

**SKAGIT COUNTY
OFFICE OF THE HEARING EXAMINER**

re: Appeals by Edelstein, Sanford, Koopmans,
and Wittendorf of an Administrative Decision
by Skagit County Planning and Development in
PL 2007-0465 and BP21-0785 (Overlook Crest)

APL 2025-005

CORRECTED

SECOND PRE-HEARING ORDER

The Hearing Examiner having conducted a pre-hearing conference on this date with the parties;
and with the authority pursuant to the Skagit County Hearing Examiner's Rules of Procedure (SCRE) §10
and 24; the Hearing Examiner hereby further orders, modifying prior orders:

ORDER

1. Administrative

- a. The Motions to be heard on this date, filed by the Applicant and the Appellant will
be heard on June 12, at 2:30pm¹ to be held by video conferencing arranged by the
Clerk of the Office of the Hearing Examiner;.

1. Responses, if any, will be due by Monday, June 9, 2025; and
2. Replies, if any, will be due Wednesday, June 11th by 11:59 am.

2. The Current Record

¹ All dates herein and for the remainder of this case, Pacific Standard Time and Date

As identified by the Office of the Hearing Examiner, the record of this case, and agreed to by the parties, is as follows thus far:

1. Appeal Form of Sanford, Koopmans, and Wittendorf, *filed 4/23/25*, with Attachments (*see #3 below*)
2. Appeal Form of Edelstein, *filed 4/23/25*, with Attachments (*see #3 below*)
3. Consolidated Appeal Attachments
 - A. Appeal Attachment A – Answers to Questions, *dated April 24, 2025*
 - B. Appeal Exhibits
 - (0) Table – indicating 15 Exhibits
 - (1) Ex. 1 – Letter of Dr. Horner w/ multiple Exhibits, *dated 11/19/24*
 - (2) Ex. 2 – WSU Article, *dated Jan. 2023*
 - (3) Ex. 3 – WA Dept of Ecology Article, *dated Jan. 2023*
 - (4) Ex. 4 – Pictures of construction, *undated*
 - (5) Ex. 5 – an E-mail of Edelstein to nwroerts@ecy.wa.gov, *dated 12/31/24*
 - (6) Ex. 6 – an E-mail of Koopman's to pdsenforcement@co.skagit.wa.us, pds@co.skagit.wa.us, *dated 2/1/25*
 - (7) Ex. 7 – Ecology Inspection Report, *dated 1/9/25*
 - (8) Ex. 8 – Dept. of Ecology, Water Quality Program Corrections Required, *dated 1/9/25*
 - (9) Ex. 9 – Inspection Worksheet, *dated 2/21/25*
 - (10) Ex. 10 – Images from Drone, *dated 12/24/24*
 - (11) Ex. 11 – Approved Civil Plans, Phase I, *dated 7/5/22*
 - (12) Ex. 12 – Approved Stormwater Site Plan, Phase I, *dated 7/11/24*
 - (13) Ex. 13 – Approved Civil Plans, Phase I, *dated 3/25/25*
 - (14) Ex. 14 – Approved Drainage Report, *dated 3/28/25*
 - (15) Ex. 15 – Appellants' Resumes, *undated*
4. County Exhibit of Receipt, *filed 5/14/25*
5. Pre-Hearing Conference Order, *entered 5/13/25*
6. Building Permit Revision Application, *filed 5/23/25*
7. Report of Horner, *dated 5/12/25*, *filed 5/23/25*
8. Pamphlet: Maintaining Your Neighborhood Stormwater Facilities, *undated*, *filed 5/23/25*
9. Stormwater Wet Pond and Wetland Management Guidebook, *dated Feb. 2009*, *filed 5/23/25*
10. Applicant's Motion to Dismiss, *filed 5/29/25*
 - A. Ex. A – Correspondence, *various dates*
 - B. Ex. B – Declaration of Palewicz, *dated 5/28/25*
11. Applicant's Pre-Hearing Memo, *filed 5/29/25*
12. Appellant's Pre-Hearing Memo, *filed 5/30/25*

- 13. Appellant's Motion to Bifurcate, *filed* 5/30/25
- 14. Department's Pre-Hearing Memo, *filed* 5/30/25

3. Other Evidentiary Issues

- a. The County will file documents identified in their pre-hearing memo and other relevant documents identified to the best of their ability, and provide copies to the other parties by July 3rd, 2025.
- b. The parties shall consult with each other to attempt in good faith to come up with a unified agreed exhibit list, if they choose not to use the Hearing Examiner record listed in §2 above, and present that to the Office of the Hearing Examiner by July 18th, 2025.

4. Applicable Law Agreed to by the Parties as to the Scope of Appeal and Hearing:

- a. SCC 14, and supporting standards in the case law, SCC, RCW, or WACs as appropriately and substantively applicable, to examine:
 - 1. Whether or not, in granting the revision to the land disturbance permit there was an inadequate review procedure on the part of the Department in determining the substantiveness of the revision being minor in nature for the land disturbance permit.
 - 2. Whether or not, in granting the revision of the preliminary plat there was an inadequate review procedure on the part of the Department in failing to require the filing of an application.
 - 3. Whether or not, in granting the permits there was an inadequate review by the Department's relying on the environmental impact analyses in the

original approvals of the Preliminary Plat Plan (PL07-0465) or Land Disturbance Permit (BP21-0785), in 2013 and 2021, respectively, given the changes in condition and law.

4. Whether or not, in granting the permits the Department improperly approved an expansion of an unpermitted activity outside the scope of the land disturbance permit which was for golf course stormwaters ponds only (BP21-0785).
5. Whether or not, in granting the permits the Department impermissibly failed to take into account compliance with SCC 14.16.310(7)(b)(iv) in making this administrative decision.
6. Whether or not, in granting the permits the Department improperly disregarded ongoing violations by the permit holder.
7. Whether or not, in granting the permits the Department improperly met the requirements of having written findings.

5. Motion Hearing:

- a. A motion calendar for this case shall be reserved for **Wednesday, July 23rd, 2025 at 1:30pm** to be held by video conferencing arranged by the Clerk of the Office of the Hearing Examiner;
- b. Motions, if any, will need to be filed by July 9th; Responses thereto, if any, will need to be filed by July 16th, and Replies, if any, will need to be filed by July 21st.

6. Final Hearing:

- c. The Final Hearing on this matter is set for **Friday, August 29th, 2025 at 8:30 am** in Skagit County Council Chambers, **in person**.

7. Briefing Schedule for Final Hearing:

- d.** Final Briefs, Staff Reports, if any, will be filed by **August 15th, 2025.**
- e.** Responses will be filed by **August 22nd, 2025.**
- f.** Replies will be filed by **August 27th, 2025.**

SO ORDERED this 6^h day of June 2025.



Rajeev D. Majumdar
Skagit County Hearing Examiner