

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS**

Monday, October 19, 1992

- 9:30 a.m. - 10:00 a.m. Decision - Agricultural Variance Request #VAR-92-027 of Marguerite Johnson, 1485 Dunbar Lane, Mount Vernon, Washington.
- 10:00 a.m. - 11:00 a.m. Public Works Department - Rich Medved, Director.
- 1) Proclamation - Flood Awareness Week, October 26, through 30, 1992.
 - 2) Discussion - Proposed Additional Work, Conway C.R.P. #8024-1, Main Street.
 - 3) Discussion - Intersection Hermway Heights Road and State Highway 534 - Joint Project with Washington State Department of Transportation.
 - 4) Miscellaneous.
- CONSENT AGENDA.
- MISCELLANEOUS.
- 11:00 a.m. - 11:30 a.m. Proclamation - United Way Day, Monday, October 19, 1992.
- 1:30 p.m. - 2:30 p.m. Appeal by Howard Pellet of Administrative Decision regarding Short Plat Application #SP-92-093 of Kenneth Reed, located on the South Side of Guemes Island Road.
- 2:30 p.m. - 2:45 p.m. Planning Commission Recommendation - Fire Stations Allowed as Special Use.
- 2:45 p.m. - 3:30 p.m. Hearing Examiner Recommendation - Denial - Fred Carlson Agricultural Variance #AGV-92-044, 1474 Baker Height Road, Mount Vernon, Washington.

The Skagit County Board of Commissioners met in regular session on Monday, October 19, 1992, with Commissioners W. W. Vaux, Robby Robinson and Ruth Wylie present.

DECISION - AGRICULTURAL VARIANCE REQUEST #VAR-92-027 OF MARGUERITE JOHNSON, 1485 DUNBAR LANE, MOUNT VERNON, WASHINGTON.

The Board met to deliberate on a request to divide four acres of property zoned Agriculture into a one acre and a three acre parcel owned by Marguerite Johnson at 1485 Dunbar Lane in Mount Vernon. Mrs. Johnson wishes to convey part of her property to her daughter.

Commissioner Wylie stated that she found during the site visit that the Dunbar Lane site is surrounded by housing and residential development. She felt it would, indeed, be difficult to place cattle or stock on the property, or to bring farm equipment into the property to make it farmable. She motioned to approve Mrs. Johnson's Agricultural Variance request #VAR-92-027.

Commissioner Vaux agreed, stating that the Vista View Addition added greatly to the residential density of the Dunbar Lane area. He seconded Commissioner Wylie's motion, which passed unanimously.

PUBLIC WORKS DEPARTMENT - RICH MEDVED, DIRECTOR:

1) Proclamation - Flood Awareness Week, October 26-30, 1992.

Dan Tolliver, Flood Control Engineer, explained activities planned during Flood Awareness Week, October 26-30, 1992.

A Proclamation was read by Commissioner Wylie, and the Board proclaimed October 26-30, 1992, Flood Awareness Week on motion by Commissioner Wylie, second by Commissioner Vaux, and a unanimous vote.

2) Discussion - Proposed Additional Work, Conway C.R.P. #8024-1, Main Street.

Doug Barnet, County Engineer, explained that the original Main Street project established last year extended from Fir Island Road, through Conway and back out to Fir Island Road. The Public Works Department has been approached by private citizens regarding concerns about asphaltting and road repair on Spruce Street and Second Street, which connect with Main Street, where additional drainage work and asphaltting should be performed. Mr. Barnet explained that the Public Works Department is recommending that this work be added to the Main Street CRP project. The estimated cost for the project would be \$13,000. Once the Board has concurred, staff will negotiate with the contractor for the additional work. Mr. Barnet felt that this change order would not increase the length of the project by any appreciable amount.

Discussion ensued, and Mr. Barnet was asked to explain the drainage route for the two roads.

Commissioner Vaux motioned to approve the additional work on Spruce and Second Streets as part of the Main Street CRP. Commissioner Wylie seconded the motion, which passed unanimously.

3) Discussion - Intersection Hermway Heights Road and State Highway 534 - Joint Project with Washington State Department of Transportation.

Mr. Barnet explained that about a year ago direction was given to Public Works staff to work with the State WSDOT to improve sight distance at the intersection of Hermway Heights Road and Highway 534. As a result, a letter was written to WSDOT and brush cutting opened another 30 feet of sight distance. To achieve greater site distance, it will be necessary to remove a view-blocking bank on the shoulder of SR 534. This project would cost approximately \$20,000 to \$30,000. Because of the cost, it would probably be given a low priority at WSDOT, but WSDOT has agreed that if the County participates, the project could be moved up on their schedule. Staff asked permission to negotiate with WSDOT for an agreement on funding of the safety improvements.

Rich Medved, Public Works Director, stated that it is not unusual for the County to participate with WSDOT to facilitate safety projects.

Commissioner Wylie motioned to direct the Public Works Department to negotiate with the WSDOT for a County contribution to the Hermway Heights Road sight distance project which would move the project up on the WSDOT priority list. Commissioner Vaux seconded the motion, which passed unanimously.

4) Miscellaneous.

There were no miscellaneous items from the Public Works Department at this time.

RECORD OF THE PROCEEDINGS

Monday, October 19, 1992

Page #3

CONSENT AGENDA.

Commissioner Wylie motioned to adopt the Consent Agenda of October 19, 1992, as presented. Commissioner Vaux seconded the motion, which passed unanimously.

* **Administrative Services:**

1. Record of the Proceedings for the week of Monday October 5, 1992.
2. Record of the Proceedings for Monday, October 12, 1992.

* **Budget/Finance:**

3. Signature - Resolution implementing a \$10.00 per parcel charge upon all State of Washington Department of Natural Resource Lands within the Skagit County Flood Control District. (Resolution #14600)

* **Health Department:**

4. Support Group Facilitator Contract - Kathy Straub to furnish services for the Skagit AIDS Volunteers group, Tuesday evenings October 1992 through December 1992 from 7:00 p.m. to 8:30 p.m., at the rate of \$40.00 per month. (Contract #001457)

* **Human Resources:**

5. Signature - Sub-Lease Agreement with North Sound Regional Support Network for commercial premises at 811 Cleveland, Mount Vernon, Washington, from August 1, 1992 through July 31, 1993 at the monthly rental amount of \$802.00. (Contract #001458)

* **Parks, Recreation and Fair:**

6. Contract for professional services with Ken Hegenderfer of Rockport for construction of two metal gates for Howard Miller Steelhead Park to be completed by November 30, 1992, for compensation total \$100 plus materials cost. (Contract #001459)

* **Planning Commission:**

7. Resolution - Approving the Annexation of the "Centennial Addition" to the Town of Hamilton as per their Ordinance No. 147. (Resolution #14601)
8. Resolution - Approving the Annexation of the "Sutton Addition" and "Baptist Church" to the Town of Hamilton as per their Ordinance Numbers 157 and 158 consecutively. (Resolution #014602)

* **Public Works:**

9. Signature - Resolution authorizing Construction funds for the realignment of the Snee-Oosh Road at Reservation Road for standard "T" intersection. Total amount of appropriation \$50,700.00. (Resolution #014603)

RECORD OF THE PROCEEDINGS

Monday, October 19, 1992

Page #4

10. Signature - Changer Order Number 1 for the Conway Road Project. The work proposed was not included as part of the original bid due to the bidding schedule and is planned to be done under change order procedures. The work will include storm drain pipes and catch basins to the north of Main Street. Change order amount is \$31,527.91.
 11. Signature - Resolution Amending the Declaration of Sole Source Replacement Components at the Resource Recovery Facility. This will add Allen-Bradley to Control Instrumentation and change Reciprocating Conveyor system to read Kiln Supports - Technitalia. (Resolution #014605)
 12. Signature - Resolution establishing 1992 cost allocation to equipment rental fund. The Equipment Rental Fund provides and maintains four vehicles for County-wide use, and prior year accounting costs are available for such vehicles. The 1992 interfund billing to the General Fund for vehicle usage shall be \$9,235.50. (Resolution #_____)
 13. Signature - Proclamation - Flood Awareness Week, October 26, 1992 through October 30, 1992.
- * Treasurers Office:
14. Signature - Resolution and Quit Claim Deed, deeding two "Associated Oyster Lands Inc., Plats to the State of Washington Department of Ecology.

MISCELLANEOUS ITEMS.

- A. The Board approved for signature the resolution denying the appeal relating to the issuance of a Mitigated Declaration of Non-Significance for special use applicant 91-017 for Tewalt, Inc. (Resolution #14606)
- B. The Board discussed with Jon Aarstad, Director of the Parks and Recreation Department, a contract with Ed Smith of Mount Vernon for the production of a videotape to advertise and memorialize Howard Miller Steelhead Park.

Commissioner Vaux did not feel that a videotape to market the park was necessary, as the park is extremely popular in summer. Mr. Aarstad maintained that the videotape is important as a visual aide when talking with civic groups.

Commissioner Vaux then motioned to approve the contract with Ed Smith for production of a marketing videotape for Howard Miller Steelhead Park in consideration of up to \$150.00 before May 30, 1992. (Contract #001460)

- C. Vouchers audited and certified by the auditing officer as required by R.C.W. 42.24.080, and those expense reimbursement claims certified as required by R.C.W. 42.24.090, have been recorded on a listing which has been made available to the Board.

As of this date, October 19, 1992, the Board, by a majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

- 1) Warrants #27099 through #27238 (Vouchers #PDRAWOC2537 through #PDRAWOC2676) in the amount of \$50,666.87. Transmittal #P-21-92.

RECORD OF THE PROCEEDINGS

Monday, October 19, 1992

Page #5

- D. Mike Woodmansee, Budget/Finance Director, presented a Budget Line Item Change which accounts for \$440,000 for the parapet wall repair and \$60,000 for miscellaneous projects to the "Other Projects" line item. It also accounts for purchase of a house on Third Street in Mount Vernon at a cost of \$60,000. Finally, it accounts for a \$50,000 line item to account for DNR interest payments. Funds were taken out of the County Services Building Fund and the Juvenile Detention Fund, which will not be used this year.

Commissioner Robinson motioned to approve the resolution adopting a Budget Line Item Change in the amount of \$612,000. Commissioner Vaux seconded the motion, which passed unanimously. (Resolution #14607)

- E. Commissioner Vaux motioned to approve a resolution allowing Planning Department employees to transfer up to 120 hours of sick leave to Tom Karsh, a Permit Center employee, due to a personal emergency involving a seriously ill child. Commissioner Wylie seconded the motion, which passed unanimously. (Resolution #14608)

PROCLAMATION - UNITED WAY DAY, MONDAY, OCTOBER 19, 1992.

Tim Holloran, Senior Services Director and Loaned Executive for United Way of Skagit County, and Belinda Wade, Nutrition Services Coordinator, discussed services provided by United Way of Skagit County and their funding drive goals for 1992. This year's goal is \$575,000.

Commissioner Wylie read a Proclamation into the record, and motioned to proclaim October 19, 1992, United Way Day in Skagit County. Commissioner Vaux seconded the motion, which passed unanimously.

APPEAL BY HOWARD PELLET OF ADMINISTRATIVE DECISION REGARDING SHORT PLAT APPLICATION #SP-92-093 OF KENNETH REED, LOCATED ON THE SOUTH SIDE OF GUEMES ISLAND ROAD.

Jeff Morgan, Associate Planner, provided a plat map. The Board had previously received staff findings, a copy of the appeal, and a vicinity map and reduced assessor's map.

Mr. Morgan explained that the property is zoned Rural and Residential. It is a total of 57.35 acres, which Mr. Reed proposes to divide into four residential lots.

As part of application review, following receipt of the application in December, 1991, the application was routed to various agencies and departments for comment. Comments were received from Public Works and Planning (Septic) Section as follows:

1. Indicate the area of test holes and place the appropriate note on the short plat noting that alternative systems are required.
2. 60' ingress, egress, utility easement required.
3. Drainage plan showing swale proposed and outlet design must be submitted.
4. Set survey corners.
5. Build or bond the proposed road.
6. Pre-construction meeting required before road and drainage facility construction.
7. The proposed road name shall be submitted.
8. Survey needs to be referenced to nearest 1/4 corner, bearing and distance.
9. Benchmark needs to be established.

RECORD OF THE PROCEEDINGS

Monday, October 19, 1992

Page #6

In January, 1992, the Public Works Department indicated that several of the previously requested items regarding drainage and roads had been completed.

In April, 1992, the Planning Department documented that a shoreline permit would not be required. The final mylar was submitted for signature in April, 1992; however, the decision not to require a shoreline permit was appealed. In response to the appeal, the Planning Department required a shoreline permit due to the planned construction of a drainage pond within the wetlands of Bellingham Bay. The application was subsequently revised to use a swale instead of the drainage pond, and the Planning Department again determined that a shoreline permit would not be required. Again, that decision was appealed, but the appeal was later withdrawn.

Once again, the final mylar was circulated and this time received final signature. At that time Tom Moser, attorney for Howard Pellett, commented via an appeal and letter that the short plat did not comply with recently effective legislation.

Peter Eglick, Bank of California Building, Seattle, WA 98164, who represented Kenneth Reed, deferred his comments until after hearing from the appellant, as Mr. Eglick was not clear regarding the substance of the appeal.

Tom Moser represented the appellant, Howard Pellett, a property owner living directly across the street from Mr. Reed's property. Mr. Moser pointed out that a substantial portion of the Reed property is wetlands. He stated that there is a concern that the effect of the development of four additional residences on the local aquifer have not been adequately addressed. Mr. Moser maintained that the applicant has tried to avoid complying with new legislation (SCC Chapter 12.48) governing public water systems, which took effect January 1, 1992. Mr. Reed has maintained that his application was vested prior to the effective date of the ordinance.

Mr. Moser read briefly from a 1987 Supreme Court decision (*Donahue v. Redmond*) which states that a developer's rights are vested only after the application is:

- 1) Sufficiently complete
- 2) Complies with existing zoning ordinances and building codes
- 3) Is filed during the effective period of the zoning ordinance under which the applicant wishes to develop

Mr. Moser maintained that the Reed application was not complete prior to January 1, 1992, and therefore he did not have a vested application at the time the new water regulations became effective.

Mr. Moser referred to a copy of an April 7, 1992, letter from Bob McGill to Mr. Reed which indicates that his decision not to require a shoreline permit was based "solely" on the fact that there was no development planned in the associated wetlands. The letter goes on to indicate his surprise that a detention pond that was not shown on the short plat was planned for a wetland area. Apparently a latter short plat map did indicate the detention area. Upon discovering that there was development planned within the wetland, Mr. McGill reversed an earlier decision not to require a shoreline permit.

At that time, Mr. Moser stated, the applicant made a substantial change to his application to avoid the shoreline permitting process, at which time his vested rights were lost and the application began again, and the new public water ordinance was applicable.

RECORD OF THE PROCEEDINGS

Monday, October 19, 1992

Page #7

Mr. Moser provided a map showing salt water intrusion areas on Guemes Island that is contained in the file of the Hearing Examiner. Mr. Moser's purpose was to indicate that additional wells constructed in a salt water intrusion area increase the likelihood of salt water contamination of existing wells.

Mr. Moser provided a letter from Lorna Haycox of the Health Department to Mr. Reed regarding an earlier proposal to develop a Planned Unit Development on this property, which states that "although the State Board of Health has not established a primary maximum contaminant level for sodium, there is enough public health significance connected with sodium levels to require inclusion in inorganic chemical monitoring", and she provides Mr. Reed with informational materials on this issue. Ms. Haycox's letter warns of the possible danger to the aquifer and the possibility of greater salt water intrusion if a PUD was created. The letter does not pertain to the short plat application discussed today, but to a previous proposal.

Mr. Moser moved on to his application of the Growth Management Act to the appeal. R.C.W. 36.70A.170 requires the County to designate critical areas, such as aquifer recharge areas. Mr. Moser stated that although the County has taken steps to do this, he felt the efforts have been inadequate. Mr. Moser submitted that the designation of critical areas pertaining to aquifers has never been adopted by Skagit County. R.C.W. 36.70A.060(2) states that the County should develop regulations which protect critical areas. He felt that this had not been done, as required, by September 1, 1991, although admitted that an extension may have been sought by the County.

Mr. Moser asked that the Board send the application back to the Planning Department, stating that there is no vested right which supercedes the new water regulations, and asking that it be applied.

Peter Eglick represented the applicants. He stated that this is the third appeal filed by Mr. Pellett on this application. After the first appeal, the applicants took steps to correct their application. This appeal was ostensibly filed by the local water association; however, the Hearing Examiner made a statement during an open session that the water association was unaware of the appeal. The second appeal was filed by Mr. Pellett and, following a two to three month delay, five days prior to the hearing of the appeal, the appeal was withdrawn. Again, after the short plat application had been approved, an appeal was filed by Mr. Pellett.

In terms of vesting, Mr. Eglick said, the appellant maintains that unless an application is absolutely complete, it does not vest. Later corrections removes the vested right of the application. Mr. Eglick stated that the standard for vesting does not indicate this. The standard is "sufficient completion to allow the application to be processed". Mr. Eglick stated that the case of Mercer Enterprises v. City of Bremerton indicates that an application can be complete "even if it requires some further information before the application can be processed". In "Mercer" the project was found to be vested where the application was for a 60 unit apartment building, even though it was later modified to 50 units.

Mr. Eglick stated that the changes have occurred as a result of Mr. Pellett's complaints and Mr. Reed's choice to change the application rather than argue. Mr. Pellett maintains that the detention ponds could never be approved, and therefore the application was not vested. Mr. Eglick maintained that they could have followed through with the shoreline application and sought approval of the detention pond, but chose instead the simpler path of changing the application. In fact, Mr. McGill's letter indicates that the wetland had not been delineated, therefore, Mr. McGill did not know whether wetlands would deter the construction of the detention pond.

Mr. Eglick pointed out that Ms. Haycox's letter was dated prior to the submission of the Reed application. The reason for this is because originally Mr. Reed had proposed to create a short plat of 9 residential lots. Because of Mr. Pellett's objections, Mr. Reed reduced the density to four lots.

RECORD OF THE PROCEEDINGS

Monday, October 19, 1992

Page #8

Under this short plat, the closest existing well is 400 feet away from the Reed property in an area where the fresh water lens is arguably greater. Ms. Haycox's letter bears out that as the aquifer travels further inland, the lens becomes greater. Mr. Eglick stated that Mr. Pellett, not representing the water association, has not standing for this appeal.

Regarding application of the Growth Management Act, Mr. Eglick stated that nowhere in the law is there a provision that a County's compliance or non-compliance has bearing on individual land use applications. There are provisions for sanctions against counties not complying, but not for relieve private land owners.

Mr. Moser stated that the fact that other appeals have been filed are irrelevant. The first appeal was withdrawn when compliance was achieved. The second was withdrawn when testimony Mr. Moser had expected from DOE was not forthcoming. Mr. Moser stated that the Guemes Island Property Owners' Association withdrew their support of Mr. Pellett's appeal after they received an intimidating letter from Mr. Reed.

Mr. Moser again maintained that the application received 10 days prior to the effect of the water legislation is not the same application that was later approved.

Mr. Moser argued that the developer should be required to perform studies of the aquifer and how his development will effect it.

Mr. Eglick rebutted Mr. Moser's statements. He stated that he was a participant in a hearing before the Hearing Examiner on another matter and heard Mr. McGill tell Mr. Schofield that he had received calls from the Guemes Island Property Owners Association stating that they objected to being listed on the appeal, and that Mr. Pellett was not authorized the use of the Association's name.

Mr. Eglick argued the vesting issue. Regardless of whether the water ordinance applies or not, Mr. Eglick stated, Mr. Pellett could have brought forth whatever concerns he had regarding the water system in the form of proof that a problem exists. Mr. Eglick maintained that the appeal is another attempt at delay.

Commissioner Vaux asked John Moffat, Chief Civil Deputy, to remark on the application of the Growth Management Act.

Mr. Moffat stated that the County received permission to delay submittal of critical areas information until March, 1992, after which the County did comply, and therefore is not an issue. Mr. Moffat cited, in addition to those cases cited by Mr. Eglick, Juanita Bay Valley Community Association vs. Kirkland was cited by Mr. Moffat, which indicates that even if the original application was defective in some manner at the time of vesting, it can later be amended without change the date of vesting. Richland Homeowners Association vs. Young was also cited, which indicates that changes can be made after the application is received and vested. He stated that for 40 years or more this has been the standard in Washington State. Mr. Moffat also did not feel that the Growth Management Act applies to this application. Even if it did, it should be a separate challenge to the County, not to an individual property owner who, in good faith, is attempting to complete a land use application.

Commissioner Vaux then stated that he was prepared to make a motion. He explained to Mr. Moser that as long as he has been with the County, an application is vested on submission of a completed application. Commissioner Vaux motioned to deny the appeal.

Commissioner Wylie seconded the motion, which passed unanimously.

PLANNING COMMISSION RECOMMENDATION - FIRE STATIONS ALLOWED AS A SPECIAL USE.

Gary Christensen, Associate Planner, stated that on September 25, 1992, the Planning Commission met to consider a proposal to create a change to the Skagit County Code which would allow fire stations to be constructed with a special use request. Jim Allen, on behalf of the Skagit County Fire Chiefs Association, has strongly supported this proposal.

Mr. Christensen stated that currently a fire district must apply for a comprehensive plan amendment and rezone to a Public Use zoning in order to construct a fire district. Early last year, Skagit County "grandfathered" fire districts and their properties by rezoning all existing fire stations to Public Use zoning; however, any new property purchases for the purpose of constructing fire stations are not considered.

Mr. Christensen stated that it is felt that since the construction of fire stations is of public benefit, the County should attempt to streamline the process for permitting fire stations. The Planning Commission has recommended on a unanimous vote that this method be adopted as part of the Skagit County Code.

Responding to an inquiry from Commissioner Vaux, Mr. Christensen stated that any existing fire stations will not be required to receive a special use permit, as they are "grandfathered". However, any new applications will require a special use permit, but the underlying zoning will remain the same. A fire station would be allowed in all zoning districts by special use under this proposal. If a fire district wants to build on to an existing structure, they may do so under their public use zoning. If, however, the fire station has purchased adjacent land under a different zoning, a special use permit would be required to construct fire facilities.

Commissioner Vaux motioned to approve the recommendation of the Planning Commission to amend Skagit County Code 14.04.150 to allow fire stations to be considered as a special use. Commissioner Wylie seconded the motion, which passed unanimously.

HEARING EXAMINER RECOMMENDATION - DENIAL - FRED CARLSON AGRICULTURAL VARIANCE #AGV-92-044, 1474 BAKER HEIGHTS ROAD, MOUNT VERNON, WASHINGTON.

Grace Roeder, Associate Planner, submitted staff scan photographs indicating the mobile home currently located on the site, an assessor's map submitted by the applicant and highlighted to show substandard parcels currently located in the area, and a petition and map submitted by the applicant with petition signators' property highlighted.

Ms. Roeder reported that the subject property is zoned Agricultural and Agricultural Reserve, which has a minimum lot size of 20 acres. The subject property is 20 acres in size, containing the applicant's home. In 1988, the applicant obtained a special use permit to allow his granddaughter to live in a mobile home on the property, with the condition that when she no longer lives on the property, the mobile home will be removed.

Mr. Carlson has applied for an agricultural variance to allow the subdivision of one acre of property from his holdings to convey to his granddaughter for the construction of a permanent home.

Ms. Roeder reviewed appropriate justifications for agricultural lot size variances. She stated that they are allowed for property where a physical feature requires the division. Actions by the applicant are not justification for the granting of a variance. The Planning Department feels that the approval of Mr. Carlson's application would confer a special privilege upon the applicant. Ms. Roeder read from the Staff Report regarding the intent of the Special Use Permit regulations for the placement of temporary mobile homes for caregivers. The intent, as stated in the Staff Report, is for the relief of a temporary hardship which after it

RECORD OF THE PROCEEDINGS

Monday, October 19, 1992

Page #10

ends, requires the mobile home's removal. Ms. Roeder stated that the Planning Department has recommended denial of this request, and the Hearing Examiner has concurred.

Steve Christopherson, 1474 Baker Heights Road, gave information. He referred to Staff Finding #10, which deals with the temporary nature of special use permits for mobile homes as second residences on agricultural property. He stated that in the special use permit for the placement of the mobile home in which he lives does not indicate that the death of his wife's grandparent or a change in the grandparent's situation is basis for the removal of the mobile home. The special use permit only provides for the death or change in circumstance of his wife, Laurie. It was the Christopherson's understanding that this mobile home would be theirs for life.

Regarding Finding #6, which deals with the preservation of farmland, Mr. Christopherson stated that the ground is no longer farmed, nor has it been for a number of years. The reversion of the land to residential use would not impact the ability of the remainder of the land to be farmed.

Mr. Christopherson disputed the finding that the application would be a detriment to the area. He stated that his personal contact with other neighbors has indicated that there is no objection to the location of a permanent residence on the site of the mobile home. He asked that the Board allow this agricultural variance.

Morris Nielsen, 1453 Gunderson Road, also recommended that the Board overturn the Hearing Examiner's recommendation. Mr. Nielsen maintained that other variances have been granted in the area. He stated that almost the entire length of Baker Heights Road is characterized by substandard lots. Mr. Nielsen stated that the Christophersons did not get an agricultural variance in 1988 when the mobile home was first placed on the property because it would have been more expensive than the special use permit. Mr. Nielsen felt that 8 or 9 months ago, the Christophersons could have obtained an agricultural variance because it was prior to new regulations becoming effective. Mr. Nielsen stated that the remainder of the Carlson property is rented by Bob Eastman for dairy cattle grazing and hay production.

Commissioner Robinson explained that the Board has three options which are:

- 1) To uphold the decision of the Hearing Examiner.
- 2) To remand the matter back to the Hearing Examiner for further consideration.
- 3) To call for the Board's own public hearing to consider testimony on the matter.

Mrs. Carlson asked if there was a statute that allows a mobile home to be placed on property for care of elderly relatives. The Board indicated that there is, and that this is what the Christopherson's mobile home exists under. Mrs. Carlson maintained that an employee of the Planning Commission indicated that it would be permissible for the Christophersons to eventually build on the property.

John Norbeck, Laurie Christopherson's father, stated that he was present during the permitting process for the mobile home. He verified that it was understood at that time that the Christophersons would be allowed to build at some future date on the property. Mr. Norbeck believed that a new ordinance has affected this plan, and that since the special use permit existed prior to the passage of the new ordinance, the old "agreement" should be honored.

Commissioner Wylie asked to see a copy of the Christopherson's special use application. Ms. Roeder provided a copy of the staff findings regarding the special use permit, but the special use permit itself was not immediately available. Conditions listed in the staff findings state that all permits must be obtained, and that when Mr. Carlson's granddaughter no longer lives in the mobile home, it must be removed.

RECORD OF THE PROCEEDINGS
Monday, October 19, 1992
Page #11

A letter from Elliott W. Johnson, attorney for the Carlsons, indicating that one acre of property on which the mobile home is situated is willed to Laurie Christopherson, was also submitted by Ms. Roeder.

Ms. Roeder was dispatched to obtain a copy of the special use permit, and the Board recessed until she returned. Upon her return, the Board reviewed the special use permit, and Commissioner Vaux motioned to hold a public hearing to consider Mr. Carlson's agricultural variance request on Tuesday, November 17, 1992, at 10:00 a.m. Commissioner Wylie seconded the motion, which passed unanimously.

ADJOURNMENT.

There being no further business, Commissioner Wylie motioned to adjourn the proceedings. Commissioner Vaux seconded the motion, which passed unanimously.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

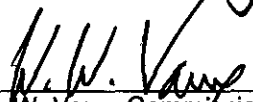




Robby Robinson, Chairman



Ruth Wylie, Commissioner



W. W. Vaux, Commissioner

ATTEST:



Stephanie Wood, Clerk
Skagit County Board of Commissioners