Council Meeting: 06/17/2014
Agenda: Public Hearings
Item #: 9. a.

**CITY OF KIRKLAND**
**Planning and Community Development Department**
**123 Fifth Avenue, Kirkland, WA 98033**
**425.587-3225 - www.kirklandwa.gov**

**MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Eric Shields, AICP, Director
Angela Ruggeri, AICP, Senior Planner

**Date:** June 6, 2014

**Subject:** Public Hearing for Public Benefit Rating System Application for Loomis House

## RECOMMENDATION

Following the public hearing, pass Resolution R-5058 approving the Public Benefit Rating System, Current Use Assessment request of Barbara Loomis.

## BACKGROUND DISCUSSION

Public Benefit Rating System

The Washington State Open Space Taxation Act, RCW 84.34 and WAC 458-30 provide for assessment practices to reflect current use of property, rather than "highest and best use," as an incentive to property owners to retain large tracts of open space, to provide public access to open space and to preserve historic structures. The Act provides for three current use classifications: open space land, farm and agricultural land, and timber land. WAC 458-30-230 identifies factors for considering an application in that preserving a property's open space benefits the general welfare, such as by preserving historic and archaeological sites. This open space current use taxation program is implemented in King County through the Public Benefit Rating System (PBRS), which provides a point system to rate properties.

If land contains one or more open space resources, such as preservation of a designated historic property as further defined by the PBRS, and is enrolled in the PBRS, then the King County Assessor will assess the land at "current use" value instead of at its highest and best use. The annual tax reduction ranges from 50 percent to 90 percent for the property enrolled. PBRS lists 20 categories of open space resources that could be generally grouped as recreational, natural or scenic, trail linkage, historic/archaeological, farm/rural, shorelines, or urban open space.

Loomis PBRS Application

Barbara Loomis submitted an application to the King County Department of Natural Resources (KCDNR) for the PBRS on December 30, 2013 for the property located at 304 8th Avenue West in Kirkland (Attachment 1). The KCDNR staff has forwarded the

application to the City of Kirkland for evaluation and the City Council's action.

The Loomis House property is .19 acres. Approximately .14 acres of the property is unimproved and eligible for the PBRS current use tax reduction. Unimproved property includes natural areas, landscaping, and paved areas. Improved property, also referred to as the footprint of built structures, is not counted toward the current use reduction and continues to be assessed at the highest and best use. The Loomis House property includes the primary structure (1720 square feet) which is a feature of historic significance, a detached garage (300 square feet), and landscaping. The footprint of the primary structure and the garage count as the developed portion of this parcel and therefore, are not eligible for the tax reduction.

State law directs that, after a public hearing, both the King County Council and the Kirkland City Council shall consider and act upon an application for property in Kirkland to the PBRS within six months.

Portion of annual tax and revenue reductions to the property owner and the City
Based on a 50 percent reduction to the annual property taxes for the .14 acres of candidate land area, the Loomis House's annual property taxes would be reduced by $2500. The City receives approximately 15.7 percent of this tax amount and therefore would receive $392 less in annual tax revenue specific to this property's reduction.

King County Department of Natural Resources Report
In the report by the King County Natural Resources and Parks Water and Land Resources Division (Attachment 2), staff identified the eligible portion of land as 0.14 acres of the total 0.19 acres. The report recommends a rating of five points for the eligible open space based on open space resource category of Historic landmark or archaeological site.

The rating of five points would result in a 50 percent reduction in the taxable value for the portion of the property enrolled in the program. The King County Assessor would assess the taxable value of the enrolled land at 50 percent of highest and best use; that is, market value. The Assessor would continue to assess the ineligible portion of the property at market value. The map attached to the report delineates the eligible portion of the property identified by the report.

City Council Consideration of PBRS Application
The Revised Code of Washington (RCW 84.34) and Washington Administrative Code (WAC 458-30) provide guidance for actions on PBRS applications. In determining whether the Loomis House application should be approved, the Council may take particular notice of the benefits to the general welfare of preserving the current use of the parcels of land described in the application, and shall consider the following:

- Whether granting the application will preserve historic and archaeological sites;
- The revenue loss or tax shift that will result from granting the application;
- Does the change to taxation affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the land; or
- The zoning of the parcel(s) of land at the time the application for classification is

filed.

The Council may approve the application in whole or in part, or may deny the application. If approving the application in whole or in part, the Council may also require that certain conditions be met including, but not limited to, the granting of easements. The approval or denial of a PBRS application is a legislative determination and shall be reviewable only for arbitrary and capricious actions.

If any part of the application is denied, the applicant may withdraw the entire application. The applicant can appeal the City Council's determination to King County Superior Court. Alternatively, the applicant may reapply after one year.

Staff Recommendation

Staff recommends approval of the application because the benefits to the general welfare of preserving the current use of the property as a historic site warrant the tax reduction provided by the PBRS for the applicant.

Comprehensive Plan Policy CC-2.3 states that the City should: "Provide encouragement, assistance and incentives to private owners for preservation, restoration, redevelopment, reuse, and recognition of significant historic buildings, structures, sites and objects."

The annual tax shift of $392 that would result from approving the application is offset by the value to Kirkland and to the property owner of preserving the current use of the property.

Alternatives to Staff Recommendation

1. Approve the Loomis PBRS application: Staff recommends this alternative, as it is consistent with Comprehensive Plan policy and through this type of partnership, supports preserving Kirkland's architectural history.
2. Approve with conditions or modifications: Staff does not recommend this alternative since the application as submitted is consistent with Comprehensive Plan policy and the PBRS program.
3. Deny the application in total: Staff does not recommend this alternative because support for this tax reduction at this site helps support preserving historic properties and maintaining the City's unique sense of community character.

Time Constraints

Staff recommends Council take action on the application on June 17, 2014, after the public hearing, to comply with state law and to provide the applicant with a timely response to their application.

Attachments:

Attachment 1 - Loomis Application to the Public Benefit Rating System

Attachment 2 - King County Report

cc: Barbara Loomis, applicant
Bill Bernstein, PBRS Program Lead, Rural and Regional Services King County

# PUBLIC BENEFIT RATING SYSTEM
## Application

**Open Space Land Classification For Property Within King County, Washington**
**In Accordance With RCW 84.34 and K.C.C. 20.36**

Original Application AND 4 Copies of All Documents Must Be Submitted To:
King County Water and Land Resources Division, Rural and Regional Services Section
201 South Jackson Street, Suite 600, Seattle, WA 98104-3855

1. NAME of APPLICANT: Barbara L. Loomis

   Day Phone: 425-827-7194 Evening Phone: same Email: bloomis304@gmail.com

2. MAILING ADDRESS of APPLICANT: 304 8th Ave. West, Kirkland, WA 98033

3. PROPERTY ADDRESS: same as above

   Is the property located in an incorporated city? Yes X City: Kirkland No ____
   From what road is the property accessed? 8th Ave. West

4. PROPERTY HISTORY: Is the property presently participating in a current use assessment program (RCW 84.34 or RCW 84.33)? Yes ____ No X

5. APPLICANT'S INTEREST in PROPERTY: Owner Yes X No ____
   Purchasing through contract Yes X No ____
   Other ____ Explain ____

6. PARCEL NUMBER and ACREAGE:

| Tax Assessor Parcel # | Total Acres in Parcel | Acres Requested for PBRS |
|---|---|---|
| a. 3885801295 | .1928374 | .1464646 |
| b. | | |
| c. | | |
| TOTAL | | |

County use only:
**Date Received** 1/2/14 BB **File NO.** E13CT054



EXHIBIT 9

# AFFIRMATION

As owner(s) of the land described above, I hereby indicate by my signature that I am aware of the potential tax liability involved when the land ceases to be classified under the provisions of Chapter 84.34 RCW. I also declare under the penalties for false swearing that this application and any accompanying documents have been examined by me and to the best of my knowledge it is a true, correct, and complete statement.

The agreement to tax according to use of the property is not a contract and can be annulled or canceled at any time by the Legislature (RCW 84.34.070).

Barbara L. Loomis
Print Name

Barbara L Loomis
Signature

Print Name

Signature

Notary Public
State of Washington
MARLON SKINNER
My Appointment Expires Nov 29, 2016

State of Washington
County of King

Subscribed and affirmed to before me this 30th day of December, 2013

Notary's Signature

11/29/2016
My Appointment Expires

## Statement Of Additional Tax, Interest, And Penalty Due Upon Removal Of Classification

1. Upon removal of classification, an additional tax shall be imposed which shall be due and payable to the county treasurer 30 days after removal or upon sale or transfer, unless the new owner has signed the Notice of Continuance. The additional tax shall be the sum of the following:

   (a) The difference between the property tax paid as "Open Space Land" and the amount of property tax otherwise due and payable for the last seven years had the land not been so classified; plus
   (b) Interest upon the amounts of the difference (a), paid at the same statutory rate charged on delinquent property taxes.

(c) A penalty of 20% shall be applied to the additional tax if the classified land is applied to some other use except through compliance with the property owner's request for withdrawal process, or except as a result of those conditions listed in (2) below.

2. The additional tax, interest, and penalty specified in (1) above shall not be imposed if removal resulted solely from:

   (a) Transfer to a government entity in exchange for other land located within the State of Washington.
   (b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power.
   (c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property.
   (d) Official action by an agency of the State of Washington or by the county or city where the land is located disallows the present use of such land.
   (e) Transfer of land to a church when such land would qualify for exemption pursuant to RCW 84.36.020.
   (f) Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108(6)(f)).
   (g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(e) (farm homesite).
   (h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification.
   (i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120.
   (j) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.
   (k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as designated forest land under chapter 84.33 RCW, or classified under this chapter 84.34 RCW continuously since 1993. The date of death shown on a death certificate is the date used.
   (l) The discovery that the land was classified in error through no fault of the owner.

## I. GENERAL

A. Describe all present and proposed uses within the PBRS area **(participating area)**. Uses might include enjoyment of paths/trails, bird watching, forestry, farm activities or simply staying out of the open space. Please attach additional sheets if necessary.

__This is my yard in which I garden, both vegetables and flowers and enjoy the space. That is all I plan on doing here.

B. Describe all existing improvements on the property (**excluded area**). This would include home, driveway, road, drainage system, well, yard, landscaping, garden and other personal-use areas. Please attach additional sheets if necessary.

_home, garage, driveway, yard, landscaping, garden.

C. Describe all potential or planned improvements and where they might be located on the property. Excluding an area now that might be later developed, such as a future home site, should be considered, but is not required. Please attach additional sheets if necessary.

_No improvements are planned

D. Is the land subject to lease or other agreements (such as CCR's, utility, natural or native growth protection, conservation, trail, or road easement) that may limit the property's use or development?

Yes _____ No X_____

If "yes", then what type of lease/agreement/easement is it? _____

**Please attach copies of all leases, options, easements or any other such agreements.**

## II. RESOURCE INVENTORY/PBRS Categories

Property may receive points as indicated for an open space resource or bonus category listed below. On page A-7, please provide justification for each category requested (refer to the *Public Benefit Rating System Resource Information* document found at www.kingcounty.gov/incentives).

Open Space Resources

_____ 1. Public recreation area - 5 points
_____ 2. Aquifer protection area - 5 points
_____ 3. Buffer to public or current use classified land - 3 points
_____ 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 - 5 points
_____ 8. Historic landmark or archaeological site: buffer to a designated site - 3 points
__X__ 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 or ecological site - 5 points
_____ 15. Significant wildlife or salmonid habitat - 5 points
_____ 16. Special animal site - 3 points
_____ 17. Surface water quality buffer - 5 points
_____ 18. Urban open space - 5 points
_____ 19. Watershed protection area - 5 points

**5**_____ = total open space resource points

Bonus Categories

_____ 1. Resource restoration - 5 points
_____ 2. Additional surface water quality buffer - 3 or 5 points
_____ 3. Contiguous parcels under separate ownership – minimal 2 points
_____ 4. Conservation easement or historic easement - 15 points
_____ 5. Public access – points depend on type and frequency of access allowed
  _____ *Unlimited public access - 5 points*
  _____ *Limited public access because of resource sensitivity - 5 points*
  _____ *Environmental education access - 5 points*
  _____ *Seasonally limited public access - 3 points*
  _____ *None or members only - 0 points*
_____ 6. Easement and access - 35 points

_____ = total bonus category points

**__5__ = Total of open space resource and bonus category points results in a Public Benefit Rating (see valuation schedule on page A-6)**

If public access points are requested, please list the user group(s) presently allowed access to the property. For what purpose does the public use the property? Please attach documentation that supports this type of use, such as letters from user groups. **For a property to be eligible, the owner must demonstrate that the property is open to public access and is used by the public.**

NA

If proposing public access, describe how the land can be reached. Are there private or public roads to the site? Are there any restrictions, such as an easement or physical barriers, which would inhibit public access? Are there any specific restrictions you think are necessary, such as hours, seasons, activities?

NA

## III. Estimate of Percentage Reduction (for your information only)

Please remember county/city staff will review your application and an approval/decision will be made by the granting authority. When estimating the actual effect on your property's valuation and your tax bill, please remember your assessment as open-space/current use land will be calculated **only on the land value of the portion of the property enrolled.** *The property will still be assessed at "highest and best use" rates for the residence/improvements and for other non-enrolled open-space land.*

_____ Open space resource points
_____ Bonus category points

**5 = Total of points, resulting in a Public Benefit Rating**

**VALUATION SCHEDULE**

| Public Benefit Rating | Assessed Value Reduction | Current Use Value |
|---|---|---|
| 0 - 4 points | 0 % | 100 % of Market Value |
| 5 - 10 points | 50 % | 50 % of Market Value |
| 11 - 15 points | 60 % | 40 % of Market Value |
| 16 - 20 points | 70 % | 30 % of Market Value |
| 21 - 34 points | 80 % | 20 % of Market Value |
| 35 - 52 points | 90 % | 10 % of Market Value |

## IV. RESOURCE CATEGORY JUSTIFICATION

**In the space provided, please explain why credit should be awarded for each category marked on page A-5.** If additional space is needed, please use a separate sheet of paper and attach it to back of the application.

___Loomis House fits criteria # 9 as an historic designated City of Kirkland Landmark. The City of Kirkland has an interlocal agreement with King County for landmark designation, and is a certified local government. The designation report is included with this application. Worth 5 points.

King County
Department of Natural Resources and Parks
**Historic Preservation Program**
201 S. Jackson, Suite 700 [MS: KSC-NR-0700]
Seattle, WA 98104
206.296.8689 (v) 206.296.3749 (f)
www.kingcounty.gov/landmarks

# CITY OF KIRKLAND LANDMARKS COMMISSION

## FINDINGS OF FACT AND DECISION

*Kirkland Land and Improvement Company House*

### SUMMARY

The City of Kirkland Landmarks Commission (Commission) designates the Kirkland Land and Improvement Company House (Loomis House), located at 304 - 8th Avenue West, Kirkland, Washington, a City of Kirkland landmark.

Property Description: Legal parcel 3885801295

Public Hearing: The Commission held a public hearing on nomination of the Loomis House on December 17, 2013, at Heritage Hall, 203 Market Street, Kirkland, Washington. The landmark registration form for the property and associated Multiple Property Documentation form, *Properties Related to the Kirkland Land & Improvement Company*, a boundary map delineating the boundaries of the nominated property, and photographs were submitted to commissioners prior to the meeting.

The Chair opened the hearing and a staff recommendation was submitted to the Commission, followed by a summary of its contents by Julie Koler. The property owner was present and testified in favor of landmark designation. The Commission made the following findings in support of its decision:

### FINDINGS

1. The Loomis House meets registration standards of significance for residential properties as set forth in the City of Kirkland Landmarks Multiple Property Document (MPD) – *Properties Related to the Kirkland Land and Improvement Company*.

2. Specifically, it meets landmark designation criterion A1 for association with the broad theme of community planning; and, criterion A3 because it is a rare and distinctive example of a Queen Anne style cottage.

3. The house was built in 1889 by the Kirkland Land and Improvement Company.

4. It is one of eight extant houses in Kirkland that illustrate the historic context *Residential Properties Associated with Speculative Town-Building in Kirkland, 1888-1893*, as documented in the MPD.

5. The house is located in the 1890 Kirkland Addition that was platted by the Kirkland Land and Improvement Company; as such it is associated with the rapid land speculation that occurred in the northwest portion of Kirkland at that time. In addition, it is important in illustrating, along with other extant dwellings associated with the Kirkland Land and Improvement Company, the intent of the company to provide for a full-scale industrial work force.

6. Dwellings that were built for the company's executives made extensive use of brick and were typically more ornate than the more modest wood frame worker dwellings. The Loomis House falls within the latter category.

7. The Loomis House is one of the most intact of the surviving dwellings associated with the company, and the best example of the Queen Anne cottage style in the city.

8. The house possesses integrity of:

    - *Location*, because it is located on its original site within the geographic area as set forth in Section G of the MPD;

    - *Design*, because it retains its original massing and roof configuration, and because the rhythm and shape of most of the door and window openings - as visible from the public-right-of-way - are intact;

    - *Materials*, because it retains most of the original exterior materials on elevations most visible to the public, and because it retains most of the original decorative elements that contribute to architectural style, for example turned posts and decorative shingles;

    - *Workmanship*, because there are relatively few incompatible exterior repairs or replacements of key architectural features such as doors, windows and siding; and,

    - *Association*, because the house has a documented link to the historic context as described in the MPD.

9. The house has some alterations on the exterior, particularly to windows and doors; however, the MPD allows for window and door replacements/alterations if they do not significantly detract from the building's overall integrity of design.

10. The MPD allows that integrity of setting and feeling are less critical given the extent of growth and change in Kirkland since 1889. The residential neighborhood surrounding the Loomis House is undergoing rapid change as the historic building stock is being replaced with large, contemporary dwellings.

11. The garage at the rear of the house is severely deteriorated and was built much later than the house. It is therefore not considered a feature of significance.

12. The City of Kirkland Landmark Registration Form and the Multiple Property Documentation Form - *Properties Related to the Kirkland Land & Improvement Company* - provide contextual information in support of the above-stated findings.

## MINUTES AND EXHIBITS

The following exhibits are part of the record:

Exhibit No. 1: City of Kirkland Landmark Registration Form, *Kirkland Land and Improvement Company House* (December 2013)
Exhibit No. 2: Boundary Map/Site plan
Exhibit No. 3: Photographs
Exhibit No. 4: Multiple Property Documentation Form, *Properties Related to the Kirkland Land and Improvement Company* (2003)
Exhibit No. 7: Staff Recommendation (December 17, 2013)
Exhibit No. 8: Minutes of December 17, 2013 public hearing
Exhibit No. 9: Audio recording of December 17, 2013 public hearing

All exhibits are on file in the King County Historic Preservation Program office, 201 S. Jackson, Suite 700, Seattle, WA.

## DECISION

At its December 17, 2013 meeting the City of Kirkland Landmarks Commission unanimously approved a motion to designate the Loomis House as a City of Kirkland landmark based on the above findings.

Boundaries of Significance: Boundaries of the designated area are the same as those of the legal parcel on which the house is located - Parcel no. 3885801295

Features of Significance:

- All exterior elements of the house; and
- All of the land within the nominated boundaries (for the purposes of new construction only).

## PROTECTION MEASURES

Controls: No feature of significance may be altered nor may any new construction take place within the designated boundaries, without first obtaining a Certificate of Appropriateness from the City of Kirkland Landmarks Commission pursuant to the provisions of King County Code 20.62.080 as adopted by reference in Kirkland Municipal Code 28.12.010. The following exclusions are allowed:

1. In-kind maintenance and repair
2. Routine landscape maintenance
3. Emergency repair work

## INCENTIVES

The following incentives are available to the property owner:

1. Eligibility to apply for funding for property rehabilitation/restoration (as available) through the City of Kirkland Landmarks Commission and 4Culture
2. Eligibility for technical assistance from City of Kirkland Landmarks Commission and staff
3. Eligibility for historic site marker
4. Eligibility for special tax programs through King County

Decision made December 17, 2013
Findings of Fact and Decision issued December 26, 2013

CITY OF KIRKLAND LANDMARKS COMMISSION

Thomas K. Hitzroth, Chair

December 26, 2013
Date

TRANSMITTED this 26th day of December, 2013 to the following parties and interested persons:

Barbara Loomis, owner
The Honorable Jane Hague, King County Councilmember, District 6
Angela Ruggeri, Senior Planner, Kirkland Planning and Community Development Department
Loita Hawkinson, President, Kirkland Heritage Society
Tom Hitzroth, Chair, Kirkland Landmarks Commission
Paul Barry
Carolyn and Mike Howard
Vic Newhard

## NOTICE OF RIGHT TO APPEAL OR RECONSIDER

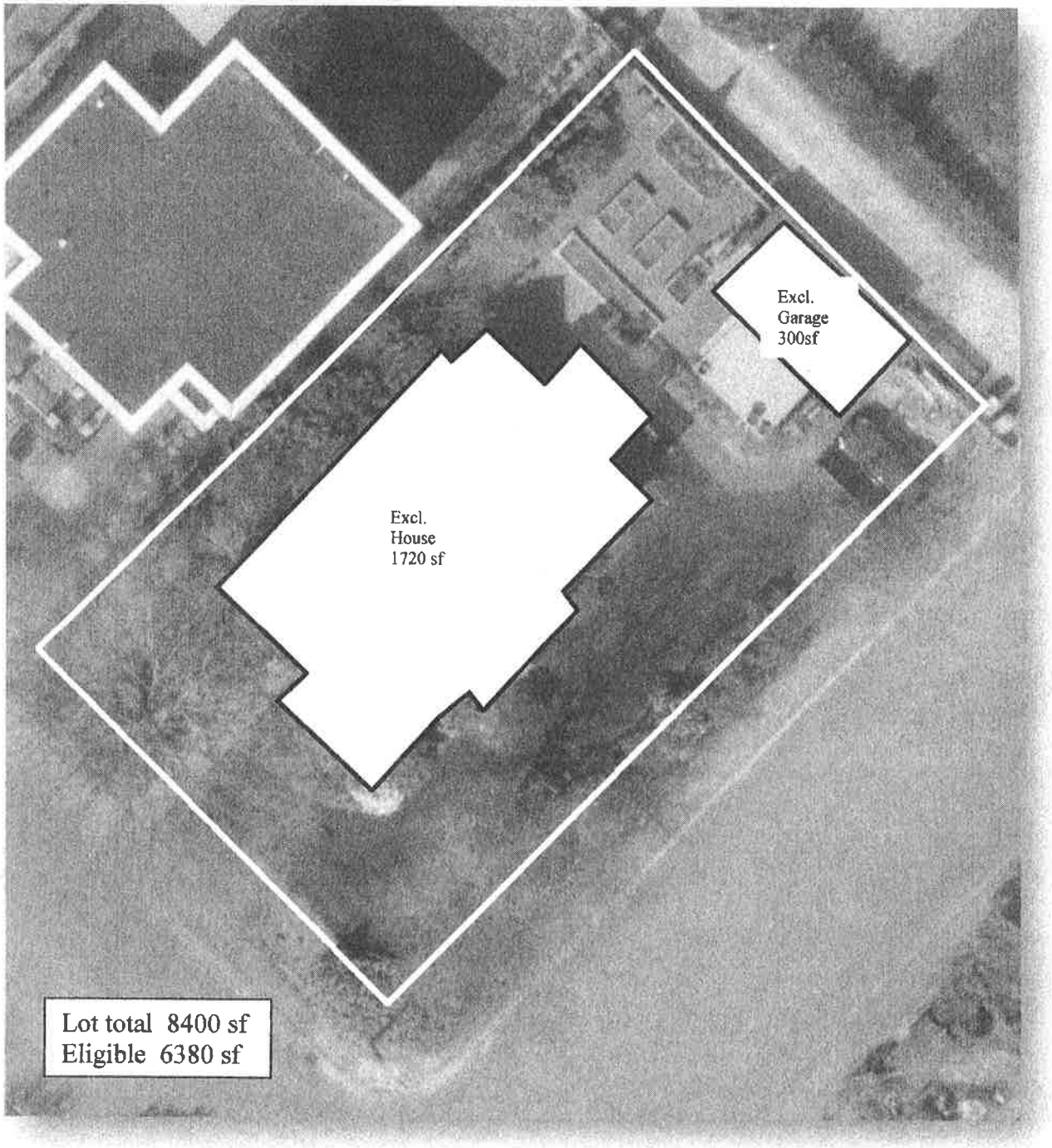
Appeal. Any person aggrieved by a decision of the City of Kirkland Landmarks Commission designating or rejecting a nomination of a landmark may, within 35 calendar days of mailing of notice of the action, appeal the decision to the Kirkland City Council. Written notice of appeal shall be filed with the Historic Preservation Officer and the City Clerk and shall be accompanied by a statement setting forth the grounds of the appeal, supporting documents and argument. (KCC 20.62.110.A)

Reconsideration. Any person aggrieved by a decision of the City of Kirkland Landmarks Commission designating or rejecting a nomination for designation of a landmark may, within 20 calendar days of mailing of notice of the decision, petition the Commission for reconsideration on the grounds the decision was based on 1) errors or omissions of fact; or, 2) that new information bearing on the decision, and not reasonably available to the petitioner at the time of the decision, is available. The written petition must be filed with the Historic Preservation Officer and must be accompanied by 1) a statement setting forth the grounds for the petition; and, 2) any supporting documents. Within 70 calendar days of filing of a petition for reconsideration, the Commission shall review the record, and may, at its discretion, render a revised decision. The Commission may, at its discretion, hold another public hearing on the landmark nomination.

**ATTACHMENT 1**

# Loomis House

304 8th Avenue West
Kirkland, WA 98033
Parcel 3885801295



**ATTACHMENT 1**

Barbara L. Loomis
304 8th Ave. West
Kirkland, WA 98033

December 30, 2013

King County WLRD
PBRS Program
201 South Jackson Street, Suite 600
Seattle, WA 98104

Attn: Bill Bernstein

Hello Mr. Bernstein,

Here is my application for the Public Benefit Rating System for Open Space Land Classification for my property in Kirkland, Washington, at 304 8th Ave. West. Along with the application please find my enclosed check in the amount of $480. made out to the King County Office of Finance. If you have any questions or need further input please contact me by phone: 425-827-7194 or email: bloomis304@gmail.com.

Sincerely,
Barbara L. Loomis

Barbara L Loomis

Enclosures:
$480 check
PBRS Application
City of Kirkland Historic Landmark Designation Report
Site Plan

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

**Report to the City of Kirkland for Property Enrollment in the Public Benefit Rating System (PBRS)**

**June 3, 2014**

**APPLICANT: Barbara Loomis File No. E13CT054K**

## A. GENERAL INFORMATION:

1. Owner: Barbara Loomis
   304 8th Avenue West
   Kirkland, WA 98033

2. Property location: same as above

3. Zoning: RS 7.2

4. STR: NE-06-25-05

5. PBRS categories requested by applicant and recommended by staff:

   **Open space resource**
   Historic landmark or archeological site: designated site

6. Parcel: 388580-1295

| | |
|---|---|
| Total acreage: | 0.19 |
| Requested PBRS: | --- |
| Home site/excluded area: | 0.05 |
| **Recommended PBRS:** | **0.14** |

NOTE: The portion recommended for enrollment in PBRS is the entire property less the excluded area as measured. The attached 2013 aerial photo outlines the parcel in yellow and the area 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.

## B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned RS7.2, RS8.5, P, WD11, MSC1 and MSC2.

2. Development of the subject property and resource characteristics of open space area: The property contains a single family home and landscaping. The open space portion consists mainly of lawn, parking, garden and landscaped areas.

3. Site use: The property is currently used as a single family residence.

4. Access: The property is accessed from 8th Avenue West.

5. Appraised value for 2014 (Based on Assessor's information dated 5/28/2014)

| Parcel #388580-1295 | **Land** | Improvements | Total |
|---|---|---|---|
| Assessed value | **$616,000.00** | $1,000.00 | $617,000.00 |
| Tax applied | **$6,747.29** | $10.95 | $6,758.24 |

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 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. 2012 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.

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-106** 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:

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, 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.

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** The 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** The county shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

**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 CATEGORY REQUESTED and DEPARTMENT RECOMMENDATIONS:

**Open space resource**

- Historic landmark or archeological site: designated site
  The owners worked with the King County Historic Preservation Program and City of Kirkland staff to landmark the home on the property (see Exhibit 9). The historic preservation office supports award of this category and the requirements of condition #10 on page 7 of this report. 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 resource**
Historic landmark or archeological site: designated site 5

**TOTAL 5 points**

**PUBLIC BENEFIT RATING**
For the purpose of taxation, 5 points result in 50% of market value and a 50% 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 5 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 County Assessor and the King County Rural and Regional Services Section 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 Kirkland 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 Kirkland 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 Assessor and the King County Rural and Regional Services Section 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 King County Rural and Regional Services Section or its successor 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, 7 and 10 below, no alteration of the open space land or resources shall occur without prior approval by the City of Kirkland and the King County Rural and Regional Services Section 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 King County Rural and Regional Services Section 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 King County Rural and Regional Services Section 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 on areas of the Property used for parking.

9. Grazing of livestock is prohibited on the open space Property.

10. Changes of use, building and site alterations, or changes to vegetation on historic resource properties must be compatible with the features of significance identified in the landmark designation report and are subject to prior approval by the County's Historic Preservation Officer. Such approved changes and activities shall not be deemed to violate sections contained in the recommended conditions, and may include construction and vegetation management necessary for preservation, restoration or approved adaptive reuse of historic buildings, structures, landscapes or sites. Features of significance identified in the landmark designation report for historic properties shall be maintained in a condition equivalent to or better than that existing at the time of designation.

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.

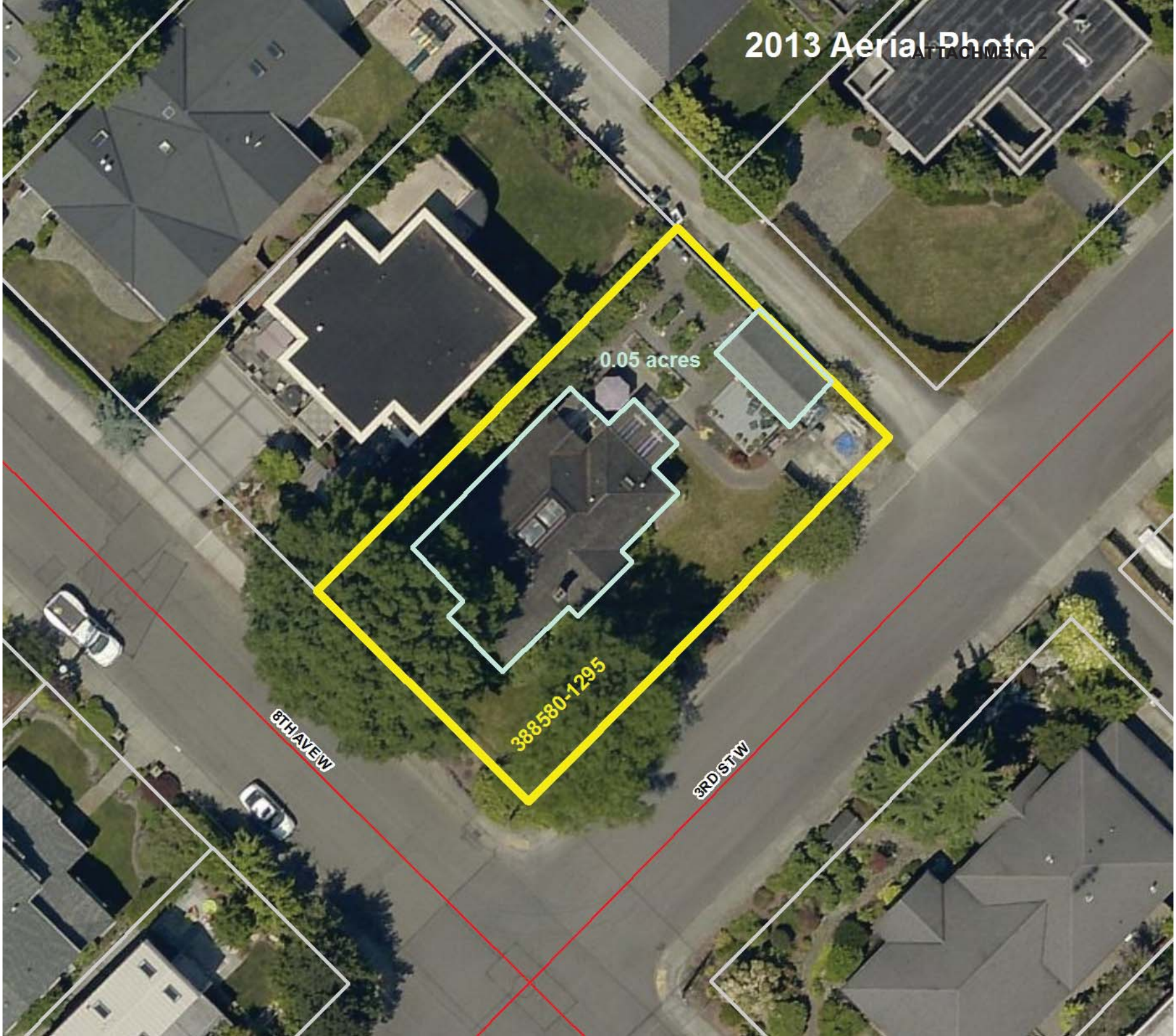
12. Enrollment in PBRS does not exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

**TRANSMITTED** to the parties listed hereafter:

Barbara Loomis, applicant
Angela Ruggeri, Senior Planner, City of Kirkland
Wendy Morse, King County Department of Assessments
Charlie Sundberg, King County Historic Preservation Program

# 2013 Aerial Photo

ATTACHMENT 2



Council Meeting: 06/17/2014
Agenda: Public Hearings
Item #: 9. a.

RESOLUTION R-5058

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A PUBLIC BENEFIT RATING SYSTEM CURRENT USE ASSESSMENT FOR TAX PARCEL NUMBER 388580-1295.

WHEREAS, Barbara Loomis applied to King County for a current use assessment of her property at 304 8th Avenue West (Parcel Number 388580-1295) in the City of Kirkland; and

WHEREAS, RCW 84.34.037 provides that for a property located within an incorporated area, an application for the Public Benefit Rating System must be acted on after a public hearing of the city legislative body in which the property is located; and

WHEREAS, the King County Department of Natural Resources and Parks, Water and Land Resources Division, has provided a staff report evaluating the Barbara Loomis request together with a recommendation to approve the application subject to certain conditions; and

WHEREAS, a public hearing on this application was held before the Kirkland City Council on June 17, 2014; and

WHEREAS, the City Council desires to approve the Public Benefit Rating System, Current Use Assessment request of Barbara Loomis subject to the conditions recommended in the King County staff report;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The Kirkland City Council adopts the conclusions, recommendations, and conditions of the King County staff report for the Public Benefit Rating System, Current Use Assessment Request of Barbara Loomis for King County Tax Parcel Number 388580-1295 attached as Exhibit A and incorporated by this reference.

Section 2. The Kirkland City Council approves the Public Benefit Rating System, Current Use Assessment request of Barbara Loomis and authorizes the filing of the City Council's approval with the King County Transportation, Economy and Environment Committee.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2014.

Signed in authentication thereof this ____ day of _____, 2014.

_____
MAYOR

Attest:

_____
City Clerk

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

**Report to the City of Kirkland for Property Enrollment in the Public Benefit Rating System (PBRS)**

**June 3, 2014**

**APPLICANT: Barbara Loomis File No. E13CT054K**

## A. GENERAL INFORMATION:

1. Owner: Barbara Loomis
   304 8th Avenue West
   Kirkland, WA 98033

2. Property location: same as above

3. Zoning: RS 7.2

4. STR: NE-06-25-05

5. PBRS categories requested by applicant and recommended by staff:

   **Open space resource**
   Historic landmark or archeological site: designated site

6. Parcel: 388580-1295

| | |
|---|---|
| Total acreage: | 0.19 |
| Requested PBRS: | --- |
| Home site/excluded area: | 0.05 |
| **Recommended PBRS:** | **0.14** |

NOTE: The portion recommended for enrollment in PBRS is the entire property less the excluded area as measured. The attached 2013 aerial photo outlines the parcel in yellow and the area 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.

## B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned RS7.2, RS8.5, P, WD11, MSC1 and MSC2.

2. Development of the subject property and resource characteristics of open space area: The property contains a single family home and landscaping. The open space portion consists mainly of lawn, parking, garden and landscaped areas.

3. Site use: The property is currently used as a single family residence.

4. Access: The property is accessed from 8th Avenue West.

5. Appraised value for 2014 (Based on Assessor's information dated 5/28/2014)

| Parcel #388580-1295 | **Land** | Improvements | Total |
|---|---|---|---|
| Assessed value | **$616,000.00** | $1,000.00 | $617,000.00 |
| Tax applied | **$6,747.29** | $10.95 | $6,758.24 |

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 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. 2012 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.

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-106** 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:

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, 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.

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** The 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** The county shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

**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 CATEGORY REQUESTED and DEPARTMENT RECOMMENDATIONS:

**Open space resource**

- Historic landmark or archeological site: designated site
  The owners worked with the King County Historic Preservation Program and City of Kirkland staff to landmark the home on the property (see Exhibit 9). The historic preservation office supports award of this category and the requirements of condition #10 on page 7 of this report. 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 resource**
Historic landmark or archeological site: designated site 5

**TOTAL 5 points**

**PUBLIC BENEFIT RATING**
For the purpose of taxation, 5 points result in 50% of market value and a 50% 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 5 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 County Assessor and the King County Rural and Regional Services Section 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 Kirkland 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 Kirkland 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 Assessor and the King County Rural and Regional Services Section 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 King County Rural and Regional Services Section or its successor 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, 7 and 10 below, no alteration of the open space land or resources shall occur without prior approval by the City of Kirkland and the King County Rural and Regional Services Section 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 King County Rural and Regional Services Section 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 King County Rural and Regional Services Section 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 on areas of the Property used for parking.

9. Grazing of livestock is prohibited on the open space Property.

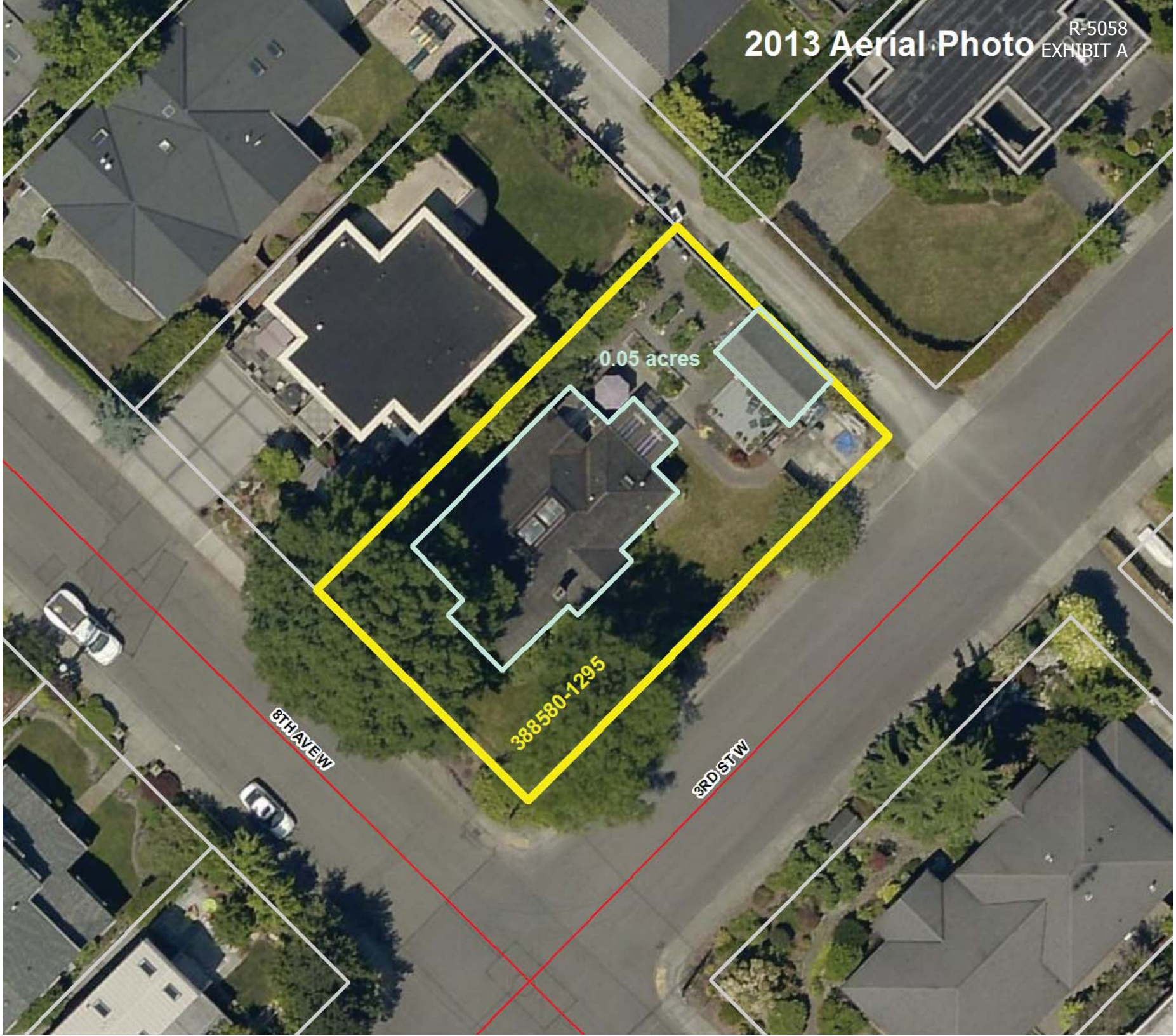
10. Changes of use, building and site alterations, or changes to vegetation on historic resource properties must be compatible with the features of significance identified in the landmark designation report and are subject to prior approval by the County's Historic Preservation Officer. Such approved changes and activities shall not be deemed to violate sections contained in the recommended conditions, and may include construction and vegetation management necessary for preservation, restoration or approved adaptive reuse of historic buildings, structures, landscapes or sites. Features of significance identified in the landmark designation report for historic properties shall be maintained in a condition equivalent to or better than that existing at the time of designation.

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. 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:

Barbara Loomis, applicant
Angela Ruggeri, Senior Planner, City of Kirkland
Wendy Morse, King County Department of Assessments
Charlie Sundberg, King County Historic Preservation Program


2013 Aerial Photo
R-5058
EXHIBIT A
0.05 acres
388580-1295
8TH AVE W
3RD ST W