

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Wednesday, August 9, 1995**

Wednesday, August 9, 1995:

Flag Salute.

10:00 a.m. - 10:30 a.m.

Carol Ehlers' Appeal of Hearing Examiner's Decision Denying Request for Reconsideration regarding Final Plat of Seaview, Division IV, located near the intersection of Rosario Road and Biz Point Road, Anacortes.

10:30 a.m. - 11:00 a.m.

Friends of Sensible Drainage Appeal of Hearing Examiner's Decision Approving Final Plat of Seaview, Division IV, located near the intersection of Rosario Road and Biz Point Road, Anacortes.

11:00 a.m. - 11:30 a.m.

San Juan Fidalgo Holding Co.'s Appeal of Skagit County Hearing Examiner's Decision Approving Final Plat of Seaview, Division IV, located near the intersection of Rosario Road and Biz Point Road, Anacortes.

The Skagit County Board of Commissioners met in regular session on Wednesday, August 9, 1995, with Commissioners Robert Hart, Harvey Wolden, and Ted W. Anderson present.

CAROL EHLERS' APPEAL OF HEARING EXAMINER'S DECISION DENYING REQUEST FOR RECONSIDERATION REGARDING FINAL PLAT OF SEAVIEW, DIVISION IV, LOCATED NEAR THE INTERSECTION OF ROSARIO ROAD AND BIZ POINT ROAD, ANACORTES.

Oscar Graham, Planning Department Staff, reviewed the Hearing Examiner's report conclusions and the options available to the Board. Mr. Graham affirmed that Skagit County Hearing Examiner Bob Schofield dismissed himself from hearing this request for reconsideration, due to a conflict of interest. Accordingly, Wick Dufford, was the Hearing Examiner Pro Tempore.

Bob C. Sterbank, Attorney representing Carol Ehlers, illustrated by map, the location of the subject property. Mr. Sterbank reviewed the history of the project and questioned the justification of removing a project from the environmental impact statement.

Mr. Sterbank pointed out that the Seaview IV project was not mentioned by name in the draft environmental impact statement, however, the project was in fact included in the determination.

Mr. Sterbank mentioned the Hearing Examiner's decision was erroneous due to changes in information and in the proposal.

Mr. Sterbank stated that final environmental impact statements have not been completed, as had been indicated previously, due to the addition of further information.

Carol Ehlers mentioned the extensive research done in regard to this issue.

Ms. Ehlers stated that if a high precipitation season is repeated, Geo-Engineers have indicated that there would be massive landslides in the area of her property with significant impact.

Ms. Ehlers stated that the County did not provide the proper process to address this issue.

Darrell Mitsunaga, Attorney representing San Juan Fidalgo, reviewed the history of the preparation of the draft environmental statements regarding the properties involved.

Mr. Mitsunaga stated that prior to the environmental analysis, many meetings with area residents, the Del Mar Community and various County departments were held.

Mr. Mitsunaga stated that Seaview IV was dropped from the environmental impact statement and Ms. Ehlers failure to appeal at a earlier date excludes her from this appeal process.

Mr. Mitsunaga reiterated that no substantial changes have been made, therefore, eliminating the right of appeal.

FRIENDS OF SENSIBLE DRAINAGE APPEAL OF HEARING EXAMINER'S DECISION APPROVING FINAL PLAT OF SEAVIEW, DIVISION IV, LOCATED NEAR THE INTERSECTION OF ROSARIO ROAD AND BIZ POINT ROAD, ANACORTES.

Bob Sterbank, Attorney representing Friends of Sensible Drainage, reviewed Skagit County Code 14.12.120, Improvement Required - Subdivision, mentioning that there are three areas of non-compliance. Mr. Sterbank mentioned that the code states that the water emanating from within the subdivision will be carried through and off the subdivision without any injury to improvements, that drainage water entering the subdivision shall be received and discharged from the subdivision at the locations and as nearly as possible in the manner as existed prior to construction of the drainage facilities within the subdivision, and the design of drainage facilities within the subdivision shall be such that they will conform to the ultimate drainage plan of areas within the subdivision watershed. Mr. Sterbank stated that the Hearing Examiner did not address these compliance issues.

Mr. Sterbank asked the Board to remand the decision back to the Hearing Examiner. Mr. Sterbank requested that if the Board determines not to remand the decision back, that several issues of compliance be addressed.

Mr. Mitsunaga, Attorney representing San Juan Fidalgo, requested that the Hearing Examiner's decision be upheld, emphasizing that in regard to Skagit County Code 14.12.120, the Hearing Examiner possessed the proper documentation for review.

Mr. Mitsunaga addressed the design issue and mentioned that the pond was installed after thorough research and at the recommendation of the County and other engineers. Mr. Mitsunaga maintained that the drainage issue had been addressed.

Mr. Mitsunaga reiterated his request that the decision of the Hearing Examiner be upheld.

Mr. Sterbank stressed the importance of the design of the pond, citing lack of communication with residents on the location of the pond.

SAN JUAN FIDALGO HOLDING CO.'S APPEAL OF SKAGIT COUNTY HEARING EXAMINER'S DECISION APPROVING FINAL PLAT OF SEAVIEW, DIVISION IV, LOCATED NEAR THE INTERSECTION OF ROSARIO ROAD AND BIZ POINT ROAD, ANACORTES.

Mr. Mitsunaga expressed his concern in regard to the untimely manner in which the Hearings were held and stated that there was a violation of Skagit County Code.

Mr. Mitsunaga ascertained the only basis for the Hearing Examiner's approval of final plat for approving is whether conditions have been met. Mr. Mitsunaga pointed out that the Hearing Examiner's report states that all preliminary have been met and then imposes additional conditions which must be fulfilled in the future and therefore, San Juan Fidalgo, cannot comply unless they know how to resolve the condition.

Mr. Sterbank asked that if the Board is to grant final plat approval, that it be modified as outlined in the appeal.

A discussion ensued in regard to the relocation of the pond.

Grace Roeder, Planning Staff, stated that the relocation of the pond was a result of Condition 10 between Public Works and Planning Department and that if a redesign was to be done, then the pond would be moved prior to final plat approval.

Commissioner Anderson inquired as to whether the pond was located within the plat and questioned whether there could be plat approval if the pond was not located within the plat.

A discussion ensued in regard to the location of the pond and whether locating the pond off the site was in compliance.

Commissioner Wolden asked whether the pond was located on Seaview IV property and whether there is an easement involved. Mr. Mitsunaga affirmed that there has been a drainage easement granted and that the Del Mar community signed off.

Mr. Skerbank stated that Del Mar signed off only as to moving the pond, not as to the exact location.

Ms. Ehlers addressed the issue of the South and North ponds and clarified the involvement of the Del Mar Community.

Commissioner Anderson made a motion to overturn the Hearing Examiners decision denying request for reconsideration regarding Final Plat of Seaview, Division IV. Commissioner Wolden seconded the motion. Chairman Hart voted to uphold the Hearing Examiner decision. The motion was withdrawn.

A discussion ensued in regard to the pond and drainage issues.

Commissioner Anderson elaborated on the findings, indicating that the North pond location being outside of plat and therefore not included, and the necessity to complete a SEPA review, are the two issues involved.

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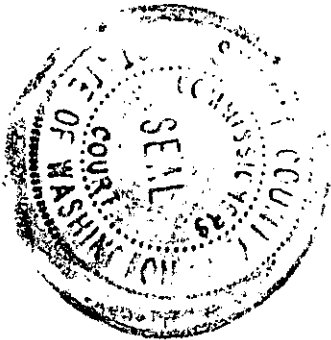
Commissioner Anderson made a new motion to uphold the Hearing Examiner's findings, in regard to Carol Ehlers' Appeal of Hearing Examiners Decision Denying Request for Reconsideration regarding Final Plat of Seaview, Division IV, stating that the conditions of the North Pond and its discharge must be reviewed. Commissioner Wolden seconded the motion and it passed unanimously.

In regard to the Friends of Sensible Drainage Appeal of Hearing Examiner's Decision Approving Final Plat of Seaview, Division IV, Commissioner Anderson made a motion to remand the matter back to the Hearing Examiner, to examine the consideration of the pond location and the drainage issue. Commissioner Wolden seconded the motion and the motion passed unanimously.

In regard to the San Juan Fidalgo Holding Co.'s Appeal of Skagit County Hearing Examiner's Decision Approving Final Plat of Seaview, Division IV. Commissioner Anderson made a motion to uphold the Hearing Examiner's findings. Commissioner Wolden seconded the motion and it passed unanimously.

ADJOURNMENT.

Chairman Hart made a motion to adjourn the proceedings. Commissioner Wolden seconded the motion and it was carried unanimously.



**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**



Robert Hart, Chairman



Harvey Wolden, Commissioner



Ted W. Anderson, Commissioner

ATTEST:



**Debby Sims, Clerk
Skagit County Commissioners**

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