

August 17, 1992
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Introduced by: Nickels

Proposed No.: 92-495

ORDINANCE NO. **10511**

1 AN ORDINANCE establishing a public
2 benefit rating system and an assessed
3 valuation schedule for open space land,
4 amending Ordinance 1076, Sections 1, 2
5 and 3, as amended and K.C.C. 20.36.010,
6 20.36.020 and 20.36.030; Ordinance 4461,
7 Section 1, as amended, and K.C.C.
8 20.24.070; adding new sections to K.C.C.
9 20.36 and repealing Ordinance 2250,
10 Section 1, as amended and replacing
11 K.C.C. 20.36.100.

12 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

13 NEW SECTION. SECTION 1. The summary report dated August,
14 1992 establishing a public benefit rating system which was
15 prepared pursuant to King County Motion No. 8331 by King County
16 department of parks, planning and resources office of open
17 space, and attached hereto is hereby approved and adopted and
18 by this reference made a part hereof.

19 SECTION 2. Ordinance No. 4461, Section 1, as amended, and
20 K.C.C. 20.24.070 are hereby amended to read as follows:

21 Recommendations to the council. A. The examiner shall
22 receive and examine available information, conduct public
23 hearings and prepare records and reports thereof and issue
24 recommendations to the council based upon findings and
25 conclusions in the following cases:

- 26 1. Applications for reclassifications of property;
- 27 2. Applications for unclassified use permits;
- 28 3. Applications for planned unit developments;
- 29 4. Applications for preliminary plats; including those
30 variance decisions made by the road engineer pursuant to K.C.C.
31 14.42.060 with regard to road circulation in the subject
32 preliminary plat proposal;
- 33 5. Applications for shoreline environment
34 redesignations;

1 6. Applications for boundary adjustments of local sewer
2 service areas in accordance with the county sewerage general
3 plan, Ordinance 4035, Chapter 6, required for development
4 proposals including but not limited to short subdivisions and
5 building permits, which seek or need sewer service but are
6 located outside of existing designated local sewer service
7 areas;

8 7. Applications for agricultural land variances;

9 8. Applications for review of designations of
10 agricultural lands of county significance of King County
11 agricultural districts;

12 9. Applications to revise the boundaries of
13 agricultural lands of county significance;

14 10. Applications for public benefit rating system
15 assessed valuation on open space land and current use
16 assessment on (~~open space or~~) timber lands except as provided
17 in Section 20.36.090;

18 11. Appeals from denials by the county assessor of
19 applications for current use assessments on farm and
20 agricultural lands;

21 12. Appeals from decisions regarding residential
22 condominium binding site plan applications pursuant to Section
23 19.34.050;

24 13. Applications for a public agency exception pursuant
25 to K.C.C. 21.54.050;

26 14. Other applications or appeals which the council may
27 prescribe by ordinance.

28 B. The examiner's recommendation may be to grant or deny
29 the application or appeal, or the examiner may recommend that
30 the council adopt the application or appeal with such
31 conditions, modifications and restrictions as the examiner
32 finds necessary to make the application reasonably compatible
33 with the environment and carry out applicable state laws and
34 regulations and the regulations, policies, objectives and goals
35 of the comprehensive plan, the community plans, the sewerage

1 general plan, the zoning code, the subdivision code and other
2 official laws, policies and objectives of King County.

3 SECTION 3. Ordinance No. 1076, Section 1, as amended, and
4 K.C.C. 20.36.010, are hereby amended to read as follows:

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

11 It is the intent of this chapter to implement RCW Chapter
12 84.34, as amended, by establishing procedures, rules and fees
13 for the consideration of applications for (~~current use~~
14 assessment) public benefit rating system assessed valuation on
15 "open space land((~~τ~~))" and for current use assessment on "farm
16 and agricultural land((~~τ~~))" and "timber land" as those lands
17 are defined in RCW 84.34.020. The provisions of RCW Chapter
18 84.34, and the regulations adopted thereunder shall govern the
19 matters not expressly covered in this chapter.

20 SECTION 4. Ordinance No. 1076, Section 2, as amended, and
21 K.C.C. 20.36.020 are hereby amended to read as follows:

22 Zoning and subdivision examiner. The office of zoning and
23 subdivision examiner as established by Chapter 20.24 as
24 amended, shall act in behalf of the council in considering
25 applications for (~~current use assessments~~) public benefit
26 rating system assessed valuation on open space land and for
27 current use assessments ((~~or~~)) on timber land in an
28 unincorporated area of the county or appeals from denials by
29 the county assessor of applications for current use assessments
30 on farm and agricultural land as provided herein. All such
31 applications and appeals shall be processed pursuant to the
32 procedures established in this chapter and Chapter 20.24.

33 SECTION 5. Ordinance No. 1076, Section 3, as amended, and
34 K.C.C. 20.36.030 are hereby amended to read as follows:

1 Applications. An owner of farm and agricultural land
 2 desiring current use assessment under RCW Chapter 84.34 shall
 3 make application to the county assessor and an owner of open
 4 space land desiring assessed valuation under the public benefit
 5 rating system or an owner of timber land desiring current use
 6 assessment shall make application to the county council by
 7 filing an application with the (~~building and land development~~
 8 ~~division,~~) environmental division department of planning and
 9 community development. The application shall be upon forms
 10 supplied by the county and shall include such information
 11 deemed reasonably necessary to properly classify an area of
 12 land under RCW Chapter 84.34 with a notarized verification of
 13 the truth thereof.

14 NEW SECTION. SECTION 6. There is added to K.C.C. 20.36 a
 15 new section to read as follows:

16 Assessed valuation schedule - public benefit rating system
 17 for open space land.

18 The public benefit rating system for open space land bases
 19 the level of assessed fair market value reduction on the total
 20 number of awarded points. The market value reduction
 21 establishes the current use value. This current use value will
 22 be expressed as a percentage of market value based on the
 23 public benefit rating of the property and the valuation
 24 schedule below:

<u>Public Benefit Rating</u>	<u>Current Use Value</u>
0-4 points	100% of market value
5-10 points	50% of market value
11-15 points	40% of market value
16-20 points	30% of market value
21-34 points	20% of market value
35-52 points	10% of market value

32 NEW SECTION. SECTION 7. Ordinance No. 2250, Section 1,
 33 as amended, and K.C.C. 20.36.100 are each hereby repealed, and
 34 the following is substituted:

1 Criteria for approval - public benefit rating system for
2 open space lands.

3 A. Rating System. To be eligible for open space
4 classification under the public benefit rating system, property
5 must contain one or more priority open space resources. These
6 resources are ranked as high priority, medium priority and low
7 priority resources and are based on the adopted King County
8 Open Space Plan referenced in K.C.C. 20.12.380. High priority
9 resources receive five points each, medium priority resources
10 receive three points each and low priority resources receive
11 one point each. Properties can receive a maximum of thirty
12 points from no more than six open space priority resources. In
13 addition, bonus points and super bonus points may be awarded
14 pursuant to Subsection B and C and a property can achieve a
15 maximum of fifty-two points through the rating system and the
16 bonus system. Portions of property may also qualify for open
17 space designation. Complete definitions of each resource,
18 sources and eligibility standards are fully described in the
19 summary report adopted by reference by this ordinance.

20 1. High priority resources - five points each.

- 21 a. Active or passive recreation areas.
- 22 b. Property under option for purchase as park,
23 recreation, open space land or CIP mitigation site.
- 24 c. Watersheds.
- 25 d. Shoreline "Conservancy" environment in priority
26 areas with public access.
- 27 e. Scenic resources, viewpoints and view corridors.
- 28 f. Surface water quality buffer area.
- 29 g. Rural or low density open space close to urban
30 growth areas.
- 31 h. Significant plant, wildlife and salmonid habitat
32 area.
- 33 i. Significant aquatic ecosystems.
- 34 j. Historic landmarks/archeological sites:
35 designated sites.

- 1 k. Trail linkages.
- 2 1. Urban or growth area open space.
- 3 2. Medium priority resources - three points each.
- 4 a. Public lands and right-of-way buffers.
- 5 b. Special native plant sites.
- 6 c. Shoreline natural environment.
- 7 d. Geological features.
- 8 e. Eligible historic landmarks or archaeological
- 9 sites.
- 10 f. Buffers to designated historic
- 11 landmarks/archaeological sites.
- 12 g. Special animal sites.
- 13 3. Low priority resources - one point each.
- 14 Buffers to eligible historic/archeological sites.
- 15 B. Bonus System. Properties qualifying in the specific
- 16 high, medium or low priority categories may receive up to
- 17 twelve bonus points in at least three categories if the
- 18 following additional qualifications are met:
- 19 1. Resource restoration - five points.
- 20 2. Bonus surface water quality buffer - three or five
- 21 points.
- 22 3. Contiguous parcels under separate ownership - two
- 23 points.
- 24 4. Conservation/historic easement in perpetuity - five
- 25 points.
- 26 5. Bonus public access points (granted only to
- 27 categories that require public access).
- 28 a. Unlimited public access - five points.
- 29 b. Limited public access - sensitive areas - five
- 30 points.
- 31 c. Limited public access - non-sensitive areas -
- 32 three points.
- 33 C. Super bonus system. Properties with at least one high
- 34 priority resource and which allow unlimited public access, or
- 35 limited public access if due to resource sensitivity, and which

1 convey a conservation, historic, or trail easement in
2 perpetuity, in a form approved by the county, shall be
3 automatically eligible for current use value at 10% of market
4 value.

5 NEW SECTION. SECTION 8. There is added to K.C.C. 20.36 a
6 new section to read as follows:

7 Review of previously approved open space applications.

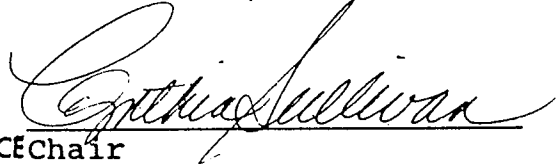
8 Open space property which has been previously approved for
9 current use assessment will be reassessed under the public
10 benefit rating system, pursuant to the procedures outlined in
11 this chapter. If this determination results in an assessment
12 at 100% of market value for the property or a portion thereof,
13 the property owner may request removal from open space
14 classification of the property or that portion thereof, within
15 thirty days of notification, without monetary penalty.

16 SECTION 9. The executive shall submit an annual report to
17 the council which details the extent of participation in the
18 public benefit rating system. The council shall reevaluate the
19 public benefit rating system program two years from the date of
20 adoption of this ordinance to assess the progress of the
21 program.


22 INTRODUCED AND READ for the first time this 6th day
23 of July, 1992.

24 PASSED this 17th day of August, 1992.

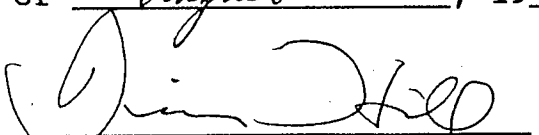
25 KING COUNTY COUNCIL
26 KING COUNTY, WASHINGTON

27 
28 VICE Chair

29 ATTEST:

30 
31 Clerk of the Council

32 APPROVED this 28th day of August, 1992

33 
34 King County Executive

*Clerk's Copy
Do Not Remove From Office*

10511

ESTABLISHING A PUBLIC BENEFIT RATING SYSTEM

**Strengthening The Incentive For Open Space Preservation
Through Current Use Assessment**

Summary Report

Prepared Pursuant to King County Council Motion 8331

By

King County Department of Parks, Planning and Resources

Office of Open Space

August, 1992

TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
EXECUTIVE SUMMARY	
Overview.....	iii
The Recommended Public Benefit Rating System For King County.....	iv
Eligibility Changes from the Existing Current Use Assessment Program.....	vii
Meeting the Provisions of King County Council Motion No. 8331.....	viii
SECTION I. CURRENT USE TAXATION - BACKGROUND AND INTRODUCTION	
Historical Background.....	1
Purposes of this Paper.....	2
SECTION II. CURRENT USE TAXATION - A SUMMARY OF THE STATUTORY FRAMEWORK AND EXISTING PROGRAM IN KING COUNTY	
The Statutory Framework - Methods of Current Use Assessment.....	2
The Statutory Framework - Effects on Property Taxes....	3
Open Space Current Use Taxation in King County - The Existing Program.....	6
SECTION III. STATUTORY PROVISIONS FOR ADOPTING AND PROCEDURES FOR IMPLEMENTING A PUBLIC BENEFIT RATING SYSTEM	
Implementing a Public Benefit Rating System - The Statutory Requirements.....	8
Statutory Requirements.....	9
SECTION IV. THE POLICY FRAMEWORK	
Objectives of Open Space Current Use Assessment	11
The Extent of Coverage.....	13
Eligibility Criteria (Parcel Size).....	14
Eligibility Criteria (Open Space Resources).....	15
Eligibility Criteria (Public Access and Use).....	16
Eligibility Criteria (Other Considerations).....	16
Form of a Public Benefit Rating System (Weighting)....	17
Establishment of Current Use Assessment Levels.....	18
SECTION V. ESTABLISHING THE CURRENT USE ASSESSED VALUATION -THE PUBLIC BENEFIT RATING SYSTEM	
A Recommended Public Benefit Rating System For King County	19
SECTION VI. RECOMMENDED KING COUNTY PUBLIC BENEFIT RATING SYSTEM OPEN SPACE RESOURCES	
List of High, Medium and Low Priority Resources.....	29
Descriptions of Priority Resources - Definitions, Sources of Data for Location of Lands, and Eligibility Criteria.....	29

High Priority Resources.....	30
Medium Priority Resources.....	42
Low Priority Resources.....	46
Bonus Categories.....	47
SECTION VII. IMPLEMENTATION, MARKETING AND PROMOTION OF A KING COUNTY PUBLIC BENEFIT RATING SYSTEM	
Implementation.....	51
Marketing.....	55
Staffing.....	56
SECTION VIII. PUBLIC REVIEW AND COMMENT.....	58
APPENDICES	
Appendix 1 - Summary of Existing Current Use Assessment Program for Open Space in King County...	90
Appendix 2 - Summary of Open Space Current Use Assessments in King County - Approved Applications and Removals (Existing Program).....	91
Appendix 3 - Summary of Impact of King County Current Use Assessment Program for Open Space on Conservation Futures and AFIS Levies.....	92

EXECUTIVE SUMMARY

Overview

Pursuant to King County Council Motion 8331, the King County Office of Open Space has conducted a study of current use taxation of open space in King County and the opportunities for adopting a Public Benefit Rating System ("PBRs") to replace the current method of open space taxation. The following Report is the result of that study.

Current use taxation, as authorized under RCW 84.34., allows the county to establish a system for assessing open space land for property tax purposes at a value below its "highest and best" use value -- the required method of assessment for most land. Current use assessment and taxation provides government with a tool that can be used to give an incentive to private land owners to restrict use of their land below its highest and best use by reducing the property taxes paid by owners. The three most significant limits of highest and best use of land that would be restricted to participants in this program include:

- 1) limiting development of buildings or other physical improvements allowed under zoning;
- 2) allowing public access; and
- 3) restricting the owner's activities on the property, such as restrictions on cutting of native trees and plants by the owner.

This incentive program, when used in conjunction with other methods, can decrease the pressures on landowners to develop their property to more intensive levels of use and retain for the general public desirable open space land at a lower cost than outright purchase.

The major finding of the study is that the existing system of current use assessment for open space in King County provides little incentive for owners to retain their land as open space. The report recommends the establishment of a PBRs to replace the existing system and details the provisions of the proposed system. The establishment of the proposed PBRs will allow the county to target more carefully the open space land it would like to see retained and will provide incentives for more land to enter the system.

The report reviews the statutory framework for current use assessment, the effect of such programs on property taxes, the existing current use assessment program in King County, the county's experience with that program, and provides a review of the issues and alternatives for adopting a PBRs in King County. The report recommends the contents and structure of a PBRs for the County.

The Recommended Public Benefit Rating System For King County

The proposed PBRs bases the level of assessed value reduction an open space property will receive on the quality and quantity of open space resources that the property possesses.

Properties would be evaluated against a series of standards and awarded points based on each of those standards. The total number of points received by a property would determine the reduction in assessed value the property would receive. The most important consideration for property applying for open space classification would be the presence of an open space resource on the county's listing of high, medium and low open space resource priorities. A property would receive points based on the presence of each high, medium or low priority resource of the property. In addition to the open space resource categories, a property could obtain points from bonus point categories by complying with requirements beyond those necessary to receive points in a high, medium or low category or through cooperative efforts with adjacent property owners.

Pursuant to state law, the presence or occurrence of an eligible open space resource would be verified by referral to a specified source in the open space resource listing, by reference to a mapping the county or other recognized authority has prepared, or verification by an expert in the particular resource being reviewed.

Access to the county's open space lands by the general public would be encouraged for all open space land unless it was determined that such access would damage or endanger the resource. Property owners who allow access to the property would be afforded consideration in the level of tax reduction they receive, depending on the level of access allowed and the conditions under which access is permitted.

The granting of a conservation or historic easement permanently protecting the resources of an otherwise eligible property provides the public with additional value in the form of greater permanence of the resource. An owner of property seeking open space classification would receive additional points if the owner conveys to the county or to an entity acceptable to the county a conservation or historic easement acceptable to the county.

Some properties would not be eligible for the PBRs, including properties that do not contain an open space resource or any of the following properties where public access could be provided or the property could otherwise be further restricted from highest and best use: open space areas or trails required by zoning or other land use regulation; open space areas or trails dedicated under zoning or subdivision conditions or that are used to achieve maximum development potential under zoning; and certain

buffer areas or native growth protection areas required as part of a development, subdivision, zoning or other regulatory requirement.

Properties would receive points in the PBRS based on the following schedule:

Presence of priority open space resources:

High Priority Resources	5 points each
Medium Priority Resources	3 points each
Low Priority Resources	1 point each

Properties could receive a maximum of 30 points from no more than 6 open space priority resources.

Bonus categories:

Up to 12 points in three categories.

Public access:

Unlimited Public Access	5 points
Limited Public Access - Sensitive Area (due to resource sensitivity)	5 points
Limited Public Access	3 points
No Public Access	0 points
Members Only Access	0 points

Conservation/historic/trail easement: 5 points.

A property could achieve a maximum of 52 points under the PBRS.

Super bonus category: Properties with at least one high priority resource, which allow unlimited public access or limited public access - sensitive area (due to resource sensitivity) and which provide a qualifying easement would be automatically eligible for the maximum tax reduction provided in the PBRS.

The reduction in assessed value a property would receive under the PBRS would be based on a current use assessed Valuation Schedule. Properties eligible for the current use assessment program for open space would have the assessed value of their land set at the "current use" value rather than the market value based on highest and best use of the land. This current use value will be expressed as a percentage of market value based on the public benefit rating of the property and the schedule below:

Public Benefit Rating

Current Use Value

0 - 4 points	100% of market value
5 - 10 point	50% of market value
11 - 15 points	40% of market value
16 - 20 points	30% of market value
21 - 34 points	20% of market value
35 - 52 points	10% of market value

As discussed above, to be deemed eligible for open space classification by the granting authority, property must contain one or more open space resources. These resources are divided into high, medium and low priorities, reflecting the priority of the resources in the open space plan. Listed below are the resources which fall into each of these categories. Complete definitions of each resource, sources and eligibility standards are fully described in the report.

High Priority Resources - 5 Points

- A. Active or passive recreation areas.
- B. Property under option for purchase as park, recreation, open space land or CIP mitigation site.
- C. Watersheds.
- D. Shoreline: "Conservancy" environment - in priority areas with public access.
- E. Scenic resources, viewpoints and view corridors.
- F. Surface water quality buffer area.
- G. Rural or low density open space close to urban or growth areas.
- H. Significant plant, wildlife and salmonid habitat area.
- I. Significant Aquatic Ecosystems.
- J. Historic landmarks/Archeological sites: Designated sites.
- K. Trail linkages.
- L. Urban or growth area open space.

Medium Priority Resources - 3 Points

- A. Public lands and right-of-way buffers.
- B. Special native plants sites.
- C. Shoreline: "Natural" environment.
- D. Geological features.
- E. Historic landmarks/Archaeological sites: Eligible sites.
- F. Buffers to designated Historic landmarks/archaeological sites.
- G. Special animal sites.

Low Priority Resources - 1 Point

- A. Buffers to eligible Historic/Archeological sites.

Bonus Categories

Properties qualifying in the specified High, Medium or Low priority category above may receive the indicated number of bonus points if the additional qualifications are met.

- A. Resource restoration. (5 points)
- B. Bonus surface water quality buffer (3 or 5 points)
- C. Contiguous parcels under separate ownership. (2 points)
- D. Conservation/historic easement in perpetuity: (5 points).

Super Bonus Category

Properties with at least one high priority resource AND allow unlimited public access or limited public access (due to resource sensitivity) AND convey a conservation, historic or trail easement in perpetuity in a form and with such conditions as are acceptable to the county. (Current use value of 10% of market value)

Eligibility Changes from the Existing Current Use Assessment Program

King County first approved its current use taxation program for open space in 1974. At that time, the county adopted a definition of land for open space classification that includes only two categories of land which would be eligible:

1. Property that provides active or passive recreational opportunities or other types of uses which complement or substitute for government facilities and which are either open to the public (user fees comparable to those charges by like public facilities may be charged), or which provide recreational or other services to senior citizens, youth, handicapped, or other similar groups, or
2. Property which has been identified as land which the county may, at a future date, want to purchase as park, recreation or other type of open space and which would be subject to the execution of an option agreement stipulating that the owner would sell the property to King County for a specified price which was the fair market value of the property at the time the land was classified as open space.

In 1990 the county added a third category of land:

3. Property which contains streams, wetlands, steep slopes and landslide hazard areas and their associated buffers and flood hazard areas, provided that a sensitive areas setback area is in place and that density credits

have not been awarded for the site. The proposed PBRs incorporates the first two categories as high priority open space resources. The proposed PBRs does not include the third category of land as a priority resource, however, property which is regulated under the Sensitive Areas Ordinance may otherwise qualify for the program if the definition of priority resources is met. The rationale for this deletion is that the property tax appeals process is a more appropriate mechanism to address the fact that the value of land has been affected by the exercise of the county's powers to regulate land use. Further, county council Ordinance 10326 now requires the Assessor to take sensitive area regulations into account for property assessments.

Lands whose values are affected by the county's Sensitive Areas Ordinance or other land use regulations, e.g. lands where the current use value is equal to its real market value because of development restrictions, should have their assessed values set at the appropriate levels, but any adjustment should take place in the appropriate environment.

Substituting a current use assessment program through a PBRs for these types of lands greatly increases the possibility that the value for tax purposes will not reflect the fair market value of the land and that the property owner may receive a tax reduction in excess of that which is fair and equitable. Properties with unique features that meet the priority resource definitions would qualify under the Public Benefit Rating System for additional tax reductions.

As a matter of policy, the report recommends that the county adopt a PBRs which is open only to properties which have development potential or can otherwise be more intensively used under land use regulation, or provide public access, and rely on the property tax appeals process to provide the appropriate remedy for properties which cannot be developed or can be developed to a less intense level than zoning would allow.

Meeting the Provisions of King County Council Motion No. 8331

King County Council Motion No. 8331 requests that the King County Executive, with assistance from King County Council staff and the King County Assessor, develop a proposal for a public benefit rating system. The report and proposed PBRs meet the specific items identified in the Council Motion in the following sections:

1. Develop a PBRs. The report recommends the establishment of a PBRs and details its provisions.

2. Address the types of lands that should be eligible. Section VI. of the report provides a narrative description of the open space resources which should be included in the PBRS.

3. Address whether eligible lands should be mapped or the benefit determined on a site by site basis. The question of verification is discussed in Section VI of the report.

4. Discuss whether a graduated scale or a fixed percentage system is recommended. The assessed valuation schedule is included in Section VI. of the report and the issue of how the value for a property is determined is discussed in several sections of the report.

5. Determine how the overall tax burden will be effected by implementation of a PBRS. The report provides a lengthy discussion of the impact of the program on eligible property owners, other taxpayers and taxing districts, with an emphasis on when and under what circumstances tax shifts will occur. The report does not estimate a dollar value of this potential shift because the PBRS is a voluntary system and no estimate of its effectiveness could be made. There is a discussion of the tax shift impact of the current system.

6. Discuss how other incentives could be tied to the PBRS. This issue is discussed in the implementation and marketing sections of the report.

7. Determine the resources necessary to implement the system. This issue will be addressed in the implementation and marketing sections of the report.

SECTION I. CURRENT USE TAXATION - BACKGROUND AND INTRODUCTION**Historical Background**

A long-standing general principle of property taxation in Washington and most other states is that land will be valued for property tax purposes as if the land were used at its highest and best use.

One of the implications of this system of assessment is that as the value of land rises, the pressure to convert property to its highest and best use increases. Landowners faced with rising property taxes on land may convert from a less intense use to a more intense use. For the public, this conversion process may result in the loss of land previously in agricultural, timber producing or open space uses to residential, commercial or industrial uses and a corresponding loss of the values which the public places on the original uses.

While there are a number of ways in which this conversion from agricultural, timber producing and open space uses may be slowed or stopped, this paper focuses on only one: current use taxation ("CUT"). CUT sets the assessed value of land based on either the land's actual current use or on the basis of some other predetermined use which normally carries a lower value, such as agriculture use of the property.

The principle of highest and best use assessment was long embedded in the Washington State Constitution. Only with the passage of the 53rd Amendment to the Constitution in 1968 did the state have the authority to change this "highest and best use" practice to "current use" assessment for some classes of property. In 1970, the State Legislature adopted RCW 84.34, the Open Space Taxation Act, implementing the authority allowing for the assessment of agricultural, timber and open space land at "current use" values, where current use value was defined as a value no lower than the agricultural value of the land.

In adopting RCW 84.34, the State Legislature provided detailed procedures to be followed by counties in the assessment of agricultural and timber land. At the same time, it allowed counties broad discretion in the current use assessment of open space land, prescribing only the broad purposes of such assessments and leaving the counties with the freedom to define open space and to select the methods of implementing the Act. This discretion to tailor the method of current use assessment for open space land to meet the goals of the county is the basis for this report.

Purposes of this Paper

King County presently uses CUT for timber and agricultural lands and for a limited number of open space purposes. To expand the scope of the allowable open space purposes for CUT and to establish a system of determining the assessed value reduction for open space, the Act allows the county to adopt a "Public Benefit Rating System" (PBRs). Such a system would define which open space lands would be eligible for CUT and a method for calculating the reduction in assessed value the property would be allowed. The purpose of this paper is to review the options available to the County in adopting such a system and to recommend the elements of a PBRs for King County. The focus will include only CUT for open space lands. State law prescribes the procedures for the use of CUT for agricultural and timber land and those provisions, which allow the county little flexibility, will not be covered here except as they also pertain to open space CUT.

The remainder of this Report reviews the statutory framework for current use assessment, the effect of such programs on property taxes, the existing current use assessment program in King County, the county's experience with that program, and a review of the issues and alternatives for adopting a PBRs in King County. The paper recommends the contents and structure of a PBRs for the County.

SECTION II. CURRENT USE TAXATION - A SUMMARY OF THE STATUTORY FRAMEWORK AND EXISTING PROGRAM IN KING COUNTY

The Statutory Framework - Methods of Current Use Assessment

In general, the Open Space Taxation Act provides substantial flexibility in determining the factors which may be used in considering eligibility for open space classification, defining the method of evaluating the land for open space classification and in determining the impact such classification will have on property taxes.

The Act provides that an owner of open space land desiring current use classification and assessment may voluntarily request such classification from the county legislative authority. For purposes of CUT, the Act broadly defines "open space land" and allows the granting authority, in determining whether to approve or disapprove an application for current use classification, to "take cognizance of the benefits to the general welfare of preserving the current use of the property...."

By itself the statutory definition of open space and the factors which may be considered in granting or denying approval provides the authority granting open space classification (the

county legislative body in the case of land in the unincorporated portion of a county and a group composed of three members of the county legislative authority and three members of the city legislative authority in the case of land located within a city) substantial flexibility in determining what lands will be considered as open space which may be eligible for open space classification.

State law further allows the county to choose one of two methods for evaluating a property for open space classification. The first method, which is the method King County has used to date, allows the county to define categories of land which will be granted open space classification and gives the responsibility to the county assessor for determining the assessed value of the land based solely upon its current use, but in no case less than the value which would result if it were to be assessed for agricultural uses. The second method, and the one which is the subject of this review, allows the county to establish a PBRS which would rate each property seeking open space classification to determine eligibility by rating the property against established criteria and set the assessed value based on this same review process.

A county which opts to establish a PBRS must comply with certain provisions of state law. RCW Chapter 84.34.055 establishes the minimum requirements of a PBRS, including requirements that the county legislative authority must approve an open space plan and PBRS. The PBRS must include the criteria for determining eligibility, the process for establishing a PBRS and an assessed valuation schedule. Further, the law requires that unless the county does its own survey of important open space priorities or features, it must use "recognized sources" to determine the eligibility of properties seeking such classification.

The Statutory Framework - Effects on Property Taxes

The property tax impacts of any CUT program effect three separate and distinct groups: first, the owner of land which is classified as open space and is eligible for current use assessment; second, other property owners within the several taxing districts where a property receiving current use assessment is located; and, third, districts levying property taxes with open space lands.

Owners of a property enjoying current use assessment receive tax relief on the land portion of the approved property. That relief comes in the form of a reduction in the assessed value of the land for tax purposes and a commensurate reduction in the annual property tax levy on the property.

This tax relief is not permanent, unconditional and absolute tax forgiveness, however. In fact, CUT is a tax deferral and/or partial tax reduction program, depending on the length of time property continues to be classified as eligible for current use assessment. Under certain conditions, all or a portion of the prior tax reduction, plus interest and a penalty, may have to be paid if the property is removed from current use assessment. The additional tax and penalty due are not imposed if the removal from classification results from one or more of a set of statutorily specified reasons.

As noted, application for CUT for open space is voluntary on the part of the property owner. An owner seeking and receiving such classification remains in the program indefinitely unless one of a number of events occurs. Regardless of the reason for withdrawal, additional taxes and penalty may be due on the land depending on how long the property has been subject to CUT and the circumstances under which the property is removed from the program:

1. If the property has been in the program for 8 years and is voluntarily withdrawn by the owner upon 2 years notice, additional taxes for the past seven years are due.
2. If the property has been in the program for over 10 years and is voluntarily withdrawn by the owner without 2 years notice, additional taxes and a penalty for the past seven years are due.
3. If the property has been in the program less than ten years and the two year notice is not given, the property may not be withdrawn from classification except under those conditions under which the payment of additional taxes and penalty and penalty is not required.

These provisions make this program, first, a tax deferral program for a maximum of seven years and, second, a tax abatement program for only those years in excess of seven years that the property is in the program.

The tax impacts of CUT on other property owners in taxing districts in which the property is located depend on the levy rate for each taxing district an open space parcel is located in and the relationship between the levy rate and any statutory or constitutional limits on such rate. As a general rule, the taxes levied against all other property in the district in which a CUT open space parcel is located will rise so that the total amount of tax collected by a taxing district is the same as it would have been in the absence of any CUT open space land. To this extent, CUT results in a tax shift from open space property owners to all other property owners. This tax shift will always be the case unless the taxing district is at

its statutory or constitutional levy limit. In those cases, the district cannot raise the levy rate to compensate for the loss of revenue on the open space land and the result will be a net reduction in the total tax levy equal to the reduction in taxes on the open space land.

For the taxing districts, the impact of CUT on properties located within their boundaries will depend on the type of levy, the levy rate prior to the consideration of CUT and the relationship between the actual levy rate and any constitutional or statutory levy rate limit for the district. For unlimited special levies, levies for debt service on voter-approved debt or other levies where voter-approval has been secured and the levy is not limited as to rate, the taxing district will experience no loss of revenue. The levy rate will be adjusted upward to compensate for the loss of revenue on CUT land to the extent necessary to make the total levy equal to the levy if there was no CUT land. For voter-approved levies where the approval was for an actual levy rate, the district will experience a loss of revenue equal to the difference between the actual assessed value and the CUT assessed value times the levy rate. For regular levies, the district will experience a levy reduction only if it cannot adjust the levy rate upward to compensate for the loss of revenue due to the reduction in total assessed value from CUT land. In those cases, the district will receive less taxes in total and will presumably make program and/or service reductions to compensate for this revenue loss.

For taxes collected in King County in 1991, a small number of taxing districts were at their statutory limits and, if open space properties were located within their boundaries these districts would experience a revenue loss. Levies or districts at or near their statutory limits for taxes collected in 1991 are the combined King County Conservation Futures and Conservation Futures CIP levy, the Fingerprint Identification System levy, and a small number of Fire Districts: Districts 1 (portions of the unincorporated parts of the Seattle and Renton School Districts), 24 (portions of the unincorporated parts of the Highline, Kent and Renton School Districts), and 38 (portions of the unincorporated part of the Snoqualmie Valley School District) at a levy rate of \$1.00 per \$1,000 of assessed value, and Districts 11 (portions of the unincorporated part of the Seattle, Highline and South Central School Districts) and 13 (all of Vashon Island) at a rate of \$1.50 per \$1,000 of assessed value. Districts at the \$1.00 per \$1,000 can, as a general rule, increase their levy rate up to \$1.50 with the approval of the district's voters.

Open Space Current Use Taxation in King County - The Existing Program

King County first approved its current use taxation program for open space in 1974. At that time, the county adopted a narrow definition of land which would be eligible for open space classification, making only two categories of land eligible. Those categories continue to be eligible:

1. Property that provides active or passive recreational opportunities or other types of uses which complement or substitute for government facilities and which are either open to the public (user fees comparable to those charges by like public facilities may be charged), or which provide recreational or other services to senior citizens, youth, handicapped, or other similar groups, or
2. Property which has been identified as land which the county may, at a future date, want to purchase as park, recreation or other type of open space and which shall be subject to the execution of an option agreement stipulating that the owner will sell the property to King County for a specified price which shall be the fair market value of the property of the property at the time the land is classified as open space.

In 1990 the county added a third category of land eligible for open space classification:

3. Property which contains streams, wetlands, steep slopes and landslide hazard areas and their associated buffers and flood hazard areas, provided that a sensitive areas setback area is in place and that density credits have not been awarded for the site.

The current county program is administered by Building and Land Development (BALD) and the Assessor's Office. BALD receives applications from property owners, processing those applications in the same manner as an amendment to the comprehensive plan, including a review of the documentation provided by the applicant and a site visit. BALD prepares a recommendation on whether the application should be approved and sets a hearing by the Zoning and Subdivision Hearing Examiner. The Hearing Examiner prepares a recommendation on the application to the County Council. If the County Council approves the application, it adopts that approval by ordinance. Following adoption, BALD prepares and records the appropriate documents and provides the Assessor with notification the CUT has been approved. The Assessor establishes the current use assessed value by setting a value for the land at a level no less than the capitalized net cash rental value of the land for agricultural purposes, as prescribed by statute.

Until recently, the county had established an application fee of \$30 which was to accompany the application. Until 1990, this maximum fee was set by the State Department of Revenue in the Washington Administrative Code (WAC). Recent revisions in the WAC allow the county to revise that fee and the new fee has been set at \$1,125. While the fee is high, two observations can be made about it. First, the fee is much closer to the actual cost to the county of processing an application than the previous fee. Second, since the average approved application will receive a first year tax reduction of about \$1,300, the applicant recovers the fee in reduced taxes in about one year. There can be little doubt, however, that the level of the fee does act as a deterrent to potential applicants for the program.

In recognition of the disincentive of high fees to potential applicants to the current use taxation program, the King County Council adopted Ordinance 10177, amending Ordinance 9719, Section 22, to reduce the application fee from \$1,125 to \$150, effective January 2, 1992. The current fee does not cover the overall cost of the application review, including staff resources.

SECTION III. STATUTORY PROVISIONS FOR ADOPTING AND PROCEDURES FOR IMPLEMENTING A PUBLIC BENEFIT RATING SYSTEM

The three classes of property currently eligible for open space classification in King County do not fully utilize all of the categories of open space which would be permitted under the Act and, in fact, narrowly define the universe of properties which are eligible for CUT. For some time, the county has, as a part of its considerations on preserving open space, considered the possibility of expanding the eligibility criteria and changing the method of current use assessment for open space to a PBRs. The 1988 King County Open Space Plan (Ordinance No. 8657) includes a plan and policies which identified opportunities for open space protection in King County. Policy No. OS-111 of the Plan stated the county's policy on CUT:

King County's Current Use Taxation Ordinance should be amended to create a stronger incentive for its use by owners of open space lands. King County should adopt a public benefit rating system, as provided for in RCW 83.34.055 (sic), or employ some other means of facilitating the use of this technique while keeping it focused upon those types of lands that would provide the greatest open space benefits to the residents of King County.

The County Council again expressed its desire to consider modifications to the existing open space current use taxation policy in Motion 8331, passed on July 8, 1991:

The King County Executive...is requested to develop a public benefit rating system proposal...The proposal should address the type of land that should be eligible, whether these lands should be mapped or the benefit determined on a site by site basis, and whether a graduated scale or a fixed percentage system is recommended....

Implementing a Public Benefit Rating System - The Statutory Requirements

Implementation of a PBRs is governed by the provisions of RCW 84.34.055. The statute addresses the issue of how it is determined whether a property does or does not meet the criteria for determining eligibility by requiring that "(i)n adopting an open space plan, recognized sources shall be used unless the county does its own survey of important open space priorities or features, or both...." The legislation provides a non-exclusive list of recognized sources and provides that "(f)eatures and sites may be verified by an outside expert in the field and approved by the appropriate state or local agency to be sent to the county legislative authority for final

approval as open space....". As noted, the statute allows discretion by the county in determining which lands will be eligible for open space current use assessment. It also allows discretion in how the PBRS is designed, stipulating only that recognized sources and/or county surveys and/or outside experts be used to determine eligibility. This leaves the form of the PBRS, its criteria, weightings and the implementation up to the county.

The remainder of this section summarizes certain specific statutory requirements for adopting a PBRS for open space classification.

Statutory Requirements

- 1. Adoption Procedures.** State law provides that a PBRS be adopted as a part of an Open Space Plan. The Open Space Plan is to be adopted following a public hearing and must contain the following minimum contents: the criteria for determining the eligibility of land, a process for establishing a rating system and an assessor-developed valuation schedule that shall be a percentage of market value based on the rating system.
- 2. Contents of a PBRS.** The rating system included in the Open Space Plan must provide for a system of rating parcels of land seeking classification as open space pursuant to the provisions of the Open Space Taxation Act. The county legislative authority must include in the PBRS the criteria contained in the Act and must consider those criteria when acting on an application.
- 3. Effect of the Establishment of a PBRS on Properties Currently Classified as Open Space.** Upon adoption of the Open Space Plan and PBRS, the county must apply the new system to properties already classified as open space and inform the owners of the new assessed value resulting from such this application. A parcel which no longer qualifies for classification will not be removed from classification, but will be rated according to the system. The parcel owner may request withdrawal from classification within 30 days of notification of the new value without the requirement to pay the additional tax and penalty which may apply. This provision means that the approximately 200 parcels currently classified as open space must be subjected to the rating scheme and that some of them may not qualify for a current use assessment. In those cases, the current use assessment will be the same as the market value.
- 4. Application Process for Classification as Open Space With a PBRS.** The application for open space classification under a PBRS continues to be application to the legislative authority. The County is obligated to provide both the application form

and informational materials to potential applicants and to assist prospective applicants.

5. Granting Authority for Open Space Classification. In the event that the PBRS allows the inclusion of land in incorporated areas under open space classification, the implementing ordinance must include a provision requiring that a copy of the application be forwarded to the city legislative authority and include a process for creating a 6 member panel composed of three members from each of the legislative authorities of the county and city in which the open space parcel is located. This panel will be the granting authority for open space classification.

6. Application Fee. Statute allows for the establishment of an application fee which shall be in an amount that reasonably covers the processing cost of the application. The county currently has such fees in place. These fees are \$150 for agricultural land, open space and timber land. The implementing ordinance should contain a provision that requires that the fee will be divided between the county and city in the event all or a portion of the parcel is located in an incorporated area.

7. Conditions of Approval. State law allows the county broad discretion in determining what conditions it will attach to the approval of an application for open space classification. This discretion includes, but is not limited to, the power to approve only a portion of the land for which classification is sought, and to require easements from owners.

8. Agreement Execution. WAC 458-30-240 requires that approved open space classifications must be documented in a written agreement which states all of the conditions attached to the approval. The execution and return of the agreement by the property owner to the county establishes the effective date of classification.

9. Denial. Denial of an application for open space classification is subject to appeal only to the Superior Court, and, since the granting or denial of an application and the requiring of conditions is deemed by the Open Space Taxation Act to be a legislative determination, it is reviewable only for arbitrary and capricious actions.

SECTION IV. THE POLICY FRAMEWORK

The development and implementation of a PBRS ultimately rests on a set of policies which answer a series of questions about the objectives of the current use assessment program and the rating system. This section attempts to highlight those policy issues, through questions about the design of a public benefit rating system and recommended responses to those questions.

Objectives of Open Space Current Use Assessment

The goal of the King County Open Space Program, as stated in the County's Comprehensive Plan is:

"...to protect King County's natural beauty and environmental quality...and to develop and maintain a dynamic open space system for the enjoyment and benefit of all."

The County's adopted Open Space Plan translates this goal into an action program with four objectives. Current use assessment of open space land is one of a number of methods identified in the Open Space plan for meeting those objectives. Current use assessment provides an incentive to a private landowner by reducing the cost to the owner of holding land in open space.

It is important to keep this in perspective: current use assessment is only one of a number of potential methods of providing incentives to retain open space without county acquisition. Its effectiveness will depend the amount of relief it provides to landowners, the amount of pressure the landowner faces to convert the land to other uses and whether the program can be combined with other incentives for the protection of open space. The experiences of King County and other counties seem to indicate that by itself current use assessment for open space is not particularly effective in protecting open space over the long term, so a significant issue in the design of any PBRS will be the extent to which it can either require or complement other programs with the same basic goals of the current use assessment program.

An open space assessment program tries to meet these goals by providing a property owner with a method of either deferring or abating a portion of the property taxes which would be due on a property. In King County the existing program has been used for one other goal: to provide some tax relief to property owners whose property cannot be developed because of land use regulations imposed by the county. The county has achieved the retention of these properties in their existing state through the exercise of its powers to regulate land use. In a more perfect world, the fair market assessed value of properties whose development is limited through governmental regulation

would reflect the fact that either the property cannot be developed at all beyond its current use or that the maximum development allowable is substantially less than the maximum which would be allowed under the applicable zoning. The county's action in including certain lands covered by the Sensitive Areas Ordinance in the group of properties eligible for current use assessment acknowledges either that the assessment process has not fairly reflected the possible uses of the land, or that the county has determined that owners should receive a tax reduction in excess of that available if the assessment were appropriate. In either event, the inclusion of such land raises a major policy issue:

Question 1: Should current use assessment for open space only be available to properties which can be developed beyond their open space or current use?

Response 1: If the county adopts a policy making properties which cannot be developed or otherwise more intensively used eligible for current use assessment, it faces a dilemma: if the market value assessment already reflects the fact that the property cannot be developed, then the property owner will receive a tax reduction larger than is fair and equitable to other tax payers; or, on the other hand, the fair market assessment level does not reflect the fact that development cannot be undertaken, and the appropriate remedy would be to revise the fair market (current use) assessment value rather than provide an artificial reduction through the current use assessment program. Complicating the issue is the fact that if the property is not eligible for the current use assessment program and the market value does not reflect the undevelopable nature of the land, then the property owner would have no tax reductions except through the assessment appeals process.

The state property tax system does provide a system of appeals for property owners who believe the assessed value of property is not consistent with its development or use potential. Substituting a current use assessment program through a PBRS greatly increases the possibility that the value for tax purposes will not reflect the fair market value of the land and that the property owner may receive a tax reduction in excess of that which is fair and equitable.

As a matter of policy, the county should adopt a current use assessment program which is open only to properties which have additional development or use potential under land use regulation or provide approved public access, and rely on the property tax appeals process to provide the appropriate remedy for properties which cannot be

developed or can be developed to a less intense level than zoning would allow.

As currently operating, the open space current use assessment program restricts the properties which are eligible for current use assessment by limiting the program to three land categories: certain recreation land; land which the County has identified for purchase; or certain property containing streams, wetlands, steep slopes and landslide areas. These categories are restrictive and raise a policy issue:

Question 2: For land not falling within the recreation land or Sensitive Areas Ordinance categories, is a standard prescribing that land must be of "purchase" quality too restrictive?

Response 2: If the county views a current use assessment program as one tool for providing an incentive to retain open space (rather than as a monetary benefit to owners whose development rights have been reduced), then the "purchase quality" condition is too restrictive. It implies that the only open space land which the county would like to retain as open space is that which the county would like to purchase. This does not appear to be the case. The county's policy should be that the determination of eligibility for current use assessment should be determined based on the land's qualities as open space rather than the possibility of county ownership.

The Extent of Coverage

Under state law, the establishment and implementation of current use assessment policies for open space throughout the entire county is the responsibility of the county legislative authority. While final approval of incorporated land for current use assessment is made by a panel with both city and county members, basic eligibility is determined through application of a county ordinance.

This distinction is important because state law relating to the establishment of a PBRs allows the county the flexibility to make all properties within the county eligible for consideration for open space classification. In the design of a system for King County, the county must answer the question:

Question 3: Will all property in the county be at least theoretically eligible for open space classification?

Response 3: Given the county's overall goal of retaining desirable open space land, geographic limits should not be included as a part of the program.

Question 4: Must the determination of eligibility be tied to an adopted open space plan?

Response 4: While adopted open space plans will generally identify those parcels which are highly desirable as open space, they also tend to focus on land ultimately destined for acquisition. As noted, there are certainly parcels which a local jurisdiction would find highly desirable as open space but which they would not want to own. The county's open space current use assessment program should not restrict eligibility to only those parcels identified as open space in adopted open space plans.

Eligibility Criteria (Parcel Size)

Regardless of the extent of coverage of the county's PBRs, it will have to address how the eligibility of parcels for current use assessment will be determined. Such determination ultimately goes to the characteristics of the property itself. The first question raised in determining eligibility is parcel size:

Question 5: Will eligibility be limited to parcels which meet minimum or maximum size requirements or both?

Response 5: For ease of administration and to recognize that open space policies should benefit large numbers of the general public, the county should adopt minimum size restrictions for eligibility for most categories. These minimum sizes should vary depending on the location of the land and on the open space resources the property contains. Certain categories, including historic resources, scenic viewpoints, trail linkages and contiguous lands that contribute to a larger qualifying open space, will have no minimum size requirements. The value of open space associated with historic properties is dependent on the resource and the nature of the surrounding area, and will be subject to the determination of qualified professionals on county staff. Trail linkages necessary for the completion of a trail are also not based on acreage, since even a short link is important to preserve a trail corridor. Scenic viewpoints may also be rather small in size but provide a public benefit of great importance through provision of an important visual access point. Small, natural properties in urban areas that are contiguous to and contribute to larger natural open spaces of greater than one half acre in size should also not be restricted to a minimum size, but will be subject to a site inspection and other requirements of that category as part of the application. With respect to categories without minimum acreage requirements, parcels will only be considered to the extent that a use is

restricted (cutting of trees, for example), public access is allowed or the property could otherwise be further developed.

Eligibility Criteria (Open Space Resources)

Clearly the most important characteristics of the parcel in determining eligibility for open space current use assessment will be its open space resources. These characteristics should perform the role not only of threshold determination of eligibility but also, depending on the evaluation and weighting system adopted, the level of tax relief received by the property owner:

Question 6: What open space resources must a property possess in order to be eligible for current use assessment?

Response 6: This question will be answered later.

Question 7: To what extent should multiple characteristics of property be recognized and provided with additional reductions in assessed value?

Response 7: The PBRS should incorporate methods which provide greater relief for properties which have multiple open space benefits and recognize the "quality" of any particular open space characteristic. The system should not require that a property have more than one characteristic to qualify, but it should provide a larger incentive for properties which have more than one characteristic.

Question 8: Will the quality of the resource play a role in determining either eligibility or the extent of tax relief, or both?

Response 8: The quality of the resource should play a role in determining the extent of the tax reduction but not the basic eligibility of the property.

Question 9: How will the determination be made as to whether the property has an open space resource? What sources will be used to determine whether a property has the resource?

Response 9: For ease of administration, to be in compliance with state law and to provide prospective applicants with some guidance on predetermining eligibility, the system should, to the greatest extent possible, rely on existing sources to determine whether property contains an open space characteristic.

Eligibility Criteria (Public Access and Use)

Part of the goal of the county's Open Space Plan is to develop an open space system which can be of benefit to and enjoyed by all.

Question 10: What consideration will be given to the level of public access to and use of the open space in determining eligibility and the extent of tax relief?

Response 10: The PBRS should take cognizance of possible public access and use of open space properties by providing additional tax incentives to owners who allow appropriate access and use. The level of access and use should be appropriate to the type of open space properties which the land contains and the owner should be benefited to the extent that the highest appropriate level of access and use are allowed.

Eligibility Criteria (Other Considerations)

Question 11: Are there other considerations the county should make in determining the eligibility of the property for current use assessment?

Response 11: The basic criteria for determining both the eligibility of the property and the level of relief provided should be the characteristics of the property and its desirability as open space land. At the same time the system should consider the permanence of the withdrawal from development, the limits on any development which may occur and the willingness of the owner to consider possible future ownership. Prospective public ownership for open space use should not in and of itself be a requirement.

As noted above, one objective of any current use assessment program should be to preserve open space land for substantial periods of time. While there are penalties under current law for the withdrawal of property, arguments can be made that those penalties are not substantial given the potential capital gains a property owner can realize from development and, in fact, the penalties may amount to little more than a low interest loan to property owners to reduce their current holding costs until they decide to either sell or develop the property. One way to provide greater guarantees to the public that the land will be preserved in perpetuity in open space is to either require easements or to provide the maximum reduction in assessed value to those owners who provide easements.

Question 12: Should easements be required as a threshold requirement for eligibility for the program?

Response 12: If the objective of the open space current use assessment program is to attract as many desirable properties into the program as possible, then a requirement that easements be conveyed will be a substantial disincentive for owners to join the program and will reduce the number of properties applying. If the objective is to provide open space in perpetuity, then a requirement for permanent easements is one of the few ways short of public ownership that will provide some certainty of permanence. For purposes of this program, easements on development should not be required. Governments seeking open space in perpetuity should seek some way to acquire ownership of the property or the development rights. At the same time, the voluntary granting of an easement should carry additional benefits to the property owner.

Question 13: If easements are not required as a threshold criteria for eligibility, should the conveyance of an easement by the owner automatically carry a greater percentage reduction in assessed value than property without an easement?

Response 13: The conveyance of an easement should provide greater benefits to the property owner.

Form of a Public Benefit Rating System (Weighting)

The determination of what property characteristics must be present for it to be deemed a property eligible for open space current use assessment resolves a part of the question of designing a PBRs. The other parts of the question are:

Question 14: In rating individual properties for inclusion in a current use assessment system, what ratings or rankings will be given to each of the criteria? Will certain criteria be threshold requirements only which must be present to establish eligibility?

Response 14: These issues will be addressed later.

Question 15: How will the ratings or rankings be established and how will the relative weights of the criteria be determined?

Response 15: See Response 14 above.

Question 16: What role will the rankings or ratings play in the determination of the level of current use assessment?

Response 16: See Response 14 above.

Establishment of Current Use Assessment Levels

The process of reviewing a property for open space current use assessment entails two separate steps. The first step is the evaluation of the property against an established set of standards to determine a property's basic eligibility and, if the property is eligible, the value or relative ranking of the property to the open space system of the county.

Question 17: What point scale will be used to rank properties for inclusion in CUT?

Response 17: See Response 14 above.

The second step is the translation of this evaluation into a current use assessment and corresponding determination of the reduction in property taxes which the property owner will realize from inclusion in the program.

Question 18: What process will be used to determine the current use assessment of a property?

Response 18: See Response 14 above.

**SECTION V. ESTABLISHING THE CURRENT USE ASSESSED VALUATION -
THE PUBLIC BENEFIT RATING SYSTEM**

The existing open space CUT program in King County fails to meet the goals of the county as expressed in the King County Open Space Plan. The severe restrictions on eligibility leave owners of desirable open space property with no program which provides them with incentives to leave their property as open space. The existing system of assessment is a complicated system which, while it does provide substantial tax breaks, leaves the property owner with almost no prior indication at the beginning of the process of the extent of the reduction which will be allowed. Finally, the design of the existing program means that the county's goals of preserving open space land is not being met.

For these reasons, the establishment of a PBRs in King County which makes major revisions to existing open space policies is recommended. The new PBRs should allow substantially more land to be eligible to enter the system, will provide property owners with a way to evaluate their tax savings before the time consuming application process, and will be a system which should be much easier to administer.

This report recommends the adoption of a PBRs which would establish the current use assessed valuation of a property classified as open space by applying the following rating system to the characteristics of the property. Current use assessed value would be determined by the King County Assessor by applying the percentages derived from the application of the PBRs to the highest and best use value of the property.

A Recommended Public Benefit Rating System For King County

1. Open Space Resources. Each property applying for open space classification shall be evaluated for the presence of each open space resource on the county's listing of high, medium and low open space resource priorities. Those resources and eligibility to receive credit are defined in the next section of this report. For each high priority resource of the property, the property shall be awarded 5 points; for each medium resource, 3 points and for each low priority, 1 point.

Policy Issue: If the county has a relative ranking scale of open space resources, e.g. there are some resources which the county considers more desirable than others, then the county must establish a policy on the relative merits of various open space parcels. For two separate properties which bring only one resource to the classification, there is probably no disagreement that the higher priority resource should receive, as a general

principle, a greater benefit, as it brings a more valued resource into the system. A more difficult question arises for parcels which bring more than one resource into the system or when a parcel brings several medium or low resources to the system. Should such a parcel receive credit for each resource or for a limited number of them? There are two basic options open to the county. It can consider all of the resources which a property brings to the open space classification, allowing for the possibility of a property with numerous medium or low priority resources to receive a higher score than a property with one or two high priority resources. Or it can limit the total number of resources which will be considered to some number and rate the property only on the highest ranking of those resources. As a matter of policy, it is not unreasonable to consider more than one resource. A parcel which brings several low or medium priority resources will probably be considered more valuable open space than a parcel which brings only a single low or medium resource. If the county PBRS has a limited number of possible tax reductions which can take place, then at a minimum the county should allow a parcel with multiple resources to move to at least the next higher reduction category. While there is no single formula which will satisfy every possible combination of resources a property may possess, it is reasonable to limit the total number which will be considered. This paper recommends that no more than six resources be considered.

Based on this policy, a property may receive a maximum of 30 points (six high priority resources at 5 points each).

In addition to the open space resource categories, a property or properties may obtain points from three "Bonus Point" categories by complying with requirements beyond those necessary to receive points in a high, medium or low category. Up to 12 additional points can be awarded.

2. Open Space Resource Verification. Pursuant to state law, the presence or occurrence of an eligible open space resource must be verified by referral to a specified source in the open space resource listing or by reference to a mapping the county or other recognized authority has prepared which identify those lands which contain open space resources or the existence of the resource may be verified by an expert in the particular resource being reviewed.

Policy Issue: Does the county want to identify a single source for each resource or will the county map the existence of each resource on a county-wide basis? Given

the diversity of currently available sources and the lack of mapping for each possible resource, the county should adopt a general policy of using the best available source, supplemented by the ability of the property owner to verify a resource through a recognized expert.

Rule of Reason: For each priority resource, the county will determine the appropriate land area that receives credit for a particular priority resource and accompanying tax reduction. Where the total property is of much larger scale than a given feature, a segregation for awarding of credit may be required. This action does not require a formal tax lot split.

3. Public Access. Access to the county's open space lands by the general public should be encouraged for all lands unless it is determined that such access would damage or endanger the resource. Property owners who allow access to the property should be afforded consideration in the level of tax reduction they receive, depending on the level of access allowed and the conditions under which access is permitted.

Policy Issue: To what extent should access be afforded consideration in the tax determination process and how many levels of consideration should be incorporated into the PBRS? At the simplest level, the county could award consideration on the basis of any level of access or no access, e.g. property owners receive consideration if they allow any level of access and no consideration if they do not. At the most complicated level, an owner would receive consideration based on a scale which had numerous levels of access and numerous conditions of access. The more complicated the access system, the more difficult will be the enforcement of access and the ongoing monitoring of the property for compliance. For these reasons, the recommendation is that only three levels of access be considered: unlimited public access, limited public access and no public access. These levels are defined below, along with the treatment of a couple of special cases.

Properties shall be awarded additional points to the extent that such public access is available to the open space site, to a maximum of 5 points. The applicant shall specify the type of access which will be available in the application. Access points shall be awarded on the following scale:

- a. Unlimited Public Access (5 points): Year-round access to the general public is allowed without special arrangements with the property owner.

b. Limited Public Access - Sensitive Area (due to resource sensitivity) (5 points): Access may be reasonably limited due to the sensitive nature of the resource, with access provided only to appropriate user groups. The access allowed must generally be for an educational, scientific or research purpose and available through special arrangements with the owner.

c. Limited Public Access (3 points):

(1) Access to the public is allowed, with or without special arrangements with the property owner, for any period of less than the full year.

(2) Access is available to any and all of the general public during any period of the year upon special arrangements with the owner or upon the payment of a use fee which may not exceed twice the cost for members of the organization utilizing the facility.

d. No Public Access (0 points):

(1) No public access is allowed.

(2) Members Only Access: Access is restricted at all times to members of the organization utilizing the facility.

e. Signage: For properties allowing public access and receiving access points under a. through c.(2) above, the county shall have the right to furnish and maintain, at its own expense, signage which designates the property as part of the Open Space Taxation Program and stating the conditions of access.

j. Accessibility. For properties allowing access and being considered for receiving access points under a. through d.(2) above, no points will be allowed if the property is not reasonably accessible. The property owner may, at their own expense and without any deduction in the number of access points awarded, limit access to the property to a reasonable number of points through the use of fences, berms or other access barriers. Such physical barriers must be approved by the appropriate agency in advance, so as not to defeat the purpose of a resource category - for instance restricting wildlife in a wildlife corridor or construction of a visually incompatible

fence near an historic resource.

k. Limitations on Access and Use. Reasonable limitations on access and use of properties may be imposed without a deduction in the number of access points a property receives. For example, prohibiting access before a reasonable time in the morning and after a reasonable time in the evening, prohibiting the use of any motorized or wheeled vehicles (except those required by disabled persons), prohibiting the use of the property for any kind of social gathering, prohibiting the consumption of any alcoholic beverages on the property, prohibiting the use of the property for picnics, etc. are all examples of reasonable limitations on the use of the property by the public which will not result a the reduction of points received by the property in the public access category. All such restrictions must be included in such documents or easements which establish the property as eligible for current use taxation.

4. Conservation and Historic Easements (5 points). The granting of a conservation or historic easement permanently protecting the resources of an otherwise eligible property provides the public with additional value in the form of greater permanence of the resource. NOTE: Properties with at least one high priority resource and which provide a qualifying easement shall be automatically eligible for the maximum tax reduction provided in the PBRS. Conservation easements eligible under the proposed PBRS must meet minimum standards to be developed when the program is implemented. Jurisdictions will not be precluded from requiring additional conservation easement provisions that are more restrictive than the provisions required under the PBRS program.

Policy Issue: To the extent that the granting of an easement does provide additional benefits to the public, to what extent should the granting of such an easement afford additional consideration for classification in the program?

An owner of property seeking open space classification may receive an additional 5 points if the owner conveys to the County or to an entity acceptable to the County such as the State of Washington, a municipality in which the property is located, or a qualifying conservation organization; a conservation or historic easement in a form and with such conditions as are acceptable to the county.

Policy Issue: Should the granting of an easement be a condition of eligibility?

The open space current use assessment program is a voluntary program, both in terms of entering the system as well as leaving the system after certain specified periods. The objective of the program is to provide owners with an incentive for entering the program and remaining in it. To the extent that an easement requirement would act as a significant disincentive to the owner and probably severely limit the number of participants, the requirement for an easement is not recommended

5. Ineligible Lands. The following properties shall not be eligible for open space classification:

a. Properties which do not contain an open space resource identified as either high, medium or low.

b. Open space areas required by zoning or other land use regulation. These include open space areas dedicated under zoning or subdivision conditions or which are used to achieve maximum development potential under zoning, unless public access is provided or the property is not restricted by a native growth protection covenant.

c. Buffer areas required as part of a development, subdivision, zoning or other regulatory requirement are not eligible as a surface water quality buffer area priority resource, unless access is provided or other restrictions beyond those required by regulation are imposed.

6. Participation Period. The owner of a property seeking open space classification must agree to maintain the property in the classification for a minimum period of ten years and to provide no less than two years notice of withdrawal.

7. Other Conditions. Pursuant to state law, the county's acceptance of properties into the open space assessment classification may be based on certain conditions being met, including the granting of easements. As a part of the determination of acceptance of an application, the granting authority will specify such additional conditions as may be required. At a minimum, the conditions of acceptance will include limits on the number, types and locations of structures which may be built on the property; the level of access to the property (consistent with any access points received by the property); the allowance of subdivisions; etc.

8. Management of the Open Space Resource. Management of the open space resource by the property owner shall be a

condition for acceptance into and continuation in the tax reduction program. The property owner must agree to maintain the open space resource(s) for which the tax deferral was allowed in the same or better condition than at the time the deferral was granted. Any practices engaged in by the property owner which reduce the open space value will be prohibited, e.g. the cutting of trees, clearing of brush, etc, unless such practices are required for public safety and the county, as a condition of acceptance into the program, should require that the owner restore any property whose open space resources are degraded except as a result of natural causes (flood, storm, etc.). The tax deferral is granted to a property owner who agrees to maintain the eligible property and to the extent the owner will not agree to this condition, current use classification will not be granted. The Assessor has the power to remove from current use classification any property in the event it does not meet the criteria under which deferral was originally granted.

9. Monitoring For Compliance. The county may, on the same notice required for assessment purposes, monitor the property to determine the continuing compliance with the conditions under which open space classification was granted and the current uses of the property. Failure of the owner to meet the conditions of the approval or to maintain the uses of the property which were the basis for the original approval shall be grounds for the county to re-evaluate the property under the PBRs. If the re-evaluation shows the property is no longer eligible or that the overall rating would result in a current use assessment at a higher percentage of market value than was originally approved, the county shall take action to remove the current use classification and to determine the amount of deferred taxes, interest and penalty which the owner owes. The owner of a property which continues to be eligible may re-apply for classification and will be considered for eligibility as if no removal had occurred.

10. Contiguous Parcels. Contiguous parcels of land with the same open space resources, regardless of whether under the same ownership or not, shall be eligible for treatment as a single parcel if open space classification is sought under the same application. "Contiguous parcels" are defined as parcels abutting each other without any significant natural or manmade barrier separating them, or parcels abutting a publicly owned open space but not necessarily abutting each other without any significant natural or manmade barriers separating the publicly owned open space and the parcels seeking open space classification or each other in the event that they do abut. Such treatment shall include the requirement to pay

only a single application fee, the requirement that the total area of all parcels combined must equal or exceed any required minimum (rather than each parcel being required to meet such minimums). Parcels accepted into open space classification under this contiguous parcels provision must all be accepted under identical terms and conditions of access, easements, and restrictions. Individual parcels may be withdrawn from open space classification consistent with all applicable rules and regulations without affecting the continued eligibility of all other parcels accepted under the same application, provided that the combined area of the parcels remaining in open space classification must equal or exceed any minimum size requirement established in the public benefit rating system and that access to the remaining parcels is not affected. To provide an incentive for property owners to combine contiguous parcels to form larger areas eligible for open space classification, a bonus of 2 points shall be awarded in the PBRS to any application of contiguous parcels which meets the following conditions:

- a. The application must include two or more parcels under different ownership.
- b. The parcels included in the application must have the same open space resources.
- c. The owners of parcels included in the application must agree to identical terms and conditions for inclusion in the program.

11. Summary of Open Space Public Benefit Rating System.

a. Open Space Resource Priorities

	<u>Maximum Points</u>
High Priority	5 points each
Medium Priority	3 points each
Low Priority	1 point each
 Resource Priorities	 30 points from no more than 6 resources

- b. Bonus Categories
- Up to 12 points in three categories

c. Public Access

Unlimited Public Access	5 points
Limited Public Access - Sensitive Area (due to resource sensitivity)	5 points
Limited Public Access	3 points
No Public Access	0 points
Members Only Access	0 points

d. Conservation/Historic Easement 5 points

SUPER BONUS CATEGORY: Properties with at least one high priority resource, which allow unlimited public access or limited public access - sensitive area (due to resource sensitivity) and which provide a qualifying easement shall be automatically eligible for the maximum tax reduction provided in the PBRS.

Public Benefit Rating TOTAL: 52 maximum points

12. Current Use Assessed Valuation Schedule. Properties accepted for enrollment in the current use assessment program for open space will have the assessed value of their land set at the "current use" value rather than the market value based on highest and best use of the land. This current use value will be expressed as a percentage of market value based on the public benefit rating of the property and the schedule below:

Public Benefit Rating	Current Use Value
0 - 4 points	100% of market value
5 - 10 point	50% of market value
11 - 15 points	40% of market value
16 - 20 points	30% of market value
21 - 34 points	20% of market value
35 - 52 points	10% of market value

Buildings and other improvements to the land shall continue to be assessed at market value.

SUPER BONUS CATEGORY

Properties with at least one high priority resource AND allow unlimited public access or limited public access - sensitive area (due to resource sensitivity) AND convey a conservation or historic easement in perpetuity in a form and with such conditions as are acceptable to the County.

Current use value of 10% of market value.

SECTION VI. RECOMMENDED KING COUNTY PUBLIC BENEFIT RATING SYSTEM OPEN SPACE RESOURCES

To be deemed eligible for open space classification by the granting authority, property must contain one or more open space resources. These resources are divided into high, medium and low priorities, reflecting the priority of the resources in the open space plan. Properties with resources in the "High Priority" category will receive 5 points for each verifiable resource, "Medium Priority" resources 3 points and "Low Priority" 1 point in the county's Public Benefit Rating System. Properties may receive points in up to six separate categories. In addition, properties may receive points from four "Bonus Categories."

List of High, Medium and Low Priority Resources

(Note: listings within each priority resource do not imply rank or importance - all are of equal point value within the overall category.)

High Priority Resources - 5 Points

- A. Active or passive recreation areas.
- B. Property under option for purchase as park, recreation, open space land or CIP mitigation site.
- C. Watersheds.
- D. Shoreline: "Conservancy" environment.
- E. Scenic resources, viewpoints and view corridors.
- F. Surface water quality buffer area.
- G. Rural or low density open space close to urban or growth areas.
- H. Significant plant, wildlife and salmonid habitat area.
- I. Significant Aquatic Ecosystems.
- J. Historic landmarks/Archeological sites: Designated sites.
- K. Trail linkages.
- L. Urban or growth area open space.

Medium Priority Resources - 3 Points

- A. Public lands and right-of-way buffers.
- B. Special native plants sites.
- C. Shoreline: "Natural" environment.
- D. Geological features.
- E. Historic landmarks/Archaeological sites: Eligible sites.
- F. Buffers to designated Historic landmarks/Archaeological sites.
- G. Special animal sites.

Low Priority Resources - 1 Point

A. Buffers to Eligible Historic landmarks/Archeological sites.

Bonus Categories

Properties qualifying in the specified High, Medium or Low priority category above may receive the indicated number of bonus points if the additional qualifications are met.

- A. Resource restoration. (5 points)
- B. Bonus surface water quality buffer (3 or 5 points)
- C. Contiguous parcels under separate ownership. (2 points)
- D. Conservation/historic easement: (5 points).

Public Access Bonus Points:

Unlimited Public Access	5 points
Limited Public Access - Sensitive Area (due to resource sensitivity)	5 points
Limited Public Access	3 points
No Public Access	0 points
Members Only Access	0 points

Note: Public Access bonus points are granted to categories that require public access.

Super bonus category: Properties with at least one high priority resource, AND which allow unlimited public access or limited public access - sensitive area (due to resource sensitivity) AND which provide a qualifying conservation, historic or trail easement in perpetuity would be automatically eligible for the maximum tax reduction provided in the PBRs.

Descriptions of Priority Resources - Definitions, Sources of Data for Location of Lands, and Eligibility Criteria

High Priority Resources - 5 Points

A. Active or passive recreation areas.

Definition: Property which is currently devoted to providing active or passive non-motorized recreation use or which complements or substitutes for government facilities. The facility must be open to the public, charging a use fee no higher than the fee charged by a like public facility, or the facility must provide recreation or other services to youth, senior citizens, the handicapped or similar group.

Possible Sources: Determination by King County Parks Division or by appropriate parks departments of incorporated cities or towns.

Eligibility: Eligible sites are those identified by appropriate parks departments as meeting the definition of active or passive recreation areas.

Examples:

- a) Ballfields on private property that are open to the public.
- b) Equestrian, pedestrian or bicycle trail loop system contained within a property, as opposed to a linkage of a single trail across a property (this is covered under the "trail linkages" medium priority resource).
- c) Off-road bicycle trail system contained within a property, as opposed to a linkage of a single trail across a property (see "trail linkages" medium priority resource).
- d) Golf course open to public with fees not exceeding local public golf courses.
- e) A community garden in Seattle.
- f) An arboretum with public access.

Ineligible: Trail linkage properties: These are covered under a separate category.
"Miniature golf" facilities.
Recreational vehicle park portions of sites and related improvements to the land.

B. Property under option for purchase as future park, recreation, open space land or Capital Improvement Project mitigation site.

Definition: Property which has been identified as land which the state, county, any city or town within the county, school district, other municipal corporation or other qualified not-for-profit land conservation organization may, at a future date, want to purchase as park, recreation, or other open space land, or land to be purchased as a mitigation site for a Capital Improvement Project (CIP). Eligibility for this classification shall be subject to the securing and recording of an option between the owner and the local jurisdiction stipulating that the owner will sell to the local jurisdiction for a specified price which shall be no greater than the fair market value at the time the land is classified as open space. Eligible CIP mitigation sites would include parcels that have high stream or wetland restoration potential that a government agency has identified for constructing a stream or wetland mitigation project for the unavoidable impacts of construction of capital improvements such as roads or regional retention/detention ponds.

Possible Sources: Recorded options between the owner and the appropriate local jurisdiction.

Eligibility: Eligible sites include only those a recorded option between the local jurisdiction and the landowner and an ordinance by the local jurisdiction approving securral of the option filed with the current use taxation application to the county and where the primary use of the property will be for park, recreation, open space or a CIP mitigation site. Such an option must be recorded with the County Records and Elections Division within four months of the granting of a tax reduction for the property.

The statement of intention to acquire a property from the local jurisdiction must also state that the property under option contains less than 15% non-permeable surfaces, with the exception of trail corridors. Penalties for withdrawing from the program under this resource will be excused when the option is exercised or expires. If a local jurisdiction fails to exercise or extend an option, the property owner will not be subject to a penalty and may reapply to the program to determine if the property is otherwise eligible.

If an option is extended, the tax benefit is automatically extended for the period of the option; the PBRS coordinator and the Assessor must be notified of any

option extension by the property owner, through provision of a copy of the extended option.

Examples:

- a) Site of future active or passive recreation park.
- b) Other open space to be purchased by public agency.
- c) Trail corridor to be purchased in fee (not a partial fee easement) by a public agency.

Ineligible:

- a) Land designated for future use as school playgrounds
- b) Site that would be intensively developed, including future physical improvements/structures over greater than 15% of the site.

C. Watersheds/Groundwater Recharge Areas.

Definition: Watershed: Undeveloped land which serves as the watershed for a "public water system" as defined under state law.

Possible Sources: Watershed: Washington State Department of Health.

Definition: Groundwater Recharge Area: meeting the definition of or located within a mapped Moderate or High Recharge Potential area within a Ground Water Management Area defined by the Seattle-King County Department of Health Environmental Health Division.

Possible Sources: Groundwater Recharge Area; Seattle-King County Department of Health, Environmental Health Division.

Eligibility: Eligible sites are those meeting the above definition and in addition, due to the sensitive nature and function of the land, access and certain uses may be restricted or prohibited and native growth restrictions are required.

Examples:

- A) **Watershed:** Properties within public water systems defined under state law.
- B) **Groundwater Recharge Areas:** Property within the boundaries of a Moderate or High Recharge Potential area or meet the definition of a Moderate or High Recharge Potential Area, as designated by the Seattle-King County Department of Health, Environmental Health Division.

D. Shoreline: "Conservancy" environment

Definition: Marine, lake and riverine shoreline and associated wetlands identified as "conservancy environment" in an adopted Shoreline Master Plan. Conservancy shoreline areas are intended to preserve their existing character. Credit for this resource cannot overlap with the "Natural" shoreline environment or surface water quality buffer area priority resource.

Possible Sources: Shoreline Master Plan.

Eligibility: Eligible sites must be identified as "conservancy shoreline environment" in an adopted Shoreline Master Plan and must meet the following additional conditions: The property must not be in another shoreline category of the PBRs. The area to be considered eligible is a maximum of 200 feet upland from the ordinary high water mark, within the 100-year flood plain or the edge of the associated wetland, whichever is greater.

Examples:

- a. Natural shoreline property on Lake Sammamish near Lake Sammamish State Park.
- b. Forested property on Vashon Island along Puget Sound.
- c. Undeveloped Shoreline Property on Lake Francis near Maple Valley.

Ineligible: Property not within a conservancy shoreline zone in an adopted shoreline management plan, such as a shorefront residential property with a lawn or other non-native vegetation along the shore.

E. Scenic natural resources, viewpoints and view corridors.

Definition:

- (a) Scenic Natural Resource: An area of 10 or more acres of natural features which is visually significant to the aesthetic character of the county; or,
- (b) Viewpoint: Property that provides a view of an area which is visually significant to the aesthetic character of the county and which provides unlimited public access identified by a permanent sign readily visible from a road or other public right-of-way; or,
- (c) View Corridor: an area of adjoining parcels which individually may be less than 1 acre but which, when combined, total at least 1 acre and create a view corridor critical to maintaining a view of a scenic resource area

or other visually significant area. A property qualifying under this category that contains more than one of the above definitions may only receive a maximum of five points from this category.

Visually significant scenic natural resources include, but are not limited to, Puget Sound, Lake Washington, Lake Sammamish, the Issaquah Alps and the Cascade Mountains. Viewpoints and view corridors must have views of scenic natural resources that are visually significant in King County or other visually significant areas, including but not limited to Mt. Rainier, the Cascade range or the Olympic Mountains.

Possible Sources: No current inventory available. Eligibility is subject to County Council determination on a case-by-case basis.

Eligibility:

- a) **Scenic Natural Resource:** Eligible sites must be significant to the identity of the local area and be visible to significant number of the general public from public rights-of-way. Such lands must be of sufficient size to substantially preserve the scenic resource value and must be at least 10 acres in size.
- b) **Viewpoint:** Eligible site must provide a view of a scenic natural resource in King County or other visually significant areas and provide for unlimited public access.
- c) **View Corridor:** Eligible sites must be at least one acre in size or, in combination, one acre in size, and provide views of areas significant to the local area.

Examples:

- a) **Viewpoint:** A roadside property with a view of Puget Sound and the Olympic mountains.
- b) **Viewpoint:** A property located along a road or trail on Cougar Mountain that provides a view of the Cascade range and Lake Sammamish
- c) **View Corridor:** A property located at the base of Mount Si that allows a view of the Mountain from Three Forks County Park or an adjacent road.
- d) **View Corridor:** A property in Seattle that allows a view of Lake Washington and the Cascade Mountains from a park or other viewpoint.
- e) **Scenic Natural Resource:** Mature forest lands greater than 10 acres in size within view of Interstate 90 in the Mountains to Sound Greenway.

- f) Scenic Natural Resource: Undeveloped, forested land greater than 10 acres in size along the valley of a major river such as the Cedar River.
- g) Scenic Natural Resource: Undeveloped, forested bluff greater than 10 acres in size overlooking Puget Sound.

Ineligible:

Viewpoints: Residential or other properties without a permanent, readily seen sign indicating public access.

View Corridor: Property where natural growth or allowable structures will not significantly impede the view from an identified viewpoint to an identified scenic resource

Scenic Resources: Buildings or structures, golf courses, commercial nurseries.

F. Surface water quality buffer area.

Definition: An undisturbed zone of native growth vegetation adjacent to a lake, pond, stream, wetland or marine waters of a sufficient width, but no less than 25 feet, that will benefit a surface water body by protecting water quality and reducing erosion. To be considered a surface water quality buffer area, the property owner must provide livestock restrictions (fencing), if necessary, or be subject to a Conservation Plan approved by the Conservation District. **NOTE:** Eligibility requires property use and access restrictions beyond those specified in the Sensitive Areas Ordinance or other surface water protection regulations. Buffers may exceed regulated buffers.

Possible Sources: Catalogue of Washington Streams, Shoreline Master Programs, County or local Sensitive Areas Ordinance streams and wetlands maps.

Eligibility: Eligible lands must meet the definition above. In addition, the area must be preserved from clearing or intrusion by domesticated animals or structures. All such lands in or adjacent to pasture land must be fenced to prevent intrusion by domesticated animals. The buffer width is measured upland from the ordinary high water mark or the outer edge of a regulated wetland. The buffer does not include the body of water waterward of the ordinary high water mark or the wetland itself.

Examples:

- a) Property adjacent to a section of Bear Creek that contains freshwater clams, which are highly sensitive to water quality conditions.
- b) Property adjacent to Soos Creek where owner provides a naturally vegetated buffer and fences off livestock.

Ineligible: Property where the portion under application for current use taxation is equivalent to a required sensitive areas ordinance buffer and no further restrictions are proposed by the owner.

G. Rural or low density open space close to urban or growth areas.

Definition: Areas of 10 acres or more located outside of the boundaries of incorporated cities within two miles, or in urban or growth areas in King County, as identified in the King County Comprehensive Plan where the applicable zoning allows for more intensive development; or areas of 10 acres or more identified as low density areas in urban areas and identified as urban separators in adopted community plans where the owner agrees to restrict future subdivision and building.

Possible Sources: Adopted King County Community Plans; adopted local jurisdiction comprehensive or Growth Management plans.

Eligibility: Eligible sites shall meet the above definition and may include former open farmland, woodlots, scrublands or other lands.

Examples:

- a) A ten acre property in the Soos Creek community planning area in an area that is zoned rural and is within two miles of an urban zone, or is an identified community separator within two miles of an urban zone.
- b) A ten acre property in the East Sammamish community planning area that has a minimum zoning of five acres and is located within two miles of an urban or growth area zoning designation.

Ineligible: A five acre parcel in an area zoned for five acre residential tracts (If public access is provided this parcel may qualify under the active/passive recreation or trail linkages category).

A ten acre parcel that contains a three acre parking lot

that is not used to serve public recreational needs (This parcel would exceed the 15% impermeable surface maximum).

H. Significant wildlife, plant and salmonid habitat area.

Definition: An area which is utilized by naturally occurring plant or animal species listed as being endangered, threatened or sensitive by the State Departments of Wildlife or Natural Resources and where such species are found with sufficient frequency for critical ecological processes such as reproduction, nesting, rearing, wintering, feeding or resting to occur. Significant wildlife habitat areas also include those sites which meet the criteria for priority habitats and species as defined by the Department of Wildlife and selected by the King County Environmental Division, and those sites which meet criteria for critical wildlife habitat conservation areas as defined by King County.

Possible Sources: Natural Heritage Data Base, Priority Habitats and Species (PHS) database, local sources, King County regional database (to be developed).

Eligibility: Eligible sites are those identified by the King County Environmental Division or those where expert verification acceptable to the Environmental Division is available that the land fulfills the functions described under the definition.

Examples: Elk wintering range, salmon spawning stream, pileated woodpecker nesting and foraging sites, cavity nesting duck habitat, bald eagle nests, heron rookery, and endangered plant sites.

I. Significant aquatic ecosystems.

Definition: Areas described in the Natural Heritage Plan where salt or fresh water is the dominant factor in determining the nature of the plant and animal communities or those areas identified in the Marine Sanctuary Program.

Possible Sources: Natural Heritage Data Base of the Washington State Department of Natural Resources and the Washington State Department of Wildlife, Marine Sanctuary Program of the Washington State Department of Ecology.

Eligibility: Eligible sites are those which are either identified in the Marine Sanctuary Program or on file in the Natural Heritage Data Base. Expert verification acceptable to the administering state agency will substitute for inclusion in either data source.

Example:

a) Moss Lake in eastern King County.

Ineligible: Properties not listed

J. Historic landmarks/Archaeological sites: Designated sites

Definition: Historic and Archeological Resources; Land which constitutes or upon which is situated an historic landmark formally designated by King County or a local jurisdiction, including buildings, structures or sites of significance in the county's historic or prehistoric heritage, such as Native American settlements, trails, pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites, or traditional cultural properties.

Possible Sources: Historic and Archeological Resources; King County or other local lists or registers of historic places or landmarks and the State inventory of Archaeological Sites (State Office of Archaeology and Historic Preservation).

Eligibility: Historic and Archeological Resources; Eligible properties must be listed on a County or other local list or register of historic places or landmarks for which there is local regulatory protection. Eligible properties include contributing properties within designated historic districts. Improvements to the land are not eligible for this tax reduction, but may be eligible for other federal or state tax credits. The King County Historic Preservation Officer will review and make determination on eligibility.

Ineligible: Properties listed only on or eligible for the State or National Registers of Historic Places but not on the King County or other local list or register. These properties may qualify as Medium Priority resources as "Eligible" Historic and Archeological Resources.

Examples: a) The Hjertoos Farm, Carnation.
b) The Pacific Coast Company House #75, Newcastle.

K. Trail Linkages.

Definition: Land used as a public urban or rural off-road trail linkage for pedestrian, equestrian, bicycle or other uses which remains in private ownership. The trail linkage shall be no less than 25 feet in width and the owner provides a trail easement to an appropriate public or private entity, acceptable to King County as to form. Such an easement must be recorded with the County Records and Elections Division within four months of the granting of a tax reduction for the property. Use of motorized vehicles is prohibited on trails receiving tax reductions in this category, except in the case of medical or police emergencies.

Possible Sources: Copy of recorded or proposed easement for review by lead review agency.

Eligibility: Eligible site properties must be used as a public urban or rural trail linkage which remains in private ownership. The amount of land may be of less than any minimum size prescribed in any other category, provided the trail linkage and buffer shall be no less than 25 feet in width, unless the reviewing agency determines that for linkage purposes, an exception to this provision is allowable and the owner agrees to provide a trail easement, acceptable as to form to King County, to an eligible and appropriate public or private entity. The trail must be primarily off-road and separated from any road by at least 25 feet, unless the reviewing agency determines that for linkage purposes, an exception to this provision is allowable. Sidewalks within a road right-of way are not intended to qualify under this category. Fencing is not allowed within the right-of-way, unless the fence is along a property line. Gates are only allowable subject to review and approval of the existing gate, proposed gate or proposed replacement gate by the appropriate local parks division.

Examples:

- a) A property with a trail easement granted to an equestrian club over a segment of an equestrian trail along the edge of a single family property.
- b) A segment of an appropriately identified off-road trail within a Seattle neighborhood Greenbelt, with appropriate easement.
- c) A segment of the county multi-use regional trail system in unincorporated King County, with easement purchased under county 1989 bond program.

- d) A community trail in unincorporated King County identified as a community trail in the county trail plan, with easement granted to the county.

Ineligible: Trails where no appropriate easement has been granted.

Sidewalks and roadside trails similar to sidewalks are not intended to be eligible, except under specific determination and approval of county or local parks department.

L. Urban or growth area open space.

Definition: Areas of 1/2 acre or more located inside of the boundaries of incorporated cities or in urban areas in King County, as identified in the County Comprehensive Plan, where the applicable zoning allows for more intensive development, where the owner agrees to restrict future subdivision and building, or agrees to limit uses of the property, or agrees to provide a native growth protection easement, or agrees to allow public access to the property.

Possible Sources: Adopted King County Community Plans; adopted local jurisdiction Comprehensive or Growth Management Plans.

Eligibility: Eligible sites shall be those of one half (1/2) acres or more identified in an urban area in an adopted comprehensive or growth management plan. In special circumstances, owners of non-contiguous properties that together meet the one half acre minimum may jointly apply under this category if all of the following conditions are met:

- * The non-contiguous properties are within a service area defined in an adopted local comprehensive plan, in conformance with Growth Management Act requirements, in which provision of open space does not meet adopted standards. If no such service area standards have been established, then a finding of extraordinary open space need must be determined by the local legislative body and accompany an application.
- * Each non-contiguous applicant parcel is at least as large as the minimum zoned lot size.
- * No parcel is greater than 75 feet from another applicant parcel in the non-contiguous parcel group.

Examples:

- a) Remnant natural area in Seattle
- b) Community Separator/Greenbelt in Seattle.

- c) Heron rookery and buffer lands in City of Renton.
- d) Remnant second growth forest tract in urban King County.
- e) Two 1/3 acre urban properties that combine in a joint application to provide 2/3 acre of open space.

Ineligible: Properties that contain greater than 15% non-permeable surfaces or structures.

Medium Priority Resources - 3 Points

A. Public lands and right-of-way buffers.

Definition: Native growth lands lying adjacent to neighborhood parks, forests, wildlife preserves, natural reservations, sanctuaries, parkways, trails, or greenways. Buffers may be to a maximum of 100 yards from the boundary of the protected resource.

Special exception to the native growth requirement may be granted for properties along parkways with historic or other landscaping plans, upon review of the County Cultural Resources Division. Eligibility for this exception does not extend to properties where plantings are required under local zoning codes, development mitigation requirements, or other local regulations.

Possible Sources: Eligibility would be determined based on demonstration of location adjacent to a park, trail corridor, county, state or interstate highway, greenway, wildlife preserve or natural preserve owned in fee or permanently secured by a recorded easement held by a city, county, or state parks, environmental or natural resources department, or recognized 501(c)(3) organization.

Eligibility: Eligible sites must be dedicated to native growth and must buffer lands either in public ownership or lands in private ownership which are classified as Open Space under the Open Space Taxation Act and shall be no less than 25 feet in width. Buffer widths are eligible to a maximum of 100 yards.

Examples:

- a) A ten acre parcel adjacent to Tiger Mountain State Forest near Hobart.
- b) A ten acre parcel adjacent to Tolt-McDonald Park.
- c) A 100 foot wide native growth buffer adjacent to the Cedar River regional trail in Maple Valley.
- d) A ten acre property adjacent to the Sammamish River county trail near Bothell.
- e) A 25 foot wide native growth buffer to a Seattle Park.

Ineligible: Property within 100 yards of a public park, open space or right-of-way that is not directly contiguous to benefitting resource land or is not directly contiguous to another buffer enrolled in the Open Space Taxation Act to the benefitting land.

B. Special native plant sites.

Definition: Areas with naturally occurring concentrations of those plants defined as being sensitive or monitor species by the Department of Natural Resources.

Possible Sources: Natural Heritage Data Base.

Eligibility: Eligible sites are those found in the Natural Heritage Data Base or which are verified by experts as containing the same plant species and are acceptable to the King County Environmental Division.

Examples:

- a) A bog and enlarged buffer with special plant species, with restrictions in addition to those required by regulations.
- b) Remnant old growth forest tract.
- c) Site with a plant species that is rare in King County.

Ineligible: Commercial nurseries. Arboretums or other garden sites with non-native plantings and public access may not be credited with points from this category but are instead intended to be eligible under the "active or passive recreation" high priority resource.

C. "Natural" shoreline environments.

Definition: A marine, lake or riverine shoreline and its "associated wetlands" as identified in an adopted shoreline master plan. Credit for this resource cannot overlap with the "Conservancy" shoreline environment or surface water quality buffer area priority resource.

Possible Sources: Areas identified as "Natural Environments" in the Shoreline Master Plan.

Eligibility: Eligible lands are those identified as natural shoreline environments and their associated wetlands in the adopted Shoreline Master Plan governing the area in which the shoreline is located. Eligible land

must be adjacent to the water. The area to be included is 200 feet upland from the ordinary high water mark, within the 100-year flood plain or the edge of the associated wetland, whichever is greater.

Ineligible: Properties that do not meet the above definition.

D. Geological features.

Definition: Those special features, as defined in the Natural Heritage Plan generally including but not limited to special geologic locations, works of geomorphology, and works of glaciation; or those unique and undeveloped shoreline features of Puget Sound including spits, lagoons and points. In general, steep slopes, as defined under the King County Sensitive Areas Ordinance are not intended for inclusion in this category, unless a unique feature such as a butte, prominent cliff or other unique geological feature is identified.

Possible Sources: Washington State Interagency Committee for Outdoor Recreation for dry accretion beach shoreline features, no data base exists for geological features. As with the High Priority Resource category "Scenic Natural Resources" this "Geological features" category is subject to Council determination based on the above definition.

Eligibility: Eligible sites include those acceptable as a Natural Heritage Preserve and which include at a minimum, in single or multiple ownership, 90% of the feature.

E. Historic landmarks/Archaeological sites: Eligible sites

Definition: Historic and Archaeological Resources: Land which constitutes or upon which is situated an historic landmark formally designated by a local jurisdiction, including buildings, structures or sites of significance in the county's historic or prehistoric heritage, such as native American settlements, pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites, or traditional cultural properties.

Possible Sources: King County or other local inventories of historic resources and the State Inventory of Archaeological Sites (State Office of Archaeology and Historic Preservation).

Eligibility: Eligible properties must be determined by the King County Historic Preservation Officer to be eligible for designation and listing on the County or other local register of historic places or landmarks for which there is local regulatory protection. Eligible properties include contributing properties within designated historic districts. Properties listed on the State or National Registers of Historic Places may qualify under this category. Improvements to the land are not eligible for this tax reduction, but may be eligible for other federal, state or local tax credits.

Examples:

- a) An eligible but undesignated historic landmark in Bothell.
- b) An archaeological site on the Snoqualmie River.
- c) Tollgate farm in North Bend, listed on the King County Historic Resources Inventory.

Ineligible: Properties not eligible for designation and listing on the King County or other local list or register of historic places or landmarks. These properties may qualify as Low Priority Resources as "Buffers" to eligible Historic landmarks/Archaeological sites.

F. Buffers to Designated Historic Landmarks/Archaeological sites

Definition: Buffers to lands constituting or containing designated county or local historic landmarks or archeological sites that are enrolled in the High Priority Resource "Historic Landmarks/Archaeological sites" category.

Possible Sources: King County or local lists or registers of historic places or landmarks. Eligibility will be determined by the King County Historic Preservation Officer.

Eligibility: Eligible properties must be adjacent to or in the immediate vicinity of and provide a significant buffer for a designated landmark or archaeological site listed on the County or local list or register of historic places or landmarks which is enrolled in the Open Space Tax program. Significant buffers provide physical, visual, noise or other barriers and separation from adverse effects or influences on historic resources due to adjacent land use and development. Improvements to the land on buffer lands are not eligible.

Examples:

a) Five acre tract adjacent to the Elliot farm near Renton, which provides a visual and physical buffer from an adjoining subdivision.

b) Land surrounding a designated historic residence in an urban area.

G. Priority Wildlife sites

Definition: Sites that include either 1) identified wildlife habitat networks, 2) urban natural areas as identified by the State Department of Wildlife's (WDW) Priority Habitats and Species Project (PHSP) or 3) other locally significant fish and wildlife habitat areas.

Possible Sources: Wildlife habitat networks and other locally significant fish and wildlife areas will be identified by King County and each jurisdiction in the county under plans developed through the Growth Management Act. Urban natural areas are identified by the State Department of Wildlife.

Eligibility: Eligible sites are those identified by the King County Environmental Division or those where expert verification acceptable to the Environmental Division is available.

Examples:

a) Property within a wildlife habitat network identified in the East Sammamish Community Plan.

b) Property identified within the WDW Priority Habitat Species project.

Ineligible: A highly disturbed remnant natural area that is determined to have minimal wildlife habitat significance.

Low Priority Resources - 1 Point

Buffer to eligible Historic landmark/Archaeological site

Definition: Buffers to lands constituting or containing eligible county or local historic landmarks or archeological sites that are enrolled in the High Priority Resource "Historic Landmarks/Archaeological sites" category.

Possible Sources: Historic and Archaeological Resources: King County or other local inventories of historic resources and the State Inventory of Archaeological Sites (State Office of Archaeology and Historic Preservation). Eligibility of entire or partial parcels will be determined by the King County Historic Preservation Officer.

Eligibility: Eligible properties must be adjacent to or in the immediate vicinity of and provide a significant buffer for a designated landmark or archaeological site listed on the County or local list or register of historic places or landmarks which is enrolled in the Open Space Tax program. Significant buffers provide physical, visual, noise or other barriers and separation from adverse effects or influences on historic resources due to adjacent land use and development. Improvements to the land on buffer lands are not eligible.

Examples:

- a) Five acre tract, adjacent to an inventoried prehistoric village site that provides a visual and physical buffer from an adjoining industrial park.
- b) Land surrounding an inventoried historic residence in an urban area.

Bonus Categories - points indicated

A. Resource restoration. (5 points)

Definition: Restoration of any high, medium or low open space resource defined above. Emphasis shall be placed on restoration of anadromous fish rearing habitat, wildlife and plant habitat areas, and upland, stream and wetland habitats.

Possible Sources: No inventory available.

Eligibility: Eligible sites are those that qualify for any high, medium or low open space resource classification above without this category. Sites are eligible to receive 5 bonus points for the resource being restored. The owner must have an implemented restoration plan developed in cooperation with the Soil Conservation Service, the State Departments of Fisheries or Wildlife, the King County Surface Water Management Utility or other cognizant local or county agency.

NOTE: If a property owner implements an approved restoration plan after having been accepted into the open space CUT program and did not receive credit for such

program in the initial evaluation of the property, the owner may apply to amend the application and receive the bonus points credit without paying an additional application fee.

B. Bonus Surface Water Quality Buffer Areas. (3 or 5 points)

Definition: A stream side or wetland buffer width of at least twice that required by the King County Sensitive Areas Ordinance.

Possible Sources: Catalogue of Washington Streams, Shoreline Master Programs, County or local Sensitive Areas Ordinance streams and wetlands maps as basis for determination.

Eligibility: Sites qualifying under the "Surface Water Quality Area" classification would receive additional points through the provision of additional buffer which is preserved from clearing and from livestock intrusion. Three additional points awarded for buffers no less than two times the buffer required by the Sensitive Areas Ordinance. Five additional points awarded for buffers no less than three times the buffer width required by the Sensitive Areas Ordinance.

Examples:

- a) A 200 foot wide buffer along a class 1 stream that is twice the width of a required 100 foot buffer (3 points).
- b) A 300 foot wide buffer adjacent to a Class 1 wetland where a 100 foot buffer is required (5 points).

C. Contiguous parcels under separate ownership. (2 points)

Definition: Contiguous parcels of land with the same open space resources, regardless of whether under the same ownership or not, are eligible for treatment as a single parcel if open space classification is sought under the same application. "Contiguous parcels" are defined as parcels abutting each other without any significant natural or manmade barrier separating them or parcels abutting a publicly owned open space but not necessarily abutting each other without any significant natural or manmade barriers separating the publicly owned open space and the parcels seeking open space classification or each other in the event that they do abut.

Possible Sources: Not applicable.

Eligibility: Treatment as contiguous parcels shall include the requirement to pay only a single application fee, the requirement that the total area of all parcels combined must equal or exceed any required minimum (rather than each parcel being required to meet such minimums). Parcels given this contiguous parcels bonus must all be accepted under identical terms and conditions of access, easements, and restrictions. Individual parcels may be withdrawn from open space classification consistent with all applicable rules and regulations without affecting the continued eligibility of all other parcels accepted under the same application, provided that the combined area of the parcels remaining in open space classification must equal or exceed any minimum size requirement established in the PBRs and that access to the remaining parcels is not affected. Contiguous parcels must meet the following conditions:

- a. The application must include two or more parcels under different ownership.
- b. The parcels included in the application must have the same open space resources.
- c. The owners of parcels included in the application must agree to identical terms and conditions for inclusion in the program.

Examples:

- a) Three contiguous properties where 10,000 square feet of each property will combine to form a joint application of 30,000 (greater than 1/2 acre) within a Seattle ravine greenbelt
- b) Two adjacent ten acre parcels in a rural area.

Ineligible: Properties receiving credit under the Trail Linkages high priority resource are not eligible for this bonus category.

D. Conservation/Historic Easement in Perpetuity (5 points)

Definition: An easement that restricts, in perpetuity, further potential development, or other uses of a property, and which may include a requirement for native growth protection

Possible Sources: the Office of Open Space will develop a

model easement an suggested language for construction of easements as a guide for the reviewing agency.

SUPER BONUS CATEGORY (Current use value of 10% of market value)

Definition: Properties with at least one high priority resource AND allow unlimited public access or limited public access - sensitive area (due to resource sensitivity) AND convey a conservation, historic or trail easement in perpetuity in a form and with such conditions as are acceptable to the county.

SECTION VII. IMPLEMENTATION, MARKETING, AND PROMOTION OF A KING COUNTY PUBLIC BENEFIT RATING SYSTEM

This section addresses the implementation, marketing and promotion of the proposed King County PBRs. Section III. of this report addresses in summary form certain of the statutory requirements for implementing a PBRs, including the required adoption procedures, the contents of a PBRs, the effect of the establishment of a PBRs on properties already classified as open space (under existing County ordinances), the application process under a PBRs, the definition of the "granting authority" for open space classification, the existing application fee, the conditions for a approval, the requirement for execution of a written agreement, and the consequences of denial of an application. This section will not go over that material again. It will instead attempt to lay out the roles of the agencies which will be involved in the implementation process and suggest some ways that information about the PBRs can be disseminated.

Implementation

The key county agencies involved in the implementation of the PBRs, both in terms of preparing for implementation and actual implementation, are the County Assessor, and the Environmental Division ("ED"). The other agencies which will have a role in implementation of the proposed PBRs are the Parks, Planning and Resources Division (PPR) and the Prosecuting Attorney. The respective roles of these agencies are as follows:

Environmental Division. ED will be the primary agency responsible for administering the PBRs once it is in place and for preparing materials for the implementation of the program. Following formal adoption of the PBRs, ED will be required to undertake the following tasks:

1. Development of Standard Operating Procedures for Accepting and Reviewing of Applications. ED should develop written Standard Operating Procedures (SOPs) covering the handling of inquiries, the acceptance and review of applications and the processing of approved applications. The SOPs will need to address the procedures for accepting expert opinion on property characteristics as a substitute for inclusion in a recognized source as evidence of the presence of an open space resource and, if allowed by the implementing ordinance, for changing the accepted sources for identifying open space resources (as noted in the report, ED should be empowered to administratively accept new sources for identifying the existence of open space resources in order to avoid continuing amendments to the implementing ordinance).

2. Revision of the Application Form for Open Space Classification. ED will be required to extensively rewrite the application form based on the provisions of the PBRS and their Standard Operating Procedures. Information on the characteristics of the property provided by the applicant must be more extensive, and the applicant will need to take more responsibility for determining whether the property is eligible. The application form must be more extensive, asking more focused questions about the type of features the property contains.

3. Preparation of an Information Brochure to accompany the Application Form. In addition to preparing a revised application form, ED will need to prepare a brochure which will be available to potential applicants as well as accompany the application form itself. The purpose of the brochure will be to provide a property owner with a detailed discussion of the PBRS and the application submission and approval process and the description of the property characteristics which will make a property eligible for acceptance. The brochure will notify applicants that if they apply by December 31st of a given year and the application is approved by July 31st of the following year, the applicant will be eligible for a tax reduction for the entire year in which the application is approved.

4. Assembly of a Reference Library. One of the emphases of the PBRS is the reliance, to the greatest extent possible, on recognized sources for information on whether a parcel contains specific open space resources. ED should assemble a library of reference materials which can be used by both ED staff in reviewing eligibility and by the public in their efforts to determine eligibility of their land for inclusion in the system.

5. Preparation of Sample Documents. ED, in conjunction with the County Assessor and the Office of Open Space should prepare a set of model documents covering public access, the conditions of acceptance into open space classification which the applicant must sign to be accepted, and historic and conservation easements for owners wishing to enter into such an agreement.

6. Development of a Plan and Schedule to Review Existing Open Space Land. ED will prepare, in conjunction with the Assessor and in conformance with statutory requirements, a plan and schedule for reviewing all of the 200 plus parcels currently in open space classification and shall determine their continued eligibility under the new system.

Whether or not the property continues to be eligible, the county must undertake certain statutorily prescribed actions for each parcel, including notification of the owner of the new current use assessment for properties which retain eligibility and notification of non-eligibility and removal from the current use assessment rolls in those cases where such action is appropriate.

Properties that are reevaluated and do not qualify under the PBRS will be assessed at fair market value by the Assessor. If a property does not qualify for the PBRS, a property owner may choose to leave the program with no back taxes or monetary penalty due. To leave the program without penalty, the owner must notify the PBRS Coordinator and the Assessor, in writing, of his or her intention to leave the program within 30 days of receipt of notification that a property has been reevaluated and does not qualify for the PBRS.

Properties that qualify for the PBRS at any level that reduces the property tax assessment to less than 100% of fair market value may only be removed from the program after payment of back taxes and any other applicable penalties. This requirement applies to properties that qualify for the program, but receive a higher assessment under the PBRS than under the former current use taxation program.

7. **Application Fee.** As noted in Section II., state statute allows for the establishment of an application fee which may be in an amount that reasonably covers the processing cost of the application. The county currently has a policy in place to charge such a fee and has a fee in place. In the absence of a change in this county policy regarding the recovery of costs for this program, ED should be charged with doing a review of these fees and providing a recommendation for any necessary revision within one year of the implementation of the PBRs. For applying parcels within an incorporated area, ED will need to establish procedures to pro-rate the fee (as prescribed by statute) and to assure that the appropriate eligibility review is undertaken by the affected city or town.

County Assessor. The ongoing role of the County Assessor in the PBRs process is substantially different from their responsibility under the current system. Instead of establishing the current use value using the value of agricultural land as a base, the Assessor will assess the land at its highest and best use and apply the PBRs rating scale to that value. The Assessor will continue to be a key agency in determining ongoing eligibility.

1. **Coordination with ED in the Development of Program Materials.** The Assessor should coordinate with ED in the development and preparation of ED's SOPs, the application form, the information brochure, and the model documents. The purpose of this coordination will be to assure that the role and responsibilities of the Assessor are properly explained (and agreed to) and that the ongoing responsibilities of the Assessor are addressed in the documents, particularly the model documents covering continued eligibility, access and easements.

2. **Assist ED in the Development of a Plan and Schedule to Review Existing Open Space Land.** The Assessor should be involved in the development of the plan and schedule to review the existing open space parcels. This assistance will be important because the Assessor will be the agency which notifies property owners of changes in assessed value for tax purposes and if the property is no longer eligible. In addition, if the property is voluntarily withdrawn because of the review, the Assessor will notify the appropriate agencies that the additional tax and penalties, if any, are waived through voluntary withdrawal as a result of adoption and implementation of the PBRs.

County Office of Open Space. The County Office of Open Space shall assume responsibility for the preparation of a sample easement which will meet the goals of the county and local jurisdictions for permanence of open space. The Office of Open Space should also develop a listing of private land trusts which the county would accept as eligible to accept easements on open space land.

Prosecuting Attorney's Office. The Prosecuting Attorney's Office should assist in the review of sample easements prepared by the Office of Open Space; SOPs prepared by ED and covering the handling of inquiries, the acceptance and review of applications, the processing of approved applications, and the acceptance of new sources; the application form; the program brochure; and the set of model documents covering public access, and the conditions of acceptance into open space classification which the applicant must sign to be accepted.

ED will also be responsible for passing on the value of some parcels in the plant and wildlife habitat categories and on the acceptability of certain experts. Ed should prepare written guidelines for inclusion in information materials which identify the standards which the Division will use in determining the open space resources of a given parcel and the requirements to be acceptable as an expert who will be recognized by ED.

Marketing

Current use taxation of open space is a voluntary program for property owners. The level of interest and participation in the program will be, to some extent, influenced by the knowledge of eligible property owners of the elements of the program. The existing county program is neither well advertised nor widely understood. If the PBRS is to play anything more than a minor role in the open space program of the county and local jurisdictions, information about the new program must be more widely disseminated and better understood than the existing program. There are several ways in which this could be done. These are discussed below.

Availability of Information to Interested Groups. As a matter of policy, the PBRS coordinator will provide information materials and make presentations to prospective PBRS participants, to other individuals, groups and agencies that have an interest in and are actively promoting or participating in programs using open space. These groups would include the following:

1. Open space divisions or parks and recreation departments of incorporated cities and towns in the county.
2. Associations or private groups actively involved in the real estate industry, such as the realtors association, etc.
3. Association or private groups involved in the promotion of open space or recreation activities, for example, the Audubon Society, Nature Conservancy, Trust for Public Land, Washington Horse Council, Open Space Advocates, etc.
4. Building and planning departments of local jurisdictions with land use authority.
5. Community councils or groups involved in the review process for local plans.

In addition, copies of the program materials should be made available through the county and local library systems, the King County Assessor's Office, the King County Finance Division, the King County Board of Appeals and Equalization, the King County Tax Advisor and the King County Office of Open Space (all agencies involved in either the administration of the property tax or which receive inquiries on an ongoing basis on options available to property owners).

Finally, the County should consider the possibility of using the annual mailing of real property tax statements to send a brief (one page) PBRS description to all real property owners in the county. This could be accomplished through inclusion of a flyer in the property tax mailing itself to all property owners or to owners only in selected ZIP codes. At the present time the property tax statement contains only a very brief reference to current use taxation on the back of the statement, along with a number of references to other items on the statement.

Staffing

The question of staffing to implement the PBRS and to review the continued eligibility of the properties admitted to open space current use taxation under the existing program is a difficult issue to address. Because current use assessment and taxation of open space is voluntary on the part of the property owner, the number of property owners who will apply for current use assessment depends on a number of variables, including the size of the application fee, the open space resources eligible for participation, size limits on potential parcels, the level of property tax deferral, the general state of the real estate market in the county, and the availability of resources for the

county or local jurisdictions to purchase open space land. It is likely, however, that participation in the program will increase in the future due to the higher visibility that the program will receive as a result of increased marketing efforts.

The recommendation for staffing of the PBRS is that one additional staff be added at present to any of the major departments with responsibilities for implementing the PBRS. The proposed staff person would assume responsibility for processing new applications and, over a two year period, reviewing the eligibility of all parcels admitted to current use taxation of open space under the existing program.

On a quarterly basis, the backlog of parcels, both new applicants and existing parcels, should be reviewed to determine whether staff can process the backlog over a reasonable period, e.g. no more than six months for new applications and no more than two years total for completing the review of parcels already in the program.

The proposed staff would also be responsible for marketing of the PBRS program to help insure the increased participation that this proposal is intended to accomplish.

PBRS Program Annual Progress Report and Second Year Reevaluation.

One year from the date of adoption of the PBRS program and annually thereafter, the PBRS Coordinating Agency (Environmental Division) will submit an annual report regarding progress of the PBRS program to the county council and Executive. Information in the report will, at a minimum, include the number of properties for which application has been made to the program, the number of applications pending decision, approved, or rejected, total acreage preserved under the program, number of properties reevaluated and the overall amount of market value reduction of assessments as a result of the program. The annual report shall include an analysis of the amount and costs of staff time, on average, per application. The report will also provide an estimate of the average additional costs to applicants of providing information necessary for submitting applications.

Two years from the date of adoption of the PBRS program, the PBRS Coordinating Agency (Environmental Division) will submit to the county council and Executive an evaluation of the PBRS program, including an analysis of the following: participation levels, the types of properties applying and qualifying for the program; coordination with the Assessor's office, including the timeliness and proper assignment of the current use assessment formula to PBRS approved properties, the status of assessments

for PBRs approved lands that contain conservation easements or are affected by the Sensitive Areas Ordinance and the appropriateness of the PBRs point system in light of these assessments.

SECTION VIII. PUBLIC REVIEW AND COMMENT

Following completion of the draft of the report and recommendation, review and comment was sought from a number of agencies both within and outside of King County government. The following agencies were provided with an initial copy of the report and requested to provide comments:

King County Agencies: Parks Division *
Building and Land Development Division *
Environmental Division *
Cultural Resources Division *
Surface Water Management Division *
King County Assessor *
King County Prosecuting Attorney
King County Council Staff *

Other Agencies: Seattle Parks and Recreation Department*
Bellevue Parks and Recreation Department
Renton Parks and Recreation Department *

Following a briefing of the King County Council Open Space, Parks and Natural Resources Committee on October 2, 1991, copies of the report were sent to the following additional agencies for review and comment:

Organizations/Individuals:

All members of the King County Open Space Citizen Oversight Committee
Seattle King County Board of Realtors
Master Builders Association
League of Women Voters *
Municipal League
Allied Arts
Washington Roundtable
Washington Recreation and Parks Association
The Nature Conservancy
Seattle Audubon Society
Trust for Public Land
Alexandra Pye *
Washington State Horse Council
Open Space Advocates*
King County Executive Horse Council *

City Parks Departments: Federal Way
 Sea-Tac
 Mercer Island
 North Bend
 Des Moines
 Kent
 Kirkland
 Duvall
 Bothell
 Tukwila

Lake Forest Park
 Issaquah
 Redmond
 Black Diamond

Agencies and/or organization marked with an asterisk above provided comments on the report prior to release of this version. Comments on the responses and changes, if any, which were made in the report are summarized following each group of comments.

RESPONSES TO REQUEST FOR REVIEW AND COMMENT

1. City of Seattle Parks and Recreation Department Open Space Program (2 sets of responses)

Comment: There is a potential for conflict between two competing impacts of adopting a PBRs: the tax shift impacts of such a program and the encouragement of voluntary open space preservation.

Response: Under current state law, there is the potential for a conflict between the use of tax relief as an incentive for voluntary preservation of open space (and the subsequent tax shift or revenue loss) and the objective of preserving open space. This potential is a direct result of the statutory provisions for current use taxation and must be a factor in weighing the extent to which any PBRs encourages the preservation of open space. This is a policy matter which elected officials must determine in their establishment of the program.

Comment: The county should consider a "modular" approach whereby each city's criteria for rating the quality of open space land, adopted by its legislative authority, would be used to evaluate open space land within its jurisdiction. This would also extend to the evaluation process, where the local equivalent of BALD and the Zoning Hearing Examiner would evaluate applications, instead of the county..

Response: There appear to be at least three separate issues embodied in this comment. First, what criteria should be used to evaluate open space land in incorporated areas? Second, who should determine those criteria? And, third, who should perform the evaluation of open space land within an incorporated area.

On its face, RCW 84.34 does not prohibit the use of criteria which are different for different parts of the county. Similarly, it does not prohibit the county from adopting criteria which are first established by other local jurisdictions, as long as those criteria meet the requirements of statute. The law does require that whatever criteria are adopted, they must be adopted by the county council, so in the event that a determination were made to use city-adopted criteria, those criteria would have to also be approved by county ordinance.

If the county adopts a policy of allowing cities and towns to determine what criteria will be used to evaluate open space applications from within their boundaries, it raises certain questions of administrative simplicity and equity. Allowing cities to determine the criteria could result in up to 32 separate sets of criteria - one for the unincorporated county and one for each of the 31 cities and towns in the county. Such a system could simply be unworkable. In the event of an incorporation or annexation, open space property in an unincorporated area would suddenly be subject to a different set of criteria and could either be eliminated from the program or be subject to a change in the PBRs rating which could change its tax deferral status. If cities are allowed to determine the criteria, it could lead to gross inequities between properties in various parts of the county. Different cities could establish criteria which would rate properties on vastly different bases, resulting in nearly identical property in different areas receiving anywhere from 0% tax deferral to 90% tax deferral. For example, while the county rates historical open space properties as either low or medium, a city could rate all historical open space properties as high - or not rate them at all! Because of the potential administrative problems and inequities which could result from a system which allows cities to establish the criteria for determining open space eligibility, this is not recommended.

The statute seems to anticipate that the incorporated cities will be involved in the evaluation process in at least two ways. First, the city must receive a copy of the application (and a pro rata share of the fee) and second, local officials comprise half of the granting authority. The county should not only allow, but should

require the cities to evaluate the land, but on the basis of the county criteria.

Comment: Certain desirable properties may be disqualified because of the minimum size criteria of the proposed PBRs or because the rating criteria contain terms of art applicable only to King County Open Space Plans or land use regulations.

Response: The city's concern is legitimate and the language for the criteria should be reviewed and revised to incorporate more reasonable size limits for urban areas and to incorporate more references to the language of local codes. The county should ask all local jurisdictions to provide suggested language to meet these concerns.

Comment: The proposed criteria regarding public access requires further investigation.

Response: An example given by the city would qualify as limited public access and would be awarded points at that level.

Comment: The proposed criteria do not contain any provisions regarding the maintenance of the open space resource to be conserved, nor is there a provision for monitoring resource management practices.

Response: While the criteria themselves do not contain provisions for the maintenance of the open space resource, it is clear that the open space agreements that must be executed by the owner should contain such provisions. Management practices which reduce the open space value must be prohibited, including the cutting of trees, clearing of brush, etc. The tax deferral is granted to an owner who agrees to maintain land as open space and to the extent the owner will not agree to this, deferral should not be granted. In addition, the Assessor has the power to remove a property from open space classification in the event it no longer meets the criteria under which deferral was originally granted. What is most important is that some government entity must be given the responsibility for periodically reviewing property to assure continued compliance and provided the resources to meet that responsibility. The city suggests that any required relief for encroachments or other violations should include restoration at the owner's expense. This is a good idea and should be incorporated into the written agreements which the owner must execute in order to be included in the program.

Comment: The proposal is unclear about the treatment of properties with improvements. A "before-and-after" appraisal may be a more appropriate way to establish value of open space properties with improvements than a percentage scale.

Response: Properties with improvements may be segregated in order to assess only the portion with the open space resource at current use values. Under no circumstances will improvements on the property be afforded any relief; e.g. such improvements will always be assessed at fair market value. The suggestion that "before-and-after" appraisals be performed vitiates the entire idea of the PBRS and would lead to dramatic increases in the processing costs of open space land. Such "before-and-after" appraisals are not recommended as a part of the system.

Comment: The application process appears to be expensive and is likely to become more so.

Response: The question of the size of the fee has been resolved under Ordinance 10177, whereby the fee for application for open space current use taxation has been lowered to \$150. The city's suggestion that the application fee be considered an eligible cost under the Open Space Bond Issue is both a legal question and a policy question. In any event, use of bond funds would only be a temporary solution, as bond proceeds will be exhausted at some point in time.

Comment: The proposal should include more consideration of permanent easements.

Response: The proposal attempts to lay out the importance of conservation easements and that they be strong and enforceable without detailing the language of easements which are bound to vary on a case by case basis. The proposal to require approval by the Office of Open Space of any easements and approval of the entity which receives the easement is an attempt to address the concerns raised by the city.

2. City of Renton Parks and Recreation Department

Comment: The "Scenic Resources and Viewpoints" needs better parameters to define what are scenic resources and viewpoints.

Response: Agreed. Unfortunately no inventory of scenic resources and viewpoints currently exists and without a definitive source, the determination of whether a property

has scenic or viewpoint open space resources will ultimately have to rely on a legislative finding. The proposal will be amended to reflect the addition of view corridors. The proposal will also be revised to reflect a consistent measure of the minimum size of a scenic resource.

Comment: The "Significant Wildlife Habitat Area" and "Special Animal Sites" categories should be revised to include important wildlife corridors for species which are not endangered, threatened or monitored.

Response: Agreed. The Environmental Division of King County has provided wording to accomplish this suggestion.

Comment: Suggested additional sources: ALEA (Aquatic Lands Enhancement Account with the Department of Natural Resources), Seattle Audubon Society, and Washington State Department of Ecology.

Response: These sources have been reviewed and included as appropriate.

Comment: The fee of \$1,125 is of concern as it will be a deterrent to potential applicants.

Response: The fee has been reduced by Council Ordinance 10177 to \$150. See response to similar comment from Seattle above.

Comment: While minimum size requirements for parcels are appropriate, consideration should be given to allowing several contiguous parcels each of less than minimum size but in aggregate exceeding the minimum size to count as a single parcel if all are included in an application and meet the criteria guidelines.

Response: Agreed. Draft language has been revised to include this suggested revision to allow contiguous parcels.

3. King County Department of Assessments

Comment: The rating system will make it easier for appraisers to determine current use value.

Response: This is one of the goals of the system and we agree that the PBRs should be easier to administer than the existing system, particularly in terms of establishing the current use value of a property.

Comment: The staff of the Assessor's office should not provide the monitoring of property, as they are not

qualified by background to perform this function.

Response: The issue of the monitoring of property for continued compliance with CUT requirements is only one part of a larger problem of monitoring any property where there is a public interest in maintaining the existing use of the property. This includes the monitoring of farmlands whose development rights were purchased with prior bond issue proceeds. This is an issue the county must address by clearing identifying the agency which is to provide monitoring, establishing their enforcement powers and providing the resources necessary to conduct an ongoing monitoring program. The county has not done this to date. A recommendation on this issue is included in the report.

Comment: The Assessor may need additional staff to handle processing of more properties which would be eligible for participation.

Response: Whether the Assessor would need additional staff is not clear. While more properties may apply, the method of establishing current use value would change. Fair market value of a property would be established in the same manner as any other property, with the CUT value established through application of the rating system. While there may be a need for additional staff for handing records, the need for additional staff for appraisals is not clear at this time. Second, if more staff are needed, it should only be to handle peak application periods. Once properties are in the system, they would presumably be reassessed at the same intervals as all other property in the county and have the rating scale applied as a mechanical matter.

Comment: The rating system may be overly generous in its distribution of tax deferrals and could lead to a large number of marginal properties receiving deferrals and a tremendous tax shift.

Response: How many properties would qualify for the PBRS and how many would actually apply is unknown. While it may be true that some marginal properties would be eligible and would apply and would receive a tax deferral, we do not believe that a number large enough to significantly impact the one billion dollar plus annual tax roll would occur. Even if the value of the properties in the system were to quadruple from current levels, the total tax shift would only amount to one tenth of one percent of the total county tax roll.

Comment: There is no guarantee that this program will halt development, as the property owner can still withdraw with the payment of back taxes, interest and, possibly, a penalty. A more permanent solution to restrict development would be through zoning.

Response: It is certainly true that zoning changes should provide a more permanent solution to development of desirable open space and sensitive property. This program is not meant to supplant those types of actions, however. It is meant to provide a voluntary program where zoning regulations allow development and a program which supplements other types of actions which may be non-voluntary, such as zoning, other land use regulation, outright purchase, etc. This voluntary program can also act as a holding program, pending the availability of resources with which to purchase property or development rights.

4. Open Space Advocates

Comment: Urban open space needs are different from rural open space needs and the definition of urban open space and the size limitations included in the proposal should be modified to reflect that difference.

Response: Agreed. See response to similar comment from Seattle Open Space Program and City of Renton.

Comment: The PBRs should allow the City of Seattle to encourage current use taxation for any open space resource the city finds to be valuable to the public.

Response: It is not clear precisely what is proposed here. If the suggestion is to allow each city to determine the criteria for eligibility, that issue is discussed above under a similar comment from Seattle. If the proposal is to change the definition of open space to better meet urban needs, language to that effect has been proposed. If the proposal is to allow the city to determine on a case-by-case basis what constitutes desirable open space, such a system would violate certain statutory provisions regarding recognized sources.

Comment: The County should consider providing special criteria for urban areas where residential zoning is the equivalent of RS 9600 or denser.

Response: As noted above in a number of comments, the definition of urban open space and the criteria for eligibility are both subject to change if reasonable

language can be agreed upon. The county has sought recommendations on language from the affected cities.

Comment: For urban open space, size should not be a limiting factor if the land is identified as desirable by the local jurisdiction. For small pieces of land, a criteria of contiguity could be included.

Response: If this suggestion implies that no size or buffer width limit ever be imposed, we do not agree. Such a system, coupled with other suggestions for determination on a case-by-case basis, lays open the possibility of arbitrary and capricious decisions by the granting authority and for possible misuse of the system. Some size limits and objective defining criteria are essential if the PBRs is to be equitable for all of the property owners in the county. If the suggestion is to allow contiguous parcels which individually are below an established size limit but combined are above that size limit to be eligible, we agree that such allowance should be made and the proposal has been amended to reflect that suggestion.

Comment: The application process and system should include an incentive for joint applications for neighboring properties, including possibly bonus points for neighbors working together to preserve open space in urban areas.

Response: Joint application for contiguous properties should be allowed and the proposal has been modified to reflect that change. The suggestion of bonus points is also a good one and has been incorporated into the proposal. However, such bonus points have not been limited to urban areas, but are included as a part of the county-wide system.

Comment: The county should waive the fee for all applications that fall within identified open space resources. If it is necessary to charge a fee, it should be a processing fee that would not exceed the first year's tax savings and should be included as a part of the tax bill. As another incentive for joint applications, a single fee could be divided among the applicants based on tax savings.

Response: The issue of whether to charge a fee and how much that fee should be has been discussed extensively. The fee has been reduced by Council Ordinance 10177 to \$150. See response to similar comment from Seattle above.

Comment: The rating system definition should be modified to include the following:

1. The "Property Eligible For Purchase As Park, Recreation or Open Space" category should be modified to allow land the county or local jurisdiction has identified as desirable but for which an option has not been executed to be eligible.

2. The "Public Lands Buffers" category should be broadened to "Public Lands And Right-Of-Way Buffers" to recognize trails and greenways as essential pieces of open space for both recreation and habitat preservation and wildlife corridors.

Response: For the first item, the difficulty in implementing such a category is that the identification of desirable land is not an objective criteria unless the local jurisdiction has a predetermined list of qualifying properties. For the second category, the suggested change is appropriate and has been written into the definition of eligible land.

Comment: Include a high priority category for "Trail or Greenway Protection or Linkage".

Response: Agreed. Suggested draft language for such a category has been included as a high priority category.

Comment: Higher density development potential should not be a determining criteria because portions of oversized lots can be combined to create a buildable lot where none previously existed.

Response: We do not agree. The provision of the PBRS which disallows current use taxation for properties which do not have higher density development potential is a reasonable criteria because the value of the parcel should already reflect the fact that development cannot occur. If portions of these oversized lots, when combined with other lots, could lead to a buildable lot, then the change in the proposal to allow joint applications with certain bonuses should provide sufficient incentive if the owners wish to seek voluntary tax deferral. Eliminating the higher density development provision negates one of the fundamental policies embedded in the proposal: that property owners who voluntarily forego development rights which they have should be provided with a tax incentive to do so. Owners of properties who have no such rights to begin with should not be rewarded with a property tax deferral which would be given in return for a "right" which doesn't exist.

4a. Additional Comments by Open Space Advocates:

Comment: Properties contiguous with other properties that qualify for open space current use taxation should also be eligible, even if the property does not meet minimum size requirements on its own.

Response: Agreed, if the applicant property is of the same priority resource type as the already-approved larger property that it adjoins.

Comment: Public Lands Right of Way Buffer category: This category should be gauged in terms of depth, rather than in terms of acreage. A minimum depth of 25 feet along public lands and linear corridors in urban areas. The areas of particular concern here are buffers along historic boulevards and parks, where we would like to see the buffers preserved in a natural state. This category should be increased to five points, as a high priority resource, since preserving a buffer may be critical for protecting the character of an existing public resource.

Response: Agreed on the suggestion for buffer widths. This suggestion is analogous to streamside, or other sensitive area buffers that are also included in this proposal. On the suggestion to elevate this category to a high priority, this proposal recommends retaining the proposal to make public lands and rights-of-way a Medium Priority Resource. Although buffers do provide an enhanced experience or added protection for a resource, they have not themselves been included in the original configuration of the resource, for example a park, and therefore do not seem to justify a higher rating. Should a boundary property need to be added to an existing park, it may receive five points if the owner signs an option agreement with an appropriate agency under high priority resource category "B".

Comment: Properties Eligible for Purchase: This category seems so restrictive that only a few properties would be likely to ever qualify. There will be few situations where a landowner will grant an option to a jurisdiction with a holding period that is long enough to justify a landowner's application for current use taxation. In addition, for such an extended period, the property owner is unlikely to commit to a long-term option for sale of land with a price set at the time of open space classification. We recommend expanding the eligibility under this category to include those lands that the jurisdiction has identified in an adopted open space plan as a priority for protection and/or purchase. Otherwise,

the title of this category should be changed to:
Properties with a Purchase Option.

Response: It is possible that only a few properties may qualify at any given time under this category. This category does expand the range of options available to public agencies that are working to provide willing sellers with alternatives that will in the end preserve property. The proposal to expand this category to include all mapped open spaces or greenbelts in an adopted plan has been discussed. The basic issue is that different jurisdictions could have different definitions and therefore risk unfairly shifting tax burden to cities with more restrictive definitions of open space potentially available for purchase.

Comment: No Public Access: We suggest that properties with prohibition of public access or for "members only" receive a negative point value except where extenuating circumstances such as habitat or watershed protection preclude public access. Public access is such an important benefit that prohibiting access should reduce the overall public benefit rating earned by a property. This would encourage access wherever possible.

Response: This idea points out the importance of public access, but public access really is considered to be a "bonus". There are several categories that require public access. For many categories, the primary intent of this proposal is to protect the land resource, which leads to the provision of several other public benefits.

Comment: Rural vs. Urban Open Space: Urban open space is as critical as rural open space, since much less of it is available and the neighboring population that is served is much greater. We recommend that urban open space be moved to the high priority resource category.

Response: Agreed. The category has been moved to the high priority resource category.

Comment: Viewpoints: There should be no minimum size requirement for viewpoints, which should be fully accessible to the public with signing from the nearest right-of-way. Viewpoints provide significant public benefits even though they may be of small size.

Response: Agreed. The text has been modified to reflect this.

Comment: Application Fee: Reiterates the concern about high cost of the application fee.

Response: This issue has been resolved by the enactment of Council Ordinance 10177, reducing the application fee to \$150, as noted in previous comments.

Comment: Delinquent Taxes: San Juan County requires all delinquent taxes to be paid before an applicant may enter into open space current use taxation. Is that a requirement of this program or can it be added?

Response: Full payment of outstanding taxes will be incorporated into the proposal as a requirement.

5. King County Executive Horse Council

Comment: The plan to increase the application fee from \$30 to \$1,125 will discourage all but large landowners from applying and would make the system not worthwhile for most owners.

Response: The fee has been reduced to \$150 and the issue has been discussed a number of times in other comments.

Comment: Subdividability of land should not be a factor. Land will be lost for trails if property owners who can not subdivide can close off their property to private use.

Response: As a matter of policy, we do not agree that subdividability should not matter. On the issue of trail right-of-way and access, however, a new high priority criteria titled "Trail linkages" has been included which provides a tax deferral to property owners who provide trail easements in perpetuity to the county or city.

6. Lothar H. Pinkers, M.D.

Comment: We need to develop a greater network of linear parks which allow safe pedestrian access through residential areas and as safe passage corridors through areas of heavy vehicular traffic.

Response: The original draft of the proposal has been modified to include a "Trail linkages" category which does provide a tax incentive to property owners who will allow trails (whether pedestrian, bicycle or equestrian) and who will enter into an appropriate trail easement.

7. King County Environmental Division

Comment: Significant wildlife habitat area should either be amended to include threatened and endangered plant species or a separate high priority category should be

created for plant species. Specific language for Category H. under High Priority is suggested.

Response: The modified language has been included and the language covering plant species in the Medium Priority category has been deleted and the category for special animal sites under the Medium Priority category has also been deleted as redundant of the High Priority category.

Comment: Reword the language in Medium Priority resources, Category D to reflect the modification made to the High Priority category.

Response: Agreed. The suggested changes have been included.

Comment: Modify the Resource Restoration bonus category to include restoration of wildlife and plant species in addition to fish habitats.

Response: Agreed. The suggested modifications have been made.

8. King County Executive Horse Council Members (approximately 50 Respondents who each sent a letter that contained a copy of the same comments)

Comment: The proposed application fee of \$1,125 is too high and few people will apply:

Response: King County has recently lowered the fee to \$150 under Ordinance 10177.

Comment: All properties, with or without further development potential, should be eligible to qualify for the "active or passive recreation" category.

Response: Properties without additional development potential in the "Active or Passive Recreation" high priority resource are currently eligible for existing current use taxation and the proposed expanded criteria does not propose any change to this eligibility.

Comment: Develop specific provisions for dedication of trail links and access.

Response: The suggested modification has been included as a high priority resource.

9. Judy Willman, Region #1 Trails Coordinator, King County Executive Horse Council.

Comment: Properties eligible for current use taxation should include recreational access properties that cannot be further developed.

Response: These properties are currently eligible for existing current use taxation and the proposed "Active or Passive Recreation" high priority resource does not propose any change to this eligibility. Further, the "Trail Linkages" high priority resource also does not require that the affected property be eligible for more intense development.

Comment: Reduce the application fee. This is a major disincentive.

Response: The fee has been reduced to \$150 under Ordinance 10177.

Comment: Add Linear Parks (Trails) as an open space category. Suggested language is included.

Response: Agreed. The suggested modification has been included as a high priority resource.

Comment: Property that allows parking should be specifically included as a part of recreational resources.

Response: Agreed. This would apply under the "Active or Passive Use" high priority resource, as it would provide an often-needed public benefit. Determination of appropriateness would be made by the appropriate Parks jurisdiction, and would be subject to a signed easement allowing permanent parking between the property owner and the appropriate park jurisdiction.

Comment: Add wildlife corridors as an eligible category.

Response: Wildlife corridors are eligible under the "Significant Plant and Wildlife Habitat Area" high priority resource and the text has been modified to include identified wildlife corridors.

Comment: It would seem to be a benefit for the King County Office of Open Space to review Open Space Current Use Taxation applications concurrently with BALD.

Response: The lead application review agency will use recognized sources as the determinant of meeting of criteria. Should there be any remaining questions regarding open space resources, the lead review agency will consult appropriate agencies, which may include the Office of Open Space.

Comment: Owners of properties presently in the current use taxation program should have an opportunity to review the new criteria and comment on any additional categories for which they may be eligible.

Response: All King County residents, including those currently in the program, have the opportunity to comment on this proposal as part of the public review process.

Comment: A challenge to a reclassification should not be financially prohibitive.

Response: By statute, denial of an application is subject to appeal only to the Superior Court. Any judgement in such a situation would be determined by the Court.

Comment: "Unlimited Public Access" needs a more complete definition so that prospective applicants will know that there are reasonable limits.

Response: The report text has been modified in the Section V "Establishing the current Use Assessed Valuation" under subsection 3, "Public Access". Please see the added text on "Limitations on Access and Use" included on page 21. Public Access is not required for all properties, although greater provision of access will generally allow for greater tax relief.

Comment: Send open space information to residents who live on P-suffixed properties.

Response: Notice of the program is proposed to be sent to all property owners in King County, as noted in the added section on Marketing and Implementation. Additional efforts are also proposed to be undertaken, as noted in that section.

10. South County Trail Coalition: Kathy Shertz, Secretary.

Comment: All properties, with or without further development potential, should be allowed to qualify for the "active or passive recreation" category, including trail properties.

Response: As noted above, these properties are currently eligible for existing current use taxation and the proposed expanded criteria does not propose any change to this eligibility.

Comment: Trails should be included as an eligible criteria category and this category should be a high priority category.

Response: Agreed. Please see the "Trail Linkages" category that has been added as a medium priority resource.

Comment: The proposed fee of \$1,125 is too high and would be a disincentive to many applicants.

Response: The fee has been reduced to \$150 under Ordinance 10177.

11. The League of Women voters of King County: Miriam Helgeland, Coordinating Committee Chair.

Comment: The proposed application fee is too high and will be a disincentive to many potential applicants. Could a quick survey of the potential for the property to qualify be done for free or a small fee? Then, if a property seems likely to qualify for current use taxation, the full fee could be paid.

Response: The fee has been reduced to \$150 under Ordinance 10177.

Comment: Some League members are concerned that the program may be too complex, while others feel that the program will work itself out.

Response: The implementation of a straightforward, understandable program is goal of this proposal. The key to realization of this goal is follow-up of the clearly stated policy guidelines with an effective marketing and implementation strategy.

Comment: There should be more notification to the public about the new current use taxation program than the existing program has in the past. A short notice on tax statements might be useful.

Response: Agreed. The suggestion to include the notice in tax statements has been included in the "Marketing and Implementation" section. Other strategies are also proposed in that section.

Comment: Is the highest priority being given to recreation, or are all nine items in the first group of equal value?

Response: There are three resource priority levels; low, medium and high. Within each resource priority level, for example the high priority resource, there are categories such as recreation or wildlife areas that have equal weight with other categories in that priority level.

Comment: Archeological sites should be more important.

Response: Agreed. These have been included as a high priority resource in this program in recognition that this resource is considered important.

Comment: Perhaps not requiring public access will give more incentive to individual property owners to save bits of open land.

Response: Public access is required only for trails, recreation areas and viewpoints, however, properties where public access is not provided will generally be eligible for less tax relief than those that do provide access. The exception is for properties where access must be restricted due to fragile resources such as sensitive areas.

Comment: View access without actual physical access ought to be of value.

Response: Scenic natural resources and view corridors are eligible under the proposed system and do not require public access. Again, those properties preventing or allowing only limited access may receive a lower public benefit rating than those properties providing greater access.

Comment: Partial credit should be given to people who save land even if no public access is intended. Maybe the overall points should be reduced so there isn't so much spread between access and no access.

Response: Public access is a bonus category that can add up to a maximum five points, for unlimited public access, to a qualifying property. At most, this would only qualify a property for an additional 10 percent property tax reduction. There is one instance where provision of public access can combine with other factors to help provide a property with the maximum tax relief. This would be a combination of unlimited access and a qualifying easement on a property that contains at least one high priority resource.

Comment: With public access, who covers liability protection?

Response: Under State Statute, properties owners who provide public access for recreational purposes under this program are indemnified from liability for persons who are injured through no fault of the property owner.

Comment: Public access creates a sometimes adverse impact on open space, particularly if it is at all fragile. What about litter control, motorcycles, wild parties, etc.?

Response: This proposal addresses the issue of appropriate public access. Fragile/sensitive areas will be protected by allowing for controlled access at a level appropriate to the resource being protected. This determination will be made in coordination with the Environmental Division. As to enforcement of possibly objectionable human activities on properties, this will require notification by landowners or neighbors to the appropriate enforcement agency. For example, in the case of wild parties or motorcycles, the local police department; in the case of a wetlands violation, the County Environmental Division.

Should it become apparent that a given property suffers from repeated abuses due to public access, then appropriate measures, including limiting or restricting public access could be considered.

Comment: Can a group of homeowners group together to pool some of their land for this [current use taxation] purpose?

Response: Yes, the overall property under consideration would have to meet the same minimum eligibility requirements that a single property would have to meet. A Bonus category has been added to include contiguous properties.

Comment: Does a property owner have to give two years' notice if withdrawing? What are the penalties if he doesn't? The tax deferral was confusing and needs clarification.

Response: There are three ways in which a property owner may withdraw from the program. In short, a property owner must give two years notice before withdrawing from the program, unless he or she wishes to pay a substantial penalty. The exact amount of this penalty will depend on the level of taxes imposed in a given taxing district. For more detail, please see pages 4-5 of the report.

Comment: Move Historical Sites to a higher priority.

Response: Agreed. This is now listed as a high priority resource.

Comment: Add gardens, arboretums or other neighborhood beauty spots.

Response: These are already included and are examples of the types of properties envisioned in the "urban open space" category, and the text has been modified to suggest these types of uses.

Comment: Add wood lots that are too small for timber classification but would save small beauty spots and pollution-eating trees.

Response: This type of property is envisioned in both the "Urban or Growth Area Open Space" category and the "Rural/low density Open Space Near Urban Areas" resource category.

Comment: Add Animal Trails.

Response: These areas are considered wildlife corridors and are eligible under the Special Plant/Animal category.

Comment: Add small public access such as lot line trails or canoe and kayak launches.

Response: These are eligible under the shoreline and public access categories, however text has been added to more explicitly describe the eligibility of these uses.

Comment: Long-time neighbors of the parcel should be one of the sources of information.

Response: Property neighbors could provide useful information to any evaluator of a current use taxation application. Due to varying nature of information being sought, the uneven availability of neighbors, differing relations between neighbors and uneven abilities of neighbors to evaluate, it would be inequitable allow neighbors to be formerly recognized sources that rate properties.

Comment: At a time when revenues are down and agencies are swamped with work, should a process this complex be added to the work load?

Response: This proposal recommends that should a great increase in applications occur, additional staff may be needed on a temporary basis, and if necessary, on a permanent basis.

Comment: Shouldn't there be more publicity about this and more opportunity for public input?

Response: This proposal has already been presented two times before the Council. Adoption of the proposal will

also occur in public meeting.

12. Alexandra Pye.

Comment: The application fee is high and will discourage applicants. Why is the proposed fee higher than the fee for applying for current use taxation for agricultural land, which is \$150? With agricultural land there can be some profit, whereas with open space there is no financial gain.

Response: The fee has been reduced to \$150 under Ordinance 10177

Comment: Can the process be simplified so that it does not have to go through the hearing examiner? If the process is not simple and clear, it will cost the county and landowner too much time and money. For example, the application form could list the public benefit criteria to be checked off by the applicant for those that apply.

Response: Statute requires review of all applications by the hearing examiner. The application check list is a good idea that will be incorporated into the application process.

Comment: All categories should be of equal priority with equal points - bonus points should be added for public access, restoration, plus the super bonus category. Plant and wildlife sites should not stipulate that the wildlife, plants or animals must be endangered or threatened for the land to be eligible for open space.

Response: We do not agree that all resources are of equal priority to the county open space system. As an example, a scenic resource such as a scenic view corridor property in the Cascade Mountains along Interstate 90 is of higher importance to the county open space system than a buffer to an eligible, but not formally designated historic landmark.

Comment: Since both the County and Seattle have an Open Space Plan and map, it would follow that the owners of properties on the map would be eligible to apply for current use taxation. There would need to be some need to update the map on a regular basis.

Response: It is not clear what is being proposed here. The County Open Space plan does not specify at a property-specific level which properties are within an open space category, although it does show on maps certain corridors that should generally be considered for inclusion in the county open space system. Further, the general, system

level maps produced by the County do not fully match the categories proposed in this report.

As a practical matter, it would be prohibitively expensive to do the type of mapping proposed. Such eligibility mapping would have to be continuously updated.

A public benefit rating system based on defined categories allows for greater complexity and therefore greater inclusion than a system based on mapped boundaries would. Responding to individual requests, with the County Plan as guidance, is also a much more efficient method for determining inclusion into the program.

The City of Seattle Maps may be property-specific for certain definitions of open space, however it is also unlikely that the Seattle maps can completely cover all resource categories, without site inspections of each potentially eligible property. In the interest of equity to all property owners throughout all jurisdictions in the county, the maps of all jurisdictions would have to be done in the same way. Many of these jurisdictions also lack the high level of resources that would be needed to map a system as inclusive as the defined category system proposed in this report.

Comment: There should be a provision for gardens being included as long as they are open to the public. For example, P-Patches, demonstration gardens.

Response: Certain gardens, including P-patches are eligible under the urban open space category and text has been amended to reflect this.

Comment: Exemption of Sensitive Areas for Current Use taxation because they cannot be developed to their highest and best use does not seem fair. Regulation of sensitive areas allows some development in order to protect the rights of the property owner. Therefore, the owner should be eligible, as compensation for limiting the highest and best financial return on his land. Whether this is done through Current Use Assessment in biyearly land evaluation by the assessor does not matter, but it is adding cost, time for the landowner, City or County to use an appeal process for tax reduction because land is in a sensitive area.

Response: The proposal to exclude properties containing sensitive areas as a separate criteria for the current use taxation process does not ignore the fact that sensitive areas often have value for development credits. If development credit could be obtained from a sensitive area

on a property, then any restriction over that required by local sensitive area regulation could be applied towards current use taxation tax relief. Should that property not enter into current use taxation, the assessor would tax it at its appropriate development potential for "highest and best use".

Comment: 2 acres or more is too large as a minimally eligible area for urban open space. 1/2 acre might be more appropriate.

Response: Agreed for properties in urban areas. The report has been modified.

Comment: Public Land Buffers. These could or might be bicycle or foot trails. They might be a long, continuous strip, but quite narrow, not fitting the acre mentioned except in length. A buffer might also be a wildlife, plant or animal strip, or woods--very narrow, but long.

Response: The resources described in this comment would fit under the trail linkages or significant plant and wildlife habitat areas.

Comment: Scenic Viewpoints. In a city, a viewpoint might be a much smaller area than one acre. For example, Fort Hamilton Park in West Seattle. This is probably 1/4 block long, but allows a view of downtown Seattle, the Cascades, should include City as well as County.

Response: Agreed. Text modified to include urban viewpoints, with a minimum size of 1/4 acre.

Comment: Historical Site. Why don't places on State and National registers qualify?

Response: The County Cultural Resources Division reports that many of these properties do qualify since they are designated landmarks. Properties on the state and national registers do qualify under the Eligible Historic/archaeological medium priority resource category. This proposal will encourage property owners to allow their sites to become designated landmarks. Such a designation is fought by some property owners, who do not wish to be subject to other regulatory restrictions that accompany such a designation.

Comment: Restoration. Why particular emphasis on fish rearing habitat? what about restoring a parking lot to an open green space, or a dump (such as was done with part of the old University Dump?)

Response: This category has been expanded to include wildlife and plant habitat areas, and upland, stream and wetland habitats. The emphasis on salmonid habitat stems from the growing evidence that Puget Sound Salmonid species are experiencing historically low return and reproduction levels, primarily due to severe impacts on habitat. Salmonid are also an excellent indicator of water quality and overall ecological health of river, stream and other aquatic systems.

Comment: Public Hearing(s). According to RCW 84.34.055 there should be a public hearing(s) prior to adoption of the public benefit rating system for the county. To test the proposals, to get citizen's ideas, and to publicize it as well as comply with the law, public hearings should be held throughout the county prior to its consideration by the County Council. This is after publicizing the proposals in the media, with copies available in the libraries.

Response: There will be a public hearing before the County Council prior to adoption of this proposal.

Comment: Citizen's Advisory Committee. Also mandated in RCW 84.34.145 to serve in an advisory capacity to the Assessor in implementing assessment guidelines. However, I don't agree that the 5 member committee should just represent the active farming community.

Response: The added section on implementation and marketing of the public benefit rating system addresses the proposed review committees for each jurisdiction, which is not limited to members of the farming community.

Comment: Public Information on CUT. Law mentions that information could be given in tax statement and it is up to the assessor to provide the information. There should be opportunities for neighborhood councils or other groups to get information about it through talks, written materials, etc.

Response: The added section on implementation and marketing acknowledges the need to publicize and effectively market the current use taxation program. The suggestions in this comment are incorporated in the implementation and marketing section.

Comment: Other than the property owner notifying the assessor when he no longer wants his property in open space, there doesn't seem to be much in enforcement provisions. How will this be handled?

Response: This is similar to the City of Seattle Parks and Recreation Department comment regarding maintenance of the open space resource to be conserved. Please see the response to that comment.

13. King County Cultural Resources Division

General Comment: Historic Resources are by nature varied in type and often benefit from protective buffers. The County's criteria for landmark designation are based on those established by the National Park Service for inclusion in the National Register of Historic Places, including historic rural landscapes. While the National and State Registers recognize significant historic resources, they do not in themselves provide sufficient regulations or incentives that will help preserve these resources. The proposed current use taxation plan would provide a needed incentive.

There are several adopted County policies that support preservation of historic resources through the use of incentives. These include the Comprehensive Plan, Open Space Plan and community plans, in addition to required growth management policies.

Comment: The following priority ranking for historic resources is proposed:

HIGH:

- a. Formally designated Landmarks (National, County and cities) and Register-listed properties (on the National or State Registers of Historic Places) on parcels larger than 1/2 acre in rural areas (including designated archeological sites and contributing properties within historic districts; non-contributing properties are excluded.)
- b. Formally designated Landmarks and Register-listed properties on parcels of any size which have designated landscape features such as gardens, fields, orchards, quarries or roadways.

MEDIUM:

- a. Properties eligible for listing or designation which include significant landscape features or verified archaeological sites (on parcels larger than 1/2 acre in rural areas)
- b. Sites of eligible properties on parcels larger than 1/2 acre in rural areas if landscape features are not significant.
- c. Buffers for designated properties.

LOW

- a. Sites of eligible properties on parcels of less than 1/2 acre in rural areas.
- b. Buffers for eligible properties.

Response: The above suggested priority rankings have been incorporated into the proposed priority ranking system, although the minimum acreage sizes have been eliminated. There is no demonstrable correlation between the amount land surrounding an historic resource and its location in an urban or rural area. Determination of the appropriate buffer to an historic resource is dependent on the resource and its context, and will be determined by professional staff from the Cultural Resources Division.

Comment: Some Historic Resource Inventory properties in rural areas are on small lots, for instance, in Preston. Parcel size is not directly related to historic significance.

Response: Agreed. The above comment reflects this comment.

Comment: Property improvements are specifically excluded from the above priority ranking proposal, in recognition of the intent of this open space current use taxation proposal. In the case of historic landscapes, however, improvements such as barns, fences, bridges or other structures are often inseparable from the historic resource. The current property tax allows for a partial deduction of restoration costs, however this incentive has limited application.

Response: Comment noted and passed on to Council as part of this report. To the extent that the federal incentives are insufficient, a companion tax incentive program should be developed.

Comment: Management and monitoring of properties is not discussed in the draft.

Response: See Section VII, Implementation.

Comment: Penalties are not discussed in the draft either.

Response: Penalties are set under RCW 84.34 and are included in an appendix to this proposal.

Comment: Archaeological sites and continuing cultural sites where tribal religious rites are practiced can be destroyed by improper disclosure of information.

Response: Implementation procedures should be developed to ensure the confidentiality of this information and ensure the protection of these resources.

Comment: Potential open space public benefits may conflict with each other, ie. habitat conflicting with recreation or historic landscape uses. If Priority resource points are awarded for potentially conflicting uses, management and protection of those values must be integrated.

Response: This is addressed in the site monitoring proposal and the Sample Draft Agreement Form in the implementation section.

Comment: Buffers for historic resources are relative to the nature of the resource and to surrounding conditions and are of three general types:

- * visual screening and enclosure of obtrusive surrounding land uses.
- * visual access , open viewsheds, and maintenance of historic views.
- * functional buffers that allow continuation of historic land uses.

These differing functions require different land management approaches and must be clearly defined for each site.

Response: Agreed. The text for scenic resources has been revised to distinguish between Viewpoints, View Corridors and Scenic Natural Resources (the resource being viewed and potentially subject to protection).

Comment: Scenic Resources are not adequately defined in the draft and should include clear, objective and consistent definitions, assessment methodologies and management requirements. The draft has a clear bias towards natural landscapes, but should include settled urban and rural areas.

Response: A more clear definition regarding scenic resources is proposed under the scenic resources Priority Resources ranking system. This includes view points, view corridors and the object being viewed. For example, a roadside viewpoint in North Bend that offers a view of Mount Si, the object being viewed, across a farm that provides a view corridor from viewpoint to object. Thus, a view point or corridor preserving a view of downtown Seattle could be eligible for a tax reduction, however, the buildings in Seattle obviously are not.

Comment: Expert opinion: regarding qualifying historic properties and buffers must be solicited, since the existing resource inventory is incomplete and no systematic inventory of archaeological resources has been conducted.

Response: Comment noted and will be incorporated into implementation proposal.

14. King County Surface Water management Division (SWM)

Comment: General comment: SWM strongly supports private landowner incentives aimed at protection of aquatic resources, including bonus points for expanded buffers and aquatic resource restoration under an approved restoration plan. In some cases, SWM may be able to assist land owners with buffer expansion and restoration efforts performed as mitigation for sensitive areas impacts of county Capital Improvement Projects (CIP's). The plan balances public access with limiting access for resource protection.

Response: Comment noted.

Comment: The current procedure for review of current use taxation applications is cumbersome, expensive and time-consuming for both applicants and B.A.L.D.. The proposed PBRS should streamline this process and pass on cost savings to applicants. This could be done by developing a simple checklist that lists the ratings points and supporting documents for each category that the applicants can fill out themselves or at a minimum cost with the assistance of a consultant. The check list could be verified and if necessary a brief site visit by a qualified expert on county staff, who could take baseline photographs of site resources for future monitoring. Batch processing of applications could improve efficiency.

Response: The fee issue is resolved by Council Ordinance 10177, as noted in previous comments. The comments on steps to improve application review efficiency are noted and closely reflect the proposed procedure described in the proposal.

Comment: Minimum Size Criterion: The minimum parcel size criteria make sense from an administrative standpoint, but do not make sense for some buffer properties, where an expanded buffer may not meet the minimum size requirements. Therefore, the minimum size requirement for aquatic zone buffers should be 1/4 acre.

Response: This issue closely relates to the minimum acreage requirement for buffers to public rights-of-way noted by the Open Space Advocates. In some cases, even a 1/4 acre minimum acreage requirement may preclude participation by many owners with smaller amounts of frontage on aquatic resources. The proposal has been modified to consider buffers in terms of minimum widths, not minimum acreage requirements for qualifying buffer properties.

Comment: Monitoring for Compliance: Open Space staff should contact the San Juan Preservation Trust for information on its highly successful monitoring program, which uses environmental interns to conduct annual site visits.

Response: Comment noted. Useful information gained will be incorporated into procedures developed upon passage of this proposal.

Comment: Resource Restoration Bonus Category: Although Sensitive Areas are not proposed for inclusion in this proposal, many sensitive areas could benefit from restoration and enhancement. Open Space staff should investigate whether restoration of sensitive areas or SAO-required buffers might be legally eligible for current use taxation in cases where restoration is undertaken at landowner expense.

Response: These properties would be potentially eligible under the resource restoration category

Comment: Amend High Priority Resource "B" to read "Property eligible for purchase as park, recreation or open space land; or as a state, King County, or municipal capital improvement program mitigation site". Rationale: Eligible sites should include parcels that have a high stream or wetland restoration potential and have been identified as land that the state, county or municipality may wish to purchase in the future for the purpose of constructing a restoration project for the mitigation of unavoidable impacts of public work projects.

Response: Agreed. The proposal has been revised to include this type of property.

Comment: Under high priority resource "F" "Surface water buffer area", it is important to note that many potentially eligible properties are not and never will be used for livestock grazing. Therefore, fencing should only be required if grazing currently exists or is instituted in the future.

Response: Agreed. Text amended to reflect this observation.

Comment: Reword high priority resource "H" to read "Significant plant, salmonid fish and wildlife habitat resource areas" and delete medium resource category "A" "anadromous fish rearing habitat". Rationale: Most King County Salmonid habitat resources are threatened with destruction or degradation due to urbanization and other land use changes. The report arbitrarily distinguishes between anadromous and sedentary salmonids, which the SAO does not. All salmonids are keystone aquatic species whose presence indicates good water quality. For consistency, the word "Salmonid" should be substituted for "anadromous" throughout the report.

Response: Agreed. The main reason for moving salmonid species to a high priority listing is based on recent information regarding the continued loss of returning migratory salmonids in Puget Sound, coupled with a recognition of salmonids as good indicators of water quality.

Comment: Some Trout and char fish stock are resident and not anadromous.

Response: Text is corrected to reflect this.

Comment: Intermittent streams do provide important salmonid rearing habitat, in fact, some intermittent stream reaches are critical spawning and/or rearing habitat for several salmonid species, including chum, coho, and cutthroat salmon. Protecting intermittent streams under CUT has the added benefit of protecting water quality and flood storage conveyance areas.

Response: Agreed. Text modified to reflect this observation.

Comment: Add a new medium priority resource category "J", "undeveloped groundwater recharge areas", in conjunction with appropriate staff.

Response: Groundwater recharge areas are included in the high priority resource category Watersheds/Groundwater Recharge.

Comment: Implementation: SWM would like to participate in implementation of the program by evaluating parcels with fish and wetland habitats, with recognized experts equal in experience to SWM senior ecologists or the staff biologists in the B.A.L.D. Technical Service Section or the Environmental Division Resource Section.

Response: This is a suggestion that needs to be further developed between the Environmental Division and SWM.

Comment: Program Publicity: SWM strongly endorses the use of a brochure to publicize the program. SWM could mail the brochure with SWM utility statements. The implementing agency or agencies should provide staff resources to handle phone inquiries regarding the program.

Response: These comments are incorporated into the recommendations in the program implementation section.

15. King County Building and Land Development Division

Comments: General Comments: If the proposed point criteria system is similar to the Planned Unit Development (PUD) bonus point system for density credit, it will prove to be subjective and argumentative in nature due to the need to interpret the criteria. The potential for lengthy discussion on the point criteria will be time-consuming for staff at the public information and public hearing process stages.

The current fee of \$150 is up from the \$35 fee in place since the inception of the existing current use program and down from the \$1150 fee set in place in 1991. The \$150 fee does not meet B.A.L.D.'s cost of processing the present current use taxation applications. In 1991 B.A.L.D. estimated that the average processing fee for 15 current use applications under the existing program in 1991 was \$541. In 1991 the fee was raised to \$1150 and then was reduced in January 1992 to \$150. It is doubtful that B.A.L.D. can achieve a fee that will pay for the costs of the present program, let alone the expanded PBRS program.

Response to General Comments:

a) To the greatest extent possible, this proposal has been developed so that there will be little subjective discretion, except where agencies other than the lead reviewing agencies have requested to participate in such determinations.

b) The information provided regarding funding is greatly appreciated and points out that additional revenue may be required to accomplish this proposal, as it apparently is to accomplish the present system.

Comment (1): The implementation of the PBRS system would be extensive, with seven steps in the proposal that B.A.L.D. must accomplish in order to have a viable system in place to administer the expanded

program.

Response to Comment (1): The lead agency for implementation of the program will be required to provide staff resources to get the program up and running. An estimate of the amount of staff time required to do this will be developed.

Comment (2): The current staffing of B.A.L.D.'s LUC Section was not reviewed by the consultant and they therefore erroneously concluded the PBRs addition to the program could be assumed by existing staff.

The existing Program is low-key, however, in order to meet the statutory deadline in 1991 for the 15 cases, LUC had to borrow staff from the MPD Team and the Shoreline Program. Reviewing the 200 parcels in the existing program or compliance with the new PBRs is not possible within the existing staff levels in B.A.L.D.

Response to Comment (2): This information provides important background for the proposal.

Comment (3): It is not clear who will be responsible for training staff responsible to answer general questions from the public regarding the point system and its criteria, as well as bring staff up to date about the program.

Response to Comment (3) The lead agency for implementation of this proposal will be responsible for training staff within the agency, as well as coordinating with staff experts from other agencies whose review is required.

Comment (4): Finally there has been no argument by the consultant why the Office of Open Space could not administer this expanded current use program. LUC could help that office in the public hearing process with existing staff, providing B.A.L.D. establishes a processing fee for its services.

Response to Comment (4): The Office of Open Space was not proposed to administer the program because the office is funded only for the life of the 1989 Open Space Bond, which it was established to implement. This suggestion can only be considered to the extent that functions of the of the Office of Open Space are retained beyond the life of the bond.

10511

APPENDIX 1 SUMMARY OF EXISTING CURRENT USE ASSESSMENT PROGRAM FOR OPEN SPACE IN KING COUNTY (For Assessment Years 1988 - 1990)

	ASSESSMENT YEAR 1988*	ASSESSMENT YEAR 1989*	ASSESSMENT YEAR 1990*
Number of Parcels	213	214	211
Total Acres	2,807	2,806	2,751
Acres Per Parcel	13.18	13.11	13.04
Current Use Value	\$8,053,500	\$8,090,210	\$12,443,880
Average Per Acre	\$2,870	\$2,883	\$4,523
Market Value	\$26,173,200	\$26,110,600	\$35,615,300
Average Per Acre	\$9,326	\$9,305	\$12,946
Difference	\$18,119,700	\$18,020,390	\$23,171,420
Current Use Value As Percent of Market	30.77%	30.98%	34.94%
Average Levy Rate	\$13.71	\$14.06	\$11.58
Total Shift or Loss of Tax Revenue, Estimated	\$248,467	\$253,397	\$268,284
Average Taxes if Assessed:			
at Market			
Per Parcel	\$1,684.98	\$1,715.70	\$1,954.32
Per Acre	\$127.88	\$130.85	\$149.90
at Current Use			
Per Parcel	\$518.47	\$531.60	\$682.83
Per Acre	\$39.35	\$40.54	\$52.37
Average Annual Tax Relief			
Per Parcel	\$1,166.51	\$1,184.10	\$1,271.49
Per Acre	\$88.53	\$90.31	\$97.52
Total County Value	\$70,629,629,628	\$73,097,889,390	\$102,212,020,082
Total Taxes Levied	\$960,626,143	\$1,022,465,397	\$1,185,693,951
Tax Loss/Shift as Percentage of Total Tax Levy	.02587%	.02478%	.02263%
Impact of Open Space Current Use Assessment on Other Property Taxes**			
Tax Rate Required To Offset Tax Loss	\$.003488	\$.003447	\$.002629
Annual Cost To Owner of \$173,100 Home*** To Offset Tax Loss	\$.60	\$.60	\$.46

Taxes are collected in the year following the assessment year.

* Estimated by dividing total annual "lost" revenue by total county assessed value including open space at market value and multiplying the result by 1,000 to obtain rate per \$1,000 assessed value.

** Average 1990 residential selling price.

Source: King County Assessor's Office

APPENDIX 2
SUMMARY - OPEN SPACE CURRENT USE ASSESSMENTS IN KING COUNTY

APPROVED APPLICATIONS AND REMOVALS (For Assessment Years
1984-1990)

ASSESSMENT YEAR	APPROVED APPLICATIONS			PARCELS REMOVED	
	Number of Applications	Number of Parcels	Number of Acres	Number of Parcels	Number of Acres
1984	3	5	49	4	35
1985	2	3	10	4	20
1986	7	11	160	0	0
1987	0	0	0	8	29
1988	0	0	0	0	0
1989	0	0	0	1	1
1990	0	0	0	9	38
TOTALS	12	19	219	26	123

Source: Annual Reports of the King County Assessor

10511

APPENDIX 3 SUMMARY OF IMPACT OF KING COUNTY CURRENT USE ASSESSMENT PROGRAM FOR OPEN SPACE ON CONSERVATION FUTURES (CF) AND AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS) LEVIES (For Taxes Collected 1989-1991)

	TAX YEAR 1989	TAX YEAR 1990	TAX YEAR 1991
Current Use Value	\$8,053,500	\$8,090,210	\$12,443,880
Market Value	\$26,173,200	\$26,110,600	\$35,615,300
Difference	\$18,119,700	\$18,020,390	\$23,171,420
Levy Rate Per \$1,000	\$.0625	\$.0625	\$.0625
AFIS Levy Rate Per \$1,000		\$.0250	\$.0200
Total Revenue - CF	\$4,414,352	\$4,568,618	\$6,388,251
Total Revenue Loss - CF	\$1,132	\$1,126	\$1,448
Total Revenue - AFIS		\$1,827,447	\$2,044,240
Total Revenue Loss - AFIS		\$451	\$463
Revenue Loss as a Percent of Total County Levy		.02465%	.02267%
Total County Value	\$70,629,629,628	\$73,097,889,390	\$102,212,020,082
Total Taxes Levied	\$960,626,143	\$1,022,465,397	\$1,185,693,951

Source: King County Assessor's Office

10511

APPENDIX 3 SUMMARY OF IMPACT OF KING COUNTY CURRENT USE ASSESSMENT PROGRAM FOR OPEN SPACE ON CONSERVATION FUTURES (CF) AND AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS) LEVIES (For Taxes Collected 1989-1991)

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