

April 10, 2023

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

King County Courthouse
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**REVISED¹ REPORT AND RECOMMENDATION TO
THE METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: Department of Natural Resources and Parks file no. **E22CT020**
Proposed ordinance no. **2023-0079**
Parcel nos. **0723039061, 0723039143, 0723039205, and 8164000185**

MARK MALAMUD

Open Space Taxation Application (Public Benefit Rating System)

Location: 10736 SW Sylvan Beach Road, Vashon

Applicant: **Mark Malamud**
2212 Queen Anne Avenue N, Unit 364
Seattle, WA 98109
Telephone: (206) 499-5961
Email: markmal@me.com

King County: Department of Natural Resources and Parks
represented by **Bill Bernstein**
201 S. Jackson Street Suite 5600
Seattle, WA 98104
Telephone: (206) 477-4643
Email: bill.bernstein@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve 15.57 acres for 30% of assessed value
Conditionally approve 15.57 acres for 20% of assessed value

Examiner's Recommendation: Approve 15.57 acres for 30% of assessed value
Conditionally approve 15.57 acres for 20% of assessed value

¹ This revised report reflects that parcel 0723039205 is *not* enrolling in PRBS. See paragraph 4.

PRELIMINARY REPORT:

On March 9, 2023, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT020 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a Zoom public hearing on the application on March 23, 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:

Owner:	Mark Malamud 2212 Queen Anne Avenue N Unit 364 Seattle, WA 98109
Location:	10736 SW Sylvan Beach Road, Vashon
STR:	SW-07-23-03
Zoning:	RA2.5 and RA10
Parcels:	0723039061, 0723039143, 0723039205, and 8164000185
Total acreage:	19.13 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 2023. As required by law, notification of the application occurred.
- Parcel -9143 is currently enrolled in PBRS, while parcel -9061 is enrolled in the designated forest land program. One purpose of this application is to reclassify -9061 and bring it into PBRS. (The other purpose is to enroll parcels -9205 and -0185.) Any new open space taxation agreement must supersede the existing agreements.
- The 0.04-acre parcel 0723039205 is already tax exempt. Therefore, there is no reason to enroll it in PBRS.
- 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	*
	Rural open space	5
	Watershed protection area	5
	<hr/> Total	<hr/> 18

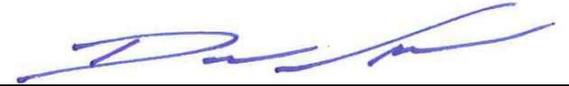
The DNRP-recommended score of 18 points results in a current use valuation of 30% of assessed value for the enrolled portion of the property.

6. Additional credit may be awarded administratively under the forest stewardship land category, subject to submittal of a forest stewardship plan by **December 1, 2023**, and DNRP approval of that plan by **December 31, 2023**. Award of credit under this category will increase the point total by 5 points, resulting in a current use valuation of 20% of assessed value for the enrolled portion of the property. Award of this category may allow approved forestry activities to occur on the property.
7. As to the land area recommended for PBRS enrollment, the Applicant requested 15.45 acres and DNRP recommends 15.57 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. Approval of 18 points and a current use valuation of 30% of assessed value for 15.57 acres, and conditional approval of 5 additional points and 20% of assessed value for those 15.57 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 30% of assessed value for the 15.57-acre enrolled portion of parcels 0723039061, 0723039143, and 8164000185.
2. CONDITIONALLY APPROVE additional credit for the forest stewardship land category, subject to submittal of a forest stewardship plan by **December 1, 2023**, and DNRP approval of that plan by December 31, 2023. Award of credit under this category will increase the point total by 5 points, resulting in a current use valuation of 20% of assessed value for the enrolling area.

DATED April 10, 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 4, 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 4, 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 4, 2023*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE MARCH 23, 2023, HEARING ON THE APPLICATION OF MARK MALAMUD, FILE NO. E22CT020

David Spohr was the Hearing Examiner in this matter. Bill Bernstein participated in the hearing.

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	Email, submitted March 23, 2023