

CLARK COUNTY STAFF REPORT

DEPARTMENT: Public Works / Parks & Lands Division / Forestry

DATE: June 13, 2017

REQUESTED ACTION: Review and approve the 2016 Current Use Assessment Program application for Open Space Soil Conservation.

____ Consent **X** Hearing ____ County Manager

PUBLIC WORKS GOALS:

- ☐ Provide a safe, efficient transportation system
- ☒ Support a vibrant system of parks and natural areas while preserving the environment
- ☒ Continue responsible stewardship of public funds
- ☒ Increase partnerships and foster an engaged, informed community
- ☐ Empower a skilled, responsive workforce
- ☐ Make Public Works a great place to work

BACKGROUND

As required by RCW 84.34.037, Current Use Assessment requests are processed in the same manner as Comprehensive Plan Amendments. All requests for "Open Space" designations require Planning Commission review and recommendation to the Board of County Councilors. If approved, the request will become effective during September 2017 for the 2018 calendar year tax statements.

This year, Public Works received a single application for Current Use under the Open Space Soil Conservation designation for 147.99 acres west of the Clark County Fairgrounds. Staff reviewed the request and determined the application meets the criteria outlined in Clark County Code, Chapter 3.08.

The Planning Commission reviewed the application during a work session on April 6, 2017, and a public hearing on April 20, 2017. The commission unanimously recommended approval to the council.

COUNCIL POLICY IMPLICATIONS

This action does not propose a new policy, change in policy, or refinement of an existing policy. The action does confirm an existing policy. This is the 30th year the county has reviewed and approved Current Use Assessment applications.

ADMINISTRATIVE POLICY IMPLICATIONS

See Council Policy Implications above. This action does not propose a new policy, change in policy, or refinement of an existing policy, but it does confirm an existing policy.

COMMUNITY OUTREACH

Notification about this program occurs through stakeholders, such as the Washington Farm Forestry Association's Clark County Chapter, other local agricultural groups, the Clark Conservation District and the Clark County Assessor's Office.

PW17-072

BUDGET IMPLICATIONS

Note: If this falls within existing budget capacity, do not include the budget impact attachment (last page)

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

BUDGET DETAILS

Local Fund Dollar Amount	N/A
Grant Fund Dollar Amount	N/A
Account	General fund
Company Name	N/A

DISTRIBUTION:

Board staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>

Attachments: 2016 Current Use Real Property Assessment Resolution; Planning Commission Recommendation dated April 20, 2017.


Kevin Tyler
Lands Manager


Heath H. Henderson, PE
Public Works Director/County Engineer


APPROVED:
CLARK COUNTY, WASHINGTON
BOARD OF COUNTY COUNCILORS

DATE: June 13, 2017

SR# _____



APPROVED: _____
Robert M Stevens, Deputy County Manager

DATE: _____

RESOLUTION NO. 2017-06-01

A Resolution relating to the 2016 Current Use Real Property Assessment Applications for Open Space and Timberland designation.

WHEREAS, Clark County Public Works (Public Works) received one application for Current Use Assessment for Open Space Soil Conservation on 147.99 acres in the vicinity of the Clark County Fairgrounds.

WHEREAS, as required by Revised Code of Washington (RCW) 84.34.037, Current Use Assessment requests are processed in the same manner as a Comprehensive Plan Amendment.

WHEREAS, staff finds the property applied for contains more than the required 10 acres of class I or class II soil types and greater than 80% of the property is in food or fiber production, as specified in Chapter 3.08.050 of the Clark County Code.

WHEREAS, on April 6, 2017, the Clark County Planning Commission held a work session concerning the current use application at a duly noticed public meeting, and on April 20, 2017, held a duly noticed public hearing. At that hearing, the Planning Commission unanimously recommended approval of the application to the Board of County Councilors (Board); and,

WHEREAS, the Board is in receipt of a report from the Planning Commission containing its recommendation for approval of the one application for 2016 Current Use Real Property Assessment under the Open Space Soil Conservation designation; and

WHEREAS, the Board conducted a duly advertised public hearing on June 13, 2017 to consider the Planning Commission's recommendation for approval of the application;

WHEREAS, the Board concludes it is in the best interest of the county 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 the scenic beauty for the economic and social well-being of the county and its citizens; and

WHEREAS, the Board concurs with the Clark County Planning Commission's analysis and recommendations;

NOW, THEREFORE, BE IT ORDERED AND RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, as follows:

Section 1. Approval of Applications.

Current Use Application #2017-00002 for Open Space Soil Conservation, as recommended for approval by the Clark County Planning Commission, is hereby approved.

Section 2. Instructions to Clerk

The Clerk shall record this resolution with the Clark County Auditor.

ADOPTED this 13th day of June, 2017.

Attest:

Rebecca Fitor
Clerk of the Board

BOARD OF COUNTY COUNCILORS
FOR CLARK COUNTY, WASHINGTON

By Mark Boldt
Mark Boldt, Chair

Approved as to Form Only:

Anthony F. Golik
Prosecuting Attorney

By Christine Cook
Christine Cook
Sr. Deputy Prosecuting Attorney

By _____
Jeanne E. Stewart, Councilor

By _____
Julie Olson, Councilor

By _____
John Blom, Councilor

By _____
Eileen Quiring, Councilor



**Planning Commission Recommendation to the
Clark County Board of County Councilors**

FROM: Steve Morasch, Chair
Ron Barca, Vice-Chair

DATE: April 20, 2017

SUBJECT: Year 2017 Reviews for the Year 2016 Current Use Assessment
Requests (Timberland/Open Space)

RECOMMENDATION: **Approval** of one application for Current Use Assessment in the
Open Space Soil Conservation designation.

INTRODUCTION

The Department of Public Works has reviewed the Current Use Assessment request accepted during 2016, and has proposed that the Planning Commission forward the request to the Board of County Councilors (BOCC) for consideration and approval. The Planning Commission, in a duly noticed public hearing held April 29 2017, voted to recommend that the BOCC approve the request.

If approved, the request will become effective during September 2017 for the 2018 calendar year tax statements. As required by Revised Code of Washington (RCW) 84.34.037, Current Use Assessment requests are processed in the same manner as Comprehensive Plan Amendments. These requests are usually evaluated after receiving the applications late in the calendar year preceding the year of tax assessment to be under Current Use.

All requests for Current Use classification require Planning Commission review, and are also considered by the Board of County Councilors. This is the 30th year the county has reviewed Current Use Assessment applications. The Open Space criteria vary according to the category requested. This application has requested the Soil Conservation designation. According to Chapter 3.08.050 of the Clark County Code, Soil Conservation requires 10 acres of class I or class II soil types and that more than 80% of the property be in food or fiber production. This application has been evaluated in light of these criteria.

BACKGROUND

Current Use Application# 2017-00002: Martin & Cherie Nye.

The applicants have requested that 147.99 acres of the 147.99 acres in Tax Lot #'s 7, 8, 11, 12, 13, 24, 26 and 45 in Section 16, Township 3 North, Range 1 East, of the Willamette Meridian, including Parcel #'s 182373-000, 182374-000, 182377-000, 182378-000, 182379-000, 182390-000, 182392-000 and 182411-000 be classified as Open Space Soil Conservation.

The site is located west of the Clark County Fairgrounds and North of Whipple Creek County Park. A desktop and on-site review indicated that the area applied for meets the approval criteria. The property contains more than the required 10 acres of class I or class II soil types. According to the Natural Resources Conservation Service soil survey for Clark County, this property contains approximately 3 acres of Hillsboro silt loam, 0 to 3% slopes (HoA) and 57 acres of Hillsboro silt loam 3 to 8% slopes (HoB). HoA is a Class I soil and HoB is a Class IIe soil. In addition, Public Works staff estimated the acreage of the property used for food or fiber production using aerial photography and then walked the property with the owner to confirm that the 80% threshold was met. The property is currently managed as the Nye Ranch and is used for livestock grazing and hay farming.

PROPOSED ACTION

The application meets all criteria for Open Space Soil Conservation as specified in Chapter 3.08.050 of the Clark County Code. Therefore, staff recommended approval of the application.

PUBLIC OUTREACH

On April 6, 2017 staff met with the Planning Commission to hold a work session regarding the 2016-2017 Current Use application.

On April 20, 2017 staff presented the one application for Current Use, Open Space Soil Conservation, by Martin & Cherie Nye, at the Planning Commission public hearing.

Information presented to the Planning Commission was also available on the Planning Commission website.

RECOMMENDATION AND CONCLUSIONS

The Planning Commission voted unanimously **5-0** to forward the application to the BOCC with a recommendation that the BOCC approve the application. The Planning Commission recommends that the Board of Clark County Commissioners **APPROVE** Current Use Application # 2017-00002, by Martin & Cherie Nye.

NOTICE OF PUBLIC HEARING

The Clark County Board of Councilors will hold a public hearing on **Tuesday, June 13, 2017 at 10 a.m.** in the Council's Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington to consider:

CURRENT USE APPLICATIONS

The Board of County Councilors will consider the Planning Commission's recommendations for approval of one Open Space Application for Current Use Assessment pursuant to Chapter 84.34 RCW. The criteria for Open Space are established pursuant to Chapter 3.08.050 of the Clark County Code.

More information concerning this matter, including a copy of the Planning Commission's recommendations, may be obtained by contacting Hunter Decker, Clark County Public Works, 1300 Franklin Street, Vancouver, Washington, telephone (360) 397-2121, ext. 4852, or by email: Hunter.Decker@clark.wa.gov

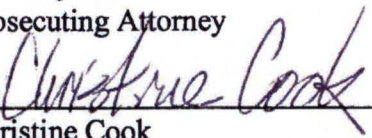
Any person wishing to give testimony in this matter should appear at the time, date, and place above stated, or may submit email or written testimony to Hunter.Decker@clark.wa.gov by Monday, June 12, 2017 at 5 p.m.

Approved as to Form Only

Anthony Golik

Prosecuting Attorney

By


Christine Cook

Sr. Deputy Prosecuting Attorney

PUBLISH: **May 29, 2017**



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Clark County Planning Commission

Steve Morasch, Chair
Ron Barca, Vice Chair
Robin Grimwade
Bill Wright
Karl Johnson
Richard Bender
Matt Swindell

CLARK COUNTY PLANNING COMMISSION MINUTES OF PUBLIC HEARING THURSDAY, APRIL 20, 2017

Public Services Center
BOCC Hearing Room, 6th Floor
1300 Franklin Street
Vancouver, Washington

6:30 p.m.

CALL TO ORDER & ROLL CALL

MORASCH: All right. Well, good evening, and welcome to the April 20, 2017, Planning Commission hearing. Could we get a roll call, please?

BARCA:	HERE
SWINDELL:	HERE
JOHNSON:	HERE
GRIMWADE:	HERE
BENDER:	HERE
WRIGHT:	HERE
MORASCH:	HERE

GENERAL & NEW BUSINESS

A. Approval of Agenda for April 20, 2017

MORASCH: All right. Moving on to approval of the agenda, does anyone have any changes to the agenda? If not, I'd take a motion to approve.

JOHNSON: Make a **motion** to approve the agenda as stated.

BENDER: **Second.**

MORASCH: It's been moved and seconded. All in favor?

EVERYBODY: AYE

MORASCH: Opposed?

B. Communications from the Public

MORASCH: All right. With that, we will move on to communications from the public. Is there anyone in the audience who wishes to speak to the Planning Commission this evening on a matter not on the agenda?

Seeing no one coming up, we will go ahead and move on to our first public hearing item of the evening, the open space timberland applications, and it looks like we have Hunter and Tyler or Hunter and Kevin Tyler. Which of you is going to take the lead?

PUBLIC HEARING ITEMS

A. SUBJECT: OPEN SPACE & TIMBERLAND APPLICATIONS

Planning Commission will consider staff recommendations for approval or denial of Timberland or Open Space Applications for Current Use Assessment pursuant to Chapter 84.34 of the RCW. The criteria for Open Space or Timberland was established by Resolution No. 1977-10-32, adopted November 7, 1977 and Ordinance No. 1982-02-65 adopted March 17, 1982, and Ordinance No. 1996-02-30, adopted February 27, 1996.

Staff Contact: Kevin Tyler

Email: kevin.tyler@clark.wa.gov

TYLER: -- members of the Planning Commission. I'm Kevin Tyler with Clark County Public Works, and I have here Hunter Decker also with Clark County Public Works.

And we have for you tonight a presentation for one application - next slide, please - for the current use open space designation. So one application covering several properties. They've asked for open space soil conservation. The total property acreage is 147.99 acres. It's located west of Clark County Fairgrounds and northeast of Whipple Creek Regional Park. It's currently managed as the Nye Ranch, and the comprehensive plan designation on the property is agricultural over a piece of it and rural residential over a majority of the property with urban designations just to the west of it, so...

Here I have an aerial photo showing an outline of the properties in question. There's, I believe, eight total properties within that red polygon, they're all managed as the Nye Ranch. Next slide, please.

There's the comprehensive plan designation showing you the rural designation. The agricultural is the orange. The urban designation to the west, that's the green slashes are an overlay, that's that area is in urban holding.

MORASCH: East, Tyler.

TYLER: I'm sorry. East. Yes, east. And then to the west and southwest is designated as parks and open space, and most of that property is currently managed as the Whipple Creek Regional Park.

Next slide, please.

So the approval criteria for open space designation soil conservation is that you have tracts of land containing at least or not less than 10 acres of Class I or Class II soil as identified by the local Soil Conservation Service. We know that the Soil Conservation Service no longer exists and it's now called the Natural Resource Conservation Service, the same principles apply, and at least 80 percent of the tract must be in production of food or fiber.

And Class I or II soils, there's different classifications of soils. What that basically means is the land capability classification, and classification as you go down, the classifications from I to, I think, they end around VII, it's the classification is based on soil erosion. So the higher the number, the more likely that the soil is going to erode. And so the thought being that Classification I and II are most appropriate for agricultural types of uses on the land, so that's why the I and II. So, oh, go back one slide, please.

So the property, based on that soil survey, the property includes 3.1 acres of Hillsboro silt loam on 0 to 3 percent slopes, and 57.5 acres of Hillsboro silt loam on 3 to 8 percent slope. So Hillsboro on -- Hillsboro silt loam on the gentler slopes is a Class I soil, and on the slightly steeper slopes, it's a Class IIe soil. I don't remember what the e means, but it still meets the design- -- it still meets the criteria of a Class II soil. So a total on the property is more than 60 acres out of the 147.99, so it meets that criteria of having at least not less than 10 acres of Class I or II soils. Next slide.

So these are just some pictures that my colleague here, Hunter Decker, met with the property owner since our last meeting at the work session and he walked the property with the property owner and he showed him the livestock ranching that they're using the property for. You can see this oblique aerial photo shows the haying of the property, so a large chunk of the property is in hay production for those livestock and then grazing over a majority of the remainder of the property with plans to continue to manage blackberry infestations and create more grazing opportunity on the property.

So by based on Hunter's observation, it meets the 80 percent of the property is in food or fiber production, so livestock ranching and the production of hay, we feel, meets the food or fiber designation, so... Next slide.

Based on those criteria, we feel that the application meets the requirements in the code in Chapter 3.08.050 of the Clark County Code and, therefore, we recommend approval of the application. And we're asking you at this point to then recommended approval to the Board of County Councilors which would be the next step.

Since our work session, we also provided you with some additional information about the current use program, and I'm hoping that that has answered some of the questions that came up during the work session, but if not, Hunter and I are here to answer more of those questions, if you have them.

MORASCH: All right. Thank you.

PUBLIC TESTIMONY

MORASCH: Before we open up the public hearing, does any of the Planning Commissioners have questions for staff? All right. Do we have a sign-in sheet?

While we're getting the sign-in sheet, if anyone wishes to testify that didn't get a chance to sign in, please come down to the microphone and this is the time when I'm opening the public hearing for public testimony on the 2016/2017 current use applications. No? All right. Nobody on the sign-in sheet and no one coming down to the podium.

RETURN TO PLANNING COMMISSION

MORASCH: So with that, I will close the public testimony and turn it back to the Planning Commission. Did anyone have any final questions for staff? If not, I would entertain a motion.

BARCA: So I don't have a question, but I guess I do have a point I'd like to make considering the fairness of the application.

I appreciate the effort that was put in with the photos and explaining the different classes, following in the footsteps of Jim Vandling is a really big deal for the community and the county government itself, and I think we all really appreciated Jim's work and I appreciate the thoroughness of following in his footsteps, so thanks.

TYLER: You're very welcome. Next year you'll see Hunter up here.

MORASCH: All right.

BARCA: By himself, he's going to fly solo?

TYLER: Most likely, yes.

MORASCH: That's right. All right. Any other questions? All right. I agree with what Ron said, definitely a very good job. All right. A motion?

WRIGHT: I **MOVE** the approval of this application as presented.

JOHNSON: **Second.**

GRIMWADE: I'll Second.

MORASCH: It's been moved and seconded. Any further discussion of the motion?

BENDER: Yeah, I have a little bit. One of the things that bothers me is that the owner of the property is going to substantially benefit from a county tax reduction which the neighbors in the district, tax district, will have to pick up the difference. That seems like it's not a fair situation as far as who benefits and who loses on this. I know the County benefits from the standpoint that we get to keep land that's productive in its current state.

The second thing that I don't really feel good about is that some time down the road, they're going to want to develop their property and there will be penalties and interest and back taxes to be paid which go to the County coffers, and I feel that at least the principal taxes were paid by the surrounding taxpayers should benefit from that but they don't; therefore, I feel that there's an inadequacy here and I just wanted to put that on the record.

MORASCH: Any response from the members of the Planning Commission?

BARCA: I think the State, when they passed the law, was looking at the context of something for the greater public good, and I think we all acknowledge that there's a deferral of the costs based on what land is remaining to be taxed. But I think if we look at the idea of the benefits to the environment and to keeping in timberland in production, agriculture land in production, I think the intent of the law is working fairly well based on what we can look at for our historical records about how great Clark County's participation is.

So I think the benefit is there and every tax district has some of these, every tax district picks some of this up, and so I think the fairness is in the outcome.

MORASCH: Yeah. I agree with what Ron just said.

I would also add that I think to the extent there is an issue - and I'm not saying I think there is - but to the extent there is, I think the issue is with the legislature for adopting the statute, not with this particular application, because I think staff did an excellent job and it meets the criteria.

So, you know, the issues, you know, about fairness to the other taxpayers and, you know, an overall fairness, it seems to me like that is more of an issue for the legislature arguing that the statute should be amended, as opposed to an issue pertaining to this particular application.

Does anyone else have any comments?

WRIGHT: Well, I probably shouldn't say this, but fair is irrelevant. It's legal and it's policy and fair is a very intangible term. It depends on whose ox is being gored and whose perspective is looking at it, so I say let's stick with the legality.

MORASCH: Kevin, did you want to respond to any of the comments you've heard? I'll give you that opportunity if you do.

TYLER: Not really, no.

MORASCH: I didn't think so, but I just wanted to make sure that you had an opportunity.

TYLER: I would say that, you know, we've provided you with the report from I think it was 2012 that shows the statistics of the program and I know that I've talked with Community Planning and, you know, I think we all agree that it's probably time to look at the program again and see, you know, what are the statistics and what is the benefit to the County, but, you know, that's not up to us to decide if we're going to do that or not, so we'll see what the Council has to say.

MORASCH: All right. Any other comments from the members of the Planning Commission? All right.

Sonja, could we get a roll call on the motion, please.

ROLL CALL VOTE

BARCA: AYE
SWINDELL: AYE
JOHNSON: AYE
GRIMWADE: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. Well, passed unanimously. Thank you very much for your work. And I guess, Hunter, we'll look forward to seeing you again next year.

DECKER: Yeah, and you will.

TYLER: Thank you for your time.

MORASCH: Thank you.

PUBLIC HEARING ITEMS, continued

A. 2017 Annual Plan Amendments amending the 20-Year Growth Management Comprehensive Plan Map and Zone Map:

CPZ2017-00005 Shoreline Master Program: The proposed amendments would revise the composition of the Shoreline Management Committee, create a substantial development permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act, and add new state requirements for dock construction and floating on-water residences.

Staff Contact: Gary.Albrecht@clark.wa.gov or (360) 397-2280 x4318

MORASCH: Moving on, the next public hearing on our agenda is the 2017 annual amendments amending the 20-year growth management comprehensive plan and zoning map and it's amendments to the Shoreline Master Program. We have Gary Albrecht, would you like to give us a staff presentation.

ALBRECHT: Thank you, Chair. Good evening members of the Planning Commission. For the record this is Gary Albrecht, Clark County Community Planning.

I'm here tonight to discuss CPZ2017-00005, Shoreline Master Program Limited Amendment. Just to give a quick background, Clark County adopted an updated Shoreline Master Program in July 2012. It was approved by Washington State Department of Ecology in August 2012. SMP policies are included in Chapter 13 of the comprehensive plan. SMP regulations are included in Clark County Code Chapter 40.460.

The proposed limited amendments would revise the composition of the Shoreline Management Committee, create a substantial development permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act, add new State requirements for dock construction and add a new class of floating on-water residence.

During our work session on April 6th, 2017, the Planning Commission wanted more information about floating on-water residence. And the question was is could a sailboat be a floating on-water residence? So I had some conversations with Department of Ecology about that question and a sailboat is considered a live-aboard, and floating on-water residences are those things other than a floating -- a live-aboard, it's more like a floating home, a barge is an example they gave me. We received one SEPA comment from the Friends of Columbia Gorge.

And just to wrap this up, based upon the information in the findings presented in the staff report in Exhibit 1, staff recommends the Planning Commission forward to the Board of Clark County Councilors a recommendation of approval on the limited amendment to the Shoreline Master Program. And that's it for my presentation. I'm here to answer questions.

MORASCH: All right. Thank you. Anyone have any questions?

BARCA: Gary, I never saw a County rebuttal to the Friends of the Columbia Gorge. Was that something that was put out and I missed it?

COOK: Christine Cook for the Prosecuting Attorney's Office. I received a copy of the letter from Friends of the Columbia Gorge and was a little puzzled by it because it didn't have any specific criticism of the County's -- of the responsible official's decision to issue a DNS, a Determination of Nonsignificance, in this case, and it wasn't an appeal.

So I was curious as to what they were about and I gave the author of the letter a phone call and asked, and he said, well, we just wanted to make sure that the responsible official had considered whether there is -- was it more than a moderate probability or something or more than a reasonable probability that this would have more than a moderate effect, adverse effect on the environment. So I said, okay, I believe the responsible official did consider whether there would be adverse impacts and concluded that there would not be adverse impacts by reason of adopting this legislation, which most of which is simply to implement State law.

So I don't regard this as anything that needs to be rebutted. Mostly it is a general statement of 40-year-old case law and really doesn't speak to the matter before you at all.

BARCA: Well, if that's their final outcome after the conversation, I'll accept that. The letter itself seemed like they were really saying the designation of nonsignificance is not what they thought should have been appropriate, that was the way I kind of read it. But they also didn't appeal.

COOK: Well, if you'll scroll down to the last paragraph of the letter, there it says the legal trigger is more than a moderate effect on the quality of the environment. Proposed amendments would change the composition of the Shoreline Management Committee. I said, well, how does that have an adverse impact? Create an exception to allow retrofits for the ADA. I said -- anyway I went through the whole thing. I said, which of those do you contend or are you saying creates an impact, because in this letter here, it doesn't say that anything actually would have more than a moderate effect on the quality of the environment.

BARCA: Okay.

COOK: So, you know, they need to be a little more explicit than that, if they are going to critique the action.

BARCA: That's fair. I mean, the way that it's written compared to as you describe the outcome of the phone call I think kind of puts it in perspective. No follow-on action is to be expected and nothing is pointedly out-of-line.

COOK: That's my conclusion.

MORASCH: And we're as a Planning Commission are not called upon to make a SEPA determination here, are we?

BARCA: No.

COOK: No. The responsible official is Dr. Orjiako. He's made the SEPA determination. If the Friends of the Gorge wants to appeal the DNS, then that would go before the Board of County Councilors, but so far they've said that they don't, because I asked.

MORASCH: Okay. All right. Any other questions? Thank you. All right.

PUBLIC TESTIMONY

MORASCH: Well, with that, I'll open up the public hearing. Is there anybody on this sign-in sheet? No one signed our sign-in sheet. Does anyone in the audience want to come down and give testimony?

RETURN TO PLANNING COMMISSION

MORASCH: Seeing no one, we will now close the public hearing, and I will turn it back to the Planning Commission for any further questions or deliberation. Hearing none, I would entertain a motion.

JOHNSON: I **MOVE** that we accept staff recommendation on the Shoreline Master Plan Limited Amendment.

GRIMWADE: I'll **second** it.

MORASCH: It's been moved and seconded to accept the staff recommendation. Is there any discussion on the motion? All right. Could we get a roll call, please?

ROLL CALL VOTE

BARCA: AYE
SWINDELL: AYE
JOHNSON: AYE
GRIMWADE: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. That motion passes unanimously. Thank you, Gary. That brings us to old business, and it looks like our approval of the minutes did not get on to our agenda. So I'm going to ask, does anyone have any changes to the minutes from the March 16 hearing?

MORASCH: And, if not, I would take a motion to approve the minutes.

BENDER: I make a **motion** that we approve the minutes of March 16th.

BARCA: **Second.**

MORASCH: Moved and seconded. All in favor?

EVERYBODY: AYE

MORASCH: Opposed? All right. The minutes from our March 16, 2017, hearing have now been approved.

OLD BUSINESS

None.

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

None.

ADJOURNMENT

The record of tonight's hearing, as well as the supporting documents and presentations can be viewed on the Clark County Web Page at:

<https://www.clark.wa.gov/community-planning/planning-commission-hearings-and-meeting-notes>

Proceedings can be viewed on CVTV on the following web page link:

<http://www.cvtv.org/>

Minutes Transcribed by:

Cindy Holley, Court Reporter/Rider & Associates, Inc.

Sonja Wiser, Program Assistant, Clark County Community Planning



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CLARK COUNTY
WASHINGTON

DEPARTMENT OF PUBLIC WORKS

FINAL MEMORANDUM

TO: Clark County Planning Commission
FROM: Kevin Tyler, Lands Manager
STAFF CONTACT: Hunter Decker, Clark County Forester

DATE: April 20, 2016
SUBJECT: Year 2017 Reviews for the Year 2016 Current Use Assessment Requests (Timberland/Open Space)

BACKGROUND:

The Department of Public Works has reviewed the Current Use Assessment request accepted during 2016. The approved request will become effective during September 2017 for the 2018 calendar year tax statements. As required by Revised Code of Washington (RCW) 84.34.037, Current Use Assessment requests are processed in the same manner as a Comprehensive Plan Amendment. These requests are usually evaluated after receiving the applications late in the calendar year preceding the year of tax assessment to be under Current Use.

All requests for Current Use classification require Planning Commission review, and are approved by the Board of County Councilors. This is the 30th year the county has reviewed Current Use Assessment applications. The Timberland classification requires a 5-acre minimum parcel size, exclusive of a one acre home site, and parcels may be transferred from Designated Forest Land or Farm & Agriculture. The stocking and management requirements are enumerated in County Code Chapter 3.08.070. Open Space classification criteria vary according to the category requested. All properties have been evaluated in light of these criteria and are attached to this report.

2017 REQUESTS:

The County received 1 request for the year 2017 Current Use Assessment. Staff received 0 requests for the Timberland classification. Staff concludes that 1 request for Open Space classification meets the applicable criteria of the category chosen under Chapter 3.08 (.040), (.050), (0.55) or (.060), of the Clark County Code.

The following is a summary of the cases for which staff recommends *Approval and Partial Approvals or Denial*:

New Timberland Applications

None

New Open Space Applications

Soil Conservation

2017-00002 Martin & Cherie Nye.

The applicant has requested that 147.99 acres of the 147.99 acres in Tax Lot #'s 7, 8, 11, 12, 13, 24, 26 and 45 in Section 16, Township 3 North, Range 1 East, of the Willamette Meridian, including Parcel #'s 182373-000, 182374-000, 182377-000, 182378-000, 182379-000, 182390-000, 182392-000 and 182411-000 be classified as Open Space Soil Conservation.

The site is located west of the Clark County Fairgrounds and North of Whipple Creek County Park. A desktop and on-site review indicated that the area applied for contains more than the required 10 acres of class I or class II soil types. According to the Natural Resources Conservation Service soil survey for Clark County, this property contains approximately 3 acres of Hillsboro silt loam, 0 to 3% slopes (HoA) and 57 acres of Hillsboro silt loam 3 to 8% slopes (HoB). HoA is a Class I soil and HoB is a Class IIe soil. In addition, Public Works staff walked the property with the owner to confirm that the area applied for is in greater than 80% food or fiber production. The property is currently managed as the Nye Ranch and is used for livestock grazing and hay farming. The application meets all criteria for Open Space Soil Conservation as specified in Chapter 3.08.050 of the Clark County Code. Therefore, staff recommends APPROVAL of the application.



Application for Classification or Reclassification
Open Space Land
Chapter 84.34 RCW

2017-0009



File With The County Legislative Authority

Name of Owner(s): Martin Nye & Cherie Nye

Phone No: (360) 750-3500

Email Address: Martin.Nye@Wellons.com

Address: 3815 Creekside Drive, Vancouver, Washington 98685

Parcel Number(s): 182373000, 182374000, 182377000, 182378000, 182379000, 182390000, 182392000, & 182411000

Legal Description: #7 OF SEC 16 T3NR1EWM 30A
#8 OF SEC 16 T3NR1EWM .08A
#11 SEC 16 T3N R1EWM 18.61A
#12 OF SEC 16 T3NR1EWM 18.76A
#13 OF SEC 16 T3NR1EWM .87A
#24 OF SEC 16 T3NR1EWM 40A
#26 SEC 16 T3N R1EWM 38.48A
#45 SEC 16 T3N R1EWM 1.19A

Total Acres in Application: 147.99

Indicate what category of open space this land will qualify for:

Clark County 1300 Franklin Street Vancouver, WA 98660 360.397.2208 www.clark.wa.gov	*** REPRINT ***	Thank you for your payment.	Tuesday Nov 29 2016 11:49:54 AM	0001.000.110.341410.000.0000000 \$150.00	16/17 OPENSACE APPLICIATION	0001.542.533.345111.000.0000000 \$1,882.00	Total \$2,032.00	Check 2642 \$2,032.00	Received From: MARTIN NYE Receipt #: slm-11292016-10
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RECEIVED
NOV 29 2016
BY: _____

- ☐ Conserve or enhance natural, cultural, or scenic resources
- ☒ Protect streams, stream corridors, wetlands, natural shorelines, or aquifers
- ☐ Protect soil resources, unique or critical wildlife, or native plant habitat
- ☐ Promote conservation principles by example or by offering educational opportunities
- ☐ Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries, or other open spaces
- ☐ Enhance recreation opportunities
- ☐ Preserve historic or archaeological sites
- ☐ Preserve visual quality along highway, road, street corridors, or scenic vistas
- ☐ 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 granting authority
- ☐ Farm and agricultural conservation land previously classified under RCW 84.34.020(2), that no longer meets the criteria
- ☐ Farm and agricultural conservation land that is "traditional farmland" not classified under Chapter 84.33 or Chapter 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture

1. Describe the present use of the land.
Rural homestead and hayfield.

2. Is the land subject to a lease or agreement which permits any other use than its present use? ☐ Yes ☒ No
If yes, attach a copy of the lease agreement.

3. Describe the present improvements (residence, buildings, etc.) located on the land.
Houses and agricultural buildings.

4. Is the land subject to any easements? ☒ Yes ☐ No
If yes, describe the type of easement, the easement restrictions, and the length of the easement.
N/A per Jim Vandling

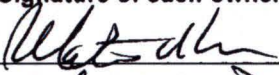
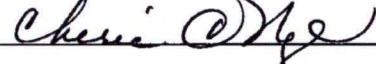
5. If applying for the farm and agricultural conservation land category, provide a detailed description below about the previous use, the current use, and the intended future use of the land.
Not applicable.

NOTICE:

The county and/or city legislative authorities may require owners to submit additional information regarding the use of the land.

As owner of the parcel(s) described in this application, I hereby indicate by my signature below that I am aware of the additional tax, interest, and penalties involved when the land ceases to be classified under the provisions of Chapter 84.34 RCW. I also certify that this application and any accompanying documents are accurate and complete.

The agreement to tax according to use of the property is not a contract and can be annulled or canceled at any time by the Legislature (RCW 84.34.070)

Print the name of each owner:	Signature of each owner:	Date
<u>Martin N. Nye</u>	<u></u>	<u>11/29/2016</u>
<u>Cherie C. Nye</u>	<u></u>	<u>11/29/2016</u>

The granting or denial of an application for classification or reclassification as open space land is a legislative determination and shall be reviewable only for arbitrary and capricious actions. Denials are only appealable to the superior court of the county in which the land is located and the application is made.

Statement of Additional Tax, Interest, and Penalty Due Upon Removal of Classification

1. Upon removal of classification, an additional tax shall be imposed which shall be due and payable to the county treasurer 30 days after removal or upon sale or transfer, unless the new owner has signed the Notice of Continuance. The additional tax shall be the sum of the following:
 - (a) The difference between the property tax paid as "Open Space Land" and the amount of property tax otherwise due and payable for the last seven years had the land not been so classified; plus
 - (b) Interest upon the amounts of the difference (a), paid at the same statutory rate charged on delinquent property taxes; plus
 - (c) A penalty of 20% will be applied to the additional tax and interest if the classified land is applied to some other use except through compliance with the property owner's request for withdrawal as described in RCW 84.34.070(1).
2. The additional tax, interest, and penalty specified in (1) shall not be imposed if removal resulted solely from:
 - (a) Transfer to a governmental entity in exchange for other land located within the State of Washington.
 - (b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power.
 - (c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property.
 - (d) Official action by an agency of the State of Washington or by the county or city where the land is located disallows the present use of such land.
 - (e) Transfer of land to a church when such land would qualify for property tax exemption pursuant to RCW 84.36.020.
 - (f) Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108(6)(f)).
 - (g) Removal of land classified as farm & agricultural land under RCW 84.34.020(2)(f) (farm home site).
 - (h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification.
 - (i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120.
 - (j) The creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040.
 - (k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as designated forest land under chapter 84.33 RCW, or classified under this chapter 84.34 RCW continuously since 1993. The date of death shown on the death certificate is the date used.
 - (l) The discovery that the land was classified in error through no fault of the owner.

FOR LEGISLATIVE AUTHORITY USE ONLY

Date application received: _____

By: _____

Amount of processing fee collected: \$

- Is the land subject to a comprehensive land use plan adopted by a city or county? ☐ Yes ☐ No

If yes, application should be processed in the same manner in which an amendment to the comprehensive land use plan is processed.

If no, application must be acted upon after a public hearing and notice of the hearing shall have been given by one publication in a newspaper of general circulation in the area at least ten days before the hearing.

- If the land is not subject to a comprehensive land use plan, is the land located within an incorporated part of the county? ☐ Yes ☐ No

If yes, application must be acted upon by three members of the county legislative authority and three members of the city legislative authority. See RCW 84.34.037(1) for details.

If no, application must be acted upon by three members of the county legislative authority.

☐ Application approved

☐ In whole

☐ In part

☐ Application denied

☐ Date owner notified of denial (Form 64 0103):

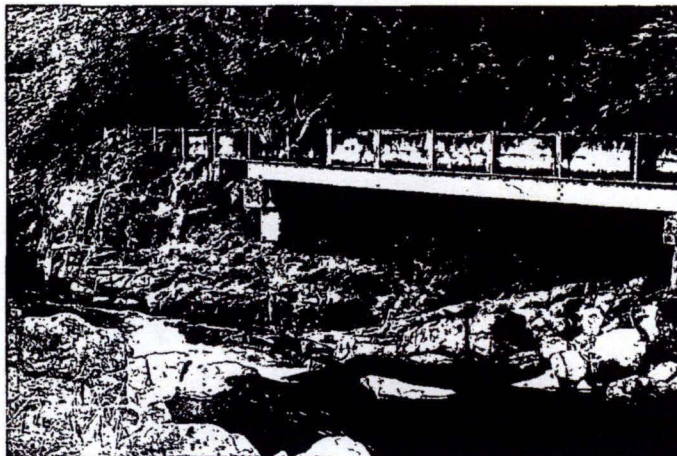
If approved, date Open Space Taxation Agreement (OSTA) was mailed to owner:

Signed OSTA received by Legislative Authority on:

Copy of signed OSTA forwarded to Assessor on:

To ask about the availability of this publication in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users, please call (360) 705-6718. For tax assistance, call (360) 534-1400.

OPEN SPACE (NON-FARM/TIMBER LAND)



The Washington State Legislature recognizes that

it is in the best interest of the state and its citizens to maintain, preserve and conserve adequate open space lands for the enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens. To support the development and preservation of these lands, the legislature created a property tax deferral program designed to help property owners.

Under the Washington State Legislature's Open Space Taxation Act, Clark County offers property owners the ability to apply for tax relief for property that meets specific criteria. In Clark County, the Open Space Taxation act is governed by both the state statute (**RCW 84.34** and **WAC 458-30**) and **Clark County Code 3.08**.

Properties that may qualify under this program include those parcels that are :

- 20 acres or greater with certain mineral deposits located on the parcel,
- 10 acres or greater with certain streams or springs located on the parcel,
- 10 acres or greater with certain soil types located on the parcel,
- 10 acres or greater with certain recreational opportunities located on the parcel, and
- Parcels of any size with archeological or historic sites listed on the local, state, or national registry that are located on the parcel.

Property owners may apply to have their land classified as Open Space Land. Property owners that apply and are accepted into the Open Space Taxation Act program have their lands valued at their current use rather than at their highest and best use for property tax purposes. This designation often results in a lower assessed value and lower taxes.

Complete applications submitted between January 1st and December 31st are reviewed in the year after they were submitted, typically in a public hearing with the Board of County Councilors. If approved, the Assessor's Office will send the applicant a notice of approval to be signed and recorded with the County Auditor. Once the approval is recorded, the assessed value is reduced for the year of the approval and taxes are reduced in the following year. Once an application is approved, the land is subject to a back-tax liability if the use of the land changes after being declared Open Space Land.

Qualifications

To qualify to have your property classified as Open Space Land, you must:

- Have a minimum of 10 contiguous acres in the same ownership, not including any residential home sites,
- Have land that meets one or more of the criteria for participation in the Open Space Taxation Act program, and
- Be compliant with laws and regulations governing the program.

To Apply

- Complete an application for **Classification or Reclassification Open Space Land**
- Pay the application fee for the Open Space Taxation Act program **(\$2,032.00)**

Bring your completed and signed application along with the program application fee to:

Clark County Assessor's Office
2nd Floor
1300 Franklin Street
Vancouver, WA 98660

Help in Applying

If you prefer, you may contact us with your questions via email at current.use@clark.wa.gov. We can also be reached by phone at (360) 397-2391.

Removal from Open Space Classification

Land classified under the program may be removed if:

- The owner submits a written **request to remove current use assessment** (immediate removal) or a **request to withdraw from current use assessment** (2-year notice)
- The land is sold or transferred to an ownership making it exempt from ad valorem taxation,
- All or a portion of the land is transferred to a new owner and the new owner does not wish to continue the classification; or
- The Assessor determines, after giving the owner written notice and an opportunity to be heard, that the land is no longer complies with the terms under which classification was approved.

Change in Ownership or Title of Classified Land

When classified land is sold or transferred to new ownership, the new owner(s) must determine if they would like the property to remain in the program and accept the potential tax liability associated with land in the Open Space Taxation Act program. In addition, the new owner must:

- Complete the **Notice of Continuance Land Classification as Current Use or Forest Land** form (all purchasers must sign the form),
- Sign section 6(3) of the Real Estate Excise Tax Affidavit form (all grantees must sign).

Upon receipt of the required information, the Assessor's Office will determine if the property is eligible to continue in the classification.

Reclassifying Open Space Lands to Another Classification

Unlike other Current Use programs, land classified under the Open Space program is not eligible to be reclassified to another Current Use Designation. If you have questions about your options under the Open Space Taxation Act, please contact our office via email at current.use@clark.wa.gov or by phone at (360) 397-2391.