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Skagit County Auditor

Document Title:
Findings, Conclusions, and Recommendations

Reference Number : APP 2-2022

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) ___.
See attached.

Short Plat #32-89
S23/ TWN 35 / NR 10

Assessor Parcel / Tax ID Number: ☐ additional tax parcel number(s) on page ___.
P45492, P45488, P45489, P109898

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BEFORE THE HEARING EXAMINER
FOR SKAGIT COUNTY

In the Matter of the Application of	)	No. APP 2-2022
	)	
Skagit Land Trust	)	Skagit Land Trust Proposal
	)	
	)	
For Approval of a Current Use Open Space	)	FINDINGS, CONCLUSIONS,
Classification/Reclassification Application	)	AND RECOMMENDATION

SUMMARY OF DECISION

The Hearing Examiner recommends that the Skagit County Board of Commissioners (Board) **APPROVE** the request to classify/reclassify 64.28 acres of four adjoining properties, situated north of the Skagit River and south of State Route 20, 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, dated May 12, 2022
5. Change of Classification Application, received May 12, 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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FINDINGS

Application and Notice

1. The Skagit Land Trust (Applicant) request that 64.28 acres of property under their ownership or control, situated on four adjoining parcels between the Skagit River and State Route 20, 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 four adjoining properties are described by the County Assessor, as Parcels #P45492; #P45488; #P45489; and #P109898, with the following legal descriptions (respectively):

P45492

[49.63 ACRES OF] LOT 3 SHORT PLAT# 32-89 AF#9209080017 EXCEPT FOLLOWING DESCRIBED PORTION: BEGINNING AT THE CENTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.; THENCE SOUTH 88-54-21 WEST, 2136.83 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUE 510.15 FEET; THENCE NORTH 51-19-37 EAST, 677.17 FEET; THENCE SOUTH 2-27-50 WEST, 413.13 FEET TO POINT OF BEGINNING.

P45488

(4.6300 ac) TRACT 4, SKAGIT COUNTY SHORT PLAT NO. 32-89, APPROVED SEPTEMBER 8, 1992 AND RECORDED SEPTEMBER 8, 1992 UNDER AUDITOR'S FILE NO. 9209080017 IN VOLUME 10 OF SHORT PLATS, PAGE 117, RECORDS OF SKAGIT COUNTY, WASHINGTON; BEING A PORTION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.

P45489

(5.0100 ac) LOT 1 SHORT PLAT#32-89 AF#9209080017 LOCATED IN SW1/4 NW1/4, SECTION 23, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.

P109898

(5.0100 ac) LOT 2 SHORT PLAT#32-89 AF#9209080017 LOCATED IN SW1/4 NW1/4, SECTION 23, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.

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 four properties are generally undeveloped and, according to the Applicant, comprise the majority of Skagit Land Trust's Marblemount Conservation Area. In its application materials, the Applicant stresses that, with "almost 3,000 feet of Skagit River shoreline, the property helps sustain critical ecological processes" including "allowing flooding and river migration," providing "excellent native plant habitat and benefits" for area wildlife, "building connectivity between the Skagit River and upland forest," and contributing to the Skagit Watershed Council's Protection Strategy. *Exhibit 5.* All four parcels are currently classified as "Designated Forest Land." The Applicant has requested that all four parcels be included in the Current Use Open Space classification request. The reclassification would allow for the properties 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 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 these properties 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. She clarified that, at one point, the Applicant had applied to convert one of the 5-acre parcels previously and such request was denied given the inadequacy of information associated with the request. Ms. Doran stated that, with the current four-parcel request, it is hopefully clear that reclassifying these properties together 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.*

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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.

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

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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."

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 64.28-acre subject property (comprised of four adjacent parcels) 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 properties 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 Marblemount Conservation Area, to the benefit of the environment (including 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 64.28 acres of the 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 64.28 acres of four adjoining properties, situated north of the Skagit River and south of State Route 20, 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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Four adjoining properties are described by the County Assessor, as Parcels:

#P45492; #P45488; #P45489; and #P109898

P45492

[49.63 ACRES OF] LOT 3 SHORT PLAT #32-89 AF#9209080017 EXCEPT FOLLOWING DESCRIBED PORTION; BEGINNING AT THE CENTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.; THENCE SOUTH 88-54-21 WEST, 2136.83 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUE 510.15 FEET; THENCE NORTH 51-19-37 EAST, 677.17 FEET; THENCE SOUTH 2-27-50 WEST, 413.13 FEET TO POINT OF BEGINNING.

P45488

(4.6300 ac) TRACT 4, SKAGIT COUNTY SHORT PLAT NO. 32-89, APPROVED SEPTEMBER 8, 1992 AND RECORDED SEPTEMBER 8, 1992 UNDER AUDITOR'S FILE NO. 9209080017 IN VOLUME 10 OF SHORT PLATS, PAGE 117, RECORDS OF SKAGIT COUNTY, WASHINGTON; BEING A PORTION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.

P45489

(5.0100 ac) LOT 1 SHORT PLAT#32-89 AF#920908007 LOCATD IN SW 1/4 NW 1/4, SECTION 23, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.

P109898

(5.01.00 ac) LOT 2 SHORT PLAT#32-89 AF#9209080017 LOCATED IN SW1/4 NW1/4, SECTION 23, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.

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