

**WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT**

**STAFF RECOMMENDATIONS TO THE WHATCOM COUNTY COUNCIL ON
ONE APPLICATION TO CLASSIFY LAND AS "OPEN SPACE LAND" AS
AUTHORIZED UNDER CHAPTER 84.34 RCW & WHATCOM COUNTY
ORDINANCE NO. 1995-040**

Open Space Applications 2023

Introduction:

This report summarizes findings and recommendations on a total of one application 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.

The County Council is requested to consider this application and make a recommendation as to whether it should be approved in whole or in part, or denied.

The report is composed of five main parts:

1. Background information on the Open Space Taxation Act;
2. Role of PDS, Planning Commission, and County Council in application review, approval or denial;
3. Open Space Land evaluation criteria: Public Benefit Rating System (PBRs).
4. Summary of one application to classify land pursuant to applicable state and local regulations;
5. Application review, findings of fact, proposed conclusions, and PDS recommendations;

I. Background Information

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 conservation or preservation of farmland, shorelines, wetlands, scenic vistas, historical sites of importance, and recreational opportunities.

The Open Space Taxation Act codified in Chapter 84.34 of the Revised Code of Washington (84.34 RCW) 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

There are three major classifications and one sub-classification authorized by the Open Space Taxation Act (Chapter 84.34 RCW):

1. Open Space Land [RCW 84.34.020(1)]

Applications for open Space Land are received and processed by Planning & Development Services.

Open Space Lands (OSL) are generally land which, if preserved in the present use, would:

- Conserve and enhance natural or scenic resources; or
- Protect streams and water supply; or
- Promote conservation of soils, wetlands, beaches or tidal marshes; or
- Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space; or
- Enhance recreation opportunities; or
- Preserve historic sites; or
- Preserve visual quality along highway, road, and street corridors or scenic vistas; or
- Retain in its natural state tracts of land not less than 1 acre within an urban growth area (UGA) and conditionally open to the public; or

A subset of OSL includes Farm and Agricultural Conservation (OSFAC) Land. OSFAC lands are :

- Land that was previously classified as farm and agricultural land and no longer meets the criteria for continued classification; or
- Land that is traditional farm land that has not been irrevocably devoted to a use inconsistent with commercial agriculture.

2. Farm and Agricultural Land [RCW 84.34.020(2)]

Applications for Farm and Agricultural Land are received and processed by the County Assessor's Office.

- Lands of a certain size that are used for commercial agricultural purposes. Applicants may be required to demonstrate revenue produced from commercial agriculture.

3. Timber Land [RCW 84.34.020(3)]

(Note: 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, a program administered by the County Assessor in accordance with RCW 84.33.)

PDS and the Assessor's Office work closely and function as a team in monitoring and maintaining existing agreements on approved applications, as well as processing new applications. Applications and fees for Open Space Land and Farm and Agricultural Conservation Land are received by Planning & Development Services Department.

II. Application Processing - Roles of Staff, Planning Commission, County Council & Assessor's Office in Processing Applications for Open Space Current Use Taxation.

When land that is the subject of application is located within an *unincorporated* area, PDS evaluates each application in accordance with the appropriate evaluation criteria, and based on application scores, makes recommendations to the Whatcom County Planning Commission on whether to approve or deny the applications. The Planning Commission in turn makes 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.

When land that is the subject of application is located within an *incorporated* area, PDS evaluates each application in accordance with the appropriate evaluation criteria, and based on application scores, makes recommendations to the Whatcom County Planning Commission on whether to approve or deny the applications, who in turn make recommendations to the County Council as to whether individual applications should be approved in whole or in part or denied. The granting authority on applications in an incorporated area is composed of the legislative authorities of the city and county in which the application is located, the granting authority may meet together as one body, or by taking separate action. To approve an application when meeting separately, actions taken by each jurisdiction must be identical.

Upon approval or denial, and upon successful execution of an open space taxation agreement between the county and the applicant/owner, the county assessor is notified, who then adjusts on the basis of the approved current use value of the parcel, and notifies the owner of the new 'official value'.

Applications for Open Space Land are evaluated with the Whatcom County Open Space Policy and Criteria and Public Benefit Rating System, 1995 (PBRs). A copy of the PBRs is attached at the end of this report for reference. The PBRs authorizes the Planning Commission to make recommendations to the County Council on applications for Open Space Land *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 conserved or preserved as measured with the Public Benefit Rating System*. Because the taxing districts are primarily budget-based, the taxing districts do not really gain/lose money. Rather, when one tax payer pays less in taxes as a result of their assessment, the other tax payers in the taxing district pay more so that the taxing district collects the same amount in revenue. Conversely, when a tax payer pays more in taxes as a result of their assessment, the other tax payers in the taxing district pay less so that the taxing district collects the same amount in revenue. This important distinction helps define the role of the Planning Commission in making recommendations to the County Council on whether to approve or deny applications for Open Space Land, and in understanding how the Public Benefit Rating System is applied.

Public Hearing

Prior to issuing a decision on an application for open space land, the granting authority is required to hold a public hearing.

III. Evaluation Systems

Open Space Land and its sub-classification Farm and Agricultural Conservation Land are evaluated with the Whatcom County Public Benefit Rating System (PBRs). The PBRs was originally approved by Council in 1987 by resolution, then amended in 1989 by resolution, and adopted by ordinance in 1995 (WC Ord. 1995-040).

Whatcom County Open Space Policy & Public Benefit Rating System

The Public Benefit Rating System is an evaluation tool consisting of natural resource, recreation, historical site, and agricultural land priority resource categories that correspond to a range of potential points that may be assigned relative to the amount of benefit that may be provided to the public as a result of approving each application, as measured with the Public Benefit Rating System. Generally, resources of importance identified in the PBRs include lands that preserve, protect, conserve or enhance farmland, streams, shorelines and associated buffers, critical areas, ground water protection areas, threatened or endangered wildlife and wildlife habitat,

opportunities for public recreation, scenic views and vistas, historic property, cultural resources, and others.

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.

In cases such as those listed above, when the County Council is acting as the granting authority, the requirement of public access may be waived at Council discretion. 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.

Although the open space current use program applies statewide, not all counties have adopted a Public Benefit Rating System. The purpose of the Public Benefit Rating System is to assist the granting authority 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. One reason a county may elect to adopt a PBRS is because decisions made by the granting authority (County Council), whether to approve or deny applications may only be appealed to Superior Court for *arbitrary and capricious* actions, and a PBRS may help to ensure uniformity and consistency when the PBRS is applied as a tool to determine reduction in market value.

Local priority resources that have been identified as providing public benefit if conserved, preserved, protected and enhanced, along with the corresponding range of potential points awarded for preserving or conserving those resources (i.e. the Public Benefit Rating System) were all adopted after consideration by the Planning Commission, and adopted by Council who heard from the public on this matter at a series of public hearings in the late 1980's. The PBRS was originally approved by Council in 1987 by resolution, amended in 1989 by resolution, and then later revised and adopted by ordinance in 1995 (WC Ord. 95-040). The last revision to the PBRS in 1995 added new criteria for evaluating applications in accordance with amendments to open space taxation act in 1993. The PBRS update in 1995 added a new sub-classification of open space land, *farm and agricultural conservation land* and removed timber land from the Public Benefit Rating System; otherwise the PBRS has not changed in approximately 36 years.

Even though the PBRS has a point system, at its core the PBRS is a *qualitative* as opposed to a *quantitative* system. Many observers, Planning Commissioners, Council Members, and members of the public alike, have commented that the PBRS is a subjective tool.

Listed below is a brief summary of some of the resources that have been identified in the County's Public Benefit Rating System.

- Conserve or enhance natural, cultural or scenic resources; or
- Protect streams, stream corridors, wetlands, natural shorelines and aquifers; or
- Protect soil resources and unique or critical wildlife and native plant habitat; or
- Promote conservation principles by example or by offering educational opportunities; or
- Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces; or
- Enhance recreational opportunities; or
- 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.

Once PDS review has been completed and points are awarded, they are computed with a formula developed by the County Assessor resulting in a score that is called a Public Benefit Rating (PBR). A Public Benefit Rating of at least 45 points must be attained to receive a *PDS recommendation of approval*. The Public Benefit Rating (PBR) represents the degree of conformance with the county's adopted Basic Value and Public Benefit Value criteria that are part of the PBRs. The PBR is used as a factor applied to another computed value to arrive at a new current use per acre value for the property, once approved. Attached to this report for reference is a document that gives a hypothetical example describing this formula, and also contains a discussion of the shift or off-set in taxes resulting from approving an application for Open Space Land.

IV. Applications Summary

1. OSP2023-00003 – Chester & Sachiko Haynes Application to reclassify property as Open Space Land

GEO ID: 4001232313300000

Public Benefit Rating: 41.40

V. Application Review & Staff Findings

PDS findings for 2023 Open Space application(s) are listed in summary below.

One application has been reviewed by PDS. Attached for reference at the end of this report are site evaluation worksheets, maps, and other supporting documents. A power point slide show of the property along with PDS comments and recommendations will be presented to County Council.

Open Space Land (OSL) Applications for Open Space Land are evaluated by PDS in accordance with Whatcom County Open Space Policy and Criteria and Public Benefit Rating System (1995), often referred to as the Whatcom County **PBRS**. A Public Benefit Rating or **PBR** (evaluation score) is calculated based on overall aggregate points assigned after review with the PBRS, based on a formula developed by the County Assessor. Applications must receive a Public Benefit Rating of at least 45 points for a *staff recommendation of approval*.

1. OSP2023-00003 – Chester & Sochiko Haynes

Discussion: On October 24, 2023, Planning & Development Services received an application from Chester and Sochiko Haynes to reclassify approximately 19.4 acres from Open Space Farm and Agriculture to Open Space Farm and Agricultural Conservation Land (subclassification of Open Space Land). The Haynes application consists of a single parcel and is subject to the zoning regulations located in Title 20, Chapter 20.36 – Rural (R5) District, with a density of one dwelling unit per 5 acres, and is designated Rural in the Comprehensive Plan

The property is located on Valley View Rd ~3.5 miles north/northwest of Ferndale and ~.50 miles north of Birch Bay- Lynden Rd.

The subject property contains wetlands, surficial aquifers, aquifer recharge zones of high susceptibility and Habitat Conservation Areas.

In accordance with Whatcom County Open Space Policy and Criteria and Public Benefit Rating System (PBRS), 1995, as a condition of approval, owners of open space parcels must agree to provide a certain degree of public access. The owner agrees to allow public access but requests consideration to waive access for the conservation of wetlands.

After evaluating this application with the Public Benefit Rating System, PDS has assigned it a Public Benefit Rating (PBR) of 41.40 (for details, please see attached evaluation worksheet sheet OSP2023-00003). The hypothetical tax shift if approved is a net increase to the property owner. The other tax payers within the same taxing districts would have their cumulative taxes decreased by a comparable amount.

Information about the tax shift is listed for consideration by the Planning Commission and County Council, so that they may consider the overall shift in taxes relative to the merits of the application as measured with the public benefit rating system.

A Public Benefit Rating of at least 45 points must be attained to receive a *recommendation of approval*. The application has received a PBR less than 45, and therefore PDS cannot recommend approval of the Haynes application.

Please find attached individual evaluation sheets that include a detailed description of the public benefit offered and assigned scores for each criterion; the Whatcom County Open Space Policy and Criteria and Public Benefit Rating System, 1995; and the June 2017 Department of Revenue Open Space Taxation Act publication.

ATTACHMENTS

- Hypothetical example of applied PBR and explanation of shift in taxes
- Individual Application Evaluation Forms and Maps;
- Whatcom County Open Space Policies and Criteria and Public Benefit Rating System (PBRs);
- 2017 Department of Revenue Open Space Taxation Act Publication;

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**HYPOTHETICAL EXAMPLE OF APPLIED PUBLIC BENEFIT RATING
RESULTING IN NEW CURRENT USE VALUE AND "SHIFT" IN TAXES**

**UPON APPLICATION APPROVAL
TO CLASSIFY OR RE-CLASSIFY AS OPEN SPACE LAND**

TERMS:

FMVA= Fair Market Value per acre

CUVA = Current Use Value per acre

FMV = Fair Market Value per acre multiplied by # of acres

CUV = Current Use Value per Acre multiplied by # of acres

PBR = Public Benefit Rating

DIFF = Difference between FMV and CUV

SAVINGS = Savings is difference between Fair Market Value and Current Use Value multiplied by the PBR

NEW VALUE is FMV-SAVINGS

NEW VALUE X CONSOLIDATED LEVY RATE = NEW TAXES

LEVY RATE = HYPOTHETICAL CONSOLIDATED LEVY RATE

FORMULA:

FMV-CUV= DIFF

DIFF X PBR = SAVINGS

FMV-SAVINGS = NEW VALUE

NEW VALUE X LEVY RATE = TAXES

CALCULATION:

FMV -CUV = DIFF

600,000 - 24,000 = 576,000

DIFF X PBR = SAVINGS

576,000 X .85 = 489,600

FMV-SAVINGS = NEW VALUE

600,000 - 489,600 =

110,400 = New CU Value

NEW VALUE X LEVY RATE =
NEW TAXES ON LAND VALUED
AT CURRENT USE

110,400 X .01=1,104

FMV taxes = 6,000

Current Use Taxes = 1,104

TAX SHIFT = 4, 896

HYPOTHETICAL EXAMPLE:

Application for Open Space Land
= 20 acres - vacant raw land

Variables:

Fair Market Value/acre = 30,000

PBR = 85%

CUVA = 1,200

CUV = 20 X 1,200 = 24,000

HYPOTHETICAL CONSOLIDATED LEVY
RATE = 10 dollars per every
thousand dollars of assessed value or
.01

EXPLANATION OF TAX SHIFT:

LEVY RATE = 10 dollars per every thousand dollars of assessed value or .01

Fair Market Value TAX = $600,000 \times .01 = \$6,000.00$ Taxes

Current Use Value TAX = $110,400 \times .01 = \$1,104.00$ Taxes

- Difference between FMV Tax & CUV Tax $\$6,000 - \$1,104 = \$4,896$
- \$4,896 in taxes that would otherwise be collected from this tax payer are "shifted" to other tax payers in the form of an increase in the levy rate applied to all assessed values on property within any given taxing district (as applicable) including the subject parcel acres that are approved for assessment at current use. The particular taxing district will still need to meet its budget, and in order to accomplish this, to offset reduction in value from properties classified under the current use programs (and other exemptions) will increase its levy rate to meet its budget.

NOTE: at 100% PBR the shift in taxes on the above example would be \$5,760.00

- Generally, a tax code area is defined by geographic boundaries where *most* all of the parcels are subject to the same consolidated levy rate. However, not all parcels in a geographically defined tax code area are captured by the same taxing districts. For example, if in a particular tax code area there are two parcels of land that are contiguous, and one is developed, and one is raw unimproved land, and both are in the fire district's boundaries, the improved land will be subject to a levy by the fire district, but the unimproved land will not be subject to a levy by the fire district.
- The example above illustrates why it is difficult to calculate the increase in taxes affecting tax payers whose land is assessed at fair market value, that would be imposed by the approval of a parcel at current use values.
- To further illustrate: the compensating increase in a taxing district's levy rate will also apply to land assessed at current use values within a taxing district's boundaries, but since the assessed value per acre has been substantially reduced as compared to fair market value, the amount of compensatory tax to meet the district's budget is proportionately much less from these parcels as compared to those from parcels assessed at fair market value.



**Open Space Land
 Public Benefit Rating System-Evaluation Form**

File # OSP2023-00003		
Property Owner (s): Chester & Sachiko Haynes	Classification: Open Space Farm and Agricultural Conservation Land	
Street Address: Valley View Rd.	Status: Application for Reclassification	
City: Custer State: WA Zip: 98240	Assessor's Parcel No.(s): Parcel: 4001232313300000	
Site Address: n/a	Parcel Acres:	19.4 acres
Watershed: <ul style="list-style-type: none"> • 3rd Order: Dakota • 2nd Order: Drayton Harbor • 1st Order: Coastal 	Open Space Land Application Acre(s):	19.4 acres
Comprehensive Plan Designation: Rural	Zoning Designation: R5A	
Historical Land Use: Agriculture, Forested Land	Shorelines: n/a	
Soil/Type Capabilities: 57% #45 Edmonds-Woodlyn loams, 0 to 2% slopes, Not prime farmland, <ul style="list-style-type: none"> • 4w- Very severe limitations that reduce the choice of plants or that require very careful management, or both; Excess water 6% #99 Lynden sandy loam, 0 to 3% slopes, All areas are prime farmland <ul style="list-style-type: none"> • 2s- Moderate limitations that reduce the choice of plants or that require moderate conservation practices; Shallow, droughty, or stony 2% #102 Lynnwood sandy loam, 0 to 5 percent slopes Prime farmland if irrigated <ul style="list-style-type: none"> • 3s- Severe limitations that reduce the choice of plants or that require special conservation practices, or both; Shallow, droughty, or stony 35% #103 Lynnwood sandy loam, 5 to 20 percent slopes Farmland of statewide importance <ul style="list-style-type: none"> • 3e- Severe limitations that reduce the choice of plants or that require special conservation practices, or both; Erosion and runoff 		

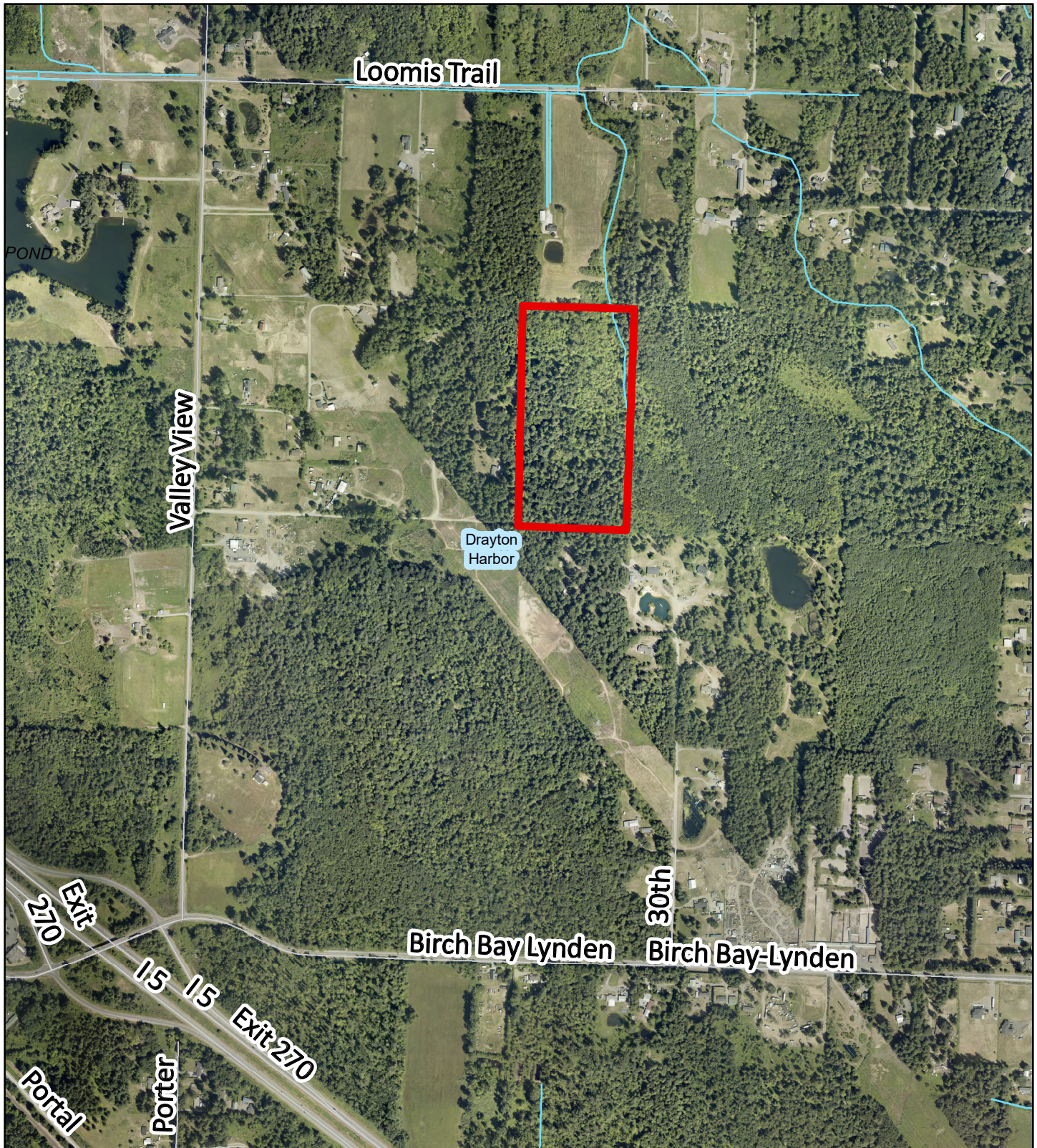
Basic Value (BV)	Score	MAX	Public Benefit Value (PBV)	Score	MAX
<u>Traditional or Potential Farmland</u> -Lands historically used for agriculture	7.5	15	<u>Public Access:</u> -Recreation Access -Availability of Parking -Public Access: Rules attached	24%	40 %
<u>Soil Value</u> - 6% of land is Prime Farmland -100% of land contains capability classification I-IV	8	15	<u>Water Resource Protection:</u> - Aquifer recharge area of high susceptibility -Preservation of hydrologic process: -Streams and natural drainage courses	13.34%	20 %
<u>Comprehensive Plan Designation</u>	0	5	<u>Wildlife Habitat:</u> - Property contains Habitat Conservation Area (Priority Habitat and Species) -Site has abundance and diversity of wildlife associate topographic diversity	20%	20%
<u>Conserves or Enhances Natural, Cultural or Scenic Resources:</u>	0	5	<u>Parcel Size</u> Parcel is approximately 19.4 acres	9.375%	>20 acres = +10% max; < 5 acres = - 40% required
<u>Protect Streams, Stream Corridors, Wetlands, Shorelines and Aquifers:</u> - Surficial Aquifers present - Lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime - Lands which provide for preservation of bogs or swamps	2.5	5	<u>Linkage with other Open Space</u> Lan is adjacent to other open space lands classified under RCW 84.33 or RCW 84.34	5%	5 %
<u>Protects Soil, Unique or Critical Wildlife, Native Plant Habitat:</u> - Lands which represent habitats for unique or critical wildlife or native plants	1.67	5	<u>Natural Areas</u> -Roughly 100% of the property is in natural cover	5%	5 %

<u>Promotes Conservation Principles by Example/Offers Educational Opportunities:</u>	0	5	<u>Financial Advantage</u>	0%	40 % (-)
<u>Enhances Value of Abutting Parks, Forests, Wildlife Preserves, or other Open Spaces:</u> - Lands which are near or adjacent to other open space lands classified under RCW 84.33 or RCW 84.34	1.25	5	<u>Discretionary Value NA</u>	0%	40 % (+/-)
<u>Enhances Recreation Opportunities:</u> - Lands which provide opportunities for passive recreational activities such as but not limited to hiking, horseback riding, hunting, fishing, bird watching, and nature observation	2.5	5			
<u>Preserves Historic and Archeological Sites</u>	0	5			
Total	23.42	70	Total	76.72	140 %

The Public Benefit Rating is calculated using the following formula:
Public Benefit Rating Formula $BV + (BV \times PBV) = 23.42 + (23.42 \times .7672)$

OSP2023-00003	Public Benefit Rating (PBR) = 41.40
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Must receive at least 45 points for a staff recommendation of approval



Open Space Land

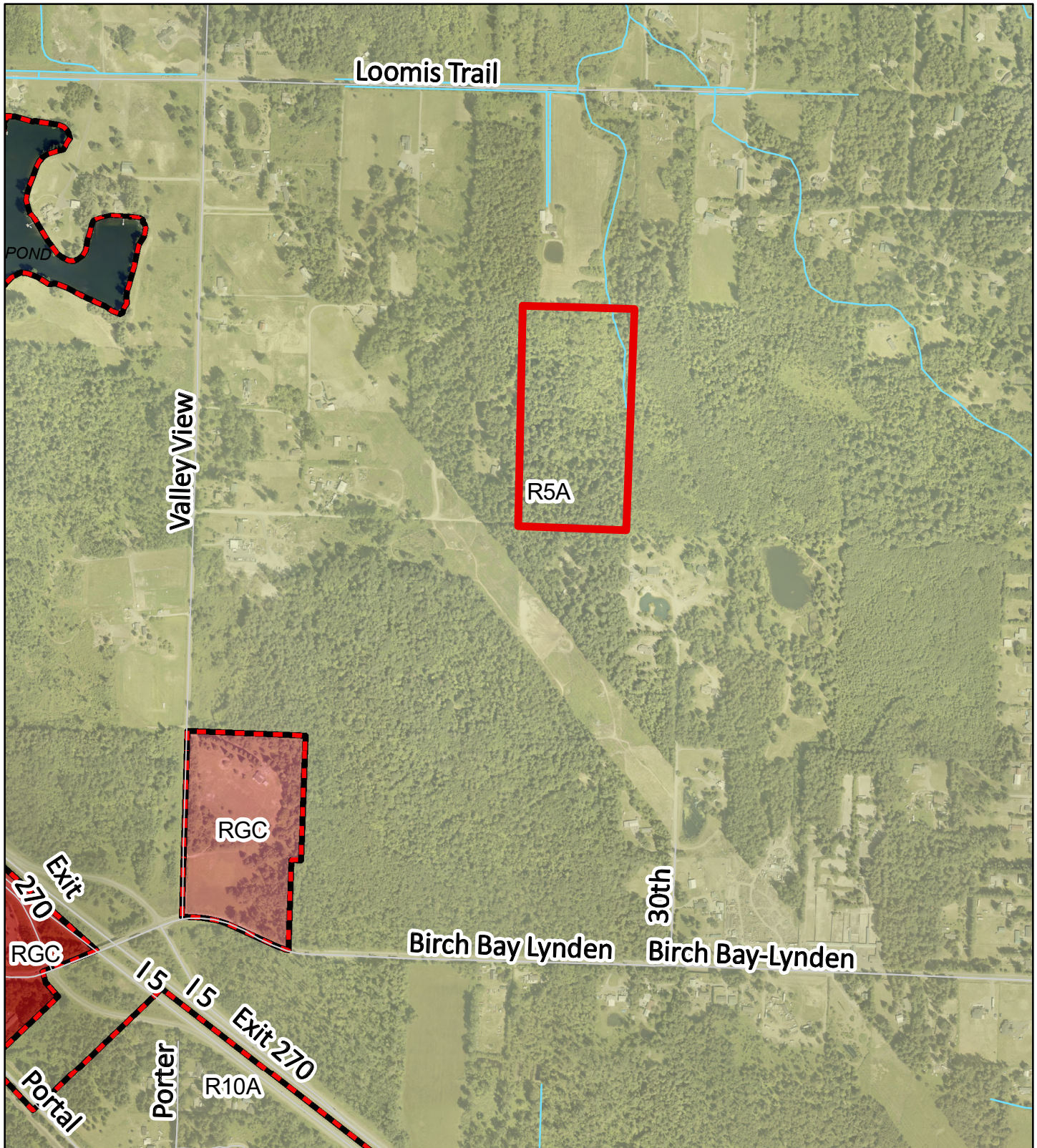
OSP2023-00003 Chester & Sochiko Haynes, ~19.4 acres



 Subject Site



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Open Space Land

OSP2023-00003 Chester & Sochiko Haynes, ~19.4 acres

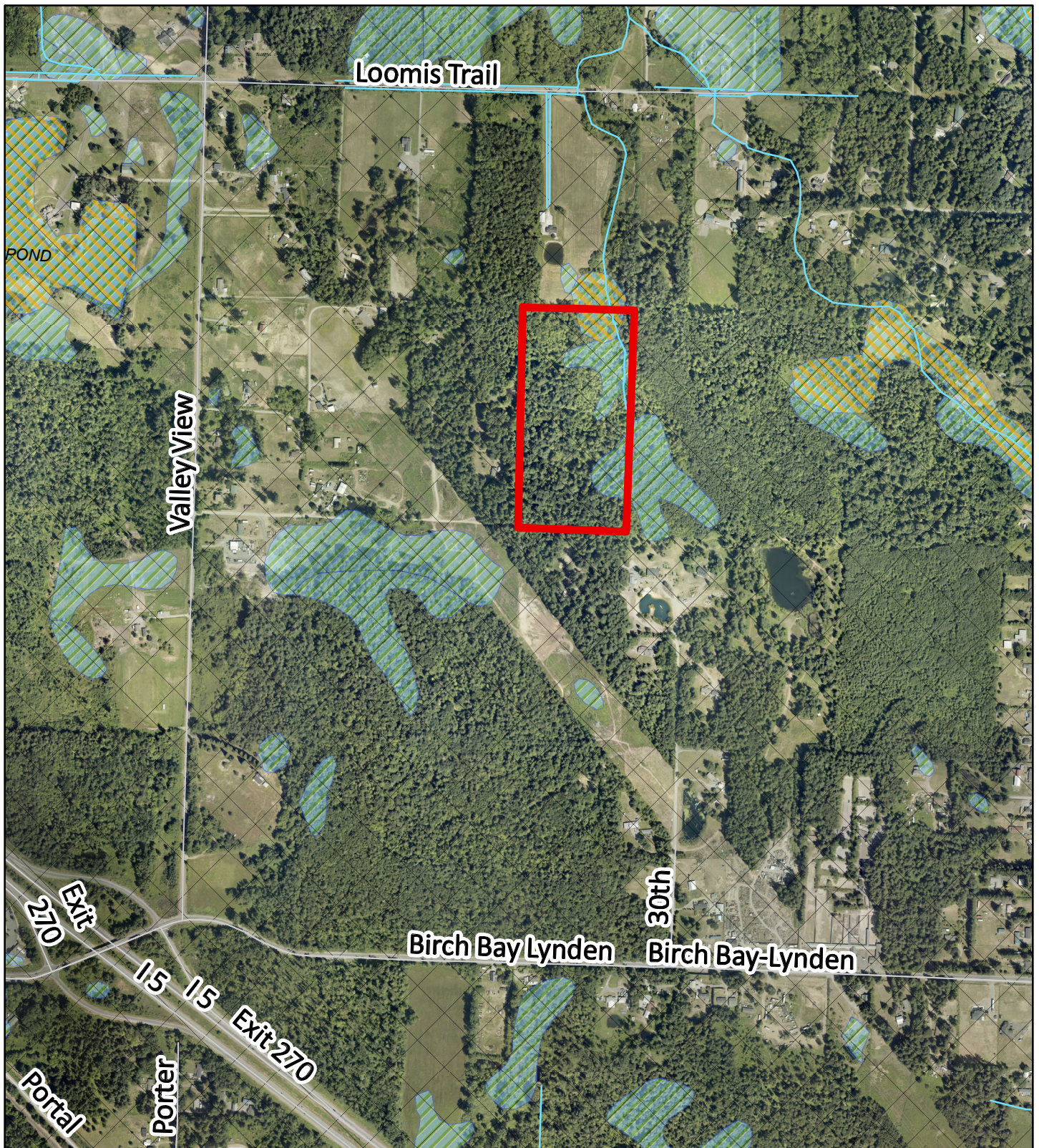
Subject Site
 Zoning Boundaries

- Rural
- Rural Business/Rural General Commercial
- Rural Business/Rural General Commercial








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Open Space Land

OSP2023-00003 Chester & Sochiko Haynes, ~19.4 acres

-  Subject Site
-  Rivers & Streams
-  Surficial Aquifers
-  Habitat Conservation Area, State Priority Habitats
-  Wetlands



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Whatcom County
Open Space Policy and Criteria
and
Public Benefit Rating System, 1995

SUMMARY OF WHATCOM COUNTY OPEN SPACE POLICIES

- I. **Public Benefit Rating System:** All applications for open space-open space and open space- farm and agriculture conservation will be rated according to the Whatcom County Public Benefit Rating System described in the following pages. A Public Benefit Rating of at least 45 must be attained in order to be recommended for approval. In addition, the amount of tax reduction to be granted to open space applications will be based on the Public Benefit Rating. The greater the public benefit provided by keeping the property in open space use, the greater the tax reduction.
- II. **Public access:** As a condition of approval, owners of open space parcels must agree to provide a certain degree of public access according to the Whatcom County Public Access Policy listed on Page 12. All applications shall be accompanied by the owner's proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined in the Whatcom County Public Access Policy. Note: On parcels where there is a documented occurrence of a State or Federal Endangered or Threatened species; Federal Proposed Endangered or Threatened Species; and State Sensitive or Monitor Species; or where there is a known or potentially significant archaeological site; or when the purpose of the open space is for wetland conservation, the public access requirement may be waived by the Council.
- III. **Open Space Sign:** As a condition of approval, owners of open space parcels must agree to post a sign in a location visible to passing motorists, in accordance with the Whatcom County Open Space Sign Policy on Page 13 indicating the parcel's open space status and the availability of public access. As with the public access requirement, the requirement for posting of a sign may be waived in some instances.
- IV. **Hold Harmless Agreement:** All open space property owners must sign a hold harmless agreement, freeing Whatcom County of any liability which may arise as a result of open space approval. A copy of the hold harmless agreement is included on Page 14.

**WHATCOM COUNTY OPEN SPACE POLICY AND CRITERIA
AND PUBLIC BENEFIT RATING SYSTEM**

I. APPROVAL CRITERIA: OPEN SPACE/OPEN SPACE AND OPEN SPACE/FARM & AGRICULTURE CONSERVATION

Washington State law specifies that:

In determining whether an application made for open space current use taxation status should be approved or disapproved, pursuant to RCW 84.34.020, subsection (1)(b) (Open Space/Open Space) or subsection (c) (Open Space/Farm & Agriculture Conservation), the Whatcom County Planning Commission will consider in its recommendations to the County Council whether or not preservation of the current use of the land, when balanced against the resulting revenue loss or tax shift from granting the application will:

1. Conserve or enhance natural, cultural or scenic resources, or
2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers, or
3. Protect soil resources and unique or critical wildlife and native plant habitat, or
4. Promote conservation principles by example or by offering educational opportunities, or
5. Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, or
6. Enhance recreation opportunities, or
7. Preserve historic and archaeological sites, or
8. Affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property.

II. PUBLIC BENEFIT RATING SYSTEM

- A. Based on the first seven (7) approval criteria listed above in conjunction with number eight (8) above, the Planning Department staff will assign each application for Open Space/ Open Space and Open Space/Farm & Agriculture Conservation a **PUBLIC BENEFIT RATING** using the method described below.
- B. A parcel must receive a **PUBLIC BENEFIT RATING** of at least forty five (45) to be recommended for approval.
- C. The **PUBLIC BENEFIT RATING** will be used by the County Assessor's office in determining the amount of tax reduction for Open Space/Open Space and Open Space/Farm & Agriculture Conservation parcels.

III. PUBLIC BENEFIT RATING CALCULATION

A. BASIC VALUE

The Planning and Development Services Department will review each **Open Space/Open Space** and **Open Space/Farm & Agriculture Conservation** application and will assign to each a **BASIC VALUE** that represents the degree of conformance with the **BASIC VALUE CRITERIA** listed in Section IV below.

B. PUBLIC BENEFIT VALUE

The **BASIC VALUE** will be increased (or decreased) by a percentage (**PUBLIC BENEFIT VALUE**) representing the benefit to the general welfare of preserving the current use of the property, based on conformance with the factors listed in section V below.

C. PUBLIC BENEFIT RATING FORMULA

The **PUBLIC BENEFIT RATING** will be calculated using the following formula:

$$PBR = BV + (BV \times PBV), \text{ where:}$$

PBR = PUBLIC BENEFIT RATING

BV = BASIC VALUE

PBV = PUBLIC BENEFIT VALUE

IV. BASIC VALUE CRITERIA:

A. Open Space/Open Space

A maximum of ten points for **open space/open space** applications may be assigned for each of the 7 items based upon conformance with the criteria listed below.

1. Conserve or enhance natural, cultural or scenic resources.

Criteria for approval:

- a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
- b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;

- c. lands which can serve to prevent the spread of high density residential development into less developed areas;
- d. lands located adjacent to airports.

2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers.

Criteria for approval:

- a. lands within a 100-year floodplain;
- b. lands within or adjacent to areas of domestic water supply;
- c. lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
- d. lands which provide for preservation of bogs or swamps;
- e. lands adjacent to bodies of water, both marine and fresh;
- f. lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

3. Protect soil resources and unique or critical wildlife and native plant habitat.

Criteria for approval:

- a. lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
- b. lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
- c. lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On parcels where there this documentation, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

4. Promote conservation principles by example or by offering educational opportunities.

Criteria for approval:

- a. lands which are an example of application of conservation principles;
- b. lands which offer opportunities for conservation education such as

interpretive centers or trails.

5. **Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces;**
Criteria for approval:

- a. land that the local County Park Board has identified for possible future park acquisition;
- b. land designated in County Parks, Recreation and Open Space Study and other documents as significant park land, open space or conservation areas;
- c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;
- d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

6. **Enhance recreation opportunities.**

criteria for approval:

- a. lands possessing private recreational facilities which are available to the public without charge;
- b. lands which provide opportunities for passive recreational activities such as, but not limited to, hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

7. **Preserve historic and archaeological sites.**

Criteria for approval:

- a. areas or sites which have been identified as significant on local, state or national Historic Registers;
- b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

B. Open Space/Farm & Agriculture Conservation

Only parcels consistent with RCW 84.34.020(8)(a)(b) may be considered for Open Space/Farm & Agriculture Conservation.

A maximum of fifteen (15) points for Open Space/ Farm & Agriculture Conservation applications may be assigned for each of the first two (2) items listed below, and a maximum of five (5) points may be assigned for the remaining eight (8) items listed below based upon conformance with the criteria listed.

1. Traditional or potential farmland.

Criteria for approval: lands which have historically been used for agriculture; and/or lands that have not been devoted to a use inconsistent with agricultural uses.

2. Soil Value

Criteria for approval:

- a. lands which contain prime farmland as defined by the U.S. Department of Agriculture; or
- b. lands which contain capability classification I-IV according to the US Department of Agriculture Land Capability Classification system.

3. Comprehensive Plan Designation

Criteria for approval: Lands which are designated Agriculture or Incentive Agriculture in the Whatcom County Comprehensive Plan.

4. Conserve or enhance natural, cultural or scenic resources.

Criteria for approval:

- a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
- b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
- c. lands which can serve to prevent the spread of high density residential development into less developed areas;
- d. lands located adjacent to airports.

5. **Protect streams, stream corridors, wetlands, natural shorelines and aquifers.**

Criteria for approval:

- a. lands within a 100-year floodplain;
- b. lands within or adjacent to areas of domestic water supply;
- c. lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
- d. lands which provide for preservation of bogs or swamps;
- e. lands adjacent to bodies of water, both marine and fresh;
- f. lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

6. **Protect soil resources and unique or critical wildlife and native plant habitat.**

Criteria for approval:

- a. lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
- b. lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
- c. lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On these parcels the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

7. **Promote conservation principles by example or by offering educational opportunities.**

Criteria for approval:

- a. lands which are an example of application of conservation principles;
- b. lands which offer opportunities for conservation education

such as interpretive centers or trails.

8. **Enhance the value to the public of abutting or neighboring parks, forests, agricultural lands, wildlife preserves, nature reservations or sanctuaries or other open spaces.**

Criteria for approval:

- a. land that the local County Park Board has identified for possible future park acquisition;
- b. land designated in County Parks, Recreation and Open Space Studies and other documents as significant park land, open space or conservation areas;
- c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;
- d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

9. **Enhance recreation opportunities.**

criteria for approval:

- a. lands possessing private recreational facilities which are available to the public without charge;
- b. lands which provide opportunities for passive recreational activities such as but not limited to hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

10. **Preserve historic and archaeological sites.**

Criteria for approval:

- a. areas or sites which have been identified as significant on local, state or national Historic Registers;
- b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

V. PUBLIC BENEFIT VALUE CRITERIA

The following list of open space characteristics have been determined to have a high priority in providing (or detracting from) benefit to the general welfare will be used to determine the **PUBLIC BENEFIT VALUE** for each **Open Space/Open Space** and **Open Space/Farm & Agriculture Conservation** application. The total **PUBLIC BENEFIT VALUE** will increase (or decrease) the **BASIC VALUE** by a certain percentage. It is possible to attain a **PUBLIC BENEFIT VALUE** of up to 140%, resulting in a maximum possible increase of 140%.

A. PUBLIC ACCESS

(Maximum 40% increase)

1. Shoreline access
2. Recreation access
3. Public road frontage
4. Availability of off-street parking
5. Quality of access in terms of accessibility and owner's Proposed rules of conduct and access management

B. WATER RESOURCE PROTECTION (Maximum 20% increase)

1. Watershed of domestic water supply
2. Aquifer recharge area
3. Preservation of hydrologic processes:
 - streams and natural drainage courses
 - wetlands, swamps, bogs
 - lakes

C. WILDLIFE HABITAT

(Maximum 20% increase)

1. State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species.
2. Abundance and diversity of wildlife (associated with "edge" type habitat and areas of vegetative and topographic diversity).

D. PARCEL SIZE

1. Twenty (20) acres or larger **(Maximum 10% increase)**
2. Smaller than five (5) nominal acres **(Maximum 10% decrease for OS Open Space applications; Required 40% decrease for OS Farm and Agriculture Conservation applications)**

E. LINKAGE WITH OTHER OPEN SPACES

(Maximum 5%

increase)

Adjacent to other Open Space, parks, or open areas associated with Planned Unit Developments, Cluster Subdivisions, or Binding Site Plans.

- F. NATURAL AREAS** (Maximum 5% increase)
Based on how much of parcel is in natural cover and not developed with homesite, outbuildings, and clearings.
- G. FINANCIAL ADVANTAGE** (Maximum 40% decrease)
The use to which the land is put derives a financial advantage for its owners.
- H. DISCRETIONARY VALUE** (Maximum 40% increase)
(Minimum 40% decrease)
Discretionary value may be added or subtracted where land provides or detracts from public benefits other than those specifically listed above. If discretionary value is added or subtracted, the provision of or deduction from public benefits shall be set forth in detail on the supplemental application form and on the scoring sheet

PUBLIC ACCESS

All applications for Open Space/Open Space and Open Space Farm & Agriculture Conservation shall be accompanied by the owners' proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined below.

The term "Public Access" is limited and defined as the right of any individual to request permission to enter and visit the premises on foot for legitimate recreational purposes such as bird watching, scenic observation, scientific investigation, picnicking during daylight hours, and strolling and general relaxation on the premises. This right is subject to the execution by the visitor of:

1. An agreement to abide by any reasonable rules of personal conduct required by the owners while on the premises, and
2. A general release of the owner from liability for any injury suffered by the visitor while on the premises. Permission will be granted without discrimination, **EXCEPT** in the case of a person in disorderly or apparently intoxicated condition in which case permission will be denied. Any permission previously granted shall become automatically revoked, and the visitor deemed to be a trespasser upon the premises.

Owners retain and reserve the power to officially post and enforce rules not inconsistent with the foregoing provisions and conditions for public entry upon the premises.

DATED this _____ day of _____, 2000

SIGNED:

owner

owner

OPEN SPACE SIGN POLICY

As a condition of approval of your open space application, you must post a two foot (2' x 2') sign on your property to indicate open space status, public access, and the Open Space Agreement number within one month of executing the Open Space Agreement.

The sign must be located on the property's road frontage in as conspicuous a location as possible.

Construction of the sign will be the responsibility of the applicant and will be in accordance with the specifications on file with the Planning and Development Services Department. It is the property owner's responsibility to assure that the sign remains in place during the period of the open space agreement.

This policy affects all Open Space/Open Space and Open Space/Farm and Agricultural Conservation applications.

Whatcom County Council

**AFFIDAVIT OF POSTING OF
OPEN SPACE SIGN
PURSUANT TO WHATCOM COUNTY
OPEN SPACE SIGN POLICY AND SPECIFICATION**

_____, being first duly sworn upon
oath, deposes and says:

That I have posted a two foot by two foot Open Space Sign in accordance with the Whatcom County Open Space Sign Policy and the Whatcom County Open Space Sign Specification, in a conspicuous location, visible to passing motorists, indicating the Open Space status of the following Open Space parcel(s):

Assessor's Parcel Number(s): _____

I understand that it is the property owner's responsibility to assure that the sign(s) remains in place during the period of the Open Space Agreement; that posting of the Open Space sign is subject to verification by County personnel; and that failure to maintain the sign is a violation of the Open Space Agreement and may result in withdrawal of Open Space status with attendant taxes and penalties payable pursuant to RCW 84.34.

Signature of Property Owner or other person posting property

I certify that I know or have satisfactory evidence that _____
signed this instrument and acknowledged it to be his/her free and voluntary act for the uses
and purposes mentioned in this instrument.

Dated _____

Signature of
Notary Public _____

Title _____

My Appointment
Expires _____

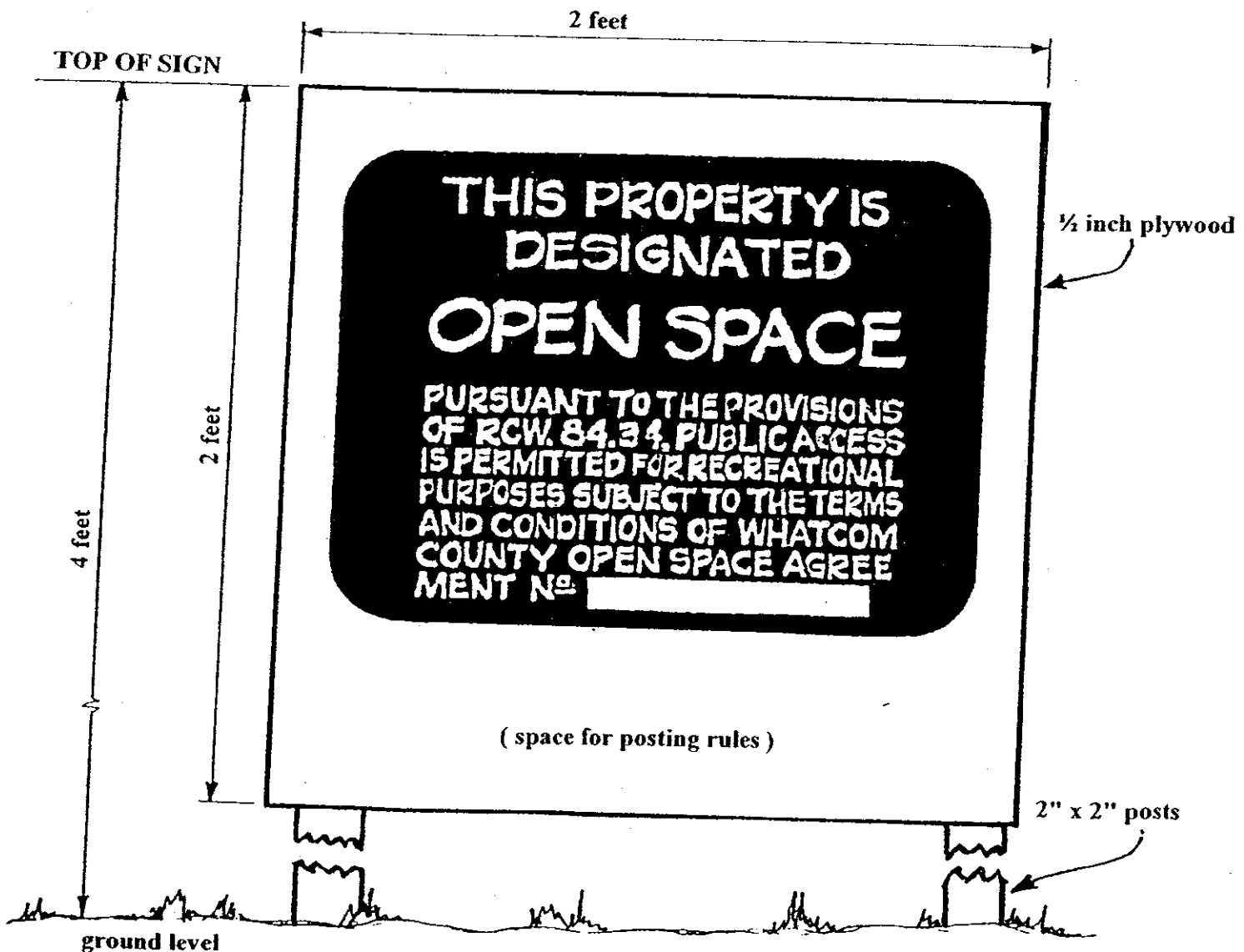
Seal

WHATCOM COUNTY OPEN SPACE SIGN SPECIFICATION

As a condition of approval of your Open Space application, you must post at least one Open Space sign on the property's road frontage in a conspicuous location, visible to passing motorists. It shall be the property owner's responsibility to assure that the sign remains in place during the period of the Open Space Agreement.

A typical sign and mounting are illustrated below. The sign shall be purchased from the Whatcom County Planning and Development Department for \$5.00 plus tax of .39 cents. The sign shall be permanently attached to a weather-resistant solid backing at least two feet by two feet in size. You may also post reasonable rules of personal conduct while on the premises, pursuant to Whatcom County Public Access Policy. Such rules shall be approved by the Planning Department prior to posting.

TYPICAL SIGN AND MOUNTING



HOLD HARMLESS AGREEMENT

Owner Name

Owner Name

In consideration for Whatcom County's approval of the attached Open Space Application, with any conditions that may be imposed, hereby agree to defend, indemnify and hold harmless Whatcom County, its officers and employees from any claim that may arise against Whatcom County as a result of the approval of the attached application with conditions.

This agreement shall become binding only after the Whatcom County Council has approved the attached application.

Parcel number(s):

DATED: This _____ day of _____, 2008

SIGNED:

Owner Name

Owner Name

Open Space Taxation Act

JULY 2017

The information and instructions in this publication are to be used when applying for assessment on the basis of current use under the “open space laws,” chapter 84.34 RCW and chapter 458-30 WAC.



What is the Open Space Taxation Act?

The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state 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 state and its citizens.

Lands qualifying for current use classification

The law provides three classifications:

Open space land

Farm and agricultural land

Timber land

Open space land is defined as any of the following:

1. Any land area zoned for open space by a comprehensive official land use plan adopted by any city or county.
 - a. Conserve and enhance natural or scenic resources.
 - b. Protect streams or water supply.
 - c. Promote conservation of soils, wetlands, beaches or tidal marshes. (As a condition of granting open space classification, the legislative body may not require public access on land classified for the purpose of promoting conservation of wetlands.)
 - d. Enhance the value to the public of neighbouring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.
 - e. Enhance recreation opportunities.
 - f. Preserve historic sites.
 - g. Preserve visual quality along highway, road, and street corridors or scenic vistas.
 - h. Retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative authority granting the open space classification.
3. Any land meeting the definition of “farm and agricultural conservation land,” which means either:
 - a. Land previously classified under the farm and agricultural classification that no longer meets the criteria and is reclassified under open space land; or
 - b. “Traditional farmland,” not classified, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.



Farm and agricultural land is defined as any of the following:

1. Any parcel of land that is 20 or more acres, or multiple parcels of land that are contiguous and total 20 or more acres, and are:
 - a. Devoted primarily to the production of livestock or agricultural commodities for commercial purposes.
 - b. Enrolled in the federal conservation reserve program (CRP) or its successor administered by the United States Department of Agriculture.
 - c. Other commercial agricultural activities established under chapter 458-30 WAC.
2. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has produced a gross income equivalent to:
 - a. Prior to January 1, 1993, \$100 or more per acre per year for three of the five calendar years preceding the date of application for classification.
 - b. On or after January 1, 1993, \$200 or more per acre per year for three of the five calendar years preceding the date of application for classification.
3. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
 - a. Seven years and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year.
 - b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year.
4. For parcels of land five acres or more but less than 20 acres, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.
5. Any parcel of land less than five acres devoted primarily to agricultural uses and has produced a gross income of:
 - a. Prior to January 1, 1993, \$1,000 or more per year for three of the five calendar years preceding the date of application for classification.
 - b. On or after January 1, 1993, \$1,500 or more per year for three of the five calendar years preceding the date of application for classification.
6. "Farm and agricultural land" also includes any of the following:
 - a. Incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land.
 - b. Land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products.
 - c. Any non-contiguous parcel one to five acres, that is an integral part of the farming operations.
 - d. Land on which housing for employees or the principal place of residence of the farm operator or owner is sited provided the use of the housing or residence is integral to the use of the classified land for agricultural purposes, the housing or residence is on or contiguous to the classified land, and the classified land is 20 or more acres.
 - e. Land that is used primarily for equestrian-related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. Depending on the number of classified acres, the land may be subject to minimum gross income requirements.
 - f. Land that is primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not. For additional criteria regarding this use, please refer to RCW 84.34.020(2)(h).

Timber land is defined as the following:

Any parcel of land five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than 10 percent of the land may be used for such incidental uses.

It also includes the land which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

The timber land classification may be unavailable in some counties. As a result of the passage of Senate Bill 6180 in 2014, counties have the option to merge their timber land classification into their designated forest land program under chapter 84.33 RCW. To determine whether your county offers the timber land classification, you may contact the county assessor or visit the Department of Revenue's website at: www.dor.wa.gov.

Who may apply?

An owner or contract vendee may apply for current use assessment. However, all owners or contract venders must sign the application for classification, and any resulting agreement.

When may I apply?

Applications may be made for classification at any time during the year from January 1 through December 31. If approved, current use assessment will begin on January 1 following the year the application was submitted.

Where do I get the application?

Application forms for the farm and agricultural land classification are available from the county assessor's office. Application forms for the open space and timber land classifications are available from either the county assessor's office or by contacting the county legislative authority.

Where do I file the application?

An application for open space classification is filed with the county legislative authority.

An application for farm and agricultural land classification is filed with the county assessor.

An application for timber land classification is filed with the county legislative authority. Timber land applications require that a timber management plan also be filed.

Is there an application fee?

The city or county legislative authority may, at their discretion, establish a processing fee to accompany each application. This fee must be in an amount that reasonably covers the processing costs of the application.

What happens after I file my application for open space classification?

Applications for classification or reclassification as "open space land" are made to the appropriate agency or official called the "granting authority." If the land is located in the county's unincorporated area, the county legislative authority is the granting authority on the application. If the land is located within an incorporated area of the county, the application is acted upon by both the county and city legislative authorities.

If the application is subject to a comprehensive plan that has been adopted by any city or county it will be processed in the same manner in which an amendment to the comprehensive plan is processed. If the application is not subject to a comprehensive land use plan, a public hearing on the application will be conducted, but a notice announcing the hearing must be published at least 10 days prior to the hearing.

The granting authority must approve or reject the application within six months of receiving the application. In determining whether an application made for classification or reclassification should be approved or denied, the granting authority may consider the benefits to the general welfare of preserving the current use of the property.



They may require that certain conditions be met including but not limited to the granting of easements.

If the application is approved, the granting authority will, within five calendar days of the approval date, send an agreement to the applicant for signature showing the land classification and conditions imposed. The applicant may accept or reject the agreement. If the applicant accepts, he or she must sign and return the agreement to the granting authority within 30 days after receipt.

The approval or denial of the application for classification or reclassification is a legislative determination and is reviewable only for arbitrary and capricious actions. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.

How does a public benefit rating system work?

If the county legislative authority has established a public benefit rating system (PBRs) for the open space classification, the criteria contained within the rating system governs the eligibility and valuation of the land subject to the application.

When a county creates or amends a PBRs, all classified open space land will be rated under the new PBRs. Land that no longer qualifies for classification will not be removed from classification, but will be rated according to the PBRs. Within 30 days of receiving notification of the new assessed value established by the PBRs, the owner may request removal of classification of the land without imposition of additional tax, interest, and penalty.

What happens after I file my application for farm and agricultural land classification?

Upon application for classification or reclassification, the assessor may require applicants to provide data regarding the use of the land, including, but not limited to, the productivity of typical crops, sales receipts, federal income tax returns, other related income and expense data, and any other information relevant to the application.

The application will be considered approved unless the assessor notifies the applicant in writing prior to May 1 of the year after the application was submitted. The criteria for classification continue to apply after classification has been granted.

What is an “advisory committee”?

The county legislative authority must appoint a five member committee representing the active farming community within the county. This committee will serve in an advisory capacity to the assessor in implementing assessment guidelines as established by the Department of Revenue for the assessment of open space lands, farm and agricultural lands, and timber lands.

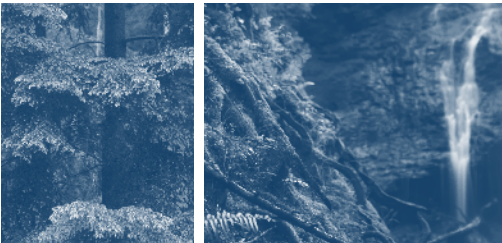
How do I appeal a denial of my farm and agricultural land application?

The owner may appeal the assessor’s denial to the board of equalization in the county where the land is located. The appeal must be filed with the board on or before July 1 of the year of the determination or within 30 days after the mailing of the notice of denial, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

What happens after I file my application for timber land classification?

Applications for timber land classification or reclassification are made to the county legislative authority. A timber management plan is required at the time of application or when a sale or transfer of timber land occurs and a notice of continuance is signed.

The application form requests information about forest management, restocking, fire protection, insect and disease control, weed control, and any other summary of experience and activity that supports the growth and harvest of timber for commercial purposes.



The application is acted upon in a manner similar to open space land applications and within six months of receiving the application.

Approval or denial of a timber land application is a legislative determination and is reviewable only for arbitrary and capricious action. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.

How is the value of classified land determined?

The assessor is required to maintain two values for each parcel that is classified. The first is the value that would be placed on the land if it was not classified. This is commonly referred to as the "fair market value." The second is the current use land value based on its current use, not highest and best use, as classified by the granting authority.

Open space land located within a county that has adopted a public benefit rating system will be valued according to the criteria of the rating system.

In the absence of a rating system, the per acre value can be no less than the lowest per acre value of classified farm and agricultural land in the county.

In determining the current use value of farm and agricultural land, the assessor considers the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years. This earning or productive capacity is the "net cash rental" and is capitalized by a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

Timber land is valued according to a schedule prepared by the Department of Revenue according to chapter 84.33 RCW. The Department of Revenue annually adjusts and certifies timber land values to be used by county assessors in preparing assessment rolls. The assessors assign the timber land values to the property based upon land grades and operability classes.

When are taxes due on classified lands?

Land classified as open space, farm and agricultural, or timber land is assessed at its current use value and placed on the assessment rolls the year after the application was submitted. Taxes on classified land are due and payable the year after the current use value was placed on the assessment rolls.

How long does the classification last?

The land continues in its classification until a request for removal is made by the owner, the use of land no longer complies, a sale or transfer to an owner that causes land to be exempt from property taxes, or the ownership has changed and the new owner has not signed a Notice of Continuance. The notice of removal is recorded with the county auditor in the same manner as the recording of state tax liens on real property. Additional tax, interest, and penalties will apply if the land is removed and the removal does not meet one of the exceptions listed in RCW 84.34.108(6).

How do I withdraw from classification?

If intending to withdraw all or a portion of the land from classification after 10 years of classification, the owner must complete a withdrawal form with the county assessor.

If a portion of the land is removed from classification, the remaining portion must meet the requirements of original classification unless the remaining land has different income or investment criteria.



What happens after I file a request to withdraw?

Upon receipt of a request for withdrawal, the assessor notifies the granting authority that originally approved the classification, and, the assessor withdraws the land from classification. The land withdrawn from classification is subject to seven years of additional tax and interest, but not a 20 percent penalty.

What happens if the classified land is sold or transferred?

When classified land is sold or transferred, the seller or transferor becomes liable at the time of sale for the additional tax, interest, and penalty unless the new owner(s) signs the Notice of Continuance which is attached to or shown on the real estate excise tax affidavit. The county auditor cannot accept an instrument of conveyance on any classified land unless the Notice of Continuance has been signed or the additional tax, interest, and penalty has been paid. The assessor determines if the land qualifies for continued classification

What if I want to change the use of my classified property?

An owner changing the use of land from a classified use must notify the county assessor within 60 days of this action. The assessor will remove the land from classified status and impose an additional tax equal to the difference between the tax paid on the current use value and the tax that would have been paid on the land had it not been classified. The additional tax is payable for the last seven tax years, plus interest at the same rate as charged on delinquent property taxes, plus a penalty of 20 percent of the total amount.

If the assessor removes my land from classification, may I appeal?

Yes, the owner may file an appeal of the removal from classification to the county board of equalization on or before July 1 of the year of the determination, or within 30 days of the date the notice was mailed by the assessor, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

Upon removal from classification, what taxes are due?

At the time the land is removed from classification, any taxes owing from January 1 of the removal year through the removal date, and any additional tax, applicable interest, and penalty owing are due and payable to the county treasurer within 30 days of the owner being notified.

What if the additional taxes are not paid?

Any additional tax, applicable interest, and penalty become a lien on the land at the time the land is removed from classification. This lien has priority over any other encumbrance on the land. Such a lien may be foreclosed upon expiration of the same period after delinquency in the same manner as delinquent real property taxes. If unpaid, interest is charged on the total amount due at the same rate that is applied by law to delinquent property taxes. Interest accrues from the date of the delinquency until the date the total amount is paid in full.

What is done with the additional tax, interest, and penalty paid when land is removed from classification?

Upon collection, the additional tax is distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. The applicable interest and penalties are distributed to the county's current expense fund.



How do I change the classification of my property?

Land may be reclassified, upon request by the owner, subject to all applicable qualifications for each classification, without additional tax, interest, and penalty for the following:

1. Land classified as farm and agricultural land may be reclassified to timber land; timber land may be reclassified to farm and agricultural land.
2. Land classified as either farm and agricultural land or timber land under chapter 84.34 RCW, or forest land under chapter 84.33 RCW may be reclassified to open space land.
3. Land classified as farm and agricultural land or timber land may be reclassified to forest land under chapter 84.33 RCW.
4. Land previously classified as farm and agricultural land may be reclassified to open space land as "farm and agricultural conservation land" and subsequently be reclassified back to farm and agricultural land.

Applications for reclassification are acted upon in the same manner as approvals for initial classification. The county assessor approves all applications for farm and agricultural classifications and reclassifications. The county legislative authority (and in some cases, the city legislative authority) approves all land classifications or reclassifications for timber land and open space land, including farm and agricultural conservation land.

Is supporting information required to change classifications?

The assessor may require an owner of classified land to submit data regarding the use of the land, productivity of typical crops, income and expense data, and similar information regarding continued eligibility.

Laws and Rules

It is helpful to read the complete laws, Revised Code of Washington, chapters 84.33 and 84.34 (RCW) and rules, Washington Administrative Code, chapter 458-30 (WAC) to understand requirements of the classifications and the tax liabilities incurred.

Need More Information?

Requirements for making application for current use classification are available at the county assessor's office or by contacting the county legislative authority.

For general information contact:

- **Department of Revenue, Property Tax Division**
P. O. Box 47471
Olympia, Washington 98504-7471
(360) 534-1400
- **Website dor.wa.gov**
- **Telephone Information Center**
1-800-647-7706
- For tax assistance or to request this document in an alternate format, visit <http://dor.wa.gov> or call 1-800-647-7706. Teletype (TTY) users may use the Washington Relay Service by calling 711.



<http://dor.wa.gov>