

May 25, 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. **E22CT014**
Proposed ordinance no. **2023-0161**
Parcel nos. **072607-9042, 072607-9001, and 062607-9004; 082607-9104, 062607-9032, and 062607-9034**

STEVE AND LINDA NICHOLS

Open Space Taxation Application (Public Benefit Rating System)

Location: 18020 288th Avenue NE, Duvall

Applicants: **Steve and Linda Nichols**
17950 288th Avenue NE
Duvall, WA 98019
Telephone: (425) 508-8686
Email: steve@superanchor.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

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 161.23 acres for 20% of assessed value
Conditionally approve 166.36 acres for 10% of assessed value

Examiner's Recommendation: Approve 161.23 acres for 20% of assessed value
Conditionally approve 166.36 acres for 10% of assessed value

PRELIMINARY REPORT:

On April 27, 2023, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT014 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a May 11, 2023, remote public hearing on the application. 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:	Steve and Linda Nichols 17950 288th Avenue NE Duvall, WA 98019
Location:	17950 288th Avenue NE, Duvall
STR:	NE-07-26-07, NW-08-26-07, and NE-06-26-07
Zoning:	RA5 and RA10
Parcels:	072607-9042, 072607-9001, 062607-9004, 082607-9104, 0627607-9023, and 062607-9034
Total acreage:	183.71 acres

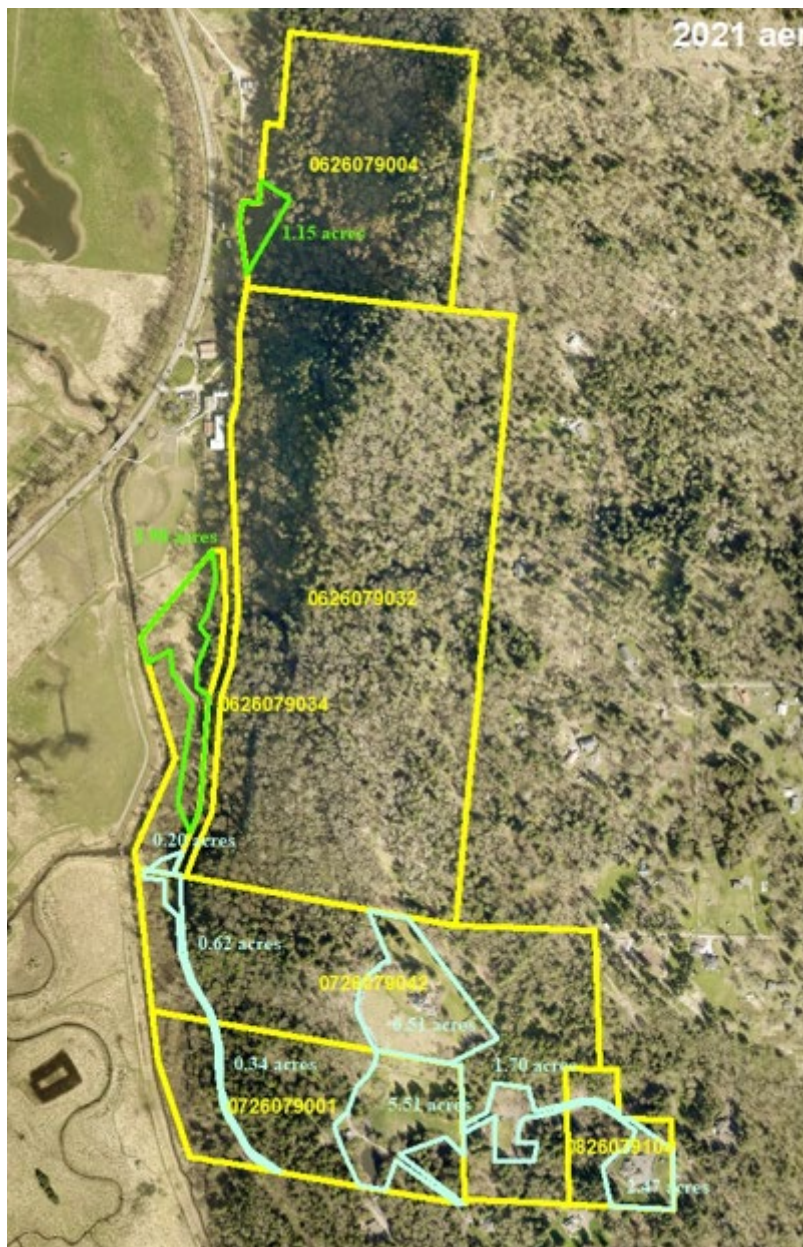
2. The Applicants timely filed an application to King County for the Public Benefit Rating System (PBRS) program current use valuation of the property to begin in 2023. As required by law, notification of the application occurred.

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 ~~strike through~~ 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>	
	<i>Aquifer protection area</i>	5
	<i>Buffer to public or current use classified land</i>	*3
	<i>Forest stewardship land</i>	*
	Rural open space	5
	<i>Significant wildlife or salmonid habitat</i>	5
	<i>Surface water quality buffer</i>	10
	<i>Watershed protection area</i>	5
	Total	33

The DNRP-recommended score of 33 points results in a current use valuation of 20% of assessed value for the enrolled portion of the property.

4. DNRP listed the buffer to public or current use classified land category with both a point total and an asterisk. That seeming incongruity actually makes sense here because (unlike the forest stewardship land category discussed in the next paragraph) there is nothing more the *Nichols* need to or even can do to qualify for this category. The Nichols' parcel 082607-9104 abuts another property we are recommending today for enrollment—parcel 082607-9005 owned by the Seiberts (E22CT016). Thus, both the Nichols and Seibert awards in this category are contingent on Council approving the other's application.
5. Visually the proposal looks like this, with yellow the property boundaries, blue the excluded areas that will *not* be coming into PBRS, and green explained in paragraph 6.



6. The forest stewardship land category is a more traditional conditional approval. Additional credit may be awarded administratively under this category, subject to submittal of a forest stewardship plan by **October 31, 2023**, and DNRP approval of that plan by **December 31, 2023**. Whether or not the buffer to public or current use classified land category is awarded here, adding 5 forest stewardship points to either 30 or 33 produces a minimum of 35 points, enough to result in a current use valuation of 10% of assessed value for the enrolled portion of the property. Award of this category may also allow approved forestry activities to occur on the property.
7. As to the land area recommended for PBRS enrollment, the Applicant requested 160.41 acres and DNRP currently recommends 161.23 acres. If the approved forest plan satisfactorily addresses the restoration needs of the areas outlined in green above, that will increase the enrolled acreage to 166.36. (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.)
8. Except as modified herein, we find the facts set forth in DNRP's preliminary report and testimony at the May 11, 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.
9. Approval of 30 points and a current use valuation of 80% of assessed value for 161.23 acres, and conditional approval of up to eight additional points and 10% of assessed value for 166.36 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 20% of assessed value for the 161.23-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the buffer to public or current use classified land category, provided application E22CT016 is also approved. This will not change the current use valuation or acreage.
3. CONDITIONALLY APPROVE additional credit for the forest stewardship land category subject to submittal of a forest stewardship plan by **October 31, 2023**, and DNRP approval of that plan by **December 31, 2023**. This will result in a current use valuation of 10% of assessed value for the enrolling 161.23 acres. If that approved forest plan adequately addresses restoration needs, the enrolling acreage will increase to 166.36.

DATED May 25, 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 *June 19, 2023*, an electronic copy of the appeal statement must be sent to 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 *June 19, 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 *June 19, 2023*, the Examiner will notify all parties and interested persons and provide information about "next steps."

MINUTES OF THE MAY 11, 2023, HEARING ON THE APPLICATION OF STEVE AND LINDA NICHOLS, FILE NO. E22CT014

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

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

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| 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 |