

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

DEC 18 1995

PL 95-0238

OST-  
95-014

FILE WITH THE COUNTY LEGISLATIVE AUTHORITY

Name of Applicant BILL SCHMIDT

RECEIVED

Phone 360.826.3437

Address 689 GALLAGHER ROAD CANCERITE, WA. 98237

**9606140044**

Property Location SE 1/4 NW 1/4 S.33, T.34N., R.5E W.M., WILKER VALLEY AREA

1. Interest in property: ☒ Fee Owner ☐ Contract Purchaser ☐ Other (Describe) \_\_\_\_\_
2. Assessor's parcel or account number 340533-2-003-0009 #340533-2-003-0108
- Legal description of land to be classified SE 1/4 NW 1/4 S.33, T.34N., R.5E., W.M.
- P-32606 P107935

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 APPROX. 40

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
- ☐ 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 40

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.) NONE

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.

**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)

Bill Schmidt  
Janice Schmidt

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 \_\_\_\_\_

# OPEN SPACE TAXATION AGREEMENT

RCW 84.34

# 16166

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

This Agreement between BILL SCHMIDT

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: 340533-2-003-0009

Legal Description of Classified Land: SE 1/4 NW 1/4 S. 33, T. 34 N., R. 5 E., W. 11.  
P-32606

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:

Applicant shall comply with the Forest Stewardship Plan prepared for the subject property by Al Craney, Service Forester, USDA Soil Conservation Service. (Copy attached to this document.)

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 MAY 21, 1996

Granting Authority:

*Robert Hart*

City or County

SKagit County Commissioner

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 MAY 23, 1996

*Bill Schmidt*

Owner(s)

*Janice Schmidt*  
(Must be signed by all owners)

Date signed Agreement received by Legislative Authority MAY 28, 1996

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

Owner(s)  
Legislative Authority  
County Assessor

BK1558FGU535

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RESOLUTION NO. 16166

A RESOLUTION CONCERNING A TIMBER OPEN SPACE APPLICATION  
OF BILL SCHMIDT

WHEREAS, the Skagit County Hearing Examiner held a public hearing on April 17, 1996 to review the Open Space Timber application of BILL SCHMIDT and adopted Findings of Fact and a Recommendation which were submitted to the Board of Skagit County Commissioners; and

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

BE IT RESOLVED, that the Board of Skagit County Commissioners hereby adopts the Findings and Recommendation of the Hearing Examiner and approves the Timber Open Space application of BILL SCHMIDT subject to any conditions listed in the Hearing Examiner Recommendation.

WITNESS our hands and official seal this 21<sup>st</sup> day of MAY, 1996.



ATTEST:

Debby Sims  
Debby Sims  
Clerk of the Board

BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON

TED W. ANDERSON, Chairman

Harvey Wolden  
HARVEY WOLDEN, Commissioner

Robert Hart  
ROBERT HART, Commissioner

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01: APPLICANT, PLANNING, ASSESSOR

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

**Findings of Fact  
Recommendation  
No. OST 95 014**

**Assessor Account No: 340533-2-003-0009**

## FINDINGS OF FACT

1. April 17, 1996 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 Report and Findings of that Department. The Hearing Examiner adopts Findings one (1) through eight (8) as presented in that Report.
4. The applicant has had a Forest Stewardship Plan prepared by Al Craney, Service Forester.
5. The Hearing Examiner has reviewed this application with respect to the requirements of the Skagit County Code and the Revised Code of Washington.

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BK 1558 PG 0537

**CONCLUSIONS**

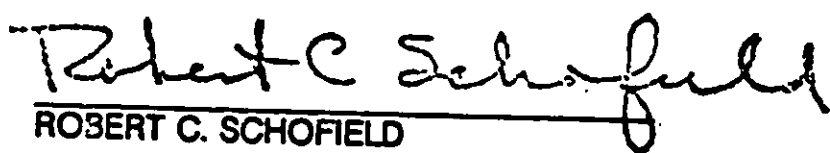
The Hearing Examiner, having duly considered the matter, including all the evidence presented and on file, comments from interested persons, information and comments from other county departments affected, independent studies of the Planning Department, and the evidence presented at the public hearing;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

**RECOMMENDATION**

The Hearing Examiner recommends **APPROVAL** of the application for inclusion of the subject property in the Timber Open Space Classification subject to the following conditions:

1. The applicant shall comply with the Forest Stewardship Plan prepared for the subject property by Al Craney, Service Forester, Skagit/Island/San Juan Conservation Districts, USDA Soil Conservation Service.

SKAGIT COUNTY HEARING EXAMINER

  
ROBERT C. SCHOFIELD

Date of Recommendation: April 24, 1996

Copies Transmitted to Applicant: April 24, 1996

Attachment: Staff Report and Findings

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

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**BK 1558 PG 0538**

SKAGIT COUNTY PLANNING AND PERMIT CENTER  
FINDING OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER  
HEARING DATE: APRIL 17, 1996  
APPLICATION NUMBER: PL95-0238 (OST 95-014)  
APPLICANT: BILL SCHMIDT  
ADDRESS: 689 GALLAGHER ROAD  
CONCRETE, WA 98237

PROJECT LOCATION: The subject property is accessed by the Walker Valley Road approximately 3 miles east from Big Lake which is 2 miles east of Mt. Vernon; within the SE 1/4 NW 1/4 of Section 33, Township 34 North, Range 5 East, W.M. Skagit County, Washington.

PROJECT DESCRIPTION: Open Space Timber request to allow the inclusion of approximately 40 acres in the Timber Open Space Program.

ASSESSOR'S ACCOUNT NUMBER: 340533-2-003-0009  
PARCEL ID NUMBER: P30606

STAFF FINDINGS:

1. The following items are submitted as exhibits:
  1. Application dated December 18, 1995
  2. Assessor's map (reduced portion)
  3. Timber management plan prepared by Al Craney, Service Forester and dated December 12, 1995.
2. The subject property is zoned Forestry and the South Central Comprehensive Plan designates the area as Forestry.
3. The public hearing has been advertised in accordance with the requirements of Chapter 14.04.240 (13) of the Skagit County Code.
4. The subject property is located out of any designated flood hazard areas.

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5. The application has been reviewed in accordance with the State Environmental Act Guidelines WAC 197-11-800 (6)(c) and has been found to be exempt.
6. A minimum of 5 acres of "Timber land" is necessary to be included in the Open Space Program. The subject property is approximately 40 acres and is accessed by the Walker Valley Road. The property lies within the Nookachamps Creek drainage. The adjoining properties are mostly commercial forest lands, agricultural lands, a Boy Scout Camp, DNR-ATV trail head, & rural residents. The applicant also owns an adjacent 80 acre parcel.
7. The applicant has submitted a Timber Management Plan prepared by Al Craney, Service Forester, dated December 14, 1995 for the subject property.
8. The following are staff comments in regard to the Timber Open Space criteria as outlined in RCW 84.34.041 as they apply to this request: The applicant has attached a legal description and Assessor's map for the site. The Timber Management Plan is in compliance with this section. The property was purchased by the Schmidts in 1995. It had been clear-cut logged in 1993 and 1994. There is a reforestation plan included for this parcel and the adjoining parcel. By signing the application form, the applicant is fully aware of the potential tax liability involved when the land ceases to be classified as timber land.

**RECOMMENDATION:**

Based on the above findings the Planning and Permit Center would recommend approval of the request for inclusion into the Open Space Timber program with the following condition:

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

Prepared by: MS

Approved by: JNM

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**BK1558PG0540**