

RESOLUTION NO. 2018-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, APPROVING THE PUBLIC BENEFIT RATING SYSTEM OPEN SPACE CLASSIFICATION OF THE MILLER PROPERTY LOCATED AT 350 MT. JUPITER DRIVE SW.

WHEREAS, Bethlyn and Mark Miller are owners of certain property located in the City of Issaquah and have applied to have their property classified under King County's Public Benefit Rating System; and,

WHEREAS, the public benefit rating system is administered in accordance with Revised Code of Washington Chapter 84.34.037, WAC 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 property for owners to retain tracts of open space; and,

WHEREAS, Bethlyn and Mark Miller owns 350 Mt. Jupiter Drive SW, parcel # 5706201060 and have applied to King County's Public Benefit Rating System; and,

WHEREAS, RCW 84.34.037(1) states an application for PBRs shall be acted upon after separate public hearings and affirmative acts by both 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, on April 16, 2018 the Issaquah City Council scheduled a public hearing for May 21, 2018 to consider the application and referred the application to the Service & Safety Committee of the City Council; and,

WHEREAS, the Service & Safety Committee of the City Council met on May 9, 2018 to consider the applications; and,

WHEREAS, the Issaquah City Council held a public hearing on May 21, 2018; and,

WHEREAS, the City Council considered the King County and City staff recommendations, public testimony, and the applications; and,

WHEREAS, the King County Council Transportation, Economy and Environment Committee will hold a related public hearing on June 5, 2018, to consider these applications, with the goal to act on the applications by July 1, 2018; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The City Council hereby approves the Public Benefit Rating System open space classification of the Bethlyn and Mark Miller property, 350 Mt. Jupiter Drive SW, parcel #5706201060, subject to the conditions enumerated in the King County staff report, attached as Exhibit A, and authorizes filing of the approval with the King County Council for the county-held public hearing.


Section 2. This resolution has been approved by at least three City Councilmembers in accordance with RCW 84.34.037.

PASSED by the City Council this 21st day of May, 2018.



TOLA MARTIS, COUNCIL PRESIDENT

APPROVED by the Mayor this 21st day of May, 2018.




MARY LOU PAULY, MAYOR

ATTEST:



CHRISTINE L. EGGERS, CITY CLERK

APPROVED AS TO FORM:



JAMES E. HANEY, CITY ATTORNEY

RESOLUTION NO: 2018-08
AGENDA BILL NO: AB 7596

Exhibit A: King County Staff Report & Recommendation

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

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

April 5, 2018

APPLICANTS: Mark and Bethlyn Miller

File No. E17CT024I

A. GENERAL INFORMATION:

1. Owners: Mark and Bethlyn Miller
350 Mount Jupiter Drive SW
Issaquah, WA 98027
2. Property location: same as above
3. Zoning: SF-S
4. STR: NW-33-24-06
5. PBRs categories requested by applicant and recommended by staff:

Open space resource

Historic landmark or archeological site: designated site

6. Parcel: 570620-1060
Total acreage: 0.39
Requested PBRs: 0.32
Home site/excluded area: 0.11
Recommended PBRs: 0.28

NOTE: The portion recommended for enrollment in PBRs is the entire property less the excluded area as measured. The attached 2017 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 SF-S and CF-F.

2. Development of the subject property and resource characteristics of open space area: The property contains a single family home and landscaping. The open space portion consists mainly of lawn and landscaped areas.
3. Site use: The property is used as a single family residence.
4. Access: The property is accessed from Mount Jupiter Drive SW.
5. Appraised value for 2017 (Based on Assessor's information dated 4/5/2018):

<u>Parcel #570620-1060</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	\$291,000.00	\$377,000.00	\$668,000.00
Tax applied	\$2,994.39	\$3,879.34	\$6,873.73

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. 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 CATEGORY REQUESTED and DEPARTMENT RECOMMENDATIONS:

Open space resource

- Historic landmark or archeological site: designated site
The owners worked with the King County Historic Preservation Program and City of Issaquah Landmarks Commission to landmark the home, known as the William Conrardy House, and property (see Exhibit 13). The historic preservation office supports award of this category and the requirements of condition #10 on page 7 of this report. Credit for this category is recommended.

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 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 the City of Issaquah 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 Issaquah 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 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 City of Issaquah and 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 City of Issaquah and 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 on areas of the Property used for parking.
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 County's Historic Preservation Officer. 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:

Mark and Bethlyn Miller, applicants
David Favour, Development Services Deputy Director, City of Issaquah
Debra Clark, King County Department of Assessments
Todd Scott and Ivy Freitag, King County Historic Preservation Program