

9512210040

APPLICATION FOR CHANGE OF CLASSIFICATION OR USE

(Chapters 84.23 & 84.34 RCW)  
COUNTY

FILE WITH COUNTY ASSESSOR

JAN 06 1994

County Skaait

Tax Code \_\_\_\_\_

Phone (206) 422-7351

Name of Applicant HANS HEIMHILGER

Address 2600 CAVANAUGH RD. MT. VERNON WA 98273

Land Subject to This Application (Legal Description) See attached Exc 1 a house

Assessor's Parcel or Account Numbers See attached

Auditor's File No. on Original Application 815280

CHANGE OF CLASSIFICATION  
(Check Appropriate Box)

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 0021)
- ☐ 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

9512210040

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

BK 1504 PG 0243

### 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 12-05-94

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

X Hans Hunkeler

X Linda Hunkeler

9512210040

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

FILE WITH THE COUNTY LEGISLATIVE AUTHORITY

JAN 06 1994

Name of Applicant HANS HEIMHILGER

Phone 422-7351

Address 2600 CAVANAUGH RD. MT. VERNON, WA 98273

Property Location \_\_\_\_\_

1. Interest in property: ☒ Fee Owner ☐ Contract Purchaser ☐ Other (Describe) \_\_\_\_\_
2. Assessor's parcel or account number See attached  
Legal description of land to be classified See attached Exc 1 ac house
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 19.62

5. OPEN SPACE CLASSIFICATION

Number of acres 19.62

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
  - ☐ Preserve visual quality along highway, road, and street corridors or scenic vistas.
  - ☐ Retain in natural state tracts of one (1) or more acres in urban areas and open to public use as reasonably required by granting authority
  - ☒ Farm and agricultural conservation land as defined in RCW 84.34.020(8)

7. TIMBER LAND CLASSIFICATION

Number of acres \_\_\_\_\_

Definition: "Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of forest crops for commercial purposes. A timber management plan shall be filed with the county legislative authority at the time (a) an application is made for classification as timber land pursuant to this chapter or (b) when a sale or transfer of timber land occurs and a notice of classification continuance is signed. Timber land means land only.

8. Submit a copy of your timber management plan with this application. Guidelines for a timber management plan are available from the county assessor.
- A timber management plan will include the following:
- a) a legal description or assessor's parcel numbers for the property,
  - b) date of acquisition of land,
  - c) a brief description of timber or if harvested, the owners plan for restocking,
  - d) if land is used for grazing,
  - e) whether land and applicant are in compliance with restocking, forest management, fire protection, insect & disease control, etc.,
  - f) a summary of past experience and current and continuing activity,
  - g) a map of property outlining current use of property and indicating location of all buildings.
9. Describe the present improvements on this property (buildings, etc.) \_\_\_\_\_
10. 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 agreement.

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

FORM REV 64 0021-1 (2-93)

9512210040

BK1504PG0245

**OPEN SPACE LAND MEANS:**

- (a) Any land area so designated by a comprehensive land use plan adopted by a city or county authority, or
- (b) Any land area, in which the preservation in its present use would:
- (i) Conserve and enhance natural or scenic resources,
  - (ii) Protect streams or water supply,
  - (iii) Promote conservation of soils, wetlands, beaches or tidal marshes,
  - (iv) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space,
  - (v) Enhance recreation opportunities
  - (vi) Preserve historic sites,
  - (vii) Preserve visual quality along highway, road, and street corridor 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 granting authority.
- (c) Or, any land meeting the definition of "farm and agricultural conservation land".

**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) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property.
  - (d) Official action by an agency of the State of Washington or by the county or city where the land is located disallowing the present use of such land.
  - (e) Transfer of land to a church when such land would qualify for property tax exemption pursuant to RCW 84.36.020.
  - (f) Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108(5)(f)).
  - (g) Removal of land classified as farm & agricultural land under RCW 84.34.020(2)(d) (farm homestead).

**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)

X Wendy L. Linn

date: 1-2-05-94

X Trish L. Linn

12-05-94

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 \_\_\_\_\_

PAUL F. MAHONEY  
COUNTY ASSESSOR  
COURTHOUSE BUILDING, ROOM 103  
205 W. KINCAID STREET  
MOUNT VERNON, WA 98273-4294

OFFICE OF THE  
SKAGIT COUNTY  
ASSESSOR  
(206) 336-9370

FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
POSTCARD RATE  
PERMIT NO. 17  
MT. VERNON, WA

ADDRESS CORRECTION REQUESTED

CORRECTED  
**REAL PROPERTY VALUE CHANGE NOTICE**

THE 1993 VALUE HAS BEEN CHANGED FOR TAXES DUE IN 1994	
PREVIOUS VALUE	NEW VALUE
BUILDING	
67,400	67,400
LAND	
8,000	10,600
TAX	
23,800	52,700
TOTAL	
75,400	78,000

DATE OF NOTICE	12/28/93
ACCOUNT NUMBER	330523-3-005-0008
LEGAL DESCRIPTION P18242 OPEN SPACE#81 #815280 1976 W1/2 SW1/4 SW1/4 N OF RLY R/W & S & E OF RD LESS RD R/W, 15.08 ACRES	

MAIL TO: (11653)  
HEIMHILGER HANS  
2600 CAVANAUGH RD  
MOUNT VERNON WA 98273

PAUL F. MAHONEY  
COUNTY ASSESSOR  
COURTHOUSE BUILDING, ROOM 103  
205 W. KINCAID STREET  
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CORRECTED  
**REAL PROPERTY VALUE CHANGE NOTICE**

THE 1993 VALUE HAS BEEN CHANGED FOR TAXES DUE IN 1994	
PREVIOUS VALUE	NEW VALUE
BUILDING	
LAND	
100	100
TAX	
4,700	7,300
TOTAL	
100	100

DATE OF NOTICE	12/28/93
ACCOUNT NUMBER	330523-0-001-0008
LEGAL DESCRIPTION P18225 TAX 1 BAT NE C OF W1/2 SW1/4 SW1/4 TH S 920FT E 100FT N 920FT W 100FT TPOB OPEN SPACE#81 #815230 1976, 2.1 ACRES	

MAIL TO: (11653)  
HEIMHILGER HANS  
2600 CAVANAUGH RD  
MOUNT VERNON WA 98273

PAUL F. MAHONEY  
COUNTY ASSESSOR  
COURTHOUSE BUILDING, ROOM 103  
205 W. KINCAID STREET  
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PAID  
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PERMIT NO. 17  
MT. VERNON, WA

ADDRESS CORRECTION REQUESTED

CORRECTED  
**REAL PROPERTY VALUE CHANGE NOTICE**

THE 1993 VALUE HAS BEEN CHANGED FOR TAXES DUE IN 1994	
PREVIOUS VALUE	NEW VALUE
BUILDING	
LAND	
100	100
TAX	
5,400	8,500
TOTAL	
100	100

DATE OF NOTICE	12/28/93
ACCOUNT NUMBER	330522-4-007-0005
LEGAL DESCRIPTION PT8221 TH PTN SE1/4 SE1/4 LY S OF RD OPEN SPACE#81 #815280 1976 LESS CO RD R/W, 2.46 ACRES	

MAIL TO: (11653)  
HEIMHILGER HANS  
2600 CAVANAUGH RD  
MOUNT VERNON WA 98273

**LEGAL DESCRIPTION**

**HEIMHILGER 1 ACRE TRACT AROUND HOUSE**

That portion of the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 23, Township 33 North, Range 5 East, W.M., more particularly described as follows:

Beginning at the intersection of the Southerly line of Lake Cavanaugh Road with the West line of Section 23;  
thence Southeasterly, at right angles to Lake Cavanaugh Road, a distance of 208.7 feet;  
thence Northeasterly, parallel to the Southerly line of Lake Cavanaugh Road a distance of 208.7 feet;  
thence Northwesterly a distance of 208.7 feet to a point on the South line of Lake Cavanaugh Road, 208.7 feet Northeasterly of the point of beginning;  
thence Southwesterly, along the South line of Lake Cavanaugh Road a distance of 208.7 feet to the point of beginning.

Situate in the County of Skagit, State of Washington.

OPEN SPACE TAXATION AGREEMENT

RCW 84.34

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

This Agreement between HANS Helmhilger

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: 330523-3-005-0008; 330523-0-001-0008; 330522-4-007-0005

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 84.04.130 (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:

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 11-28-95

*[Signature]*  
City or County

CHAIRMAN, SKagit County Board  
Title OF 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 hereby accept the classification and conditions of this Agreement.

Dated 11-28-95

*[Signature]*  
Owner(s)

*[Signature]*  
(Must be signed by all owners)

Date signed Agreement received by Legislative Authority Nov. 28, 1995

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

Owner(s)  
Legislative Authority  
County Assessor

BK 1504 PG 0250

95/22/0040

# Attachment "A"

LEGAL DESCRIPTION P18242  
 .OPEN SPACE#81 #815280 1976  
 W1/2 SW1/4 SW1/4 N OF RLY R/W  
 E. S & E O FCO RD LESS RD R/W,  
 15.08 ACRES

LEGAL DESCRIPTION P18225  
 TAX 1 BAT NE C OF W1/2 SW1/4  
 SW1/4 TH S 920FT E 100FT N  
 920FT W 100FT TPOS OPEN  
 SPACE#81 #815280 1976, 2.1  
 ACRES

LEGAL DESCRIPTION P18221  
 TH PTN SE1/4 SE1/4 LY S OF RD  
 OPEN SPACE#81 #815280 1976  
 LESS CO RD R/W, 2.44 ACRES

except the following:

## HEIMHILGER 1 ACRE TRACT AROUND HOUSE

That portion of the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 23, Township 33 North, Range 5 East, W.M., more particularly described as follows:

Beginning at the intersection of the Southerly line of Lake Cavanaugh Road with the West line of Section 23;  
 thence Southeasterly, at right angles to Lake Cavanaugh Road, a distance of 208.7 feet;  
 thence Northeasterly, parallel to the Southerly line of Lake Cavanaugh Road a distance of 208.7 feet;  
 thence Northwesterly a distance of 208.7 feet to a point on the South line of Lake Cavanaugh Road, 208.7 feet Northeasterly of the point of beginning;  
 thence Southwesterly, along the South line of Lake Cavanaugh Road a distance of 208.7 feet to the point of beginning.

Situate in the County of Skagit, State of Washington.

RESOLUTION NO. 15964

A RESOLUTION CONCERNING AN OPEN SPACE APPLICATION  
OF HANS HEIMHILGER

WHEREAS, the Skagit County Hearing Examiner held a public hearing on October 11, 1995 to review the Open Space application of applicant HANS HEIMHILGER, 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 HANS HEIMHILGER subject to any conditions recommended by the Hearing Examiner.

WITNESS our hands and official seal this 28<sup>th</sup> day of November, 1995.

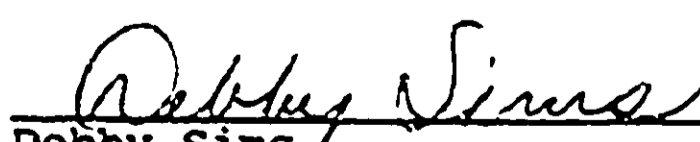
BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON

  
ROBERT HART, Chairman

  
HARVEY WOLDEN, Commissioner

  
TED W. ANDERSON, Commissioner

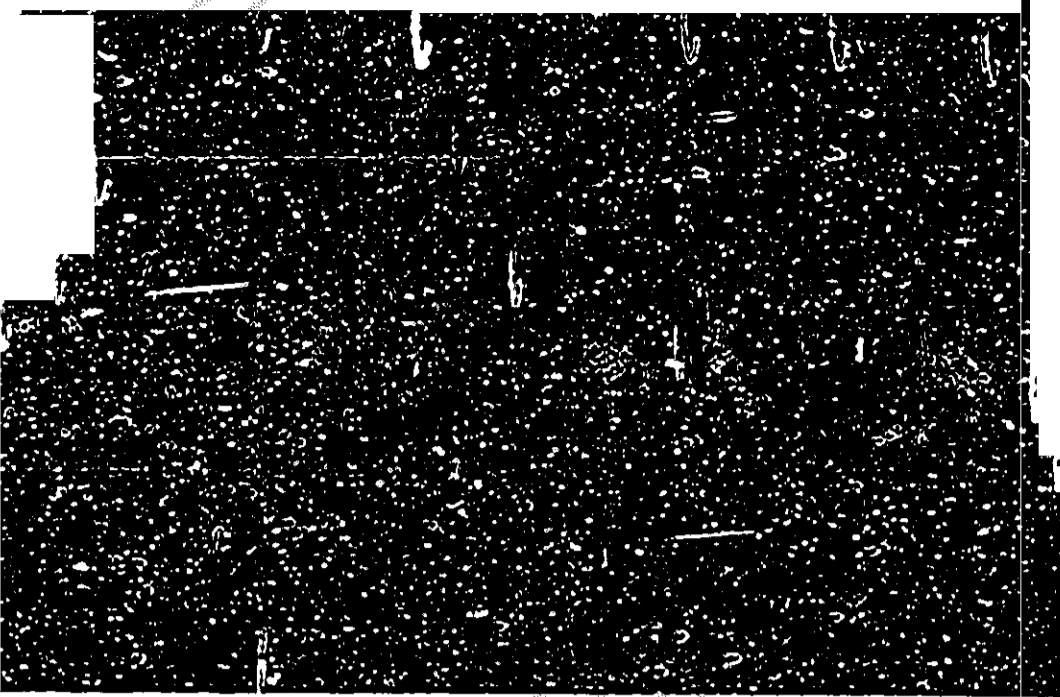
ATTEST:

  
Debby Sims  
Clerk of the Board

9512210040

BK1504PG0252

cc: Applicant, Planning. ~~Assessing~~



CC

OSP 94 001.REC

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

In the matter of:	)	
Application No. OSP 94 001	)	
Open Space Application of:	)	Findings of Fact
HANS HEIMHILGER for:	)	Recommendation
The inclusion of 19.6 acres in	)	OSP 94 001
the Open Space program.	)	
	)	
	)	

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 at 2600 Cavanaugh Road, Mount Vernon, WA; within a portion of the Southwest 1/4 of the Southeast 1/4 of Section 23, Township 33 North, Range 5 East, W.M., Skagit County, Washington;

Assessor Account No: 330523-3-005-0008, 330523-3-001-0008,  
330522-4-007-0005

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. October 11, 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. one (i) through nine (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.

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

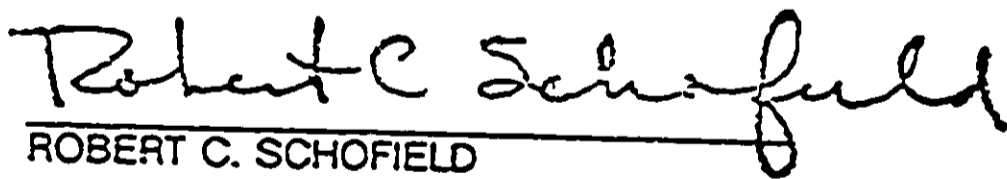
The Hearing Examiner, having duly considered the matter, including all the evidence presented and on file, comments from interested persons, information and comments from other county departments affected, independent studies of the Planning Department, and the evidence presented at the public hearing,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

This Recommendation shall be forwarded to the Board of Skagit County Commissioners for further consideration.

SKAGIT COUNTY HEARING EXAMINER

  
ROBERT C. SCHOFIELD

Date of Action: October 18, 1995

Copies transmitted to applicant: October 18, 1995

Attachment: Staff Report and Findings

C: Applicant, File, County Commissioners, Hearing Examiner, Prosecuting Attorney

RC

SKAGIT COUNTY PLANNING AND COMMUNITY DEVELOPMENT  
FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: OCTOBER 11, 1995

APPLICATION NUMBER: OPEN SPACE #OSP-94-001

APPLICANT: HANS HEIMHILGER

ADDRESS: 2600 CAVANAUGH ROAD  
MOUNT VERNON, WA 98273

SKAGIT COUNTY  
HEARING EXAMINER  
JAN 1996

4

PROJECT LOCATION: Located at 2600 Cavanaugh Road, Mount Vernon; within a portion of the Southwest 1/4 of the Southeast 1/4 of Section 23, Township 33 North, Range 5 East, W.M., Skagit County, Washington.

PROJECT DESCRIPTION: Open Space application to allow the inclusion of approximately 19.6 acres in the Open Space Program.

ASSESSOR'S ACCOUNT NUMBER: 330523-3-005-0008, -0-001-0008, 330522-4-007-0005

STAFF FINDINGS:

1. The following items are submitted as exhibits:
  1. Application
  2. Reduced portion of Assessors map
  3. Reduced portion of Zoning map
2. The subject property is zoned Forestry and the South Central District Comprehensive Plan designates the area as Forestry.
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 Policy Act Guidelines and has been found to be exempt.
5. The subject property is located out of any designated flood hazard areas.
6. The applicant owns approximately 19 acres with his residence and various accessory buildings.

7. The subject property has been in the Farm and Agricultural Open Space Program for several years. At this time, the applicant is requesting a transfer from the Farm and Ag Program to Farm and Agricultural Conservation.
8. The Farm and Ag Program requires a certain minimum dollar amount per acre of income. The Farm and Ag Conservation Program does not, but still allows a tax benefit. The inclusion in Farm and Ag Conservation is allowed for a maximum of five years. After which time, the property should either be returned to productivity or excluded from the Open Space Program and assessed at current market value.
9. The criteria for Farm and Ag Conservation is that the property could be returned to the previous, or perhaps some other type of farming activity. In conversation with the applicant, it was noted that he used to have cattle on the property.

Upon site inspection, it was noted that the property could be returned to that activity.

RECOMMENDATION:

Based on the above findings, the Skagit County Planning Department would recommend approval of the request to include approximately 19 acres in the Open Space Farm and Ag Conservation Program.

Prepared by: G.R.  
Approved by: JNM