



# Staff Report: Lane Open Space Application

## Introduction

This report summarizes findings and recommendations on **TWO** applications for classification of land as “Open Space Land” as authorized under the Open Space Taxation Act, Chapter 84.34 RCW, and Whatcom County Ordinance No. 1995-040.

**Summary of staff recommendations:** PDS received two applications in late 2025 that are now ripe for review (**OSP2025-002 - Lane** and **OSP2025-003 - bp**). PDS staff conducted a site visits and evaluated the subject properties according to the Public Benefit Rating System, which yielded a score of **58.64 for OSP2025-002 - Lane** and **43.05 for OSP2025-003 – bp**. PDS policy dictates that scores over 45 receive a staff recommendation for approval, and therefore, PDS recommends approval of the Lane application and **does not** recommend approval for the bp application.

**Summary of Request:** PDS requests that Council, acting as granting authority, will make a final decision as to whether these applications should be approved – in whole or in part – or denied.

This report is composed of five parts:

- I. Background;
- II. Application Procedure;
- III. Public Benefit Rating System (PBRs);
- IV. Application Review and Staff Findings; and,
- V. Findings of Fact and Recommendations.

## I. Background

The Open Space Taxation Act was passed by the Washington State legislature in 1970. In part, the law was created to provide a solution to and address a statewide concern that lands in the state were being irrevocably converted to uses inconsistent with commercial agriculture, commercial forestry, and the preservation of shorelines, wetlands, scenic vistas, historical sites, and recreational opportunities.

The Open Space Taxation Act (RCW 84.34) gives counties the authority to assess the value of property on the basis of its current use rather than what might be considered highest and best use (i.e., fair market value). Lands classified under the open space current use program receive a significant reduction in assessed value (tax reduction); thereby providing a financial incentive to

property owners to voluntarily conserve and preserve open space lands as defined in state law and further defined by county ordinance.

## **Classifications**

Whatcom County has three major classifications and one sub-classification, originally authorized by the Open Space Taxation Act (RCW 84.34) as set forth below:

### **1. Open Space Land (OSL) – RCW 84.34.020(1)**

Applications for OSL are received and processed by Planning & Development Services (PDS). PDS and the Assessor's Office work closely and function as a team in monitoring and maintaining existing agreements on approved OSL and OSFAC applications, as well as processing new applications.

Generally, Open Space Lands include lands that preserve, protect, conserve or enhance farmland, streams, shorelines and associated buffers, critical areas, groundwater protection areas, threatened or endangered wildlife and wildlife habitat, opportunities for public recreation, scenic views and vistas, historic property, cultural resources, and others.

A subset of the OSL program includes Open Space Farm & Agricultural Conservation (OSFAC) Land. OSFAC lands include:

- Lands that were previously classified as farm and agricultural lands but no longer meet the criteria for continued classification; or
- Traditional farmlands that have not been irrevocably devoted to a use inconsistent with commercial agriculture.

### **2. Open Space Farm and Agricultural Land (OSAG) – RCW 84.34.020(2)**

Applications for Farm and Agricultural Land are received and processed by the County Assessor's Office. OSAG lands include lands of a certain size that are used for commercial agricultural purposes. Applicants may be required to demonstrate revenue produced from commercial agriculture.

### **3. Designated Forestland (DFL) – RCW 84.33**

Whatcom County terminated its Timber Land program under Whatcom County Ordinance No. 2014-055. As a result of this action, all lands formerly classified as timber land became Designated Forest Land (DFL), a program administered by the County Assessor in accordance with RCW 84.33.

## **II. Application Procedure: Roles of Staff, Planning Commission, County Council & Assessor's Office**

When candidate parcels are located in an unincorporated area, PDS staff evaluate each application according to the Public Benefit Rating System (PBRs) criteria, and, based on application scores, make recommendations to the Planning Commission on whether to approve or deny the applications. The Planning Commission must hold a public hearing and make

recommendations to the County Council as to whether individual applications should be approved in whole or in part or denied.

Whatcom County Council is the granting authority, and pursuant to state law is charged with approving in whole or in part or denying each application. After the Planning Commission hearing, each application is brought before the County Council Planning and Development Committee, which makes recommendations to the entire council. Then during general session, County Council holds a public hearing and votes on a resolution to approve or deny Open Space applications.

When candidate parcels are located within an incorporated area, applications follow the same procedure; however, the application must also be approved by the appropriate City Council. To approve an application, actions taken by each jurisdiction must be identical.

If the application is approved, PDS staff work with the landowner to develop an Open Space Taxation Agreement between the county and the applicant, which includes any conditions of approval specified by County Council. Once this agreement is finalized and recorded, the Assessor's Office adjusts the "official value" on the basis of the approved current use value of the parcel, and notifies the owner of the new official value.

### **III. Public Benefit Rating System (PBRs)**

Open Space Land (OSL) and its sub-classification Open Space Farm & Agricultural Conservation (OSFAC) Land are evaluated with the Public Benefit Rating System (PBRs). The formation of Whatcom County's PBRs was guided by public process and Planning Commission involvement in the 1980s. The PBRs was adopted by Council resolution in 1987, amended in 1989 by resolution, and then later revised and adopted by ordinance in 1995 (WC Ord. 95-040). The PBRs update in 1995 added a new sub-classification of Open Space Land, known as Open Space Farm and Agricultural Conservation Land (OSFAC); otherwise the PBRs has not been significantly altered since 1987. The current Open Space Policy and PBRs can be found [here](#).

County policy authorizes the Planning Commission to make recommendations to County Council on OSL applications after considering the potential loss/gain of revenue or shift in taxes that would occur as a result of approval relative to the public benefit of the resource being preserved. Because the taxing districts are primarily budget-based, the taxing districts do not gain/lose money. Rather, when one taxpayer pays less in taxes as a result of their assessment, other taxpayers in the tax district pay more so that the taxing district collects the same amount in revenue. Conversely, when one taxpayer pays more in taxes, the tax burden of other taxpayers in the same tax district goes down.

The PBRs is a tool to evaluate the value of public benefit resources associated with a particular property. The higher a property scores according to the PBRs, the greater the tax reduction it will receive if approved by County Council. Generally, resources of importance identified in the PBRs include lands that:

- Conserve or enhance natural, cultural or scenic resources;
- Protect streams, stream corridors, wetlands, natural shorelines and aquifers;
- Protect soil resources and unique or critical wildlife and native plant habitat;

- Promote conservation principles by example or by offering educational opportunities;
- Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces;
- Enhance recreational opportunities;
- Preserve historic and archeology sites; or,
- Affect any other factors relevant in weighing benefits to the general welfare of the public by preserving the current use of the property.

Applications for Open Space Land are also evaluated on the quality of the applicant's proposed public access. It is part of the Whatcom County Public Benefit Rating System Public Access Policy to require public access **unless** there is known habitat for an endangered species of wildlife, or where there is a known archeological site, or when the purpose of the open space is for wetland conservation. County Council has the discretion to waive this public access requirement based on the information presented by staff. The Public Access Policy also contains a requirement that owners of property approved as Open Space Land post an Open Space sign that displays the rules of conduct for public access when public access is required.

The purpose of the Public Benefit Rating System is to assist the granting authority (County Council) in developing a measure of consistency in awarding reduction in assessed value according to a point system that corresponds to the relative importance of the resource being conserved. The county's PBRs helps ensure the decisions made by staff, the Planning Commission, and County Council are based on uniform criteria that be consistently applied to applicant parcels.

The formula used in the PBRs produces a score for each property. A PBRs score of at least 45 points must be attained to receive a PDS recommendation of approval. The PBRs score helps the Assessor's Office determine the new current use per acre value for the property, once approved.

## **IV. Application Review & Findings of Fact**

PDS Findings of Fact for **OSP2025-002 - Lane** and **OSP2026-003 – bp** are listed below. Attached for reference at the end of this report are various supporting documents that supported the PBRs evaluation. A PowerPoint slideshow of the property along with PDS comments and recommendations will be presented to the Planning Commission and Council.

### **Findings of Fact for OSP2025-002 - Lane**

1. In autumn 2025, PDS staff received an application for OSL classification from the Lanes. The application was deemed complete October 3, 2025. Over the past thirty years, the Lanes have purchased numerous parcels in the vicinity for the purpose of restoration and conservation. The Lanes only recently learned that one of their conservation properties may be eligible for Open Space Land classification, which prompted them to apply.
2. PDS staff conducted a site visit on January 23, 2026. The property consists of one parcel, the clear majority of which is forested wetland dominated by native hardwoods and conifers. Parts of the stand include mature western redcedar and Sitka spruce, as well as cottonwood, maple, alder, birch, and other native plants. The property is used heavily by various wildlife species, including elk. In fact, while on the property, staff encountered a herd of ~75 elk that were emerging from

the forest and crossing onto a neighboring parcel. The property showed signs of heavy use by the elk, with numerous elk bedding sites and trails dispersed throughout the property.

3. Numerous seasonal creeks flow into and out of the property, most notably the Black Slough and Homesteader Creek. The clear majority of the property is a wetland complex that holds significant standing water. Fortunately, on the day of the site visit the ground was frozen, allowing staff to explore parts of the property that would otherwise be too wet during the wet time of year. This wetland complex ties into the larger Black Slough wetland system, which has become a focus of Whatcom County Public Works to enhance natural water storage and augment late summer streamflow in the South Fork Nooksack River. Whatcom County has acquired the parcel immediately to the north and the parcel immediately to the west for the purpose of wetland restoration. The county is also actively working on the removal of fish barrier culverts on Homesteader Road, which will help fish connect to important spawning and rearing habitat in the Black Slough system.

4. In 2006, the Lanes worked with Whatcom Land Trust to develop a conservation easement (Auditor file # 2060602587) that applies to 34 acres of the 38.64-property, protecting the forested wetland and wildlife habitat on the property (easement attached). The easement prohibits development, commercial timber harvest, subdivision, hunting, trapping, and numerous other activities that would undermine the purpose of the easement. Roughly 4 acres of the property was omitted from the conservation easement area, meaning these four acres could potentially be used someday for the construction of a single-family residence.

5. The landowner has requested a “waiver of public access” from County Council, citing the sensitive wildlife habitat on the property. In particular, the landowners expressed concern that by granting any form of public access to the property, illegal hunting activity would only increase, posing risks to neighbors, sensitive wildlife on the property, and water quality. Whatcom Land Trust has submitted a letter in support of the landowners’ request that public access not be required as part of this Open Space application.

6. Whatcom County’s Open Space Policies require landowners of Open Space parcels to provide a certain degree of public access; however, these policies specify that County Council may waive the public access requirement if there is documented presence of species listed as Threatened or Endangered through the federal Endangered Species Act. Additionally, the Open Space Policies specific that County Council may waive the public access requirement “when the purpose of the open space is for wetland conservation.”

7. According to staff review and research, there are three ESA-listed species that have been documented on the property: Puget Sound steelhead, Coastal-Puget Sound Bull Trout, and the Oregon Spotted Frog. Additionally, the North Cascades Elk Herd (*Cervus canadensis*) uses the property heavily. The lowland native forest present on the property is geographically unique, given that most of the South Fork valley is actively farmed. Staff concur that due to the sensitive wildlife habitat on the property, public access is not appropriate for this application.

8. Staff have elected to assign 20 out of 40 possible discretionary points to the Lane application due to the landowners’ willingness to work with Whatcom County Public Works to remove fish barriers on the northern part of the Lanes’ property. Public Works is actively designing culvert

replacements and fish barrier removals as part of their [Black Slough Barrier Culverts Replacement Project](#). See the attached Supplemental Memo for more information.

9. If approved, the hypothetical tax shift would be a **net annual decrease of ~\$1,293** to the property owner. Therefore, if approved, the other taxpayers within the same tax districts would have their cumulative taxes **increase by a small amount (~\$0.40/year for a property assessed at \$600,000)**. If denied, taxpayers within the same tax districts would see no change. Below is a simplified chart showing the estimated tax shift. This information was produced by the Whatcom County Assessor’s Office, and more details can be shared if helpful. This chart may help the Planning Commission and County Council evaluate the public benefits associated with approval compared to the overall shift in taxes.

Parcel Number(s)	Tax Shift to Hypothetical Neighboring \$600k Property	Change in Lane Annual Property Taxes
<b>3805323274660000</b>	+\$0.40	-\$1,293
<b>Totals (if approved)</b>	<b>+\$0.40</b>	<b>-\$1,293</b>

*Note: these figures are derived from a formula that uses the PBRS score. In general, the higher the PBRS score, the larger the tax reduction is for an approved application.*

10. PDS published an advertisement in the Bellingham Herald on February 25, 2026, sent an email to all subscribers to the PDS listserv on March 2, 2026, and sent a press release to local newspapers before March 4, 2026 alerting the general public that a Public Hearing was going to take place on this issue at the Planning Commission meeting on March 12, 2026.

11. The Planning Commission held a public hearing at their March 10, 2026 meeting and voted to recommend approval of the application.

## Findings of Fact for OSP2025-003 bp

1. In December 2025, PDS staff received an application from bp to re-classify four parcels (138.29 acres) from Open Space Farm & Agricultural Land (OSAG) to Open Space Land (OSL). The application was deemed complete December 15, 2025. The subject parcels were originally approved for farm and agricultural land classification in 1977; however, since commercial agricultural activities were no longer taking place on the property, the landowner decided to apply for re-classification.

2. bp owns thousands of acres within the Cherry Point Industrial Area, and operates the Cherry Point Refinery, the largest oil refinery in the Pacific Northwest. The subject parcels border a high security area between the refinery and the export pier on the Strait of Georgia. There does not appear to be any active management of the property.

3. PDS staff conducted site visits to the property on January 16, 2026 and March 10, 2026. The property consists of four parcels, the clear majority of which are covered by forested, shrub-scrub, and emergent wetlands. Aerial imagery indicates the property was historically homesteaded and farmed; however, the majority of the property has seen little management in recent decades. As a result, the property is dominated by invasive vegetation, most notably reed canary grass and Himalayan blackberry. Staff were unable to walk through the property due to the extensive reed canary grass and blackberry, and due to standing water throughout the property. Staff identified a tree canopy dominated by native hardwoods with some conifers primarily on the southern portion of the property. A 2019 reconnaissance study provided by the applicant shows extensive wetlands throughout the property, and numerous databases show the modeled presence of wetlands throughout the property. According to numerous hydrography datasets, a small headwater creek is located at the northwest corner of the property, flowing north roughly 1.4 miles until its confluence with Terrell Creek.

4. bp has indicated that they are willing to accommodate some degree of public access on the property; however, the quality of public access on the property is poor for various reasons. Firstly, the property cannot be easily accessed due to how wet the property is and due to the overgrown vegetation. In other words, the property could not provide a reasonable opportunity for someone to walk onto the property and enjoy a picnic, for example. Secondly, the property is not in close proximity to public parking. The most accessible part of the property is on Lonseth Road, which is a public road but closed to vehicular traffic. Parking in front of the gate at Lonseth Road and Gulf Road is prohibited. A public parking area does exist at the corner of Aldergrove Road and Jackson Road, but the northern part of the property is not reasonably accessible to those interested in passive recreation. Thirdly, due to the proximity of the property to the refinery and associated pipeline infrastructure, bp maintains high security in the premises. In their application, bp said:

*“bp generally allows public use of private land outside the refinery but maintains control and can modify or withdraw permission at any time, for any reason. General public access to this area may be limited due to presence of wetlands and proximity to refinery facilities and infrastructure that are subject to federal site security requirements.”*

5. If approved, the hypothetical tax shift would be a **net annual increase of \$10,354** to the property owner. Therefore, if approved, the other taxpayers within the same tax districts would have their cumulative taxes **decrease by a small amount (~\$0.37/year for a property assessed at \$600,000)**. Below is a simplified chart showing the estimated tax shift (information provided by the Assessor’s Office). This chart may help the Planning Commission and County Council evaluate the public benefits associated with approval compared to the overall shift in taxes.

Parcel Number(s)	Tax shift to hypothetical neighboring \$600k property (if approved)	Change in bp annual property taxes if approved (OSAG to OSL)
3901180520920000	-\$0.06	+\$1,699
3901180844660000	-\$0.09	+\$2,780
3901180863450000	-\$0.10	+\$2,816
3901180882000000	-\$0.10	+\$3,059
<b>Totals</b>	<b>-\$0.37</b>	<b>+\$10,354</b>

*Note: these figures are derived from a formula that uses the PBRs score. In general, the higher the PBRs score, the larger the tax reduction is for an approved application.*

6. In the event of denial, the Assessor may initiate a change-of-use determination, as the parcels are not being used primarily for commercial agriculture and no longer qualify for classification under RCW 84.34. Upon removal from OSAG classification, the parcels would be assessed at full market value. This is estimated to increase the combined property taxes for the four parcels from approximately \$1,804 annually to \$18,679 annually—an increase of \$16,875 (for tax year 2026). Additional taxes, interest, applicable penalties, and a recording fee may also be due.

7. PDS published an advertisement in the Bellingham Herald on March 11, 2026, sent an email to all subscribers to the PDS listserv on March 18, 2026, and sent a press release to local newspapers before March 18, 2026 alerting the general public that a Public Hearing was taking place on this issue at the Planning Commission meeting on March 26, 2026.

8. The Planning Commission held a public hearing at their March 26, 2026 meeting and voted to send the application to Council without a recommendation.

## V. Summary and Recommendations

### OSP2025-002 - Lane

#### Summary:

- 38.64-acre parcel (#3805323274660000) zoned Rural Forestry.
- Land use: The current use of the property is for ecological restoration and conservation. The clear majority of the parcel is forested wetland made up of mature conifers, numerous hardwood species, and several acres of planted conifers (restoration). There are no improvements on the property other than the Williams natural gas pipeline.
- Conservation easement: 34 acres of the 38.64-acre parcel are subject to a conservation easement held by Whatcom Land Trust (Auditor file # 2060602587)

#### Recommendations:

Staff have assigned the application a score of **58.64**. For more details on the PBRS evaluation, please see attached evaluation worksheet sheet OSP2025-002. That score includes the discretionary points that were assigned per the attached Supplemental Memo.

A PBRS score of at least 45 points must be attained to receive a *PDS recommendation of approval*. Therefore, PDS recommend approval of this application. The Planning Commission held a public hearing at their March 10, 2026 meeting and voted to recommend approval of the application.

### OSP2025-003 - bp

#### Summary:

- PDS staff received an application from bp to re-classify four parcels (138.29 acres) from Open Space Farm & Agricultural Land (OSAG) to Open Space Land (OSL).

- Zoning: High Impact Industrial
- Parcels: 3901180844660000, 3901180863450000, 3901180882000000, 3901180520920000
- Land use: The property does not appear to be actively managed, and primarily serves as a buffer to oil refinery infrastructure. There are also various conservation benefits associated with the current use of the land.

## Recommendations:

Staff have assigned the application a score of **43.05**. For more details on the PBRS evaluation, please see attached evaluation worksheet sheet OSP2025-003. That score includes the discretionary points that were assigned per the attached Supplemental Memo.

A PBRS score of at least 45 points must be attained to receive a *PDS recommendation of approval*. Therefore, **PDS does not recommend approval of this application**. The Planning Commission held a public hearing at their March 26, 2026 meeting and voted to send the application to Council without a recommendation.

## ATTACHMENTS

- Staff Memo
- Supplemental Memo RE: Allocation of Discretionary Points for Lane application
- Application Evaluation Forms and Maps
- Whatcom Land Trust Letter of Support for Public Access Waiver for Lane application
- Diagram showing Whatcom County Open Space Programs

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