September 9, 2026

Sent via U.S. Mail, and email:

Planning and Development Services
1800 Continent Place
Mt. Vernon, WA 98273

RE: CODE 2024-0018

To the Hearing Examiner:

I am Attorney Drew Davis, who appears on behalf of Bo Gardens LLC and Chris and Heidi Andersen. My clients have an interest in this decision because Bo Gardens is the tenant of the property in question located at 17812 Colony Rd, Bow, WA 98232, and Chris and Heidi Andersen are the owners of said property. This decision will end Bo Gardens business fully as their cannabis license cannot be reassigned to a new location if it is forced to be removed from its current location, and the hundreds of thousands of dollars invested in the company will be fully lost. (her parents) will lose a tenant who has always paid on time and provided at or above market rent for the property in an area that is not easy to obtain tenants.

In reviewing Planning and Development Services (hereinafter PDS) standards and practices PDS makes it clear that staff should not enforce violations of the zoning code alone without a complaint from the public, which has not occurred, and in fact all of my clients' neighbors are happy to sign a letter supporting Bo Gardens continued operations as they have not been a disruptive presence in the area. PDS General operating policies also states that they should only act in response to complaints in which the submitter indicates he or she has seen the facts alleged, which again to my clients' knowledge has not occurred. PDS has issued their administrative order to abate violation under Skagit County **Code (SCC) 14.18.262(5)** which states in relevant part;

subsection(a) Marijuana facilities are allowed only where explicitly identified in this Title; except that in municipal UGAs where a municipality's development regulations apply, a marijuana facility must comply with the municipality's development regulations instead of this Section.

The cited violation sections are incredibly unclear as nowhere do they state what zoning applies to Marijuana facilities (they're also incredibly unclear as the state of Washington changed the term to Cannabis in March 2022 in house bill 1210 and the revised code of Washington has not use the term marijuana since 2022). The subsections after 5 go on to state prohibited uses and requirements for all facilities but these too do not discuss the actual zoning limitations, and Bo

Gardens does not violate of any portion subsection 6 (when prohibited) and in fact meets the requirements laid out in section 7, and meets all requirements that are outlined for a special use permit in section 8.

(6) When Prohibited.

(a) Any growing or processing of marijuana or keeping marijuana plants when not in compliance with State law governing the growing of medical marijuana at home or without a current license from the State Liquor and Cannabis Board.

(b) Any storage or growing of plants if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

(7) Requirements for All Marijuana Facilities.

(a) A marijuana production or processing facility must employ ventilation systems such that no odors from the production or processing are detectable off the premises.

(b) A marijuana facility that employs security cameras must aim those cameras so as to view only the facility property, not public rights-of-way or neighboring properties.

(c) The Fire Marshal must notify the local fire district or other fire authority whenever the Department approves a permit for any marijuana production or processing facility.

(8) A special use permit for a marijuana production/processing facility must:

(a) Be conditioned on holding a current license from the State Liquor and Cannabis Board;

(b) Address impacts on surrounding properties, including but not limited to the appropriate distance of the facility from residences, schools, daycare facilities, public parks, other public facilities, and other marijuana facilities;

(c) Include appropriate controls on odor;

(d) Include appropriate screening or other requirements to avoid lighting impacts and the visual impacts of security fencing;

(e) Include requirements for appropriate disposal of the waste and byproducts of production and processing;

(f) Include protections against security cameras infringing on neighbors' privacy;

(g) Include any additional controls on hazardous processing methods with potential to injure neighboring properties;

(h) Mitigate other impacts.

The other code violation cited is SCC 14.11.200 which states rural reserve does not allow a marijuana facility, simply put SCC 14.11.200 says no such thing. The word Marijuana appears exactly one time in SCC 14.11 in total, and it is in section 14.11.020 which is only for marijuana retail facilities, for marijuana production the entire code section is silent. There is no violation of SCC 14.11.200.

As marijuana is a plant my clients assumed that it could be grown anywhere designated rural or agricultural and didn't find any strict limitation anywhere. My clients based this decision in the definition of Agricultural lands in SCC 14.16.400, and reading rural reserve SCC 14.11.200 which does not explicitly state that marijuana is exempt from these definitions, or subject to separate rules, but rather that the operation would be allowed on a rural reserve plot, and considering the previous use a logging industrial, my clients had no reason to suspect otherwise.

14.16.400 Agricultural—Natural Resource Lands (Ag-NRL).
(1) Purpose. The purpose of the Agricultural—Natural Resource Lands district is to provide land for continued farming activities, conserve agricultural land, and reaffirm agricultural use, activities and operations as the primary use of the district. Non-agricultural uses are allowed only as accessory uses to the primary use of the land for agricultural purposes. The district is composed mainly of low flat land with highly productive soil and is the very essence of the County's farming heritage and character.
(2) Permitted Uses.
(a) Agriculture.
(b) Agricultural accessory uses.
(c) Agricultural processing facilities.
(d) Co-housing, as part of CaRD, subject to SCC 14.18.300 through 14.18.330.
(e) Commercial greenhouse operations that are an integral part of a local soil-based commercial agriculture operation.
(f) Individual or multiple farm composting as an incidental agricultural operation to a working farm with no net loss of soil. The composting operation shall be managed according to an approved nutrient management plan in conjunction with the local Conservation District and Natural Resources Conservation Service (NRCS) standards and all applicable environmental, solid waste, access and health regulations. Such use shall not generate traffic uncommon to a farm operation.
(g) Family day care provider as defined in Chapter 14.04 SCC; provided, that no conversion of agricultural land is allowed.
(h) Farm-based business carried on exclusively by a member or members of a family residing on the farm and employing no more than 3 nonresident full-time equivalent employees.
(i) Historic sites open to the public that do not interfere with the management of the agricultural land.
(j) Home Based Business 1.
(k) Manure lagoons.
(l) Cultivation and harvest of any forest products or forest crop and necessary accessory buildings.
(m) On-site sorting, bagging, storage, and similar wholesale processing activities of

agricultural products that are predominantly grown on-site or produced principally from the entire commercial farm operation. Such activities shall be limited to those which are integrally related to the agricultural production and harvesting process.
(n) Seasonal roadside stands not exceeding 300 square feet.
(o) Single-family detached residential dwelling unit and residential accessory uses, when accessory to an agricultural use; and provided, that no conversion of agricultural land is allowed for accessory uses.
(p) Water diversion structures and impoundments related to resource management.
(q) Wholesale nurseries.

The only language in SCC 14.18.262 that is indicative at all of zoning restrictions for marijuana is subsection 3 which states (3) Characterization. Marijuana production and processing is an industrial use, not an agricultural use. Besides this making no actual logical sense and a marijuana facility is operated exactly like any other greenhouse operation outlined in SCC 14.16.600, it also does not state what the connection between this determination and zoning might be, in fact nowhere in any marijuana SCC is there an actual statement of what zoning is actually applicable or where a marijuana facility may operate, furthermore when purchasing the property my clients were aware of a industrial use on the property when it was used for logging and this is validated by permit PL17-0189 from 2017 leaving them even more confused as to why this property was deemed ineligible for agricultural/industrial use.
Based on previous non-conforming operations, and a code that not only goes against basic logic but also is not indicative of the actual applicable zoning restrictions vs. allowances my clients were hopeful to simply make a special use permit application after receiving this notice, but have been told it will not be considered, despite the fact that under SCC 14.18.262 (8) they meet all qualifying criteria[1]. Administrative agencies are not supposed to actively dissuade the use of the administrative process by telling citizens that they will be denied before the citizen even attempts to receive a license or permit from said agency, violating basic due process rights "Our state and federal case law holds that the fundamental requirement of procedural due process is the opportunity to be heard at a meaningful time and in a meaningful manner[2]." If the agency in charge of the appeal has already assured you that your appeal will not be successful, how could that possibly be considered an appeal heard in a meaningful manner and not a clear due process violation? [3] It's also important to note that SCC 14.18.262 restrictions on all agricultural/residential land runs afoul of state law. RCW 69.50.331(9) which gives Skagit County authority to restrict agricultural lands from cannabis production use, is only for producer processors only on 5 or less acres, and this property is far larger than that at 31.5 acres. "(9) A

[1] Email From Tom Wenzl Stating no non-conforming use will be considered
[2] City of Bonney Lake v. Kanany, 340 P.3d 965, 185 Wash.App. 309 (Wash. App. 2014); *Mathews v. Eldridge,* 424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976*)*
[3] *Id; Post v. City of Tacoma,* 167 Wash.2d 300, 217 P.3d 1179 (2009); Smith v. Skagit County, 75 Wn.2d 750, 453 P.2d 832 (Wash. 1969)

city, town, or county may adopt an ordinance prohibiting a cannabis producer or cannabis processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller." The county has yet to assert any legal argument as to why county code can supersede state law in this situation.

Finally, this administrative order to abate violation has service issues from the outset, it relies on letters sent on December 23, 2024, allegedly to Cortney NG, but this is inaccurate. The letters were sent to the holders of Cannabis License 437876, which was not acquired by Bo Gardens until January 29th, 2025[4] which you admit as much in your notice to abate background section 4. This letter was sent to 409 Lane De Chantal Port Townsend, WA 98368, which was never affiliated with Bo Gardens or Cortney NG, and thus she never received this notice. The notice was never sent to the actual Bo Gardens property Address 17812 Colony Rd Bow WA 98232, nor was it sent to the neighboring address 17810 Colony Rd Bow WA 98232 at which Chris Andersen and Heidi Andersen reside. Aside from notices that were not mailed to the property in question or any property affiliated with Cortney NG or Bo Gardens, under your own admission in the order to abate no other notifying action was taken until January 2026 well after all work was completed and their cannabis facility was operational. The errors in service continued as all notices of orders stated the violation was occurring at 17810 colony Rd Bow, WA 98232 instead of Bo Gardens actual business address 17812 Colony Rd Bow, WA 98232, and the notices failed to name Bo Gardens, this was mostly addressed in your new notice of Order to abate violation issued on 8/31/2026. The flawed letters and lack of notice throughout this process greatly undermines the County Planning & Development Services office approach thus far which has been to blame my client the owner of Bo Gardens for building at all while she was on notice that she was not allowed to, when she was not in fact on notice. This brings us back to the fact that my client has invested six figures into this property only to be notified that she shouldn't have done so after the fact, based on a code which your own compliance officers have stated in writing repeatedly is badly written and confusing, while also using outdated terminology making it incredibly difficult for any lay person to parse[5]. The litany of errors throughout the enforcement process has caused my client to detrimentally rely on the County's poorly written and outdated code and lack of notice or enforcement until after my client substantially invested in the property, and the development and planning services only action so far has been to attempt to dissuade my client from appealing or filing for any non-conforming use at all stating it will not be allowed[6].

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[4] DOR registration for Bo Gardens

[5] Tom Wenzl Email to Allen Jongsma

[6] Email From Tom Wenzl Stating no non-conforming use will be considered; City of Bonney Lake v. Kanany, 340 P.3d 965, 185 Wash.App. 309 (Wash. App. 2014); *Mathews v. Eldridge,* 424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976*)*

The Current Administrative order defies the Code enforcement operations and prioritization policy and singles out my client in an inequitable manner that appears to be an arbitrary and capricious selection of their property against standard protocols. PDS has pointed to SCC 14.11.200 as a code violation, but 14.11.200 has no language pertaining to marijuana nor cannabis production whatsoever, and 14.18.262 doesn't explicitly discuss zoning assignments, and conflicts with the general definitions in SCC 14.16.200. Furthermore, PDS has refused to operate in a solution-oriented matter, when my clients are clearly eligible for a special use permit and would be happy to apply for one, but the idea of ending their business entirely because the state approved the license and license placement and my clients have invested six figures into the property and license is simply not a viable solution. My clients are seeking to continue operations and are happy to do whatever the county requires to do so, with a special use permit application appearing to be the best approach.

Sincerely,



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