

April 11, 2016

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
Facsimile (206) 296-0198

hearingexaminer@kingcounty.gov

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

SUBJECT: Department of Natural Resources and Parks file no. **E15CT025**
Proposed ordinance no. **2016-0126**
Parcel no. **3223039088**

MELISSA ROHAN

Open Space Taxation Application (Public Benefit Rating System)

Location: 8410 SW 184th Street, Vashon Island

Applicant: **Melissa Rohan**
20704 Vashon Highway SW
Vashon, WA 98070
Telephone: (206) 304-8079
Email: mrb@bangasser.com

King County: Department of Natural Resources and Parks
represented by **Megan Kim**
201 S Jackson Street Suite 600
Seattle, WA 98104
Telephone: (206) 477-4788
Email: megan.kim@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation:

Approve 2.06 acres for 20% of market value

Examiner's Recommendation:

Approve 2.06 acres for 20% of market value

PRELIMINARY REPORT:

On March 18, 2016, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E15CT025 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a public hearing on the application on March 30, 2016, in the Horiuchi Conference Room 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington. The Examiner received the affidavit of notice publication on March 29, 2016.

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, CONCLUSIONS AND RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

| | |
|----------------|--|
| Owner: | Melissa Rohan 20704 Vashon Highway SW Vashon, WA 98070 |
| Location: | 8410 SW 184th Street, Vashon Island |
| STR: | SE 32-23-03 |
| Zoning: | RA-2.5 |
| Parcel no.: | 3223039088 |
| Total acreage: | 3.12 acres |

2. The Applicant timely filed an application to King County for PBRS program current use valuation of the property to begin in 2017. 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 ~~striketrough~~ 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 *asterisks* represent 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> <u>*Aquifer protection area*</u> |
|------------------|---|

| | |
|--|----|
| *Buffer to public or current use classified land* | 3 |
| Rural open space | |
| Significant plant site or ecological site | |
| Significant wildlife or salmonid habitat | 5 |
| Surface water quality buffer | |
| *Watershed protection area* | 5 |
| <u>Bonus Categories</u> | |
| *Resource restoration* | 5 |
| *Conservation easement or historic easement* | |
| *Easement and access* | |
| | 23 |

The DNRP-recommended score of 23 points would result in a current use valuation of 20% of market value for the enrolled portion of the property. However, award under *all* categories is contingent upon submittal of a comprehensive resource restoration plan by **October 31, 2016** and DNRP's approval of that plan by **December 30, 2016**. Failure to qualify under this category will preclude the property from enrollment in the PBRS program at present, because in its current condition the majority of the property is encumbered with Himalayan blackberry and ivy and provides insufficient public benefit.

If a resource restoration plan is submitted and approved, additional credit may be awarded administratively under the conservation easement/historic easement category and also under the easement and access category. For conservation easement/historic easement, 15 points are awardable, subject to recording an easement by **December 30, 2016**, that preserving native open space. For easement and access, 35 points are awardable, subject to recording an easement conserving native open space and providing public access along a currently private beach by **December 30, 2016**. Award of both categories will increase the point total to 73, which will result in a 10% market valuation.

4. As to the land area recommended for PBRS enrollment, the Applicant requested 2.40 acres and DNRP recommends 2.06 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.)
5. Except as modified herein, the facts set forth in the DNRP preliminary report and testimony at the March 30, 2016, public hearing are correct and incorporated herein by reference. Copies of this report and the department report will be provided to the Metropolitan King County Council for final approval.
6. Award under all categories must be conditioned upon the control and removal of invasive plant species on the property within a three-year period. Such control and removal is mandatory for the property to qualify as credited open space. Failure to meet this condition will cause disenrollment of the property from the PBRS program.

CONCLUSION:

1. Approval, pursuant to the Public Benefit Rating System adopted by Chapter 20.36 KCC, of 23 points and a current use valuation of 20% of market value for 2.06 acres of the property and conditional approval of 50 additional points (which would bring the total to 73 points and 10% of market value for 2.06 acres of the property), is consistent 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** current use valuation of 20% of market value for the 2.06-acre enrolled portion of the property, **CONTINGENT** on the applicant submitting a resource restoration plan for the property by **October 31, 2016**, and DNRP approving the plan by **December 30, 2016**. Failure to qualify under this category will preclude the property from enrollment in the PBRs program at present, because in its current condition the majority of the property is encumbered with Himalayan blackberry and ivy and provides insufficient public benefit.
2. **CONDITIONALLY APPROVE** additional credit under the conservation easement/historic easement category and under the easement and access category. In addition to the requirement of submittal and approval of a resource restoration plan, the following conditions apply:

For the conservation easement/historic easement category, award is subject to recording, by **December 30, 2016**, an easement that preserves native open space. Award of this category warrants a 15 point increase.

For the easement and access category, award is subject to recording, by **December 30, 2016**, an easement that conserves native open space and provides public access along a currently private beach. Award of this category warrants 35 points.

Award of both categories will increase the points total to 73, which will result in a 10% market valuation for 2.06 acres of the property.

DATED April 11, 2016.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

In order to appeal the recommendation of the Hearing Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250 (check payable to King County Office of Finance) on or before ***April 25, 2016***. If a notice of appeal is filed, the original and two copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before ***May 2, 2016***.

Filing requires actual delivery to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, prior to the close of business (4:30) p.m. on the date due. 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.

If a written notice of appeal and filing fee are not filed within 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance that implements the Examiner's recommended action on the agenda of the next available Council meeting. 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.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within 21 days from the date of the action an aggrieved party or person applies for a writ of certiorari from Superior Court for the purpose of review of the action taken.

MINUTES OF THE MARCH 30, 2016, HEARING ON THE APPLICATION OF MELISSA ROHAN, DEPARTMENT OF NATURAL RESOURCES AND PARKS FILE NO. E15CT025.

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 | <i>Not submitted</i> |
| Exhibit no. 2 | <i>Not submitted</i> |
| Exhibit no. 3 | <i>Not submitted</i> |
| Exhibit no. 4 | DNRP report to the Hearing Examiner |
| Exhibit no. 5 | Affidavit of publication |
| Exhibit no. 6 | Notice of hearing from the Hearing Examiner’s Office |
| Exhibit no. 7 | Notice of hearing from the PBRs program |
| Exhibit no. 8 | Legal notice and introductory ordinance to the King County Council |
| Exhibit no. 9 | Application signed/notarized |
| Exhibit no. 10 | <i>Reserved for</i> Legal description of area to be enrolled |
| Exhibit no. 11 | Email to applicant regarding received application and approval schedule |
| Exhibit no. 12 | Arcview and orthophoto/aerial map |
| Exhibit no. 13 | <i>Reserved for</i> Resource restoration plan |
| Exhibit no. 14 | <i>Reserved for</i> Conservation easement |

DS/vsm

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CERTIFICATE OF SERVICE

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MELISSA ROHAN

Open Space Taxation Application (Public Benefit Rating System)

I, Vonetta Mangaoang, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties of record/interested persons and primary parties with e-mail addresses on record.
- caused to be placed with the United States Postal Service, with sufficient postage, as **FIRST CLASS MAIL** in an envelope addressed to the non-County employee parties of record/interested persons at the addresses indicated on the list attached to the original Certificate of Service.

DATED April 11, 2016.



Vonetta S. Mangaoang
Clerk/Manager