



Whatcom County

COUNTY COURTHOUSE
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Agenda Bill Master Report

File Number: AB2021-252

File ID:	AB2021-252	Version:	1	Status:	Approved as Amended
File Created:	04/12/2021	Entered by:	JFleisch@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Resolution		
Assigned to:	Council Planning and Development Committee	Final Action:	05/18/2021		
Agenda Date:	05/18/2021	Enactment #:	RES 2021-020		

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TITLE FOR AGENDA ITEM:

Resolution approving recommendations on eight applications for Open Space Current Use Assessment

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Presentation and review of eight (8) applications to the Open Space Land program received by Planning and Development Services in 2019. The applications were evaluated by staff and presented to the Planning Commission for review and a public hearing on April 8, 2021. The Planning Commission recommended denial of two applications, conditional approval of two applications, and approval of four applications.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
05/18/2021	Council Planning and Development Committee	FORWARDED TO COUNCIL WITH RECOMMENDED MOTION(S)	
05/18/2021	Council	APPROVED AS AMENDED	
	Aye: 7	Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner	
	Nay: 0		
	Absent: 0		

Attachments: Staff Memo, Proposed Resolution, Staff Report to Planning Commission, Application Evaluation Forms and Maps

SPONSORED BY: _____

PROPOSED BY: _____

INTRODUCTION DATE: _____

RESOLUTION NO: 2021-020

**APPROVING RECOMMENDATIONS ON APPLICATIONS FOR
OPEN SPACE CURRENT USE ASSESSMENT**

WHEREAS, The Open Space Taxation Act codified as Chapter 84.34 RCW, gives counties authority to approve applications for current use classification and reclassification for the following classifications: Farm and Agricultural Land, Open Space Land, Farm & Agricultural Conservation Land, and Timber Land; and

WHEREAS, Pursuant to Whatcom County Code, Section 3.28.020, applications for the classification of Open Space Land and Farm & Agricultural Conservation Land are received and evaluated by Whatcom County Planning and Development Services Department staff, and the results of this evaluation are then presented to the Whatcom County Planning Commission for their review and consideration in making recommendations to the County Council on whether to approve the applications in whole or in part; and

WHEREAS, Pursuant to RCW 84.34.055 and WAC 458-30-330 Whatcom County has adopted a Public Benefit Rating System (PBRs) by Ordinance # 95-040, which is used by staff to rate applications for Open Space Land and Open Space Farm & Agricultural Conservation Land; and

WHEREAS, Applications for Open Space Land and Open Space Farm & Agricultural Conservation Land are evaluated with the Public Benefit Rating System and assigned a Public Benefit Rating (PBR) that corresponds with a staff recommendation of approval or denial, and must receive a score of 45 or above for a staff recommendation of approval; and

WHEREAS, In accordance with the Whatcom County Open Space Policies and Public Benefit Rating System, public access is a condition of approval for Open Space Land applications, *except* that this requirement may be waived by the Council when the purpose of the classification is for the conservation of wetlands; or when there is a documented occurrence of: State or Federal Threatened Endangered Species, Federal Proposed Endangered or Threatened Species, State Sensitive or Monitor Species; or when there is a known or potentially significant archaeological site; and

WHEREAS, On April 8, 2021 the Whatcom County Planning Commission held a public hearing and considered staff recommendations and considered all input from the public on applications; and

WHEREAS, Pursuant to WAC 197-11-800(6)(c), matters relating to Open Space Current Use Assessment are determined not to be major actions and thus exempt from environmental review under the State Environmental Policy Act (SEPA); and

WHEREAS, Pursuant to RCW 36.70.390, the statutory requirements regarding legal notice have been met; and

WHEREAS, The County Council has approved the following Findings of Fact and Reasons for Action:

1. In 2019, Whatcom County Planning and Development Services received ten applications to classify or reclassify land under the open space current use program (Chapter 84.34. RCW) on lands located within the jurisdiction of Whatcom County. Prior to processing, two applications were subsequently withdrawn by the applicants.
2. Of the remaining eight applications: five applications were for reclassification to Open Space Farm and Agricultural Conservation Land (OSFAC), and three applications were for classification to OSFAC. Upon receipt of the applications, Planning and Development Services staff evaluated the open space land applications with the Public Benefit Rating System (PBRs), and also for conformance with Subsection 84.34.041 of the Open Space Taxation Act (RCW 84.34).
3. Staff prepared a report for the Planning Commission with a recommendation on whether to approve in whole or in part or to deny the application based on review with the applicable evaluation criteria and scores assigned. This report was presented to the Whatcom County Planning Commission and to members of the public who were present at the Whatcom County Planning Commission public hearing held on April 8, 2021.
4. Staff recommended approval of three Open Space Land applications based on an assigned Public Benefit Rating (PBR) score of greater than 45 points which must be attained in order for a staff recommendation of approval pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System.
5. Staff did not recommend approval of five Open Space Land applications based on an assigned Public Benefit Rating (PBR) score of less than 45 points which must be attained in order for a staff recommendation of approval pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System.

6. At the April 8, 2021 Planning Commission meeting staff presented the Planning Commission with actions two specific applicants were willing to take to increase their PBR score.
7. OSP2019-00001 - Suzanne Vawter, is pursuing a conservation easement in favor of the Whatcom Land Trust over a large portion of her properties. A conservation easement would change the Basic Value criteria score for "Promotes Conservation Principles by Example/Offers Educational Opportunities", resulting in a new overall Public Benefit Rating (PBR) score of 46.25.
8. OSP2019-00004 - Joseph and Kelsey Maddux are willing to provide off street parking on an adjacent property co-owned by Joseph and Paul Maddux. Off street parking would change the Public Benefit Value (PBV) criteria score for "Public Access", resulting in a new overall Public Benefit Rating (PBR) score of 46.74.
9. Staff noted that these actions would result in a PBR greater than 45 points and would result in a staff recommendation of approval pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System if the actions were taken.
10. Whatcom County Planning Commissioners considered staff findings and recommendations and voted to recommend denial on two applications, conditional approval on two applications, and approval on four applications.

NOW, THEREFORE, BE IT RESOLVED BY THE WHATCOM COUNTY COUNCIL:

1. The recommendations on the applications for open space current use assessment listed below are hereby approved, with the exception of OSP2019-00002, OSP2019-00003, OSP2019-00006:

OSP2019-00001 – Suzanne Vawter - 4400 Nordum Rd, Everson

Application to reclassify property from Open Space Farm and Agriculture to Open Space Farm and Agricultural Conservation Land (29.94 +/- OSFAC acres)

GEO ID: 400414425020, 400414427216, 400414429094: 29.94 Open Space Land application acres (30.94 total parcel acres)

AS CONDITIONED BY THE PLANNING COMMISSION TO REQUIRE A CONSERVATION EASEMENT DEDICATED TO THE WHATCOM LAND TRUST OR SIMILAR CONSERVATION ENTITY

Public Benefit Rating: 46.25

Estimated change in taxes paid by the applicant if approved: **+\$2,562.12**

Staff recommends approval

Planning commission recommends approval

OSP2019-00002 – Joan Keiper - 4152 Sunny Hill Lane, Lummi Island

Application to reclassify property from Open Space Farm and Agriculture to Open Space Farm and Agricultural Conservation Land (4.1 +/- OSL Acres)

GEO ID: 370105448229: ~4.1 Open Space Land application acres (~5.1 total parcel acres)

Public Benefit Rating: 36.00

Estimated change in taxes paid by the applicant if approved: **+\$141.51**

Staff **does not** recommend approval

Planning Commission recommends denial

OSP2019-00003 – Richard Kroon and Lijuan Ren - 5643 Market Rd, Bellingham

Application to reclassify property from Open Space Farm and Agriculture to Open Space Farm and Agricultural Conservation Land (3.7 +/- OSL acres)

GEO ID: 390328515435: 3.7 Open Space Land application acres (4.7 total parcel acres)

Public Benefit Rating: 32.02

Estimated change in taxes paid by the applicant if approved: **+\$1,253.66.**

Staff **does not** recommend approval

Planning Commission recommends approval

OSP2019-00004 – Joseph and Kelsey Maddux - xx Arnie Rd, Custer

Application to reclassify property from Open Space Farm and Agriculture to Open Space Farm and Agricultural Conservation Land (17.6 +/- OSL Acres)

GEO ID: 400127233103, 400127165103: ~17.6 Open Space Land application acres (~17.6 total parcel acres)

AS CONDITIONED BY THE PLANNING COMMISSION TO REQUIRE OFF STREET PARKING ON ADJACENT PROPERTY CO-OWNED BY THE APPLICANT AND PAUL MADDUX

Public Benefit Rating: 46.74

Estimated change in taxes paid by the applicant if approved: **+\$1,218.06**

Staff recommends approval

Planning Commission recommends approval

OSP2019-00005 – Charles and Leslie Power - 5844 Noon Road, Bellingham

Application to classify property as Open Space Farm and Agricultural Conservation Land (34.29 +/- OSL acres)

GEO ID: 390323168191, 390323159246, 390323225223, 390323225252: 34.29 Open Space Land application acres (35.29 total parcel acres)

Public Benefit Rating: 62.33

Estimated change in taxes paid by the applicant if approved: **-\$3,840.60.**

Staff recommends approval

Planning Commission recommends approval

OSP2019-00006 – Sharon Martin - 1206 Sunset Ave, Bellingham

Application to reclassify property from Open Space Farm and Agriculture to Open Space Farm and Agricultural Conservation Land (3.5.1 +/- OSL Acres)

GEO ID: 390234100152: ~3.5 Open Space Land application acres (~4.5 total parcel acres)

Public Benefit Rating: 36.55

Estimated change in taxes paid by the applicant if approved: **+\$2,995.70**

Staff **does not** recommend approval

Planning Commission recommends denial

OSP2019-00007 – Ren and Connie Kamps - 2198 Lindsay Rd, Everson

Application to classify property as Open Space Farm and Agricultural Conservation Land (14.36 +/- OSL acres)

GEO ID: 400313232214: 14.36 Open Space Land application acres (15.36 total parcel acres)

Public Benefit Rating: 50.05

Estimated change in taxes paid by the applicant if approved: **-\$1,354.99.**

Staff recommends approval

Planning Commission recommends approval

OSP2019-00008 – Denis and Carol Delahoyde -3468 Hillside Rd, Deming

Application to Classify property as Open Space Farm and Agricultural Conservation Land (7.2 +/- OSL Acres)

GEO ID: 380519072231: ~7.2 Open Space Land application acres (~17.6 total parcel acres)

Public Benefit Rating: 55.95

Estimated change in taxes paid by the applicant if approved: **-\$464.74**

Staff recommends approval

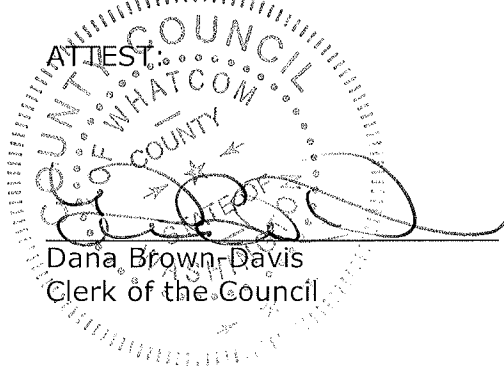
Planning Commission recommends approval

- 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this resolution shall not affect or impair the validity of the resolution as a whole or any part thereof other than the part so declared to be invalid.

APPROVED this 18th day of May, 2021

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON



Dana Brown-Davis
Clerk of the Council


Barry Buchanan
Council Chair

APPROVED AS TO FORM:

/s/ Royce Buckingham
Civil Deputy Prosecutor