

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226
360-778-5900
360-778-5901 Fax



Mark Personius, AICP
Director

Staff Report: Open Space Applications October 2025

Introduction

This report summarizes findings and recommendations on **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.

Summary of staff recommendations: PDS received one application in the past six months that is now needing review (**OSP2025-001 - Stevens**). PDS staff conducted a site visit and evaluated the subject property according to the Public Benefit Rating System, which yielded a score of **66.17**. PDS policy dictates that scores over 45 receive a staff recommendation for approval, and therefore, PDS recommends approval of this Open Space application.

Summary of Request: The Planning Commission is requested to make a recommendation as to whether this application should be approved in whole or in part, or denied. The Planning Commission’s recommendation will be forwarded to the Whatcom County Council who acting as granting authority will make a final decision.

This report is composed of five parts:

- I. Background;
- II. Application Procedure;
- III. Public Benefit Rating System (PBRs);
- IV. Application Review and Staff Findings;
- 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) – see the attached chart:

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 84.34.020(3)

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 (DLF), 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 criteria, and based on application scores, staff 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.

Upon approval or denial, and upon successful execution of an Open Space Taxation Agreement between the county and the applicant, the Assessor's Office 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'.

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 Whatcom County Public Benefit Rating System (PBRs). The formation of the PBRs was guided by public process and Planning Commission involvement during 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, *farm and agricultural conservation land* and removed timber land from the Public Benefit Rating System; otherwise the PBRs has not meaningfully changed 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;
- 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. 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.

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 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.

IV. Application Review & Staff Findings

PDS findings for 2025 Open Space application(s) are listed in summary below. Attached for reference at the end of this report are site evaluation worksheets, maps, and other supporting documents. A PowerPoint slide show of each property along with PDS comments and recommendations will be presented to the Planning Commission and Council.

1. OSP2025-001 - Stevens

Summary:

- Application to classify four parcels to OSL (30.20 acres).
- Parcel numbers: 3903123672840000; 3903122992990000; 3903122993500000; 3903123643450000
- All parcels are subject to a conservation easement held by Whatcom Land Trust (Auditor file # 2051104878).
- Zoning: R5A
- Public Benefit Rating: **66.17**
- PDS staff recommend approval

On March 24, 2025, PDS staff received an application from Mr. Stevens to classify his four parcels to Open Space Land (OSL) classification. The landowner has had recent disputes with the Assessor's Office regarding the significant increase in the assessed value of his parcels, which increased his tax responsibility.

PDS staff conducted a site visit on April 21, 2025. The property consists of four parcels, the clear majority of which is covered in mature native forest, which appears to have naturally regenerated after being logged ~100+ years ago. The mature stand is mostly comprised of western redcedar, Douglas fir, hemlock, big leaf maple, and other native plants and is heavily used by various wildlife species. At the center of the forest is a pond with adjoining wetlands, as well as a seasonal creek that flows into and out of the pond. Above the pond is a steep ridge line that makes up the western boundary of the property. The property is easily accessed by a small network of trails that circle the property.

The previous landowner worked with Whatcom Land Trust to convey a conservation easement across the four parcels that protects the forest, wetlands, and other ecologically-sensitive features of the property. The perpetual conservation easement restricts timber harvest, hunting, and further development, and it requires the landowner to "maintain open space, aesthetic, and wildlife values."

Whatcom County's Open Space Policy requires landowners of open space parcels to provide a certain degree of public access, unless waived by County Council. Initially, the landowner requested a waiver of public access, citing the need to "conserve and enhance the wetland and riparian features of the property as well as the overall natural habitat established on the property." Whatcom Land Trust has written a letter of support for public access to be waived

given the conservation easement and the ecologically sensitive features the easement seeks to protect. The letter is attached. The landowner also agreed to allow the land trust to host public educational tours on the property, which satisfies one of the scoring criteria in the PBRs. However, during the October 9, 2025 Planning Commission meeting, the Planning Commission unanimously recommended denial of the application *unless* the landowner provided public access. The landowner has since agreed to public access, which is detailed in the attached Supplemental Memorandum to Stevens Open Space Application completed by the landowner. Without public access, the Public Benefit Rating was 50.87. The scoring has been updated to reflect the public access allowances and the Public Benefit Rating is now **66.17**.

The hypothetical tax shift if approved is a **net annual decrease of ~\$2,282** 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 (~\$0.30/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	Tax Shift to Hypothetical Neighboring \$600k Property	Reduction in Stevens Annual Property Taxes
3903122992990000	+\$0.11	-\$791.85
3903122993500000	+\$0.08	-\$655.04
3903123643450000	+\$0.08	-\$655.05
3903123672840000	+\$0.03	-\$178.95
Totals (if approved)	+\$0.30	-\$2,281.89

***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.*

V. Findings of Fact and Recommendations

PDS staff received this application, conducted the site visit, evaluated the property according to the Public Benefit Rating System (PBRs), and produced this report for evaluation by the Planning Commission and Whatcom County Council. PDS published an advertisement in the Bellingham Herald on September 21, 2025, plans to send an email to all subscribers to the PDS listserv on October 1, 2025, and plans to send a press release to local newspapers by October 2,

2025 alerting the general public that a Public Hearing will take place on this issue at the Planning Commission meeting on October 9, 2025.

During the October 9, 2025, Planning Commission meeting, the Planning Commission unanimously recommended denial of the application *unless* the landowner provided public access. The landowner has since agreed to public access, which is detailed in the attached Supplemental Memorandum to Stevens Open Space Application completed by the landowner. Without public access, the Public Benefit Rating was 50.87. The scoring has been updated to reflect the public access allowances and the Public Benefit Rating is now **66.17**.

Based on the RCW, WAC, and County Code that guides PDS in this process, PDS staff make the following recommendations:

1. OSP2025-001 - Stevens

After evaluating this application with the Public Benefit Rating System (PBRs), PDS has assigned it a score of **66.17** (for details, please see attached evaluation worksheet sheet OSP2025-001). A PBRs score of at least 45 points must be attained to receive a *PDS recommendation of approval*. The application received a PBRs score that was over 45, and therefore PDS recommend approval of the Stevens application.

ATTACHMENTS

- Application Evaluation Materials and Maps;
- Landowner Public Access Memo
- Whatcom Land Trust Letter of Support for Public Access Waiver
- Diagram showing Whatcom County Open Space Programs

Report prepared for the Whatcom County Planning Commission by:

Alexander Harris – Outreach Coordinator, Conservation Easement Program
(360) 778-5979 -- aharris@co.whatcom.wa.us

Lauren Templeton, – Conservation Easement Program Administrator
(360) 778-5956 -- ltemplet@co.whatcom.wa.us

WHATCOM COUNTY

Planning & Development Services
 5280 Northwest Drive
 Bellingham, WA 98226-9097
 360-778-5900, TTY 800-833-6384
 360-778-5901 Fax



Mark Personius, AICP
 Director

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

File # OSP2025-001	
Property Owner(s): Collin Stevens III	Classification: Open Space Land/ Open Space Farm and Agricultural Conservation Land
Street Address: 2351 E Pole Rd	Status: Application for Classification/Reclassification
City: Everson State: WA Zip: 98247	Assessor's Parcel No.(s): 3903123672840000 3903122992990000 3903122993500000 3903123643450000
Site Address: n/a	Acreage: 30.20
Watershed: • 3rd Order: Fourmile Creek • 2nd Order: Tenmile Creek • 1st Order: Nooksack River	Open Space Land Application Acre(s): 30.20
Comprehensive Plan Designation: Rural	Zoning Designation: R5A
Historical Land Use: Ecosystem protection, agriculture, one residence.	Shorelines: n/a
Soil/Type Capabilities: 96.8% Kickerville silt loam (79), 0-3% slopes, prime farmland soils. 3.2% Whatcom silt loam (179), 3-8% slopes, prime farmland soils.	

Basic Value (BV)

1 Conserve or Enhance Natural, Cultural or Scenic Resources (10 pts)	Max	Rating
Lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways	2.5	0
Lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitation	2.5	2.5
Lands which can serve to prevent the spread of high density residential development into less developed areas	2.5	2.5
Lands located adjacent to airports	2.5	0
Total:	10	5

2 Protect Streams, Stream Corridors, Wetlands, Natural Shorelines And Aquifers (10 pts)	Max	Rating
Lands within a 100-year floodplain	1.666667	0
Lands within or adjacent to areas of domestic water supply	1.666667	0
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 function of the regime	1.666667	1.67
Lands which provide for preservation of bogs or swamps	1.666667	1.67
Lands adjacent to bodies of water, both marine and fresh	1.666667	1.67
Lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public assess agreement due to biological sensitivities).	1.666667	1.67
Total:	10	6.68

3 Protect Soil Resources and Unique or Critical Wildlife and Native Plant Habitat (10 pts)	Max	Rating
Lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions	3.333333	3.33
Lands where, if alterations were to occur, a resulting high risk of soil erosion would follow	3.333333	1.67
Lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of	3.333333	1.67
State or Federal Endangered Species		
State or Federal Threatened Species		
Federal Proposed Endangered or Threatened Species		
Data System. (On parcels where there is this documentation, the Department shall automatically		
Total:	10	6.67

4 Promote Conservation Principles by Example or by Offering Educational Opportunities (10 pts)	Max	Rating
Lands which are an example of application of conservation principles	5	5
Lands which offer opportunities for conservation education such as interpretive centers or trails	5	5
Total:	10	10

5 Enhance the Value to the Public of Abutting or Neighboring Parks, Forests, Wildlife Preserves,	Max	Rating
Lands that the local County Park Board has identified for possible future park acquisition	2.5	0
Lands designated in County Parks, Recreation and Open Space Study and other documents as significant park land, open space or conservation areas	2.5	0
Lands which, as open space, may help to provide for successful implementation of County Trail Plan	2.5	2.5
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	2.5	2.5
Total:	10	5

6 Enhance Recreation Opportunities	Max	Rating
Lands possessing private recreational facilities which are available to the public without charge	5	0
Lands which provide opportunities for passive recreational activities such as, but not limited to, hiking, horseback riding, hunting, fishing, bird watching, and nature observation	5	5
Total:	10	5

7 Preserve Historic and Archaeological Sites	Max	Rating
Areas or sites which have been identified as significant on local, state, or national Historic Registers	5	0
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)	5	0
Total:	10	0

Max	Actual
70	38.35

Public Benefit Value (PBV)

1 Public Access		Rating
Shoreline access	8.00%	0.00%
Recreation access	8.00%	8.00%
Public road frontage	8.00%	0.00%
Availability of off-street parking	8.00%	8.00%
Quality of access in terms of accessibility and owner's proposed rules of conduct and access management	8.00%	4.00%
Total:	40.00%	20.00%

2 Water Resource Protection		Rating
Watershed of domestic water supply	6.67%	0.00%
Aquifer recharge area	6.67%	6.67%
Preservation of hydrologic process (Streams & natural drainage course)	6.67%	6.67%
Total:	20.00%	13.34%

3 Wildlife Habitat		Rating
State or Federal Endangered Species; State or Federal Threatened Species ; Federal Proposed Endangered or Threatened Species; State Sensitive or Monitor Species Abundance and diversity of wildlife (Associated with "edge" type habitat and areas of vegetative and topographic diversity)	10.00%	10.00%
	10.00%	10.00%
Total:	20.00%	20.00%

4 Parcel Size		Rating
Twenty (20) acres or larger	10.00%	10.00%
Smaller than five (5) nominal acres	-10.00%	0.00%
Total:	10.00%	10.00%

5 Linkage with other Open Space		Rating
Adjacent to other Open Space , Parks, or open areas associated with Planned Unit Development, Cluster Subdivisions, or Binding Site Plans	5.00%	5.00%
Total:	5.00%	5.00%

6 Natural Areas	% Open Space	Rating
Base on how much of parcel is in natural cover and not developed with home site, outbuildings and clearings	84.00%	4.2000%
Total:	5.00%	4.20%

7 Financial Advantage		
The use to which that land is put derives a financial advantage for its owners	-40.00%	0.00%
Total:	0.00%	0.00%

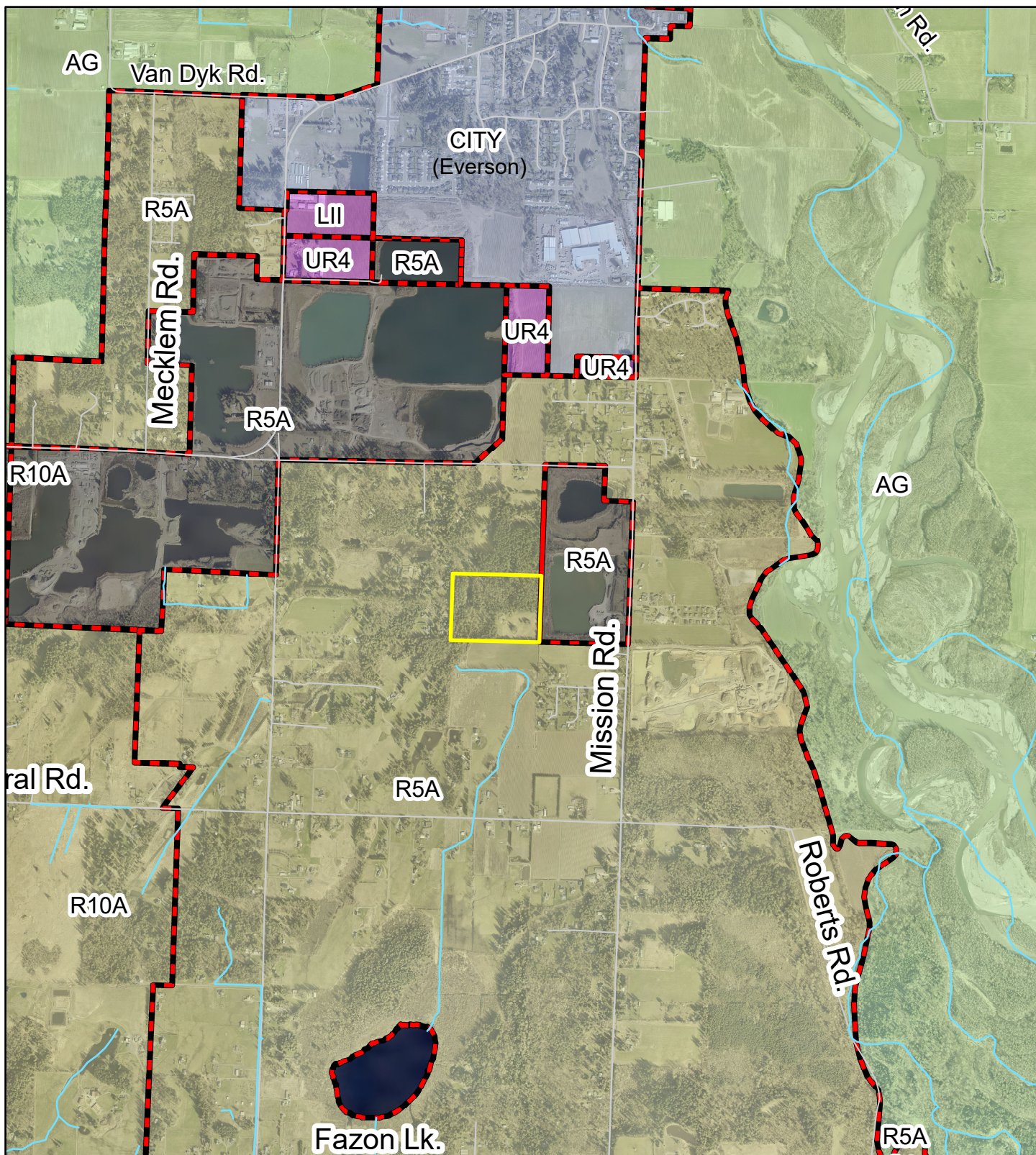
8 Discretionary Value		
Discretionary value may be added or subtracted where land	40.00%	0.00%
Total:	40.00%	0.00%

Max	Actual
140	72.54%

Basic Value + (Basic Value x Public Benefit Value) = Public Benefit Rating

BV + (BV * PBV)
38.35 + 27.819

Public Benefit Rating = 66.17



Open Space Land

OSP2025-001

Stevens Application (30.20 acres)

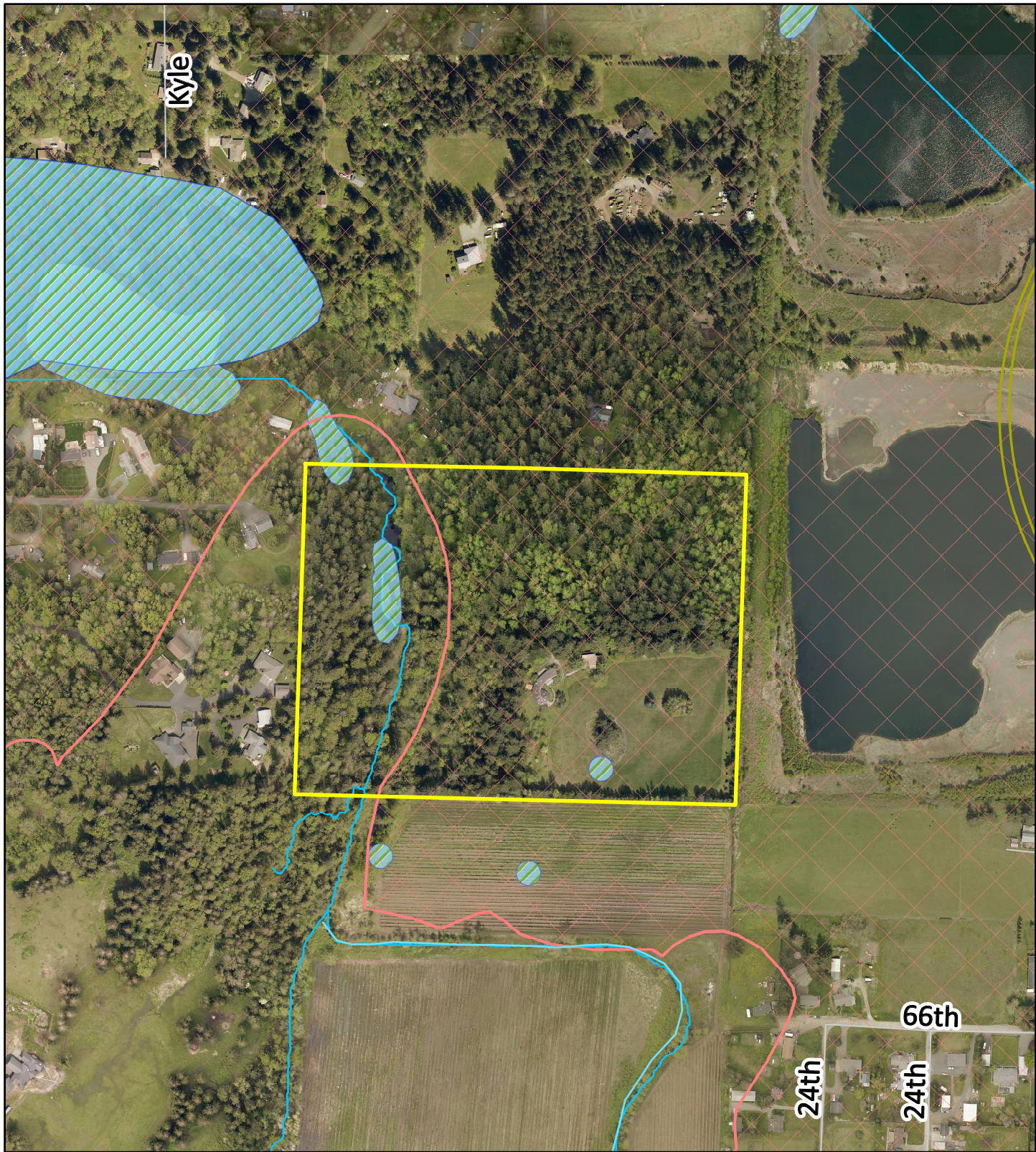


- StevensOSL
- Incorporated City Limits
- Urban Growth Area
- Rural
- Agriculture
- Mineral Resource Lands
- Zoning Boundaries



USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:

Whatcom County disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, either express or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted on this map. Any user of this map assumes all responsibility for use thereof, and further agrees to hold Whatcom County harmless from and against any damage, loss, or liability arising from any use of this map.



Open Space Land OSP2025-001 Stevens Application

-  Stevens Parcel
-  Surficial Aquifers
-  Wetlands
-  Rivers & Streams



USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:
Whatcom County disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, either express or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted on this map. Any user of this map assumes all responsibility for use thereof, and further agrees to hold Whatcom County harmless from and against any damage, loss, or liability arising from any use of this map.

Soil Map—Whatcom County Area, Washington (Stevens Application)



Soil Map—Whatcom County Area, Washington
(Stevens Application)

MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils

 Soil Map Unit Polygons

 Soil Map Unit Lines

 Soil Map Unit Points

Special Point Features



Blowout



Borrow Pit



Clay Spot



Closed Depression



Gravel Pit



Gravelly Spot



Landfill



Lava Flow



Marsh or swamp



Mine or Quarry



Miscellaneous Water



Perennial Water



Rock Outcrop



Saline Spot



Sandy Spot



Severely Eroded Spot



Sinkhole



Slide or Slip



Sodic Spot



Spoil Area



Stony Spot



Very Stony Spot



Wet Spot



Other



Special Line Features

Water Features



Streams and Canals

Transportation



Rails



Interstate Highways



US Routes



Major Roads



Local Roads

Background



Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL:

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Whatcom County Area, Washington

Survey Area Data: Version 24, Aug 28, 2024

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Aug 14, 2022—Sep 1, 2022

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
79	Kickerville silt loam, 0 to 3 percent slopes	29.7	96.8%
179	Whatcom silt loam, 3 to 8 percent slopes	1.0	3.2%
Totals for Area of Interest		30.7	100.0%

Supplemental Memorandum to Stevens Open Space Application

Background: Open Space Application OSP2025-1-Stevens was submitted to the Whatcom County Planning & Development Services. Applications scoring a minimum of 45 on the Public Benefit Rating System receive staff recommendation for approval. Additionally, the County may waive the public access requirement for the purpose of promoting conservation of wetlands which the subject property contains. The subject property scored 50.87 with limited public access to the benefit of the Whatcom Land Trust who supported the waiver of public access (letter attached hereto). The Planning Commission took exception to the restricted public access element and issued a recommendation to the County Council to “Deny **unless** public access is provided”.

In accordance with the Whatcom County Open Space Policy and Criteria, the applicant wishes to expand the scope of public access to the following:

Reasonable Rules of Personal Conduct

- Access only permitted on foot for legitimate recreational purposes such as bird watching, scenic observation, scientific investigation, picnicking during daylight hours, and strolling and general relation on the premises.¹
- Access is limited to designated trails and viewing/picnic areas as outlined in the Open Space Public Access Map attached hereto.
- Full property tours are available when coordinated through, and led by, qualified conservation groups such as Whatcom Land Trust or the Whatcom Conservation District.
- Vehicles must be parked in designated spaces only.
- Landowner to be notified of access at least 24 hours in advance via phone or email.
- A waiver of liability in the form attached hereto must be submitted prior to access.¹
- Access restricted to daylight hours only.

Prohibited Items/Activities

- Hunting, fishing, or trapping²
- Cutting trees or harvesting firewood²
- Use of off-road motorized vehicles², bicycles or any other means of non-pedestrian transport
- Walking off-trail
- Horses², dogs or other domestic animals.
- Smoking, open flames, fires, fireworks, or flammable materials.
- Alcohol and drugs
- Unaccompanied minors

Footnotes:

1. Per Whatcom County Open Space Policy and Criteria
2. Per the Conservation Easement recorded as Document # 2051104878

Attachment 1-Whatcom Land Trust Letter



WHATCOM
LAND TRUST
EST. 1984

January 30, 2025

To whom it may concern,

The property at 2351 E Pole Road is encumbered by a Conservation Easement (CE), titled the "Kronenberg Conservation Easement" (AF# 2051104878), held by Whatcom Land Trust. The landowners of the property informed us that they are applying for Whatcom County's Open Space Current Use Program and for a waiver of the public access requirement. We agree with the application for the Open Space Program and the waiver of the public access requirement, as the purpose, intent and language of the conservation easement directly aligns with the goals of the Open Space Program and the waiver of the public access requirement.

Every CE is rooted in a "purpose statement" that serves as its foundational basis, stating the reason for conserving the property and influencing what the easement both allows and restricts. The purpose statement of the Kronenberg CE is to *"To protect the forests, trees, and habitat on the Property, including the wetland and aquatic habitat, to foster natural forest succession and to maintain open space, aesthetic and wildlife values. Grantors intend for humans to live lightly on the Property so as to minimize interference with wildlife and the character of the woods and the land."* Considering that the original intent of the CE was for humans to "live lightly" on the property and have minimal impact on the conservation values, we agree that waiving the public access requirement is supported by the language and intent of the easement. Additionally, Section XV, titled "No Public Access," states that *"nothing in this easement shall be construed to grant public access to the Property."*

In addition to the alignment of the purpose and original intent of the easement with the waiver of public access, the conservation easement's restriction on development fulfills the Open Space Program's goals of conserving natural resources, protecting native plant and wildlife habitat, and protecting stream corridors and wetlands. As a result of the Kronenberg CE, no further development is allowed, as the property's one development right has already been exercised by the existing residence that was constructed in 1982. Section VII (8) states that it is prohibited to *"Construct buildings or structures."* Moreover, the provision in Section VI (2), which allowed for the construction of a second residence, has since expired as this reserved right *"may be exercised only by Grantors' children Joel or Jeff Kronenberg"* who no longer own the property and are no longer affiliated with the property. Therefore, the property cannot be further developed in any way, as the easement prohibits the construction of new residences, buildings, or structures.

Sincerely,

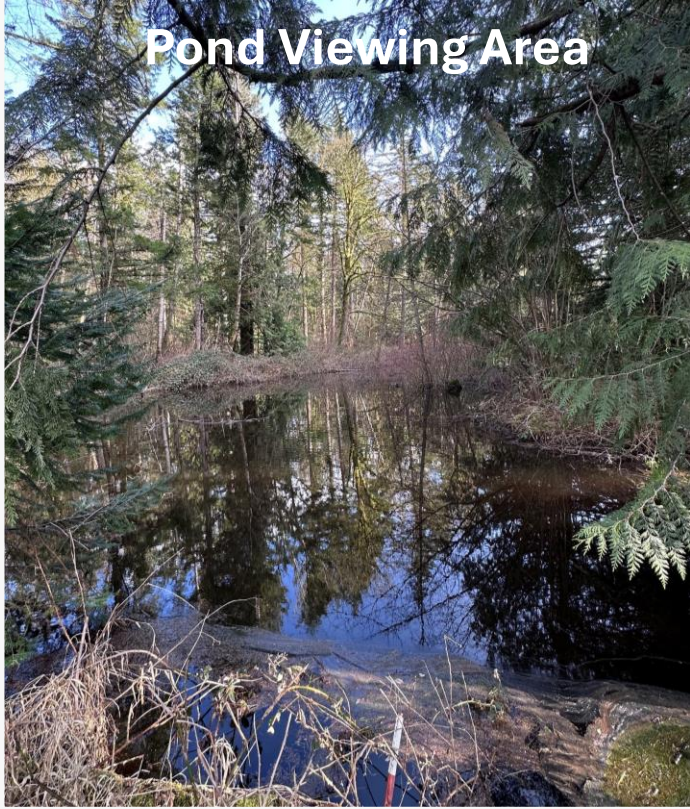
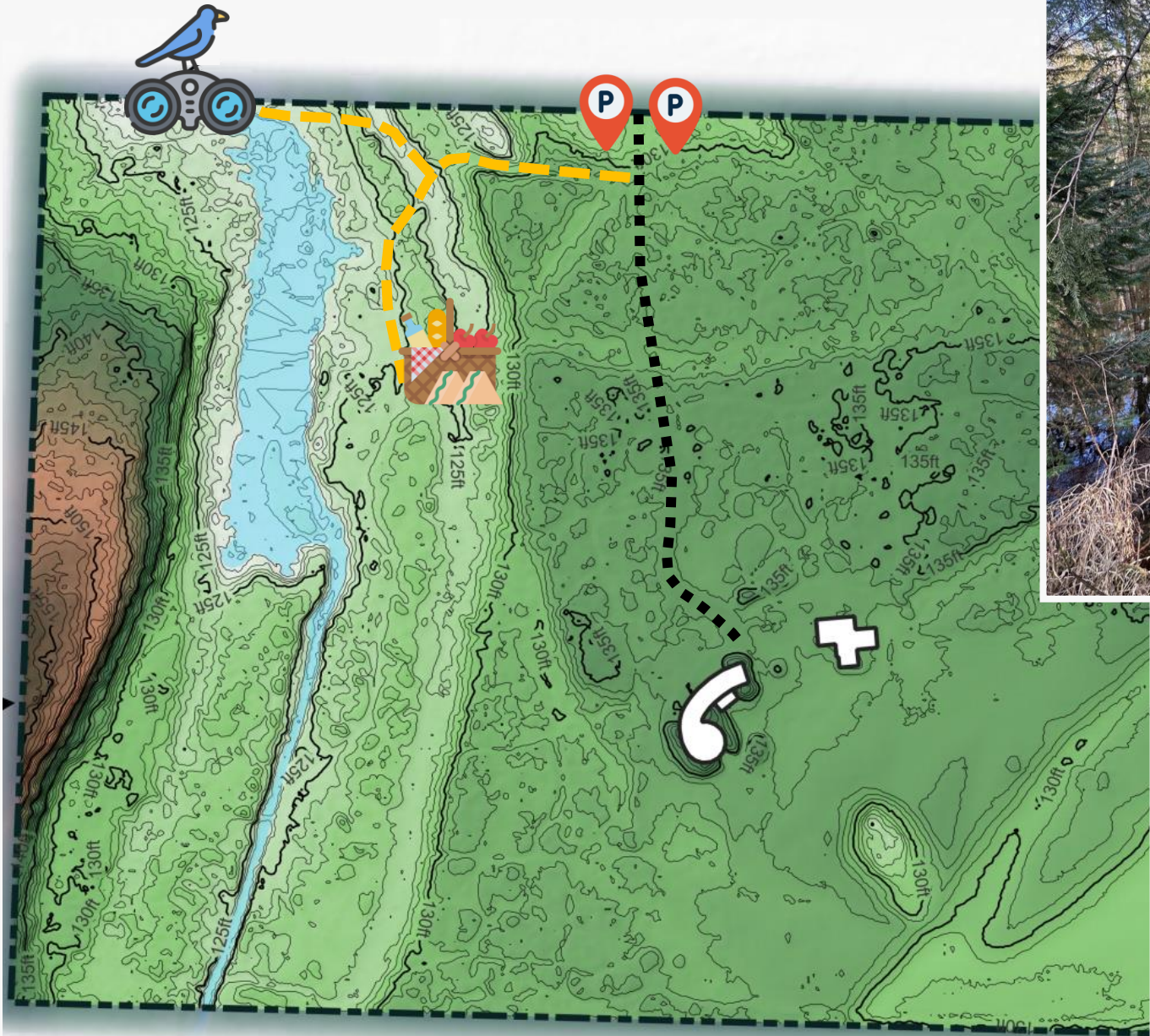
Tyler Yung
Conservation Easement Coordinator
tyler.y@whatcomlandtrust.org

(360) 872-3318

Attachment 2-Open Space Public Access Map

Open Space-Public Access Map

-  Pond Viewing Area
-  Picnic Area
-  Walking Trail
-  Gravel Drive
-  Parking Spaces



Attachment 3-Waiver of Liability

WAIVER OF LIABILITY AND HOLD HARMLESS AGREEMENT

WHEREAS, Collin Stevens, (the “**Owner**”) of 2351 E. Pole Rd, Everson, WA 98247, offers public access to the property in accordance with the Whatcom County Open Space Policy and Criteria.

WHEREAS, as a condition of and in order to access 2351 E. Pole Rd, Everson, WA 98247, Owner requires individual members of the public to execute this Waiver of Liability and Hold Harmless Agreement (the “**Agreement**”).

AGREEMENT

WHEREFORE, the undersigned (the “**Releasor**”), for himself/herself and for his/her personal representatives, heirs, and assigns, acknowledges and agrees as follows:

1. In consideration for receiving permission to be on the property/premises located at 2351 E. Pole Rd, Everson, WA 98247, I hereby release, waive, discharge and covenant not to sue, Owner, its shareholders, directors, officers, servants, agents and employees (hereinafter referred to as “releasees”) from any and all liability, claims, demands, actions and causes of action whatsoever arising out of or relating to any loss, damage or injury, including death, that may be sustained by me, my employees, subcontractors, guests or anyone else caused by or incidental to my electing to have access to this property/land, or to any property belonging to me, whether caused by the negligence of the releasees, or otherwise, while on or upon the premises, while in transit to or from the premises, or in any place or places connected with the premises. I understand the risks involved in being on this property/premises, and I recognize and agree to accept that any activity/activities involves risk of injury while being on this property/premises, and I assume all risks associated with it, including but not limited to property damage or loss, minor bodily injury, severe bodily injury, and death. I am voluntarily entering onto this property/premises with the knowledge of the risks involved and hereby agree to accept any and all inherent risks of property damage, bodily injury, or death.
2. I am fully aware of risks and hazards connected with being on the premises, and I am fully aware that there may be risks and hazards unknown to me connected with being on the premises, and I hereby elect to voluntarily be on and upon, to enter upon the above named premises and engage in activities knowing that conditions may be hazardous, or may become hazardous or dangerous to me and my property. I voluntarily assume full responsibility for any risks of loss, property damage or personal injury, including death, that may be sustained by me, or any loss or damage to property owned by me, as a result of my being on the premises, whether caused by the negligence of releasees or otherwise.
3. I further hereby agree to indemnify and save and hold harmless the releasees and each of them, from any loss, liability, damage or costs they may incur due to my being on the

premises, whether caused by the negligence of any or all of the releasees, or otherwise.

4. It is my express intent that this Release shall bind me, the members of my family and spouse, if I am alive, and my heirs, assigns and personal representative, if I am deceased, and shall be deemed as a Release, Waiver, Discharge and Covenant Not to Sue the above named releasees, their family members, officers, servants, agents, affiliated entities and employees.

In signing this Agreement, I acknowledge and represent that:

1. I have read the foregoing release, understand it, and sign it voluntarily as my own free act and deed;
2. No oral representations, statements or inducements, apart from the foregoing written agreement, have been made.
3. I am at least eighteen (18) years of age and fully competent; if I am under eighteen (18) years of age, my parent or guardian may sign this document adding my name to the document.
4. I execute this Release for full, adequate and complete consideration fully intending to be bound by same.

IN WITNESS WHEREOF, I have hereunto set my and hand seal this day ____ of _____, in the Year _____ or as of the date access to 2351 E. Pole Rd, Everson, WA 98247.

Printed Name

Signature



WHATCOM
LAND TRUST
EST. 1984

January 30, 2025

To whom it may concern,

The property at 2351 E Pole Road is encumbered by a Conservation Easement (CE), titled the "Kronenberg Conservation Easement" (AF# 2051104878), held by Whatcom Land Trust. The landowners of the property informed us that they are applying for Whatcom County's Open Space Current Use Program and for a waiver of the public access requirement. We agree with the application for the Open Space Program and the waiver of the public access requirement, as the purpose, intent and language of the conservation easement directly aligns with the goals of the Open Space Program and the waiver of the public access requirement.

Every CE is rooted in a "purpose statement" that serves as its foundational basis, stating the reason for conserving the property and influencing what the easement both allows and restricts. The purpose statement of the Kronenberg CE is to *"To protect the forests, trees, and habitat on the Property, including the wetland and aquatic habitat, to foster natural forest succession and to maintain open space, aesthetic and wildlife values. Grantors intend for humans to live lightly on the Property so as to minimize interference with wildlife and the character of the woods and the land."* Considering that the original intent of the CE was for humans to "live lightly" on the property and have minimal impact on the conservation values, we agree that waiving the public access requirement is supported by the language and intent of the easement. Additionally, Section XV, titled "No Public Access," states that *"nothing in this easement shall be construed to grant public access to the Property."*

In addition to the alignment of the purpose and original intent of the easement with the waiver of public access, the conservation easement's restriction on development fulfills the Open Space Program's goals of conserving natural resources, protecting native plant and wildlife habitat, and protecting stream corridors and wetlands. As a result of the Kronenberg CE, no further development is allowed, as the property's one development right has already been exercised by the existing residence that was constructed in 1982. Section VII (8) states that it is prohibited to *"Construct buildings or structures."* Moreover, the provision in Section VI (2), which allowed for the construction of a second residence, has since expired as this reserved right *"may be exercised only by Grantors' children Joel or Jeff Kronenberg"* who no longer own the property and are no longer affiliated with the property. Therefore, the property cannot be further developed in any way, as the easement prohibits the construction of new residences, buildings, or structures.

Sincerely,

Tyler Yung
Conservation Easement Coordinator
tyler.y@whatcomlandtrust.org

(360) 872-3318

Whatcom County's Open Space Programs

Assessor's Office

Designated Forestland (DFL)

- Must be used for commercial forestry, with a forest mgmt plan
- Highest tax reduction

Open Space Farm & Agricultural Land (OSAG)

- Must be used for commercial ag
- Second highest tax reduction

Planning & Development Services

Public Benefit Rating System (PBRs)

Open Space Land (OSL)

- Must provide benefits to the general public (e.g. recreational uses, conservation benefits, etc)
- Public access required
- Lowest tax reduction

Open Space Farm & Agricultural Conservation Land (OSFAC)

- Must be considered "Traditional Farmland," similar criteria to OSL
- Public access required
- Same tax reduction as OSL