

requirements being met (see resource category discussion under Section E beginning on page 6).

6. Parcel:	022102-9007	022102-9135
Total acreage:	5.00	5.00
Requested PBRs:	2.50	2.50
Home site/excluded area:	2.50	2.43
Recommended PBRs:	2.50*	2.57*

NOTE: The attached map (2017 aerial photo) outlines in yellow the parcel boundaries and in blue the areas proposed to be *excluded* from PBRs. The portion recommended for enrollment in PBRs (5.07 acres) is the entire property (10.00 acres) less the excluded areas as measured (4.93 acres). In the event the Assessor's official parcel size is revised, PBRs acreage should be administratively adjusted to reflect that change.

***Recommended PBRs acreage is dependent upon the property's qualification for the forest stewardship land category, which requires an approved forest stewardship plan be implemented to address restoration and reforestation needs throughout much of the area to be enrolled. Without award of this category, the property would not be eligible to participate in PBRs.**

B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned, RA2.5, RA2.5SO, RA5 and RA10SO.
2. Development of the subject property and resource characteristics of open space area: The property is undeveloped. The open space area consists largely of a mix of deciduous and coniferous forest with some native shrubs and plants. However, a large portion of the property was logged by the previous owner and was not revegetated. Additionally, the property is impacted by invasive species, Himalayan blackberry and English holly. The owners plan to control and eradicate the invasive species as well as replant the areas that were impacted by the logging. The owners have recently planted 1250 cedar trees. They will continue to replant the open space with native plants and will document their planned efforts in a forest management plan. Portions of two wetlands, Type II and Type III are located along the east side of the parcels.
3. Site use: The property is used as a residence.
4. Access: The property is accessed from Pohl Road.
5. Appraised value for 2018 (Based on Assessor's information dated 3/28/19):

<u>Parcel #022102-9007</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	\$183,000.00*	\$0.00	\$183,000.00
Tax applied	\$2,043.00	\$0.00	\$2,043.00
<u>Parcel #022102-9135</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	\$183,000.00*	\$0.00	\$183,000.00
Tax applied	\$2,043.00	\$0.00	\$2,043.00

NOTE: *These values are presently impacted by the land's participation in the Timber land program (RCW 84.34), which is reflected in the land's current and lower taxable value of \$183,695 (tax applied \$2,050.94). 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. 2016 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 CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:

NOTE: The previous owners harvested timber and did not replant after harvest. Part of the harvesting occurred in the 3.38 acres (outline in green on the attached map) which is part of a Category II and Category III wetland buffer. At this point, a natively vegetated buffer to the wetland that meets or exceeds buffer requirements of King County code for either aquatic feature is not provided. However, KCC 20.36.190 states “Open space areas protected by a native growth, forest retention or other covenant that is required as part of a development process or subdivision, or required by zoning or other land use regulation, except such an area would be eligible if its participation provides further public benefit and there is enrollment of at least ten percent additional open space beyond that restricted or required by applicable covenant or regulation. The additional acreage provided must be acceptable to the department and feature a plant community where native plants are dominant or that will be dominant following the implementation of an approved farm management, forest stewardship, resource restoration or rural stewardship plan.” The wetland buffer will be replanted with native vegetation and managed by a forest stewardship plan to address control and eradication of invasive plant species, its acreage enrollment is recommended.

Open space resources

- Aquifer protection area
The entire property is located in an area designated as a critical aquifer recharge area (CARA 3). The natively forested area is greater than one acre in size and meets the minimum required acreage for this category. **Credit for this category is recommended dependent upon the award of the forest stewardship land category and the implementation of an approved forest stewardship plan.**
- Buffer to public or current use classified land
The property is adjacent to land participating in the Public Benefit Rating System program to the west (parcel 022102-9156) and Designated Forest land program to the north (parcel 022102-9005). The enrolling open space area is providing a buffer of native vegetation of more than 50 feet to the adjacent land, which exceeds the category’s requirement. **Credit for this category is recommended dependent upon the award of**

the forest stewardship land category and the implementation of an approved forest stewardship plan.

- Forest stewardship land

The property contains five acres of contiguous forest. The owners would like to natively replant and restore much of the property and are working on producing a forest stewardship plan to further guide their efforts. In order to qualify for this category and enroll the property in PBRS, a forest stewardship plan must be provided by **both** of the owners, approved by the department, and implemented. This plan must address the control and removal of invasive plant species and some areas of non-native grasses that is prevalent throughout much of the enrolling area. It must also specify how the 3.38 acres (outlined in green on the attached map) will further be replanted/reforested with native plant and tree species. Credit for this category is recommended dependent upon this plan being **provided by November 29, 2019, and approved by the department on or before December 31, 2019.** Award of this category may allow forestry activities to occur in the participating open space area. It is the landowner's responsibility to apply for and receive the necessary approvals from the applicable state and local governmental agencies for forestry activities that require a permit or approval, such as clearing and grading.

- Significant wildlife and 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 state candidate species of concern by the Washington Department of Fish and Wildlife. During a site visit to the property PBRS staff saw evidence of pileated woodpecker activity on the property. Award of this category is consistent with habitat as defined by KCC 20.36.100, section B.15.a (1). **Credit for this category is recommended dependent upon the award of the forest stewardship land category and the implementation of an approved forest stewardship plan.**

Bonus categories

- Contiguous parcels under separate ownership

The application includes two parcels of land owned by two different owners. The contiguous open space portions of each enrolling parcel contain the same PBRS resources. Based on the number of owners, award for this category would result in an addition of two points. **Credit for this category is recommended dependent upon the award of the forest stewardship land category and the implementation of an approved forest stewardship plan.**

- Environmental education access

The owners are interested in having user groups access their property for educational purposes. At this time, credit for this category cannot be recommended because letters of support have not been established or provided. However, if local groups submit letters of support to use this property for educational purposes on or before **October 1, 2019**, then credit for this category should be awarded administratively.

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

- Aquifer protection area 5**
- Buffer to public or current use classified land 3**
- Forest stewardship land 5*
- Significant wildlife and salmonid habitat 5**

Bonus categories

- Contiguous parcels under separate ownership 2**
- Environmental education access 0***

TOTAL 20 points

NOTE: *Enrollment in PBRS is dependent upon the approval and implementation of a forest stewardship plan. **Additionally, award of these additional categories is dependent upon the award of forest stewardship land category.

*** If letters of support from user groups to access the property for education are received by October 1, 2019 then the point total could further increase to 23 points, the percent reduction would increase to 80% for the portion of the property enrolled.

PUBLIC BENEFIT RATING

For the purpose of taxation, 20 points result in 30% of assessed value and a 70% 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 20 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 County Assessor and the King County Rural and Regional Services Section 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 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 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 Assessor and the King County Rural and Regional Services Section 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 King County Rural and Regional Services Section or its successor and the Assessor 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, 7 and 10 below, no alteration of the open space land or resources shall occur without prior approval by the King County Rural and Regional Services Section 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 King County Rural and Regional Services Section 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 King County Rural and Regional Services Section 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 areas of the Property being used as forest stewardship land.
 9. Grazing of livestock is prohibited on the open space Property.
 10. For land designated as forest stewardship land, activities that are consistent with forestry uses and that are consistent with an approved Forest Stewardship Plan for the Property shall be permitted as long as those activities do not cause a significant adverse impact to the resource values of other awarded categories.
 11. An owner of property receiving credit for farm and agricultural conservation land, forest stewardship land, or rural stewardship land, all of which require a stewardship or management plan, must annually provide a monitoring report that describes progress of

implementing the plan. The owner must submit this report, which must include a brief description of activities taken to implement the plan and photographs from established points on the property, to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.

12. Public access shall be permitted upon any area of the open space Property that is designated for public access.
13. 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:

Office of the King County Hearing Examiner
Nicholas Wilks and Jamie Clapperton, applicants
Debra Clark, King County Department of Assessments
Bill Loeber, King County Forester

2017 Aerial Photo

0221029007

1.94 acres

0221029135

1.44 acres

2.50 acres

2.43 acres

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