



**City of Seattle  
Seattle Department of Parks and Recreation**

**E11CT020S CURRENT USE TAXATION APPLICATION**

**Summary of Staff Recommendation and Background**

Seattle City Council's Parks and Neighborhoods

**Public Hearing, June 7, 2012**

King County's Staff Report is attached for the Current Use Taxation application submitted by a property owner bordering Maple Creek, a tributary of Thornton Creek, in northeast Seattle. Seattle Parks' staff has reviewed this report and concurs with it.

**E11CT020S – Gartler: Maple Creek, a tributary of Thornton Creek, Seattle**

The applicants, Stanley and Marion Gartler, have requested property tax relief for a .38-acre forested portion of their property that adjoins their homesite. This forested site contains a section of Maple Creek, a tributary of Thornton Creek and provides wildlife habitat and buffers for the stream. The applicants donated a conservation easement to the Seattle King County Land Conservancy (now Forterra) in 1997 on the .38 acres, thereby perpetuating the protection of the natural features of this site. These site features and voluntary actions by the applicants qualify the .38-acre site for a 80% reduction in assessed value.

**RECOMMENDED ACTION:** Accept staff reports and approve the following:

**Area to be classified as Open Space:**

Stanley and Marion Gartler  
9009 42nd Avenue NE  
Seattle, WA 98115  
Parcel No. 521020-0355 (.38Acres of 1.03 Acres total property size)

Recommendation: Approval of 31 points, awarded as follows:

**Open space resources**

|   |   |
|---|---|
| Buffer to public or current use classified land | 3 |
| Special animal site                             | 3 |
| Surface water quality buffer                    | 5 |

**Bonus categories**

|  |    |
|--|----|
| Additional surface water quality buffer    | 5  |
| Conservation easement or historic easement | 15 |

|                      |                  |
|----------------------|------------------|
| <b>TOTAL</b>         | <b>31 points</b> |
| <b>Tax Reduction</b> | <b>80%</b>       |

**Awarding these points would qualify the open space portion of the property for an annual property tax reduction of approximately \$1,260, based on 2012 assessed values and mil rates.**



E11CT020S: Gartler



**LEGEND**  
City of Seattle Parks  
Non-City Park/Open Space  
★ PBRS Application

Source:  
City of Seattle GIS data  
GAP review December 2010  
Map date: March 31, 2011

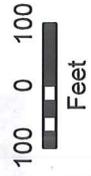
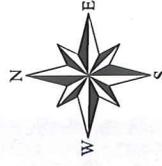
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# Thornton Creek Maple Creek Ravine

**Legend**

- Thornton Creek
- Conservation Easements
- Park Boundary
- Parcel Boundary

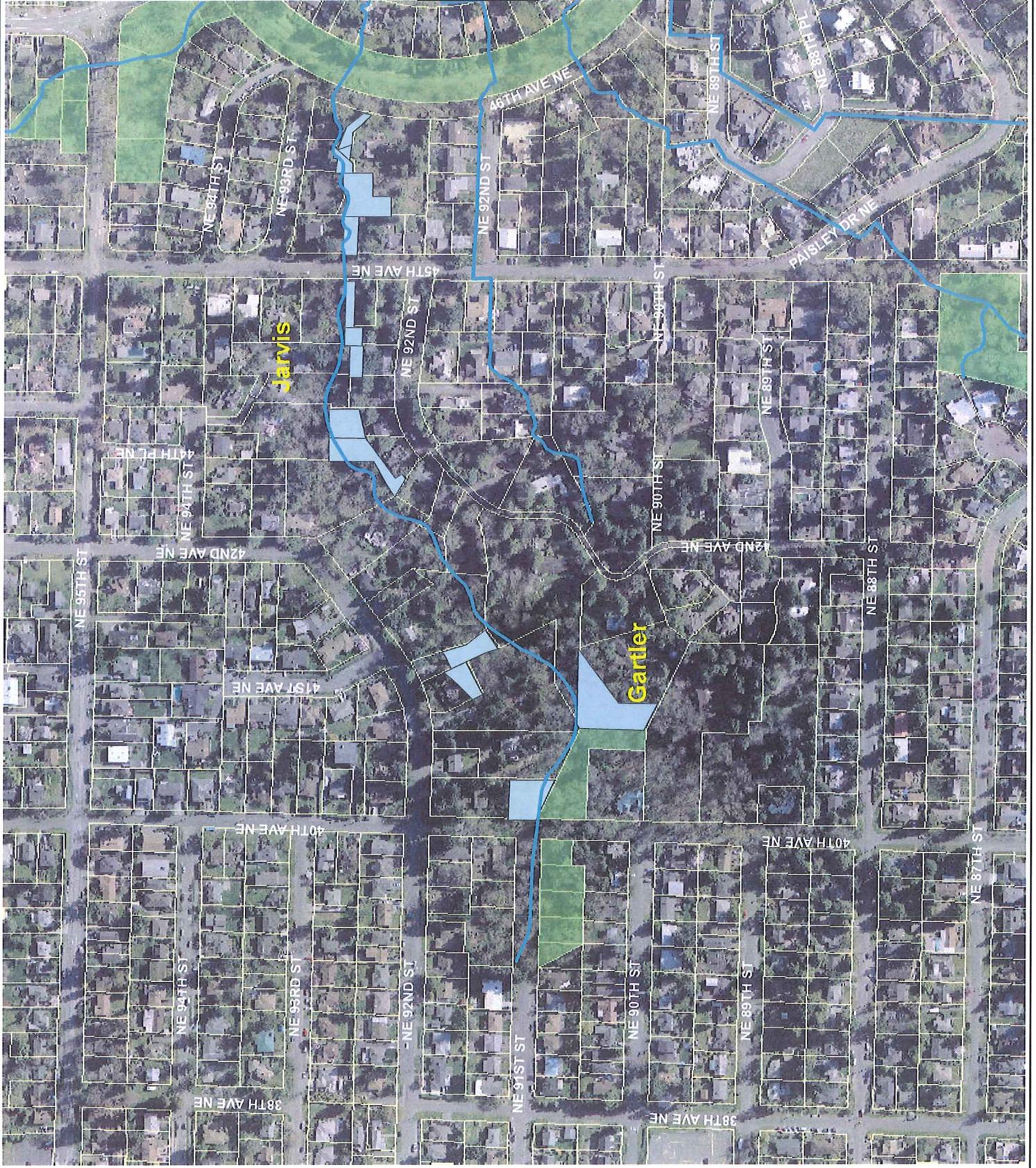


1 inch = 296 feet

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Orthophoto source:  
Walker and Assoc., March 2005  
Map date: January 10, 2010



E111CT20S: Garlter Aerial Photo



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

**Report to the City of Seattle for Property  
Enrollment in the Public Benefit Rating System (PBRs)  
May 1, 2012**

**APPLICANTS: Stanley and Marion Gartler**

**File No. E11CT020S**

**A. GENERAL INFORMATION:**

1. Owners: Stanley and Marion Gartler  
9009 42nd Avenue NE  
Seattle, WA 98115
2. Property location: same as owners address
3. Zoning: SF7200
4. STR: SW-34-26-04
5. PBRs categories requested by applicants or *suggested by staff*:

**Open space resources**

Buffer to public or current use classified land  
Special animal site  
*Surface water quality buffer*

**Bonus categories**

*Additional surface water quality buffer*  
Conservation easement or historic easement

- |                          |             |
|--------------------------|-------------|
| 6. Parcel:               | 521020-0355 |
| Total acreage:           | 1.03        |
| Requested PBRs:          | 0.29        |
| Home site/excluded area: | 0.65        |
| <b>Recommended PBRs:</b> | <b>0.38</b> |

NOTE: The attached map outlines in yellow the parcel boundaries and in green the area proposed to be *enrolled* in PBRs.

**B. FACTS:**

1. Zoning in the vicinity: Properties in the vicinity are zoned LR2, LR3, LR2 RC, NC1-30, NC2-40, SF5000, and SF7200.
2. Development of the subject property and resource characteristics of the open space area: The property contains a single family home, tea house, landscaping, and access drive/parking. The open space portion is primarily deciduous forest with native plant understory. There is a negligible amount of invasive plants within the open space area, such as English ivy and holly that should be monitored and controlled, and ideally irradiated. A section of Maple Creek flows northerly along the western boundary and then near the property's northwest corner continues easterly onto adjacent parcels.
3. Site use: The property is used as a single family residence.
4. Access: The property is accessed from 42nd Avenue NE.
5. Appraised value for 2012 (Based on Assessor's information dated 04/12/12):

| <u>Parcel #521020-0355</u> | <u>Land</u> | <u>Improvements</u> | <u>Total</u> |
|----------------------------|-------------|---------------------|--------------|
| Appraised value            | \$420,000   | \$215,000           | \$635,000    |
| Tax applied                | \$4,269.59  | \$2,185.62          | \$6,455.21   |

NOTE: Participation in PBRS reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value

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

**KCC 20.36.010 Purpose and intent.**

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

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

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

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five

points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the application. In making such recommendation, the department will utilize the point system described in section B. and C. below.

- B. The following open space resources are each eligible for the points indicated:
1. Public recreation area – five points.
  2. Aquifer protection area – five points.
  3. Buffer to public or current use classified land – three points.
  4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points.
  5. Active trail linkage – fifteen or twenty-five points.
  6. Farm and agricultural conservation land – five points.
  7. Forest stewardship land – five points.
  8. Historic landmark or archaeological site: buffer to a designated site – three points.
  9. Historic landmark or archaeological site: designated site – five points.
  10. Historic landmark or archaeological site: eligible site – three points.
  11. Rural open space – five points.
  12. Rural stewardship land – five points.
  13. Scenic resource, viewpoint, or view corridor – five points.
  14. Significant plant or ecological site – five points.
  15. Significant wildlife or salmonid habitat – five points.
  16. Special animal site – three points.
  17. Surface water quality buffer – five points.
  18. Urban open space – five points.
  19. Watershed protection area – five points.
- C. Property qualifying for an open space category in subsection ~~A.~~ 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. 2008 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 should be monitored to determine their effectiveness in terms of protecting natural resources.

- E-107** 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 should be protected:
- a. Floodways of 100-year floodplains;
  - b. Slopes with a grade of 40 percent or more or landslide hazards that cannot be mitigated;
  - c. Wetlands and their protective buffers;
  - d. Aquatic areas, including streams, lakes, saltwater shorelines and their protective buffers;
  - e. Channel migration hazard areas;
  - f. Designated wildlife habitat networks;
  - g. Critical Aquifer Recharge Areas;
  - h. Marine beaches, wetlands, intertidal and subtidal habitat and riparian zones including bluffs;
  - i. Regionally Significant Resource Areas and Locally Significant Resource Areas;
  - j. Fish and Wildlife Habitat Conservation Areas; and
  - k. Volcanic hazard areas.

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

**E-420** King County recognizes that protecting and restoring headwater and upland forest cover is important for preventing flooding, improving water quality, and protecting salmon and other wildlife habitat. The central role that forest cover plays in supporting hydrologic and other ecological processes should be reflected in policies and programs addressing stormwater management, flooding, wildlife, and open space.

**E-422** King County recognizes the value of trees and forests in both rural and urban communities for benefits such as improving air and water quality and enhancing fish and wildlife habitat. The county promotes retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

**E-449** 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, 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.

**R-605** Well-managed forestry and agriculture practices are encouraged because of their multiple benefits, including natural resource 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:**

##### **Open space resources**

- Buffer to public or current use classified land  
In order to be eligible for this category the enrolling portion of a property must be adjacent to public land or land enrolled in the PBRS program. The land adjacent to east of the Gartler property is owned by the City of Seattle and the land to the south is participating in PBRS (file L92CT013S). The enrolling land provides a buffer of native vegetation to both of these adjacent lands that is greater than 50 feet in width and length, which exceeds category requirements. Credit for this category is recommended.
- Special animal site  
In order to be eligible for this category an identified wildlife network must be located on or adjacent to the enrolling open space area. The property is located in the Maple Creek Drainage, mapped as part of the Seattle Wildlife Network, and is providing an area of natural vegetation for the wildlife corridor. Credit for this category is recommended.
- Surface water quality buffer  
Although credit for this category was not requested, the property contains a portion of Maple Creek that enters the land near the southwest property corner and flows northerly near the west boundary toward the northwest corner, and then easterly onto adjacent parcels. As required by city code, the setback required for this type of stream is 25 feet. In order to be eligible for this category, the participating land must provide a buffer of native vegetation to the creek greater than 1.5 times that required or 37.5 feet in this case. The owners are providing such a buffer to the east side of this creek that is on average greater than 90 feet, which is more than 1.5 times the buffer required. Credit for this category is recommended.

##### **Bonus categories**

- Additional surface water quality buffer  
Although credit for this category was not requested, the property contains a portion of Maple Creek that enters the land near the southwest property corner and flows northerly near the west boundary toward the northwest corner, and then easterly onto adjacent parcels. As required by city code, the setback required for this type of stream is 25 feet. In order to be eligible for this category, the participating land must provide a buffer of native vegetation to the creek greater than 3 times that required or 75 feet in this case, which results in 5 points for this category (*a buffer less than 3 times and greater than 2 times that required results in 3 points for this category*). The owners are providing a buffer of native vegetation to the east side of this creek that is on average greater than 90

feet, which is more than 3 times the buffer required. Credit for this category is recommended.

- Conservation easement or historic easement

The resource value of a portion of the property is protected by a voluntary easement granted to The Land Conservancy of Seattle and King County (recording number 9712310632, see Exhibit 14). The City of Seattle holds the Assignment of Rights to this easement (recording number 9712310635, see Exhibit 15). This easement protects the resource value of this property in perpetuity. Credit for this category is recommended.

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

## CONCLUSIONS AND RECOMMENDATIONS

### A. CONCLUSIONS:

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

#### Open space resources

- Buffer to public or current use classified land 3
- Special animal site 3
- Surface water quality buffer 5

#### Bonus categories

- Additional surface water quality buffer 5
- Conservation easement or historic easement 15

**TOTAL 31 points**

### **PUBLIC BENEFIT RATING**

For the purpose of taxation, 31 points result in 20% of market value or an 80% reduction in taxable value for the portion of land enrolled.

### B. RECOMMENDATION:

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of 31 points:

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

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRs) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The County Assessor and the King County Rural and Regional Services Section (PBRs Staff) 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 City of Seattle 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, City of Seattle or a grantee approved by the City of Seattle and 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 Seattle 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 PBRs Staff and the Assessor 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, PBRs Staff and the Assessor shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining portion meets the criteria for priority resources, it may continue under current use taxation.
5. Except as provided for in sections 6 and 7 below, no alteration of the open space land or resources shall occur without prior written approval by PBRs Staff. **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 an approved 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 PBRS Staff 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 PBRS Staff 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.
  9. Grazing of livestock is not prohibited on the open space Property.
  10. 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.
  11. 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:

Stanley and Marion Gartler, applicants  
 Chip Nevins, Acquisition Planner, Seattle Parks and Recreation  
 Martha Lester, Council Staff, City of Seattle  
 Wendy Morse, King County Department of Assessments



**CURRENT USE ASSESSMENT  
DECISION OF SEATTLE CITY MEMBERS OF GRANTING AUTHORITY**

APPLICANTS: Stanley and Marion Gartler

PROPERTY ADDRESS: 9009 42nd Avenue NE  
Seattle, WA 98115

KING COUNTY FILE NO: E11CT020S

On June 7, 2012, the members of the Seattle City Council who were designated in Council Resolution 31106 to serve as members of the granting authority pursuant to RCW 84.34.037(1) (“City Members”) conducted a public hearing in regard to this application. The City Members, having considered the application, recommendations of City staff, and testimony received during the public hearing, **approve** the application for the reasons listed below.

The City Members considered the factors in RCW 84.34.020 and 84.34.037(2) and in the King County Public Benefit Rating System (PBRS) and have reached the conclusions that follow.

Considering the King County PBRS Criteria, the application warrants the following rating:

| King County PBRS Criteria |   | Applicant & Rating |
|---------------------------|---|--------------------|
| A. Open Space Resources   |   | <b>Gartler</b>     |
| 1.                        | Active or passive recreation area – 5 points.                                     |                    |
| 2.                        | Aquifer protection area – 5 points.   |                    |
| 3.                        | Buffer to public land – 3 points.   | 3                  |
| 4.                        | Equestrian-pedestrian bicycle trail linkage – 35 points.                          |                    |
| 5.                        | Active Trail Linkage – 15 or 25 points  |                    |
| 6.                        | Farm and agricultural conservation land – 5 points.                               |                    |
| 7.                        | Forest stewardship land – five points.  |                    |
| 8.                        | Historic landmark or archaeological site: buffer to a designated site – 3 points. |                    |
| 9.                        | Historic landmark or archaeological site: designated site – 5 points.             |                    |
| 10.                       | Historic landmark or archaeological site: eligible site – 3 points.               |                    |
| 11.                       | Rural open space – 5 points.  |                    |
| 12.                       | Rural stewardship land – 5 points.  |                    |
| 13.                       | Scenic resource, viewpoint, or view corridor – 5 points.                          |                    |
| 14.                       | Significant plant and ecological site – 5 points.                                 |                    |
| 15.                       | Significant wildlife or salmonid habitat – 5 points.                              |                    |
| 16.                       | Special animal site – 3 points.   | 3                  |
| 17.                       | Surface water quality buffer – 5 points.  | 5                  |
| 18.                       | Urban open space – 5 points.  |                    |
| 19.                       | Watershed protection area – 5 points.   |                    |

|  |   |                  |
|--|---|------------------|
| B. Properties qualifying for an open space category in subsection A may receive credit for additional points as follows. |   |                  |
| 1.   | Resource restoration - 5 points.                          |                  |
| 2.   | Additional surface water quality buffer - 3 or 5 points.  | 5                |
| 3.   | Contiguous parcels under separate ownership - two points. |                  |
| 4.   | Conservation easement or historic easement – 15 points.   | 15               |
| 5.   | Public access – points dependent on level of access       |                  |
| a.   | Unlimited public access - 5 points.                       |                  |
| b.   | Limited public access - sensitive areas - 5 points.       |                  |
| c.   | Environmental education access – 3 points.                |                  |
| d.   | Seasonal or limited public access – 3 points.             |                  |
| e.   | None or members only - zero points.                       |                  |
| 6.   | Easement and access – 35 points.                          |                  |
| Total Rating   |   | <b>31 Points</b> |

Awarding these points would qualify this property for an annual property tax reduction of approximately \$1,260, based on 2012 assessed value and mil rates.

The requested property tax relief would assist the applicants in maintaining the current open space use of the property with the attendant public benefit.

Dated this 7th day of June, 2012.

\_\_\_\_\_  
Councilmember Sally Bagshaw

\_\_\_\_\_  
Councilmember Jean Gooden

\_\_\_\_\_  
Councilmember Tom Rasmussen