

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