6/8/93

Introduced by: Audrey Gruger

Proposed No.: 93-412

ORDINANCE NO. 10893

AN ORDINANCE concurring with the joint recommendation of the King County Council Parks, Open Space and Natural Resources Committee and the Seattle City Council Parks and Public Grounds Committee to approve, subject to conditions, the open space land designation application for current use valuation of THOMAS P. WAGGENER, JACK & PEGGY SUSSMAN AND PAT CLOSE & DAVID FOECKE, designated Development and Environmental Services File No. L92CT025.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

This ordinance does hereby adopt and incorporate herein as its findings and conclusions the findings and conclusions contained in the report and recommendation of the Seattle Department of Parks and Recreation and King County Environmental Division staff, which was filed with the clerk of the council June 10, 1993, to approve, subject to conditions (modified), the open space land designation application for current use valuation of Thomas P. Waggener, Jack & Peggy Sussman, and Pat Close & David Foecke,designated Development and Environmental Services File No. L92CT025, and the council does hereby adopt as its action the recommendation(s) contained

in said report.

INTRODUCED AND READ for the first time this 24th day of May, 1993.

PASSED this 14th day of June, 1993

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Audrey Grugen
Chair

ATTEST:

Gerald A. Peterson
Clerk of the Council

Attachments:

1. Joint staff recommendation from Seattle Department of Parks and Recreation and King County Environmental Division.
2. June 2, 1993 letter from Seattle City Councilmember Cheryl Chow, Parks and Public Grounds Committee Chair.

KING COUNTY COUNCIL

10893

PARKS, OPEN SPACE AND NATURAL RESOURCES COMMITTEE

COMMITTEE RECOMMENDATION

DATE: June 8, 1993

Proposed Ordinance 93-412: Application for Open Space petitioned by Thomas P. Waggener, Jack & Peggy Sussman, Girard M. & Rosemary W. Steven, Pat Close & David Foeck, Catherine Nunneley, and Sanford Levy, property lying at 111 33rd Ave,. E.; 184 33rd Ave. E.; 230 35th Ave. E.; 3306 E. John St.; and 33rd Ave. E. all in Seattle.

RECEIVED
93 JUN -8 PM 3:00
CLERK
KING COUNTY COUNCIL

COMMITTEE RECOMMENDATION:

____ DO PASS

X DO PASS SUBSTITUTE DATED 6-8-93 *

____ DO NOT PASS

____ POSTPONE INDEFINITELY

____ PASS OUT OF COMMITTEE (WITH NO RECOMMENDATION)

ATTACHMENTS ADOPTED BY THE ORDINANCE OR MOTION:

____ NONE

____ APPROVED AS REFERRED TO COMMITTEE

____ AMENDED BY COMMITTEE AND DATED ____ (List if more than one)

LARRY PHILLIPS, CHAIR

BRIAN DERDOWSKI, VICE-CHAIR

CYNTHIA SULLIVAN, MEMBER

10893

KING COUNTY PUBLIC BENEFIT RATING SYSTEM
APPLICATION FOR CURRENT USE TAXATION
STAFF RECOMMENDATION: SEATTLE DEPARTMENT OF PARKS
KING COUNTY ENVIRONMENTAL DIVISION

APPLICANTS: Thomas P. Waggener
Catherine Nunneley & Sanford Levy
Jack & Peggy Sussman
Pat Close & David Foecke
Girard M. & Rosemary W. Steven

FILE NO: L92CT025

A. GENERAL INFORMATION:

Owners: Same as applicants listed above.

Location: 5 properties bordering the Harrison Ridge Greenbelt .

Request:

Priority Resources Requested (Open Space)
Active or passive recreation areas
Significant plant, wildlife, and salmonid habitat
Urban or growth area open space

Public lands and right-of-way buffers
Special animal sites

Resource restoration
Contiguous parcels under separate ownership

Limited access due to resource sensitivity
Limited access- special arrangement

Acreage

Total
Requested for open space - 23,248 sq ft. (approx. .5 acre)

Waggener-	4160 sq ft
Nunneley/Levy-	2000 sq ft
Sussman-	6840 sq ft
Close/Foecke-	6000 sq ft
Steven-	4248 sq ft

Recommended - 10,382 sq ft

Waggener-	3273 sq ft
Sussman-	2708 sq ft
Close/Foecke-	4401 sq ft

B. FACTS:

1. Zoning in the Vicinity: Zoning in the vicinity is SF5000.

2. Development of the subject Property:
WAGGENER - Parcel 910300-0115-09 Single family house and garage.
NUNNELEY/LEVY - Parcel 910300-0190-07 House with detached garage and small (60 sq ft) garden shed.
SUSSMAN - Parcel 177850-0655-05 Single house, 384 sq ft shop, driveway and parking area.
CLOSE/FOECKE - Parcel 177850-0095-03 Single family house.
STEVEN - Parcel 177850-0330-08 1200 sq ft house footprint and detached 2 car garage. Driveway connects garage to 35th Ave. E.

3. Access: Properties are located along the Harrison Ridge Greenbelt between 32nd Ave E and 36th Ave E.

4. Assessed Value vs. Estimated Open Space Value:

FILE NUMBER -	ASSESSED VALUE	TAX

Information from the King County Assessor's Office to be provided.

Active or Passive Recreation Areas

The applicants requested credit under this category. The properties are not "currently devoted to providing active or passive non-motorized recreation use," and does not "complement or substitute for government facilities." The area to be included in the program provides buffer to the greenbelt area in the Harrison Ridge area. The Seattle Department of Parks and Recreation defines recreation areas as those areas that the general public can use and where appropriate maintenance is provided to accommodate such use. The applicant properties are steep and generally inaccessible, except as access points tb view the greenbelt. The properties do not provide safe physical access to the greenbelt for the public. The existing undeveloped street right of way provides adequate, as well as the most usable, access to the greenbelt both for viewing and walking. It is unlikely that the public would access the greenbelt through the sideyards of residences.

Significant plant, wildlife, and salmonid habitat

According to the applicants, Harrison Ridge Greenbelt is used by band-tailed pigeons, great grey and snowy owls, and raptors, such as red-tail and smaller hawks. also bald eagles and migrating turkey vultures rest in the greenbelt. The Audubon Society reported great horned owls and northern saw-whet owls in the greenbelt. King County's wildlife planner did not feel that the properties qualified under this category as there is not confirmed evidence that these priority species use the applicant properties specifically although some properties retained native cover to be used by these species.

The City staff believes that the properties qualify for this category as the proposed native buffer additions help provide the needed buffer for the habitat in the greenbelt. The smaller size protects some of the few remaining large conifers adjacent to the greenbelt.

Urban growth area open space

The application included 23,248 sq ft of property. This is over the .5 acre required for this category. At least two of the properties do not qualify as having zoning which allows more intensive development, because they are developed with houses that overlap the interior lot line and the lots are less than the applicable zoning of SF5000. (Seattle Land Use Code 23.44.010 B.4.c)

The combined acreage that qualifies as open space (10,382 sq ft) is less than the required 1/2 acre. The remainder of the applicant's property does not qualify as any open space resource. This portion of the acreage is developed as front, rear or side yard with lawns and or private gardens.

Public lands and right of way buffers

Three of the proposed properties do qualify as providing a 25' or greater buffer of "native growth lands lying adjacent to wildlife preserves, natural reservations or greenways. All the properties are contiguous to the Harrision Ridge Greenbelt, one of the city's mapped greenspaces. The city is actively acquiring property within the greenbelt under the 1989 Bond Issue.

Special animal sites (Priority Wildlife Sites)

1) Identified wildlife habitat networks- the City of Seattle has an adopted Greenspaces Policy, in which Harrison Ridge is one of the designated greenspaces. The City has been working to acquire the private property within the greenbelt and to encourage voluntary conservation of the remaining and adjoining properties that contribute to the habitat value.

2) Urban natural area- The State Department of Wildlife had not designated Harrison Ridge as an urban natural area but has indicated that its listing was only an initial listing and more work will be done and additional areas included. The Arboretum is designated as a wildlife area and is listed on the City's Critical Areas map. Harrison Ridge, although not contiguous to the Arboretum, serves as a continuation of the forested flight path for priority species.

3) Other locally significant fish and wildlife habitat areas- The staff recommends that the Harrison Ridge greenbelt, because of its habitat value for priority species, should be considered as a locally significant wildlife habitat area and the Waggener, Sussman, and Close/Froecke properties should qualify because they help support and buffer the habitat area.

Resource Restoration

The owners have not developed or implemented a restoration plan for the property but have expressed an interest in doing so. The application may be amended and points awarded in this category in the future subject to a restoration plan being developed and approved.

Contiguous properties under separate ownership

All parcels qualify under this category. The three properties that contain priority resources are owned by different owners, have identical open space resources and will be governed by identical terms and conditions.

Limited Access - Due to Resource Sensitivity

The access limitation appears due to lack of safety for the public and /or privacy reasons of the applicants. The open space resource is not sensitive in a way that would justify limiting public access.

Limited Access - (seasonal or upon special arrangement)

The applicants indicate a willingness to allow limited access for educational or scientific purposes. Prior arrangements with the property owners would be requested. Although access to the greenbelt is readily accessible via undeveloped street ends, access to the properties may be desirable to views the greenbelt area or for other reasons.

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. Of the points requested, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

High Priority Resources	
Active or Passive Recreation Areas	0
Significant plant, wildlife or salmonid habitat	5
Urban Open Space	0
Medium Priority Resources	
Public Lands and Right of Way Buffer	3
Special Animal Sites	3
Bonus Categories	
Contiguous Parcels	2
Public Access	
Limited Access	3
TOTAL	16

Potential Additional Points
Resource Restoration - Pending development and implementation of a plan to restore the applicant properties.

5

3. Area to be classified as open space land
(Maps attached)

Recommended -	10,382 sq ft
Sussman-	2708 sq ft
Close/Foecke-	4401 sq ft
Waggener-	3273 sq ft

16 points results in 70% reduction or 30% of market value for those parcels recommended for inclusion in the program.

B. RECOMMENDATION:

Recommend APPROVAL of the application for the Waggener (910300-0115-09), Sussman (177850-0655-05) and Close/Froecke (177850-0095-05) properties subject to the following conditions.

1) Failure of the owner to comply with these conditions shall be basis for removal, by King County, of the current use designation, in which case the land shall be subject to the penalty, tax, and interest provisions of RCW 84.34 and assessed at true and fair value. The County Assessor and the Environmental Division 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 this agreement may only occur upon mutual written approval of the owner, the City of Seattle, and King County.

3) The open space classification for this land will continue as long as it is primarily devoted to and used for the purpose of protecting open space adjacent to the Harrison Ridge Greenbelt. Classification will be removed if dedication to this purpose ceases to exist. A change in circumstances which diminishes the extent of public benefit from that generally outlined in the recommendation to the City of Seattle Council and the King County Council will be cause for removal of the current use assessment classification. It is the owner's responsibility to notify the Assessor of a change in circumstance.

4) When a portion of the open space land is withdrawn or removed from the program, the Environmental Division, City of Seattle Department of Parks and Recreation and the Assessor shall re-evaluate the remaining land to determine its continued qualification under the program. If the remaining portion meets the criteria for priority resources, it may continue under current use taxation.

5) Except as otherwise stated in this agreement, there shall be no alteration of the open space land or resources. **Any alteration may constitute 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 land or resources including but not limited to the following:. (Walking, passive recreation, or other similar 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. Except:

1) In areas which have become infested by noxious weeds, the Owner shall consult with the County Noxious Weed Control Board Coordinator to obtain suggestions on controlling them. The Owner shall submit a control and enhancement plan to the King County Environmental Division and local jurisdiction for approval prior to removing the weeds.

2) If the owner wishes to restore a resource such as a stream or wetland, the owner shall consult the City of Seattle obtain any required permits, and develop a restoration plan in cooperation with the Soil Conservation Service, the State Departments of Fisheries or Wildlife, the King County Environmental Division, the King County Surface Water Management Division or other cognizant local or county agency.

3) In areas invaded by invasive species, replacement with native species or naturalized non-invasive species may be allowed subject to approval of an enhancement plan by the King County Environmental Division and City of Seattle.

5) Trees posing a hazard to structures or major roads may be removed if approved in advance by the City Arborist. Any trees removed must be replaced.

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. constructing trails except with prior approval of the City of Seattle.
m. or engaging in any other human activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resource.

6) There shall be no motorized vehicle driving or parking allowed on the open space land.

9) There shall be no hunting or trapping.

10) Camping and/or campfires shall not be allowed.

11) There shall be no discharging of firearms on the site, except for law enforcement officers during an emergency.

12) Land not designated open space and presently used as a residential building site shall be valued at its true and fair value as a homesite as directed under WAC 458-30-260 (5).

The property owner may limit access to the property to a reasonable number of points through the use of fences, berms, or other access barriers, subject to approval of the Environmental Division and other appropriate agencies (list name(s) of agencies, such as Parks Department, here). Placement of access barriers shall not defeat the purpose of preserving the resource.

Limited Public Access:

The public shall be entitled to free access to this property, subject to notification and consent of the Owner. Access shall not be denied if the request is compatible with this Agreement and would not endanger open space resources. Access is limited to passive forms of recreation or educational pursuits in which the land and its ecological balance remain undisturbed and shall not be unreasonably denied.

"No Trespassing" signs shall not be allowed.

Signage Condition:

The applicants shall install a sign post to permit the installation of a sign designating their property as participating in the Open Space program. the sign shall specify the land as participating in the program and contain instructions for obtaining permission to access land.
In the case of the Sussman property, the sign should be located at the entrance to the alley from 34th Avenue.

Condition specific to Resource Restoration Bonus Category:

The resource restoration must be implemented according to the restoration plan. Monitoring for 5 (five) years is required. Over the monitoring period, the owner must submit a yearly monitoring report to the Environmental Division describing the progress and success of the restoration, and including photographs. The report need not be prepared by a biologist.

ADDENDUM

REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

1. **KCC 20.36.010 Purpose and intent.**

"It is the 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 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessment on "open space lands" 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 Chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered by this chapter. (Ord. 10511 Sec. 3, 1992: Ord. 1886 Sec. 1, 1974: Ord. 1076 Sec. 1, 1971.)"

COMMENT: The Application was received on December 31, 1992.

2. **KCC 20.36.100 Criteria for approval - public benefit rating system for open space lands.**

A. Rating system. To be eligible for open space classification under the public benefit rating system, property must contain one or more priority open space resources. These resources are ranked as high priority, medium priority and low priority resources and are based on the adopted King County Open Space Plan referenced in K.C.C. 20.12.380. High priority resources receive five points each, medium priority resources receive three points each and low priority resources receive one point each. Properties can receive a maximum of thirty points from no more than six open space priority resources. In addition, bonus points and super bonus points may be awarded pursuant to Subsection B and C and a property can achieve a maximum of fifty-two points through the rating system and the bonus system. Portions of property may also qualify for open space designation. complete definitions of each resource, sources and eligibility standards are fully described in the summary report adopted by reference by K.C.C. 20.36.150.

1. High priority resources - five points each.
   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 growth areas.
h. Significant plant, wildlife and salmonid habitat area.
i. Significant aquatic ecosystems.
j. Historic landmarks/archaeological sites: designated sites.
k. Trail linkages
l. Urban or growth area open space.

2. Medium priority resources - three points each.
a. Public lands and right-of-way buffers.
b. Special native plant sites.
c. Shoreline natural environment.
d. Geological features.
e. Eligible historic landmarks or archaeological sites.
f. Buffers to designated historic landmarks/ archaeological sites.
g. Special animal sites.

3. Low priority resources - one point each.

B. Bonus System. Properties qualifying in the specific high, medium or low priority categories may receive up to twelve bonus points in at least three categories if the following additional qualifications are met:

1. Resource restoration - five points.
2. Bonus surface water quality buffer - three or five points.
3. Contiguous parcels under separate ownership - two points.
4. Conservation/historic easement in perpetuity - five points.
5. Bonus public access points (granted only in categories that require public access).
a. Unlimited public access - five points.
b. Limited public access - sensitive areas - five points.
c. Limited public access - non-sensitive areas - three points.

C. Super bonus system. Properties with at least one high priority resource and which allow unlimited public access, or limited public access if due to resource sensitivity, and which convey a conservation, historic, or trail easement in perpetuity, in a form approved by the county, shall be automatically eligible for current use value at 10% of market value.

COMMENT: The applicant properties meet the criteria as set forth as discussed in the recommendation.

10893

Seattle City Council

June 2, 1993

Honorable Larry Phillips, Chair
Parks, Open Space & Natural Resources Committee
King County Council
King County Courthouse
Seattle, Washington 98104

RE: Current Use Taxation Applications: L92CT012
L92CT013
L92CT025

Dear Councilmember Phillips:

With this letter the Parks and Public Grounds Committee of the Seattle City Council transmits its actions on the above applications. Pursuant to RCW 84.34.037(1) the members of the Parks and Public Grounds Committee of the Seattle City Council were selected to serve as the three Seattle panel members on the granting authority. A public hearing was held before the Seattle Parks and Public Grounds Committee on May 20, 1993, at 9:00AM, following public notice in the Daily Journal of Commerce on May 10, 1993.

The Parks and Public Grounds Committee has made the following determinations based on the public hearing and staff reports from King County Environmental Division and Seattle Department of Parks and Recreation:

L92CT012
Withdrawn from consideration.
(Application withdrawn May 11, 1993 by property owner.)

L92CT013
Staff report accepted (with map of area to be classified as open space).
Approval of points to be awarded (see attached staff notes).
Approval of additional points conditioned on donation of qualifying conservation easements by December 31, 1993.
In addition, the Committee made the following statement:

> It is our expectation that the [conservation] easement[s] would be taken into account in future LID's [Local Improvement District] to the extent permitted by law.

L92CT025
Staff report accepted (with maps of areas to be classified as open space).
Approval of points to be awarded for Waggener, Sussman, and Close/Foecke
(see attached staff notes).
Approval of additional points conditioned on implementation of a restoration plan on all three properties.
(This will allow for an adjustment in the tax rate following restoration without necessitating a reapplication.)

We understand that King County Council Parks, Open Space & Natural Resources Committee will be holding a public hearing on June 8, 1993 at 9:30AM and will then forward a joint recommendation to the full King County Council for adoption. We understand that Open Space Taxation Agreements (with attached Conditions) will be finalized by County and City staff for signature by the property owners and King County Council.

We are pleased to see this program underway and appreciate the cooperative working relationship between the City and the County.

Sincerely,

Councilmember Cheryl Chow, Chair
Parks and Public Grounds Committee
Seattle City Council

cc: Councilmember George Benson, President
Councilmember Jim Street, Parks and Public Grounds Committee
Councilmember Tom Weeks, Parks and Public Grounds Committee
Robert & Martha Cram, L92CT013
Carsten & Cristi Lien, L92CT013
Thomas Waggener, L92CT025
Jerry & Peggy Sussman, L92CT025
Pat Close/David Foecke, L92CT025

10893

KING COUNTY COUNCIL MEETING
Monday June 14, 1993

ITEM #

TYPE OF ACTION: Current Use Assessment - Open Space Public Benefit Rating System Program

COMMUNITY PLANNING AREA: City of Seattle

NUMBER OF ACRES: 10,382 square feet total on 3 parcels

NUMBER OF LOTS: N/A

CURRENT ZONING: SF 5000

PROPOSED ZONING: N/A

HEARING BODY: Separate public hearings conducted by the Seattle City Council Parks and Public Grounds Committee and the King County Council Parks, Open Space and Natural Resource Committee

GENERAL CONDITIONS:

- Open space classification will be removed if the land is used inconsistently with the purpose of this classification.
- A portion of the property may be withdrawn from the program without affecting the remaining area if the remaining area meets the same criteria for classification as did the classified portion of the property at the time of approval.
- No alteration of the open space land or resource is permitted except for the removal of noxious weeds or hazard trees and revegetation with native or naturalized non-invasive species, subject to the approval of an enhancement plan.
- Recreation activities within the open space area is limited to walking and other similar passive recreation activities.
- The property owner may limit public access to the property to a reasonable number of points but requests for public access shall not be unreasonably withheld.
- A sign designating the properties as participating in the Open Space program is required.
- Resource restoration must be implemented according to the approved restoration plan and monitoring is required for five years.

10893

NOTICE IS HEREBY GIVEN that the Parks and Open Space Committee of the King County Council will meet in Room 401 of the King County Courthouse, 516 Third Avenue, Seattle, Washington on June , 1993 at , or as soon thereafter as possible, to consider applications for classification and real property assessment under Current Use Assessment Statute RCW 84.34, all listed hereafter;

L92CT012 - ROBERT AND LINDA KANTER, 2841 Magnolia Blvd. W., Seattle WA 98199; STR: NW 22-25-03; REQUEST: Open Space; Size 0.53 acre; Zone: SF7200; Tax # 136730-0065

L92CT013 - CARSTEN LIEN AND ROBERT CRAM, 8810 40th Avenue NE & 9005 42nd Avenue NE, Seattle, WA 98115; STR: SW 34-26-03; REQUEST: Open Space; Size 3.4 acres; Zone: SF7200; Tax #s 507140-0006 and 507140-0160

93-412

L92CT025 - THOMAS P. WAGGENER, 111 33rd Avenue East; JACK AND PEGGY SUSSMAN, 184 33rd Avenue East; GIRARD M & ROSEMARY W. STEVEN, 230 35th Avenue East; PAT CLOSE & DAVID FOECKE, 3306 East John Street; CATHERINE NUNNELEY & SANFORD LEVY, 128 33rd Avenue East, all in Seattle, WA 98112; STR: SW 27-25-04; REQUEST: Open Space; Size: 0.55 acre; Zone: SF5000; Tax #s 910300-0015, 177850-0655, 177850-0330, 177850-0095, 910300-0190.

93-412

Intro 5/24/93

10893

Introduced by: AUDREY GRUGER

PROPOSED ORDINANCE
NO. 93-412

AN ORDINANCE for Current Use Assessment Application for OPEN SPACE petitioned by Thomas P. Waggener, Jack & Peggy Sussman, Girard M. & Rosemary Steven, Pat Close & David Foecke, Catherine Nunneley & Sanford Levy and designated Development and Environmental Services File No. L92CT025

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY

SECTION I.