

Return to
Hearing Examiner

JERRY McINTURFF
SKAGIT COUNTY AUDITOR

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OST 93 001.REC

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

RECORDED _____ FILED _____
REQUEST OF _____

9306030064

In the matter of: OST 93 001
Timber Open Space Application
of M. STANTON GROUP CO.
for inclusion of 43 acres in the
Timber Open Space Classification

)
) Findings of Fact
) Recommendation
) No. OST 93 001
)
)
)
)
)
)

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. April 21, 1993 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 the Department of Natural Resources.
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,

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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.

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.


BRADFORD E. FURLONG
Skagit County Hearing Examiner Pro Tem

Date of Recommendation: 4-29-93

Copies Transmitted to Applicant: 4-29-93

Attachment: Staff Report and Findings

C: Applicant, Applicant File, Board of County Commissioners, Hearing Examiner

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SKAGIT COUNTY PLANNING AND COMMUNITY DEVELOPMENT
FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER
HEARING DATE: APRIL 21, 1993
APPLICATION NUMBER: OPEN SPACE # OST-93-001
APPLICANT: M. STANTON GROUP CO.
ADDRESS: P.O. BOX 270898
HOUSTON, TEXAS 77277

PROJECT LOCATION: The subject property is located approximately one mile south of the Starbird Road interchange; a portion of the East 1/2 of the East 1/2 of the Northwest 1/4 and a portion of the West 1/2 of the Northeast 1/4 of Section 29, Township 33 North, Range 4 East, W.M., Skagit County, Washington.

PROJECT DESCRIPTION: Timber Open Space Classification Request to allow the inclusion of approximately 43 acres in the Timber Open Space Program.

ASSESSOR'S ACCOUNT NUMBER: 330429-1-003-0106 and
330429-1-003-0116

STAFF FINDINGS:

1. The subject property is zoned Rural. The South Central District Comprehensive Plan designates the area as Rural Open Space.
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.
4. The parcel proposed for inclusion in the Timber Open Space Program is approximately 43 acres. The area proposed for inclusion in the Program is located somewhat on a hillside.
5. The site is accessed off of Cedardale Road, approximately 1 mile south of the Starbird Road Interchange.
The site was easily found for site inspection. It is in an area of the county with a variety of parcel sizes and uses.
6. The applicant has had a Timber Management Plan prepared for the subject property, which is attached for reference.

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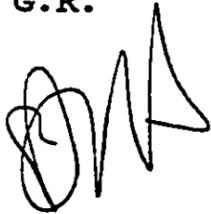
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RECOMMENDATION:

The Skagit County Planning Department would recommend approval of the request for inclusion into the Timber Open Space Program with the following condition:

1. The applicant shall comply with the Timber Management Plan as submitted.

Prepared by: G.R.
Approved by:

A handwritten signature in black ink, appearing to be the initials 'GR' followed by a stylized flourish.

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WASHINGTON STATE DEPARTMENT OF
Natural Resources

BRIAN BOYLE
Commissioner of Public Lands

NORTHWEST REGION
919 N. Township St.
Sedro Woolley, WA 98284

November 23, 1992

(206) 856-3500

MANAGEMENT PLAN FOR MAURICE STANTON
3615 Carnegie St.
Houston, Texas 77005

Legal: Portion E1/2 E1/2 NW1/4 and Portion W1/2 NE1/4 Section 29,
Township 33 North, Range 4 East, W.M. Skagit County

Forester: Joe Blazek

Management Intent: To manage the land for timber production and pasture for
hay.

Current Status:

The site consists of 43 acres of land. About 1 acre is homesite (or
barnsite). Seven acres are of Fisher creek and associated steep banks.
There is mostly non-merch red alder with a few merch maple and Douglas firs.
Side-slopes tend to be unstable here. Seven acres are of planted Black walnut
trees laid out in plantation rows. The trees are about ten years old. Haying
is done between the tree rows. The trees are anywhere from 3 to 15 feet tall.
Twenty acres are of hay fields. Four acres are merch red alder stands about
50 years old. Four acres are marginal and non-merch red alder and blackberry
stands. This area is very wet.

Soils:

The seven acres near Fisher creek and the associated steep banks consist of
Dystric Xerochrepts (Soil #1721). Site index is DF-128 which is very
productive for growing trees, however, slopes tend to be unstable.

The rest of the site consists of Tokul silt loam and gravelly loam (Soil #
8103 and 8105). Site index is DF-135 which is also very productive for
growing trees, however, part of the area (4 acres) is wet and unproductive for
growing merch timber.

Recommendation:

In the creek bank area, leave the site as is. Natural reforestation is
occurring with Red alder. Disturbance needs to be minimized here to protect
bank stability and water quality in the stream. The alders will occupy the
site. Be careful not to contribute to bank instability by doing anything that
would cause the banks to ravel. The new road which was constructed at the top
of the bank should be maintained to make sure that no water goes over the bank
toward the creek. Any water off of the road would compromise water quality
and would probably erode the banks as well.

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Equal Opportunity/Affirmative Action Employer

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Management Plan for Maurice Stanton
November 23, 1992
Page 2

The black walnut plantation (for the most part) appears to be doing fine. A few of the planted trees have died over time. The one thing I saw which should be guarded against is damaging the trunks of the trees by the haying equipment. The trees are spaced far enough apart to allow for haying in between the tree rows. I noticed several scars on the trees from what I assume is the haying equipment. Any damage to a tree takes away from growth until the tree repairs the wound. These trees will become very valuable as they grow and mature.

The four acres of merchantable red alder should be harvested in the next five years. The trees are very exposed to winter storm winds. I noticed several of them to be damaged from what I assume is the wind. As the trees get older, they will be even more susceptible to wind damage. Since this patch is close to the wet area, I would suggest a summer time logging operation when soil moisture is low and soil compaction could be minimized. Access would be off the little access road that goes north beyond the property line natural regeneration of red alder would be assured by disturbing the soil a little by way of the ground based harvest operation. Red alder is a commercial species of value. Should you decide to harvest, I can provide you with a list of forestry consultants. You might want to consult with a forester to ensure that you get appropriate payment for the value of your timber.

The four acres of small marginal and non-merch red alder is a very wet site. Be sure to stay clear of this area with any equipment if you harvest the alder stand adjacent to it.

Future recommendation:

Your intensive plantation management (of what would be considered an exotic species for the Northwest) appears to be paying off at this time. I hope that the walnut trees continue to grow to merchantable size. Should you want to try additional plantation work, you might disc up soil rows approximately 10 feet apart in the hay fields and plant Douglas fir seedlings. With proper maintenance and protection from field mice and drought, a plantation could be grown. Cost share assistance may be available from the Skagit ASCS office for tree establishment and plantation maintenance activities.

file: stanton.jlb

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DEPARTMENT OF NATURAL RESOURCES - FOREST MANAGEMENT PLAN

Landowner Stanton, Maurice Address 3615 Carnegie St.
 Phone: Work _____ Home (713)-661-3319 Houston, Texas 77005

Topographic Symbols

Property Boundary =

Improved Road =

Unimproved Road =

Stand Boundary =

Stand Numbers = (3)

Year Round Stream =

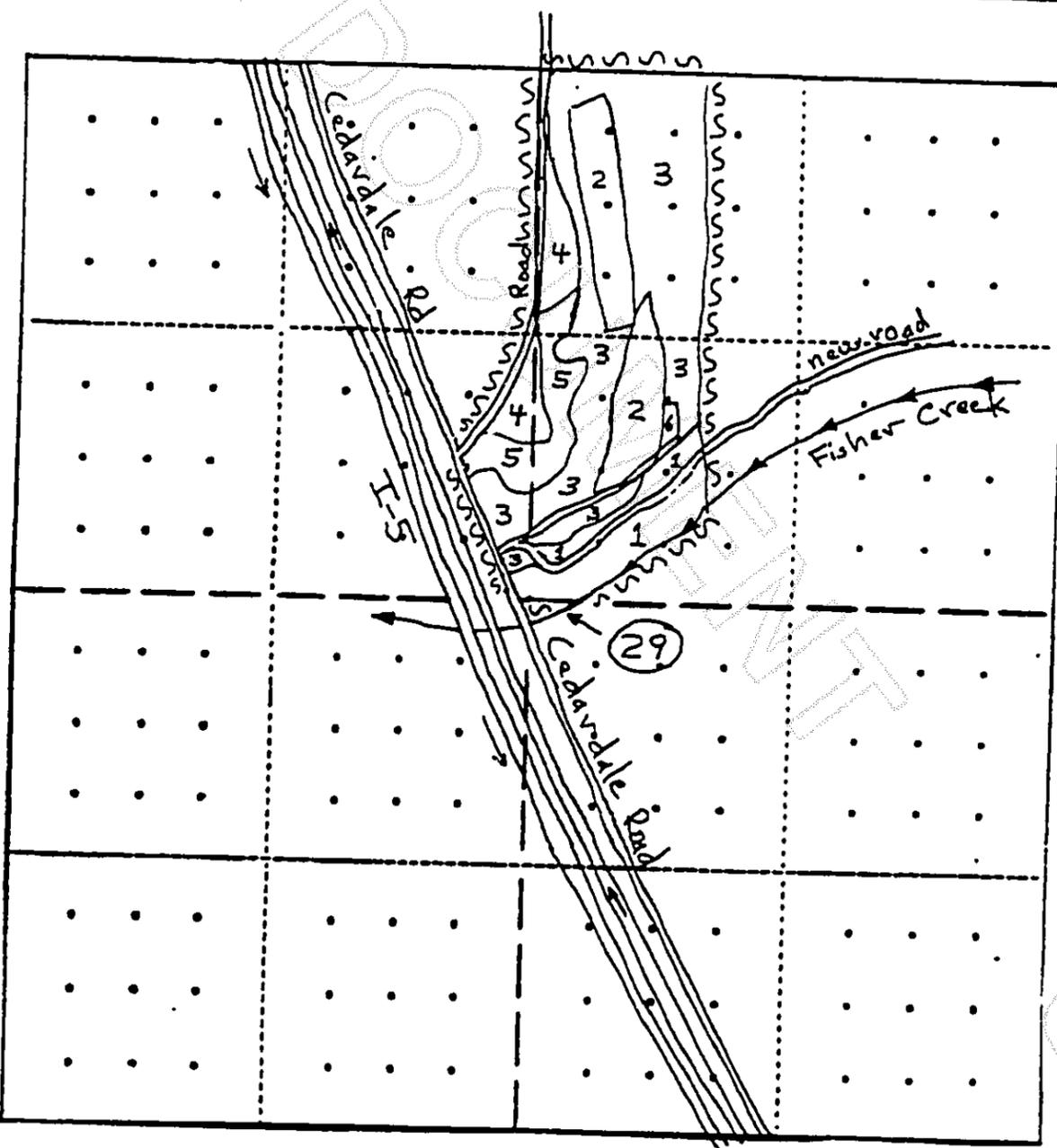
Intermittent Stream =

Swamp or Marsh =

Buildings ■ ■

Other _____ =

Other _____ =



Legal:

Section

29

Township

33N

Range

4E

County

Skagit



1" = 1,000'

Cost-Share

Yr. _____

ACP _____

FIP _____

LTA _____

STAND DESCRIPTION

Stand No.	Acres	Species	Site Low-Med-High	Age	Percent Stocking	Volume/Acres MBF Estimated	Other Stand Description: logged, field, brush, etc
1	7	Red Alder Maple, DF	Med.	20	75%	2 mbf/ac	Stream channel and associated banks. Mostly non merch RA
2	7	Black walnut	"	≈ 10	100%	0	Black walnut plantation 10'x10' spacing 3' to 15' tall
3	20	open field	"	-	-	0	Fields used for haying.
4	4	RA	"	50	90%	12 mbf/ac	Red alder stands.
5	4	RA blackberry	Low	50	50%	0	Small marginal + non merch RA wet site
6	1	-	-	-	-	-	Home site.

FORM RES 30-1803 (Rev. 10/80)

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APPLICATION FOR CLASSIFICATION AS OPEN SPACE LAND OR TIMBER LAND
FOR CURRENT USE ASSESSMENT UNDER CH. 84.34 RCW

FILE WITH THE COUNTY LEGISLATIVE AUTHORITY

Name of Applicant M. STANTON Phone 213-661-3319
Address 3615 CARNEGIE, HOUSTON, TX 77005
Property Location E. SIDE OF CEDARDALE RD 43AC ± AS ATTACHED

1. Interest in property: Fee Owner Contract Purchaser Other (Describe) _____

2. Assessor's parcel or account number 3304291-003-0106, -003 0116 *
Legal description of land to be classified see attached

3. Land classification that is being sought? Open Space Timber Land
NOTE: A single application may be made for both open space and timber land, but a separate legal description must be furnished for each area that classification is being sought.

4. Total acres in application 43 ±

5. OPEN SPACE CLASSIFICATION Number of acres _____

6. Indicate what category of open space this land will qualify for: (See reverse side for definitions)

- Open space zoning
- Conserve and enhance natural or scenic resources
- Protect streams or water supply
- Promote conservation of soils, wetlands, beaches or tidal marshes
- Enhance public recreation opportunities
- Enhance value to public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space
- Preserve historic sites
- Retain in natural state tracts of five (5) or more acres in urban areas and open to public use as reasonably required by granting authority

7. TIMBER LAND CLASSIFICATION Number of acres 43 AC. ±

8. Do you have a timber management plan for this property? Yes No If yes, submit a copy of that plan with this application. BEING DONE BY DNR

9. If you have no timber management plan, specifically detail the use of this property to show that it "is devoted primarily to the growth and harvest of forest crops".
4,000 TREES PLANTED & CULTURED DURING 1980'S. WILD TIMBER THINNED & SELECTED TO ENHANCE GROWTH.

10. Describe the present current use of each parcel of land listed in this application.
ALL IN TIMBER EITHER NATURAL OR PLANTATION

11. Describe the present improvements on this property (buildings, etc.) EQUIPMENT SHED (AND UTILITIES) FOR SECURITY OF PLANTATION EQUIPMENT

12. Attach a map of the property to show an outline of current uses of the property and indicate location of all buildings.

13. Is this land subject to a lease or agreement which permits any other use than its present use? Yes No
If yes, attach a copy of the lease or agreement.

NOTICE: The assessor may require owners to submit pertinent data regarding the use of classified land.

OPEN SPACE LAND MEANS:

- (a) Any land area so designated by an official comprehensible land use plan adopted by any city or county and zoned 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 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.

TIMBER LAND MEANS:

Land in one ownership consisting of five or more acres in contiguous parcels devoted primarily to the growth and harvest of forest crops and which is not classified or designated as forest land under Chapter 84.33 RCW. Timber land means the land only.

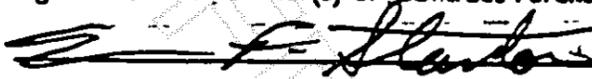
STATEMENT OF ADDITIONAL TAX, INTEREST, AND PENALTY DUE UPON REMOVAL OF CLASSIFICATION

1. 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" or "Timber 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 (2) below.
2. The additional tax, interest, and penalty specified in (1) 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) 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)).

AFFIRMATION

As owner(s) of the land described in this application, I hereby indicate by my signature that I am aware of the potential tax liability involved when the land ceases to be classified under provisions of CH. 84.34 RCW. I also declare under the penalties for false swearing that this application and any accompanying documents have been examined by me and to the best of my knowledge it is a true, correct, and complete statement.

Signatures of all Owner(s) or Contract Purchaser(s)



All owners and purchasers must sign.

FOR LEGISLATIVE AUTHORITY USE ONLY

Date application received _____ By _____
Amount of processing fee collected \$ _____ Transmitted to _____ Date _____

FOR GRANTING AUTHORITY USE ONLY

Date received _____ By _____
Application approved _____ Approved in part _____ Denied _____ Owner notified of denial on _____
Agreement executed on _____ Mailed on _____

11886

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

This Agreement between MAURICE STANTON

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 RCW 84.34:

Assessor's Parcel or Account Numbers: 330429-1-003-0106; 330429-1-003-0116

Legal Description of Classified Land: SEE ATTACHED LEGAL DESCRIPTION

And whereas, both the owner and granting authority desire 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 only be used 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 run with the land described herein and shall be binding upon the heirs, successors and assigns of the parties hereto.
5. Withdrawal: The land owner may withdraw from this Agreement if after a period of eight years the land owner makes a withdrawal request, which request is irrevocable, to the assessor. Two years from the date of that request the assessor shall withdraw the land from the classification, and the applicable taxes and interest shall be imposed as provided in RCW 84.34.070.
6. Breach: After land has been classified and as Agreement executed, any change of use of the land, except through compliance with items (5) or (7) of this Agreement, shall be considered a breach of this Agreement, and subject to applicable taxes, penalties and interest as provided in RCW 84.34.080 and 84.34.108.
7. A breach of Agreement shall not occur and the additional tax shall not be imposed if the removal of designation resulted solely from:
 - (a) Transfer to a government entity in exchange for other land located within the State of Washington;
 - (b) A taking through the exercise of the power of eminent domain, 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 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 land owner changing the use of such property.
 - (e) Official action by an agency of the State of Washington or by the county or city within which the land is located which disallows the present use of such land.
 - (f) Transfer to a church and 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 (5g)).
8. The county assessor may require classified land owners to submit pertinent data regarding the use of the land, and such similar information pertinent to continued classification and appraisal of the land.

This Agreement shall be subject to the following conditions:

14886

Applicant agrees to comply with Forest Management Plan prepared for the subject property by the Washington State Department of Natural Resources.

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

Granting Authority:

Dated 6/1/93

[Signature]
City or County

Chairman Skagit County Commissioners
Title

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 hereby accept the classification and conditions of this Agreement.

Dated 5/5/93

[Signature]
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

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LEGAL DESCRIPTION

That portion of the West $\frac{1}{2}$ of the NE $\frac{1}{4}$ of SEc 29 Township 33 N, Range 4 E Skagit Co. Wa. lying northerly of a year round stream that flows East to West and lying W of the following described N-S line:
Commencing at a 3/4 inch iron pipe marking the N $\frac{1}{4}$ corner of SEc 29 Township 33 N, Range 4E W.M.

Thences S 87° 51 min 54 Sec. E along a N line of said section a distance of 596.99 ft. to an iron pipe capped and stamped STEELE 13138, being the point of beginning of line, thence S 00° 34' 33" E parallel to the center line of said section to the centerline of said year round stream and the terminus of said line. All property to the West of this line to the eastern boundary of CEDARDALE Rd.

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RESOLUTION NO. 14886

A RESOLUTION CONCERNING A TIMBER OPEN SPACE APPLICATION
OF M. STANTON GROUP CO.

WHEREAS, a public hearing was held on April 21, 1993 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 prepared a Timber Management Plan for logging and reforestation of the property; and

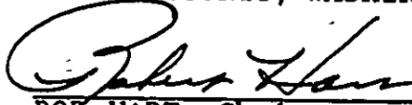
WHEREAS, Chapter 8.34.020, Revised Code of Washington, provides that:

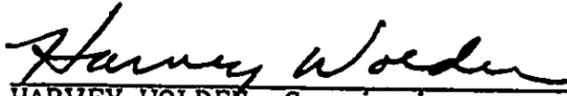
- (1) "Open Space Land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county accordingly or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or 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 M. STANTON GROUP CO. subject to any conditions recommended by the Hearing Examiner and the Planning Staff.

WITNESS our hands and official seal this 1st day of June, 1993.

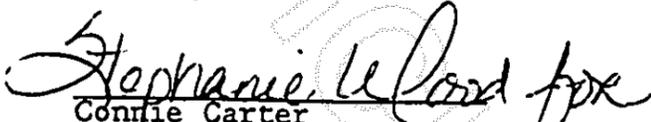
BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON


BOB HART, Chairman


HARVEY WOLDEN, Commissioner


ROBBY ROBINSON, Commissioner

ATTEST:


Connie Carter
Clerk of the Board

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