

April 25, 2023

MEMORANDUM

To: Public Assets & Homelessness Committee
From: Lish Whitson, Analyst
Subject: CB 120559: Applications for Current Use Taxation for 2023

On May 3, the Public Assets & Homelessness Committee (Committee) will hold a public hearing and may vote on two applications for current use taxation for two P-Patch properties owned by GROW, a non-profit organization that supports organic gardening and P-Patches:

E22CT021S: Application of GROW for the Hazel Heights P-Patch located at 4200 Baker Avenue NW, for open space purposes, 0.13 acres.

E22CT030S: Application of GROW for a portion of the Judkins P-Patch located at 2317 S Norman Street, for open space purposes, 0.13 acres.

These applications and King County Department of Natural Resources and Parks (DNRP) reports on the applications are filed in [Clerk File 322586](#)¹. [Council Bill \(CB\) 120559](#) 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.

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/322586>) should work in a private browser.

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](#).

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.

Hazel Heights P-Patch

GROW has applied for current use taxation for the Hazel Heights P-Patch located on the northeast corner of 42nd Avenue NW and Baker Avenue NW in the Fremont neighborhood, Council District 6.

The applicants have dedicated the 5,500 square foot lot to P-Patch purposes, leaving the parcel as publicly accessible open space. The DNRP report on the application (Attachment 1 to CB 120483) describes the open space as follows:

Under the PBRs, as shown in Attachment 1 to the bill, the application was granted a total of 63 points by DNRP:

- 5 points would be granted for the property's use as a public recreation area.
- 5 points would be granted because GROW provides unlimited public access to the property.
- 18 points would be granted because there is a conservation easement placed on the property, requiring it to be used for community garden and open space purposes. The City of Seattle's P-Patch program is the beneficiary of the easement, which was granted to the City in 2004.
- 35 points are granted for the easement and access because the property provides both unlimited public access and that access is protected through an easement.

This would result in a current use value set at 10 percent of market value and a 90 percent reduction in taxable value for the portion of the land enrolled. In 2022, the appraised value of the land for this property was \$810,000. Approval of the application would reduce the appraised value of the portion of the land 90 percent. Using the 2022 appraised value, that would result in a reduction to approximately \$81,000 in taxable value.

Judkins P-Patch

GROW has also applied for current use taxation for a portion of the Judkins P-Patch Community Garden, located at 2317 S Norman Street, on S Norman Street between 23rd Avenue S and 24th Avenue S. The Judkins P-Patch is located one block east of Judkins Park and one block north of Thurgood Marshall Elementary School.

The P-Patch occupies property owned by GROW and the City of Seattle. The GROW-owned portion of the P-Patch fronts on S Norman Street and connects to a parcel fronting on 24th Avenue S which is owned by the City of Seattle

The Judkins P-Patch is a 24-plot community garden that opened in 1986. According to the King County Assessor, the parcel owned by GROW is 3,000 square feet and the City's property is 8,430 square feet.

Under the PBRs, as shown in Attachment 2 to the bill, the application was granted a total of 63 points by DNRP:

- 5 points would be granted for the property's use as a public recreation area.
- 5 points would be granted because GROW provides unlimited public access to the property.
- 18 points would be granted because there is a conservation easement placed on the property, requiring it to be used for community garden and open space purposes. The City of Seattle's P-Patch program is the beneficiary of the easement, which was granted to the City in 2002.
- 35 points are granted for the easement and access because the property provides both unlimited public access and that access is protected through an easement.

This would result in a current use value set at 10 percent of market value and a 90 percent reduction in taxable value for the portion of the land enrolled. In 2022, the appraised value of the land for this property was \$471,000. Approval of the application would reduce the appraised value of the portion of the land by 90 percent. Using the 2022 appraised value, that would result in a reduction to approximately \$424,000 in taxable value.

The Department of Neighborhoods has submitted a letter in support of GROW (see Exhibit 1.)

Next Steps

The Committee will hold a public hearing, discuss, and may vote on CB 120559 at its May 3 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 on May 3 would allow the City Council to vote on the bill at its May 9 meeting. If the Council passes the bill, and the King County Council concurs, King County will incorporate the lower taxable values in their 2024 tax rolls.

Exhibits

1. Letter from Seattle Department of Neighborhoods

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



Seattle
Neighborhoods

December 1, 2021

To Whom It May Concern,

GROW is a registered 501 (C) (3) nonprofit organization formerly known as Friends of P-Patch, P-Patch Trust, and originally as P-Patch Advisory Council. GROW has actively supported the development of community gardens and worked in collaboration with the City of Seattle's P-Patch Program for almost 40 years. With support from GROW, the P-Patch Program has successfully increased the number of community gardens located across Seattle and annually provides need-based plot fee assistance to hundreds of low-income gardeners. The Seattle Department of Neighborhoods (DON) presently leases seven properties from GROW for use as P-Patch community gardens. DON and GROW also collaborate on events, communications, programming and planning efforts designed to increase public access and involvement with the P-Patch Program.

Hazel Heights P-Patch was established in 2010 and is located on the west side of the Fremont neighborhood, on a hillside overlooking the Ship Canal and Olympic Mountains. Features of the 2,000 square foot garden include 19 terraced planting beds for P-Patch Program participants, an 8,000-gallon rainwater cistern, a Giving Garden, a tool shed, a beehive, a native flora and fauna refuge, grapevines, herb beds, a berry patch, and fig and apple trees. Hazel Heights benefits from an active community of gardeners, volunteers, neighbors, and supporters. Ongoing projects include weekly Giving Garden harvests (monthly during winter), along with donations from individual gardening plots. In 2021, Hazel Heights gardeners donated more than 500 pounds of organic produce to local food banks.

The P-Patch Program values GROW's ongoing support of the thriving gardening community at Hazel Heights. For more information about the P-Patch Program and/or Hazel Heights, please visit our website at www.seattle.gov/neighborhoods/ppatch.

Sincerely,

Kenya Y. Freddie
Supervisor, P-Patch Community Gardening Program
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