

April 8, 2021

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860

hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

**REPORT AND RECOMMENDATION TO THE
METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: Department of Natural Resources and Parks file no. **E20CT031**
Proposed ordinance no. **2021-0103**
Parcel nos. **1525079049, 1525079010, and 1525079005**

PHONG ROBERT CHA

Open Space Taxation Application (Public Benefit Rating System)

Location: Abutting and South of 5700 328th Avenue NE, Fall City

Applicant: **Phong Cha**
PO Box 776
Fall City, WA 98024
Telephone: (425) 471-1856
Email: phongcha4@gmail.com

King County: Department of Natural Resources and Parks
represented by **Megan Kim**
701 S Jackson Street Suite 701
Seattle, WA 98104
Telephone: (206) 477-4788
Email: megan.kim@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 7.78 acres for 20% of assessed value
Conditionally approve 23.70 acres for 10% of assessed value
Examiner's Recommendation: Approve 7.78 acres for 20% of assessed value
Conditionally approve 23.70 acres for 10% of assessed value

PRELIMINARY REPORT:

On March 11, 2021, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E20CT031 to the Examiner and submitted a revised report on March 25, 2021.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a telephonic public hearing on the application on March 25, 2021.

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:

Owner:	Phong Cha PO Box 776 Fall City, WA 98024
Location:	Abutting and south of 5700 328th Avenue NE, Fall City
STR:	NW-15-25-7
Zoning:	A10
Parcel nos.:	1525079049, 1525079010, and 1525079005
Total acreage:	25.97 acres

- The Applicant timely filed an application to King County for the Public Benefit Rating System (PBRS) program current use valuation of the property to begin in 2021. 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 ~~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>	
	Aquifer protection area	5
	Buffer to public or current use classified land	3
	*Farm and agricultural conservation land	*
	*Forest stewardship land	*
	Rural open space	0
	<i>Significant wildlife or salmonid habitat</i>	5
	<u>Bonus Categories</u>	
	Conservation easement or historic easement	15
	Total	28

The DNRP-recommended score of 28 points results in a current use valuation of 20% of assessed value for the enrolled portion of the property.

4. Additional credit may be awarded administratively under the farm and agricultural conservation land category, subject to submittal of a King Conservation District-approved farm management plan by **October 31, 2021**. Award of credit under this category will increase the point total by five points and will increase the total enrolling acreage from 7.78 acres to 23.70 acres.
5. Additional credit may also be awarded administratively under the forest stewardship land category, subject to submittal of a forest stewardship plan by **September 1, 2021**, and DNRP approval of that plan by **November 30, 2021**. Award of credit under this category will increase the point total by five points and may allow approved forestry activities to occur on the property.
6. Award under *either* the farm and agricultural conservation land category (five points) *or* the forest stewardship plan category (five points) will increase the point total to 33 but will not impact the assessed value for the enrolling acreage. However, awards under *both* categories (10 total points) will increase the point total to 38 and will result in a current use valuation of 10% of assessed value for the enrolled portion of the property.
7. As to the land area recommended for PBRS enrollment, the Applicant did not specify an acreage. DNRP recommends a total of 7.78 acres, potentially increasing (as noted above) to 23.70 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.)
8. Except as modified herein, the facts set forth in DNRP’s revised report and testimony at the March 25, 2021, public hearing are correct and incorporated herein by reference. Copies of this report and DNRP’s revised report will be provided to the Metropolitan King County Council for final approval.
9. Approval of 28 points and a current use valuation of 20% of assessed value for 7.78 acres, and conditional approval of up to ten additional points and 10% of assessed value for up to 23.70 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 7.78-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the farm and agricultural conservation land category, subject to submittal of a King Conservation District-approved farm management plan by **October 31, 2021**. Award of credit under this category will increase the total enrolling acreage from 7.78 acres to 23.70 acres.
3. CONDITIONALLY APPROVE additional credit for the forest stewardship land category, subject to submittal of a forest stewardship plan by **September 1, 2021**, and DNRP approval of that plan by **November 30, 2021**.
4. CONDITIONALLY APPROVE a current use valuation of 10% of assessed value for 23.70 acres, provided that both the farm and agricultural conservation land category and the forest stewardship plan category requirements are met.

DATED April 8, 2021.



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 *May 3, 2021*, 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 *May 3, 2021*, 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 *May 3, 2021*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE MARCH 25, 2021, HEARING ON THE APPLICATION OF PHONG ROBERT CHA, FILE NO. E20CT031

David Spohr was the Hearing Examiner in this matter. Megan Kim participated in the hearing on behalf of the department.

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

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
Exhibit no. 6	Revised DNRP report to the Hearing Examiner, submitted March 25, 2021

DS/jo