



SEATTLE CITY COUNCIL

Public Assets and Homelessness Committee

Agenda

Wednesday, January 4, 2023

2:00 PM

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

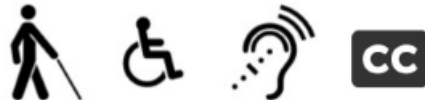
Andrew J. Lewis, Chair
Teresa Mosqueda, Vice-Chair
Lisa Herbold, Member
Debora Juarez, Member
Tammy J. Morales, Member

Chair Info: 206-684-8807; Andrew.Lewis@seattle.gov

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January 4, 2023 - 2:00 PM

Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:

<https://www.seattle.gov/council/committees/public-assets-and-homelessness>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at <http://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin two hours before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to Councilmember Lewis at Andrew.Lewis@seattle.gov

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

D. Items of Business

1. Central waterfront management and operations

Supporting Documents: [Presentation](#)

Briefing and Discussion

Presenters: Marshall Foster, Director, and Tiffani Melake, Office of Waterfront and Civic Projects; Christopher Williams, Superintendent, Seattle Parks and Recreation; Robert Nellams, Director, Seattle Center

2. [CB 120489](#) **AN ORDINANCE authorizing The City of Seattle, through Seattle Parks and Recreation, to enter into an agreement with the Arboretum Foundation for support of the Seattle Japanese Garden consistent with the Non-Government Agreement in Attachment 1 to this ordinance.**

Attachments: [Att 1 - Non-Government Agreement](#)

Supporting

Documents:

[Summary and Fiscal Note](#)

[Summary Ex 1 - Site Maps of the Japanese Garden](#)

[Presentation](#)

Briefing, Discussion, and Possible Vote

Presenters: AP Diaz, Interim Superintendent, and Donnie Grabowski, Seattle Parks and Recreation; Jane Stonecipher, Executive Director, Arboretum Foundation

3. [CB 120483](#) **AN ORDINANCE** relating to current use taxation; approving applications for current use taxation of properties located at 8240 43rd Avenue NE and 711 NE 43rd Street under the King County Public Benefit Rating System, and ratifying and confirming certain prior acts.

Attachments: [Att 1 - DNRP Report on E20CT029S](#)
[Att 2 - DNRP Report on E21CT024S](#)

Supporting Documents: [Summary and Fiscal Note](#)
[Amendment 1](#)
[Central staff memo](#)
[Presentation](#)

Briefing, Discussion, and Possible Vote

Presenters: Bill Bernstein, King County Department of Natural Resources and Parks; Erin Doherty, Department of Neighborhoods; Lish Whitson, Council Central Staff

E. Adjournment



Legislation Text

File #: Inf 2210, **Version:** 1

Central waterfront management and operations



CENTRAL WATERFRONT MANAGEMENT AND OPERATIONS

January 4th, 2023

LEGISLATIVE HISTORY FOR PARK OPERATIONS



Ordinance/Resolution	Date	Description
Ordinance 123142	November 2009	Establishes Central Waterfront Partnerships Committee to advise City; large scale community engagement on design begins
Resolution 31264	January 2011	Endorses Central Waterfront Guiding Principles; creates Central Waterfront Committee
Resolution 31399	August 2012	Resolution 31399 endorses Waterfront Concept Design and Strategic Plan, establishing funding plan, including LID and philanthropy
		Friends of Waterfront Seattle incorporated as non-profit organization
Resolution 31768	September 2017	Stated intent to enter into an agreement with Friends for the long-term provision of high-quality operations and management services commensurate with Central Waterfront Improvement Program

LEGISLATIVE HISTORY FOR PARK OPERATIONS



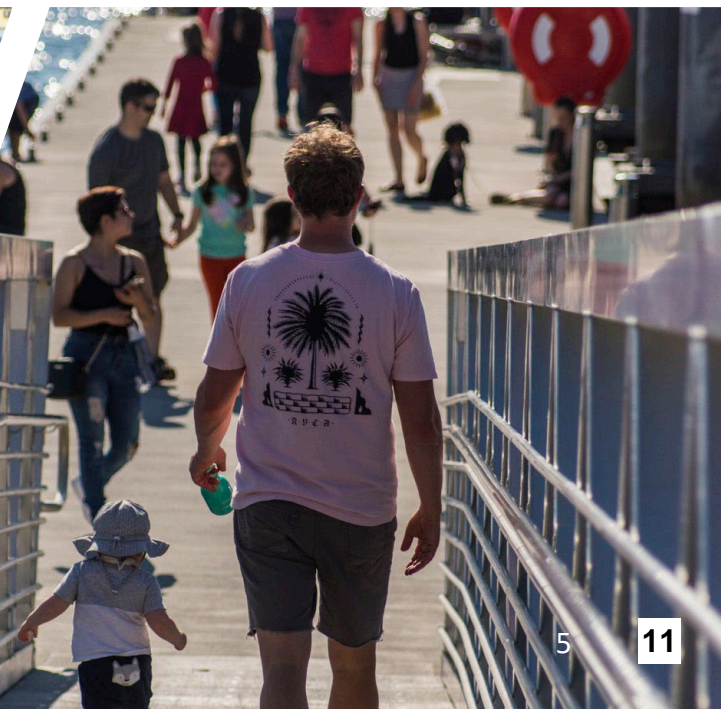
Ordinance/Resolution	Date	Description
Ordinance 125760	January 2019	Establishes the \$160M Local Improvement District (LID)
Ordinance 125761		Approves the O&M Ordinance, created the Central Waterfront Oversight Committee and authorizes two-year pilot agreement for Pier 62 and established framework for long term management agreement with Friends of Waterfront Seattle
Ordinance 125762		Contractual agreement with property owners to waive the LID protest in exchange for the City committing to a set standard of maintenance, programming and public safety ; designating park boulevards
Ordinance 126444	September 2021	Portions of the waterfront are designated as Waterfront Park Boulevards

OPERATING PARTNERSHIP

PILOT AGREEMENT AT PIER 62

- Friends responsible for social services, special events, programming, and activation
- City responsible for daily and preventative maintenance
- Joint responsibility for public safety





SHIFT TO SEATTLE CENTER FOR OPERATIONS



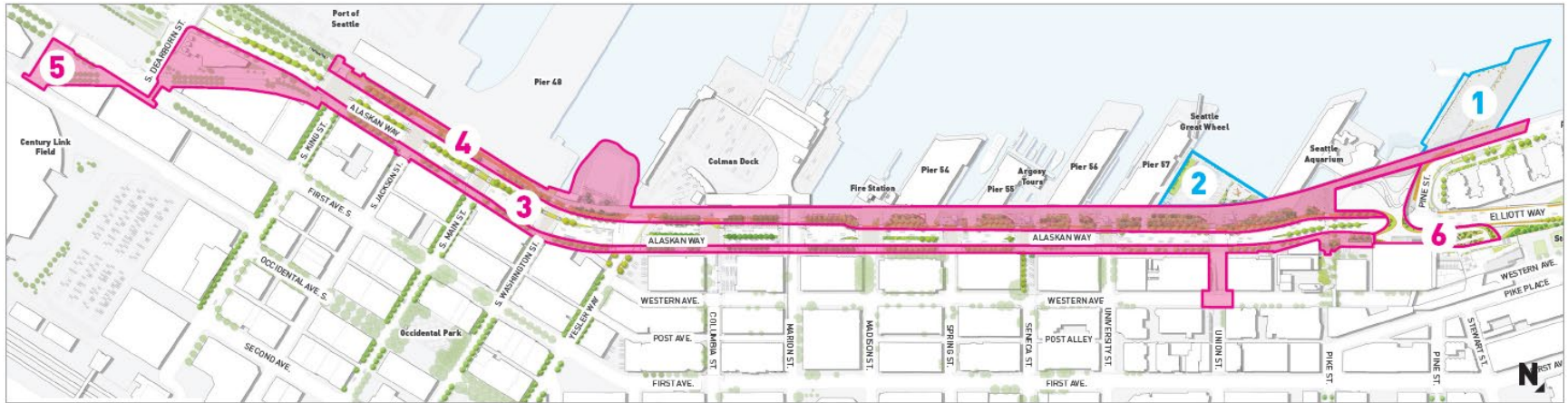
- Culture built around high-level operations and management of park
- Full time dedicated staff team that can deliver a high quality and inclusive park experience
- Recommended by the Central Waterfront Oversight Committee in their 2021 annual report to Mayor/Council



OVERVIEW OF PROPOSED ORDINANCE



- Delegates Waterfront operations and management to Seattle Center
- Delegates authority to Seattle Center Director to enforce Waterfront Park rules
- Extends the current License Agreement with Friends on Pier 62 Park operations



● Current park ● Park boulevard

PILOT AGREEMENT (2020 - 2022)

- 1 Pier 62 and Floating Dock**
Rebuilt to once again support free public concerts and events, as well as allow new access for small boats.

MANAGEMENT AGREEMENT (2023)

- 1 Pier 62 and Floating Dock**
- 2 Pier 58/Waterfront Park**
Rebuilt park with an urban plaza and a children’s playground.
- 3 Alaskan Way East and Union Street**
Widened sidewalk, landscaping and green stormwater features. A new pedestrian bridge and elevator at Union Street will connect Western Avenue to Waterfront Park.
- 4 Park Promenade**
A new linear park with walkways, lighting, landscaping, seating and green stormwater features. In Elliott Bay, new underwater habitat improvements will help restore the native intertidal habitat. A new two-way protected bike lane will run adjacent to the roadway. Vending will be hosted at four wayfinding kiosks and at the restored Washington Street Boat Landing Pergola. There will be two standalone public rest rooms.
- 5 Railroad Way**
A pedestrian gateway linking the waterfront to Pioneer Square and the stadiums. Railroad Way will encourage new circulation and activities throughout the year and on game days at CenturyLink Field and Safeco Field.

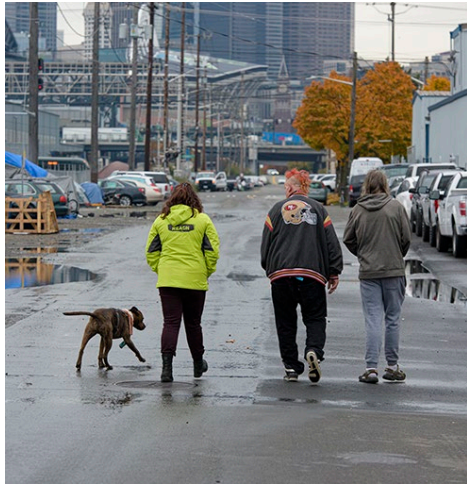
- 6 Overlook Walk**
A new, accessible connection between Pike Place Market and the waterfront. It will take pedestrians over the new Alaskan Way without crossing the street and will include seating, informal play areas and views.



PUBLIC SAFETY TIERED RESPONSE

Tier 1	Social Services	Outreach to assist visitors in need of support resources. This is currently provided by REACH, under contract to Friends.
Tier 2	Park Ambassadors	Customer-focused staff wearing Friends' branded clothing/uniform. Provides information, directions, verbal reminders re: rules. Friends' front-line team to ensure a positive visitor experience. Reports issues to enforcement and maintenance teams as needed.
Tier 3	Basic Park Rules Enforcement	City staff that can enforce Waterfront Park Rules
Tier 4	Criminal Enforcement	SPD response to criminal activity or life-threatening situations.

TIER 1 Social Services



REACH's work begins by forging trust between clients and their team members. These relationships are the key to REACH'S work.

It may take time for people to be ready for services like shelter, mental health care, or substance use disorder treatment, so REACH meets people where they are and work with them to meet the goals that they define.

Friends contracts with REACH to provide services along the waterfront.

TIER 2 Park Ambassadors



Park Ambassadors will be Friends staff that are uniformed and approachable to assist with park operations.

They can remind the public of park rules but do not enforce.

TIER 3 Basic Park Rule Enforcement



Seattle Center is committed to creating and maintaining a safe and welcoming environment for all. They have a team of public safety personnel with a 24/7 presence.

The waterfront will be hiring a dedicated public safety team as an extension of Seattle Center's team to enforce park rules, as needed.

LONG-TERM MANAGEMENT AGREEMENT

- 6-year agreement aligning with MPD cycle and SC/SPR agreement
- Expands to Waterfront Park in phases
- Includes lessons learned from pilot agreement
- Integrates Performance Standard



KEY NEXT STEPS

ACTION ITEM	TIMELINE
LEGISLATION <ul style="list-style-type: none"> • DELEGATION AUTHORITY • POSITION AUTHORITY 	JANUARY 2023
MANAGEMENT AGREEMENT <ul style="list-style-type: none"> • LEGISLATION 	JANUARY-MARCH 2023
HIRING	JANUARY- JUNE 2023



Legislation Text

File #: CB 120489, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE authorizing The City of Seattle, through Seattle Parks and Recreation, to enter into an agreement with the Arboretum Foundation for support of the Seattle Japanese Garden consistent with the Non-Government Agreement in Attachment 1 to this ordinance.

WHEREAS, Seattle Parks and Recreation (“SPR”) desires to develop the Seattle Japanese Garden (“Garden”), located within the Washington Park Arboretum (“Arboretum”), to ensure its long-term sustainability and preserve the cultural connection the Garden provides; and

WHEREAS, in 2014 SPR and the Japanese Garden Society undertook an Optimal Operations Study (“Study”) to determine how best to operate and support the Garden, and the Study concluded that operation by a nonprofit entity would best serve the Garden’s long-term needs; and

WHEREAS, the Arboretum Foundation (“Foundation”), a Washington nonprofit corporation, was selected in 2016 to support the Garden through programming, marketing, membership support, event delivery, marketing, and fundraising; and

WHEREAS, SPR’s Superintendent was authorized to enter into an agreement with the Foundation via Ordinance 124979; and

WHEREAS, the Foundation, in partnership with SPR, has worked since 2016 to provide high quality educational and culturally relevant community programs and events, and significantly fundraise for capital projects, at the Garden in an effort to leverage resources and to expand access and improve the user experience at the Garden; and

WHEREAS, at the conclusion of the initial agreement the Foundation was selected by SPR through a Letter of

Interest application process to continue fundraising, event, and program support for the Garden and has committed to providing substantial public benefits in the new agreement; and

WHEREAS, the City desires to enter into a new agreement to continue its productive working relationship with the Foundation to enhance the operations and sustainability of the Garden as authorized by the attached Non-Government Agreement; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Superintendent of Parks and Recreation or the Superintendent’s designee is authorized for and on behalf of The City of Seattle to negotiate an agreement with the Arboretum Foundation for support of the Seattle Japanese Garden operation that is consistent with the terms and conditions contained in Attachment 1 to this ordinance.

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within 10 days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2022.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Elizabeth M. Adkisson, Interim City Clerk

(Seal)

Attachments:

Attachment 1 - Non-Government Agreement for the Support and Development of the Seattle Japanese Garden between The City of Seattle Acting By and Through Seattle Parks and Recreation and the Arboretum Foundation



Attachment 1
Non-Government Agreement for the Support and Development of the Seattle Japanese Garden
Between
THE CITY OF SEATTLE
ACTING BY AND THROUGH
SEATTLE PARKS AND RECREATION
And
THE ARBORETUM FOUNDATION

THIS AGREEMENT for the Support and Development of the Seattle Japanese Garden (Agreement) is dated _____, 2022 and is entered into by and between The City of Seattle (City), a Washington municipal corporation, through Seattle Parks and Recreation (SPR), as represented by the Superintendent; and the Arboretum Foundation (Foundation), a nonprofit organization of the State of Washington and authorized to do business in the State of Washington.

WHEREAS, The Seattle Japanese Garden (Japanese Garden), an important educational and cultural park space for the community, is located in the Washington Park Arboretum and is owned and operated by SPR; and

WHEREAS, SPR is committed to offering safe and welcoming opportunities for residents and visitors to play, learn, contemplate and build community; and

WHEREAS, SPR and the Foundation entered into a six-year Support and Development Agreement for the Japanese Garden on January 16, 2016 which supported increased attendance, expanded programming and community access, and private fundraising on behalf of the Japanese Garden; and

WHEREAS, SPR and the Foundation entered into a one-year extension of the 2016 Agreement on November 3, 2021 due to pandemic-related operating uncertainties; and

WHEREAS, the Foundation is well-known and supported by the community, with a proven track record in marketing, fundraising, endowment, event coordination and membership support, all of which are characteristics recommended in the SPR's 2014 Optimal Operations Study for a support organization for the Japanese Garden; and

WHEREAS, SPR and the Foundation desire to further develop the Japanese Garden, improve the visitor experience, and increase equity and access; and

WHEREAS, SPR and the Foundation share a commitment to value, respect and expand on the Japanese Garden's traditional emphasis on culturally relevant events and activities and a goal of increasing the public benefit of the Japanese Garden to the community as further detailed in Exhibit A; and

WHEREAS, SPR and the Foundation desire to utilize each other’s expertise to ensure the Japanese Garden has a long and sustainable future;

NOW, THEREFORE, SPR and the Foundation agree to the following:

1. TERM OF AGREEMENT:

The term of this agreement shall commence on January 1, 2023, and shall terminate no later than December 31, 2032 unless SPR and the Foundation agree in writing to extend the term of the Agreement for no more than five years on or before September 30, 2032.

2. ROLES, RESPONSIBILITIES AND FINANCIAL STRUCTURE

SPR is engaging the Foundation to support the Japanese Garden as an independent entity. The parties will be acting in their individual capacities, not as agents, employees, partners, joint ventures or associates of one another. The roles and responsibilities of the two parties are outlined below:

Category	Seattle Park and Recreation (SPR) shall:	Arboretum Foundation (Foundation) shall:
General		
Mutual Recognition	Recognize the Foundation as the primary support organization for the Seattle Japanese Garden for the duration of this Agreement, responsible for programming, operating and conducting events, fundraising, membership program, volunteer coordination, branding and marketing subject to SPR oversight and approval and consistent with City park policy.	Recognize SPR, acting on behalf of the City, as the owner and operator of the Japanese Garden.
Roles	Operate, maintain, and manage the Japanese Garden including grounds, entry gatehouse and buildings associated with the garden.	In close collaboration with SPR, assume the role as the primary nonprofit support organization for the Japanese Garden, responsible for programming, operating and conducting events, fundraising, membership program, volunteer coordination, branding and marketing.
Policy Development	Provide input and guidance on policy issues when requested by the Foundation. Review and provide additional clarity if necessary for policies regarding the garden rental fee, alcohol rules for sponsorship events, and inclement weather policies. Review donor recognition	Provide input and support to SPR on policy issues pertinent to the Japanese Garden and communication of these policies to the public. Provide input to SPR on appropriate donor recognition and support implementation.

	policies as applied to the Japanese Garden.	
Steering Committee	Participate in Japanese Garden Steering Committee meetings.	Support the Japanese Garden Steering Committee under the Arboretum Foundation Board of Directors that will meet 8-10 times annually to discuss public programming, marketing, fundraising, capital projects, endowment support, equity, and membership programs.
Finance		
Revenue Sharing (Exhibit C includes a revenue sharing summary)	<p>Retain the first \$425,000 of gate revenue annually which will include daily admission, membership and other agreed on categories of revenue excluding merchandise and donations. \$3,600 of the above amount is assumed to cover SPR staffing for approximately 2-4 Foundation fundraising events.</p> <p>Retain 50% of all gate revenue annually from \$500,001-\$750,000.</p> <p>Retain 40% of all gate revenue annually beyond the first \$750,000.</p> <p>City payment of Annual Support Payment and additional payments below shall be contingent on City legislative appropriation of funding sufficient for such payment. The Superintendent will request such annual appropriation from City Council.</p> <p>On a semi-annual basis, SPR will provide to Foundation a report of attendance at the Japanese Garden and gate revenue received, along</p>	<p>Provide event reports, year-end financials, and an annual report to SPR. In January of each year provide a work plan to SPR. The annual report shall include a reporting of public benefits included in Exhibit A.</p>

	<p>with the balance of annual gate revenue not retained by SPR (“Gate Percentage Share”) as set out above.</p> <p><u>Mid-Year Payment:</u> SPR will pay the Foundation \$75,000 in Annual Support Payment through one payment of \$75,000 in July along with any donations and merchandise revenue collected for the months of January through June.</p> <p><u>End-of-Year Payment:</u> By January 10th of each year, SPR will pay Foundation 50% share of gate revenue earned between \$500,001-\$750,000 plus 60% of any additional gate revenue earned beyond \$750,000, along with any donations and merchandise revenue collected July-December.</p>	
<p>Fees and Charges</p>	<p>After consultation with Foundation and community stakeholders, set bi-annual fees and charges for Japanese Garden entry and programs for Seattle City Council review and approval. The City will strive to balance equity, access, sustainability, and revenue goals in determining fee levels.</p>	<p>Support SPR in the development of bi-annual fees and charges that balance equity, access, sustainability, and revenue goals.</p>
<p>Membership</p>	<p>Approve a membership program. Work collaboratively with Foundation to offer and grow a membership program. Agree annually on a communication plan for members. Evaluate results of membership options study and consider alternative membership program options.</p>	<p>Develop and implement a Japanese Garden membership program with agreement from SPR about the annual pass and membership fee structure. Work collaboratively with SPR to offer and grow a membership program. Develop and administer membership benefits. Agree annually on a communication plan for members. Sponsor study to evaluate alternate membership options.</p>

<p>Fundraising</p>	<p>So long as fundraising revenue continues to be deployed to Japanese Garden programming and/or capital needs, SPR will provide the Tateuchi Room, entrance plaza or Garden free of charge for an agreed upon number of days and times per year for fundraising and donor recognition purposes. Provide an agreed upon number of day passes to the Foundation for Japanese Garden fundraising purposes.</p>	<p>Work with SPR to develop a fundraising/endowment/asset preservation plan for the Japanese Garden and recognition program to support garden programming, maintenance, capital improvements, and special projects.</p>
<p>Fundraising Event Support</p>	<p>Events other than the Moon Viewing and Garden Party (or similar separately ticketed events up to four events a year) will be considered shared revenue generating events and included in the semi-annual calculation for revenue sharing. New events or changes in the existing event calendar will need to be approved by both parties. For fundraising events, provide parking support, pre-event coordination and maintenance, and post-event clean up assistance.</p>	<p>Moon Viewing and Garden Party or similar separately ticketed events will be revenue-generating events for the Foundation, up to four a year unless otherwise agreed. New events or changes in the existing event calendar will need to be approved by both parties. Provide on-line ticketing for revenue-generating events for the Foundation. Provide event staff and equipment as necessary. Provide after-event reports to Steering Committee. Provide \$3,600 annual staffing allowance for fundraising event support, which is incorporated in the base amount retained by SPR as part of the overall revenue settlement.</p>
<p>Merchandise</p>	<p>At SPR’s reasonable discretion, sell merchandise to members of the public through the Gatehouse point-of-sale system. Remit merchandise proceeds to Foundation (less sales taxes) as part of bi-annual settlement process. Retain 10% of revenues to support administrative expenses.</p>	<p>Work with Unit 86 Garden volunteers to approve, manage, update, and maintain merchandise. 10% of annual merchandise revenue will go to SPR as part of the bi-annual settlement process.</p>
<p>Programs</p>		

<p>Coordination</p>	<p>Agree to coordination meeting plan that supports the operations and programming of the Japanese Garden including pre and peak season.</p> <p>Provide at least an annual collaboration opportunity with key SPR leadership contact, at SPR Division Director or equivalent staff level.</p>	<p>Agree to coordination meeting plan that supports the operations and programming of the Japanese Garden including pre and peak season. Solicit input on monthly Steering Committee agenda items.</p> <p>Attend collaboration opportunity with SPR Division Directors or equivalent staff level.</p> <p>Agree to annual performance measures.</p>
<p>Education and Cultural Enrichment Programs</p>	<p>SPR and the Foundation will agree on an annual “free access” calendar for use of the Tateuchi Room, Tea House and Japanese Garden for cultural enrichment and education programs.</p> <p>Agree on operational hours and number of days available for this purpose.</p>	<p>SPR and the Foundation will agree on an annual “free access” calendar for use of the Tateuchi Room, Tea House and Japanese Garden for cultural enrichment and education programs. Develop a public education and cultural enrichment program. Provide a draft event calendar for the following year by the end of October each year. Align program metrics with public benefit, equity, and access goals. Provide post programming write-ups to support internal and external messaging.</p>
<p>Tea Groups</p>	<p>Sell tickets to public tea ceremonies through the Gatehouse point-of-sale system. Enter into agreements with third-party tea groups as appropriate and consistent with then-current City parks policies.</p>	<p>Work with local tea groups to offer public and private tea ceremonies in the Shoseian Tea House on a regular schedule.</p>
<p>Staffing</p>	<p>City will be responsible for cashier operations including facility rentals, and for a minimum of 0.5 FTE supervisory support.</p>	<p>Provide a Japanese Garden Program Manager. Provide additional staffing as needed to support programming, events, fundraising, marketing, membership and tour guide coordination.</p>

Alcohol	Review and determine in SPR’s reasonable discretion, based on then-current City parks policies, whether to approve an annual schedule of events including alcohol sales or service presented by the Foundation.	Submit an annual schedule of events including alcohol sales or service to SPR for review.
Volunteers	Provide training and onsite support for maintenance volunteers. Provide safety training for garden volunteers.	Recruit, coordinate and train volunteers and tour guides. Organize public and private tours. Recruit maintenance stewards. Provide quarterly total volunteer hours.
Community Access and Outreach	Work with the Foundation to develop an annual community outreach plan that supports the SPR’s Race and Social Justice Initiative (RSJI) and goals related to equity and access. These opportunities include free first Thursdays, Family Saturdays, Seattle Public School outreach and new community outreach initiatives.	Work with SPR to develop an annual community outreach plan that supports the Foundation’s and SPR’s goals related to public benefits, equity, and access. These opportunities include free first Thursdays, Family Saturdays, Seattle Public School outreach, and new community outreach initiatives.
Marketing	Work with the Foundation to maintain consistent branding and a mission statement.	Work with the SPR to maintain consistent branding and a mission statement. Develop and implement a branding and marketing strategy. Maintain a robust social media presence. Coordinate with SPR and City communications team as relevant.
Website and Social Media	Maintain the Japanese Garden website on the SPR site and ensure it is linked to the Japanese Garden website that is maintained by the Foundation.	Maintain a Japanese Garden website. Maintain and grow the Garden’s social media presence. Provide timely edits and updates.
Infrastructure		

<p>Capital Improvements</p>	<p>Develop and maintain a prioritized list of periodic maintenance and Capital Improvement Projects and potential matching fund sources. SPR will maintain discretion to determine whether and when capital improvement projects are necessary and desirable at the Japanese Garden except where authority is otherwise provided by the Arboretum and Botanical Garden Committee under the Master Plan.</p>	<p>Work with SPR on prioritizing Capital Improvement Project funding and completion of special projects. When so requested by SPR, provide funds to SPR or SPR-approved vendors per mutual agreement in support of approved projects. Comply with applicable federal, state and City public works laws and regulations, including bidding and prevailing wage requirements.</p>
<p>Japanese Garden Closures</p>	<p>Recognize both parties are aligned in attempting to schedule planned closures in a manner to limit impacts on access, revenues, and programs. Consult with the Foundation, in advance when possible, regarding proposed closures to receive input about stakeholders about impacts and ways to minimize negative effects of any closures SPR determines to be necessary.</p>	<p>Provide input to SPR on potential closures and support communication about closures, recognizing optimal closure times can be impacted by moving variables such as garden conditions, resource availability, city and federal laws, and related factors.</p>
<p>Tateuchi Room Use and Rental</p>	<p>Provide Tateuchi Room rental and usage for the Foundation on an agreed upon schedule.</p>	<p>Work with SPR to develop a calendar for Tateuchi Room rental.</p>
<p>Computers, Tech, Workspaces</p>	<p>SPR will provide internet connections and collaborate with Foundation on identifying regular workstation dates and times for Foundation staff at the Japanese Garden as available.</p>	<p>Foundation will provide computers and technology for Foundation staff.</p>
<p>Safety Plan</p>	<p>Work with SPR’s Emergency Manager to develop and revise Japanese Garden Safety Plan, including emergency egress in the back of the Garden. Provide training opportunities for staff and volunteers. Post safety information in Tateuchi Room and other Garden locations.</p>	<p>Support SPR in the development and communication of a Japanese Garden Safety Plan. Collaborate with SPR on safety training.</p>

3. NONDISCRIMINATION

The parties agree to and will comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including but not limited to Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code (SMC), as they may be amended; and rules, regulations, orders, and directives of the associated administrative agencies and their officers. Failure to comply with any of the terms of these provisions shall be a material breach of this permit.

4. INDEMNIFICATION

The City hereby agrees to indemnify, save harmless and defend Foundation from any and all losses, claims, actions or damage arising out of bodily injury or death to persons and damage to property suffered by any person or entity by reason of or resulting from any act or omission of the City or any of its officers, agents, or employees in connection with use or occupancy of the Property; but only to the extent such claims, actions, costs, damages or expenses are caused by the negligence or intentional misconduct of the City, its authorized officers, agents, or employees. The indemnification provided for in this section shall survive any termination or expiration of this Agreement. The City's obligations under this indemnification Section 4 shall not exceed the appropriation authorized at the time the City must fulfill its indemnity obligations and nothing in this Agreement may be considered as ensuring that the City will appropriate sufficient funds in the future to fulfill its indemnity obligations. Appropriated funds that are subject to this indemnity obligation include, but are not limited to, funds in the City's self-insurance program and in the Judgment Claims Subfund (00126) established by Ordinance 124088, and future moneys appropriated for the same purposes.

The Foundation hereby agrees to indemnify, save harmless and defend the City from any and all losses, claims, actions or damages arising out of bodily injury or death to persons and damage to property suffered by any person or entity by reason of or resulting from any act or omission of Foundation or any of its officers, agents, or employees in connection with use or occupancy of the Property but only to the extent such claims, actions, costs, damages or expenses are caused by the negligence or intentional misconduct of Foundation, its authorized officers, agents, or employees. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

5. INSURANCE

A. STANDARD INSURANCE COVERAGES AND LIMITS OF LIABILITY REQUIRED:

- 1. Commercial General Liability (CGL)** or equivalent insurance including coverage for:
 - Premises/Operations, Products/Completed Operations, Personal/Advertising Injury, Contractual and top Gap/Employers Liability (coverage may be provided under a separate policy). Minimum limit of liability shall be
 - \$ 2,000,000 each occurrence Combined Single Limit bodily injury and property damage ("CSL")
 - \$2,000,000 Products/Completed Operations Aggregate
 - \$4,000,000 General Aggregate
 - \$2,000,000 each accident/disease—policy limit/disease—each employee stop gap/Employer's Liability
 - \$2,000,000 Liquor Liability (hosted)

2. Commercial General Automobile Liability insurance for owned, non-owned, leased or hired vehicles, as applicable, written on a form CA 00 01 or equivalent with minimum limits per accident for bodily injury and property damage of:

\$1,000,000 for each occurrence

3. Worker's Compensation insurance for Washington State as required by Title 51 RC.

- B. CHANGES IN INSURANCE REQUIREMENTS:** The City shall have the right to periodically review the adequacy of coverages and/or limits of liability in view of inflation and/or a change in loss exposures and shall have the right to require an increase in such coverages and/or limits upon ninety (90) days prior written notice to Foundation.
- C. CITY AS ADDITIONAL INSURED; PRODUCTS-COMPLETED OPERATIONS:** Foundation shall include “the City of Seattle” as an additional insured to all of the insurance coverage listed and checked above in Sections A (except workers comp); which must also be as primary and non-contributory with any insurance or self-insurance coverage or limits of liability maintained by the City, and in the form of a duly issued additional insured endorsement and attached to the policy or by the appropriate blanket additional insured policy wording, and in any other manner further required by Foundation’s insurance coverage to provide the City of Seattle additional insured coverage as set forth herein.
- D. NO LIMITATION OF LIABILITY:** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only. Nothing in the City of Seattle’s requirements for minimum insurance coverage shall be interpreted to limit or release liability of the FOUNDATION or any of the FOUNDATION’s insurers. The City shall be an additional insured as required in paragraph C. regarding the total limits of liability maintained, whether such limits are primary, excess, contingent or otherwise.
- E. REQUIRED SEPARATION OF INSURED PROVISION; CROSS-LIABILITY EXCLUSION AND OTHER ENDORSEMENTS PROHIBITED:** FOUNDATION’s insurance policy shall include a “separation of insureds” or “severability” clause that applies coverage separately to each insured and additional insured, except with respect to the limits of the insurer’s liability. FOUNDATION’s insurance policy shall not contain any provision, exclusion or endorsement that limits, bars, or effectively precludes the City of Seattle from coverage or asserting a claim under the FOUNDATION’s insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy. Foundation’s failure to comply with any of the requisite insurance provisions shall be a material breach of, and grounds for, the immediate termination of the Contract with the City of Seattle; or if applicable, and at the discretion of the City of Seattle, shall serve as grounds for the City to procure or renew insurance coverage with any related costs of premiums to be repaid by Foundation or reduced and/or offset against the Contract.
- F. NOTICE OF CANCELLATION:** The above checked insurance coverages shall not be canceled by Foundation or Insurer without at least forty-five (45) days written notice to the City, except ten (10) days’ notice for non-payment of premium.
- G. CLAIMS MADE FORM:** If any insurance policy is issued on a “claims made” basis, the retroactive date shall be prior to or coincident with the effective date of the Contract. The Foundation shall

either maintain "claims made" forms coverage for a minimum of three years following the expiration or earlier termination of the Contract, providing the City with a Renewal Certificate of Insurance annually; purchase an extended reporting period ("tail") for the same period; or execute another form of guarantee acceptable to the City to assure the Foundation's financial responsibility for liability for services performed.

H. INSURER'S A.M. BEST'S RATING: Each insurance policy shall be issued by an insurer rated A-: VII or higher in the A.M. Best's Key Rating Guide.

I. EVIDENCE OF INSURANCE (NOT APPLICABLE TO WORKERS COMPENSATION): Foundation must provide the following evidence of insurance:

- a) A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;
- b) An attached City of Seattle designated additional insured endorsement or blanket additional insured wording to the CGL or other additional insurances required.

At any time upon the City's request, Foundation shall also cause to be timely furnished a copy of declarations pages and schedules of forms and endorsements. In the event the City tenders a claim or lawsuit for defense and indemnity invoking additional insured status, and the insurer either denies the tender or issues a reservation of rights letter, Foundation shall also cause a complete and certified copy of the requested policy to be timely furnished to the City of Seattle. A copy of the insurance ACORD shall be provided to SPR no later than 30 days following mutual execution of this permit.

6. AMENDMENT

Both parties agree any proposed changes concerning the terms and conditions of this Agreement must be requested in writing, negotiated in good faith, and memorialized and approved by both parties in writing. Assignment to a successor organization shall be permitted only by approval of both parties in writing.

7. DISPUTE RESOLUTION

Any disputes or misunderstandings that may arise under the Agreement shall first be resolved through amicable negotiations, if possible, between the Superintendent or SPR representative and the Foundation Executive Director. If such parties do not agree upon a decision within a reasonable period of time, the parties may pursue other legal means to resolve such disputes, including but not limited to alternative dispute resolution processes. Any and all such dispute resolution proceedings shall take place in the State of Washington.

8. COMPLIANCE WITH LAW: VENUE

Both parties shall comply with all applicable laws of the United States and the state of Washington; the Charter, Municipal Code and ordinances of The City of Seattle, and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for King County.

9. ANNUAL REVIEW

Annual reviews will be conducted during or before the month of January by SPR and the Foundation. Both parties will assess compliance with the financial arrangement, review annual revenues, attendance and membership, programming and fundraising and levels of donor participation. Both parties reserve the right to agree on reasonable adjustments of this Agreement to ensure a successful base of support for the Japanese Garden. SPR and the Foundation will develop performance measures for the next year based on information gathered in the annual review.

10. TERMINATION

A. Breach. SPR may terminate this Agreement if Foundation is in material breach of any of the terms of this Agreement, and such breach has not been corrected to SPR's reasonable satisfaction within 60 days following notice of the breach.

B. SPR' Breach. Foundation may terminate this Agreement if SPR is in material breach of any of the terms of this Agreement, and such breach has not been corrected to Foundation's reasonable satisfaction within 60 days following notice of the breach.

For Reasons Beyond Control of Parties or Performance Substantially Below Expectations: Either party may terminate this Permit where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control such as but not limited to an act of nature; war or warlike operation; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulation or control or where performance has been substantially below expectations as determined by the annual performance review. The performance measures would include the financial expectations of both parties, membership and attendance goals for the Japanese Garden, days Japanese Garden open to the public, reasonable fees and charges, and donor and volunteer participation. Sixty (60) day notice of termination will be provided within four weeks of the annual review.

In the event of the Agreement being terminated before the expiration term, SPR shall remit to Foundation the portion (if any) of any payments earned.

11. ENTIRE AGREEMENT

This agreement and the exhibits and addenda attached hereto and forming a part hereof (if any), are all of the covenants, promises, agreements and conditions between the parties. No verbal agreements between officers, employees or associates of the parties shall affect or modify any of the terms or obligations contained in this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties have executed this Permit by having their representatives affix their signatures below.

For Arboretum Foundation:

For the City of Seattle:

Jane Stonecipher, Executive Director
Arboretum Foundation
2300 Arboretum Drive
Seattle, WA 98112

Anthony Paul Diaz, Superintendent
Seattle Parks and Recreation
100 Dexter Ave. N.
Seattle, WA 98109

Date: _____

Date: _____

City of Seattle Business License Number:

Washington State Unified Business Identifier Number (UBI):

EXHIBITS:

Exhibit A: Public Benefit Created Through the Operating Partnership Between SPR and the Arboretum Foundation

Exhibit B: Site Maps of Japanese Garden

Exhibit C: Annual Revenue Sharing Summary

Exhibit D: Invoicing Template

EXHIBIT A

PUBLIC BENEFIT CREATED THROUGH THE OPERATING PARTNERSHIP BETWEEN SEATTLE PARKS AND RECREATION AND THE ARBORETUM FOUNDATION AT THE JAPANESE GARDEN

Summary of Public Benefits

Services to be Provided	Public Benefit Requirement as Outlined above	Annual Goal Metrics/ #’s to be provided	Cost/ Volunteer Time Value
Public Access	Provide promotional support for Garden free days through social media, marketing and strategic outreach.	Social media audience of 10,000+, Coverage in 3-5 publications or displays	Approximately \$10,000 in marketing expense
Programs	Create and implement cultural programs at the Garden, offering arts-focused First Thursday programs and child-focused Family Saturday activities in conjunction with Garden free days. Create school field trip curriculum for use at Garden and in classrooms. Recruit and schedule docent tours multiple times per week. Partner with local tea practitioners to offer traditional tea ceremony though the season. Facilitate ongoing relationships between the Japanese Garden and members of underserved communities.	12+ cultural programs 80+ docent-led tours	Approximately \$110,000 in staff time and related expenses
Community Outreach Events	Represent the Japanese Garden with offsite community outreach at events such as the Cherry Blossom Festival, Japan Fair, NW Flower and Garden Festival and public events at the Washington Park Arboretum. Support SPR outreach events at facilities throughout the city.	2-5 events annually	N/A
Volunteer Service Events	Coordinate a range of opportunities for volunteer involvement, including the Garden docent and merchandise programs, event volunteers and Niwashi garden stewards.	900-1500 hours annually	\$27,000-\$45,000*
Capital Improvements	Privately fund capital improvements to City facilities. Previous example includes \$150,000 in support for Pond Renovation project. Annual support will be determined	# annual projects (TBD) funded with private \$\$	\$15,000-\$850,000 annually, based on projects

	by capital improvements planned for contract period.		
Specific Services to City	Conduct community survey on Garden visitation; advocacy: maintain key relationships with entities such as Japanese Consulate; facilitate community involvement in Japanese Garden Steering Committee; represent Garden in Japan-America Society and industry association NAJGA (North American Japanese Garden Association).	Varies	N/A
Total Public Benefit planned annually			To average at least \$200,000 annually

- Current volunteer hourly rate value here: <https://independentsector.org/resource/value-of-volunteer-time/>

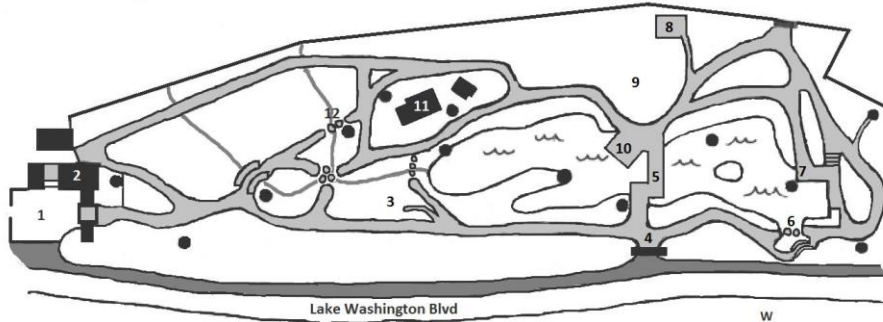
Reporting

A plan for Public Benefit provided by the Arboretum Foundation shall be reflected in the draft events calendar provided to SPR and the Steering Committee each fall for the coming year. A reporting of Public Benefit from the previous year shall be included in the Annual Report submitted to SPR by January 31st.

EXHIBIT B

SITE MAPS OF THE SEATTLE JAPANESE GARDEN

Seattle Japanese Garden



- | | | |
|---------------------|------------------|--------------------------|
| 1 Courtyard | 5 Zig-Zag Bridge | 9 Meadow |
| 2 Tateuchi Room | 6 Wisteria Arbor | 10 Moon-Viewing Platform |
| 3 Rhododendron Glen | 7 Harbor | 11 Teahouse |
| 4 East Gate | 8 Azumaya | 12 Waterfall |



EXHIBIT C – ANNUAL REVENUE SHARING SUMMARY*

	SPR	Foundation	Total
Base Revenue	\$425,000	\$75,000	\$500,000
Revenue split after base (50%/50%)	\$125,000	\$125,000	\$250,000
Total Projected Revenue Total	\$550,000	\$200,000	\$750,000
Revenue % split beyond \$750,000	40%	60%	
% share of total \$750,000 revenue base	73%	27%	

Invoicing details listed in the Revenue Sharing Category of the Agreement. SPR Base Revenue includes \$3600 event support allowance for SPR support of Foundation fundraising events.

*Amounts are based on an estimated \$750,000 annual revenue collection; actual annual revenue amount may be different.

EXHIBIT D – INVOICE TEMPLATE

Japanese Garden Revenue Summary	
Mid-year invoice	
Revenue January 1 thru June 30th	Enter Year here
Gate Revenue (Admissions, Passes, Teas)	
Merchandise	
Donations	
Total Revenue January - June	\$ -
Less: Merchandise & Donations (AF Revenue)	\$ -
Gate Revenue (Revenue less Merchandise & Donations)	\$ -
Arboretum Foundation Mid-Year Invoice and Payment	
Annual SPR Support Payment	\$ 75,000.00
Merchandise Gross Sales (January - June)	\$ -
Donations (January - June)	\$ -
Subtotal	\$ -
Less 2022 Sales Tax on Merchandise (10.25%)	\$ -
Less State B&O Tax on Merchandise (0.471%)	\$ -
Less City Retail B&O Tax on Merchandise (2.22%)	\$ -
Less 10% of Merchandise payment to SPR (for Admin expenses)	\$ -
Total Mid-year payment to Arboretum Foundation	\$ -
<p>Accounting Coding: PRN04/PRN0801/10200/347050 (Exhibit Admission Charges) PRN04/PRN0801/10200/341090 (Sales Of Merchandise) PRN04/PRN0801/10200/337080 (Other Private Contrib & Dons) PRN04/PRN0801/10200/347040 (Recreation Admission Fees)</p>	

Exhibit D continued- Invoice Template

Japanese Garden Revenue Summary	
Yearend Invoice	Enter Year here
Revenue January 1 thru June 30:	
Gate Revenue (Admissions, Passes, Teas)	
Merchandise	
Donations	
Total Revenue January -June	\$ -
Revenue July 1 thru December:	
Gate Revenue (Admissions, Passes, Teas)	
Merchandise	
Donations	
Total Revenue July 1 thru December	\$ -
Calculation for Yearend Revenue Split	
Total Annual Revenue	\$ -
Less: Total Annual Merchandise (AF Revenue)	\$ -
Less: Total Annual Donations (AF Revenue)	\$ -
Gate Revenue (Revenue less Merchandise & Donations)	\$ -
Less Base Revenue (\$425k SPR/\$75k AF)	\$ (500,000.00)
Net Gate Revenue for 50% Split (\$500,001 to \$750,000)	\$ -
Net Gate Revenue for 60% Split (over \$750,000)	\$ -
Arboretum Foundation Yearend Invoice and Payment	
Merchandise Gross Sales (July - December)	\$ -
Donations (July - December)	\$ -
50% Revenue share (\$500,001 - \$750,000)	\$ -
60% Revenue share (over \$750,000)	\$ -
Subtotal	\$ -
Less Sales Tax on Merchandise (10.25%)	\$ -
Less State B&O Tax on Merchandise (0.471%)	\$ -
Less City Retail B&O Tax on Merchandise (2.22%)	\$ -
Less 10% of Merchandise payment to SPR (for Admin expenses)	\$ -
Total Yearend payment to Arboretum Foundation	\$ -
Accounting Coding:	
PRN04/PRN0801/10200/347050 (Exhibit Admission Charges)	
PRN04/PRN0801/10200/341090 (Sales Of Merchandise)	
PRN04/PRN0801/10200/337080 (Other Private Contrib & Dons)	
PRN04/PRN0801/10200/347040 (Recreation Admission Fees)	

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Seattle Parks and Recreation	Karl Fields/734-5930	Justin Hellier/327-5684

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE authorizing The City of Seattle, through Seattle Parks and Recreation, to enter into an agreement with the Arboretum Foundation for support of the Seattle Japanese Garden consistent with the Non-Government Agreement in Attachment 1 to this ordinance.

Summary and Background of the Legislation:

The proposed legislation authorizes the Superintendent of Parks and Recreation to enter into a 10-year agreement with the Arboretum Foundation to support the Japanese Garden. The agreement allows for one five-year extension if agreed to in writing by both Seattle Parks and Recreation (SPR) and the Arboretum Foundation. SPR owns the Garden, sets fees and charges, provides garden maintenance, and operates the gate house cashiering. Under the terms of the Agreement, the Arboretum Foundation will support Japanese Garden (Garden) operations by providing educational and culturally relevant community programming, fundraising for capital projects, volunteer management, outreach and marketing, sharing of merchandise revenue, and public benefits to expand access and user experience at the Garden.

In 2014, SPR joined with the Japanese Garden Society to co-sponsor an Optimal Operations Study to explore opportunities to increase capacity, improve financial sustainability, address capital needs and improve operations at the Garden. The primary goal of the study was to identify a model that would provide the greatest public benefit. The Study concluded that the Garden had the best chance for long-term success under a nonprofit supported operating structure. In 2016, Ordinance 124979 authorized the Superintendent of SPR to enter into an agreement with the Arboretum Foundation to support the Seattle Japanese Garden. SPR entered into a six-year agreement which was extended by one year through 2022 to allow for continuous support during the COVID-19 pandemic.

In 2022, SPR conducted a Letter of Interest application process, and the Arboretum Foundation was the sole organization to apply.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes x No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes x No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

Yes. The 2023-24 budget process includes \$3,600 in SPR staffing support for the Foundation fundraising events and each budget cycle thereafter will establish the annual appropriation.

Are there financial costs or other impacts of *not* implementing the legislation?

Implementing this legislation will provide the organizational structure necessary to ensure long-term sustainability of the Japanese Garden. If this legislation is not implemented, the Arboretum Foundation would not continue to deliver events, fundraising, marketing and membership support for the Japanese Garden. Seattle Parks and Recreation would incur all expenses to operate and maintain the Japanese Garden without the fundraising support from the Arboretum Foundation.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

No

b. Is a public hearing required for this legislation?

No

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No

d. Does this legislation affect a piece of property?

Yes, the Seattle Japanese Garden is located within the Washington Park Arboretum, as illustrated in Summary Exhibit 1 – Japanese Garden Map.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

This agreement authorizes the Arboretum Foundation to continue providing opportunities for visitors and volunteers, as well as enhance public education and programming for populations that are not familiar with this facility. This agreement also maintains the current fee structure which sets admission and pass fees as part of the Parks and Recreation Fee Schedule. Additional discounted fees for seniors, adaptive (specialized programs), students, and the military are included in the 2023-24 budget. The Japanese Garden also offers First Free Thursday and Free Family Saturday visitation opportunities once a month. Special event and program fees will be set in cooperation with the Arboretum Foundation. This agreement includes substantial public benefits that help ensure equitable access to the Garden. Examples of these public benefits include critical outreach to promote free

attendance days, 80+ docent led garden tours, community outreach events, volunteer coordination, and vital capital fundraising.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

Anticipated carbon impact is neutral.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

Increased adaptability is anticipated through educational programming and docent tours that will include opportunities to discuss the impacts of climate change on the Garden collection and sustainability counter measures.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?

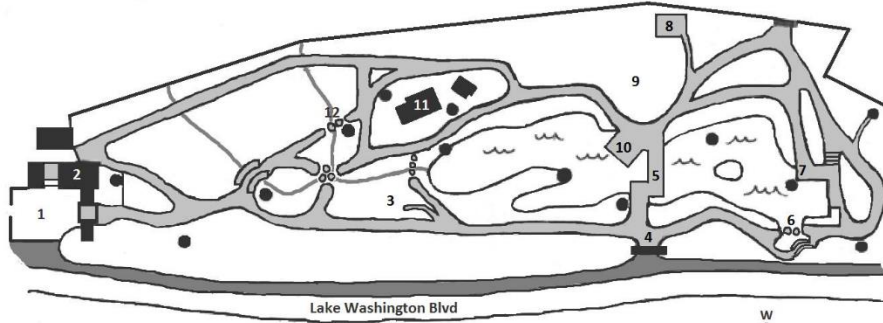
No

Summary Attachments:

Summary Exhibit 1 – Site Maps of the Seattle Japanese Garden

SITE MAPS OF THE SEATTLE JAPANESE GARDEN

Seattle Japanese Garden



- | | | |
|---------------------|------------------|--------------------------|
| 1 Courtyard | 5 Zig-Zag Bridge | 9 Meadow |
| 2 Tateuchi Room | 6 Wisteria Arbor | 10 Moon-Viewing Platform |
| 3 Rhododendron Glen | 7 Harbor | 11 Teahouse |
| 4 East Gate | 8 Azumaya | 12 Waterfall |



Seattle Japanese Garden

Proposed Support and Development Agreement with the Arboretum Foundation

City Council Public Assets and Homelessness Committee

January 4, 2023

Seattle Parks and Recreation

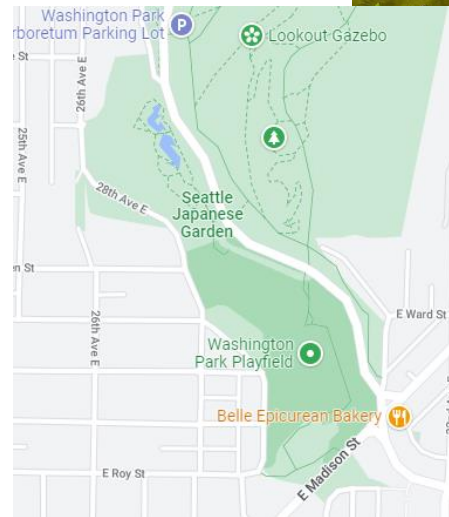


City of Seattle **45**



Seattle Japanese Garden – At a Glance

- 3.5-acre, City-owned property located at southern end of Washington Park Arboretum
- Open to the public since 1960
- 100,000 annual visitors
- \$626,240 annual Gate Revenue (2021)



Seattle Japanese Garden – Partnership History



- Associated Recreation Council (ARC) was primary support partner until 2015
- In 2014, SPR and Japanese Garden Society conducted an Optimal Operations Study that confirmed the need for a non-profit support partner model
- The Arboretum Foundation was selected to provide capital fundraising, programming, outreach, volunteer management
- Current SPR/Arboretum Foundation agreement, first executed in January 2016, expired December 2022; short-term extension in place
- AF successes during first agreement term include increased visitation, an annual Maple Festival, Free First Thursday and Family Saturday programming, and funding for a recent pond renovation



Seattle Japanese Garden Agreement – Selection Process



- In March 2022, SPR conducted a Letter of Interest (LOI) process to select an operation support partner for next agreement
- LOI Requirements: non-profit entity, financial solvency, demonstrated capital fundraising, programming expertise, volunteer management and advocacy support
- Arboretum Foundation (AF) was the sole respondent

Summary of Key Changes – Current vs. Proposed Agreement

	Current (Expiring Agreement)	Proposed Agreement
Term	6 years	10 years with one 5-year extension option – Expires December 2032
Roles	<p>City of Seattle owns, operates gatehouse for entry, provides gardening/other maintenance</p> <p>Arboretum Foundation (AF) provides capital fundraising, programming/events, membership program, volunteer coordination, branding and marketing</p>	No change
Public Benefits	No Public Benefit metrics	New public benefit metrics (see subsequent slides)
Admissions	N/A	City will set Garden admission pricing after consulting with AF and community groups
Merchandise	100% sales to AF	10% sales to City, 90% to AF
Reporting	Provide monthly, year-end financial, attendance, annual report.	Reporting to include public benefits



Summary of Key Changes – Current vs. Proposed Agreement

	Current (Expiring Agreement)	Proposed Agreement
Revenue Sharing	<p><u>Base Revenue sharing to \$370K:</u> City: \$330K; AF: \$40K</p> <p><u>Beyond Base Revenue Sharing:</u> 50% City; 50% AF</p>	<p><u>Base Revenue sharing to \$500K:</u> City: \$425K; AF: \$75K</p> <p><u>Beyond Base Revenue Sharing:</u> (\$500K-\$750K): 50% City; 50% AF (\$750K+): 40% City; 60% AF</p>
Total Annual Earned Revenue	~\$600K (2019: \$174K due to Covid)	Expected: ~\$700K (higher due to 2023 fee increases)
AF- Earned Revenue	\$904K (2018-2022) annual average: \$181K	Expected: \$2M (2023-2032) annual average = \$175K + 3% inflation
Public Benefits Value	N/A	<p>\$165K/year in program benefits + \$300K/year (avg.) in capital fundraising x 10 years = \$4.65M</p> <p>➤ <i>The <u>net</u> expected incremental benefit from AF's services over 10 years = \$2.65M</i></p>



Proposed Annual Public Benefits

(Example of Annual Public Benefit & Values Based on Calendar Year 2022)

Service Category	Description	Target	Value
Programs	Community and cultural programs; special events and docent-led tours	<ul style="list-style-type: none"> 12+ cultural programs, programming for 18 Free First Thursdays and Family Saturdays 80+ docent led tours 	~\$110,000
Public Access Promotion	Promotional support for Garden free days through social media, marketing and strategic outreach.	<ul style="list-style-type: none"> Social media audience of 10,000+ Coverage in 3-5 publications or displays 	~\$10,000
Community Outreach Events	Offsite community outreach at events; support SPR outreach events at facilities throughout the City.	<ul style="list-style-type: none"> 2-5 events annually 	N/A



Proposed Annual Public Benefits

(continued)

Service Category	Description	Target	Value
Volunteer Service Events	Coordinate volunteer involvement	<ul style="list-style-type: none"> 900-1500 hours annually 	\$27,000-\$45,000
Capital Improvements	Privately fund capital improvements to City infrastructure	<ul style="list-style-type: none"> # annual projects (TBD) funded with private \$\$ 	\$15K-\$850K (Depends on annual projects)
Specific Services to City	<ul style="list-style-type: none"> Conduct community survey on Garden visitation Advocacy: Maintain key relationships with entities such as Japanese Consulate Facilitate community involvement in Japanese Garden Steering Committee Represent Garden in Japan-America Society and industry association NAJGA (North American Japanese Garden Association) 	Varies	NA



Questions?



Legislation Text

File #: CB 120483, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to current use taxation; approving applications for current use taxation of properties located at 8240 43rd Avenue NE and 711 NE 43rd Street under the King County Public Benefit Rating System, and ratifying and confirming certain prior acts.

WHEREAS, the King County Department of Natural Resources and Parks has forwarded two applications to the City Council for classification under the King County Public Benefit Rating System (PBRS); and

WHEREAS, Dustin Jewett and Alyssa Horn have applied for PBRS rating for open space on a portion of the property that they own located at 8240 43rd Avenue NE (E20CT029S); and

WHEREAS, Nathan Rosenbaum has applied for PBRS rating of a City of Seattle Landmark, Anhalt Hall, which he owns, located at 711 NE 43rd Street (E21CT024S); and

WHEREAS, the PBRS is administered in accordance with Revised Code of Washington Section 84.34.037, Washington Administrative Code Chapter 458-30, and King County Code Chapter 20.36 providing for assessment practices to reflect current use of property, rather than “highest and best use,” as an incentive for property owners to maintain open space; and

WHEREAS, RCW 84.34.037(1) states that an application for PBRS shall be acted upon after public hearings and affirmative acts by the county and city legislative bodies affirming the entirety of an application without modification or both bodies affirm an application with identical modifications; and

WHEREAS, the King County Council has reviewed and approved applications E20CT029S and E21CT024S; and

WHEREAS, the Seattle City Council held a public hearing on the applications on January 4, 2023; and

WHEREAS, the Seattle City Council concurs with the recommendations of the King County Department of Natural Resources and Parks as contained in the reports of the applications attached to this ordinance;
NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council approves the following applications for the public benefit rating system subject to the conditions enumerated in the attached reports:

A. E20CT029S: Application of Dustin Jewett and Alyssa Horn for property located at 8240 43rd Avenue NE, for open space purposes, 0.13 acres as described in Attachment 1 to this ordinance, the King County Department of Natural Resources and Parks (DNRP) report on application E20CT029S.

B. E21CT024S: Application of Nathan Rosenbaum for Anhalt Hall, a City of Seattle landmark, located at 711 NE 43rd Street, 0.11 acres as described in Attachment 2 to this ordinance, the DNRP report on application E21CT024S.

Section 2. Any act consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

Section 3. This ordinance, approving applications for current use taxation pursuant to Revised Code of Washington Chapter 84.34 and not subject to mayoral approval or disapproval, shall take effect and be in force 30 days from and after its passage and approval by the City Council.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Filed by me this _____ day of _____, 2023.

_____, City Clerk

(Seal)

Attachments:

Attachment 1 - King County Department of Natural Resources and Parks, Water and Land Resources Division,
Report to the City of Seattle for Property Enrollment in the Public Benefit Rating System (PBRs): File
No. E20CT029S

Attachment 2 - King County Department of Natural Resources and Parks, Water and Land Resources Division,
Report to the City of Seattle for Property Enrollment in the Public Benefit Rating System (PBRs): File
No. E21CT024S

**KING COUNTY
DEPARTMENT OF NATURAL RESOURCES AND PARKS
WATER AND LAND RESOURCES DIVISION**

**Report to the City of Seattle for
Property Enrollment in the Public Benefit Rating System (PBRS)**

October 8, 2021

APPLICANTS: Dustin Jewett and Alyssa Horn File No. E20CT029S

A. GENERAL INFORMATION:

1. Owners: Dustin Jewett and Alyssa Horn
8240 43rd Avenue NE
Seattle, WA 98115

NOTE: The current owners purchased this property from the original applicant, Nobuo Ohashi, in August of 2021 and informed PBRS staff they intend to continue with the approval process.

2. Property location: same as above
3. Zoning: SF5000
4. STR: NW-03-25-04
5. PBRS categories requested by the applicant and *suggested by staff*:

Open space resources

- *Buffer to public or current use classified land
- **Significant wildlife or salmonid habitat*
- *Special animal site
- Surface water quality buffer

NOTE: *Staff recommends credit be awarded for these PBRS categories. Enrollment in PBRS for property within an incorporated area requires approval by impacted granting authorities following public hearing(s). For this application, the granting authorities are the King County Mobility and Environment Committee and the City of Seattle. King County heard and acted on this application on June 23, 2021.

- 6. Parcel: 044300-0075
 - Total acreage: 0.32
 - Requested PBRS: 0.13
 - Home site/excluded area: 0.19
 - Recommended PBRS: 0.13**

NOTE: The portion recommended for enrollment in PBRS is the entire property less the excluded area as measured. The attached 2019 aerial photo outlines the parcel in yellow and the area proposed to be excluded from PBRS in blue. In the event the Assessor’s official parcel size is revised, PBRS acreage should be administratively adjusted to reflect that change.

B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned SF5000 and SF7200.
2. Development of the subject property and resource characteristics of open space area: The property contains a single-family residence, garden and landscaping. The open space portion of the property is a mix of deciduous and coniferous trees and mostly native understory, which slopes eastward into an undisturbed ravine. Some areas of the enrolling open space on the westernmost slope abutting the non-enrolling portion of the property are impacted by invasive species, mostly notably ivy/or Himalayan blackberry, which the owners plan to work to control to the extent possible.
3. Site use: The property is used as a single-family residence.
4. Access: The property is accessed from 43rd Avenue NE.
5. Appraised value for 2020 (based on Assessor’s information dated 6/5/2021):

<u>Parcel #044300-0075</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	\$585,000.00	\$114,000.00	\$699,000.00
Tax applied	\$5,447.05	\$1,061.48	\$6,508.53

NOTE: Participation in PBRS reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value.

C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

KCC 20.36.010 Purpose and intent.

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessed valuation on "open space land" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the application. In making such recommendation, the department will utilize the point system described in section B. and C. below.

- B. The following open space resources are each eligible for the points indicated:
 - 1. Public recreation area – five points
 - 2. Aquifer protection area – five points
 - 3. Buffer to public or current use classified land – three points
 - 4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
 - 5. Active trail linkage – fifteen or twenty-five points
 - 6. Farm and agricultural conservation land – five points
 - 7. Forest stewardship land – five points
 - 8. Historic landmark or archaeological site: buffer to a designated site – three points
 - 9. Historic landmark or archaeological site: designated site – five points
 - 10. Historic landmark or archaeological site: eligible site – three points
 - 11. Rural open space – five points
 - 12. Rural stewardship land – five points
 - 13. Scenic resource, viewpoint, or view corridor – five points
 - 14. Significant plant or ecological site – five points
 - 15. Significant wildlife or salmonid habitat – five points
 - 16. Special animal site – three points
 - 17. Surface water quality buffer – five points
 - 18. Urban open space – five points
 - 19. Watershed protection area – five points

- C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:
 - 1. Resource restoration - five points
 - 2. Additional surface water quality buffer - three or five points
 - 3. Contiguous parcels under separate ownership - two points
 - 4. Conservation easement of historic easement – fifteen points
 - 5. Public access - points dependent on level of access
 - a. Unlimited public access - five points
 - b. Limited public access - sensitive areas - five points

- c. Environmental education access – three points
 - d. Seasonal limited public access - three points
 - e. None or members only – zero points
6. Easement and access – thirty-five points

D. 2020 COMPREHENSIVE PLAN POLICIES AND TEXT:

E-101 In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives shall be monitored and periodically reviewed to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRS staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B10.

E-112a The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected in King County:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40% or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;
- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and
- h. Volcanic hazard areas.

E-421 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

E-429 King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants, such as providing technical assistance or access to appropriate native plants.

NOTE: Participation in PBRS requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

E-443 King County should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

E-476 King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

E-504 King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRS provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRS requirement.

E-449 King County shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

R-605 Forestry and agriculture best management practices are encouraged because of their multiple benefits, including natural resource preservation and protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

E. PBRS CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:

Open space resources

- Buffer to public or current use classified land

The property is abutting land participating in the PBRS program to the north (parcel# 044300-0070) and south (parcel#044300-0080). The enrolling open space area is providing a buffer of native vegetation of more than 50 feet to this adjacent land, which exceeds the category's requirement. Credit for this category is recommended by PBRS staff. King County approved award of this category.

- Significant wildlife or salmonid habitat
Although credit for this category was not requested, the property contains habitat for numerous wildlife species, including foraging and nesting habitat for the pileated woodpecker, which is listed as a candidate species of concern by the Washington Department of Fish and Wildlife. Upon conducting a site visit, program staff observed evidence of pileated woodpecker activity and determined areas of the forest on the property is of sufficient age and diversity to support the species regular use of the property. Award of this category is consistent with habitat as defined by KCC 20.36.100, section B.15.a (1). Receiving credit for this category is acceptable to the applicant and credit for this category is recommended by PBRs staff. King County approved award of this category.
- Special animal site
The property is south of the City of Seattle’s Inverness Ravine Park and an extension of the protected ravine and its natural resources. The portion of the ravine within the enrolling open space is identified as part of the City’s wildlife habitat network, as noted on pages 17 and 18 of the *Urban Wildlife and Habitat Management Plan – 2000 Update*, approved by the Seattle City Council in Resolution 30325 on 5/29/01. Credit for this category is recommended by PBRs staff. King County approved award of this category.
- Surface water quality buffer
In order to be eligible for this category, the enrolling land must be providing a qualifying buffer of native vegetation to a lake, pond, stream, wetland or shoreline within the enrolling portion of a property. The property does not contain any aquatic features. Credit for this category cannot be recommended by PBRs staff and King County denied award of this category.

NOTE: It is important to note that enrollment in the PBRs program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS:

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.
3. Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

Open space resources

Buffer to public or current use classified land	3
Significant wildlife or salmonid habitat	5
Special animal site	3
Surface water quality buffer	0

TOTAL 11 points

PUBLIC BENEFIT RATING

For the purpose of taxation, 11 points result in 40% of market value and a 60% reduction in taxable value for the portion of land enrolled.

B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of 11 points, subject to the following requirements:

**Requirements for Property Enrolled in the
Public Benefit Rating System Current Use Taxation Program**

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRS) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The King County Department of Assessments (DoA) and the Water and Land Resources Division, Director's Office, Agriculture, Forestry and Incentives Unit (AFI) or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.
2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by the City of Seattle and King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the City of Seattle and King County Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the DoA and the AFI Unit or its successor of a change in circumstance with regard to the Property.

4. When a portion of the open space Property is withdrawn or removed from the program, the AFI Unit or its successor and the DoA shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining portion meets the criteria for priority resources, it may continue under current use taxation.
5. Except as provided for in sections 6 and 7 and below, no alteration of the open space land or resources shall occur without prior approval by the City of Seattle and the AFI Unit or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: (*Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.*)
 - a. erecting structures;
 - b. grading;
 - c. filling;
 - d. dredging;
 - e. channelizing;
 - f. modifying land or hydrology for surface water management purposes;
 - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
 - h. applying herbicides or pesticides or any hazardous or toxic substance;
 - i. discharging pollutants excepting stormwater;
 - j. paving, construction, application of gravel;
 - k. storing of equipment, household supplies, play equipment, or compost;
 - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the City of Seattle and the AFI Unit or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the City of Seattle and the AFI Unit or its successor, in order to replace such species with native species or other appropriate vegetation.
8. There shall be no motorized vehicle driving or parking allowed on the open space Property, except for medical, public safety, or police emergencies.
9. Grazing of livestock is prohibited on the open space Property.

10. An owner of property enrolled in the program may be required to submit a monitoring report on an annual or less frequent basis as requested by program staff. This report must include a brief description of how the property still qualifies for each awarded resource category. It must also include photographs from established points on the property and any observations by the owner. The owner must submit this report to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.
11. Enrollment in PBRS does not exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

TRANSMITTED to the parties listed hereafter:

Dustin Jewett and Alyssa Horn, applicants
Lise Ward, Seattle Parks and Recreation
Debra Clark, King County Department of Assessments

2019 Aerial Photo

43RD AVE NE

0.19 acres

0443000075

**KING COUNTY
DEPARTMENT OF NATURAL RESOURCES AND PARKS
WATER AND LAND RESOURCES DIVISION**

**Report to the City of Seattle for
Property Enrollment in the Public Benefit Rating System (PBRs)**

November 1, 2022

APPLICANT: Nathan Rosenbaum File No. E21CT024S

A. GENERAL INFORMATION:

1. Owner: Nathan Rosenbaum
1617 Grand Avenue NE
Seattle, WA 98122
2. Property location: 711 NE 43rd Street
Seattle, WA 98105
3. Zoning: MR (MR1)
4. STR: NE-17-25-04
5. PBRs category requested by applicant:

Open space resource

*Historic landmark or archeological site: designated site

NOTE: *Staff recommends credit be awarded for this PBRs category. Enrollment in PBRs for property within an incorporated area requires approval by impacted granting authorities following public hearing(s). For this application, the granting authorities are the King County Mobility and Environment Committee and the City of Seattle. King County heard and acted on this application on June 21, 2022.

6. Parcel: 409230-1240
Total acreage: 0.11
Requested PBRs: 0.06
Home site/excluded area: 0.05
Recommended PBRs: 0.06

NOTE: The portion recommended for enrollment in PBRs is the entire property less the excluded area as measured. The attached 2021 aerial photo outlines the parcel in yellow and the area proposed to be excluded from PBRs in blue. In the event

the Assessor’s official parcel size is revised, PBRS acreage should be administratively adjusted to reflect that change.

B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned SF5000, SMU-75-240, SMU-95-320 and MR (MR1).
2. Development of the subject property and resource characteristics of open space area: The property contains an apartment building, parking and landscaping. The open space portion contains all the property, except the building footprint.
3. Site use: The property is used as a six-unit apartment building.
4. Access: The property is accessed from NE 43rd Street.
5. Appraised value for 2021 (based on Assessor’s information dated 6/6/2022):

<u>Parcel #409230-1240</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	\$2,000,000.00	\$24,000.00	\$2,024,000.00
Tax applied	\$17,658.95	\$211.91	\$17,870.86

NOTE: Participation in PBRS reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value.

C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

KCC 20.36.010 Purpose and intent.

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessed valuation on "open space land" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the

application. In making such recommendation, the department will utilize the point system described in section B. and C. below.

- B. The following open space resources are each eligible for the points indicated:
1. Public recreation area – five points
 2. Aquifer protection area – five points
 3. Buffer to public or current use classified land – three points
 4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
 5. Active trail linkage – fifteen or twenty-five points
 6. Farm and agricultural conservation land – five points
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 8. Historic landmark or archaeological site: buffer to a designated site – three points
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 10. Historic landmark or archaeological site: eligible site – three points
 11. Rural open space – five points
 12. Rural stewardship land – five points
 13. Scenic resource, viewpoint, or view corridor – five points
 14. Significant plant or ecological site – five points
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- C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:
1. Resource restoration - five points
 2. Additional surface water quality buffer - three or five points
 3. Contiguous parcels under separate ownership - two points
 4. Conservation easement of historic easement – fifteen points
 5. Public access - points dependent on level of access
 - a. Unlimited public access - five points
 - b. Limited public access - sensitive areas - five points
 - c. Environmental education access – three points
 - d. Seasonal limited public access - three points
 - e. None or members only – zero points
 6. Easement and access – thirty-five points

D. 2020 COMPREHENSIVE PLAN POLICIES AND TEXT:

E-101 In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives shall be monitored and periodically reviewed to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRS staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B11.

E-112a The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected in King County:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40% or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;
- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and
- h. Volcanic hazard areas.

E-421 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

E-429 King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants, such as providing technical assistance or access to appropriate native plants.

NOTE: Participation in PBRS requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

E-443 King County should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

E-476 King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

E-504 King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRs provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRs requirement.

E-449 King County shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

R-605 Forestry and agriculture best management practices are encouraged because of their multiple benefits, including natural resource preservation and protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

E. PBRs CATEGORY REQUESTED and DEPARTMENT RECOMMENDATIONS:

Open space resource

- Historic landmark or archeological site: designated site
The Landmarks Preservation Board of the City of Seattle approved a historic landmark designation for the property (known as Anhalt Hall) in 2018. Designation details are included within the submitted PBRs application materials. Award of this category is supported by the King County Historic Preservation Program. Credit for this category is recommended by PBRs staff. King County approved award of this category.

NOTE: It is important to note that enrollment in the PBRs program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS:

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.
3. Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

Open space resource

Historic landmark or archeological site: designated site

5

TOTAL 5 points

PUBLIC BENEFIT RATING

For the purpose of taxation, 5 points result in 50% of market value and a 50% reduction in taxable value for the portion of land enrolled.

B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of 5 points, subject to the following requirements:

**Requirements for Property Enrolled in the
Public Benefit Rating System Current Use Taxation Program**

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRS) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The King County Department of Assessments (DoA) and the Water and Land Resources Division, Director's Office, Agriculture, Forestry and Incentives Unit (AFI) or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.
2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by the City of Seattle and King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the City of Seattle and King County Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the

DoA and the AFI Unit or its successor of a change in circumstance with regard to the Property.

4. When a portion of the open space Property is withdrawn or removed from the program, the AFI Unit or its successor and the DoA shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining portion meets the criteria for priority resources, it may continue under current use taxation.
5. Except as provided for in sections 6 and 7 and below, no alteration of the open space land or resources shall occur without prior approval by the City of Seattle and the AFI Unit or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: (*Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.*)
 - a. erecting structures;
 - b. grading;
 - c. filling;
 - d. dredging;
 - e. channelizing;
 - f. modifying land or hydrology for surface water management purposes;
 - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
 - h. applying herbicides or pesticides or any hazardous or toxic substance;
 - i. discharging pollutants excepting stormwater;
 - j. paving, construction, application of gravel;
 - k. storing of equipment, household supplies, play equipment, or compost;
 - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the City of Seattle and the AFI Unit or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the City of Seattle and the AFI Unit or its successor, in order to replace such species with native species or other appropriate vegetation.
8. There shall be no motorized vehicle driving or parking allowed on the open space Property, except for medical, public safety, or police emergencies.

9. Grazing of livestock is prohibited on the open space Property.
10. Changes of use, building and site alterations, or changes to vegetation on historic resource properties must be compatible with the features of significance identified in the landmark designation report and are subject to prior approval by the City of Seattle's Historic Preservation Office. Such approved changes and activities shall not be deemed to violate sections contained in the recommended conditions and may include construction and vegetation management necessary for preservation, restoration or approved adaptive reuse of historic buildings, structures, landscapes or sites. Features of significance identified in the landmark designation report for historic properties shall be maintained in a condition equivalent to or better than that existing at the time of designation.
11. An owner of property enrolled in the program may be required to submit a monitoring report on an annual or less frequent basis as requested by program staff. This report must include a brief description of how the property still qualifies for each awarded resource category. It must also include photographs from established points on the property and any observations by the owner. The owner must submit this report to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.
12. Enrollment in PBRS does not exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

TRANSMITTED to the parties listed hereafter:

Nathan Rosenbaum, applicant
Lish Whitson, Legislative Analyst, Seattle City Council, Central Staff
Erin Doherty, Seattle Landmarks Preservation Board Coordinator
Debra Clark, King County Department of Assessments

NE 43RD ST

8TH AVENUE

0.05 acres

2021 Aerial Photo

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Legislative	Lish Whitson/206-615-1674	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to current use taxation; approving applications for current use taxation of properties located at 8240 43rd Avenue NE and 711 NE 43rd Street under the King County Public Benefit Rating System, and ratifying and confirming certain prior acts.

Summary and Background of the Legislation: This bill approves two applications for current use taxation under the King County Public Benefit Rating System (PBRs) pursuant to RCW 84.34. The applications are:

E20CT029S: Application of Dustin Jewett and Alyssa Horn for property located at 8240 43rd Avenue NE, for open space purposes, 0.13 acres as described in Attachment 1 to the bill.

E21CT024S: Application of Nathan Rosenbaum for Anhalt Hall, a City of Seattle landmark, located at 711 NE 43rd Street, 0.11 acres as described in Attachment 2 to the bill.

The applications have been approved by the King County Council.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes X No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes X No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
The legislation would have the effect of shifting property taxes levied against these properties to all other properties in the City. There would be no impact to the City's revenue.

Are there financial costs or other impacts of *not* implementing the legislation?
None

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?
No

b. Is a public hearing required for this legislation?

Yes, a public hearing will be held on January 4, 2023.

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

Notice of the public hearing in *The Daily Journal of Commerce* is required under State law.

d. Does this legislation affect a piece of property?

Maps of the property effected are included in Attachments 1 and 2 to the bill.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

The bill would slightly shift the tax burden from these properties to all other properties in the City. The effect on any particular property would be minimal, however this program is only available to properties that are large enough to contain public open space. Implementation of the PBRs is a King County function and any Language Access Plan would be undertaken by King County.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

No

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

These two properties are not in themselves likely to increase or decrease resiliency. However, the PBRs is a County-wide program implementing a State-wide program that does help to maintain open spaces in non-developed use, particularly in rural and forested areas, helping to increase the State's resiliency.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?

Not applicable

Summary Attachments:

None

Amendment 1 Version #1 to Council Bill 120483

Sponsor: Councilmember Lewis

Replace Attachment 1 to Council Bill 120483 with a revised report from
King County Department of Natural Resources and Parks

Effect: This amendment would substitute an updated version of Attachment 1 to Council Bill 120483. Attachment 1 is King County Department of Natural Resources and Parks' (DNRP) report on Application E20CT029S, Dustin Jewett and Alyssa Horn application for open space purposes at 8240 43rd Avenue NE.

Under the original report, DNRP allocated points to the application under the Public Benefit Rating System (PBRs) for habitat protection for the pileated woodpecker, which was then listed as a species of concern in western Washington. After DNRP originally wrote the report in 2021, the pileated woodpecker was removed from the list of species of concern, and pileated woodpecker habitat is no longer eligible for protection under the PBRs. This amendment would replace the original report with an updated report that reflects this change, and reduces the amount of points available to the property owner under the PBRs.

As a result of the reduction in points, the property would be eligible for a reduced discount on property taxes.

Replace Attachment 1 to Council Bill 120483 with a revised version of the King County Department of Natural Resources and Parks' report on application E20CT029S.

**KING COUNTY
DEPARTMENT OF NATURAL RESOURCES AND PARKS
WATER AND LAND RESOURCES DIVISION**

**REVISED Report to the City of Seattle for
Property Enrollment in the Public Benefit Rating System (PBRS)**

~~October 8, 2021~~ December 28, 2022

APPLICANTS: Dustin Jewett and Alyssa Horn File No. E20CT029S

A. GENERAL INFORMATION:

1. Owners: Dustin Jewett and Alyssa Horn
8240 43rd Avenue NE
Seattle, WA 98115

NOTE: The current owners purchased this property from the original applicant, Nobuo Ohashi, in August of 2021 and informed PBRS staff they intend to continue with the approval process.

2. Property location: same as above
3. Zoning: SF5000
4. STR: NW-03-25-04
5. PBRS categories requested by the applicant and *suggested by staff*:

Open space resources

- *Buffer to public or current use classified land
- *~~Significant wildlife or salmonid habitat~~
- *Special animal site
- Surface water quality buffer

NOTE: *Staff recommends credit be awarded for these PBRS categories. Enrollment in PBRS for property within an incorporated area requires approval by impacted granting authorities following public hearing(s). For this application, the granting authorities are the King County Mobility and Environment Committee and the City of Seattle. King County heard and acted on this application on June 23, 2021.

6. Parcel:	044300-0075
Total acreage:	0.32
Requested PBRS:	0.13
Home site/excluded area:	0.19
Recommended PBRS:	0.13

NOTE: The portion recommended for enrollment in PBRS is the entire property less the excluded area as measured. The attached 2019 aerial photo outlines the parcel in yellow and the area proposed to be excluded from PBRS in blue. In the event the Assessor’s official parcel size is revised, PBRS acreage should be administratively adjusted to reflect that change.

B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned SF5000 and SF7200.
2. Development of the subject property and resource characteristics of open space area: The property contains a single-family residence, garden and landscaping. The open space portion of the property is a mix of deciduous and coniferous trees and mostly native understory, which slopes eastward into an undisturbed ravine. Some areas of the enrolling open space on the westernmost slope abutting the non-enrolling portion of the property are impacted by invasive species, mostly notably ivy/or Himalayan blackberry, which the owners plan to work to control to the extent possible.
3. Site use: The property is used as a single-family residence.
4. Access: The property is accessed from 43rd Avenue NE.
5. Appraised value for 2020 (based on Assessor’s information dated 6/5/2021):

<u>Parcel #044300-0075</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	\$585,000.00	\$114,000.00	\$699,000.00
Tax applied	\$5,447.05	\$1,061.48	\$6,508.53

NOTE: Participation in PBRS reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value.

C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

KCC 20.36.010 Purpose and intent.

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessed valuation on "open space land" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the application. In making such recommendation, the department will utilize the point system described in section B. and C. below.

- B. The following open space resources are each eligible for the points indicated:
 - 1. Public recreation area – five points
 - 2. Aquifer protection area – five points
 - 3. Buffer to public or current use classified land – three points
 - 4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
 - 5. Active trail linkage – fifteen or twenty-five points
 - 6. Farm and agricultural conservation land – five points
 - 7. Forest stewardship land – five points
 - 8. Historic landmark or archaeological site: buffer to a designated site – three points
 - 9. Historic landmark or archaeological site: designated site – five points
 - 10. Historic landmark or archaeological site: eligible site – three points
 - 11. Rural open space – five points
 - 12. Rural stewardship land – five points
 - 13. Scenic resource, viewpoint, or view corridor – five points
 - 14. Significant plant or ecological site – five points
 - 15. Significant wildlife or salmonid habitat – five points
 - 16. Special animal site – three points
 - 17. Surface water quality buffer – five points
 - 18. Urban open space – five points
 - 19. Watershed protection area – five points

- C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:
 - 1. Resource restoration - five points
 - 2. Additional surface water quality buffer - three or five points
 - 3. Contiguous parcels under separate ownership - two points
 - 4. Conservation easement of historic easement – fifteen points
 - 5. Public access - points dependent on level of access
 - a. Unlimited public access - five points
 - b. Limited public access - sensitive areas - five points

- c. Environmental education access – three points
 - d. Seasonal limited public access - three points
 - e. None or members only – zero points
6. Easement and access – thirty-five points

D. 2020 COMPREHENSIVE PLAN POLICIES AND TEXT:

E-101 In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives shall be monitored and periodically reviewed to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRS staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B10.

E-112a The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected in King County:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40% or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;
- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and
- h. Volcanic hazard areas.

E-421 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

E-429 King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants, such as providing technical assistance or access to appropriate native plants.

NOTE: Participation in PBRS requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with

native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

E-443 King County should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

E-476 King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

E-504 King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRS provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRS requirement.

E-449 King County shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

R-605 Forestry and agriculture best management practices are encouraged because of their multiple benefits, including natural resource preservation and protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

E. PBRS CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:

Open space resources

- Buffer to public or current use classified land

The property is abutting land participating in the PBRS program to the north (parcel# 044300-0070) and south (parcel#044300-0080). The enrolling open space area is providing a buffer of native vegetation of more than 50 feet to this adjacent land, which exceeds the category's requirement. Credit for this category is recommended by PBRS staff. King County approved award of this category.

- ~~Significant wildlife or salmonid habitat~~

~~Although credit for this category was not requested, the property contains habitat for numerous wildlife species, including foraging and nesting habitat for the pileated woodpecker, which is listed as a candidate species of concern by the Washington~~

Department of Fish and Wildlife. Upon conducting a site visit, program staff observed evidence of pileated woodpecker activity and determined areas of the forest on the property is of sufficient age and diversity to support the species regular use of the property. Award of this category is consistent with habitat as defined by KCC 20.36.100, section B.15.a (1). Receiving credit for this category is acceptable to the applicant and credit for this category is recommended by PBRs staff. King County approved award of this category.

- Special animal site
The property is south of the City of Seattle’s Inverness Ravine Park and an extension of the protected ravine and its natural resources. The portion of the ravine within the enrolling open space is identified as part of the City’s wildlife habitat network, as noted on pages 17 and 18 of the *Urban Wildlife and Habitat Management Plan – 2000 Update*, approved by the Seattle City Council in Resolution 30325 on 5/29/01. Credit for this category is recommended by PBRs staff. King County approved award of this category.
- Surface water quality buffer
In order to be eligible for this category, the enrolling land must be providing a qualifying buffer of native vegetation to a lake, pond, stream, wetland or shoreline within the enrolling portion of a property. The property does not contain any aquatic features. Credit for this category cannot be recommended by PBRs staff and King County denied award of this category.

NOTE: It is important to note that enrollment in the PBRs program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS:

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.
3. Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

Open space resources

Buffer to public or current use classified land	3
Significant wildlife or salmonid habitat	5
Special animal site	3
Surface water quality buffer	0

TOTAL 11 6 points

PUBLIC BENEFIT RATING

For the purpose of taxation, ~~44~~ 6 points result in ~~40~~50% of market value and a ~~60~~50% reduction in taxable value for the portion of land enrolled.

B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of ~~44~~ 6 points, subject to the following requirements:

**Requirements for Property Enrolled in the
Public Benefit Rating System Current Use Taxation Program**

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRS) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The King County Department of Assessments (DoA) and the Water and Land Resources Division, Director's Office, Agriculture, Forestry and Incentives Unit (AFI) or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.
2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by the City of Seattle and King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the City of Seattle and King County Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the DoA and the AFI Unit or its successor of a change in circumstance with regard to the Property.
4. When a portion of the open space Property is withdrawn or removed from the program, the AFI Unit or its successor and the DoA shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining

portion meets the criteria for priority resources, it may continue under current use taxation.

5. Except as provided for in sections 6 and 7 and below, no alteration of the open space land or resources shall occur without prior approval by the City of Seattle and the AFI Unit or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: (*Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.*)
 - a. erecting structures;
 - b. grading;
 - c. filling;
 - d. dredging;
 - e. channelizing;
 - f. modifying land or hydrology for surface water management purposes;
 - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
 - h. applying herbicides or pesticides or any hazardous or toxic substance;
 - i. discharging pollutants excepting stormwater;
 - j. paving, construction, application of gravel;
 - k. storing of equipment, household supplies, play equipment, or compost;
 - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the City of Seattle and the AFI Unit or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the City of Seattle and the AFI Unit or its successor, in order to replace such species with native species or other appropriate vegetation.
8. There shall be no motorized vehicle driving or parking allowed on the open space Property, except for medical, public safety, or police emergencies.
9. Grazing of livestock is prohibited on the open space Property.
10. An owner of property enrolled in the program may be required to submit a monitoring report on an annual or less frequent basis as requested by program staff. This report must include a brief description of how the property still qualifies for each awarded resource

category. It must also include photographs from established points on the property and any observations by the owner. The owner must submit this report to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.

11. Enrollment in PBRS does not exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

TRANSMITTED to the parties listed hereafter:

Dustin Jewett and Alyssa Horn, applicants

~~Lise Ward, Seattle Parks and Recreation~~

~~Lish Whitson, Legislative Analyst, Seattle City Council, Central Staff~~

Debra Clark, King County Department of Assessments

December 28, 2022

MEMORANDUM

To: Public Assets & Homelessness Committee
From: Lish Whitson, Analyst
Subject: CB 120483: Applications for Current Use Taxation

On January 4, the Public Assets & Homelessness Committee (Committee) will hold a public hearing and may vote on two applications for current use taxation:

1. E20CT029S: Application of Dustin Jewett and Alyssa Horn for a portion of the property located at 8240 43rd Avenue NE, for open space purposes, 0.13 acres, Council District 4.
2. E21CT024S: Application of Nathan Rosenbaum for Anhalt Hall, a City of Seattle landmark, located at 711 NE 43rd Street, 0.11 acres, Council District 4.

These applications and King County Department of Natural Resources and Parks (DNRP) reports on the applications are filed in Clerk File [322488](#)¹. Council Bill (CB) [120483](#) would approve both applications.

Because property taxes in Washington State are levied to raise a specified total amount of revenue in a given year, and that total amount is then divided by the appraised value of all properties in the City, reductions in the appraised value of these properties would not decrease the amount of revenue the City receives but would instead result in an adjustment to the tax due from all other properties in the City.

This memorandum explains the Washington State current use taxation program and King County's Public Benefit Rating System (PBRs), outlines the process and criteria for reviewing current use taxation applications, and describes the applications.

Current Use Taxation

The Revised Code of Washington (RCW) Chapter [84.34](#) provides an incentive to maintain open space on private land as open space by taxing them based on their current use, rather than on the assessed value of the highest and best use for the property. Among the categories of property that can apply for current use taxation are designated landmark structures and property preserved as open space.

To receive current use taxation, a property within the City of Seattle is required to receive approval from the Metropolitan King County Council and the City Council. Consideration of an application for current use taxation is based on a "[public benefit rating system](#)" (PBRs) promulgated by King County pursuant to [RCW 84.34.035](#).

¹ This is a "non-referred Clerk File." Some people have had difficulty reaching these files through the City Clerk's web site. The link (<http://clerk.seattle.gov/search/clerk-files/322488>) should work in a private browser.

Applications for current use taxation are filed with King County's Department of Natural Resources and Parks (DNRP) and reviewed by DNRP staff. DNRP assigns points to open spaces under the PBRs based on the type of open space in the application. Among the types of open spaces that could be found in Seattle are: public recreation areas; buffers to public lands; linkages to pedestrian or bicycle trails; designated historic landmark sites; view corridors; urban open spaces; or plant, wildlife, or salmonid habitats. Bonuses are provided for restoration of open space resources, conservation easements, and allowing public access to the open space.

An open space must receive at least five points under the PBRs to qualify for current use taxation. Open spaces with higher point totals under the PBRs receive larger discounts on property taxes. A property receiving five points will receive a 50 percent reduction on property taxes for that portion of the property that is set aside for open space. A property receiving between 35 and 52 points under the PBRs will receive a 90 percent property tax reduction.

Only portions of property set aside for open space are eligible for property tax reductions. Buildings and improvements, such as parking areas or driveways, are excluded from the calculation of the property tax reduction.

If a property is enrolled in the PBRs, the owners must maintain the open space in the same or better condition as it was when approved for enrollment. If the open space becomes degraded, the owner may be required to restore it. If an owner fails to maintain the open space use, and it would no longer qualify for a PBRs rating that it originally received, DNRP may remove the current use classification and levy deferred taxes, interest and penalties.

Properties stay in the program until (1) an owner withdraws the property from the program; (2) it is removed because it no longer meets the PBRs criteria; or (3) a change of use occurs that results in the property being disqualified. When a property is removed, the landowner is required to pay the difference between the amount of tax paid as open space and the amount that would have been paid for up to a maximum seven years, plus interest and a 20 percent penalty.

Council Action on Current Use Taxation applications

RCW 84.34.037 provides requirements for Council consideration of a current use application:

1. The Council must hold a public hearing; and
2. Decisions to grant current use tax relief must be made either by (1) a "granting authority" composed of three members of the County's legislative body and three members of the City's legislative body; or (2) separate affirmative acts by both the County and City legislative bodies where both bodies take the same action regarding the application.

The granting authority may choose to approve the application in part or in whole. The granting or denial of a current use application is a legislative act and “is reviewable only for arbitrary and capricious decision-making.”

Under RCW 84.34.037, the granting authority should consider the following factors:

1. The resulting revenue loss or tax shift;
2. Whether granting the application will:
 - a. Conserve or enhance natural cultural, or scenic resources;
 - b. Protect, streams, stream corridors, wetlands, natural shorelines and aquifers;
 - c. Protect soil resources and unique or critical wildlife and native plant habitat;
 - d. Promote conservation principles by example or by offering educational opportunities;
 - e. Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces;
 - f. Enhance recreation opportunities;
 - g. Preserve historic and archaeological sites;
 - h. Preserve visual quality along highway, road, and street corridors or scenic vistas;
or
 - i. Affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property.

King County’s PBRS has been developed to allow for a consistent rating of open spaces based on these factors.

8240 43rd Avenue NE

Dustin Jewett and Alyssa Horn have applied for current use taxation for open space at the back of their property. The property, located at 8240 43rd Avenue NE contains a portion of the ravine that extends through Inverness Ravine Park.

Of the 13,932 square foot Neighborhood Residential 3-zoned parcel, the applicants propose to dedicate the eastern 5,600 square feet to open space use. The DNRP report on the application (Attachment 1 to CB 120483) describes the open space as follows:

The open space portion of the property is a mix of deciduous and coniferous trees and mostly native understory, which slopes eastward into an undisturbed ravine. Some areas of the enrolling open space on the westernmost slope abutting the non-enrolling portion of the property are impacted by invasive species, mostly notably ivy/or Himalayan blackberry, which the owners plan to work to control to the extent possible.

Properties to the north and south of this parcel are currently enrolled in the PBRs and adding this parcel will create a continuous protected open space.

Under the PBRs, as shown in [Attachment 1](#) to the bill, the application was originally granted a total of 11 points: three points because it would extend the open space that is already protected to the north and south; five points because it serves as habitat, particularly for the pileated woodpecker; and three points because it is identified as habitat in the City's *Urban Wildlife and Habitat Management Plan*, adopted in 2000.

Since the report was published, the pileated woodpecker was removed from the list of species of concern in western Washington. As a result, habitat for pileated woodpeckers is no longer eligible under the PBRs. Consequently, DNRP has updated its report, as shown in Attachment 1 to this memo. This updated report would grant the application a total of 6 points: three points for acting as a buffer to public or current use classified land and three points for its status as a special animal site. This would result in a 50 percent of market value and a 50 percent reduction in taxable value for the portion of the land enrolled. In 2021, the appraised value of the land for this property was \$708,000 million. Approval of the application would reduce the appraised value of the portion of the land that is not under the structure by 50 percent. Using the 2021 appraised value, that would result in a reduction of approximately \$142,000 in taxable value.

Anhalt Hall

Nathan Rosenbaum has applied for current use taxation for the open space surrounding Anhalt Hall, a City of Seattle landmark, located 711 NE 43rd Street, in the University District. Anhalt Hall, a two-story, six-unit apartment building, built in 1928, received a landmark designation in 2018 for both the exterior of the building and its site. The City Council approved controls and incentives for the property through Ordinance [125674](#).

Anhalt Hall is located on the southwest corner of NE 43rd Street and 8th Avenue NE. The site is zoned Midrise, a multifamily zone. The parcel is 5,000 square feet or 0.11 acres. The structure covers just under half the site or 0.05 acres. A lawn with shrubs is located to the north and east of the building. A gravel parking area is located on the west side of the building. On the south side of the building is a fenced-in outdoor space for residents.

Under the PBRs, as shown in Attachment 2 to CB 120483, DNRP granted the application five points for its designation as a historic landmark. This would result in a 50 percent of market value and a 50 percent reduction in taxable value for the portion of the land enrolled. In 2021, the appraised value of the land for this property was \$2 million. Approval of the application would reduce the appraised value of the portion of the land that is not under the structure by 50 percent. Using the 2021 appraised value, that would result in a reduction of approximately \$545,000 in taxable value.

The Department of Neighborhoods has submitted a letter in support of the application (see Exhibit 2 to this memorandum).

Amendment

At the end of 2021, after DNRP issued its report on application E20CT029S, the pileated woodpecker was removed from the list of species of concern in western Washington. Exhibit 1 to this memorandum would amend the DNRP's report on application E20CT029S to reflect this change and to remove habitat preservation for the pileated woodpecker from the public benefits provided by the property. The Committee should amend the bill to replace the version of Attachment 1 currently attached to the bill with the version included in Exhibit 1 to this memorandum.

Next Steps

The Committee will hold a public hearing, discuss, and may vote on CB 120483 application at its January 4 meeting. Note that a vote the same day as a public hearing requires that the Council rules be waived. A vote in favor of the bill would allow for the City Council to vote on the bill at its January 10 meeting. If the Council passes the bill in early January, King County will be able to incorporate the lower taxable values in their 2023 tax rolls. A later vote would result in lower values for the 2024 tax year.

Exhibits

1. Amendment 1: Replace Attachment 1 to Council Bill 120483 with a revised report from King County Department of Natural Resources and Parks
2. Letter from Seattle Department of Neighborhoods

cc: Esther Handy, Director
Aly Pennucci, Deputy Director
Yolanda Ho, Supervising Analyst

Amendment 1 Version #1 to Council Bill 120483

Sponsor: Councilmember Lewis

Replace Attachment 1 to Council Bill 120483 with a revised report from
King County Department of Natural Resources and Parks

Effect: This amendment would substitute an updated version of Attachment 1 to Council Bill 120483. Attachment 1 is King County Department of Natural Resources and Parks' (DNRP) report on Application E20CT029S, Dustin Jewett and Alyssa Horn application for open space purposes at 8240 43rd Avenue NE.

Under the original report, DNRP allocated points to the application under the Public Benefit Rating System (PBRs) for habitat protection for the pileated woodpecker, which was then listed as a species of concern in western Washington. After DNRP originally wrote the report in 2021, the pileated woodpecker was removed from the list of species of concern, and pileated woodpecker habitat is no longer eligible for protection under the PBRs. This amendment would replace the original report with an updated report that reflects this change, and reduces the amount of points available to the property owner under the PBRs.

As a result of the reduction in points, the property would be eligible for a reduced discount on property taxes.

Replace Attachment 1 to Council Bill 120483 with a revised version of the King County Department of Natural Resources and Parks' report on application E20CT029S.

**KING COUNTY
DEPARTMENT OF NATURAL RESOURCES AND PARKS
WATER AND LAND RESOURCES DIVISION**

**REVISED Report to the City of Seattle for
Property Enrollment in the Public Benefit Rating System (PBRS)**

~~October 8, 2021~~ December 28, 2022

APPLICANTS: Dustin Jewett and Alyssa Horn File No. E20CT029S

A. GENERAL INFORMATION:

1. Owners: Dustin Jewett and Alyssa Horn
8240 43rd Avenue NE
Seattle, WA 98115

NOTE: The current owners purchased this property from the original applicant, Nobuo Ohashi, in August of 2021 and informed PBRS staff they intend to continue with the approval process.

2. Property location: same as above
3. Zoning: SF5000
4. STR: NW-03-25-04
5. PBRS categories requested by the applicant and *suggested by staff*:

Open space resources

- *Buffer to public or current use classified land
- *~~Significant wildlife or salmonid habitat~~
- *Special animal site
- Surface water quality buffer

NOTE: *Staff recommends credit be awarded for these PBRS categories. Enrollment in PBRS for property within an incorporated area requires approval by impacted granting authorities following public hearing(s). For this application, the granting authorities are the King County Mobility and Environment Committee and the City of Seattle. King County heard and acted on this application on June 23, 2021.

- 6. Parcel: 044300-0075
 - Total acreage: 0.32
 - Requested PBRS: 0.13
 - Home site/excluded area: 0.19
 - Recommended PBRS: 0.13**

NOTE: The portion recommended for enrollment in PBRS is the entire property less the excluded area as measured. The attached 2019 aerial photo outlines the parcel in yellow and the area proposed to be excluded from PBRS in blue. In the event the Assessor’s official parcel size is revised, PBRS acreage should be administratively adjusted to reflect that change.

B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned SF5000 and SF7200.
2. Development of the subject property and resource characteristics of open space area: The property contains a single-family residence, garden and landscaping. The open space portion of the property is a mix of deciduous and coniferous trees and mostly native understory, which slopes eastward into an undisturbed ravine. Some areas of the enrolling open space on the westernmost slope abutting the non-enrolling portion of the property are impacted by invasive species, mostly notably ivy/or Himalayan blackberry, which the owners plan to work to control to the extent possible.
3. Site use: The property is used as a single-family residence.
4. Access: The property is accessed from 43rd Avenue NE.
5. Appraised value for 2020 (based on Assessor’s information dated 6/5/2021):

<u>Parcel #044300-0075</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	\$585,000.00	\$114,000.00	\$699,000.00
Tax applied	\$5,447.05	\$1,061.48	\$6,508.53

NOTE: Participation in PBRS reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value.

C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

KCC 20.36.010 Purpose and intent.

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessed valuation on "open space land" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the application. In making such recommendation, the department will utilize the point system described in section B. and C. below.

- B. The following open space resources are each eligible for the points indicated:
 - 1. Public recreation area – five points
 - 2. Aquifer protection area – five points
 - 3. Buffer to public or current use classified land – three points
 - 4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
 - 5. Active trail linkage – fifteen or twenty-five points
 - 6. Farm and agricultural conservation land – five points
 - 7. Forest stewardship land – five points
 - 8. Historic landmark or archaeological site: buffer to a designated site – three points
 - 9. Historic landmark or archaeological site: designated site – five points
 - 10. Historic landmark or archaeological site: eligible site – three points
 - 11. Rural open space – five points
 - 12. Rural stewardship land – five points
 - 13. Scenic resource, viewpoint, or view corridor – five points
 - 14. Significant plant or ecological site – five points
 - 15. Significant wildlife or salmonid habitat – five points
 - 16. Special animal site – three points
 - 17. Surface water quality buffer – five points
 - 18. Urban open space – five points
 - 19. Watershed protection area – five points

- C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:
 - 1. Resource restoration - five points
 - 2. Additional surface water quality buffer - three or five points
 - 3. Contiguous parcels under separate ownership - two points
 - 4. Conservation easement of historic easement – fifteen points
 - 5. Public access - points dependent on level of access
 - a. Unlimited public access - five points
 - b. Limited public access - sensitive areas - five points

- c. Environmental education access – three points
 - d. Seasonal limited public access - three points
 - e. None or members only – zero points
6. Easement and access – thirty-five points

D. 2020 COMPREHENSIVE PLAN POLICIES AND TEXT:

E-101 In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives shall be monitored and periodically reviewed to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRS staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B10.

E-112a The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected in King County:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40% or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;
- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and
- h. Volcanic hazard areas.

E-421 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

E-429 King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants, such as providing technical assistance or access to appropriate native plants.

NOTE: Participation in PBRS requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with

native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

E-443 King County should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

E-476 King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

E-504 King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRS provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRS requirement.

E-449 King County shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

R-605 Forestry and agriculture best management practices are encouraged because of their multiple benefits, including natural resource preservation and protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

E. PBRS CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:

Open space resources

- Buffer to public or current use classified land

The property is abutting land participating in the PBRS program to the north (parcel# 044300-0070) and south (parcel#044300-0080). The enrolling open space area is providing a buffer of native vegetation of more than 50 feet to this adjacent land, which exceeds the category's requirement. Credit for this category is recommended by PBRS staff. King County approved award of this category.

- ~~Significant wildlife or salmonid habitat~~

~~Although credit for this category was not requested, the property contains habitat for numerous wildlife species, including foraging and nesting habitat for the pileated woodpecker, which is listed as a candidate species of concern by the Washington~~

~~Department of Fish and Wildlife. Upon conducting a site visit, program staff observed evidence of pileated woodpecker activity and determined areas of the forest on the property is of sufficient age and diversity to support the species regular use of the property. Award of this category is consistent with habitat as defined by KCC 20.36.100, section B.15.a (1). Receiving credit for this category is acceptable to the applicant and credit for this category is recommended by PBRs staff. King County approved award of this category.~~

- Special animal site
The property is south of the City of Seattle’s Inverness Ravine Park and an extension of the protected ravine and its natural resources. The portion of the ravine within the enrolling open space is identified as part of the City’s wildlife habitat network, as noted on pages 17 and 18 of the *Urban Wildlife and Habitat Management Plan – 2000 Update*, approved by the Seattle City Council in Resolution 30325 on 5/29/01. Credit for this category is recommended by PBRs staff. King County approved award of this category.
- Surface water quality buffer
In order to be eligible for this category, the enrolling land must be providing a qualifying buffer of native vegetation to a lake, pond, stream, wetland or shoreline within the enrolling portion of a property. The property does not contain any aquatic features. Credit for this category cannot be recommended by PBRs staff and King County denied award of this category.

NOTE: It is important to note that enrollment in the PBRs program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS:

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.
3. Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

Open space resources

Buffer to public or current use classified land	3
Significant wildlife or salmonid habitat	5
Special animal site	3
Surface water quality buffer	0

TOTAL ~~11~~ 6 points

PUBLIC BENEFIT RATING

For the purpose of taxation, ~~44~~ 6 points result in ~~40~~50% of market value and a ~~60~~50% reduction in taxable value for the portion of land enrolled.

B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of ~~44~~ 6 points, subject to the following requirements:

**Requirements for Property Enrolled in the
Public Benefit Rating System Current Use Taxation Program**

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRs) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The King County Department of Assessments (DoA) and the Water and Land Resources Division, Director's Office, Agriculture, Forestry and Incentives Unit (AFI) or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.
2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by the City of Seattle and King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the City of Seattle and King County Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the DoA and the AFI Unit or its successor of a change in circumstance with regard to the Property.
4. When a portion of the open space Property is withdrawn or removed from the program, the AFI Unit or its successor and the DoA shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining

portion meets the criteria for priority resources, it may continue under current use taxation.

5. Except as provided for in sections 6 and 7 and below, no alteration of the open space land or resources shall occur without prior approval by the City of Seattle and the AFI Unit or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: *(Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.)*
 - a. erecting structures;
 - b. grading;
 - c. filling;
 - d. dredging;
 - e. channelizing;
 - f. modifying land or hydrology for surface water management purposes;
 - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
 - h. applying herbicides or pesticides or any hazardous or toxic substance;
 - i. discharging pollutants excepting stormwater;
 - j. paving, construction, application of gravel;
 - k. storing of equipment, household supplies, play equipment, or compost;
 - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the City of Seattle and the AFI Unit or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the City of Seattle and the AFI Unit or its successor, in order to replace such species with native species or other appropriate vegetation.
8. There shall be no motorized vehicle driving or parking allowed on the open space Property, except for medical, public safety, or police emergencies.
9. Grazing of livestock is prohibited on the open space Property.
10. An owner of property enrolled in the program may be required to submit a monitoring report on an annual or less frequent basis as requested by program staff. This report must include a brief description of how the property still qualifies for each awarded resource

category. It must also include photographs from established points on the property and any observations by the owner. The owner must submit this report to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.

11. Enrollment in PBRS does not exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

TRANSMITTED to the parties listed hereafter:

Dustin Jewett and Alyssa Horn, applicants

~~Lise Ward, Seattle Parks and Recreation~~

~~Lish Whitson, Legislative Analyst, Seattle City Council, Central Staff~~

Debra Clark, King County Department of Assessments

**CURRENT USE TAXATION APPLICATION****Summary of Staff Recommendation and Background****Seattle City Council's Public Assets & Homelessness Committee****Public Hearing: December 7, 2022**

King County's Staff Report is attached for the Current Use Taxation application, as submitted by a property owner in the University District neighborhood. The Department of Neighborhoods staff has reviewed King County's report and concurs.

E21CT024S – Rosenbaum

The applicant, Nathan Rosenbaum has requested property tax relief for a portion of his landmark property located in the University District; zoned MR. This property is a City of Seattle landmark, designated by the Landmarks Preservation Board in 2018; Ordinance 125674. The designated features include the site and the exterior of the building. The 1928 Tudor Revival apartment building was designed by well-known Seattle developer Frederick Anhalt, and was relocated to its current site in 1958 to accommodate the construction of I-5. The applicant voluntarily nominated the property as a landmark, and has maintained it in good condition.

Recommendation: Approve the following:**Area to be classified as Open Space:**

Anhalt Hall
711 NE 43rd Street
Seattle, WA 98105
Parcel No. 409230-1240
0.06 acres (out of total property size, 0.11 acres)

Category:

Open Space Resource - Historic landmark or archeological site: designated site

Total Points: 5**Public Benefit Rating:**

For the purpose of taxation, 5 points result in 50% of market value and a 50% reduction in taxable value for the portion of land enrolled.

Prepared by Erin Doherty, Seattle Department of Neighborhoods
October 31, 2022

cc: Sarah Morningstar, Acting Director, Department of Neighborhoods
Sarah Sodt, City Historic Preservation Officer, Department of Neighborhoods



SEATTLE CITY COUNCIL
CENTRAL STAFF

Current Use Taxation Applications

LISH WHITSON, LEGISLATIVE ANALYST

PUBLIC ASSETS AND HOMELESSNESS COMMITTEE

JANUARY 4, 2023

CB 120483

- Would approve two applications for “current use” taxation
 - Reduces property taxes in exchange for open space preservation
 - Authorized under Revised Code of Washington (RCW) 84.34
 - Open space, forest land, farmland, and landmarks are eligible
 - King County uses a “Public Benefit Rating System” (PBRs) to assess the relative benefits of applications
- Requires public hearings and approval from King County Council and Seattle City Council
- The King County Council’s Transportation, Economy and Environment Committee has approved both applications

8240 43rd Avenue NE



8240 43rd Avenue NE

- Application for maintaining open space in a ravine on eastern end of property
- Ravine connects to Inverness Ravine Park, an undeveloped natural area
- Receives 6 points under the PBRs* for:
 - Buffer to public or current use classified land - 3 points
 - Special animal site - 3 points
- If approved, would result in 50% of market value and a 50% reduction in taxable value for the 0.13 acres of land enrolled

*Reflects removal of the pileated woodpecker as a species of concern in western Washington

Anhalt Hall - 711 NE 43rd Street



Anhalt Hall - 711 NE 43rd Street

- Application for open space around a landmark apartment building in University District
- Anhalt Hall was designated in 2018
- Received 5 points under the PBRs for:
 - Historic landmark or archeological site: designated site
- If approved, would result in in 50% of market value and a 50% reduction in taxable value for the 0.06 acres of land enrolled.



Amendment

- Replace DNRP's 2021 report on 8240 43rd Avenue NE with a revised report
- Reflects removal of the pileated woodpecker as a species of concern
- PBRS rating reduced from 11 to 6 to recognize that pileated woodpecker habitat is no longer eligible under the PBRS

Questions?