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"Building Partnerships – Building Communities"

OC-12-00001 TUCKER OPEN SPACE CURRENT USE APPLICATION STAFF REPORT

TO: Kittitas County Board of County Commissioners
FROM: Jeff Watson, Staff Planner
DATE: April 1, 2014
SUBJECT: Tucker Open Space Current Use Application (OC-12-00001)

I. GENERAL INFORMATION

Proposal: On or about December 28, 2012 Mr. Thomas Tucker submitted an application for classification or reclassification as open space land or timber land for current use assessment under Chapter 84.34 RCW. The application has been reviewed by Assessor staff for ownership, parcel numbers, and legal descriptions, and Community Development Services staff for land use and critical areas assessment.

Location: The subject property is located approximately 5.5 miles northeast of Cle Elum at 8517 Teanaway Road.

II. SITE INFORMATION

Site Characteristics: Utilizing Aerial Photography, analysis indicates the site is predominately wooded with deciduous undergrowth and coniferous forest. The application indicates that there are two cabins located on the parcel. The topography is varied with a general rise in the southern portion of the parcel ending in a drop-off into the Teanaway River. A Critical areas review indicates that tip of the parcel is located within the floodway and the southern half in the FIRM floodplain (Panel 5300950252B). The Teanaway River is a shoreline of the state with this section being delineated in the shoreline master program as Rural. A R3USC (Riverine Upper Perennial Unconsolidated Shore Seasonally Flooded) wetland is shown to exist on the subject property. The parcel is zoned Agriculture 20 but was created by a court ordered segregation in November of 2012 (CC #02-2-00410-8), the original parcel was 13.82 acres. The Assessor's office indicates that the resulting tax shift if open space current use status is granted to this parcel would be approximately \$640 annually.

III. CRITERIA ANALYSIS

The application as submitted is requesting classification as open space for current use. Justification for this proposed designation by the applicant is based on the following criteria listed in RCW 84.34.020.

(ii) protect streams or water supply,

Kittitas County ordinance 1994-025 stipulates that applications "... for open space on protection of streams and meet at least one of the following:

- (1) Preservation or protection of major drainage ways (major drainage ways being defined as the areas where feeder streams intersect with major streams) flowing directly into streams of 20 C.F.S. or more.*
- (2) Tracts continuous to or straddling major streams flowing at a rate of 20 C. F.S. or more.*
- (3) Significant aquifer recharge areas and areas of significant springs identified as water resources."*

The parcel is contiguous to the Teanaway River which is a shoreline of the state and by definition a "...major streams flowing at a rate of 20 C. F.S. or more".

The only criteria box checked by the applicant on page one of the application is the above; staff feels that they would be remiss to not point out that the parcel in question may qualify under two other criteria as outlined in RCW 84.34.020. Staff would like to present the following for the record in the review process.

(iii) promote conservation of soils, wetlands, beaches or tidal marshes,

Kittitas County ordinance 1994-025 stipulates that applications "...will be restricted to at least one of the following:

(1) Tracts with 25% or greater slope on at least 50% of the tracts or where there is physical evidence of erosion.

(a) Applications for this category shall be accompanied with a conservation plan prepared by the Soil Conservation Service including implementation program for the plan. (Failure to implement the plan in a timely manner will be cause for removal from the Open Space category and subject to penalties under RCW 84.34.)

(2) Tracts within the 100 year flood plain.

(3) Tracts where commercial development would destroy the natural cover and could result in erosion, loss of natural habitat and such action would result in damage to adjacent property.

The parcel indicated in this application contains approximately 3 acres of property delineated as Zone A of the 100 year floodplain in FIRM panel 5300950252B.

(iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or

Kittitas County ordinance 1994-025 does not specifically address this criterion. The property is bounded on the south by a parcel recently purchased along with 50,000+ acres by the Washington State Department of Natural Resources as part of the Yakima Basin Integrated Plan.

IV. RECOMMENDATION

RCW 84.34.037 provides guidance to legislative authorities for the review of Open Space Current Use applications. The entire section of that RCW was included in the file; the relevant provisions to this application are outlined below:

(2) In determining whether an application made for classification or reclassification under RCW [84.34.020\(1\)](#) (b) and (c) should be approved or disapproved, 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 for land applying under RCW [84.34.020\(1\)\(b\)](#) 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...

(4) The granting authority may approve the application with respect to only part of the land which is the subject of the application. If any part of the application is denied, the applicant may withdraw the entire application. The granting authority in approving in part or whole an application for land classified or reclassified pursuant to RCW [84.34.020\(1\)](#) may also require that certain conditions be met, including but not limited to the granting of easements.

As a condition of granting open space classification, the legislative body may not require public access on land classified under RCW [84.34.020\(1\)\(b\)\(iii\)](#) for the purpose of promoting conservation of wetlands.

(5) 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.

Providing a recommendation for parcels of this size and use is always a challenge for staff. Clearly, based on the very general criterion laid out in RCW 84.34 (“b” above), the parcel is eligible for consideration. The current use for this property is residential, which makes the fundamental question regarding the approval of the application:

Does placing significant barriers for changing the use of this property from residential use to something else constitute a public benefit substantial enough to offset the added burden being shifted to other members of the taxing district in which it resides?

In an effort to assist the Planning Commission in making its recommendation Staff submits the following for consideration and discussion.

1. The parcel under consideration is zoned Agriculture 20, a change of use would be limited to the following non-general agricultural and non-residential permitted uses:

- A. Nursery
- B. Library
- C. Vehicle Equipment Repair (limited to farm implement)
- D. Park and Playground
- E. Utility
- F. Electric Vehicle Infrastructure

Conditional Uses Include:

- A. Animal Boarding
- B. Agriculture Processing
- C. Agriculture Sales
- D. Feedlot
- E. Riding Academy
- F. Clubhouse, Fraternity, Lodge
- G. Religious Institution
- H. Bed and Breakfast
- I. Animal Hospital or Veterinary
- J. Shooting Range
- K. Forest Product Processing (Portable and Permanent)
- L. Composting Facility
- M. Campground
- N. Guest Ranch
- O. Boarding House
- P. Convalescent Home
- Q. Mining and Excavation

2. This Property lies at the gateway of the recent DNR Teanaway purchase of 50,000 acres. The planning process for the management of the Community Forest is just getting underway to establish objectives for the region.

3. According to the Assessor’s office, the tax burden shift for this parcel would be approximately \$640 per year. This burden would be carried by other members of tax district 44. There are currently 1701 parcels in the district; the net increase per parcel would be approximately 38¢ per year.

The potential changes of use for this parcel are varied and significant; due to the parcel’s proximity to the Teanaway Community Forest area and the fact that the planning process for the area is underway but incomplete Staff recommends approval of OC-12-00001.

V. PLANNING COMMISSION HEARING

On February 11, 2014 the Kittitas County Planning Commission held an open record public hearing to provide the BOCC with a recommendation regarding the Tucker Open Space application. After a presentation by staff and a brief statement from the applicant the Commission voted 6-1 to recommend approval of OC-12-00001.