



## Staff Report and Recommendation

**Report Date:** January 19, 2024  
**Hearing Date:** February 6, 2024

**Application Submittal Date:** October 30, 2023  
**Application Complete Date:** November 29, 2023

**Project Name:** Simmons Open Space  
**Type of Application:** Open Space, Type IV  
**Permit Number:** 23-05197

### VICINITY MAP

#### Project Location

23697 W. Ludvick Lake Dr.  
Seabeck, WA 98380  
Commissioner District #2

#### Assessor's Account #

312402-3-015-1008

#### Applicant/Owner of Record

Erich and Jessica Simmons  
20512 1ST PL. W.  
LYNNWOOD, WA 98036

#### Recommendation Summary

Approved subject to conditions listed under section 11 of this report.



### 1. Background

The purpose of the Kitsap County open space program is to maintain, preserve, conserve and otherwise continue in existence adequate open space lands 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. Parcels with qualifying environmental characteristics can apply for the open space program and receive a reduction in taxes.

### 2. Project Request

The application proposes to reclassify 5.2 acres of the 19.64 acres, currently classified under RCW 84.34.020 as “Designated Forest Land (DFL)” by the Kitsap County Assessor, to “Current Use Open Space”, and one (1) acre to remain in classification for the Single Family Residential (SFR) use. The remaining 13.44 acres to remain DFL. The reclassification is for tax purposes only and does not change the zoning of the property. Properties that qualify for Current Use Open Space must have at least two sensitive resources listed in Kitsap County Code 18.12.

### 3. SEPA (State Environmental Policy Act)

This project is SEPA exempt under Kitsap County Code 18.04 State Environmental Policy Act.

### 4. Physical Characteristics

The subject property is mostly rectangular except for a Type F Stream running west to eastward along the east perimeter boundary. Historically, the subject property has been logged as recently as 1993. There is a small gravel access road in the northwestern portion of the subject property, parts of which have become overgrown. Aside from the access road, the subject property is undeveloped and designated forest land.

One large wetland (Wetland A) was delineated on the subject property near the proposed homesite. Three additional wetlands were noted on or near the subject property. One wetland is located approximately 230 feet north of the subject property (Wetland D). The other two wetlands are located near the south property line to the southeast, with one wetland (Wetland B) located within the subject property (albeit nearly 700 feet southeast of the proposed single-family residential building site), and one (Wetland C) located immediately offsite to the south within Mason County. In addition to the wetlands, two natural streams were identified within/adjacent to the subject property. Stream 1 is located within the boundary of Wetland A and is located along the western boundary of the subject property. Stream 2 (Ludvik Creek) is located along the eastern boundary of the subject property.

**Table 1 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Single-Family Residence (SFR)	Rural Wooded (RW)
South	Mason County	Mason County
East	SFR	RW
West	Vacant Forest Land	RW

### 5. Access

The property is accessed off an unmaintained private drive via W. Ludvick Rd., intersecting with W. Chinom Point Dr. at the north.

### 6. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan adopted June 30, 2016.

The following Comprehensive Plan goals and policies are most relevant to this application:

*Environment*

*Environmental Goal 3*

*Reduce the risk of damage to life, property and the natural environment through appropriate regulatory and incentive-based approaches in land use, transportation and development engineering programs.*

*Environment Policy 19*

*Explore the possible use of tax incentives to protect beneficial open space, forestry, and agriculture areas through agreed commitments with willing landowners.*

*Parks, Recreation and Open Space Parks Policy 9*

*Identify new and preserve existing open space in rural areas.*

The County's development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 18	Environmental
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 18.12	Open Space Plan
Chapter 21.04	Project Permit Application Procedures

**7. Public Outreach and Comments**

The Notice of Application was mailed to properties within 800' on December 20, 2023. One person called to inquire about the project but mistook it for a Poulsbo residence, therefore had no formal comments.

The Notice of Public Hearing was also mailed to properties within 800' on January 22, 2024, and a sign was posted at the property informing neighbors of the upcoming hearing.

**8. Analysis**

This land is eligible for Open Space classification under the following qualification criteria set forth by the State of Washington Open Space Act, Ch. 84.34 RCW and the Kitsap County Open Space Plan, h. 18.12 Kitsap County Code (KCC):

**a. High-Priority Resources**

Wetlands, Ponds and Streams  
Watershed/Aquifer

**b. Medium-Priority Resources**

None

**c. Low-Priority Resources**

Steep Slopes greater than 15%

The application has been found to be eligible for a 50 percent reduction to the land value. Property qualifying for Current Use Open Space must have at least two sensitive characteristics/resources. This property has three (2) high-priority resources and one (1) low-priority resource. In addition, the property owner does not choose to allow for public access in exchange of the additional 10% tax reduction.

### **9. Additional Tax**

Additional tax may be due when either a portion or all of the property is removed from the Current Use Open Space classification. Additional tax equals the difference between the tax paid under the classification and the tax at true and fair market value for the current year and the last seven years plus interest at 1 percent per month. An additional 20 percent penalty is also imposed if the property is classified less than ten years and two years notice of withdrawal is not supplied or if there is a change in use.

### **10. Review Authority**

The Board of County Commissioners has review authority for this Current Use Open Space application under KCC, Section 21.04.100. In considering applications for Current Use Open Space, the Board shall find that the subject property meets the requirements for eligible lands as defined in KCC, Section 18.12.020.

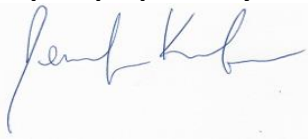
### **11. Recommendation**

Based upon the analysis above, the Department of Community Development recommends that the Simmons Open Space Application request be approved, subject to the following 12 conditions:

1. Land Use Agreement shall be established between the owner and the Granting Authority specifying the conditions. Should the owner sign the agreement, it shall be understood that the owner will comply with the conditions. Failure to comply with said conditions shall be basis for withdrawal of the current use designation, in which case the land shall be subject to the penalty tax referred to in RCW 84.34 and assessed at true market value.
2. This Agreement and any additional agreement(s) may be modified for the purpose of improving the original intent of the agreement(s). Any new agreement must have the consent of the owner and Granting Authority. If a new agreement is not made, the original and additional agreement(s) shall remain in force. This statement does not release the owner of responsibility to comply with the conditions contained within this report.
3. Upon approval, current use taxation would commence in compliance with WAC 458-30-120.

4. There shall be no motorized vehicles, such as dirt bikes, allowed on the site.
5. There shall be no clearing of vegetation on the site. Trail maintenance, noxious weed and hazard tree removal, however, shall be allowed.
6. There shall be no hunting, fishing or trapping.
7. Camping shall not be allowed.
8. There shall be no smoking, campfires or firearms on the site.
9. There shall be no mining, storage or excavation of materials.
10. There shall be no dumping of chemicals, liquids, wastes, trash or junk that might deteriorate the natural character of the land or pollute the water supply.
11. The open space classification for this land will continue if it is primarily devoted to and used as habitat and shoreline protection. The Granting Authority will remove classification if dedication to this purpose ceases to exist.

**Report prepared by:**



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Jenny Kreifels, Planner

January 19, 2024

Date

**Report approved by:**



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Katharine Shaffer, Planning Supervisor

January 19, 2024

Date

**Attachments:**

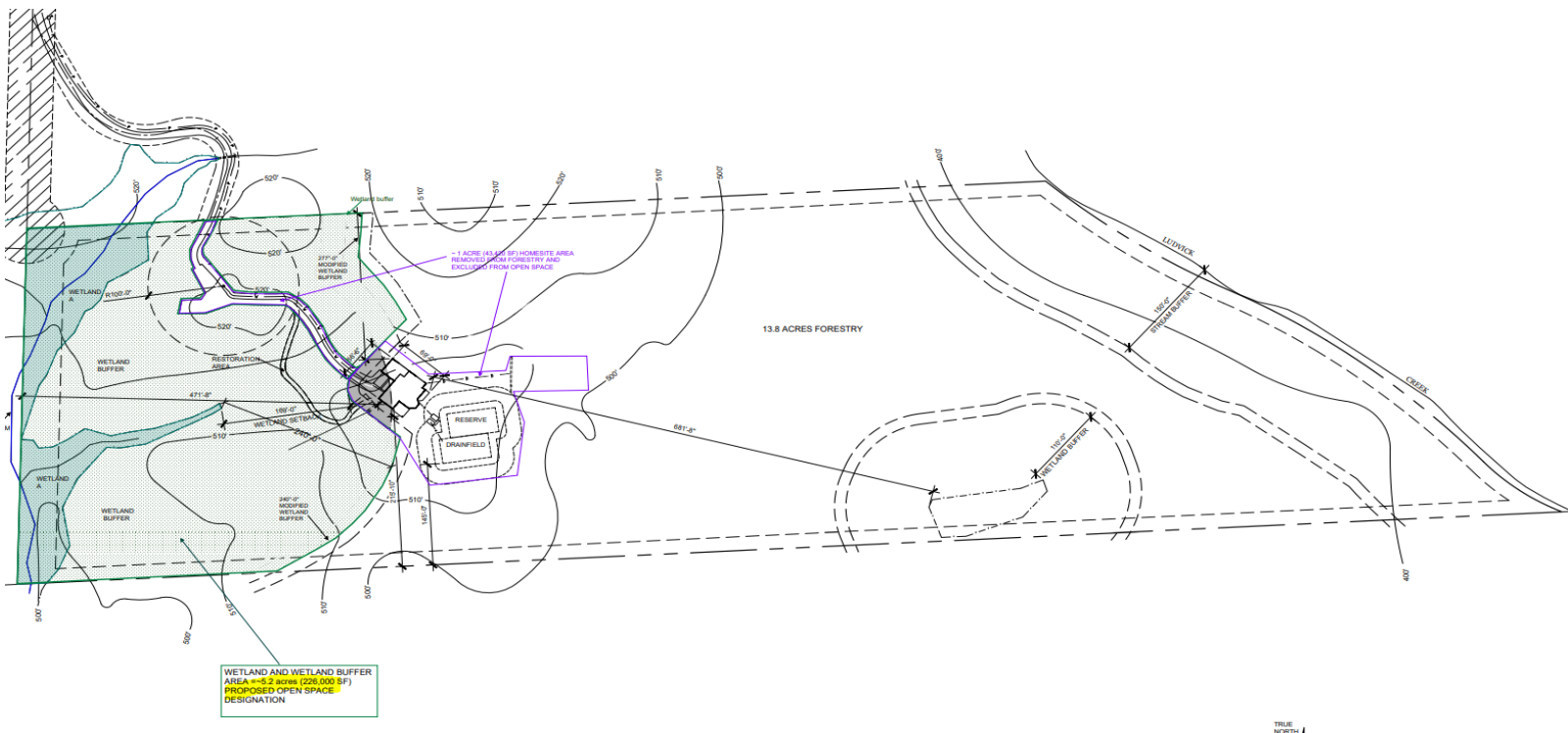
- Attachment A Site Plan
- Attachment B Tax Shift
- Attachment C Critical Areas Map
- Attachment D Zoning Map
- Attachment E Aerial Map

Cc

Applicant/Owner: Erich and Jessica Simmons, [erich@hostedapp.net](mailto:erich@hostedapp.net)

Representative: Estes Builders, [permits@estesbuilders.com](mailto:permits@estesbuilders.com)

### Site Plan



### Tax Shift

**TAX SHIFT ESTIMATE**  
SIMMONS ERICH ALAN & JESSICA KELLY  
312402-3-015-1008

Currently Classified as Designated Forest Land:

Acres:	5.2
DFL Taxable Value:	770
Rate:	7.727227
Current Taxes:	<u>5.95</u>

If Transfer to Open Space is Approved:

Acres:	5.2
Market Value:	59,100
Rate:	7.727227
Open Space Reduction Factor:	50%
Estimated Taxes:	<u>228.34</u>

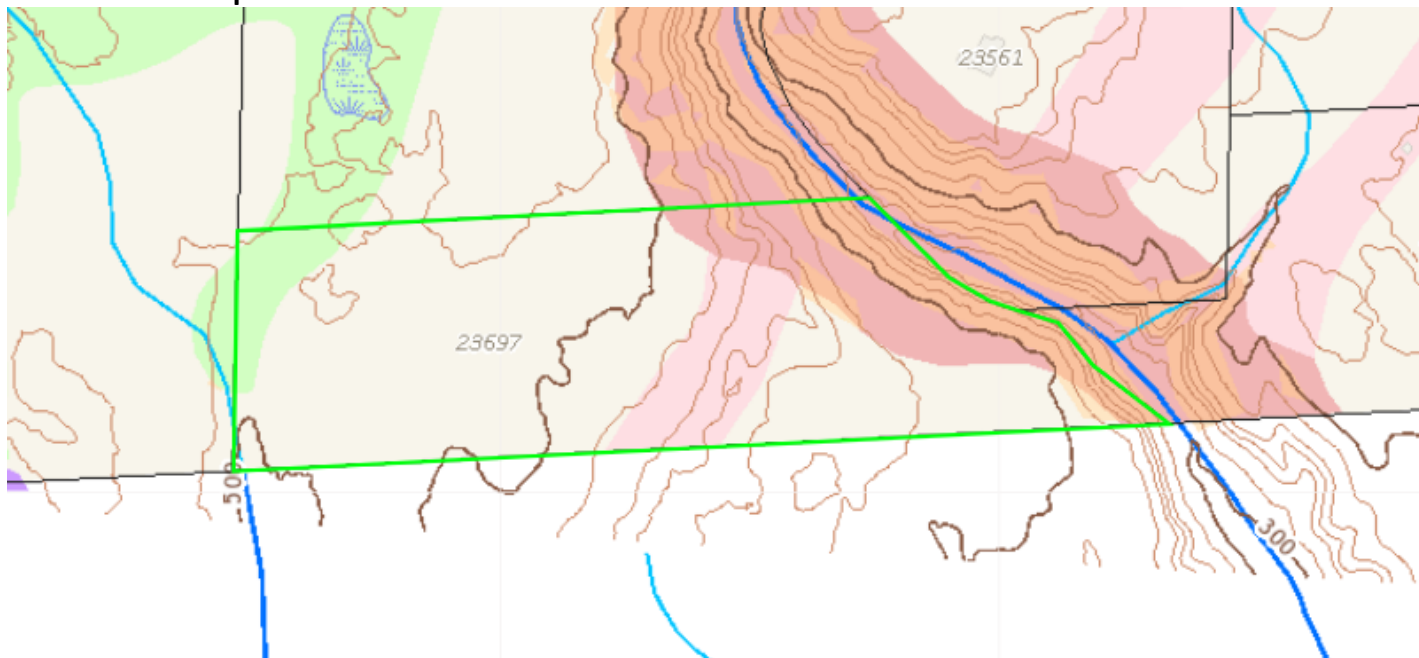
Transfer to Open Space Increases Current Taxes By: **\$222.39**

If No Exemption / Calculated on Full Market Value:

Acres:	5.2
Market Value:	59,100
Rate:	7.727227
Possible Taxes:	<u>456.68</u>

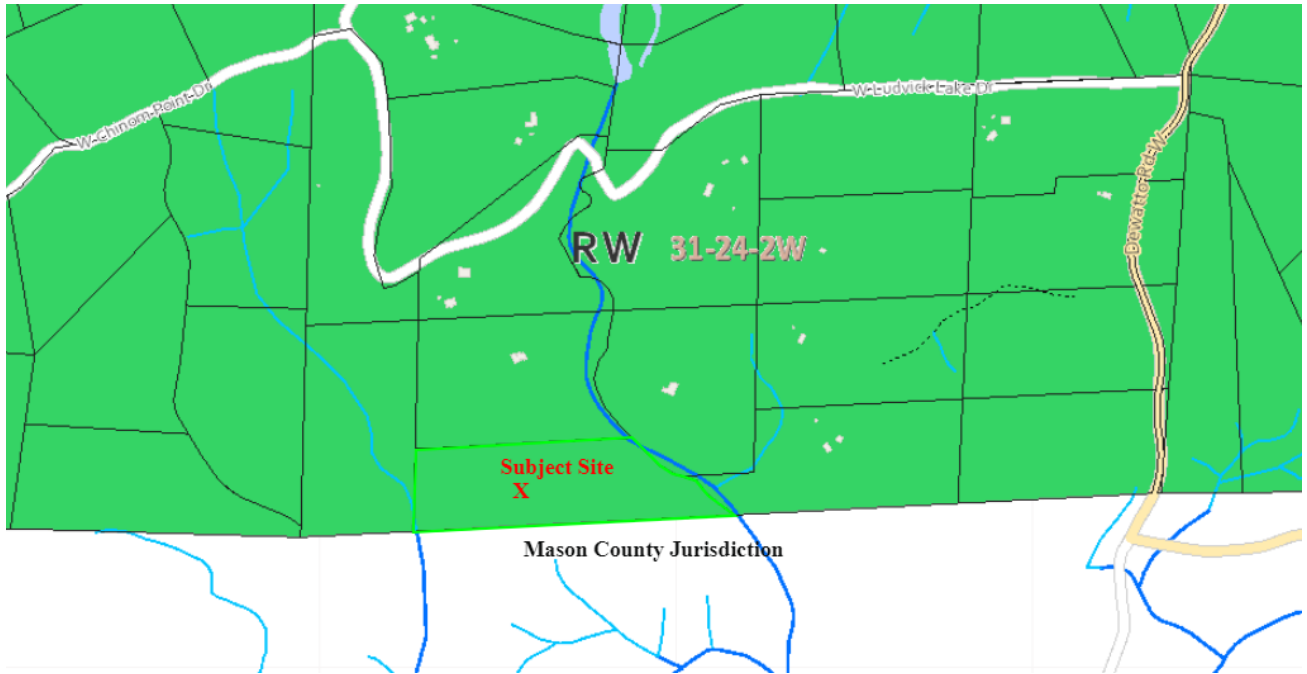
Transfer 5.2 acres from DFL to Open Space  
13.44 acres remain in DFL  
1 acre home site is fully taxable

**Critical Areas Map**



**Zoning Map**





**County Aerial 2021**

