

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT

ANNIE JANICKI,

Petitioner,

vs.

CITY OF SEDRO-WOOLLEY, a municipal corporation; DELUXE RECYCLING AND DISPOSAL LLC, a Washington limited liability company; and FIRE RIDGE LLC, an Oregon limited liability company,

Respondents,

vs.

SKAGIT COUNTY, a political subdivision of the State of Washington,

Intervenor.

No. 08-2-01130-8

DECLARATION OF SIMI JAIN IN SUPPORT OF CITY'S RESPONSE TO COUNTY'S MOTION TO CLARIFY THE RECORD, VACATE THE HEARING EXAMINER'S DECISION AND REMAND THE PROCEEDINGS

I, SIMI JAIN, hereby declare, under penalty of perjury under the laws of the State of Washington, that the following is true and correct:

DECLARATION OF SIMI JAIN IN SUPPORT OF
RESPONDENT CITY OF SEDRO-WOOLLEY'S
MOTION TO DISMISS - 1

ZENDER THURSTON, P.S.
ATTORNEYS AT LAW
1700 D Street, Bellingham, WA 98227
Phone: (360) 647-1500 • Fax: (360) 647-1501


- 1 1. I am over the age of twenty one and competent to testify.
- 2 2. I am of counsel for Respondent, City of Sedro-Woolley, in the above-noted
- 3 matter.
- 4 3. Attached as **Exhibit A** hereto is a true and correct copy of City of Sedro
- 5 Woolley's Hearing Examiner Rules of Procedure.

6 EXECUTED at Bellingham, Washington, this 8th day of September, under penalty of

7 perjury under the laws of the State of Washington.

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11 SIMI JAIN, WSBA # 35810

CITY OF SEDRO-WOOLLEY
HEARING EXAMINER
RULES OF PROCEDURE

INTRODUCTION

Sedro-Woolly Ordinance 1607-08 allows the Hearing Examiner to establish rules of procedure for conducting public hearings on matters within his/her jurisdiction. Herein contained are rules of procedure, adopted by the Examiner, to guide participants in public hearings.

Questions about the rules of procedure may be asked of the Planning Department prior to public hearings or of the Hearing Examiner at the beginning of a public hearing.

PURPOSE

Public hearings before the Hearing Examiner will be governed by these rules of procedure, except as the Hearing Examiner may vary in special circumstances as deemed appropriate and necessary for expeditious processing of specific applications and/or full discovery of evidence. These rules of procedure are not intended to contain or summarize all applicable ordinances and regulations with which it is the responsibility of participants in the public hearings to become familiar.

HEARING EXAMINER

The Hearing Examiner presides over the public hearing. As an impartial, objective professional, the Hearing Examiner receives testimony and evidence and, after closing the public hearing, makes a written decision or recommendation. Prior to, during, and after the public hearing, no one may attempt to influence the Hearing Examiner outside of the public hearing or attempt to interfere with his/her deliberations.

SCHEDULING

Scheduling of applications for a public hearing is performed by the Planning Department on an as-needed basis on dates/times mutually agreeable to staff and the applicant/appellant and the availability of the Examiner. The Examiner usually concludes the public hearing on the scheduled date, but for appropriate reasons he/she can continue the hearing to a specific time and date.

MATERIALS REQUIRED BEFORE HEARING

Materials relevant to a particular application or appeal shall be received by the Hearing Examiner prior to the public hearing.

For a permit application, materials should include a staff report accompanied by the relevant application documents and shall be received by the Hearing Examiner 10 working days prior to the scheduled hearing

For an appeal, materials should include a staff report accompanied by the relevant application documents, an appellant's brief including any supporting documentation, and a response to the appellant's brief, if applicable. These materials shall be received by the Hearing Examiner in the following time frames:

Staff report & application documents -	15 working days prior to the hearing
Appellant's brief & supporting documentation -	10 working days prior to the hearing
Response to appellant's brief -	5 working days prior to the hearing

Additional exhibits may be allowed and entered at the public hearing at the discretion of the Hearing Examiner.

SITE INSPECTION

Prior to or after every public hearing, the Hearing Examiner attempts to visit the subject property. Failure to do so will not void the Hearing Examiner's decision or constitute a basis for appeal of the decision.

BURDEN OF PROOF

The applicant, in cases where the Hearing Examiner makes a recommendation or decision, and the appellant, in cases on appeal to the Hearing Examiner, has the responsibility of convincing the Hearing Examiner by a preponderance of the evidence that he/she is entitled to the requested decision based on the criteria established for that decision. Everyone participating in the public hearing has the burden of persuasion of the testimony or evidence that they present.

EVIDENCE AND TESTIMONY

Anyone speaking, presenting evidence or testimony, is required to give their name and address for the verbal record. The public hearing is tape recorded and the Planning Department maintains the official record. Written testimony must be entered before or during the public hearing unless otherwise determined by the Examiner in the hearing.

Testimony at hearings conducted by the Hearing Examiner is not as formal as in a judicial proceeding. Testimony should be relevant, reliable and non-repetitious. It is sufficient to submit evidence or testimony once for the Examiner's consideration.

The Hearing Examiner may impose reasonable limits on the number of witnesses and the nature and length of their testimony. However, written testimony and evidence also may be submitted.

PUBLIC HEARING FORMAT

Normally, the public hearing format will be as follows:

1. Public hearing will be opened by the Examiner.
2. Planning Department staff report and recommendation.
3. Presentation by applicant or appellant (or representative).
4. Statements by other people who are in support of, opposed to or have questions regarding the application or appeal.
5. At the discretion of the Examiner, the applicant, appellant, staff or other parties may be permitted or requested to respond to statements or questions made during preceding testimony.
6. Questions of parties are channeled through the Examiner to other parties. The Hearing Examiner reserves the right to decide upon the relevancy and appropriateness of the questions.
7. Public hearing is closed or continued to a specific time, date and place.

DECISION/RECOMMENDATION

The Hearing Examiner shall submit to the Planning Department a written decision or recommendation within the deadlines established in the SWMC for the application or appeal or 20 working days following the closing of the public hearing or after stipulated receipt of complete information, whichever occurs first. The written decision or recommendation shall contain findings of fact, conclusions and the Examiner's decision or recommendation. The Planning Department will mail this decision or recommendation to everyone testifying orally or in writing in the public hearing and to those who have requested a copy.