of Forest Plans and Farm Plans; and c. Acquiring property or conservation easements in areas of high ecological importance with unique or otherwise significant habitat values.

NOTE: The implementation of an approved forest stewardship, farm management or ecological enhancement plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, and can address invasive plant and noxious weed control and removal within enrolled portions of a property.

E-350 King County should provide incentives for landowners who are seeking to remove invasive plants and noxious weeds, such as providing technical assistance or access to native or climate-smart plants.

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-406 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-503 King County shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

R-206 King County shall prioritize conservation of forest land and forestry throughout the Rural Area. Landowner property tax incentives, technical assistance, permit assistance, regulatory actions, and community-based education shall be used throughout the Rural Area to sustain the forest land base and forestry activities. King County should ensure that its regulations, permitting processes, and incentive programs facilitate and encourage active forest management and implementation of forest stewardship plans.

R-775 King County shall provide incentives, educational programs, and other methods to encourage agricultural practices and technological improvements that maintain water quality, protect public health, protect fish and wildlife habitat, protect historic resources, maintain flood conveyance and storage, reduce greenhouse gas emissions, control noxious weeds, prevent erosion of valuable agricultural soils, and increase soil water holding capacity while maintaining the functions needed for agricultural production.

E. PBRS CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:

Open space resources

- Aquifer protection area
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. Credit for this category is recommended.
- Buffer to public or current use classified land
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. Credit for this category is recommended.
- Forest stewardship land
Although credit for this category was not requested, 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. Award of this category may allow forestry activities to occur in the participating open space area. It is the owner'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. Award of this category requires an annual progress report from the owner (see below, Section B. 12.), which should be sent to PBRS staff by either email or other agreed to method.

- Rural open space
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. Credit for this category is recommended.
- Significant wildlife or fish habitat
The property contains habitat for numerous wildlife species, including 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). Credit for this category is recommended.
- Surface water quality buffer
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.
- Watershed protection area
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. Credit for this category is recommended.

Bonus category

- Limited public access because of resource sensitivity
To be eligible for this category, the owner must allow limited public access to the property for an educational, scientific or research purpose. Although the owner has in the past allowed local high school students and conservation groups access to the forest for ecological and environmental learning opportunities, these visits are no longer occurring. Additionally, the owner does not intend to provide documentation to support such use will regularly occur again in the future. Credit for this category is not recommended.

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 #B6.

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

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

Bonus category

Limited public access because of resource sensitivity	0
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TOTAL 33 points

PUBLIC BENEFIT RATING

For the purpose of taxation, 33 points result in 20% of market value and an 80% reduction in taxable value for the portion of land enrolled. If all contingent categories (*) are awarded, the property would qualify for a maximum of 38 points, which results in a 10% of market value and a 90% reduction.

B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of 33 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 for property participating ("Property") in King County's Public Benefit Rating System ("PBRs"), a current use assessment program for open space. Failure to abide by these requirements can result in removal of PBRs designation and subject Property owner ("Owner") to penalty, tax, and interest

provisions of RCW 84.34. King County Department of Assessments (“DoA”) and King County Water and Land Resources Division, Agriculture, Forestry, and Incentives Unit, PBRS Program or its successor (“PBRS Program”) may re-evaluate Property to determine whether removal of PBRS designation is appropriate. Removal shall follow the process in Chapter 84.34 RCW, Chapter 458.30 WAC and Chapter 20.36 KCC.

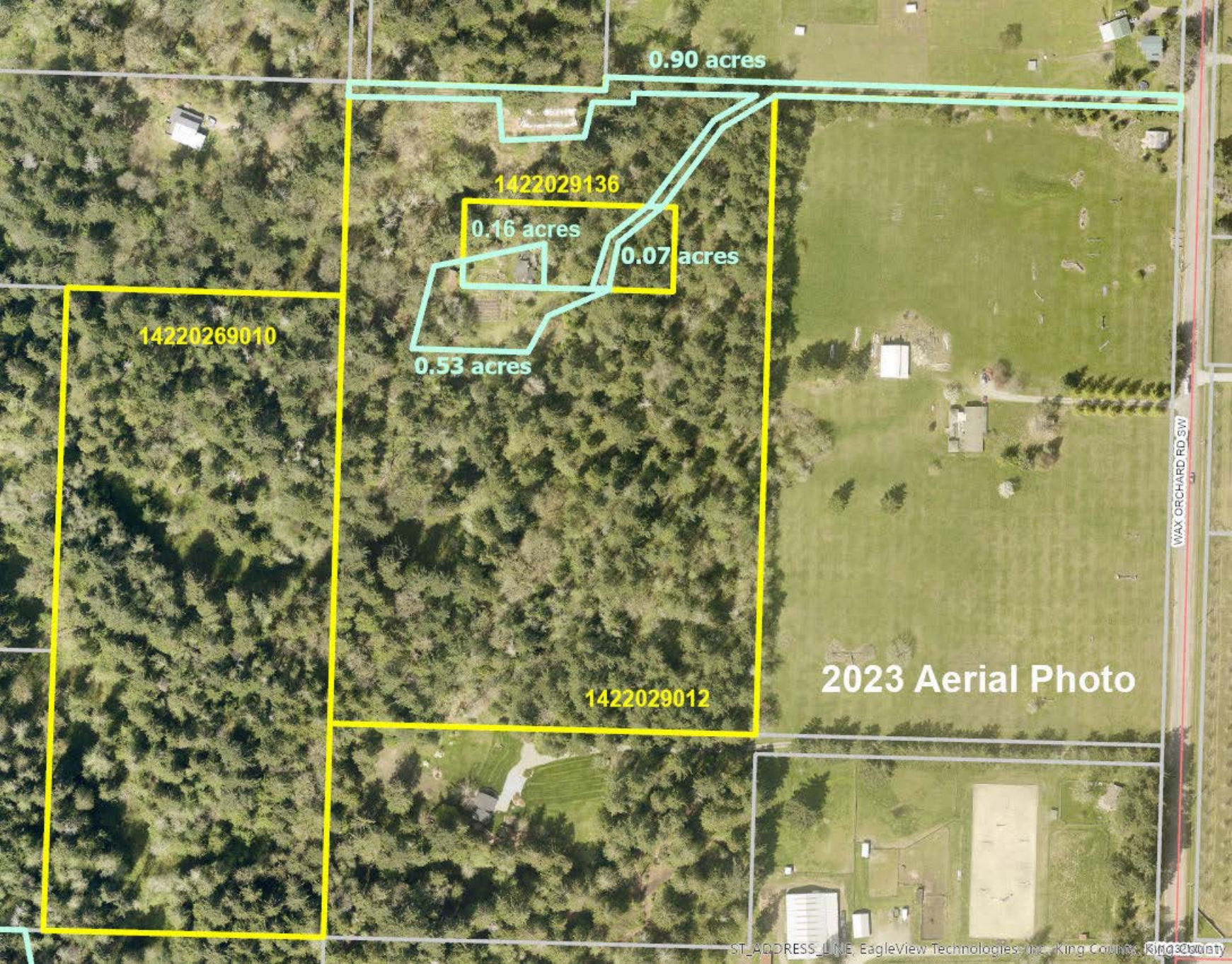
2. Revisions to any of these requirements may only occur upon mutual written approval of Owner and granting authority. These conditions shall apply so long as Property retains its PBRS designation. If a conservation easement acceptable to and approved by King County is granted by Owner in interest to 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 PBRS Program.
3. The PBRS designation for Property will continue so long as it meets the PBRS criteria for which it was approved. Classification as open space will be removed upon a determination by PBRS Program that Property no longer meets PBRS criteria for which it was approved. A change in circumstances, which diminishes the extent of public benefit from that approved by King County Council in the open space taxation agreement, will be cause for removal of the PBRS designation. It is Owner's responsibility to notify DoA and PBRS Program of a change in Property circumstance, which may impact PBRS participation.
4. When a portion of Property is withdrawn or removed from the program, the remaining Property shall be re-evaluated by PBRS Program and DoA to determine whether it still meets the criteria for PBRS categories as approved.
5. Notwithstanding the provisions of Section 13, tree(s) posing a hazard to a structure, road or property access may be removed from Property, provided that Owner shall first notify the PBRS Program prior to taking such action. Native vegetation must be introduced for any tree(s) removed and must be planted within a reasonable location of where the tree(s) previously existed. It is Owner’s responsibility to apply for and receive any necessary consent from applicable state and local governmental agencies for activities that may require a permit or approval.
6. If an area of Property becomes or has become infested with noxious weeds or non-native species, Owner may be required to submit a control and enhancement plan to PBRS Program in order to remove such vegetation and, if necessary, replace with native vegetation.
7. If it is determined by PBRS Program that Property vegetation near structures is prone to wildland fire and poses a fire hazard, management activities as allowed under KCC 16.82.051 may be implemented as long as those activities do not cause significant adverse impact to the resource values of awarded PBRS categories. Prior to undertaking any wildfire risk reduction activities on Property, a summary of any proposed work must first be submitted to and approved by PBRS Program.

8. There shall be no motorized vehicle driving or parking allowed on Property, except for medical, public safety or police emergencies, or for an approved management activity (such as forestry, farm, or restoration activities) detailed in an approved plan.
9. Grazing of livestock is prohibited unless Property is receiving credit for the farm and agricultural conservation land or resource restoration PBRS categories. In those cases, grazing may occur in areas being farmed as defined in the approved farm management plan or to be restored as defined in the approved resource restoration plan.
10. For Property receiving credit for ecological enhancement land, farm and agricultural conservation land, forest stewardship land, or resource restoration, activities that are defined in associated approved plan(s) shall be permitted as long as those activities do not cause significant adverse impact to the resource values of other awarded PBRS categories.
11. Owner of Property participating in PBRS may be required to submit a monitoring report on an annual or less frequent basis as requested by the PBRS Program. This report must include a brief description of how Property still qualifies for each awarded resource category. It must also include photographs from established points on Property and any observations by Owner. If requested, Owner must submit this report to the PBRS Program by email, through the PBRS monitoring form provided on the PBRS Program's website, or by other mutually agreed upon method annually by December 31 or as directed by the PBRS Program. An environmental consultant need not prepare this report.
12. Owner of Property receiving credit for farm and agricultural conservation land, ecological enhancement land, or forest stewardship land must provide an annual monitoring report that describes progress of implementing associated approved plan(s). The report must include a brief description of activities taken to implement the plan and photographs from established points on Property. Owner must submit this report to the PBRS Program by email or other mutually agreed upon method annually by December 31 or as directed by the PBRS Program. An environmental consultant need not prepare this report.
13. No alteration of Property or resources shall occur without prior written approval (such as an approved plan) by PBRS Program, except for selective cutting for personal firewood, maintaining areas for approved passive recreational uses (such as walking or horseback riding trails) or for removal of non-native species. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject Owner 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 Property or resources including, but not limited to, the following:
 - 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, mowing, or removing native vegetation;
 - h. introducing non-native species (as defined in KCC 21A.06.790);
 - i. applying herbicides or pesticides or any hazardous or toxic substance, without prior written approval;
 - j. discharging pollutants except for stormwater;
 - k. paving or application of gravel;
 - l. storing or dumping equipment, construction materials, garbage, vehicles, household supplies, or compost;
 - m. engaging in any other activity that adversely impacts existing native vegetation, hydrology, wildlife, wildlife habitat, or awarded program categories.
14. Participation in PBRS does not exempt Owner from obtaining any required permit or approval for activity or use on Property.

TRANSMITTED to the parties listed hereafter:

Office of the King County Hearing Examiner
Penelope Clay, applicant
Elenore Bonyeau, King County Department of Assessments
Mike Lasecki, King County Forester



0.90 acres

1422029136

0.16 acres

0.07 acres

0.53 acres

14220269010

1422029012

2023 Aerial Photo

WAX ORCHARD RD SW