

Return to:
Hearing Examiner

JERRY MCINTURFF
SKAGIT COUNTY AUDITOR

9201070050

OS 91 002.REC

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SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

RECORDED _____ FILED _____
HEARING EXAMINER *Hearing Examiner*

In the matter of:
Timber Open Space Application
of BENJAMIN TARCHER
inclusion of 19 acres in the
Timber Open Space Classification

)
) Findings of Fact
) Recommendation
) No. OS 91 002
)
)
)

This matter having come regularly before the Skagit County Hearing Examiner for a Public Hearing under an application filed with the Skagit County Department of Planning and Community Development on behalf of the Applicant requesting an Open Space Timber Classification as described and located in the attached Report and Findings of the Skagit County Department of Planning and Community Development,

And, notice having been given to all property owners within 300 feet of said property, the property having been posted in accordance with Chapter 14.04 of the Skagit County Code, the public hearing advertised in accordance with Chapter 14.104 of the Skagit County Code, and all matters in the file having been considered together with the testimony, evidence, and exhibits in open hearing and made a part of the record in this matter, the Hearing Examiner makes the following findings of fact.

FINDINGS OF FACT

1. February 20, 1991 was fixed as the date of the public hearing and the Hearing Examiner held a public hearing on that date.
2. All persons present at the Public Hearing were given an opportunity to present evidence and testimony, and all correspondence received was read and made part of the record.
3. The Hearing Examiner adopts the findings of the Department of Planning and Community Development as presented in the attached Report and Findings of that Department.
4. The subject property is not located in an area of flood hazard.
5. The applicant has had a Timber Management Plan prepared by Henry Campbell, Consulting Forester, Forestland & Resource Associates.
6. Chapter 8.34.020, Revised Code of Washington, provides the following information:
 1. (1) "Open Space Land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county accordingly or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, (iii) promote conservation of soils, wetlands, beaches, or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) retain in its

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natural state tracts of land not less than five acres situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification.

7. The Hearing Examiner has reviewed this application with respect to the above definitions and other requirements of the Skagit County Code and the Revised Code of Washington.

CONCLUSIONS

The Hearing Examiner, having duly considered the matter, including all the evidence presented and on file, comments from interested persons, information and comments from other county departments affected and from the Prosecuting Attorney; independent studies of the Planning Department, and the evidence presented at the public hearing; finds that the application has been reviewed in accordance with the definitions and requirements referenced above and has been found to be compatible with those criteria.

RECOMMENDATION

The Hearing Examiner recommends APPROVAL of the application for inclusion of the subject property in the Timber Open Space Classification.


Robert C. Schofield
Skagit County Hearing Examiner

Date of Recommendation: March 1, 1991

Copies Transmitted to Applicant: March 1, 1991

Attachment: Staff Report and Findings

C (with attachment): Applicant, Applicant File, Board of County Commissioners, Hearing Examiner

AGENDA ITEM: D
SKAGIT COUNTY HEARING EXAMINER
PUBLIC HEARING DATE: FEBRUARY 20, 1991
APPLICATION FOR: OPEN SPACE TIMBER NUMBER 91-002
APPLICANT NAME: BENJAMIN TARCHER
ADDRESS: 900 MASON STREETE
BELLINGHAM, WA 98225

PROJECT LOCATION: The property is located South of Larabee State Park, North of Chuckanut Drive, within a portion of Section 8, Township 36 North, Range 3 E.W.M., Skagit County, Waashington.

PROJECT DESCRIPTION: Open Space Timber request to allow the inclusion of approximately 19. acres in the Timber Open Space Program.

STAFF FINDINGS:

1. The subject property is zoned Forestry and the Northwest District Comprehensive Plan designates the area as Forestry.
2. The public hearing has been advertised in accordance with the requirements of Chapter 14.04 of the Skagit County Code.
3. The subject property is located out of any designated flood hazard areas.

It should be noted that a portion of the property is designated unstable by the Coastal Zone Atlas of Washington prepared by The Washington State Department of Ecology.

4. The subject property is a total of approximately 19 acres in size.
5. The applicant is requesting inclusion in the Timber Open Space Program of approximately 19 acres.
6. The site is accessed from Chuckanut Drive. It is in a rural/residential area of the County with a variety of parcel sizes with and without residential development.
7. The applicant has submitted a Timber Management Plan prepared by Henry Cambell of Forestland and Resource Associates

RECOMMENDATIONS:

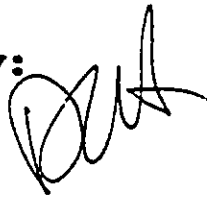
Based on the above findings, the Department of Planning and Community Development would recommend approval of the request for

inclusion into the Timber Open Space Program with the following conditions.

1. The applicant shall comply with the Timber Management Plan as submitted to the Department of Planning and Community Development.

Prepared by:

Approved by:



Return to:
Hearing Examiner

**OPEN SPACE TAXATION AGREEMENT
CH. 84.34 RCW
(TO BE USED FOR "OPEN SPACE" OR "TIMBER LAND" CLASSIFICATION ONLY)**

This Agreement between Benjamin Tarcher
hereinafter called the "Owner", and Skagit County
hereinafter called the "Granting Authority".

Whereas the owner of the following described real property having made application for classification of that property under the provisions of CH. 84.34 RCW.

Assessor's Parcel or Account Numbers: 083603-2-001-0002

Legal Description of Classified Land: See attached Exhibit "A"

And whereas, both the owner and granting authority agree to limit the use of said property, recognizing that such land has substantial public value as open space and that the preservation of such land constitutes an important physical, social, esthetic, and economic asset to the public, and both parties agree that the classification of the property during the life of this Agreement shall be for:

OPEN SPACE LAND TIMBER LAND

Now, therefore, the parties, in consideration of the mutual covenants and conditions set forth herein, do agree as follows:

1. During the term of this Agreement, the land shall be used only in accordance with the preservation of its classified use.
2. No structures shall be erected upon such land except those directly related to, and compatible with, the classified use of the land.
3. This Agreement shall be effective commencing on the date the legislative body receives the signed Agreement from the property owner, and shall remain in effect for a period of at least ten (10) years.
4. This Agreement shall apply to the parcels of land described herein and shall be binding upon the heirs, successors and assignees of the parties hereto.
5. **Withdrawal:** The land owner may withdraw from this Agreement if, after a period of eight years, he or she files an irrevocable request to withdraw classification with the assessor. Two years from the date of that request the assessor shall withdraw classification from the land, and the applicable taxes and interest shall be imposed as provided in RCW 84.34.070 and 84.34.108.
6. **Breach:** After the effective date of this Agreement, any change in use of the land, except through compliance with items (5) or (7) shall be considered a breach of this Agreement, and shall be subject to removal of classification and liable for applicable taxes, penalties, and interest as provided in RCW 84.34.080 and 84.34.108.
7. A breach of Agreement shall not have occurred and the additional tax shall not be imposed if removal of classification 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 such power in anticipation of the exercise of such power.
 - (c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.
 - (d) 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.
 - (e) Official action by an agency of the State of Washington or by the county or city where the land is located disallowing the present use of such land.
 - (f) Transfer to a church when such land would qualify for property tax exemption pursuant to RCW 84.36.020.
 - (g) 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 (5)(g)).
8. The county assessor may require an owner to submit data relevant to continuing the eligibility of any parcel of land described in this Agreement.



This Agreement shall be subject to the following conditions:

Applicant shall comply with the Timber Management Plan prepared by Henry Campbell as submitted to the Skagit County Department of Planning and Community Development.

It is declared that this Agreement specifies the classification and conditions as provided for in CH. 84.34 RCW and the conditions imposed by this Granting Authority.

Dated _____

Granting Authority:

W.W. Vaux QWR
City or County

W. W. VAUX, CHAIRMAN, BOARD OF
Title COMMISSIONERS

As owner(s) of the herein described land I (we) indicated by my (our) signature(s) that I (we) are aware of the potential tax liability and hereby accept the classification and conditions of this Agreement.

Dated 12/19/91

Benjamin D. Tucher
Owner(s)

(Must be signed by all owners)

Date signed Agreement received by Legislative Authority _____

Prepare in triplicate with one completed copy to each of the following:
Owner(s)
Legislative Authority
County Assessor

TAECHER

EXHIBIT "A"

788-36-3
LOT 33

The land referred to in this report/policy is situated in the State of Washington, County of Skagit, and is described as follows:

All that portion of Section 8, Township 36 North, Range 3 East of the W.M., Skagit County, Washington, lying Northerly and Easterly of Chuckanut Drive (SR 11), and Northerly and Westerly of the following described line:

Commencing at the Southeast corner of said Section 8; thence North 00°01'47" East, along the East line thereof, for a distance of 2645.79 feet to the East $\frac{1}{2}$ corner of said Section 8; thence North 00°03'16" East, continuing along said East line, for a distance of 2645.36 feet to the Northeast corner of said Section 8; thence North 89°13'20" West, along the North line of said Section 8, for a distance of 2639.88 feet to the North $\frac{1}{2}$ corner of said Section 8; thence North 89°13'20" West, continuing along the North line of said Section 8, for a distance of 66.65 feet to the true point of beginning of said described line; thence South 65°24'06" West for a distance of 177.84 feet; thence South 02°11'43" West for a distance of 461.79 feet; thence South 65°24'06" West for a distance of 1935.63 feet, more or less, to the Northeasterly right-of-way margin of Chuckanut Drive and the end of said described line;

EXCEPTING THEREFROM all that portion of said Section 8 lying Northerly and Westerly of the following described line:

Commencing at the Southeast corner of said Section 8; thence North 00°01'47" East, along the East line thereof, for a distance of 2645.79 feet to the East $\frac{1}{2}$ corner of said Section 8; thence North 00°03'16" East, continuing along said East line, for a distance of 2645.36 feet to the Northeast corner of said Section 8; thence North 89°13'20" West, along the North line of said Section 8, for a distance of 2639.88 feet to the North $\frac{1}{2}$ corner of said Section 8; thence North 89°13'20" West, continuing along the North line of said Section 8, for a distance of 66.65 feet to the true point of beginning of said described line; thence South 65°24'06" West for a distance of 2470.44 feet, more or less, to the Northeasterly right-of-way margin of Chuckanut Drive and the end of said described line;

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**PACIFIC SURVEY
& ENGINEERING, INC.**

ENGINEERS • SURVEYORS • PLANNERS • CONSULTANTS

DECEMBER 5, 1990
JOB NO. 90129

NOTE: THIS IS THE "EXCEPTION" FROM
SKAGIT CO. ASSESSORS ACCT. NO. 083603-4-7701.
A RESERVE FROM OPEN SPACE-TIMBERLAND
FOR A HOMESITE.

LEGAL DESCRIPTION

A ONE ACRE TRACT OF LAND IN THAT PORTION OF SECTION 8,
TOWNSHIP 36 NORTH, RANGE 3 EAST, W.M., SKAGIT COUNTY,
WASHINGTON, LYING NORTHERLY AND EASTERLY OF CHUCKANUT DRIVE
(SR 11), BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 8;
THENCE NORTH $89^{\circ}13'20''$ WEST, ALONG THE NORTH LINE OF SAID
SECTION 8, 66.65 FEET; THENCE SOUTH $65^{\circ}24'06''$ WEST, 177.84
FEET; THENCE SOUTH $02^{\circ}11'43''$ WEST, 461.79 FEET; THENCE SOUTH
 $65^{\circ}24'06''$ WEST, 1445.62 FEET TO THE POINT OF BEGINNING OF
THIS LEGAL DESCRIPTION; THENCE CONTINUING SOUTH $65^{\circ}24'06''$
WEST 168.28 FEET; THENCE NORTH $88^{\circ}54'18''$ WEST, 217.55 FEET;
THENCE NORTH $69^{\circ}35'54''$ WEST, 82.61 FEET; THENCE NORTH
 $20^{\circ}24'06''$ EAST, 96.21 FEET; THENCE NORTH $65^{\circ}24'06''$ EAST,
35.48 FEET; THENCE SOUTH $84^{\circ}35'54''$ EAST, 269.00 FEET; THENCE
SOUTH $69^{\circ}35'54''$ EAST, 122.00 FEET TO THE POINT OF BEGINNING.


TOGETHER WITH ALL BENEFICIAL RIGHTS OF INGRESS, EGRESS AND
UTILITIES CONTAINED IN DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, EASEMENTS AND ROAD MAINTENANCE AGREEMENT AS
RECORDED SEPTEMBER 27, 1989, UNDER AUDITOR'S FILE NO.
8909270044.

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215 WEST HOLLY ST., SUITE B-25 • BELLINGHAM, WA. 98225 • PHONE 206-671-7387 • FAX 206-671-4685

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UNOFFICIAL DOCUMENT



LEGAL DESCRIPTION
DECEMBER 5, 1990
JOB NO. 90129
PAGE TWO

SUBJECT TO AND TOGETHER WITH ALL EASEMENTS OF RECORD.

SITUATE IN SKAGIT COUNTY, WASHINGTON.

CONTAINING 43,560 SQUARE FEET.

UNOFFICIAL DOCUMENT

THE BASIS OF BEARING ORIENTATION FOR THE ABOVE DESCRIPTION
IS DERIVED FROM THAT CERTAIN STATUTORY WARRANTY DEED
RECORDED MARCH 9, 1990 UNDER SKAGIT COUNTY AUDITOR'S FILE
NO. 9003090001, AND DEPICTED ON THAT CERTAIN RECORD OF
SURVEY MAP PREPARED BY AYERS-HARRISON, P.S., IN THE SUMMER
OF 1989, REFERENCED BY JOB NUMBER 89029.

UNOFFICIAL DOCUMENT

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Management Plan For BEN TARCHER/MICHELLE DRESCHER

Address: 900 Mason Street, Bellingham, WA 98225

Date January 24, 1991

Examiner: Henry G. Campbell, Consulting Forester (206) 336-5050/5808
Forestland & Resource Associates, 127 E. Lawrence St., Mt. Vernon, WA

Landowner's objectives: To perpetually manage 19 acres for shelter, light and view while maintaining an established coniferous stand for woodlot and commercial timber, and eliminate any concern for possible erosion problems.

Legal Description: Parcel P-3 of Record of Survey for Tom Buggia, #9009120068, Volume 10, Page 104 of Surveys; Assessors Acct. No. 083603-4-7701

Management Plan: This 19 acre tract rises from approximately 200 feet above sea-level to approx. 1160 feet, a rise of 960 feet in 2300 feet, for an average gradient of 42%. Contours are fairly regular. Lesser slopes are generally located in the SWly portion and gradually increase as it rises, with some lesser slopes, or semi-benches interspersed. A Class 5 (small-intermittent) stream bisects the NEly half of the acreage. It should present no difficulties, with proper care during logging activity.

SOILS: Soils are classified as a "Dystric Xerochrepts-Rock outcrop/65-90% slopes. Average precipitation is 40 inches. Soils are moderately deep to deep and are well drained. Sandstone is at an average depth of 45 inches, but varies from 20-60 inches, or more. Permeability is moderate; runoff is rapid and the hazard of water erosion is severe, without proper care. The STAND: Primarily Douglas fir, with some grand fir and Western redcedar. D. fir, at age 60, has its highest growth rate. Site Index range is from 120 to 156--- probably from Site III to Site V. Steepness of slope is a limitation to timber harvesting. Access to all but the highest slopes is excellent, inasmuch as existing roads transverse the slope at three (3) points, plus a driveway which provides easy access to the moderate slopes above SR-11. LOGGING PLAN:

Stand 1: A logging plan will consist of thinning a minimum of commercially valuable conifers on the moderate slopes SWly of the location of the future residence, to provide light and air, while protecting against excessive sunlight and wind. No appreciable future problems in this area!

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Stand 2: The stand NEly of the future residence requires thinning at this time to secure release from overstocking. Larger, scattered trees which may be defective due to past fires should provide some sawlogs and lots of firewood, with the goal of creating a healthy, more even-aged stand. This can be accomplished from above, by using a light-weight cable system from the lower road. No winter-logging or during periods of low humidity. This plan can be continued on up the hill by use of the middle road. Carefully planned skid-roads can be developed for permanent access by small, rubber-tired or track-type skidders for periodic thinning. No clear-cut contemplated, ever!

Stand 3: About one-half of the parcel lies above (NEly) of the middle road. This can be accessed from above the middle road and presumeably by creating a network of skid-trails parallel to the slope, using light equipment for yarding. Some salvage and thinning is required, and should be done on an annual basis, in order to utilize defective and dying trees, and windthrow where exposed. Short-log, self-loading trucks should be used for hauling, in order to reduce the size of the landings.

Volumes are difficult to estimate at the present stand age, which is very uneven, but this tract should remain in permanent forest cover, with no clear-cuts, in order to maximize yields and minimize erosion.

Particular care must be exercised to prevent wildfire. Construction of an extensive network of skid-trails and sanitation cuts will minimize risk, and also provide easy access with suppression equipment, in a worst-case scenario.

Good luck with your efforts !!!

Yours very truly,

9201070050

Henry G. Campbell

Henry G. Campbell, Consulting Forester
Forestland & Resource Associates
127 E. Lawrence St. Mt. Vernon, WA 98273 (206) 336-5050/5808

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RESOLUTION NO. 12904

A RESOLUTION CONCERNING A TIMBER OPEN SPACE APPLICATION
OF BENJAMIN TARCHER

WHEREAS, a public hearing was held on February 20, 1991 to review the Open Space Timber application of applicant and the accompanying Staff Report of the Department of Planning and Community Development, and subsequently Findings of Fact and a Recommendation were submitted to the Skagit County Board of Commissioners by the Hearing Examiner; and

WHEREAS, in open session, The Skagit County Board of Commissioners has reviewed the application and Staff Report, Findings and Recommendation of the Hearing Examiner, and any public testimony and correspondence in this matter; and

WHEREAS, the applicant has had Timber Management Plan prepared by Henry Campbell, Consulting Forester, Forestland & Resource Associates; and,

WHEREAS, Chapter 8.34.020, Revised Code of Washington, provides that:

- (1) "Open Space Land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county accordingly or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, (iii) promote conservation of soils, wetland, beaches, or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) retain in its natural state tracts of land not less than five acres situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification.;

NOW THEREFORE, BE IT RESOLVED, that The Skagit County Board of Commissioners hereby accepts the Hearing Examiner Recommendation and approves the Timber Open Space application of BENJAMIN TARCHER subject to any conditions recommended by the Hearing Examiner and the Planning Staff.

WITNESS our hands and official seal this 19th day of March, 1991.

BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

W. W. Vaux
W. W. VAUX, Chairman

Robby Robertson
ROBBY ROBERTSON, Commissioner

RUTH WYLIE, Commissioner

ATTEST:

Stephanie Wood
Stephanie Wood
Clerk of the Board

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HE Applicant, Planning