

Return to
Hearing Exam

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**SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON**

OSP 94 004.REC

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In the matter of:
Application No. OSP 94 004
Open Space Application of:
VALERIE TARICO for:
The inclusion of 18 acres in
the Open Space program.

) Findings of Fact
) Recommendation
) OSP 94 004
)
)

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 the applicant requesting an Open Space Classification as described in the attached Report of that Department and located on Sinclair Island, Tract F "Sinclair", within Section 9, Township 36 North, Range 1 East, W.M., Skagit County, Washington;

Assessor Account No: 360109-0-001-0061

And, notice having been given to all property owners within 300 feet of said property, the property having been posted in accordance with Section 14.04 of the Skagit County Code, the public hearing advertised in accordance with Section 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

1. February 15, 1995 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 made a part of the record.
3. The Department of Planning and Community Development issued the attached Staff Report and Findings. The Hearing Examiner adopts Findings no. 1 through 9 as presented in that Report.
4. Section 84.34.020, Revised Code of Washington, provides the following information:

- (1) "Open Space Land" means (a) any land area so designated by an official comprehensive 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, or (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) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre 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, or (c) any land meeting the definition of farm and agricultural conservation land under subsection 8 of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b) (iii) of this subsection for the purpose of promoting conservation of wetlands.

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

CONCLUSIONS

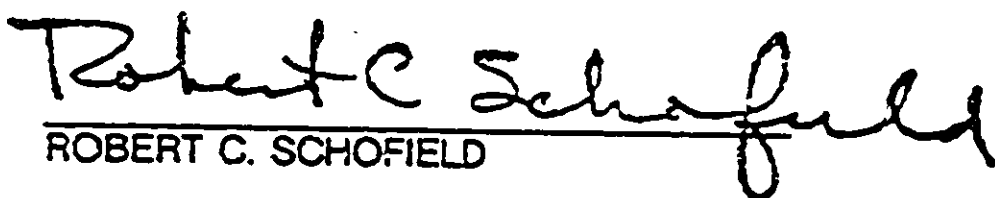
The Hearing Examiner, having duly considered the matter, including all the evidence presented and on file, comments from interested persons, information and comments from other county departments affected, independent studies of the Planning Department, and the evidence presented at the public hearing; 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.

DECISION

The Hearing Examiner recommends APPROVAL of the application for inclusion of the subject property in the Open Space Taxation Program subject to the following condition:

1. Reasonable public access shall be allowed to the subject property.

SKAGIT COUNTY HEARING EXAMINER


ROBERT C. SCHOFIELD

Date of Action: March 9, 1995

Copies transmitted to applicant: March 9, 1995

Attachment: Staff Report and Findings

C: Applicant, File, 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: FEBRUARY 15, 1995
APPLICATION NUMBER: OPEN SPACE APPLICATION # OSP-94-004
APPLICANT: VALERIE TARICO
ADDRESS: 1220 10TH AVE. E.
SEATTLE, WA 98102

PROJECT LOCATION: Located on the North shore of Sinclair Island; Tract F "Sinclair", as recorded in Volume 3 of Surveys, Page 121, Records of Skagit County; Section 9, Township 36 North, Range 1 East, W.M., Skagit County, Washington.

PROJECT DESCRIPTION: Open Space Application to allow the inclusion of approximately 18 acres in the Open Space Program.

ASSESSOR'S ACCOUNT NUMBER: 360109-0-001-00601

STAFF FINDINGS:

1. The following items are submitted as exhibits:
 1. Staff Report and all attachments
 2. Application, including narrative statement, maps, and legal description of area to be excluded from request.
2. The subject property is zoned Rural the Island District Comprehensive Plan designates the area as Rural Open Space.
3. The public hearing has been advertised in accordance with the requirements of Chapter 14.04 of the Skagit County Code.
4. The application has been reviewed in accordance with the State Environmental Act Guidelines and has been found to be exempt.
5. The subject property is located out of any designated flood hazard areas.
6. The subject property is approximately 20. acres in size and is currently vacant.
7. Revised Code of Washington 84.34.020 Definitions defines Open Space Land as an area that is open to the public, enhances natural resources, protects stream, and promotes conservation.

8. The applicant has provided a lengthy narrative statement in support of the Open Space Application. An excerpt from that statement is as follows (the complete statement is attached for reference):

"To conserve and enhance natural or scenic resources:
The land we are proposing for open space designation is forested. It is a transitional mix of deciduous (largely Alder) and native evergreen trees - cedar and fir. The healthy evergreens along the shore were mostly blown down during the storm of 1990, and we have planted some replacements in an attempt to speed the recovery of that area. . . . It is not unusual to see eagles roosting in the skeletal evergreens that remain along the shore.

"To enhance public recreation opportunities:
. . . . Open Space along the north preserves the natural feel of the channel area. In addition, the north shore of Sinclair provides an attractive destination or layover for kayakers from southern Orcas or Cypress, both within an hour's paddle. The shoreline of our parcel is approximately 400 ft. of gravel beach except at very high tides. Public access to this beach contributes to the ability of both island visitors and residents to walk, picnic or otherwise enjoy the shore and tidal area. . . .

"To enhance value to public or abutting or neighboring ... open space:
The two 20 acre parcels to the east, belonging to Ann Magnano have recently been designated as open space. The land is of similar ecology to ours, with a larger clearing near the shore. Placing our parcel in open space provides public access continuous with her parcels, creating more useful beach access and a larger wildlife habitat."

9. In reviewing the application as submitted by the applicant, it appears that the application complies with the intent of RCW 84.34.020.

RECOMMENDATIONS:

Based on the above findings, the Skagit County Planning Department would recommend approval of the request to include approximately 18 acres in the Open Space Open Space Program.

Prepared by: G.R.
Approved by: *OFH*

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This Agreement shall be subject to the following conditions:

Reasonable public access shall be allowed to the subject property.

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

July 15, 1995

Baker ^{Tul}
City or County

Sk. County Board of 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

March 15, 1995

Nelda S. Sargent

Alfred

Frank S. Sargent

Valerie L. Tanco

(Must be signed by all owners)

Date signed Agreement received by Legislative Authority

July 10, 1995

Prepare in triplicate with one completed copy to each of the following:

Owner(s)
Legislative Authority
County Assessor

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BK 1474 PG 0331

OPEN SPACE TAXATION AGREEMENT
RCW 84.34

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(TO BE USED FOR "OPEN SPACE" OR "TIMBER LAND" CLASSIFICATION ONLY)

This Agreement between VALERIE TARICO

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: 360109-0-001-0061

Legal Description of Classified Land: See Attachment "A"

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 landowner 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.

Attachment "A"

That portion of Tract 7, "SINCLAIR", according to the survey thereof, recorded in Volume 3 of Surveys, page 121, under Auditor's File No. 8106180002, records of Skagit County, Washington, being in Sections 9 and 10, Township 36 North, Range 1 East, W.M. described as follows:

Beginning at the Northwest corner of said Tract 7; thence South along the West line thereof to the top of the bluff; thence East along the top of the bluff a distance of 40 feet (as measured at right angles to the West line of said Tract 7) to the true point of beginning; thence continue along the top of the bluff to a point that is 340 feet East of the West line of said Tract 7 as measured at right angles to said West line; thence South parallel with the West line of said Tract 7 a distance of 145.2 feet; thence West parallel with the top of the bluff to a point that is 40 feet East of the West line of said Tract 7 as measured at right angles thereto; thence North in a straight line a distance of 145.20 feet to the true point of beginning. (Said Tract containing 2 acres.)

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RESOLUTION NO. _____

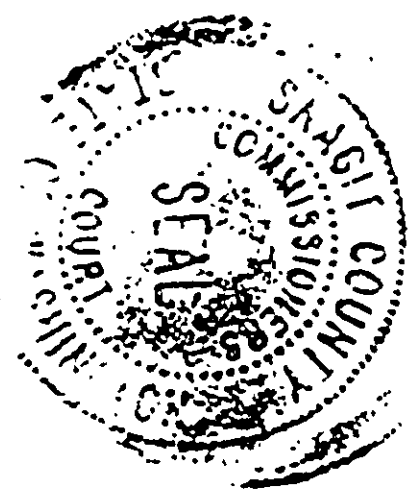
A RESOLUTION CONCERNING AN OPEN SPACE APPLICATION
OF VALERIE TARICO

WHEREAS, the Skagit County Hearing Examiner held a public hearing on February 15, 1995 to review the Open Space application of applicant VALERIE TARICO, and adopted Findings of Fact and a Recommendation approving the application; and

WHEREAS, in open session, The Skagit County Board of Commissioners reviewed the application and Findings and Recommendation of the Hearing Examiner; now therefore,

BE IT RESOLVED, that The Skagit County Board of Commissioners hereby adopts the Findings and Recommendation of the Hearing Examiner and approves the Open Space application of VALERIE TARICO subject to the conditions recommended by the Hearing Examiner.

WITNESS our hands and official seal this 10th day of July, 1995.



BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Robert Hart
ROBERT HART, Chairman

Harvey Wolden
HARVEY WOLDEN, Commissioner

Ted W. Anderson
TED ANDERSON, Commissioner

ATTEST:

Debby Sims
Debby Sims, Clerk
Skagit County Board of Commissioners

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BK 1457 PG 0435

cc: H. Examiner, Planning

BK 1474 PG 0334

Attachment "A"

Tract 7 of Sinclair except portion described as follows:

*Dr. J. H. [unclear]
Vol. 121*

That portion of Tract 7, "SINCLAIR", according to the survey thereof, recorded in Volume 3 of Surveys, page 121, under Auditor's File No. 8106180002, records of Skagit County, Washington, being in Sections 9 and 10, Township 36 North, Range 1 East, W.M. described as follows:

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