

**SKAGIT COUNTY
OFFICE OF THE HEARING EXAMINER**

re: The application for a Shoreline Substantial Development Permit, Shoreline Variance, and a Shoreline Conditional Use Permit by **The RJ Group, LLC**

PL22-0528

ORDER ON MOTIONS FOR RECONSIDERATION

CORRECTED

Based on two motions for reconsideration, submitted by the following parties of record:

1. The First by: J. Edelstein and Robert Eleveld, *filed on 9/12/24*; and
2. The Second by: K. Sanford, D. Sanford, K. Koopmans, and G. Wittendorf, *filed on 9/12/24*,

the Hearing Examiner hereby enters the following, having reviewed the motions, while disregarding any evidence not entered into the record prior to the close of the record:

FINDINGS

Both motions for reconsideration were filed by parties of record to the proceeding. The current Skagit County Office of the Hearing Examiner Rules of Procedure for Hearings (SCRPH),¹ allow for “Any party...” to file a motion for reconsideration, in a certain manner.² The SCRPH does not differentiate between “parties” and “parties of record,” in fact the definition of parties identifies all “parties of record” for pre-decision hearings.³ All parties of record, therefore, have standing to bring a motion for reconsideration.

¹ As authorized by Skagit County Commissioners per Resolution #R20080511 on 11/24/08

² SCRPH §1.19(a)

³ SCRPH §1.08

Parties are required to file such motions within 10 calendar days of the decision.⁴ In this case the parties did so, and consequently the Hearing Examiner may consider the motion.

In considering the motion, the Hearing Examiner is only permitted to grant relief when a “material legal error has occurred, or a material factual issue has been overlooked that would change the previous decision.”

In this case, disregarding any fact in the motions that were not part of the record established at the hearing, the Hearing Examiner does not find a basis to change the decision. Both motions focus on the existence of any evidence (such as anecdotal testimony) as opposed to the *weight* of the totality of the evidence, the fact that a question is raiseable and yet unanswered as weighty evidence of the premise of the question, or the effect on individuals as opposed to the public as a whole. The totality of the evidence shows that using a public easement intended to be used for utilities and stormwater runoff for improved stormwater runoff will result in a public benefit and in less pollution as designed in the proposal and more importantly, *as conditioned*.

Finally, the scope of the hearing the does not lend the hearing examiner to challenge the approval or associated conditions of the residential development already approved in the preliminary plat granted under PL07-0465,⁵ the commercial site grading permit for Overlook Crest under BP21-0785,⁶ or more importantly in this exact issue, the un-appealed SEPA review that covered this project.⁷

ORDER

The Motions are denied.

SO ORDERED this 19th day of September 2024.



Rajeev D. Majumdar
Skagit Hearing Examiner

⁴ SCRPH §1.19(d)

⁵ Recommended to County Commissioners for approval by the Hearing Examiner on 3/19/13, and where final plat approval was made by the County Commissioners on 2/3/22

⁶ Applied for on 8/30/21 and approved on 7/15/24

⁷ The appeal period of which ran on 5/2/24