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COMMUNITY PLANNING &

ECONOMIC DEVELOPMENT DEPARTMENT

Creating Solutions for Our Future

Joshua Cummings, Director

MEMORANDUM

TO: Thurston County Planning Commission
FROM: Marisa Whisman, Associate Planner
DATE: April 5, 2023
SUBJECT: Work Session #1: Terry Open Space application

SUMMARY & DECISION POINTS

This is work session #1 on this topic. At this work session, staff will present an overview of the proposed Open Space application currently in review for the Terry property.

Staff requests the following from the Planning Commission:

- Provide any questions about the application or overall process.
- Set a public hearing for May 3, 2023, on the Terry Open Space application.

BACKGROUND

Thurston County's Open Space Tax Program is guided by the Open Space Taxation Act, enacted by the Washington State Legislature in 1971. Under this act, county governments are required to conserve open space lands, and tax reductions are granted for qualifying properties meeting the criteria in RCW 84.34. Tax reductions are based on a change in property valuation from highest and best use to current use for taxation purposes.

Thurston County's Open Space Tax Program includes two categories operated by the County Assessor and two categories operated by the Board of County Commissioners (Board). The Board's Open Space program uses a public benefit rating system to score applications, which provides points based on the number and type of open space resources on the property. The total score determines the percent tax reduction. Supporting documents such as Habitat Management Plans must be included with the application materials as verification that the property meets the criteria for the resource categories included in the application. Homesites and other non-resource areas

are generally ineligible for Open Space enrollment, and the minimum acreage subtracted must be at least one acre.

According to the Thurston County Open Space Tax Program Guidelines, applicants applying for enrollment under the Fish and Wildlife Habitat priority resource categories, such as 'Significant Wildlife Habitat Area,' must submit a habitat assessment and habitat management plan prepared by a qualified professional.

TERRY OPEN SPACE APPLICATION

Staff is currently processing the Terry Open Space application. The Terry property is located at 8512 Spurgeon Creek Rd. SE in Olympia, WA, south of Yelm Highway SE, north of Rainier Rd. SE, and immediately north of Fox Ridge Ln. SE, in the Deschutes Water Resource Inventory Area (WRIA 13) and the Spurgeon Creek basin. The Terry property contains over 900 linear feet of Spurgeon Creek, classified as a Type F, fish-bearing stream, two 0.15-acre ponds, and is mapped almost entirely with wetlands, with no onsite structures. Additionally, the property lies within the McAllister Geologically Sensitive Area (MGSA) district and is mapped as a Critical Aquifer Recharge Area. Due to the features described above, the applicant wishes to enroll his entire 12.84-acre property in Open Space-Open Space under the Significant Wildlife Habitat Area priority resource category for 3 points and a 50% reduction in market value, with no public access.

SUMMARY OF CHANGES

The applicant wishes to enroll their 12.84-acre property under the Board's Open Space-Open Significant Wildlife Habitat Area priority resource classification.

RELEVANT STATE LAW & POLICIES

The Terry property meets the criteria for enrollment under the Board's Significant Wildlife Habitat Area priority resource category, scoring 3 points in the Public Benefit Rating System. This makes the enrolled land eligible for a 50% tax reduction. This assessment is based on the following factors included in RCW 84.34 and the Thurston County Open Space Program Guidelines:

- The property Contains a Type F/Type 1 stream known to support a variety of salmon species, including Deschutes Coho, a candidate for federal listing and a Critical Areas Ordinance (CAO) Important Species
- The property is almost entirely covered with wetland, which provides crucial habitat to Coho and other salmon associated with Spurgeon Creek during rearing life stages, and other CAO Important Species and WDFW Priority Species have been observed or documented using the site.
- Supporting documents were submitted with the application materials, including a Habitat Management Plan prepared by a qualified biologist, showing measures that will be taken to enhance and protect the critical areas onsite.

NEXT STEPS

Staff anticipates the following schedule for review of the proposed Open Space application:

- April 5, 2023 – Work Session #1 and tentative request to set a public hearing.
- May 3, 2023 – Hold Public Hearing & Follow-up Work Session for Planning Commission recommendation to the Board.

ATTACHMENTS

- Attachment A – Terry Application Package
- Attachment B – Aerial map of property
- Attachment C – Vicinity Map



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Thurston County Planning Department

2000 Lakeridge Dr. SW
Olympia, WA 98502
(360)754-3355 / (360)754-2939 (Fax)
Email: permit@co.thurston.wa.us
www.co.thurstonplanning.org

**OPEN SPACE CLASSIFICATION APPLICATION
FOR CURRENT USE-BASED PROPERTY TAX ASSESSMENT**

IMPORTANT: Please read the Instructions, Things to Know, and Eligibility Criteria sheets before completing this form.

Name(s) of Applicant(s) James Terry Jr.

Mailing Address 5238 Boston Harbor Rd NE
Olympia WA 98506

Day Phone Number(s) 360 790 4120
360 236 0881

Tax Parcel Number(s) 11714110000

General Location of Property

8512 SPURGEON CREEK RD SE Olympia WA

1. Legal Interest in Property:

☒ Owner ☐ Contract Purchaser ☐ Other (Describe) _____

2. Total Acreage of Property 12.84

3. Acreage to be Enrolled in Open Space Program 12.84

4. What is the Property Currently Used for? Not Used

5. What kind of public access do you propose? (Note: Public access is not required for program eligibility.)

☒ **None**

☐ **Partial Access** (1 point): Public access on a seasonal basis or access by members of the organization utilizing the facility.

☐ **Substantial Access** (2 points): Year-round access to members and available to the public upon special arrangement. Any user fees may not exceed three times the average cost for members.

☐ **Unlimited Access** (4 points): Year-round access to the public without special arrangement.

Please describe or explain:

6. Do you propose to apply a conservation easement or historic easement to your property?

- ☐ Yes (type: _____) Does one exist now? ☐ Yes (type: _____)
☒ No ☐ No

Who will hold (or does hold) the easement? _____

7. **Before completing this part of the application**, use the blue "Eligibility Criteria Checklist" to determine if your property qualifies for any of the Priority Resource categories. (Property must be eligible for at least one Priority Resource and at least 3 points in order to be classified as open space.) Use the list below to indicate which Priority Resource categories you can document eligibility for. Refer to the gray "Help List" for sources of assistance, if needed.

HIGH PRIORITY RESOURCES (3 points each)

Acres

- _____ a. Archaeological Sites
- _____ b. Farm and Agricultural Conservation Land (FACL)
- 12.84 ~~c. Fish-Rearing Habitat—Ponds and Streams~~ MW
- 12.84 ~~d. Geological and Shoreline Features~~ MW
- _____ e. Historical Sites
- _____ f. Private Recreation Areas
- _____ g. Rural Open Space Close to Urban or Growth Areas
- 12.84 h. Significant Wildlife Habitat Areas
- 12.84 ~~i. Special Plant Sites~~ MW
- _____ j. Urban or Growth Area Open Space

MEDIUM PRIORITY RESOURCES (2 points each)

Acres

- _____ a. Public Land Buffers
- _____ b. Scenic Vista or Resources

LOW PRIORITY RESOURCES (1 point each)

Acres

- _____ a. Resource Restoration

8. **IMPORTANT! Read all of the following information regarding tax liabilities before signing this application form.**

You will owe to the County the following additional taxes, interest and penalties when your property is removed or withdrawn from current use classification. The following is a summary of state law. Consult RCW Chapter 84.34 for details.

STATEMENT OF ADDITIONAL TAX, INTEREST, AND PENALTY DUE UPON REMOVAL OF CLASSIFICATION:

- A. 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.
 - c. A penalty of 20% shall be applied to the additional tax if the classified land is applied to some other use except through compliance with the property owner's request for withdrawal process, or except as a result of those conditions listed in (B) below.
- B. The additional tax, interest, and penalty specified in (8A) above 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)(e) (farm homesite).
- 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 fee interest or a conservation easement for the riparian open space program 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.

Removals and withdrawals from the program are processed by the Thurston County Assessor.

I (We) the undersigned, swear under the penalty of perjury, that I (We) am (are) the owner(s) or contract purchaser(s), of the land described above and that the above responses are made truthfully and to the best of my (our) knowledge. I (We) also understand that, should there be willful misrepresentation or willful lack of full disclosure on my (our) part, the granting authority, which may hereafter classify said land under the provisions of Chapter 84.34 RCW, may subsequently remove the classification. In addition, I (we) am (are) aware of the potential tax liability described above.

DATE: 9/8/21

OWNERS: 


SUBSCRIBED and SWORN to before me this 8th day of SEPTEMBER, 2021.





Notary Public in and for the State of Washington, residing in Thurston County

JAMES TERRY JR
5238 BOSTON HARBOR ROAD SE
OLYMPIA, WA 98506

Real Estate Excise Tax Paid None
By D. Dougherty Deputy

QUITCLAIM GIFT DEED

THIS QUITCLAIM GIFT DEED IS MADE THIS 23RD DAY OF APRIL, 2014, BY THE TERRY FAMILY LIVING TRUST, ETHEL M. TERRY, TRUSTEE, GRANTOR, RESIDING IN THE STATE OF WASHINGTON, IN FAVOR OF, JAMES TERRY JR. INDIVIDUALLY, GRANTEE. THIS QUITCLAIM GIFT DEED IS ISSUED FOR LOVE AND AFFECTION OF ETHEL M. TERRY, TRUSTEE FOR THE TERRY FAMILY LIVING TRUST, FOR HER SON, JAMES TERRY JR. THIS QUITCLAIM GIFT DEED CONCERNS THAT CERTAIN REAL ESTATE PROPERTY LOCATED AT AND COMMONLY KNOWN AS 8512 SPURGEON COUNTY ROAD RD. SE., OLYMPIA, WA, 98513, AND LEGALLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 17 NORTH, RANGE 1 WEST, W.M., LYING EASTERLY OF COUNTY ROAD KNOWN AS SPURGEON CREEK ROAD; EXCEPTING THEREFROM THE NORTH 730 FEET. ALSO EXCEPTING THEREFROM THE NORTH 387.2 FEET OF THE SOUTH 447.2 FEET OF THE EAST 225 FEET OF SAID PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER LYING SOUTHERLY OF THE NORTH 730 FEET THEREOF. SITUATE IN THURSTON COUNTY, WASHINGTON.

THE COUNTY ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER IS

11714110000.

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GRIFFIN & WILLIAMS, P.S. ATTORNEYS AT LAW
253-460-2973





Assessor's Section Map

Legend

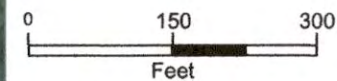
- Parcel Boundaries
- Roads - Major
 - Major Roads
 - Ramp
 - I 5; US 101
- Roads (Large Scale)
- Railroads
- County Border

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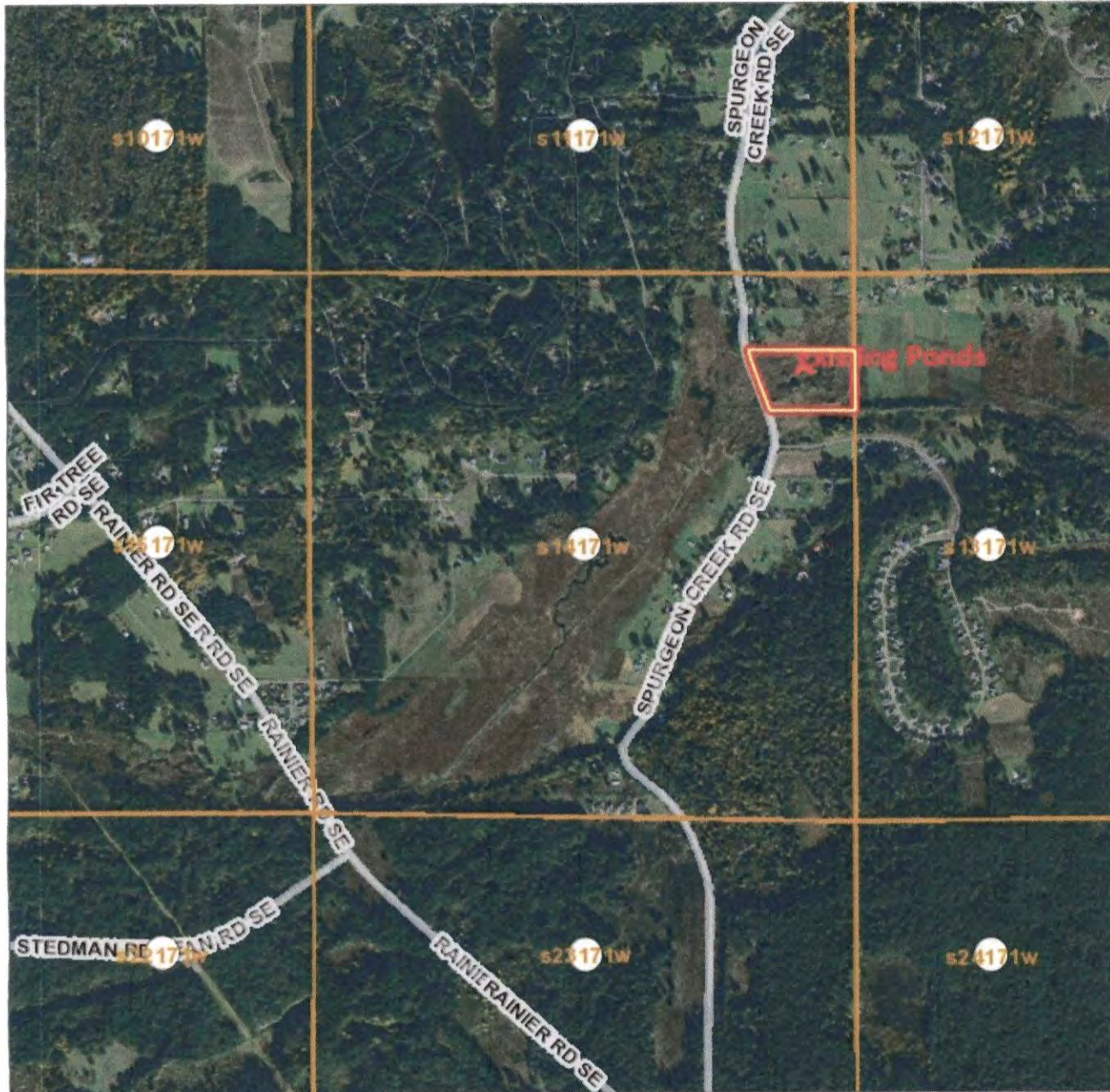
Map Created Using GeoData Public Website

Published: 9/7/2021

Note:



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Aerial Photo

Legend

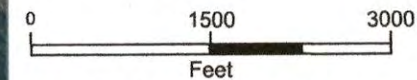
- Sections - Public Land Survey System
- Roads - Major
 - Major Roads
 - Ramp
 - I 5; US 101
- Roads (Large Scale)
- Railroads
- County Border

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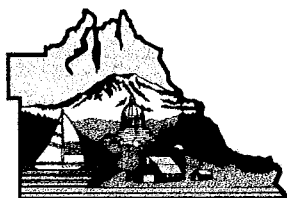
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The 12.84 acre parcel is a wetland, containing two spring/Spurgeon Creek fed ponds. The parcel includes a fish-rearing habitat, significant wildlife habitat, and protected plant life. The area could also be a significant archaeological site. With regard to the native history for the Squaxin and Nisqually tribes. During the time my family has own this property the ponds have never gone dry. The Thurston County Shoreline Master Program has identified this parcel as being a Rural Conservancy. Apparently, someone agrees with maintaining his parcel as an open space.

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THURSTON COUNTY
DEVELOPMENT SERVICES

OPEN SPACE TAX PROGRAM

ELIGIBILITY CRITERIA CHECKLIST OPEN SPACE CLASSIFICATION

Use this checklist to help you determine whether your property is eligible for open space classification. For assistance in obtaining information you need, see the Help List.

The following list includes the Priority Resources of the Thurston County Public Benefit Rating System. The checklist embodies the eligibility criteria for each Priority Resource.

- ♦ Where a criterion ends with "**AND**" the following additional criterion must be met.
- ♦ Criteria separated by "**OR**" indicate that either criterion (or set of criteria) is sufficient to qualify.

Your rating may not exceed 9 points from this list of Priority Resources. Also, your public benefit rating is limited to a maximum of 3 Priority Resources from the list.

HIGH PRIORITY RESOURCES (3 points each)

a. Archaeological Sites

☐ Is the site on file with the Washington State Office of Archaeology?

OR,

☐ Has an archaeologist determined the site to be eligible for open space classification? **AND**

☐ Has the site been accepted for inclusion in the State's inventory?

b. Farm and Agricultural Conservation Land (FACL)

☐ Has the land been previously classified as agricultural land, but now is no longer eligible for continued classification as agricultural land? **AND**

☐ Has the County Assessor notified you that the land will be removed from agricultural classification because it is no longer eligible? **AND**

- ☐ Is any contiguous upland area (defined as land outside the ordinary high water mark or any associated wetland or flood plain) limited to the equivalent of one acre per 100 feet of shoreline length, or four times the pond or wetland area? (Note: upland area beyond these limits is not eligible for classification and must be excluded) **AND**
- ☐ Is the land also eligible as Fish-Rearing Habitat for open space classification? (Note: land may not receive points in both categories.) **AND**
- ☐ Do you have a Habitat Management Plan developed by a qualified wildlife habitat biologist, that you will agree in writing to follow, and that contains the required elements listed above?

OR,

- ☐ Is the site within the "canyon", "drainage ditch buffer", or "associated wetland of Black Lake" as identified in the Percival Creek Corridor Plan of 1986? **AND**
- ☐ Do you have a Habitat Management Plan developed by a qualified wildlife habitat biologist, that you will agree in writing to follow, and that contains the required elements listed above?

OR,

- ☐ Does the site contain Class I wetlands regulated under the Thurston County Critical Areas Ordinance (TCC 17.15)? **AND**
- ☐ Do you have a Habitat Management Plan developed by a qualified wildlife habitat biologist, that you will agree in writing to follow, and that contains the required elements listed above? **AND**
- ☐ Has the Class I wetland been confirmed by either an appropriate state agency or a competent professional whose findings are substantiated by the appropriate state agency?

OR,

- ☒ Does the site contain important habitats or species regulated under the Thurston County Critical Areas Ordinance (TCC 17.15)? **AND**
- ☒ Do you have a Habitat Management Plan developed by a qualified wildlife habitat biologist, that you will agree in writing to follow, and that contains the required elements listed above? **AND**
- ☒ Has the important habitat or species site been confirmed by either an appropriate state agency or a competent professional whose findings are substantiated by the appropriate state agency?

☐ Is the site at least 40 acres in size? **AND**

☐ Is the site visible to significant numbers of the general public from a public right-of-way?

OR,

☐ Is the area visible from a public right-of-way designated as scenic highway or byway by a local, state, or federal government agency; **AND**

☐ Is the site of sufficient size to substantially preserve the scenic resource value?
AND

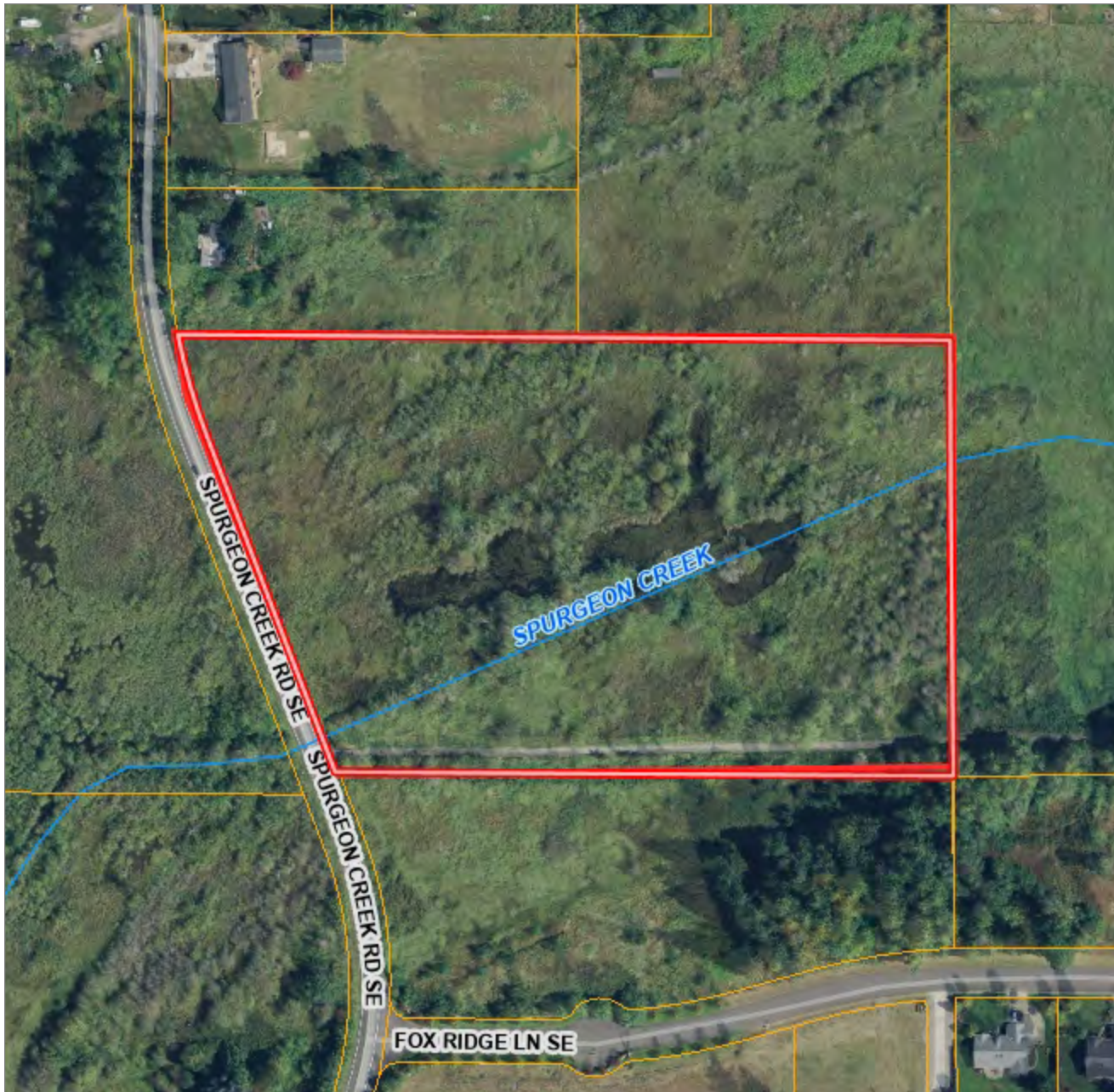
☐ Is the site at least 40 acres in size?

LOW PRIORITY RESOURCES (1 point each)

a. Resource Enhancement

☐ Is the resource being enhanced eligible for open space classification; **AND**

☐ Do you have an enhancement plan developed in cooperation with the Natural Resources Conservation Service (USDA), the U.S. Fish and Wildlife Service, and/or the Washington State Department of Fish and Wildlife, which contains clear steps and timelines for completion?

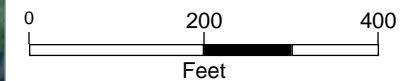


Terry Property

Legend

- Parcel Boundaries
- Streams
- Roads - Major
 - Ramp
 - I 5; US 101
 - Major Roads
- Roads (Large Scale)
- Railroads
- County Border

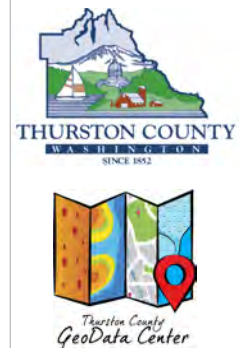
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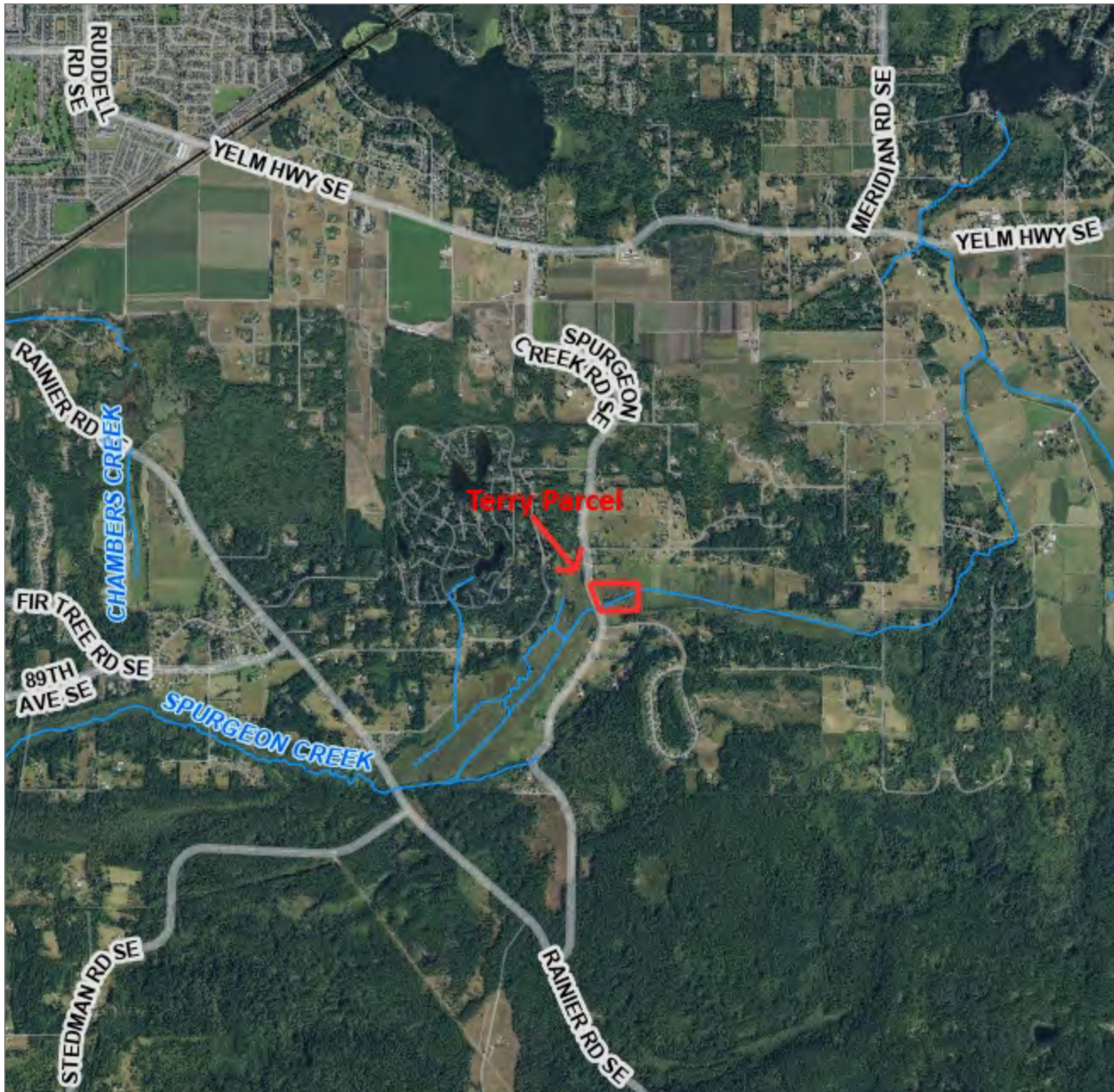
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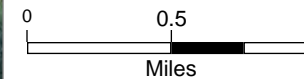


Terry Vicinity Map

Legend

— Streams

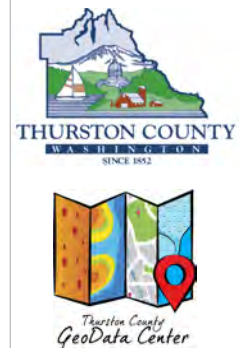
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