

May 4, 2023

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

King County Courthouse
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Seattle, Washington 98104
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www.kingcounty.gov/independent/hearing-examiner

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

SUBJECT: Department of Natural Resources and Parks file no. **E22CT024**
Proposed ordinance no. **2023-0106**
Parcel no. **154950-0215**

HAYLEY AND MATTHEW MCSPIRIT

Open Space Taxation Application (Public Benefit Rating System)

Location: 31072 NE 165th Street Duvall

Applicants: **Hayley and Matthew McSpirit**
31072 NE 165th Street
Duvall, WA 98019
Telephone: (425) 615-9079
Email: haylesmcspirit@gmail.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

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 6.20 acres for 40% of assessed value
Conditionally approve 6.20 acres for 20% of assessed value

Examiner's Recommendation: Approve 6.20 acres for 40% of assessed value
Conditionally approve 6.20 acres for 20% of assessed value

PRELIMINARY REPORT:

On April 6, 2023, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT024 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a remote public hearing on the application on April 20, 2023.

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: Hayley and Matthew McSpirit
31072 NE 165th Street
Duvall, WA 98019

Location: 31072 NE 165th Street Duvall
STR: SW-09-26-07
Zoning: RA10
Parcel no: 154950-0215
Total acreage: 7.50 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> | |
| | Aquifer protection area | 5 |
| | Buffer to public or current use classified land | 3 |
| | *Forest stewardship land | * |
| | *Significant wildlife or salmonid habitat | * |
| | *Surface water quality buffer | * |
| | Watershed protection area | 5 |
| | <hr/> | |
| | Total | 13 |

The DNRP-recommended score of 13 points results in a current use valuation of 40% of assessed value for the enrolled portion of the property.

4. Additional credit may be awarded administratively under the forest stewardship land category, subject to submittal of a forest stewardship plan by **October 31, 2023**, and subsequent DNRP approval of that plan by **December 31, 2023**. 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.
5. There is also a Type F stream and likely a forested wetland, though determining the category/class/boundaries of the wetland requires professional evaluation. If, by **December 1, 2023**, the Applicants submit a map and report detailing the location and types of aquatic features, and DNRP can determine by **December 31, 2023**, that the Applicants are providing a buffer of native vegetation that is:
 - A. At least 15% greater than the regulatorily-required buffer, then five points can be administratively awarded under the significant wildlife or salmonid habitat category; and/or
 - B. At least 1.5x (five points) 2x (eight points) or 3x (ten points) the regulatorily-required buffer, then those points can be administratively awarded under the surface water quality buffer category.
6. Thus, the Applicants have the opportunity to earn anywhere between 5–20 additional points. Five additional points would result in a current use valuation of 30% of assessed value for the enrolled portion of the property, while eight or more points would result in a current use valuation of 20% of assessed value for the enrolled portion of the property.
7. As to the land area recommended for PBRS enrollment, the Applicant requested 6.00 acres and DNRP recommends 6.20 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, we find the facts set forth in DNRP’s preliminary report and testimony at the April 20, 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 13 points and a current use valuation of 40% of assessed value for 6.20 acres, and conditional approval of up to 20 additional points and 20% of assessed value for those 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 40% of assessed value for the 6.20-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE, additional credit for the:
 - A. Forest stewardship land category, subject to submittal of a forest stewardship plan by **October 31, 2023**, and subsequent DNRP approval of that plan by **December 31, 2023**, and/or
 - B. Significant wildlife or salmonid habitat category and/or the surface water quality buffer category, subject to submittal by **December 1, 2023**, or a map and report detailing the location and types of aquatic features, and DNRP confirmation by **December 31, 2023**, that the Applicant is providing significant additional buffer, which could result in a current use valuation of down to 20% of assessed value for the 6.20-acre enrolled portion of the property.

DATED May 4, 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 *May 29, 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 *May 29, 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 *May 29, 2023*, the Examiner will notify all parties and interested persons and provide information about "next steps."

**MINUTES OF THE APRIL 20, 2023, HEARING ON THE APPLICATION OF
HAYLEY AND MATTHEW MCSPIRIT, FILE NO. E22CT024**

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 |