



202210100069

10/10/2022 03:34 PM Pages: 1 of 6 Fees: \$208.50
Skagit County Auditor

Document Title:

Findings, Conclusions, and Recommendations

Reference Number : APP 7-2022

Grantor(s):

additional grantor names on page ____.

1. Skagit County Hearing Examiner

2.

Grantee(s):

additional grantee names on page ____.

1. Skagit Land Trust

2.

Abbreviated legal description:

full legal on page(s) ____.

[20.20 ACRES OF] PTN GOV LOTS 2 3 & 7, SECTION 21, TOWNSHIP 35 NORTH,
RANGE 6 EAST, W.M., AKA TR 3 OF SURVEY 'DAY CREEK MEADOWS' AF#8706050019,
EXC COMM AAP WHICH LIES N 35-41-39 E, 1100 FT & N 54-18-21 W, 150 FT FROM SE
COR TR 3 AS SHOWN ON SURV; TH S 30 E., 75 FT; TH N 60 E, 75 FT; TH N 30W, 75 FT
TPOB.

Assessor Parcel / Tax ID Number:

additional tax parcel number(s) on page ____.

P41752

UNOFFICIAL DOCUMENT

**BEFORE THE HEARING EXAMINER
FOR SKAGIT COUNTY**

In the Matter of the Application of)	No. APP 7-2022
)	
Skagit Land Trust)	Skagit Land Trust Proposal
)	
)	
For Approval of a Current Use Open Space)	FINDINGS, CONCLUSIONS,
<u>Classification/Reclassification Application</u>)	AND RECOMMENDATION

SUMMARY OF DECISION

The Hearing Examiner recommends that the Skagit County Board of Commissioners (Board) **APPROVE** the request to classify/reclassify a 20.20-acre property, situated south of the Skagit River and generally east of Day Creek, to the “Current Use Open Space” classification, to allow such property to be included in the County’s Current Use Open Space Land Program, adopted under Revised Code of Washington (RCW) 84.34.037.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on July 27, 2022, using remote access technology.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Kiffin Saben, Skagit County Assessor’s Office
Regina Wandler
Molly Doran

Exhibits:

The following exhibits were admitted into the record:

1. County Assessor’s Office Findings of Fact, undated
2. Parcel Map
3. Plat Map
3. Aerial Photograph
4. DOR Open Space Classification/Reclassification Application, received June 14, 2022
5. Change of Classification Application, dated June 7, 2022, with Application Narrative and Supplemental Materials

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

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Skagit Land Trust Current Use Open Space Application
No. APP 7-2022*

FINDINGS

Application and Notice

1. The Skagit Land Trust (Applicant) request that a 20.20-acre property under their ownership or control, situated south of the Skagit River and generally east of Day Creek, be classified/reclassified to the “Current Use Open Space” classification. The request would allow the land to be included in the County’s Current Use Open Space Land Program, adopted under RCW 84.34.037. *Exhibit 1; Exhibit 4; Exhibit 5.*
2. The property is described by the County Assessor, as Parcel #P41752, with the following legal description:

P41752

[20.20 ACRES OF] PTN GOV LOTS 2 3 & 7, SECTION 21,
TOWNSHIP 35 NORTH, RANGE 6 EAST, W.M., AKA TR 3 OF
SURVEY 'DAY CREEK MEADOWS' AF#8706050019, EXC COMM
AAP WHICH LIES N 35-41-39 E, 1100 FT & N 54-18-21 W, 150 FT
FROM SE COR TR 3 AS SHOWN ON SURV; TH S 30 E, 75 FT; TH N
60 E, 75 FT; TH N 30 W, 75 FT TPOB.

Exhibit 1.

3. Notice of the hearing on this proposal was provided, as required by Skagit County Code (SCC) 14.40.040. *Exhibit 1.*

Current Classification/Reclassification Request

4. The property is generally undeveloped and, according to the Applicant, would be added to the Skagit Land Trust’s Day Creek Conservation Area, which is several hundred acres in size. In its application materials, the Applicant stresses that the property would add approximately 1,100 feet of “river and slough shoreline, primarily along channels connected to Day Creek and the Skagit River” to the Day Creek Conservation Area. *Exhibit 5.* The property is currently classified as “Designated Forest Land.” The Applicant has requested that the property be included in the Current Use Open Space classification request. The reclassification would allow for the property to be maintained in a way that protects streams, stream corridors, wetlands, soil resources, and native plant habitat and wildlife, as well as protecting cultural resources and visual quality. *Exhibit 4; Exhibit 5.*

Testimony

5. Kiffin Saben, Skagit County Assessor’s Office, testified about her review of the proposal and the County’s Current Use Open Space Land Program. She testified that the Assessor’s Office recommends approval of the classification/reclassification request as the proposal would conserve or enhance natural, cultural, or scenic resources consistent

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with Chapter 14.40 SCC and the requirements of Chapter 84.34 RCW. *Testimony of Ms. Saben.*

6. Regina Wandler testified on behalf of the Applicant, Skagit Land Trust. She stressed that the Applicant manages the property for the benefit of communities throughout Skagit County and the area. *Testimony of Ms. Wandler.*
7. Molly Doran, who serves as the Executive Director of the Skagit Land Trust, also testified. Ms. Doran stated that it is hopefully clear that reclassifying the property is appropriate and meets the requirements for reclassification under the Current Use Open Space Land Program. *Testimony of Ms. Doran.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear requests for classification or reclassification of land proposed for inclusion in the County's Current Use Open Space Land Program, and make a recommendation to the Board of County Commissioners on such requests. *Chapter 14.40 SCC.*

Criteria for Review

SCC 14.40.010 provides that the "County adopts the Washington State legislative declaration as follows":

The Washington State Legislature declares 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. The legislature further declares that assessment practices must be so designed as to permit the continued availability of open space lands for these purposes, and it is the intent of this Chapter so to provide. The legislature further declares its intent that farm and agricultural lands shall be valued on the basis of their value for use as authorized by Section 11 of Article VII of the Constitution of the State of Washington.

Article VII of the Constitution of the State of Washington provides:

Nothing in this Article VII as amended shall prevent the legislature from providing, subject to such conditions as it may enact, that the true and fair value in money (a) of farms, agricultural lands, standing timber and timberlands, and (b) of other open space lands which are used for recreation or for enjoyment of their scenic or natural beauty shall be based on the use to which such property is currently applied, and such values shall be used in computing the assessed valuation of such property in the same manner as the assessed valuation is computed for all property.

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Under RCW 84.34.020(1):

“Open space land” means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) 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 body granting the open space classification, or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

RCW 84.34.037(1) provides that applications “for classification or reclassification” as open space land shall “be made to the county legislative authority.” RCW 84.34.037(2) provides that, “the granting authority may take cognizance of the benefits to the general welfare of preserving the current use of the property which is the subject of application” and shall consider: (a) the resulting revenue loss or tax shift; (b) whether granting the application will (i) conserve or enhance natural, cultural, or scenic resources, (ii) protect streams, stream corridors, wetlands, natural shorelines and aquifers, (iii) protect soil resources and unique or critical wildlife and native plant habitat, (iv) promote conservation principles by example or by offering educational opportunities, (v) enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, (vi) enhance recreation opportunities, (vii) preserve historic and archaeological sites, (viii) preserve visual quality along highway, road, and street corridors or scenic vistas, (ix) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property; and (c) whether granting the application will (i) either preserve land previously classified under RCW 84.34.020(2) or preserve land that is traditional farmland and not classified under chapter 84.33 or 84.34 RCW, (ii) preserve land with a potential for returning to commercial agriculture, and (iii) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of property.

Finally, RCW 84.34.037(5) notes that the “granting or denial of the application for current use classification or reclassification is a legislative determination and shall be reviewable only for arbitrary and capricious actions.”

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Conclusions Based on Findings

The proposed classification/reclassification proposal would satisfy the requirements for including the property in the County's Current Use Open Space Land Program, under Chapter 14.40 SCC and Chapter 84.34 RCW. The 20.20-acre subject property is currently classified under the "Designated Forest Land" classification by the County Assessor. Reclassification of the property to the "Current Use Open Space" classification would allow for the property to be maintained in a way that protects streams, stream corridors, wetlands, soil resources, and native plant habitat and wildlife, as well as protecting cultural resources and visual quality. More specifically, approval of the request would ensure the future protection of the Skagit Land Trust's Day Creek Conservation Area, to the benefit of the environment (including portions of Day Creek and the Skagit River and the important salmonid species therein) and the community. Reasonable notice of the hearing on the request was provided, consistent with Chapter 14.40 SCC. No comments on the request were received and all testimony associated with the request supported the proposal. County staff reviewed the proposal and recommend it be approved. The Hearing Examiner concurs with this assessment. Reclassification of the 24.58-acre property to allow its inclusion in the County's Current Use Open Space Land Program would be appropriate, consistent with Chapter 14.40 SCC and Chapter 84.34 RCW. *Findings 1 – 7.*

RECOMMENDATION

Based on the preceding findings and conclusions, the Hearing Examiner recommends that the Skagit County Board of Commissioners **APPROVE** the request to classify/reclassify a 20.20-acre property, situated south of the Skagit River and generally east of Day Creek, to the "Current Use Open Space" classification, to allow the property to be included in the Current Use Open Space Land Program.

RECOMMENDED this 26th day of September 2022.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center

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