

February 10, 2021

**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. **E20CT012a**
Proposed ordinance no. **2021-0020**
Parcel no/s. **2926079035 and 2926079007**

THOMAS AND LINDA LIGON

Open Space Taxation Application (Public Benefit Rating System)

Location: 29727 NE Big Rock Road, Duvall

Applicants: **Thomas and Linda Ligon**
29727 NE Big Rock Road
Duvall, WA 98019
Telephone: (206) 902-6214
Email: liz@ligon.org

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 16.18 acres for 50% of assessed value
Conditionally approve 21.93 acres and 20% of assessed value

Examiner's Recommendation: Approve 16.18 acres for 50% of assessed value
Conditionally approve 21.93 acres and 20% of assessed value

PRELIMINARY REPORT:

On January 22, 2021 the Department of Natural Resources and Parks (DNRP) submitted to the Examiner a revised report on file no. E20CT012a.

PUBLIC HEARING:

After reviewing the revised report and examining available information on file with the application, the Examiner conducted a public telephonic hearing on the application on February 4, 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:

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|----------------|--|
| Owners: | Thomas and Linda Ligon 29727 NE Big Rock Road Duvall, WA 98019 |
| Location: | 29221 NE 126th Street, Duvall and 29727 NE Big Rock Road, Duvall |
| STR: | SW-29-26-7; NW-29-26-7 |
| Zoning: | RA-5 |
| Parcel no/s.: | 2926079035 and 2926079007 |
| Total acreage: | 30.54 acres |

2. The Ligon's timely filed an application to King County for the Public Benefit Rating System (PBRS) program current use valuation of the property to begin in 2020. Originally, the application was joined to a neighbor's, *Crain E20CT012*. However, because the farm and agricultural conservation land category requires separate applications, the initial application was essentially bifurcated, the Ligon's were assigned their own file number *E20CT012a*, and a new ordinance was introduced. The Council approved the Crain application in January 2021. Ord. 2020-0353. Today's recommendation covers the Ligon's property.
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> | |
| | *Farm and agricultural conservation land | * |
| | *Forest stewardship land | * |
| | Rural open space | 5 |
| | Significant wildlife and salmonid habitat | 5 |
| | *Surface water quality buffer | * |
| | <u>Bonus Categories</u> | |
| | *Additional surface water quality buffer | * |
| | Seasonally-limited public access | 0 |
| | | <hr/> |
| | | 10 |

The DNRP-recommended score of 10 points results in a current use valuation of 50% of assessed value for the enrolled portion of the property.

4. Except as modified herein, the facts set forth in DNRP’s revised report and testimony at the February 4, 2021, public hearing are correct and incorporated herein by reference. Copies of this report and DNRP’s report will be provided to the Metropolitan King County Council for final approval. The one exception is that the revised report calculated the total points the Lignons could earn at 28; it could actually be 30 (see below).
5. Additional credit under the farm and agricultural conservation land category may be awarded administratively, subject to submittal, by **October 31, 2021**, of a King Conservation District-approved farm management plan covering the 5.75-acre portion outlined in green on the DNRP revised report’s map. Award of credit under this category will increase the point total by five points and increase the enrolled area by 5.75 acres.
6. 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’s approval 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.
7. As to the surface water quality buffer and additional surface water quality buffer categories, more work is needed to be pin down precisely what aquatic areas are on the property. This determination is necessary to get a baseline for the buffers already required by the applicable regulations and, from there, to determine whether the Lignons are providing a buffer at least 1.5x (five points), 2x (a total of eight points) or 3x (a total of ten points) greater than those regulatory buffers. Additional credit may be awarded administratively under one or both of these categories, provided a qualifying expert provides materials detailing locations and types of aquatic features by **June 1, 2021**, and DNRP can determine that the Lignons are providing the necessary buffer to justify the necessary threshold.
8. The Lignons’ ultimate current use valuation thus depends on several different categories. As described in the three previous paragraphs, starting with the 10 points garnered from the rural open space and significant wildlife salmonid habitat categories, the Lignons could

earn an additional 5, 10, 15, 18, or 20 points. Five additional points would result in a current use valuation of 40% of assessed value. Ten points equates to 30%. And 15, 18, or 20 points equates to 20%.

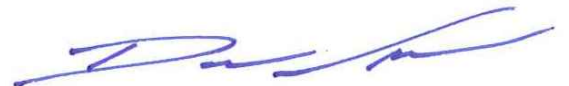
9. As to the land area recommended for PBRS enrollment, the Applicant requested 25.00 acres and DNRP recommends 16.18 acres. Award of credit under the farm and agricultural land category will increase the enrolled area to 21.93 acres. (Enrollment acreage is the entire parcel less the excluded area, as 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.)
10. Approval of 10 points and a current use valuation of 50% of assessed value for 16.18 acres (and conditional approval of up to 20 additional points and as little as 20% of assessed value for 21.93 acres) of the property 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 current use valuation of 50% of assessed value for the 16.18-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the:
 - a. farm and agricultural conservation land category, subject to submittal, by **October 31, 2021**, of a King Conservation District-approved farm management plan, increasing the enrolled area by 5.75 acres;
 - b. forest stewardship land category, subject to submittal of a forest stewardship plan by **September 1, 2021**, and approval by DNRP by **November 30, 2021**; and
 - c. surface water quality buffer and additional surface water quality buffer categories, subject to submittal of a qualifying expert's report detailing locations and types of aquatic features by **June 1, 2021**, and DNRP determination, by **November 30, 2021**, that the Lignons are providing the requisite additional buffer.

Depending on the points earned under a., b., and c. the current use valuation could drop to 20% of assessed value.

DATED February 10, 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 *March 8, 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 *March 8, 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 *March 8, 2021*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE FEBRUARY 4, 2021, HEARING ON THE APPLICATION OF THOMAS AND LINDA LIGON, FILE NO. E20CT012A

David Spohr was the Hearing Examiner in this matter. Megan Kim and Linda Ligon participated in the hearing.

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

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| Exhibit no. 1 | DNRP revised 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 |

DS/jo