

PUBLIC BENEFIT RATING SYSTEM
DECISION OF GRANTING AUTHORITY
PURSUANT TO RCW 84.34.037

Applicants: Madhukirana Timiri and Velma Ostergaard

King County Department of Natural Resources and Parks File Number: E21CT040B

City: Bellevue

On June 21, 2022, the Metropolitan King County Council Transportation, Economy, and Environment Committee conducted a public hearing and considered the application of Madhukirana Timiri and Velma Ostergaard for the public benefit rating system, current use assessment, in accordance with Revised Code of Washington Chapter 84.34.037 and King County Code Chapter 20.36. The granting authority has approved the application for the public benefit rating system subject to the conditions enumerated in the attached report.

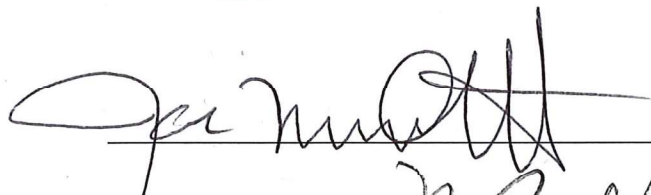
Signatures of Granting Authority (minimum three required)


Metropolitan King County Council
Transportation, Economy, and Environment Committee





Date





Date





Date





Date

Date

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

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

September 6, 2022

APPLICANTS: Madhukirana Reddy Timiri and Velma Ostergaard File No. E21CT040B

A. GENERAL INFORMATION:

1. Owners: Madhukirana Timiri and Velma Ostergaard
4277 137th Avenue NE
Bellevue, WA 98005
2. Property location: 4277 137th Avenue NE
Bellevue, WA 98005
3. Zoning: R1
4. STR: SW-15-25-05
5. PBRs categories requested by applicants and *suggested by staff*:

Open space resources

*Public recreation area
Equestrian-pedestrian-bicycle trail linkage
Active trail linkage
Scenic resource, viewpoint or view corridor
Significant plant or ecological site
Significant wildlife or salmonid habitat
Surface water quality buffer
**Urban open space
Watershed protection area

Bonus categories

***Resource restoration*
Additional surface water quality buffer
Conservation easement or historic easement
*Unlimited public access
Easement and access

NOTE: *Staff recommends credit be awarded for these PBRs categories.

**Award of these PBRs categories is possible but dependent upon specific category requirements being met (see resource category discussion under Section E beginning on page 6).

Enrollment in PBRs for property within an incorporated area requires approval by impacted granting authorities following public hearing(s). For this application, the granting authorities are the King County Transportation, Economy, and Environment Committee and the City of Bellevue. The County heard and acted on this application June 21, 2022.

6. Parcel:	866940-0210
Total acreage	1.38
Requested PBRs:	1.33
Home site/excluded area:	1.16
Recommended PBRs:	0.23*

NOTE: The portion recommended for enrollment in PBRs is the entire property less the excluded areas as measured. The attached 2021 aerial photo outlines the parcel in yellow and the areas proposed to be excluded from PBRs in blue. In the event the Assessor's official parcel size is revised, PBRs acreage should be administratively adjusted to reflect that change.

*If the Resource restoration category is awarded and an approved plan addresses the restoration needs within Section A (0.46 acre) and B (0.41 acre), outlined in green on the attached map, or any acreage thereof, then the enrolling acreage would increase from acres 0.23 acres to not more than 1.10 acres.

B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned R1.
2. Development of the subject property and resource characteristics of open space area: The property consists of a single-family residence, driveway, detached garage, and landscaping. There is also a Puget Sound Energy (PSE) transmission line easement, and 10-foot Olympic pipeline easement. The open space portion of the property consists of a trail easement along the western property boundary. The trail easement primarily consists of deciduous and coniferous forest with native understory adjacent to the existing trail footprint. Section A and B, on attached map, are impacted by grass and noxious weeds.
3. Site use: The property is used as a single-family residence with unlimited public access on the trail easement located along the west property line.
4. Access: The property is accessed from 137th Avenue NE.

5. Appraised value for 2022 (based on Assessor's information dated 06/02/2022):

<u>Parcel #866940-0210</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Appraised value	\$1,319,000.00*	\$155,000.00	\$1,474,000.00
Tax applied	\$10,816.42	\$1,271.07	\$12,087.49

NOTE: *Participation in PBRs reduces, for taxation purposes, the appraised land value for the portion of the property enrolled resulting in a lower taxable value.

C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

KCC 20.36.010 Purpose and intent.

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

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

KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the application. In making such recommendation, the department will utilize the point system described in section B. and C. below.
- B. The following open space resources are each eligible for the points indicated:
1. Public recreation area – five points
 2. Aquifer protection area – five points
 3. Buffer to public or current use classified land – three points
 4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
 5. Active trail linkage – fifteen or twenty-five points
 6. Farm and agricultural conservation land – five points
 7. Forest stewardship land – five points
 8. Historic landmark or archaeological site: buffer to a designated site – three points
 9. Historic landmark or archaeological site: designated site – five points
 10. Historic landmark or archaeological site: eligible site – three points

11. Rural open space – five points
12. Rural stewardship land – five points
13. Scenic resource, viewpoint, or view corridor – five points
14. Significant plant or ecological site – five points
15. Significant wildlife or salmonid habitat – five points
16. Special animal site – three points
17. Surface water quality buffer – five points
18. Urban open space – five points
19. Watershed protection area – five points

C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:

1. Resource restoration - five points
2. Additional surface water quality buffer - three or five points
3. Contiguous parcels under separate ownership - two points
4. Conservation easement of historic easement – fifteen points
5. Public access - points dependent on level of access
 - a. Unlimited public access - five points
 - b. Limited public access - sensitive areas - five points
 - c. Environmental education access – three points
 - d. Seasonal limited public access - three points
 - e. None or members only – zero points
6. Easement and access – thirty-five points

D. 2020 COMPREHENSIVE PLAN POLICIES AND TEXT:

E-101 In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives shall be monitored and periodically reviewed to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRS staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B11.

E-112a The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected in King County:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40% or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;

- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and
- h. Volcanic hazard areas.

E-421 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

E-429 King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants, such as providing technical assistance or access to appropriate native plants.

NOTE: Participation in PBRS requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

E-443 King County should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

E-476 King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

E-504 King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRS provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRS requirement.

E-449 King County shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

R-605 Forestry and agriculture best management practices are encouraged because of

their multiple benefits, including natural resource preservation and protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

E. PBRs CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:

- Public recreation area
The property contains a portion of a trail (along west property line), used by the public. This trail runs north/south and begins at NE 40th Street, and ultimately outlets at 132nd Avenue NE where pedestrians and equestrians can continue and access trails in Bridle Trails state park. Credit for this category is recommended by PBRs staff. King County approved award of this category following their June 21, 2022, public hearing.
- Equestrian-pedestrian-bicycle trail linkage
The property has a recorded easement titled “Roads, Bridle Trails, Water Lines and Tanks” dated 1959. However, the easement does not meet current standards, such as user groups, trail maintenance, design standards, and information that would make this an acceptable trail easement for the Department. Credit for this category is not recommended by PBRs staff. King County denied award of this category following their June 21, 2022, public hearing.
- Active trail linkage
The property has a recorded easement titled “Roads, Bridle Trails, Water Lines and Tanks” dated 1959. However, there is no agreement between owner and King County to maintain the trail, nor does it provide a linkage between trails within the county’s regional trail system, which are required for award of this category. Credit for this category cannot be recommended by PBRs staff and King County denied award of this category following their June 21, 2022, public hearing.
- Scenic resource, viewpoint or view corridor
In order to be eligible for this category, a property must be either a) a scenic natural resource significant to the character of the county, b) provide a viewpoint accessible to the public or c) contribute to a recognized county view corridor. The property does not contribute significantly to the character of the county. Since the general public does not access the property to view a noteworthy natural resource, it would not be considered a viewpoint. The property is not part of a recognized view corridor. Credit for this category cannot be recommended by PBRs staff and King County denied award of this category following their June 21, 2022, public hearing.
- Significant plant or ecological site
A portion of the property is natively vegetated. However, qualification for this category requires the existence of a rare plant species or ecosystem identified by the Washington Department of Natural Resources’ Natural Heritage Program, existence of which must be confirmed by an expert. No such plant or ecosystem is known to exist and a further study by the owners is not expected. Credit for this category cannot be recommended by PBRs

staff and King County denied award of this category following their June 21, 2022, public hearing.

- Significant wildlife or salmonid habitat

Although the property contains habitat for wildlife species, none are listed as endangered, threatened, sensitive or candidate species of concern by the Washington Department of Fish and Wildlife, which is required for the award of this category. Credit for this category cannot be recommended by PBRS staff and King County denied award of this category following their June 21, 2022, public hearing.

- Surface water quality buffer

In order to be eligible for this category, the enrolling land must provide a qualifying buffer of native vegetation to a portion of a lake, pond, stream, wetland or shoreline that is within the enrolling portion of a property. The property does not contain any aquatic features. Credit for this category cannot be recommended by PBRS staff and King County denied award of this category following their June 21, 2022, public hearing.

- Urban open space

To be eligible for this category the enrolling area must be at least one acre or be at least one-half acre and meets one of the criteria listed in KCC 20.36.100 B.18a. Although the property is located within the City of Bellevue the landowners are currently only providing 0.23 acres of open space. Credit for this category cannot currently be recommended. However, if the resource restoration category is awarded, and the approved plan is implemented that natively revegetates a minimum of 0.27 acres (in the Sections outlined in green on attached map), this would meet both the requirement for one-half acre enrolling and criteria 1 of KCC 20.36.100 B.18a. Credit for this category could be awarded administratively. King County approved award of this category following their June 21, 2022, public hearing.

- Watershed protection area

In order to be eligible for this category, the enrolling area must consist of additional native forest cover beyond that required and be at least one acre or 65% of the property acreage, whichever is greater. Additionally, the property must consist of native forest or be in the process of reforestation. The landowners are currently only providing 0.23 acres of open space which is less than one acre and less than 65% of the property acreage. Even if areas A and B are replanted with native vegetation, area A may not be considered reforested due to PSE vegetation height restrictions. Credit for this category cannot be recommended by PBRS staff and King County denied award of this category following their June 21, 2022, public hearing.

Bonus categories

- Resource restoration

Although credit for this category was not initially requested, the owners are committed to improving the health and diversity of their property, which includes the removal of invasive species (English Ivy, Scotch broom, Himalayan blackberry, etc.) and restoration with native plants and shrubs. Revegetation of Section A (on attached map), currently in grass and weeds, must meet the height and species requirements of Puget Sound Energy (PSE), the holder of the easement, City of Bellevue, Olympic Pipe Line Co. and the PBRS program. In order for the property to qualify for this category, a restoration plan

must be provided by the owner, approved by the department, and implemented. At this time, a plan has not been provided and therefore credit for this category is dependent upon receipt and approval of a restoration plan. As recommended by PBRs staff and approved by King County at the public hearing, if a plan is **provided to the department by November 1, 2022**, and **approved by the department by December 31, 2022**, then credit for this category could be awarded administratively.

All planting activity must be completed within a three-year period, which begins on January 1st of the enrollment year (2023). Award of this category requires an annual progress report from the landowner for the first five years of restoration effort (see below, Section B. 10.) Progress reports should be sent to PBRs staff by either email or other agreed to method. It is the landowner's responsibility to apply for and receive any necessary approvals from applicable state and local governmental agencies, as well as from easement grantees, for activities that require a permit or approval, such as clearing and grading, or planting.

- Additional surface water quality buffer

In order to be eligible for this category, the enrolling land must provide a qualifying buffer of native vegetation to a portion of a lake, pond, stream, wetland or shoreline that is within the enrolling portion of a property. The property does not contain any aquatic features. Credit for this category cannot be recommended by PBRs staff and King County denied award of this category following their June 21, 2022, public hearing.

- Conservation easement or historic easement

The property has a recorded easement titled "Roads, Bridle Trails, Water Lines and Tanks" dated 1959. However, the easement does not meet current standards, such as user groups, trail maintenance, design standards, and information that would make this an acceptable trail easement for the Department. Credit for this category cannot be recommended by PBRs staff and King County denied award of this category following their June 21, 2022, public hearing.

- Unlimited public access

The owners provide unlimited public access to the portion of a trail (along west property line), used by the public. This trail runs north/south and begins at NE 40th Street, and ultimately outlets at 132nd Avenue NE where pedestrians and equestrians can continue and access trails in Bridle Trails state park. King County approved award of this category following their June 21, 2022, public hearing.

- Easement and access

To be eligible for this category, the property must qualify for one open space resource, provide unlimited public access or limited public access due to resource sensitivity and have a conservation easement or historic preservation easement. The property is providing at least one open space resource and will be providing unlimited or limited public access however the recorded easement does not meet the conditions that are acceptable to the department. Credit for this category cannot be recommended by PBRs staff and King County denied award of this category following their June 21, 2022, public hearing.

NOTE: Enrollment in the PBRS program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS:

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.
3. Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

Open space resources

• Public recreation area	5
• Equestrian-pedestrian-bicycle trail linkage	0
• Active trail linkage	0
• Scenic resource, viewpoint or view corridor	0
• Significant plant or ecological site	0
• Significant wildlife or salmonid habitat	0
• Surface water quality buffer	0
• Urban open space	**
• Watershed protection area	0

Bonus categories

• Resource restoration	*
• Additional surface water quality buffer	0
• Conservation easement or historic easement	0
• Unlimited public access	5
• Easement and access	0

TOTAL 10 points

NOTE: *If credit is awarded for the resource restoration category, then point total could increase to 15 points. **If the resource restoration plan results in at least 0.27 acres being natively revegetated then the point total could increase to 20 points.

PUBLIC BENEFIT RATING

For the purpose of taxation, 10 points result in 50% of market value and an 50% reduction in taxable value for the portion of land enrolled. If all contingent categories (* and **) are awarded, the property would qualify for a maximum of 20 points, which results in a 30% of market value and a 70% reduction.

B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of 10 points, subject to the following requirements:

**Requirements for Property Enrolled in the
Public Benefit Rating System Current Use Taxation Program**

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRs) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The King County Department of Assessments (DoA) and the Water and Land Resources Division, Director's Office, Agriculture, Forestry and Incentives Unit (AFI) or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.
2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by the City of Bellevue and King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the City of Bellevue and King County Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the DoA and the AFI Unit or its successor of a change in circumstance with regard to the Property.

4. When a portion of the open space Property is withdrawn or removed from the program, the AFI Unit or its successor and the DoA shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining portion meets the criteria for priority resources, it may continue under current use taxation.
5. Except as provided for in sections 6, 7 and 10 and below, no alteration of the open space land or resources shall occur without prior approval by the City of Bellevue and the AFI Unit or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: *(Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.)*
 - a. erecting structures;
 - b. grading;
 - c. filling;
 - d. dredging;
 - e. channelizing;
 - f. modifying land or hydrology for surface water management purposes;
 - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
 - h. applying herbicides or pesticides or any hazardous or toxic substance;
 - i. discharging pollutants excepting stormwater;
 - j. paving, construction, application of gravel;
 - k. storing of equipment, household supplies, play equipment, or compost;
 - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the City of Bellevue and the AFI Unit or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the City of Bellevue and the AFI Unit or its successor, in order to replace such species with native species or other appropriate vegetation.
8. There shall be no motorized vehicle driving or parking allowed on the open space Property, except for medical, public safety, police emergencies or for maintenance of utilities within easement by grantee (s).

9. Grazing of livestock is prohibited on the open space Property.
10. Resource restoration must be implemented in a timely manner in accordance with any Resource Restoration Plan that applies to the Property and that has been approved by the PBRS Staff. During plan implementation and for the first 5 years of enrollment, the Owner must submit a yearly monitoring report to PBRS Staff describing the progress and success of the restoration, including photographs. An environmental consultant need not prepare the report.
11. An owner of property enrolled in the program may be required to submit a monitoring report on an annual or less frequent basis as requested by program staff. This report must include a brief description of how the property still qualifies for each awarded resource category. It must also include photographs from established points on the property and any observations by the owner. The owner must submit this report to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.
12. Public access shall be permitted upon any area of the open space Property that is designated for public access.
13. Enrollment in PBRS *does not* exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

TRANSMITTED to the parties listed hereafter:

Madhukirana Reddy Timiri and Velma Ostergaard, applicants
Nick Whipple, Development Services Department, City of Bellevue
Debra Clark, King County Department of Assessments