

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

**Wednesday, September 22, 1993**

- 1:30 p.m. - 1:45 p.m. Bid Opening - One New 1993 Excavator with Tires.
- 3:00 p.m. - 3:45 p.m. Hearing Examiner's Recommendation - Denial - Agricultural Variance #AGV-93-020 for Conrad Bock and Fred Lotz, Stackpole Road, Mount Vernon.
- 3:45 p.m. - 4:30 p.m. Appeal - Shoreline Substantial Development/Variance #SHL-93-030 of Donna and Jerry Fish, 3247-A South Shore Drive, Mount Vernon.

The Skagit County Board of Commissioners met in regular session on Wednesday, September 22, 1993, with Commissioners Robert Hart, Harvey Wolden and Robby Robinson present.

**BID OPENING - ONE NEW 1993 EXCAVATOR WITH TIRES.**

The following bids for one new 1993 Excavator with tires were received:

Northern Commercial Company  
dba/NC Machinery Company  
Post Office Box 130  
Mount Vernon, Washington 98273

Total Bid: \$138,146.79

Smith Tractor and Equipment Company, Inc.  
1712 Hickox Road  
Mount Vernon, Washington 98273

Total Bid: \$123,082.13

Bid bonds were received with the above bids.

The Board advised that the above bids would be reviewed and awarded the following week.

**HEARING EXAMINER'S RECOMMENDATION - DENIAL - AGRICULTURAL VARIANCE #AGV-93-020 FOR CONRAD BOCK AND FRED LOTZ, STACKPOLE ROAD, MOUNT VERNON**

Jeff Morgan, Associate Planner, presented documents to the Board to be attached to the Hearing Examiner's findings. The documents, which were exhibits from the Hearing Examiner's file, included an assortment of maps, real estate contracts and deeds and a narrative given by the applicants at the Hearing Examiner's proceedings. He also presented the Board with two letters to be included with the file; one from David Murray, 1720 Stackpole Road, and one from Victor Markus, 1903 Cedardale Road, both neighbors of the Bock/Lotz property. Mr. Murray supported the variance, while Mr. Markus was opposed.

Mr. Morgan explained that the subject property is located on the south side of Stackpole Road and is zoned agriculture. It is in an A-O flood hazard area and is approximately 7.77 acres in size. A site visit confirms that the property is relatively flat and is currently farmed in wheat. It apparently was subdivided in 1974 without benefit of a short plat and two parties purchased the two resultant lots, Conrad Bock and Fred Lotz.

Mr. Morgan further explained that the request is to allow the separation of the property into two lots of 3.885 acres each, and to waive the requirement for a short plat. It appears that residential development is planned.

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The Hearing Examiner, Bradford Furlong, has recommended denial of this request as the special circumstances indicated by the applicant do not justify the granting of the variance in accordance with variance criteria. Further, the staff has also recommended denial.

The Board was advised that they may choose any of the following options in this matter:

- 1) Adopt the decision of the Hearing Examiner.
- 2) Remand the matter back to the Hearing Examiner for further consideration.
- 3) Call for the Board's own public hearing to consider testimony on the matter.

Chairman Hart opened the meeting up for discussion. He asked if the individuals who own the property in question each receive a separate tax statement. Mrs. Bock, one of the property owners who was present, advised that they do.

Commissioner Robinson asked if taxes were paid on "residential" lots. Mr. Milnor, representing the applicants, advised that taxes were paid for residential lots.

Chairman Hart asked how the tax statements were set up without a record. Mr. Morgan stated that that is a dilemma the Planning Department has run into over the years, where the Assessor's Office has assigned separate and distinct parcel numbers regardless of the legality of the lot.

Mr. Morgan noted that there are a number of parcels in the area that have homes on them. John Milnor stated that there is the 10 acre Morrison parcel to the south and it is the only parcel without a house. There are 13 houses within that 40 acres.

John Milnor said he thinks the laws could be reasonably interpreted to indicate that one would not have to look at the property solely as agriculturally zoned property, but as compared to property that lies within the vicinity in which the parcel is located. That point was not mentioned at all at the hearing before the Hearing Examiner, Mr. Milnor stated.

Chairman Hart stated that he would be inclined to accept the Hearing Examiner's decision based on consistency with State Growth Management Act policies and current ordinances. He suggested that Mr. Bock and Mr. Lotz should attend the hearing on Monday night of the Planning Commission where they will be dealing with issues relative to agricultural variances as it might have some applicability to this site.

Mr. Milnor stated that he believes there are special circumstances that apply to this property which are not the fault of the applicants. He stated that the County taxed the property for 19 years as two separate lots. Public testimony states that Mr. Murray, the previous owner, modified the property in 1978 and the County took no action. Mr. Milnor said he is asking the County Commissioners to recognize this mistake took place over 19 years ago. Mr. Milnor stated that if the Board does not find in favor of his clients, since the properties are owned by two different parties, the County should determine who gets the building site.

Chairman Hart pointed out that this property is located in agricultural zoning, and nothing precludes the property owners from using the land for that purpose.

After further discussion, Chairman Hart stated that he could see nothing that would lead him to overturn the Hearing Examiner's determination.

Chairman Hart motioned to uphold the Hearing Examiner's recommendation to deny the Agricultural Variance request of Conrad Bock and Fred Lotz.

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Mr. Milnor again requested the advice of the Commissioners relative to who should receive the building permit for the single lot.

In response to some further discussion with the Board, Jeff Morgan stated that the applicants would have to meet the minimum lot size today even if it is in a residential zone. Chairman Hart noted that if the proposal in front of the Planning Commission were to pass, if the applicants agreed to allow development rights transferred from one agricultural parcel to another, this might make the proposal discussed today viable. Mr. Morgan stated that it was his understanding Mr. Bock and Mr. Lotz would have to buy development rights from another farmer if they do not own their own additional agricultural land.

Chairman Hart pointed out that the applicants bought an unregistered lot. Mr. Milnor said that there was no way they could have known in 1980 when they bought the property that they were purchasing an unregistered lot.

Commissioner Wolden noted that there are many situations like this where purchased property is not legally subdivided, but is still being used for agricultural purposes.

There was some further discussion about this, with Mr. Murray providing a history of the property and Mr. Milnor questioning the septic tank approval of the property.

Commissioner Robinson seconded Chairman Hart's motion and the motion passed unanimously.  
(Resolution #)

**APPEAL - SHORELINE SUBSTANTIAL DEVELOPMENT/VARIANCE #SHL-93-030 OF DONNA AND JERRY FISH, 3247-A SOUTH SHORE DRIVE, MOUNT VERNON.**

Zoe Pfahl, Assistant Planner, Shorelines Administrator, presented the appeal of Donna and Jerry Fish of the Hearing Examiner's decision to deny their Shoreline Substantial Development variance request. Ms. Pfahl submitted a supplemental staff report to the Board as well as photos that had been submitted for the record at the Hearing Examiner's public hearing.

Ms. Pfahl stated that Mr. and Mrs. Fish have requested the variance for their property on Lake Cavanaugh in order to allow for a 44' x 20' addition to their existing single family residence, located at 3247A South Shore Drive, Lake Cavanaugh. The proposed addition will be attached to the eastern side wall of the existing structure and will have a shore setback of 41' 7" from the Ordinary High Water Mark. The existing structure maintains a 38 foot shore setback from the OHWM. Currently, the Shorelines Management Master Program requires a 50 foot setback from the OHWM, and therefore a variance is required for the Fish's proposal.

The Board was advised that they may exercise any of the following options:

- 1) To uphold the decision of the Hearing Examiner.
- 2) To remand the matter back to the Hearing Examiner for further consideration.
- 3) To adopt your own findings of fact and decision based upon the record before you.

Commissioner Wolden asked if the required septic system was able to handle the addition proposed by the Fish's.

Mrs. Fish advised a septic system to handle a 3 bedroom house has been installed.

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Chairman Hart observed that this variance would not cause further encroachment on the waterfront and the only reason that the variance is needed is that the total building is not 50 feet back from the Ordinary High Water Mark.

After further discussion, Chairman Hart motioned to approve the Shoreline Substantial Development/Variance #SHL-93-030 of Donna and Jerry Fish. Commissioner Wolden seconded the motion, which passed unanimously. (Resolution #)

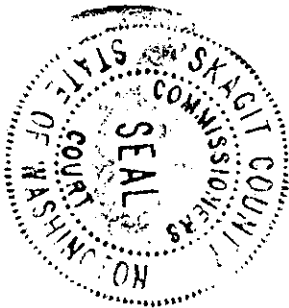
**MISCELLANEOUS**

Commissioner Robinson motioned to approve Personal Services Agreement No. 1 for Herk Hancock of Herk Hancock Auction Company to provide auctioneering services on the Skagit County Surplus Property Auction. Commissioner Hart seconded the motion, which passed unanimously. (Contract #)

**ADJOURNMENT:**

Commissioner Robinson motioned to adjourn the proceedings. Commissioner Wolden seconded the motion. The motion was carried unanimously.

BOARD OF COUNTY COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON



  
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Robert Hart, Chairman

  
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Robby Robinson, Commissioner

  
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Harvey Wolden, Commissioner

ATTEST:

  
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Jean Copping, Clerk  
Skagit County Board of Commissioners