

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. AB2009-455

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Erin Osborn	EO	12/1/09		12/8/09	Special Hearing
Dept. Head: David Stalheim	DS	12/1/09			
Prosecutor: Royce Buckingham	RB	12-3-09			
Purchasing/Budget:					
Executive: Peter Kremen					

**TITLE OF DOCUMENT:**  
*A Resolution Approving Recommendations on Applications for Classification, Reclassification, or Amending Existing Applications for Open Space Current Use Assessment on Lands Located within the City of Bellingham: Master File Number OS2009-2.*

**ATTACHMENTS:**  
*Staff Memo to County Council Members, Draft Resolution, Staff Report, Evaluation Forms, Maps, Photos*

SEPA review required? ( ) Yes ( X ) No	Should Clerk schedule a hearing? ( X ) Yes ( ) No
SEPA review completed? ( ) Yes ( N/A ) No	Requested Date: 12/8/09

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**

*Recommendations on a total of seven (7) applications for Open Space Current Use Assessment referenced under Master File Number OS2009-2 are forwarded to three members of the Whatcom County Council for a public hearing and subsequent action pursuant to Chapter 84.34.037 (1) RCW. A resolution is proposed to initiate Council action to approve recommendations on the applications referenced under Master File Number OS2009-2 subject to conditions and applicable scores so noted by separate affirmative acts of both Whatcom County and City of Bellingham legislative bodies where both bodies affirm the entirety of an application without modification or both bodies affirm an application with identical modifications, to grant assessment at current use for those applications receiving a recommendation of approval: Seven (7) applications for Open Space Land.*

**\* Distribution Request: Assessors Dept – Jean Eastman**

<b>COMMITTEE ACTION:</b> 12/8/2009: Special Public Hearing The Council handled each application separately. Some applications were approved, and some were not. Also, Weimer suggested that staff provide council-members an update on the process and tax implication of these types of applications in the first quarter of 2010	<b>COUNCIL ACTION:</b> 12/8/2009: Council Amended & Approved 5-1 Weimer opposed Res. 2009-078
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<b>Related County Contract #:</b>	<b>Related File Numbers:</b> OS2009-2	<b>Ordinance or Resolution Number:</b> Res. 2009-078
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**Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).**

SPONSORED BY: CONSENT

PROPOSED BY: PDS

INTRODUCTION DATE: 12/8/2009

**RESOLUTION NO:** 2009-078

**APPROVING RECOMMENDATIONS ON APPLICATIONS FOR CLASSIFICATION, RECLASSIFICATION, OR AMENDING EXISTING APPLICATIONS FOR OPEN SPACE CURRENT USE ASSESSMENT**

**WHEREAS,** The Open Space Taxation Act codified as Chapter 84.34 RCW, gives counties legislative authority to grant applications for current use classification and re-classification as Farm and Agricultural Land, Open Space Land and its sub-classification Farm and Agricultural Conservation Land, and Timber Land; and

**WHEREAS,** Pursuant to Whatcom County Code, Section 3.28.020, applications for Open Space Land, Farm and Agricultural Conservation Land, and Timber Land are received and evaluated by Whatcom County Planning and Development Services Department staff and the results of this evaluation are then presented at a public hearing for review and consideration in making recommendations to the County Council; and

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

**WHEREAS,** Pursuant to 84.34.037 (1) RCW, applications for classification of land in an incorporated area shall be acted upon by: A granting authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located in a meeting where members may be physically absent but participating through telephonic connection; or separate affirmative acts by both the county and city legislative bodies where both bodies affirm the entirety of an application without modification or both bodies affirm an application with identical modifications; and

**WHEREAS,** On December 8, 2009, three members of the Whatcom County Council held a public hearing and considered staff recommendations, and considered all testimony submitted on applications referenced in Master File Number OS2009-2; and

**WHEREAS,** Pursuant to 84.34.037 (1) RCW, the Whatcom County Council, upon conclusion of its December 8, 2009 public hearing voted to take separate, affirmative and identical action as anticipated by the City of Bellingham in approving recommendations on the above referenced 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 & RCW 84.34 the statutory requirements regarding legal notice have been met; and

**WHEREAS**, the County Council has adopted the following Findings of Fact and Reasons for Action:

**FINDINGS OF FACT AND REASONS FOR ACTION**

1. Whatcom County Planning and Development Services received a total of seven (7) applications for classification, reclassification, or amended existing applications, as Open Space Land within the City of Bellingham; these applications were given individual file numbers and were grouped together and are referenced under Master File Number OS2009-2.
2. Planning and Development Services staff evaluated individual applications referenced under Master File Number OS2009-2 using appropriate evaluation criteria and prepared a staff report with recommendations consistent with the results of each evaluation, and submitted this staff report to Whatcom County Council Members, and to the City of Bellingham staff, Tim Wahl. Copies of this report were also made available to individual applicants.
3. Notice of the public hearing for Master File Number OS2009-2 Open Space Current Use Assessment applications was published in the Bellingham Herald on November 28, 2009.
4. On Tuesday, December 1, 2009 Planning and Development Services staff met with City of Bellingham staff, Tim Wahl to discuss the merits of individual applications.
5. On Tuesday, December 8, 2009, three Whatcom County Council members in committee held a public hearing on all applications referenced under Master File Number OS2009-2, considered staff recommendations and considered all testimony in making their recommendations to the full Council on whether to approve in whole or in part, or deny individual applications referenced under Master File OS2009-2.
6. At the conclusion of the public hearing on applications referenced under Master File Number OS2009-2, Council members in committee voted to approve all recommendations as presented by staff with the exception of the Bridgeview Ventures application (OSP2009-00019) and the Clark Family application (OSP2009-00018). The Committee voted to deny the Bridgeview Ventures application, in totality. The Committee also voted to recommend denial on the Clark Family's request to modify conditions of public access as described in the existing 1985 Open Space Taxation Agreement as recorded under Auditor's File Number 1516491.

**NOW, THEREFORE, BE IT RESOLVED BY THE WHATCOM COUNTY COUNCIL** that recommendations on applications for Open Space Current Use Assessment referenced in Master File Number OS2009-2 and listed below are hereby approved subject to conditions and applicable scores as noted herein by separate affirmative acts of both Whatcom County and City of Bellingham legislative bodies where both bodies affirm the entirety of an application without modification or both bodies affirm an application with identical modifications:

OSP2009-00014; Ludtke-Pacific Trucking, Inc.; 4059 Bakerview Valley Road  
Transfer Application; Open Space Farm/Agricultural Land to Open Space Land  
1.92 Acre(s)

Assessor's Parcel Number(s):  
380316 096405 0000; 380316 127410 0000

PBR= 85.70

Recommendation - Approval subject to Public Access Rules and Posted Sign

OSP2009-00015; Ing; C/O 3100 St. Clair Street  
New Application; Open Space Land  
1.05 Acre(s)

Assessor's Parcel Number(s):  
380321 154410 0000; 380321 178410 0000

PBR= 85.17

Recommendation - Approval subject to Public Access Rules and Posted Sign

OSP2009-00016; Ing/Alder; C/O 3100 St. Clair Street  
New Application; Open Space Land  
1.10 Acre(s)

Assessor's Parcel Number:  
380321 146426 0000

PBR= 85.17

Recommendation - Approval subject to Public Access Rules and Posted Sign

OSP2009-00017; Harris; 2905 Willis Street  
New Application; Open Space Land  
1.18 Acre(s)

Assessor's Parcel Number(s):  
370307 168238 0000; 370307 184238 0000; 370307 208238 0000

PBR= 91.85

Recommendation - Approval subject to Public Access Rules and Posted Sign

OSP2009-00018; Douglas & Margaret Clark Family LLC; Clark's Point  
Amending Existing Open Space Taxation Agreement Public Access Conditions;  
67.66 Acre(s)

Assessor's Parcel Number(s):  
370214 499306 0000; 370214 465249 0000; 370214 507180 0000;  
370213 018190 0000; 370213 050150 0000; 370213 080099 0000

PBR= 90.00

Recommendation - Denial

OSP2009-00019; Bridgeview Ventures, LLC.; 1609 12th Street  
New Application: Open Space Land  
0.034 Acre(s)  
Assessor's Parcel Number:  
370212 171565 0000  
PBR= 58.00  
Recommendation - Denial

OSP2009-00020; Nelson; 2750 Victoria Street  
Transfer Application: Open Space Farm/Agricultural Land to Open Space Land  
8.73 Acre(s)  
Assessor's Parcel Number(s):  
370307 0830510000; 370307 104020 0000; 370307 116083 0000  
PBR= 85.80  
Recommendation - Approval subject to Public Access Rules and Posted Sign

**BE IT FURTHER RESOLVED** that the Whatcom County Council directs the Assessor to place the parcels into the appropriate Open Space Current Use classification.

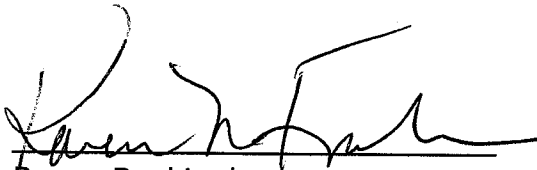
**BE IT FINALLY RESOLVED** that adjudication of invalidity of any of the sections, clauses, or provisions of this resolution shall not affect or impair the validity of the resolution as a whole or any part thereof other than the part so declared to be invalid.

**APPROVED** this 8th day of December, 2009

ATTENY  
COUNTY COUNCIL  
OF WHATCOM COUNTY  
STATE OF WASHINGTON  
Dana Brown-Davis  
Clerk of the Council  
APPROVED AS TO FORM:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY,  
WASHINGTON

  
Seth Fleetwood  
Council Chair

  
Royce Buckingham  
Civil Deputy Prosecutor