

BEFORE THE OKANOGAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)
Breeze Open Space Application)
OSOS2018-01)

FINDINGS OF FACT, CONCLUSIONS, AND DECISION

This matter, an application for a long plat alteration was heard by the Okanogan County Hearings Examiner on January 10, 2019.

APPLICATION OVERVIEW

Janis Breeze applied for a transfer from Current Use Agriculture to Open Space tax classification farm and agriculture conservation on approximately 40 acres on parcel 2923343002.

The property is located off of Antoine Creek Rd, approximately 14 miles southwest of Pateros. The property can be identified as parcel number 2923343002 located in Section 34, Township 29N, Range 23E, Willamette Meridian.

All lands within the county are eligible to be reviewed for enrollment in this program, provided:

- 1) The property is designated by the county comprehensive plan or any amendment to it; and
- 2) The property is no less than 10 acres and contains at least one high priority resource as described in OCC 14.08.150A, or contains a minimum of 159 acres; and
- 3) The property meets the minimum enrollment requirements of the public benefit rating system found in OCC 14.08.140; and
- 4) All fees, assessments, and taxes are paid in full; and
- 5) The property shall be in full compliance with all provisions of this chapter, and all applicable Okanogan County codes.

FINDINGS OF FACT

1. This application was vested, and reviewed in accordance with applicable provisions of Okanogan County Code, Chapter 14.08, "Open Space Open Space Program";
2. On November 7, 2018 a complete application for Open Space, Open Space was vested.
3. The Comprehensive Plan Designation for the property is Rural Resource.
4. The Zoning Designation for the property is Rural 5;

5. The property is in compliance with all current land use codes;
6. Notice of the Application and Public Hearing was mailed to adjacent landowners on November 27, 2018;
7. Copies of the application, along with notice of the Okanogan County Regional Planning Commission's public hearing, was mailed and emailed to commenting agencies on November 27th and 28th, 2018;
8. Notice of the Application and Public Hearing was published in the Methow Valley News on November 28, 2018;
9. Notice of the Application and Public Hearing was published in the Gazette Tribune on November 29, 2018;
10. On December 20, 2018 a Staff Report was prepared by the Office of Planning and Development and forwarded to Okanogan County Hearing Examiner and landowner.
11. All comments received were taken into consideration;
12. The entire planning department file was made a part of the official record.
13. On January 10, 2019, the Okanogan County Hearing Examiner conducted a public hearing for this project. At said hearing, the applicant, County staff, and public were given an opportunity to enter testimony into the record.
14. The planning staff was represented by Angie Hubbard and Perry Huston, joined by County Assessor Larry Gilman.
15. The applicant was represented by Alex Thomason, Attorney at Law.
16. All testimony, other than legal argument was taken under oath.
17. Mr. Gilman testified that he didn't think that the parcel in question, standing alone, met the criteria to qualify for approval as OSOS. Mr. Thomason testified that the applicant owns substantial acreage adjoining the subject parcel but located in Chelan County, a fact that was not included in the staff report.¹ After much discussion between the Hearing Examiner, Mr. Gilman, and Mr. Thomason, it was agreed that the property in Chelan County should be considered in determining the veracity of the application, particularly if this land is grazed and has "a high potential of returning to agricultural production."
18. No members of the public testified at the hearing.

¹ The southerly boundary of the parcel applied for is the southerly border of Okanogan County; reference is made to the staff report for more details of the application

19. At the close of the hearing, the record was left open until January 18 for the applicant to provide additional details of how they plan to return the land to agricultural production. A declaration of the applicant and the applicant's husband were received by the Hearing Examiner on Jan. 17, 2019.
20. The declaration received by the Hearing Examiner substantially clarified the intent of the applicants.
21. The Hearing Examiner is authorized to hear this matter and offer a recommendation to the Okanogan County Board of commissioners, which body has final approval authority.

CONCLUSIONS

1. When considered in conjunction with other properties adjoining in Chelan County, this application for parcel 2923343002 has met the minimum enrollment qualification requirements of the Open Space Tax Act (RCW 84.34) and the Open Space Open Space Program (Okanogan County Code 14.08).
2. The property (parcel 2923343002) that is the subject of this Open Space Open Space application is devoted to conserve and enhance natural or scenic resources, protect streams or water supply, promote conservation of soils, wetlands, beaches or tidal marshes, enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, and enhance recreational opportunities and when considered with adjoining properties owned in Chelan County has a high likelihood of returning to agricultural production.²
3. The Breeze Open Space Open Space 2018-1 tax classification application is compatible with the Comprehensive Plan designation and the Zoning classification for the area in which the subject property is located.
4. This application is in compliance with all goals and policies of all current Okanogan County Land Use Codes.
5. The Breeze Open Space Open Space 2018-01 tax classification application, as amended by additional declarations, complies with all application requirements of Okanogan County Code, Chapter 14.08 "Open Space Open Space Program".
6. The Breeze Open Space Open Space 2018-01 tax classification application is complete, and fees have been paid in accordance with Okanogan County Code, Chapter 14.08, "Open Space Open Space Program", and RCW 84.34 "Open Space, Agricultural, Timber Lands—Current Use—Conservation Futures".

² Reference is made to earlier noted declarations.

7. All procedural requirements have been met for this application in accordance with OCC 14.08
8. The conditions imposed are not unnecessarily onerous.
9. Comments from the public and state, federal, and local agencies were received, reviewed, and considered in analysis of this proposal.

DECISION

Based upon the information contained in the application materials, and additional information provided at the hearing and declarations timely received while the record remained open, **it is recommended that OSOS 2018-01 be approved**, subject to the conditions noted below:

CONDITIONS OF APPROVAL

1. Access to the property shall be available to the public on a year-round basis. The landowner shall purchase official Open Space Open Space signage from the county and maintain signs at landowner expense:

“This property is part of the Open Space / Open Space Program. Public access is available on a year-round basis.”

2. Any alteration or expansion in the nature and scope of the Open Space Open Space requirements are required to be reviewed by the Okanogan County Planning Director to determine whether the expansion is consistent with that allowed by this tax agreement. Any expansion beyond the intent and scope of this tax agreement will require revision through the Okanogan County Hearing Examiner, and the Okanogan Board of County Commissioners.
3. Property which has been approved under the Chapter, but which is found to be in violation of any terms of the Open Space Agreement or condition of enrollment, may be removed from the Program and all applicable fees, penalties, and interest shall become due pursuant to RCW 84.34.
4. All taxes are to be current for present year prior to tax agreement being signed.

Dated this 18th day of xxx, 2019.

OKANOGAN COUNTY HEARING EXAMINER



DAN BEARDSLEE