

**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. **E20CT040**
Proposed ordinance no. **2021-0138**
Parcel no. **2921079066**

TIMOTHY O'BRIEN AND VICTORIA TIMKO

Open Space Taxation Application (Public Benefit Rating System)

Location: 29420 SE 352nd Street, Enumclaw

Applicants: **Timothy O'Brien and Victoria Timko**
29420 SE 352nd Street
Enumclaw, WA 98022
Telephone: (253) 258-9236
Email: obrien_timothy@hotmail.com

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 3.54 acres for 30% of assessed value
Conditionally approve 3.94 acres for 20% of assessed value
Examiner's Recommendation: Approve 3.54 acres for 30% of assessed value
Conditionally approve 3.94 acres for 20% of assessed value

PRELIMINARY REPORT:

On April 9, 2021, the Department of Natural Resources and Parks (DNRP) submitted its report on file no. E20CT040 to the Examiner.

PUBLIC HEARING:

After reviewing the preliminary report and examining available information on file with the application, the Examiner conducted a telephonic public hearing on the application on April 22, 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:

Owners:	Timothy O'Brien and Victoria Timko 29420 SE 352nd Street Enumclaw, WA 98022
Location:	29420 SE 352nd Street, Enumclaw
STR:	NW-29-21-07
Zoning:	RA-5
Parcel nos.:	2921079066
Total acreage:	6.01 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 2021. As required by law, notification of the application occurred.
- The property is already enrolled in the PBRs program (E06CT075). The purpose of this application is to add enrolling acreage and PBRs categories. Any new open space taxation agreement must supersede the previous one agreement.
- 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 ~~struckthrough~~ 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>	
	Public recreation area	5
	Buffer to public or current use classified land	3
	Significant wildlife or salmonid habitat	5
	*Watershed protection area	*
	<u>Bonus Categories</u>	
	*Resource restoration	*
	Unlimited public access	5
	<hr/> Total	<hr/> 18

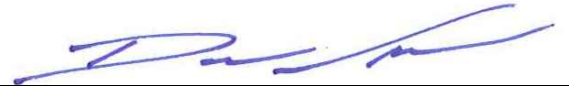
The DNRP-recommended score of 18 points results in a current use valuation of 30% of assessed value for the enrolled portion of the property.

5. Additional credit may be awarded administratively under the resource restoration category, subject to DNRP's approval, by **July 30, 2021**, of the Applicant's recently submitted forest stewardship plan. Award of credit in the 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. It may also allow approved forestry activities to occur on the property.
6. If the approved plan satisfactorily addresses replanting the 0.40-acre area shown in green on the map, two consequences follow. First, DNRP may administratively boost the enrolled area from 3.54 to 3.94 acres. Second, because the native forest cover would increase to more than 65% of the total property acreage, DNRP may award credit under the watershed protection area category; this would add 5 points but would not change the current use valuation.
7. As to the land area recommended for PBRS enrollment, the Applicant requested 4.00 acres and DNRP recommends 3.54 acres, with the potential to increase to 3.94 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, the facts set forth in DNRP's preliminary report and testimony at the April 22, 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 modification is that DNRP received the Applicant's forest stewardship plan the morning of our hearing, so that was not reflected in the staff report.
9. Approval of 18 points and a current use valuation of 30% of assessed value for 3.54 acres, and conditional approval of up to 10 additional points and 20% of assessed value for up to 3.94 enrolling 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 3.54-acre enrolled portion of the property.
2. CONDITIONALLY APPROVE additional credit for the resource restoration and watershed protection area categories, subject to DNRP's approval, by **July 30, 2021**, of the Applicant's forest stewardship plan satisfactorily addressing replanting the 0.40-acre area. Award of this credit will result in a current use valuation of 20% of assessed value for a 3.94-acre enrolled portion of the property. It may also allow approved forestry activities to occur on the property.

DATED May 6, 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 *May 31, 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 *May 31, 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 *May 31, 2021*, the Examiner will notify all parties and interested persons and provide information about "next steps."

MINUTES OF THE APRIL 22, 2021, HEARING ON THE APPLICATION OF TIMOTHY O'BRIEN AND VICTORIA TIMKO, FILE NO. E20CT040

David Spohr was the Hearing Examiner in this matter. Megan Kim and Timothy O'Brien 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	Map of nearby parks and trails

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