

Return to  
Hearing Exam.

**9510050044**

OSP 93 012.REC

**SKAGIT COUNTY HEARING EXAMINER**  
**STATE OF WASHINGTON**

In the matter of: )  
Application No. OSP 93 012 )  
Open Space Application of: )  
NEIL HANSEN )  
For: To allow the inclusion of )  
approximately 24.5 acres in the )  
open space program. )

Findings of Fact  
Recommendation  
OSP 93 012

RECORDED  
INDEXED

95 OCT -5 AM 1:30

SKAGIT COUNTY  
KATHY HILL

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 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 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.

**FINDINGS OF FACT**

1. April 6, 1994 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 Department of Planning and Community Development issued the attached Report and Findings of that Department. The Hearing Examiner adopts Findings 1 through 6 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 3 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.

**9510050044**

BK1482160103

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 property in the Open Space Taxation Program subject to the following conditions:

1. The applicant shall provide a legal description of any area that does not qualify for Open Space prior to recording of the Open Space Taxation Agreement.
2. The applicant shall obtain all local, state and federal land use permits prior to removal of any timber.

*Robert C. Schofield*

Robert C. Schofield  
Skagit County Hearing Examiner

Date of Action: April 12, 1994

Copies transmitted to applicant: April 12, 1994

Attachment: Staff Report and Findings

C: Applicant, File, County Commissioners, Hearing Examiner

9510050044

BK 1482160109

**SKAGIT COUNTY PLANNING AND COMMUNITY DEVELOPMENT  
FINDINGS OF FACT**

**HEARING AUTHORITY:** SKAGIT COUNTY HEARING EXAMINER

**HEARING DATE:** APRIL 6, 1994

**APPLICATION NUMBER:** OPEN SPACE TIMBER # OST-93-012

**APPLICANT:** NEIL HANSEN

**ADDRESS:** 1762 HIGHWAY 9  
MOUNT VERNON, WA 98273

**PROJECT LOCATION:** Located at 1785 Highway 9, Mount Vernon; adjacent to and part of the Overlook Golf Course facility; a portion of government Lot 4, within the Southwest 1/4 of Section 31, Township 34 North, Range 5 East, W.M., Skagit County, Washington.

**PROJECT DESCRIPTION:** Open Space Application to allow the inclusion of approximately 24.5 acres in the Open Space Program.

**ASSESSOR'S ACCOUNT NUMBER:** 340531-0-003-0100 and  
340531-0-004-0004

**STAFF FINDINGS:**

1. The subject property is zoned Residential Reserve and the South Central 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 application has been reviewed in accordance with the State Environmental Policy Act Guidelines and has been found to be exempt.
4. The subject property is located out of any designated flood hazard areas.
5. The subject property is approximately 24.5 acres in size and is adjacent to and part of the Overlook Golf Course facility. The applicant is requesting inclusion in the Open Space Program of approximately 24.5 acres. The balance of the Golf Course facility is already included in the Open Space Program.
6. It will necessary for the applicant to provide a legal description of any improved areas and/or improvements (i.e., buildings, putting surfaces, parking lot, maintenance facilities, etc.), so that these areas are not included in the Open Space Contract. If any of this area is currently

**9510050044**

**BK1482160110**

timbered and proposed to be logged to be included as golf course, prior to logging, it will be necessary for the applicant to apply for a Forest Practice Application through the Department of Natural Resources.

**RECOMMENDATION:**

Based on the above findings, the Skagit County Planning Department would recommend approval of the Open Application with the following conditions:

1. The applicant shall provide a legal description of any area that does not qualify for Open Space prior to recording of the Open Space Contract.
2. The applicant shall obtain all local, state and federal land use permits, prior to removal of any timber.

Prepared by: G.R.  
Approved by:

9510050044

BK1482PGU111

RESOLUTION NO. \_\_\_\_\_

**15839**

A RESOLUTION CONCERNING AN OPEN SPACE APPLICATION  
OF NEIL HANSEN

WHEREAS, the Hearing Examiner held a public hearing on April 6, 1994 to review the Open Space application of applicant NEIL HANSEN, and adopted Findings of Fact, Incorporating by reference the Staff Report of the Department of Planning and Community Development, 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 which are attached hereto and incorporated by reference and approves the Open Space application of NEIL HANSEN subject to the conditions recommended by the Hearing Examiner.

WITNESS our hands and official seal this 24<sup>th</sup> day of July, 1995.

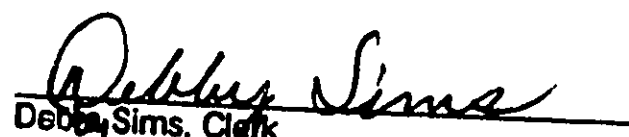
BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON

  
ROBERT HART, Chairman

  
HARVEY WOLDEN, Commissioner

  
TED W. ANDERSON, Commissioner

ATTEST:

  
Debby Sims, Clerk  
Skagit County Board of Commissioners



9510050044

BK1482PG0112



15839

# OPEN SPACE TAXATION AGREEMENT RCW 84.34

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

This Agreement between NEIL HANSEN

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: 340531-0-003-0100 and 340531-0-004-0004

Legal Description of Classified Land: A portion of Government Lot 4, within the Southwest 1/4 of Section 31, Township 34 North, Range 5 East, W. M., Skagit County, Washington.

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.

This Agreement shall be subject to the following conditions:

The applicant shall provide a legal description of any area that does not qualify for Open Space prior to recording of the Open Space Taxation Agreement.

The applicant shall obtain all local, state and federal land use permits prior to removal of any timber.

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.

Dated

July 24, 1995

Granting Authority:

Robert L. Smith  
City or County

Skiagit 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

7/5/95

[Signature]  
Owner(s)

[Signature]  
(Must be signed by all owners)

Date signed Agreement received by Legislative Authority

7-24-95

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

Owner(s)  
Legislative Authority  
County Assessor

9510050044

BK 1482160114

**(Chapters 84.33 & 84.34 RCW)**

**FILE WITH COUNTY ASSESSOR**

County \_\_\_\_\_

Tax Code .

Name of Applicant WILL ARNSEN Phone 422-5018

Phone 422-5018

Address 1762 ST SW 9 NW Vernon, WA 98273

Land Subject to This Application (Legal Description) W. 1000 ft of N 30 ac of Ltr

Sec 31 Twp 3A R9cS + 6 Wptn Lt 3 daf: Bat Sw cor Lt 3; th N  
208 ft; th E 208 ft; th S 208 ft th W 208 ft. also in Sec 31

Assessor's Parcel or Account Numbers 346531-0-003-0100 ptn

Auditor's File No. on Original Application: 761651

DEC 01 1993

**CHANGE OF CLASSIFICATION**  
(Check Appropriate Box)

**COMM. DEVELOP. DIV.**

**The land is currently classified as farm and agricultural land under RCW 84.34.020(2) and I hereby request reclassification as:**

- ☐ Timber land as provided under RCW 84.34.020(3) (Attach completed FORM REV 64 0021 and a timber management plan)
- ☒ Open Space land as provided under RCW 84.34.020(1) (Attach completed FORM REV 64 0021)
- ☐ Forest Land classification under chapter 84.33 RCW (Attach FORM REV 62 0021)
- ☐ Farm and Agricultural Conservation Land as provided in RCW 84.34.020(1)(c) (Attach FORM REV 64 0021)

The land is classified as Open Space Farm and Agricultural Conservation Land under RCW 84.34.020(1)(c) and I hereby request reclassification to:

- ☐ **Farm and agricultural land under RCW 84.34.020(2).**

The land is currently classified as timber land under RCW 84.34.020(3) and I hereby request reclassification as:

- ☐ Forest land classification under chapter 84.33 RCW (Attach FORM REV 62 0021)
- ☐ Open Space land as provided under RCW 84.34.020(1) (Attach completed FORM REV 64 021).
- ☐ Farm and agricultural land as provided under RCW 84.34.020(2) (Attach completed FORM REV 64 0024)

**Requests for transfer from Forest Land classification under provisions of Chapter 84.33 RCW to Current Use classification under Chapter 84.34 RCW should be made on FORM REV 64 0038.**

**Attachment:**

- ☐ FORM REV 62 0021  
☐ FORM REV 64 0021  
☐ FORM REV 64 0024

**9510050044**

**NOTE:** No additional tax, fine or penalty accrue from this change of classification or use.

FORM REV 64 0060-1 (2-93 DRAFT)

••• BK-14 62700 115



GENERAL INFORMATION

Reclassifications: Are defined in RCW 84.34.070(2) as follows:

- (2) The following reclassifications are not considered withdrawals or removals and are not subject to additional tax under RCW 84.34.108:
- (a) Reclassification between lands under RCW 84.34.020(2) and (3);
  - (b) Reclassification of land classified under RCW 84.34.020(2) or (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);
  - (c) Reclassification of land classified under RCW 84.34.020(2) or (3) to forest land classified under chapter 84.33 RCW; and
  - (d) Reclassification of land classified as open space land under RCW 84.34.020(1)(c) and reclassified to farm and agricultural land under RCW 84.34.020(2) if the land had been previously classified as farm and agricultural land under RCW 84.34.020(2).
- (3) Applications for reclassification shall be subject to applicable provisions of RCW 84.34.037, 84.34.035, section 20 of this act, and chapter 84.33 RCW.
- (4) The income criteria for land classified under RCW 84.34.020(2)(b) and (c) may be deferred for land being reclassified from land classified under RCW 84.34.020(1)(c) or (3), or chapter 84.33 RCW into RCW 84.34.020(2)(b) or (c) for a period of up to five years from the date of reclassification. [1992 c 69 § 10]

Farm and Agricultural Conservation Land: Is defined in RCW 84.34.020(8)(a & b) as follows:

- (8) "Farm and agricultural conservation land" means either:
- (a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or
  - (b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture. [1992 c 69 § 4]

And also defined in RCW 84.34.037(2)(c) as follows:

- (c) Whether granting the application for land applying under RCW 84.34.020(1)(c) will (i) either preserve land previously classified under RCW 84.34.020(2) or preserve land that is traditional farmland and not classified under chapter 84.33 or 84.34 RCW, (ii) preserve land with a potential for returning to commercial agriculture, and (iii) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of property.

Date

11/24/92

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

*[Signature]* (TRUSTEE) *JOHN HANSEN* (TRUSTEE)

9510050044

FORM REV 64 0060-2 (2-93 DRAFT)

PRODUCED

EX 1432160116

SKAGIT COUNTY  
APPLICATION FOR CLASSIFICATION AS OPEN SPACE LAND OR MEMBER EXAMINER  
FOR CURRENT USE ASSESSMENT UNDER CH. 84.34 RCW Exhibit #1

FILE WITH THE COUNTY LEGISLATIVE AUTHORITY

Name of Applicant NEIL HANSEN Phone (206) 422-5012  
Address 1762 ST DWY 9 MT VERNON, WA 98273  
Property Location \_\_\_\_\_

1. Interest in property: ☐ Fee Owner ☐ Contract Purchaser ☐ Other (Describe) TRUSTEE/LESSOR  
2. Assessor's parcel or account number 340531-0004-0009 / 340531-00-0005  
Legal description of land to be classified \_\_\_\_\_

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 23.5  
Number of acres 23.5

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 \_\_\_\_\_  
8. Do you have a timber management plan for this property? ☐ Yes ☒ No If yes, submit a copy of that plan with this application.  
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".

10. Describe the present current use of each parcel of land listed in this application.  
PORTION OF PROPERTY IS USED FOR OVERLOOK GOLF COURSE AND THAT NOT USED IS FOR FUTURE EXPANSION OF GOLF COURSE

11. Describe the present improvements on this property (buildings, etc.)  
FAIRWAY AND GOLF FOR OVERLOOK GOLF COURSE

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

9510050044

FORM REV 64 0021-1 (8-71)

BK 1482 PG 0117

4400200102

**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)

*[Signature]* (TRUSTE) 11/23/93

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 \_\_\_\_\_ 11/23/93

W 1000 FT  
0+ N 30 AC  
0+ L. Ti 4

6K 148280119