

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 10198

A RESOLUTION of the City Council of the City of Bellevue, Washington, denying the Timiri and Ostergaard application to reclassify portions of King County Parcel No. 8669400210, located at 4277 137th Ave. NE, Bellevue, Washington (King County), from Single-Family R-1 to open space under the Washington State Open Space, Agricultural, Timberlands, Current Use, Conservation Futures Act, Chapter 84.34 RCW.

WHEREAS, Madhukirana Reddy Timiri and Velma Ostergaard applied on or about December 29, 2021, to have their real property reclassified as open space under King County's Public Benefit Rating System ("PBRs") as authorized under Washington State's Open Space, Agricultural, Timberlands, Current Use, Conservation Futures Act, Chapter 84.34 RCW (the "Act"), which is a tax provision designed to provide tax reductions for those properties qualifying under the Act; and

WHEREAS, the real property is located at 4277 137th Ave. NE, Bellevue, Washington, (King County Parcel No. 8669400210) (the "property"), in the Bridle Trails subarea that is primarily residential in use and character, the property is approximately 1.38 acres per King County Assessor's records, is separated from other single-family homes on the west by a bridle trail and separated from homes on the east by 137th Ave. NE, and is bounded on the north and south sides of property by numerous single-family homes; and

WHEREAS, the property is designated Single-Family Low in the City's Comprehensive Plan, is zoned Single-Family R-1, is developed with a single-family home, driveway, detached garage and other improvements, and is encumbered by several easements, including a power transmission line easement held by Puget Sound Energy ("PSE"), a pipeline easement held by the Olympic Pipeline Company ("OPL"), and an easement for a bridle trail; and

WHEREAS, under the Act, King County (the "County") is authorized to develop, implement, and administer a PBRs to review applications for reclassification under the Act, and the County adopted a PBRs program which is codified in Chapter 20.36 of the King County Code; and

WHEREAS, pursuant to RCW 84.34.037 applications to reclassify property require action by both county and city legislative bodies. The County reviews pursuant to its PBRs program, and the City reviews pursuant to RCW 84.34.037; and

WHEREAS, the County provided the City with a copy of the Timiri and Ostergaard PBRs application on March 25; with a staff report on June 9 (File No. E21CCT040B) evaluating the application and recommending approval to the County Council with conditions; and with a modified staff report to the City for its use and consideration on August 11 (File No. E21CCT040B); and

WHEREAS, RCW 84.34.037(1) provides that an application for reclassification shall be acted upon after a public hearing and affirmative acts by both the county and city legislative bodies affirming the entirety of an application without modification or both bodies affirm an application with identical modifications; and

WHEREAS, on June 21, after a public hearing, the County's Transportation, Economy, and Environment Committee approved the reclassification of the Timiri and Ostergaard property with conditions and issued a Public Benefit Rating System Decision of Granting Authority pursuant to RCW 84.34.037, which was signed by four County Councilmembers on June 21, 2022; and

WHEREAS, on September 6, after providing the legally required public notice, the City Council held a public hearing on this application to take public comments and consider the application, and at the conclusion of the public hearing, the City Council requested staff return with additional information regarding the application; and

WHEREAS, on November 21, the City Council adopted the 2023-24 budget. Budgetary analysis showed the City's general fund continues to face a long-term structural deficit due to revenue imbalance coupled with the need for continued investment in City infrastructure and services. Under the current tax structure, property tax revenue received from the County is capped at one percent plus new construction annually. This capped increase combined with unpredictable revenues from sales and B&O taxes does not keep pace with inflation, nor annual costs to maintain infrastructure. To address this structural shortfall, Council imposed a 0.1 percent increase in B&O taxes and increased property taxes by 2 percent; and

WHEREAS, pursuant to RCW 84.34.037(2), "[i]n determining whether an application made for ... reclassification under [the definition of open space land not so classified in a comprehensive plan] should be approved or disapproved, the [City Council] may take cognizance of the benefits to the general welfare of preserving the current use of the property which is the subject of the application and shall consider" the factors and criteria in RCW 84.34.037(2)(a) and (b); and

WHEREAS, at the City Council's November 28 Regular Meeting, the City Council, in reference to the application, received additional public comment, and considered additional information and staff's recommendation to approve the application with certain conditions; and

WHEREAS, after consideration and discussion, a majority of the City Council found the application did not sufficiently meet the criteria in RCW 84.34.037 to warrant approval, and directed staff to return with a resolution denying the application; and

WHEREAS, approving or denying an application for current use reclassification is a legislative decision; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES
RESOLVE AS FOLLOWS:

Section 1. The Bellevue City Council, after due consideration, hereby finds
as follows:

1. RCW 84.34.037(2)(a) requires the City Council to consider the resulting revenue loss or tax shift. The City completed its biennial budgeting process on November 21. Property and business and occupation taxes were raised two percent and 0.1 percent, respectively, as part of City efforts to address its structural revenue gap. Approving property tax reductions now does not support the economic and social well-being of Bellevue citizens.
2. RCW 84.34.037(2)(b), requires the Council, in considering the application, to determine whether granting the application for land applying under RCW 84.34.020(1)(b) will (i) conserve or enhance natural, cultural, or scenic resources, (ii) protect streams, stream corridors, wetlands, natural shorelines and aquifers, (iii) protect soil resources and unique or critical wildlife and native plant habitat, (iv) promote conservation principles by example or by offering educational opportunities, (v) enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, (vi) enhance recreation opportunities, (vii) preserve historic and archaeological sites, (viii) preserve visual quality along highway, road, and street corridors or scenic vistas, (ix) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property [:]
 - i. Considering the current development, R-1 zoning, and the fact the property is encumbered by a trail easement, a PSE transmission line easement, and an easement for the Olympic pipeline, the opportunity for additional development is limited or non-existent.
 - ii. The record contains no evidence from recognized sources, such as maps, studies, assessments, or reports typically used to make such determinations, that the property contains streams, stream corridors, wetlands, natural shorelines, or aquifers.
 - iii. The record contains no evidence from recognized sources, such as maps, studies, or assessments, typically used to make such determinations, that soils or unique or critical wildlife or native plant habitat are present on the property. No species listed in the application are endangered, threatened, sensitive or candidate species of concern by the Washington State Department of Fish and Wildlife. Likewise, as King County found, there is no indication of rare plants or ecosystems as provided in Washington State Department of Natural Resources' Natural Heritage program.
 - iv. There is no evidence the proposal offers any educational opportunities

- v. The record does not include evidence that the property abuts parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces or enhances the value of these areas.
- vi. The record does not include evidence demonstrating how the property enhances recreation opportunities. The property is encumbered by an easement shown on the face of the Trail's End plat that provides a trail used by the public. There is no proposal to enhance the trail.
- vii. The record does not include evidence showing the presence of historical or archeological sites on the property.
- viii. The property does not preserve the visual quality along highways, roads, street corridors or scenic vistas as it is located in a single-family residential neighborhood and there is limited to no visibility from 137th Ave. NE.
- ix. There is also an absence in the proposal of other factors relevant to providing benefits to the general welfare of preserving the current use of land, which in this case is fully developed under the existing R-1 zoning and encumbered by OPL and PSE easements and an easement granting public access to the bridle trail on the west edge of the property.

Section 2. Decision. After considering the record and the criteria in RCW 84.34.037, and based on the above factual findings, the Council hereby denies the application in its entirety.

Section 3. Authorization. The City Manager or his designee is authorized to immediately notify the property owners and file notice of this denial with the County Assessor within 10 days of passage of this resolution and take any action necessary to effectuate the denial.

Passed by the City Council this _____ day of _____, 2022, and signed in authentication of its passage this _____ day of _____, 2022.

(SEAL)

Lynne Robinson, Mayor

Attest:

Charmaine Arredondo, City Clerk