

April 10, 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. **E22CT032**
Proposed ordinance no. **2023-0076**
Parcel nos. **3224069081 and 3224069076**

**COUGAR MOUNTAIN LAND TRUST AND JESSICA FOX AND SEAN
MCARTHUR**

Open Space Taxation Application (Public Benefit Rating System)

Location: 9409 and west abutting 9409 199th Avenue SE, Issaquah

Applicant: Cougar Mountain Land Trust
represented by **Cameron Clennon as Trustee**

Applicants: **Jessica Fox and Sean McArthur**

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 11.01 acres for 20% of assessed value
Conditionally approve 11.01 acres for 10% of assessed value

Examiner's Recommendation: Approve 11.01 acres for 20% of assessed value
Conditionally approve 11.01 acres for 10% of assessed value

PRELIMINARY REPORT:

On March 9, 2023, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E22CT032 to the Examiner and submitted a revised staff report on March 27, 2023.

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 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:

Owners:	Sean McArthur and Jessica Fox and Cameron Clennon, as trustee of Cougar Mountain Land Trust
Location:	9409 and west abutting 9409 199th Avenue SE, Issaquah
STR:	SW-32-24-06
Zoning:	RA5
Parcels:	3224069081 and 3224069076
Total acreage:	12.12 acres

- 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.
- 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>	
	Buffer to public or current use classified land	3
	<i>Forest stewardship land</i>	*
	Rural open space	5
	Rural stewardship land	0
	Significant plant or ecological site	*
	Significant wildlife or salmonid habitat	5
	Special animal site	3
	Surface water quality buffer	10
	Watershed protection area	5
	<u>Bonus Categories</u>	
	Contiguous parcels under separate ownership	2
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	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. 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 DNRP approval of that plan by **December 31, 2023**. Award of credit under this category will increase the point total by five points. Award of this category may allow approved forestry activities to occur on the property.
5. Additional credit may be awarded administratively under the significant plant or ecological site category, subject to a confirmation of a rare plant species or ecosystem by a Washington Department of Natural Resources' Natural Heritage Program expert by **December 31, 2023**. Award of credit under this category will increase the point total by five points.
6. Award under either the forest stewardship land category or the significant plant or ecological site category 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 request a specific acreage and DNRP recommends 11.01 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 revise report and testimony at the March 23, 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 33 points and a current use valuation of 20% of assessed value for 11.01 acres, and conditional approval of up to 10 additional points and 10% of assessed value for 11.01 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 11.01-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit under 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**.
3. CONDITIONALLY APPROVE additional credit under the significant plant or ecological site category, subject to a confirmation of a rare plant species or ecosystem by a Washington Department of Natural Resources' Natural Heritage Program expert by **December 31, 2023**.
4. Award under either the forest stewardship land category or the significant plant or ecological site category will result in a current use valuation of 10% of assessed value for the enrolled portion of the property.

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
COUGAR MOUNTAIN LAND TRUST AND JESSICA FOX AND SEAN
MCARTHUR, FILE NO. E22CT032**

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:

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 27, 2023