SKAGIT COUNTY HEARING EXAMINER
SKAGIT COUNTY WASHINGTON

In Re Matter Of HE-Appeal-2025-0008, CE2025-0009	**No. APL 2026-0007** of Code 2025-0009 VADIM KASKO and SERGEY KASKO's MOTION FOR (1) TIME NECESSARY TO OBJECTIONS; (2) SUPPLEMENT TO THE RECORD; (3) VACATION AND DISMISSALS

VADIM KASKO and SERGEY KASKO, appellants hereby move for further or shortened time[1] (Rule 13, 23.A) necessary to objections delivered herewith; respond to the Examiner's May 22, 2026, Order; Request determination of Compliance; separately and herein refer to their objection with exhibits and move for vacation and dismissal of appealed Notices, Orders, and by fraud inducing then the Order to Abate, Order to Pay; AOA and Decision denying appeal as fraudulent abuse of PVA and flood development controls for abuse of process purpose to control "vehicles" and "storage" deprived of conclusions, Administrative Official delegated authority by unauthorized extension of reported obstruction of SCC 14.06.120(9)[2] and Planning Enabling Act finality (EX 7, EX 11, and EX 13; PL23-0324; RCW 36.70.970(1)-(3); ¶22, PL23-

[1] Rules 21.A ("7 days" proposed evidence); 23.A; and 25.B are involved. 25B requires motions thirty (30) days before hearing currently set for October 6, 2023; additionally, Extension or approval of shortened notice modifying impact of Rule 21C ("30 days") applied to "creation of a record" will be a matter of this examiner's priority.

[2] Pertinent Ordinance 17938 copies of SCC 14.06 and 14.16 are indexed, appended, including supplemental exhibits establishing planned usurpation of Administrative Official authority and abusive modification of Procedure Verifying Abandonment (hereinafter "PVA") reported (¶11, PL23-0324 examiner's report) as urged upon an examiner manifestly and impermissibly depriving of access to witnesses (SCC14.06.160(8)) prescribed for Enabling Act examiner alternative (RCW 36.70.970(1)-(3)) by "procedures" made unmodifiable (SCC 14.06.160(1)-(7)(e)) as vital to SCC 14.06.120(9) finality and "storage" and "vehicles" preparation evidence and SCC 14.16.880(1), (4)(b) and (5) exceptions, yet unreached, added to (AOA ff 2-4 "vehicles" ; and pg. 10, art. II, Exhibit 12 "no evidence").

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¶22, PL23-0324; art. III, pg. 10, Exhibit 12), now appending Exhibits and Coordinator's exhibit index numbering.

VI. COMPLIANCE WITH §§2, and §5, POST CONFERENCE ORDER.

A. §2, Post Conference Order. Code provisions.

After Exhibit 12 dated October 29, 2025, added a secondary examiner characterization (pg. 10 art. III, "no evidence") to an examiner's ¶11, PL23-0324 report of unreached purposes (Storage, vehicles) urged by Skagit County as procedures modification, Kaskos have been unable to both honor secondary characterization implicating evidentiary reduction in inventory serving uncontradicted and uncontroverted evidence of storage capacities maintenance and improvement here shown as purposeful inclusion of "vehicles" for AOA inclusion of "vehicles" as a continuous "violation" unreached in PL 23-0324 (findings 2-4 Exhibit 12; compare, ¶11, PL23-0324 "not about" storage of vehicles). SCC 14.24 and SCC 14.34 Code sections allowing maintenance are appended as **Kaskos' Ex. 2**, as are ordinance 17938 Code provisions at **Kaskos Ex**3, when pertinent to both AOA inclusion of "vehicles" and Exhibit 12 (denial of appeal) are **Ex3.I-Ex3.N,** pertinent to Exhibits 7, 11, 12 and 13, for reason of Skagit County bifurcation instruction asserted at ¶11, of examiner proceeding PL23-0324 violating Skagit County Planning Enabling Act hearing examiner alternative finality (SCC 12.06.120(9); SCC 14.16.880(6)) when reaching continuous nonabandoned vehicle storage capacities improvement land uses that provide complete defenses to PVA procedures, material here to inclusion of improved "vehicles" and "storage" capacities denied conclusions because both Exhibit 11 and 12 refer to vehicles while Exhibit 12 adds prejudice without addressing reported nonfinality of PL23-0324 .

The premature "no evidence" offer to find finality (pg. 10 art. III, "no evidence "exhibit 12)that there is "no evidence during modified purposes reported (¶11, PL23-0324) unfairly added to a characterization of inventory reduction evidence never reached, when inventory

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reduction is common excepted "change in occupancy and ownership" (SCC 14.16.880(1)) during reported "procedures" modification purposes urged by Skagit County representatives that deny finality, shown here, taking an examiner's report that unpermitted examiner alternative Planning Enabling Act corruption of finality that obstructs meaningful decision-making, both by denial of access to witnesses and denial of Skagit County's planning enabling act selection that SCC 14.06.120(9) is orchestrated to see, only if SCC 14.06.160(1)-(7) procedures are not obstructed. after faithful examiner report that they are (¶11, PL23-0324) when improved storage capacities are uninspected,[3] uncontroverted unreached ("procedures" SCC 14.06.160(8); "vehicles," "storage").

"Vehicles" are now adopted as Exhibit 11 findings 2-4, without according Kaskos' access to planning staff witnesses of any Administrative Official determination. SCC 14.06.120(2), (3) , (5); SCC 14.06.160(5), (7)(a)-(e) access or any record of Administrative Official authority, delegation, determination, applications (SCC 14.16.020(2); SCC 14.06.040(1); SCC 14.06.120(2), (3), (5)) vital to finality (SCC 14.06.120(9)) as incontrovertibly vital matter to Planning Enabling Act legitimacy selected by Skagit County (id.; SCC 14.06.120(2), (3), (5), (9) mandated for "Level II permit application" due process (SCC 14.16.880(6)) unfairly when a burden accepted by Skagit County was to address "any" interest claimed or retained" (SCC 14.16.880(4)(a)) and report of one examiner that purposes were modified, elevated as a "no evidence" finding of fact of a second examiner that still evades whether increasing maintenance for capacities for "storage" of "vehicles" has been an unabandoned land use (SCC 14.06.160(8)) when the index of the Examiner's report incontrovertibly establishes absence of access to

[3] Any representation that aerial photography was any "inspection" would be false, for concealment as well as immaterial, since inventory reduction -as storage capacities increase evidence would have been reached but for examiner-preserved report that purposes and procedures were urged and modified, manifestly including no PL23-0324 index exhibiting any evidence of an Administrative Official determination or delegated authority even before considering concealment here.

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preapplication meeting, Letter of Completion, planning Staff report of any kind and holds no Administrative Official determination, delegation, or access to witnesses in delayed obstruction of Planning Enabling Act finality by corrupted access (SCC 14.06.120(2), (3), (5); SCC14.06.160(7)(a)-(e); SCC 14.06.120(9); SCC 14.16.880(6)) now established as intentional deprivation of nonmodifiable SCC 14.06.160(1)-(7) "procedures" (SCC C 14.06.160(8))..

B. §5, Post Conference Order. Schedule Without Agency Certified Record.

Neither timely response to Exhibit 18 (Post-hearing Order) nor ability to infer how long response is delayed for ability to address a "clear error" standard has been possible after addition of "vehicles" (Exhibits 11, 12) prejudiced ¶11, PL23-0324 report Material to RCW 36.70.970(1)-(3) finality.

This response has required rebuilding indexes and events for forensic presentation according to Exhibit 11 introduction of "vehicles "not found in SCC 14.34.190(1) but in PL233-0324, during this and also presentation to the Court of Appeals grounded in materially differing evidentiary indexes ((Kaskos' Ex3.D, Ex3.E, Ex3.F) after Code Enforcement officer usurpation of Administrative Official authority rendered concealment of physical records highly material. Modification of exhibit names without any agency certified complete record (e.g. RAP 9.7(c)) represented events and a record showed up later by undescriptive "application" name in Superior Court as though immaterial,[4] after nonchronological document and elimination of dates signified enormity of enhanced need to address different deprivations at different times including corruption of Planning Enabling Act examiner alternative finality, "Standard Of Review" briefing by Skagit County, when mandated "Level II permit application" due process (SCC 14.16.880(6)) was being modified --which is rendered impermissible in clear unambiguous terms

[4] ""Materially false statement" means any false statement oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding." RCW 9A.72.010(2)

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under SCC 14.06.160(8) "official proceedings" (RCW 9A.72.010(4), .150(1)(a))[5]. Evidentiary record indexes (**Kaskos' Ex3.D, Ex3.E, Ex3.F**), date redactions and nomenclature under generally restricted discovery (RCW 36.70C.120(5); Examiner Rule 20; e.g. RAP 9.7(c)) by three differing evidentiary indexes that no any agency record certification (ordered by "the Department") states complete has required addition of public disclosure evidence that Kaskos sought for material fact now establishing -inter alia- of how early Kaskos could have produced a no-rise study if allowed an SCC 14.06.120(2) pre-application meeting without intentional interference, cooperation with which is shown herein as discouraged by Officer Wenzl (March 15, 2023"hold off" infra) although pre-Application is required for "PVA" due process (SCC 14.16.880(6); SCC 14.06.120(2), (5), (9); SCpC 14. 160(7)(a)-(e)) for meaningful First Amendment participation by opportunity for examination, adequate defense, and fair hearing addressing "vehicles" now adopted as flood control "violation" evidence (Exhibits 7, 11, 12, 13) following demonstrated Code Enforcement Officer plan to "hang all this on the Flood Development Permit" March 17, 2023 (**Kaskos' Ex3.B**).

Relief is therefore requested from any untimeliness of this response in absence of any agency certified complete record on any given date, requiring study of the extent of regulatory flood control justifications Officer Wenzl cause Kaskos to Kaskos attempt to fully try, denied conclusions (¶11, PL23-0324) after repeated "flood zone" control references but denying access to planning staff witnesses (November 8, 2023 proceeding PL23-0324; **Kaskos' Ex3.C**); requiring Examiner rule 14 protection against capricious inclusion of "vehicles" during concealment, retaliation (**Kaskos' Ex3.A-C**), depriving the proceedings of their legitimacies (April 4, 2025, AOA Exhibit 11) adopted in Exhibit 12 with factual addition ("no evidence"),

[5] "hearing examiner" proceedings are "official proceedings" (RCW 9A.72.010(4)); for which concealment of physical records with to impair "availability in such pending or prospective official proceeding" is unlawful. RCW 9A.72.150(1)(a).

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prejudicing "inventory" reduction evidence without protective conclusions because of modification (¶11, PL23-0324), when each proceeding is grounded in "vehicles" to which Exhibit 12 added interpretation, delaying meaningful defense against corrupted Planning Enabling Act nonfinality, complicating Kaskos' SCC 14.34.190(1) compliance study after the Washington State Supreme Court established that deprivation of access to meaningful decision-making is not a "final determination" under "LUPA" (*Maytown*).

Material to Kaskos need of time for response here, representations Skagit County used in response to Kaskos' petitioning in Superior Court received include representation that "the record" is a "term of art" and representation that Skagit County custom accords "discretion" to bifurcate PVA control, knowable now exercised by persons other than the Administrative Official acting for "the Department" (SCC 14.06.040(1), SCC 14.21.020(2); SCC 14.06.170(4), (5); **Kaskos' Ex3.A**), therefore requiring proof of physical record of delegated scope of authority and decision-making which remains concealed from all records along with any physical record identifying any Administrative Official determinations for interpretation, application and determinations made instead by Code Enforcement Officials concealed from every exhibit.

The absence of notice of extent and authority under which ¶11, PL23-0324 instruction of Skagit County and Exhibit 11 here adopted by Exhibit 1, 12, 13, while notice of scope of authority is denied, extending to "vehicles" in this flood zone justification appeal are intentionally intertwined causes in every adoption of Exhibit 11 (AOA findings 2-4, "vehicles" and vehicles as "junk") after PL 23-0324 was represented bifurcated to evade Planning Enabling Act ("PEA") finality by conclusions not reaching recognition of notice disregarding regarding PL2300324 report of modified scope of continuing nonabandoned vehicle storage capacities improvement evidence when PEA hearing examiner alternative finality was required under SCC 14.06.120(9) once PLA23-0324 announcement was caused by Code Enforcement Officer

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Wenzl's concealment of. Notice of the scope of delegated SCC 14.06.040(1), SCC 14.16.020(2) authority, interpretation and standing remains obstructed along with SCC 14.06.120(2), (5), SCC 14.06.160(7)(a)-(e) examination, staff reporting and briefing, despite mandatory stay once appealed to Superior Court and the Court of Appeals (SCC 14.06.230) devoid physical record of Administrative Official determinations identifying any legitimacy for Code Enforcement Officer proceedings authority instead of Administrative Official authority, determination, and access to full decision-making records.

At all times SCC 14.06.160**(8)** (Ordinance No. 17938 referenced in "art. II, History, #R20240280) has specifically limited examiner authority (SCC 14.06.160(8)) and instructed Kaskos and examiners alike that the "procedures" –known commenced as PL23-0324 by Code Enforcement Officer Wenzl- mandated SCC 14.06 "Level II permit application" procedures vital to verification of abandonment (SCC14.16.880(6)) by "proper notification," id., modifiable only where "not inconsistent with these procedures," which in turn mandate ("shall") opportunities for Kaskos examination as the "sequence of events" including opportunities for examination of reporting factual authority, determinations, interpretations, and opinions requiring staff reporting (SCC 14.06.160(7)(a)-(e)) by an Administrative Official for "the Department" and Skagit County of "the provisions of this Chapter pursuant to SCC 14.06.040," e.g. SCC 14.06.040(1); SCC 14.**16**.020(2), which remain vital to legitimacy of every reference in these appealed proceedings by adoption of "vehicles" and Exhibit 12 evasion of "storage" determination that PL23-0324 reported concealed from finality in the record Code Enforcement officers adopted in orders, from which "vehicles" and therefore maintenance of the storage capacities land use by inventory reduction for new "change in occupancy and ownership" owners (SCC 14.16.880(1)) remains unreached (Exhibit 11; e.g. ¶11, PL23-0324), since reference to such as "violations" (Exhibit 11), therefore involves Exhibit 12, 13, and 7 as grounded therein.

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The inventory reduction as evidence of vehicle storage capacities maintenance and automatic stay must still be applied in "clearly erroneous appeal here during appeal to the Court of Appeals (SCC 14.06.230) after SCC 14.06.120(2), (3) and (5) unmistakably made application information, Letter of Completeness, and staff reporting vital to legitimacy and SCC 14.06.160(7)(a)-(e) examination grounded in SCC 14.06.120(2), (3), (5).

Therefore this response now points out that that the urging of nonfinality upon the examiner in PL23-0324 is for illegitimacy of every proceeding and fraud upon Kaskos depriving the proceedings of their legitimacies by interfering with, obstructing and delaying Kaskos' compliance, access with and expectations under Planning Enabling Act examiner alternative finality that would otherwise have established interference, abuse and volitions, now wrongfully involving concealment of authority, access to witnesses for inclusion of "vehicles" (EX11) and storage in "flood" control by a scheme to deprive Kaskos of access by PVA "procedures" abuse (PL 23-0324; **Kaskos' Ex.3.A—D,** "hang[ing] this all of the Flood Development permit," infra; SCC 14.06.160(7(a)-(e), (8)) and this Motion requests extension or authorized shortened time, dismissal and vacation of the identified abusive proceedings after H.E. FF ¶11, PL23-0324.

VII. DEMAND FOR PHYSICAL RECORD OF AUTHORITY, SCC 14.06.040(1), SCC 14.16.020(2) AND NOTICE OF MOTION FOR ORDER SHORTENING OR CONTINUING OCTOBER 6, 2026, HEARING..

During limited discovery (Examiner Rule 20; RCW 36.70.120(5)) Kaskos Demand and support an Order that (1) Skagit County produce a certification of the record by "the Department" to this examiner as true and complete; (2) Demand every physical record of Administrative Official determination, application, interpretation, approved publication, dated delegation of authority, in any way requesting or approving RCW 9.72.010(4) official proceedings, Planning division, Building Services division, Code Compliance division, Flood Management division, Planning And Development Services Department ("PDS"), and Office of

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Hearing Examiner service or action, including dated copies of each record of action on delegated of Administrative Official authority to every person who has requested notices, Orders, examiner action, publications, notices Orders Determinations and assurances involving SCC 14.16.880, SCC 14.34, SCC 14.24, PL 23-0324, and Exhibits 7, 12, 13; (3) Demand records of acts against and assurances of authority to continue land uses at properties identified in proceeding PL23-0324, including record of assurances to prior owners of the properties identified; and (4) Demand record of Skagit County deposits of vehicles, trailers and any junk upon the properties for which the AOA Exhibit 11 adds "vehicles."

Grounds In Addition To The Above. SCC 14.06.120(2), (3), and (5) and prohibition of authority to modify (SCC 14.06.160(8), SCC 14.06.040(1), SCC 14.16.020(2)) and PEA finality selected for SCC 14.06.120(9) have always made vital the SCC 14.06.160(5), (7)(a)-(e) examination opportunity without examiner modification authority (SCC 14.06.160(8)) and Kaskos have regularly been treated by Code Compliance Officers to denial of identification of any physical record of delegated authority, report, or inference in Notice, Orders, and Determinations that take liberty with and include control over "vehicles" and vehicle storage that Skagit County urged to be excepted from proceeding PL23-0324 while SCC 14..16.880(1) excepted the uses from PVA procedures, requiring strictly applied delegation of authority evidentiary requirements and report duties, leaving Kaskos only with reports that "staff" or the "Administrative Official has information"; even that "the Administrative Official has determined" any number of things now including "vehicles" as "violation" evidence (FF 2-4 AOA Exhibit 11) after examiner report that Skagit County modified scope and purpose which denied Kaskos, this examiner and all courts evidence of RCW 36.70.980(1)-(3) finality (¶11, PL23-0324' Exhibits 7, 11, 12, 13) without SCC 14.06.160(5), (7)(a)-(e) examination of witnesses or any physical record conferring any dated scope of authority, when denial of such

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minimal allegation -including date of delegation and scope of authority- manifestly risks enormous loss at minimal inconvenience to Skagit County with due process[6] and which deprivation clouds whether notices and Orders are in fact product of any Administrative Official delegation, circumstances that without doubt trigger cause for protection under Examiner Rule 14.A-C, Resolution #R20240280.

Finding ¶11, of PL23-0324 reported Skagit County urging to avoid Planning Enabling Act examiner alternative recognition of evidence of vehicle storage capacities maintenance and improvement land uses finality by inventory reduction, highly prejudicial to finality an d introducing misinterpretation. Examiner Rules are intended to ensure fair hearings (Rule 14), staff Report (Rule 27) as are SCC 14.06.120, .160(5), p(7)(a)-(e), yet highly prejudicial extension to conclusions urged as delayed in PL23-0324 now appears added after Report notified of modified "procedures" (¶11, PL23-0324) in an examiner decision that specifically did not attend to Kaskos' uncontroverted evidence of continuous nonabandoned vehicle storage capacities maintenance land uses. Urging that was accepted from Skagit County (¶11, PL23-0324) continues to deny Kaskos meaningful opportunity for appeal when denial of any staff reporting (**Kaskos' Ex3.D, E, F**) is been entered into (Exhibit 13, 7) for control over "vehicles," (exhibit 11, 12) after PL23-0324 "procedures" (SCC 14.06.160(8)) were impermissibly modified to deny finality to vehicle storage capacities improvement evidence, to establish flood controls without access to planning staff witnesses of authority of an Administrative Official (**Kaskos' Ex3.D, E, F**) and without staff reporting.

Kaskos herein -and by appendix exhibits- establish the enormity of an open-ended scheme for denial of access and pre-planned prejudice against First Amendment petitioning growing without Administrative Official authority therefrom by every reference to "violations"

[6] *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)(factors including minimal cost and burden of providing notice jeopardizing immense substantive interests).

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Ph: 360 733-6668

and "vehicles" or storage and bifurcated Planning Enabling Act proceedings not entering conclusions of law reaching the same although nonabandoned storage capacities maintenance and improvement land uses through inventory reduction land use was tried, proven uninspected and continuing by Kaskos (¶11, PL23-0324) now including further deprivation of conclusions even at pg. 10, Exhibit 12 ("no evidence …no preexisting use remaining intact").

VIII. OBJECTION TO EXHIBITS 7, 11, 12, 13 INCLUSION OF VEHICLE CAPACITIES IMPROVEMENT AS LAND USE MAINTENANCE DURING NONMODIFIABLE NONFINALITY (SCC 14.06.160(8)) RCW 36.70.190(1)-(3), SCC 14.06.120(2), (5), (9), SCC 14.06.160(7)(a)-(e); RULE 21.G; RULE 29.C.ii.

Without return notice from Skagit County after delivery of an SCC14.34.190(1) study, Kaskos simultaneously herewith deliver objections and their SCC 14.34.190(1) compliance report, with October 6, 2026 hearing approaching, separately objected to this record, hereby providing exhibits establishing stayed, unauthorized, further deprivation of legitimate physical record by concealment in order to notify that no authority or any legitimate inference of authority supports any proceeding grounded in modified purposes of PL 23-0324 proceedings; nor is any notice, order or determination authorized to add to that proceedings' unauthorized modification that is depriving Kaskos of access to meaningful decision making and planning enabling act finality orchestrated by SCC 14.16.880(1)-(6) and SCC 14.06.120(9) which adopts SCC 14.06.160(98) prohibition (SCC 14.06.160(1)-(7(e), (8)) including Exhibit 12 (pg. 10, "there is no evidence," art. II Exhibit 12) commenced under requirement of official proceeding record authority standards (SCC 14.06.040(1); SCC 14.16.020(2); RCW 36.70.970; RCW 9A.72.010(4), .150(1)(a)); and Kaskos provide supplemental evidence establishing that that modified proceeding nonfinality and herein appealed proceedings grounded in report of nonfinality ¶11, PL23-0324) are unsupportable as any record evidence of Administrative Official Authority, delegation, acts, interpretations, applications vital to "procedures" and finality that

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may not as a matter of Washington State law and Skagit County examiner alternative finality retreat from "proper notification" (SCC 14.16.880(6)) or be modified by any examiner (SCC 14.06.120(9); SCC 14.16.880(6); SCC 14.16.880(1), (4)(a), (5); SCC 14.06.160(8).

IX. NOTICES, ORDERS AND DETERMINATIONS GROUNDED IN BIFURCATED NONFINALITY, PVA INTERFERENCE, FRAUD AND CONCEALMENT WITHOUT DELEGATED AUTHORITY FOR PLANNING ENABLING ACT FINALITY OF WASHINGTON AND SKAGIT COUNTY'S EXAMINER ALTERNATIVE .

Introduction. Fraud vitiates PVA and flood regulation proceeding legitimacy, authority, and is here affecting reliance upon finality vital to Kaskos appeal. The notice and order appealed and proceedings they are grounded in illegitimately added "vehicles" as continuing "violations," covering up numerous PL23-0324 impermissible "procedures" modification illegitimacies, abuse of process and violations (SCC 14.06.160(5), (7)(a)-(e), (8); ¶11, PL 23-0324) implicating nonabandoned continuing storage capacities improvement land use evidence deserving but denied conclusions of law after denial of Kaskos access to planning staff and Administrative Official determinations, delegations, applications and acts in sole authority for "the department," never shown delegated to Code Enforcement Officer authority usurpation, now involving these proceedings by addition of findings regarding "vehicles" during an SCC 14.06.230 automatic stay that has already brought the same evidence and lack of it to the Washington State Court of Appeals, necessitating difficult appeal description here by Kaskos after secondary examiner interpretation added thereto (pg. 10, art III, Exhibit 12), requiring Kaskos separately filed objection to secondary proceedings collateral to Planning Enabling Act examiner alternative nonfinality (Exhibits 7, 11, 12, 13) that include area reported (¶11, PL 23-0324) during the impermissible SCC 14.06.120(2), (3), (5), SCC 14.06.160(1)-(7) procedures modification, without recognizing that Decision PL 23-0324 reported impermissible modification (SCC

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14.06.160(8); (¶11, PL 23-0324) as deprivation of Planning Enabling Act finality "procedures" (SCC14.06.160(8); SCC 14.06.120(2), (3), (5); SCC 14.06.160(5), (7)(a)-(e); RCW 36.70.970(1)-(3)).

A. EACH NOTICE, DETERMINATION AND ORDER GROUNDED IN OR INCLUDING AOA EX 11 FINDINGS 2-4 TO INCLUDE VEHICLES, VEHICLES AS JUNK, OR VEHICLES AS CONTINUING "VIOLATION," ARISES FROM UNAUTHORIZED ABUSE OF PVA PROCESS AND DENIAL OF PEA FINALITY DURING REPORT OF BIFURCATED NONFINALITY.

The record as it stands is inadmissible, grounded in no agent record certification of completeness by "the Department" and manifestly relying upon the same inadequacy in Procedure Verifying Abandonment" ("PVA") and Planning Enabling Act examiner alternative finality ("PEA"). Furthermore, by Exhibit 7, 11, 12, and 13 adoption of nonfinality of SCC 14.16.880(6) "Level II permit application" due process by "the Department" without administrative official action or delegation evidence the appealed proceedings are only authorized as -and if- commenced by acts of an Administrative Official interpretation, application and determination (SCC 14.06.040(1); SCC 14.16.020(2)) for "proper notification" (SCC 14.16.880(6)) when required finality of SCC 14.06.120(9) is only legitimate after mandatory "procedures" of SCC 14.06.160(5), (7)(a)-(e),and SCC 14.06.120(2), (3), (5)) because of prohibition of examiner modification at SCC 14.06.160(8).

Exhibits 7, 11, 12, and 13, ignore report of prohibited modification of both PVA and PEA finality (¶11, PL23-0324; SCC 14.06.160(8)) and Ordinance 17938 vital where to SCC 14.06.120(9) when specifically instructed that the "procedures" –known vital to verification of abandonment by SCC14.16.880(6) requiring "proper notification"—are only modifiable when "not inconsistent with these procedures," that mandate a "sequence of events" including opportunities for examination of reporting and opinions under special PVA chapter identifying

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Administrative Official authority (SCC 14.16.020(2)) referring to delegation (SCC 14.06.040(1)) and requiring application meeting, compliance letter evidence and staff reporting (SCC 14.06.160(7)(a)-(e); SCC 14.06.120(2), (3), (5)), valid only with Administrative Official delegation, interpretation, and application of "the provisions of this Chapter pursuant to SCC 14.06.040. E.g. SCC 14.06.040(1); SCC 14.16.020(2) concealed from the record that adopted vehicles" and storage capacities land use represented as "violations" (Exhibit 11). Therefore Exhibit 12, 13, and 7, grounded in Exhibit 11 adoption of "vehicles" as violation here are without authority after an examiner reported that Skagit County urged modification (PL23-0324) not to reach vehicles, storage, by any index of evidence of physical record allowing meaningful examination by Kaskos of SCC 14.06.120(2), (3) and (5) Letter of Completeness, staff reporting, or staff and administrative official witnesses for proof or evidence of undelegated authority examination and determinations vital to legitimacy. (SCC 14.06.160(7)(a)-(e)).

After PL 23-0324 warning and now during knowledge that code enforcement officer acts were abusing PVA process and usurping administrative official authority (**Kaskos' Ex3.T**), abusing SCC 14.06.120(9) and Washinton Planning Enabling Act Examiner Alternative (RCW 36.70C.970) for bifurcated proceedings (¶11, PL23-0324) serving as flood development permitting control by interfering with Kaskos' SCC 15.06.160(7)(a)-(e) examination without administrative official delegated authority, functions or staff reporting, the Notices, Orders And Determinations commencing with AOA 10/29.2025, inclusion of "vehicles" proceeded in unlawful obstruction and concealment vitiating legitimacy of inchoate PVA proceedings brought with misrepresented authority to commence PVA process.

The appealed Orders and notices knowingly adopt proceedings bifurcated to reach no conclusion addressing continuous uninspected nonabandoned storage capacities maintenance and improvement or exemptions (SCC14.16.880(1) and (5)) that remain inextricably intertwined land

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uses and complete PVA defenses against nonfinality of other inextricably intertwined land uses, currently representing interference with a complete record of evidence of authority, obstructed access to witnesses, PEA finality and unlawful official proceedings grounded in nonmodifiable physical record unavailability and concealment (RCW 9A.72.010(4), .150(1)(a); SCC 14.06.040(a),; SCC 14.16.020(2); SCC 14.06.120(1)-(5); SCC 14.06.160(1)-(7)(b)), still requiring exception from proceedings in this matter after recognition that continuous uninspected nonabandoned vehicle storage capacities maintenance improvement and exemptions are unreached (SCC14.16.880(1) and (5)) and are corrupted in the illegitimate part of these proceedings after AOA EX 11 findings 2-4 attempted to include vehicles.

B. THE NOTICE WAS NOT PROPER DURING ONGOING ATTEMPTS TO REMEDY DEPRIVATION OF SCC 14.06.120(9) AND RCW 36.70.970(1)-(3) FINALITY

April 30, 2026, the Hearing Examiner entered a Prehearing Order in APL 2026-007 of CODE 2025-0009 (Exhibit 5) requiring the record be filed by "the Department." Before that October 29, 2025, the second examiner asserted without comment upon PL23-0324 modification of SCC 14.06.160(5), (7)(a)-(e) "procedures" that cannot be modified (SCC 14.06.160(98)) that there is "no evidentiary record filed for the appeal, but Exhibit 18 informs as might be foreseeable from ¶11, PL23-0324 report and absence of any administrative Official determination record whatsoever that there is a "potentially unclear record and a number of issues that should be made clear before a hearing" after ordering "the Department" to "file its §21(E)(i) record prior to May 15, 2026, or submit an explanation otherwise why this is not feasible."

The Supplemental exhibits now exhibit why this examiner is disserved by concealment of a physical record of agency certified records for cover-up, establishing illegitimacy of proceedings and foundational proceedings.

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Ph: 360 733-6668

Kaskos have appealed the denial of an agency record and Supplemental records as well as inclusion of "vehicles" to comprise violations after a scheme denied Kaskos cooperation of planning staff includes every notice grounded in "vehicles" and vehicle storage capacities maintenance land use evidence is part of a designed to cause planning staff to "hold off," in a scheme to deprive Kaskos of mandatory access to witnesses, pre-application information, and supplemental exhibits establishing that the appeal underway to the Superior Court and Court of Appeals is impermissibly interfered with, not the least by late inclusion of a record by design, deceptively concealed until offered under the name "Application" establishing that published notice was also fraudulent misrepresentation of Administrative Official act, application, interpretation and authority, after Examiner and Board of County Commissioners Appeal proceedings of Kaskos, devoid of any agency certification notifying at what point a "record" is complete.

Record. May 22, 2026, the Examiner Ordered Responses from Appellants that is rendered difficult given the manner of on-line filing of the Appeal or "windows" associated therewith, raising question whether the scope and detail were preserved, certified as complete by no agency record here. Fraud raised here had pre-dated such appeal. Now with some precision the Examiner's Post Hearing Order can be responded to. Relating to these:

Exhibit 7, Notice And Order To Pay Fines 260402 (Skagit PA No.1);

Exhibit 11 AOA 25404 (Skagit PA No. 5);

Exhibit 12, Hearing Examiner Decision Re AOA – 10/29/2025

Exhibit 13, Notice Of Order To Abate Hearing Examiner Decision 260219. (Skagit PA No. 7).

Exhibit 18, Post Conference Order APL 26-007, 05/22/2026

April 5, 2026, Through an on-line filing widow, Kaskos paid $1,500.00, (Ex3). Some of the offered window narrative (Ex.2) establishes reasons for appeal being that penalties are

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unlawfully imposed during information withholding material to owners' request for location information, and information distinguishing matters on appeal comprising color of official right threat against desire to comply during appeal, including conflicting agency testimony confirming that no permit was required. Certainly Kaskos have need of notice where fill was required to be removed. However Kaskos have needed notice that nonconforming storage capacities maintenance does not impair SCC 14.34.190(1) third party reporting not available until September 9, 2026, now provided to Skagit County's counsel.

X. MOTION TO DISMISS BY SCC 14.34.190(1) REPORT PROVIDED IN COMPLIANCE WITH SCC 14.34.190(1) FLOODWAYS STANDARDS.

Vacation and Dismissal is required for deprivation of fair hearings, illegitimacy, fraud upon PEA finality PVA finality, automatic stay (SCC 14.06.230) denial of timely notice raised here in collateral proceedings after urging nonfinality (¶11, examiner decision PL23-0324) and immense prejudice to proceedings raising the same matters to the Washington Court of Appeals.. Kaskos demand Dismissal vacation of the notice and Order after appealing the same facts to Superior Court and the Washington Court of Appeals ("vehicles" storage; deprivation of records and planning enabling Act finality) when RCW 36.70C.020 and 030(1) replacement of certiorari threatened denial of access to courts but added discovery limitations (RCW 36.70C.120(5)) to avoid loss of access already facially evident (¶11, examiner decision PL23-0324) by Skagit County urging of modification of Procedures that denied access to examinations (SCC 14.06.160(5), (7)(a)-(e)) in abusive use an exhibit list never including administrative official authority of any kind, to abuse inventory reduction evidence and inspire conclusion there is "no evidence"[7] on uncontroverted nonabandoned storage capacities improvement evidenee during

[7] Pg. 10, Exhibit 12 Decision denying appeal AOA 4-4-25 wherein "vehicles" were added and carried forward in decisions and Orders as "violation" and "junk," is Mentioned for its "no evidence of lawful permitted use" addition to PL23-0324 report that "the question was not about whether the property had been used to store junk vehicles or unlicensed or inoperable vehicles," infra, at "Procedural Facts, but discussed infra at VII. Argument, B. "Replacement Of Unapealed, Uncontroverted PL23-0324 Report by Exhibit 12 Report."

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proceedings involving uncontroverted evidence of Skagit County assurance of continued authorization to maintain nonconforming land uses received from Skagit County, together comprising evidentiary facts that SCC 14.16.880(1) exception ("evidence of "change of occupancy and ownership") and uncontroverted evidence of continuing, nonabandoned improvement of vehicle storage capacities maintenance (PL23-0324) is continuous nonconforming land use during time necessary in which disclosures of flood regulations required mandatory SCC 14.06.120(2), (3) and (5) notice according to Kskos' request for pre-application meeting obstructed by the Code Enforcement officer when vital to bot maintenance exceptions and PVA proceeding PL23-0324 (**Kaskos' Ex2, Ex3.A-C**, Appendix).

Obstruction of highly material preparation could have produced the accompanying third party SCC 14.34.190(1) study by Kaskos and should have been triggered by March 17, 2023, pre-application meeting (**Kaskos' Ex3.A-3.B**) complying with "Standards for development activities in floodways," but for Officer Wenzl interference with such notice and meeting mandatory to SCC 14.16.880(6) "Level II permit application" by Wenzl acting without administrative Official delegated authority, and Kaskos now present compliance with terms allowing a "no rise study" as fully abating the expressly conditional claim of SCC 14.34.190(1) violation (Kaskos' Exhibit 1, appended hereto) deserving dismissal as to all violations grounded in obstructed notice (coordinator-numbered Exhibits 7, 11, 12, 13, Kaskos' Ex3.Qm EX3.T).

Any further removal remains fully tried, remedy waived by Skagit County in PL23-0324 as to "vehicles" and storage capacities maintenance and improvement according to uncontroverted inventory reduction exception for new owners (SCC 14.16.880(1)) at ¶11, PL23-0324 examiner report that Skagit County intended to deny Kaskos access to conclusions of law respecting continuous, nonabandoned vehicle storage maintenance improvement evidence that Kaskos further establish herein was part of a scheme to intentionally interfere with Kaskos'

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Ph: 360 733-6668

request for cooperation from planning staff witnesses (SCC 14.06.120(2)) requested by Kaskos for obstruction of access to testimony and investigation (SCC 14.06.160(7)(a)-(e)) in denial of access to witnesses and determinations of Administrative Official applications, interpretations, determinations and unlawful official proceeding physical record unavailability obstructing SCC 14.06.040(2), SCC 14.16.020(1), SCC 14.06.120, SCC 14.06.160 mandates and Planning Enabling Act hearing examiner finality election.

XI. ISSUES DURING CONTINUING OBJECTION TO RECORDS CONCEALING ADMINISTRATIVE OFFICIAL AUTHORITY, DELEGATION, ALLOWING A SCHEME FOR PROCEEDINGS TO DENY ACCESS, MODIFYING SCC 14.06.2160(5)(7)(a)-(e) PROCEDURES IN DEPRIVATION OF PLANNING ENABLING ACT FINALITY IN ABUSE OF PROCESS FOLLOWING INCONTROVERTIBLE REPORT OF BIFURCATED NONFINALITY, REQUIRING DISMISSAL AND VACATION. Rule 25; PL 23-0324 DECEMBER 7, 2023.

Kaskos object to continuing disregard of warning of bifurcated purposes (¶11, PL23-0324; object to further deprivation of access to informative pre-application proceedings affecting continuous nonabandoned vehicle storage capacities improvement evidence and abuse of PVA due process for Code Enforcement officer concealment of flood control notice required when Officer Wenzl admitted use of PVA process for interfering with staff report, notice and SCC 14.06.160(7)(a)-(e) examination opportunity, depriving Kaskos thereby of the continuing right to nonconforming vehicle storage capacities improvement exempt from PVA procedures under SCC 14.16.880(1) "change" purposes and "Level II permit application" due process.

Kaskos object to every exception in Skagit County PVA and Code Enforcement proceedings denying hearing examiner alternative finality under Washington's Planning Enabling act selected by Skagit County finality SCC 14.06.120(9); and Kaskos hereby provide Rule 21.C supplemental evidence[8] during continuing Rule 4 and 14 quasi judicial authority of

[8] Broader Examiner Rule 4 authority applies given quasi judicial proceeding bifurcation report FF ¶11, PL 23-0324 and Kaskos' Rule 21.C supplemental evidence establishing denial of meaningful opportunity to examine evidence from planning staff during abuse of PV process for purposes of regulatory control of flood development rigors in

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the examiner after PL23 0324 reported nonfinality and exhibited that it did not reach continuing vehicle storage capacities, without Administrative Official determination.

ISSUE 1. Is interference with Planning Act finality exhibited in the examiner's report at ¶11, PL23-0324 and also in Kaskos' supplemental exhibits cause for continuance or shortened notice of Kaskos Motions? Yes.

ISSUE 2. Does authority of a Code Enforcement Officer to "hold off" cooperation with pre-application process and abuse of PVA process for flood development regulation while without evidence of any delegation of administrative official authority, resulting in examiner warning that the examiner is instructed by Skagit County to bifurcate and confine attention to auto wrecking, violate finality selected by Skagit County under Washington Planning enabling act, require protection of hearing fairness given examiner report that uninspected continuous, nonabandoned, nonconforming "vehicle" storage capacities maintenance and improvement, was not part of a prior hearing after Exhibits 11 and 12 adopt restriction of "vehicles" as part of a violation grounded therein without any physical record of Administrative Official authority to bring proceedings and recent disclosure of evidence that an "application" in no way requested hearing examiner proceedings requiring measures by the examiner to apply Rules to specific circumstances so that proceedings are fair and due process is achieved," (art. 6, Skagit County Hearing Examiner Rules #R 20240280)?

ISSUE 3. When notices, Orders, Findings and Conclusions add "vehicle" storage after ¶11, Decision PL23-0324 examiner proceedings manifestly reported deprivation of conclusions as to continuous nonconforming inextricably intertwined, uninspected, nonconforming, vehicle "storage" capacities improvement land use evidence does examiner rule 6 interpretation and rule

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absence of any staff report bifurcated the PL23-0324 record for that purpose, devoid of physical record of Administrative Official delegated authority interpretation, application, determination or request for hearing examiner proceeding to commence PVA standard of review. SCC 14.06.120(1)-)5); SCC 14.06.160(1)(8); ¶11, PL 23-0324.

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16.A-C ruling require enforcement of Kaskos rights to Fair Hearing And Participation by vacating the notices, Orders and determinations? Yes.

ISSUE 4. When the Code specifies acts to be taken by "the Department," "The Administrative Official," and the Director" do notices that failing to state any evidence of such capacity, scope and delegation fail to state authority to act on a valid Order, requiring dismissal? Yes. SCC 14.02.020; SCC 14.06.040(1); SCC 14.16.020(2); SCC 14.06.100, SCC 14.06.120; SCC 14.06.160; SCC 14.09.2p20(a).

ISSUE 5. Does any part of the Skagit County Code under which nonconforming vehicle "storage" land uses were legally established and denied conclusions of law in PL 23-0-0324 -as continuing nonabandoned storage capacities maintenance evidence and defense against intertwined other land uses- identify a "Code Compliance Officer" as an authorized designee of the Administrative Official for any purposes other than code enforcement? No.

ISSUE 5. Do the coordinator-numbered Exhibits 7, 11, 13, illegitimately rely upon proceedings that exhibit no SCC 14.06.040(1), SCC 14.16.020(2) delegated authority of the Administrative Official for Notices, Orders and Determinations, obstructing appeals? Yes.

ISSUE 6. Did Kaskos pay $1,550.00 to preserve appeal while crippled in understanding whether storage land uses were denied by legitimate PVA proceedings, Exhibit 11, 12, and 13, through proceedings falsely represented as brought under official Skagit County authority of the Administrative Official, during wrongful concealment of official proceeding records obstructing SCC 14.16.880(6). SCC 14.06.040(1) , SCC 14./16.040(2) authority, interpretations, applications and delegation protecting against unauthorized interreference with inextricably intertwined, uninspected, continuing, nonabandoned, nonconforming, vehicle storage capacities maintenance land uses which remain unconsidered by PL 23-0324 and decisions grounded in it, in denial of access and SCC 14.16.880(1) exemption, interfered with under November 8, 2023, instruction

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P.O. Box 229140 Bellingham, Washington 98225
Ph: 360 733-6668

after interference with SCC 14.06.120(2) pre-application meeting progress of Kaskos and SCC 14.06.120 (5) staff reporting that would under Administrative Official determination evidence have fully disclosed flood regulation development permission, now requiring refund of the fees? Yes (Ex. 3; ¶11, PL 23-0324; SCC 14.34.190(1); **Kaskos EX3.A-D**)

XII. FACTS BEFORE SUPPLEMENTAL EVIDENCE OF A SCHEME FOR DEPRIVATION OF PHYSICAL RECORD, AUTHORITY, AND EVIDENTIARY FINALITY CONCEALMENTS.

1. WARNING THAT ADMINISTRATIVE OFFICIAL DETERMINATION AND ACCESS TO EXAMINATION OF STAFF REPORT WITNESSES WAS BEING DELAYED.

An examiner's December 7, 2023, decision established absence of Administrative Official determination; and its exhibit list established deprivation of access to administrative official authority, determination and staff report witnesses and SCC 14.06.160(5), (7)(a)-(e) examination requiring evidence of the Administrative Official determination in the first instance for de novo standard of examiner review; Exhibit 11 and 12 Exhibited No "Vehicle" Prohibiting Determinations.

The Exhibit list to December 8, 2023, examiner consideration of proceedings for abandonment of nonconforming uses (PL 23-0324, **Kaskos' Ex3.D**) exhibits the enormity of proceedings brought for abandonment ("PVA") that never included any Administrative Official determination for legitimacy of de novo hearing examiner services, application of staff reporting; mandatory examinations by landowners (SCC 14.06.120(5); SCC 14.06.160(7(a)-(e)); or Administrative Official request for hearing examiner determination, and is shocking for its deprivation of Kaskos' access and examination as well as absence of examiner authority to act, but exhibited no "vehicle" prohibiting determination .

Although PVA process applying SCC 14.06.880(4)(b) required consideration of "any" claim, right or interest, retained to be considered as nonabandoned, the Examiner faithfully

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Ph: 360 733-6668

reported at Finding 11 in Decision PL023-0324 that he was instructed by Skagit County not to consider whether the property had been "used to store …vehicles…" (December 7, 2023, Skagit County Hearing Examiner Findings, Conclusions, Decision, **Kasko Ex. 3.D**).

The 04/04/2025 Administrative Order To Abate violations (Exhibit 11) not only capriciously adds storage of "vehicles" but does so after a concealed plan to "hang all of this" PL 23-0324 abandonment procedure a purpose that PVA was not designed for: the abuse by raising "Flood Development" regulations as early as March 17, 2023 (**Kaskos' Ex3.B**), establishing concealment to deprive Kaskos of access to planning staff cooperation (**Kaskos' Ex3.A, C**), thereby also denying access to the determination of the Administrative Official (**Kaskos' Ex3.A-D**) with no legitimate record of any Administrative Official request for examiner services whatsoever or any record of authority delegated to a Code Enforcement Officer to substitute his opinion for that of the Administrative Official and that of "others." (**Kaskos' Ex3.B, Ex3.T**).

2. Secondary Examiner Opinion October 29, 2025 (Exhibit 12), Wrongfully Adds Finding To PL23-0324 December 7, 2023, Examiner's FF ¶11 PL 23-0324 Warning Of Misdirection Denying Meaningful Opportunity For Planning Enabling Act Finality That Always Required Administrative Official Determination Before Of Examiner Review.

SCC 14.06.120(\7(a)-(e) were designed to allow complete examination as to staff reporting on flood control regulations that were the abusive purpose of PVA due process and reason it did not reach Planning Enabling Act examiner alternative and SCC 14.06.120(9) finality As to continuous, nonconforming, storage capacities maintenance and improvement that evidence of declining inventory was establishing for SCC 14.16.880(1) change in occupancy and ownership exclusion.

Fn. 32, Pg 10 of the Examiner's 10/29/2025 Order numbered in this appeal as Ex.12 recites Ex. 18 (PL23-0324) dated December 7, 2023, and adds the following to PL 23-0324 that

> "there is no evidence of lawful permitted use, and in fact an explicit hearing examiner finding that there is no pre-existing use remaining intact,"

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Ph: 360 733-6668

That observation in absence of any Administrative Official determination, delegation or application (SCC 14.16.020(2)) now colorably changes PL 23-0324 results by commenting on the about diminished inventory after Kaskos were denied SCC14.06.120(2), (5) and SCC 14.06.050), and .160(7)(a)-(e) opportunity to question staff (**Kaskos' Ex3.C**) after Examiner warning against overbreadth of PL 23-0324 determinations that it was restricted to "wrecking" which never reached a seller's SCC 14.16.800(1) exception for "change in occupancy or ownership" and failed to address evidence of continuing nonabandoned storage capacities improvement; Yet appeal of Exhibit 11 referencing "vehicles" was denied (Exhibit 12) when no conclusion held that that nonabandoned storage capacities maintenance was not continuing according to uncontroverted testimony, reaching no conclusion of law because of Skagit County instruction in absence of any Administrative Official determination.

No Fact Established Code Enforcement Officer authority to cause hearing examiner PVA process in absence of and instead of authority of an SCC 14.16.020(2) Administrative Official, or authorized determination and application without staff reporting from staff for the Examiner.

Unless a Code Enforcement officer is authorized to add "vehicles" to a hearing examiner's decision that reports its scope as limited -as PL 23-0324 reflects at FF ¶11 (not about storage of vehicles)- the Officer's addition of vehicles to an "Order To Abate" (04/04/2025 notice) grounded in "SCC 14.34.190(1)" flood violation obstructs the examiner's care in December 8, 2025 reporting (pg. 13, FF ¶11, 12/7/02023 Decision PL23-0324) and the examiner's care must be preserved as a hearing bifurcated to address "wrecking" land uses alone.

3. Every Record Informing That "The Violations Continue To Exist" By Vehicle Storage And "Storage Of Junk" Added Ambiguity.

No point here asserts for Kaskos that nonconforming uses dispel flood protections, or that that flood zone regulations are never applicable, only that timely notice was required for any flood control allegation in Kaskos pre-application meeting request obstructed (**Kaskos' Ex3.A-**

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Ph: 360 733-6668

C) and automatic stay applies to protect continuous storage capacities maintenance exceptions (**Kaskos' EX.2**), therefore Findings 2 through 4, April 4, 2025 Administrative Order To Abate Violations and every record informing "the violations continue to exist" by any vehicle storage when or "storage of junk" ambiguity is attempt at regulating nonconforming uses grounded in examiner opinion without vital Administrative official determinations that the PL 23-0324 hearing protected ("not about" storage of vehicles).

Kaskos need not defeat flood regulations to require precision in them after an opinion affirmatively disclosing it March 15, 2023, is accompanied by plan denying access to witnesses for persuasion to bifurcate and fail to attend to nonabandoned storage capacities maintenance when actually used to prevent access to witnesses and staff reporting.

By Exhibit 11, 12, 13, and 7 meaning include vehicles and storage in these appealed matters after a perfect record that instructing and dissuading the Examiner in PL 23-0324 prevented addressing vehicles and storage each Notice, Decision and Order identified concerns the nonconforming, continuous nonabandoned vehicle storage capacities maintenance that stand denied Washington's Planning Enabling Act examiner alternative finality as the examiner's PL23-0324 Decision establishes. The Examiner's October 29, 2025, decision adopting the "Staff Report re: Appeal of Administrative Order" 7/29/25 (IV. Pg. 8, "Staff Report," Ex. 19) is grounded in PL23-0324 that established loss of SCHE §14 right to object to and to examine SCC 14.06.120(5(a)-(e) evidence (V, pg. 8, id.; concl. law I., pg.9, id.) under authorities regarding nonconforming uses (fn.35, pg. 13, id.) when neither standards for development activities in floodways (concl. Law III, pg. 10, id.) nor PL23-0324 have reached nonconforming vehicle storage capacities land use improvement evidence.

Knowledgeable Appeal of Decisions (10/29/2025) Orders, and Notices is made difficult to appeal here by intentional PL 23-0324 bifurcation (**Kaskos' Ex3.D**); deprivation of access to

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Ph: 360 733-6668

Administrative Official Authority, interpretation, direction and staff report examination (**Kaskos' Ex3.A**; SCC 14.06.1202); SCC 14.06.160(7)(a)-(e)), establishing intentional interference with finality and cooperation (**Kaskos' Ex3.B**); intentional ambiguity (**Kaskos' Ex3.C**) in scope of nonconforming vehicle storage capacities maintenance land uses entered without evidence of any physical record of Administrative Official authority (SCC 14.06.040(1), SCC 14.16.020(2)) when official proceedings may not lawfully conceal physical records.

The Appealed notices, orders and decisions proceeding from evidence of retaliation against First Amendment petitioning to obstruct Kaskos' pre-application meeting request (March 29 , 2023 "hold off, " and "[b]ecause of our last dealings …he is going to male this a litigious event," **Kaskos' Ex3.A, C),**

Without ability to compare later disclosure to Kaskos and to the examiner (**Kaskos' Ex3.T** with **Ex3.Q**, **Ex3.E** and **Kaskos' Ex3.F)** concealing **Ex3.T, the** December 8, 2023, PL23-0324 decision examiner troubled by absence of any staff report faithfully preserved the November 8, 2026, direction from Skagit County to narrow his scope for its impact on the scope of his conclusions when he wrote as follows (pg. 13, Finding No. 11 PL 23-0324):

> "the question was not about whether the property had been used to store junk vehicles or unlicensed or inoperable vehicles, " but rather whether the property had been continuously used as an auto wrecking yard, which the County argued it had not."

At no time did RCW 36.70.970(1)-(3) Washington Planning Enabling Act examiner alternative finality or SCC 14.06.120(9) finality allow confusion regarding PVA finality:

> "Each county legislative authority electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner." RCW 36.70.970(2).

XIII. ARGUMENT.

A. SCC 14.34.190(1) is Satisfied By Kaskos' Ex.1 Study Requiring Dismissals.

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Ph: 360 733-6668

Kaskos' Ex3.B establishes reasons Kaskos SCC14.34.190(1) report is delayed; that the Staff Report and "General Investigative Analysis" should have been available through Code Enforcement Officer Wenzl to Kaskos as early as March 17, 2023, but for his planned desire to overcome the Administrative Official's opinion that "wrecking" was not abandoned, in order to combine with "others" id., and deprive Kaskos of their requested cooperation in mandatory SCC 14.06.120(3) informative pre-application meeting (**Kaskos' Ex3.A-B**) required equally for Wenzl's verification of abandonment ("PVA") since "Level II permit Application Process" is mandated in plain, unambiguous terms, requiring no construction or interpretation (SCC 14.16.880(6) "Level II permit application"; SCC 14,06,.120(2), (5), (9); SCC 14.06.160(1)-(7)(b), (8)).

Yet PL23-0324 abandonment process ("PVA") was commenced by Enforcement Officer Wenzl without SCC 14.16.880(6) "proper notice" that any authority of an Administrative Official exists, and certainly without authority to deny Kaskos' access to witnesses (SCC 14.06.120(7)(a)-(e)) under Wenzl's "back staff out of the way early" for his own determination ("I have determined" letter, **Kaskos' Ex.3.C, 3.R**). The Officer was intentionally denying Kaskos mandatory opportunity to examine staff reporting (SCC 14.06.160(7)(a)-(e)).

PL23-0324 became PVA process for bifurcated focus only on "wrecking" justified by the "Flood Development Permit" (**Kaskos' Ex3.B, Ex.3.D, Ex3.F**) and certainly required Kasko's ability to provide the appended report without Officer Wenzl interference ("hold off," **Kaskos' Ex3.A**; SCC 14.06.120(2) when no evidence in the exhibit list reflects any timely staff report until the AOA (SCC 14.06.120(5), .160(5); **Kaskos' Ex3.D**). Now reasons Wenzl and "others" sought bifurcated finality (¶11, PL23-0324 **Kaskos' Ex3.D)** instead of final conclusions as to "storage," id., reveal also that the Administrative Official did not want published notice to state the Administrative official determination that vehicles are allowed in the zone (**Kaskos'**

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P.O. Box 229140 Bellingham, Washington 98225
Ph: 360 733-6668

Ex.3.D, Ex3.P, Ex3.Q, Ex3.R, Ex3.T; H.S. FF ¶11, PL23-0324).

Intentional nondisclosure to interfere with flood zone examination information **(Kaskos' Ex.3.B)** and physical record concealment commenced more than three years ago and later introduced an "Application" no examiner has been allowed to note, as misrepresenting Wenzl's published notice having concealed a June 30, 2023 request that was always no more than request for interpretation **(Kaskos' Ex3.T; Ex3Q)** and never any request for hearing examiner process, only fraud **(Kaskos' Ex.3.T)** knowing al along that the Administrative Official never approved of abandonment process **(Kaskos' Ex3.B and 3.P)**. The fraudulent report and publication abused authority of the examiner in part of a scheme to obstruct SCC 14.06.160(7)(a)-(e) examination, and interfere with the authority of the Administrative Official and planning staff while concealing staff reporting as to the SCC 14.06.120(2), (3) scope of inquiry into staff reporting of flood regulations for concealment **(Kaskos' Ex3.C)** to "hang all this on the Flood Development Permit" in 2023 proceeding PL 23-0324 **(Kaskos' Ex3.B)**. No evidence establishes even now that Wenzl's plan to cause planning staff to "hold off" their cooperation with Kaskos has been retreated from in clear abuse of process for a purpose other than "storage" of vehicles abandonment procedures (¶11, PL23-0324 **Kaskos' Ex3.D)** requiring opportunity for examination of witnesses other than Wenzl, **Kaskos' EX3.A-D**, while concealing Administrative Official "interpretation" **(Kaskos' Ex3.T)**. SCC 14.06.040(1), SCC 14.016.020(2).

The list of PL 23-0324 exhibits showing that PVA process as brought without Administrative Official application, interpretation or determination manifestly establishes reasons for Kaskos delay in this motion after Kaskos and the Examiner **(Kaskos' Ex3.E, F, T)** were caused to wonder what sort of SCC 14.16.020(2) and Planning Enabling Act examiner alternative finality is meant by ¶11, PL23-0324 modification of purposes **(Kaskos' Ex3.D)** instead of recognizing continuing nonabandoned, uninspected "vehicles" improvement and

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Ph: 360 733-6668

"storage" capacities improvement that continues when inventory is adjusted and examination of planning staff is being interfeted with **(Kaskos' Ex3.D;** SCC 14.06.1201190-(6), SCC 14.06.160(1)-(7)(b), ("...Examiner or the Planning Department may adopt other rules of procedure **not inconsistent with** these procedures")(emphasis added; SCC 14.06.120(5) "Department ...shall prepare a staff report").

Flood zone restriction, as referenced in the "General Investigative Analysis And Findings Leading To Enforcement Action" dated July 29, 2025, SCC 14.34.190(1) is conditional,

> "In the letter and Administrative Order sent to Kasko, SCC 14.34.190 was referenced on the importation of fill to a Floodway property. In both documents, as well as the email I sent, SCC 14.34.190 was quoted prohibiting fill, unless certified by a registered professional engineer licensed in the State of Washington is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice as well as the "Procedures for No-Rise Certification" as published by FEMA. Staff Report, General Investigative Analysis (emphasis added.).

Kaskos have therefore --by enormity of planned concealment to interfere with access to conclusions, SCC 12.06.120(9) and RCW 36.70.970(1)-(3) decision-making **(Kaskos' Ex3.H,** *Maytown*; Examiner Rule 6, interpretation; 14 fair hearing)-- been delayed and denied meaningful access in fraudulent concealment of PL 23-0324 staff reporting finality and mandatory SCC 14.06.160(2)-(7)(a)-(e) examination opportunity intended to raise and also but delay meaningful "flood" development as well as PVA determination finality according to confusing evasion ((¶11, PL23-0324 Kaskos' Ex3.D) and introduction of "vehicles" as "violation" (Exhibits 7, 11, 12,13).

Kaskos have been put to enormous difficulty in recovery of process due by preventing knowledgeable scope of appeals during Appellate record representation varying from that of the examiner, concealed any Skagit County later introduction of a "Application" **(Kaskos' Ex3.D, E, F, T "Application")** long disguised in absence of any Administrative Official record without agency certification of "the record," completeness, agency-dated delivery, as though varying

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exhibit lists are in Skagit County allowed to become a "term of art" in hands of "others" **(Kaskos' Ex3.B)**, still bearing no physical record of any Administrative Official determinations or request (SCC 14.06.040(1), SCC 14.16.020(2)) or legitimacy by delegated Administrative Official authority; staff report record; or alleged or inferable scope of authority arising out of PL 23-0324 **(Kaskos' Ex3,B, 3.D, 3.T)**.

Therefore Kaskos immediately delivered to counsel and whoever needed a second opinion superior to the Administrative Official **(Kaskos' Ex3.B)** to improperly compete with the opinion he already had from Brandon Black that PVA abandonment due process is not proper **(Kasko Ex3.A-3.C).**

We believe that Kaskos have now fully satisfied every Notice, Order and Decision above and should not have to brief further; that vacation of Orders, Notices and Decisions --however denominated-- must be dismissed as grounded in deprivation of meaningful decision-making concealment and denial of Planning Enabling Act finality as to nonabandoned vehicle storage capacities maintenance and improvement after evidence in PL23-0324 in fact established vehicle storage capacities land use maintenance as in fact improved and also excepted (SCC 14.16.880(1) "change in occupancy and ownership") effort since uncontroverted testimonial evidence of Kaskos' selling owner and Kaskos in November 8, 2023, PL 23-0324 proceedings, established testimonial capacities improvement land use evidence shown by intentional decreasing inventory never held abandoned.

Kaskos of course would have appreciated hearing before this motion that their study is acceptable; and still require notice ASAP if these matters will not be both, clarified to recognize nonabandoned vehicle storage maintenance improvement as a land use deserving regard as within the exception reported at PL 23-0324, and also as excepted from PVA due process (SCC 14.16.880(1) "change in occupancy and ownership"), and dismissed, needing immediate

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disclosure of nature of any objection as well as clear notice Skagit County intends to assert any vehicle storage capacities maintenance and improvement that was denied conclusions in PL 23-0324 will remain any part of its notices, Orders, etc., in order to prepare for that hearing.

All notification to Kaskos after repeated abuse of PVA for of "flood" regulation in PL 23-0324 and direction by Skagit County exhibited to bifurcate purposes of that proceeding **(Kasko Ex3.D)** has been no better than notice that Thomas Wenzl, Code Compliance Officer continues to make determination in his own right (**Kasko Ex3.R** "I have determined") as he sought to overcome Administrative Official opinion with that of from "others" to replace the Administrative Official determination that abandonment was not proper, rejecting even the Administrative Official to emphasize "floodway" (**Kasko Ex3.O, P**) for publication of false PVA notice mandated to be "proper notice" (SCC 14.16.880(6)) turned instead into part of a scheme to "hang all this on the flood" regulation and deny Planning Enabling Act hearing examiner alternative finality and SCC 14.06.120(9) finality. **Kasko Ex3.A-3.C, 3.O, 3.P.**

B. Replacement Of Planning Enabling Act Finality Uncontroverted by PL23-0324 Report Of Impermissible Modification. SCC 14.06.120(2), (3), (5), 160(5), (7)(a)-(e) Requires Dismissal .

The Report of ¶11, PL23-0324 entered December 7, 2023, of numerous references to flood development control justifications resulting in impermissible SCC 14.06.160(8) modification of SCC 14.06.120(2), (3), (5) and SCC 14.06.160(5), (7)(a)-(e) opportunity for examination without SCC 14.06.040(1), SCC 14.16.020(2) Administrative Official application, interpretation, delegation, determination, or record of Administrative Official request for examiner services, in fraud upon examiners, courts and Kaskos to deny access to Washington's Planning Enabling Act examiner alternative participation, examination, and finality, comprising here manifest replacement allegation that "vehicles" comprise violation evidence after denied

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planning staff witness examination or any delegated authority of an Administrative Official. It assures as follows,

> ""the question was not about whether the property had been used to store junk vehicles or unlicensed or inoperable vehicles," (¶11 of PL23-0324). "

That examiner's report established that the capacity for storage of vehicles that was improved by uncontroverted land use testimonial evidence was evaded when Skagit County urged the examiner to modify hearing purposes to avoid entry of conclusions "about whether the property had been used" to store "vehicles," therefore entering no conclusions that the reduction in inventory was clearly increasing the storage capacities.

October 29, 2025, at pg. 10, Exhibit 12, that examiner's report appears replaced as to modified hearing scope that avoided reaching uncontroverted inventory reduction as evidence of both SCC 14.16.880(1) "change in occupancy and ownership" and as evidence of uncontroverted continuing nonabandoned vehicle storage capacities maintenance and improvement conducted in uncontroverted reliance upon Skagit County assurance to the owner's realtor that uses can continue, now compounding unavailability of official proceeding physical records (RCW 9A.72.010(4), .150(1)(a)) because after calling addition of "vehicles" a "violation (Exhibit 11) Exhibit 12 added the following highly material finding in further prejudice:

> "There is, however, no evidence of lawful permitted use, and in fact an explicit Hearing Examiner finding that there is no preexisting use remaining intact,32 and no stays of that decision otherwise.."

See also SCC 14.06.230 Automatic Stay, Skagit County Ordinance 17938 appended ..

1. Adoption Of Proceedings Reported As Nonfinal, Devoid Of Record of Administrative Official Interpretation, Application, Determination, And Delegated Authority Vital To Legitimacy, Is Obstructing Defenses While Corrupting Exhibit 11, 12, and 13 "Violation" Definition,.

SCC 14.16.880(6) Abandonment verification proceeding PL23-0324 always required "proper notification" (SCC14.16.880(6)) but there is none and ¶11, PL23-0324 said so.

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Both Exhibit 11 findings 2-4 and pg. 10 ("no evidence, Exhibit 12) attempt to add to reported impermissible modification of finality to evade duty to provide a physical record and the record is devoid of vital, mandatory administrative official interpretation, application, determination and record of any delegated authority to him (SCC 14.06.040(1), SCC 14.16.020(2)).

Meaningful defense against inclusion in SCC 14.34.190(1) allegations of "vehicles" as a continued "violation" (findings 2-4, Exhibit 11) continues in open-ended deprivation of access to a physical record of finality in both flood development permitting and PVA purposes (¶11, PL23-0324).

RCW 36.70.970(1)-(3) finality requiring physical record of official proceeding finality for defenses against SCC 14.06.120, 160 and SCC 14.16.880(6) PVA procedures is interfered with by SCC 14.34.190(1) violation allegation and Exhibit 12 "no evidence" addition that conflates storage evidence with "vehicles" as violation evidence when no proposed exhibited notice, order, and decision may lawfully conceal conclusions as to whether continuing nonabandoned storage capacities improvement comprises a land use, material to every exception for "maintenance" (**Kaskos' Ex2**) every time inventory is reduced and pathways are maintained, including when the modified "purposes urged upon PL 23-0324 that never reached storage capacities maintenance are reported and replaced as "no evidence conclusion ((Exhibit 12; SCC 14.34.190(1); **Kaskos' Ex.2**; SCC 14.06.120(2), (5), (9), .160(1)-(8); PL23-0324).

Unlawful RCW 9A.72.010(4) Official Proceeding record concealment for interference with vehicle storage capacities improvement evidence accomplished by inventory reduction is furthered by concealment of physical records of Administrative Official authority vital thereto is open-ended illegitimacy requiring physical record availability (RCW 9A.72.150(1)(a)) intended (**Kaskos' Ex3.B, 3.C**) first reported as intended by Skagit County (¶11, PL 23-0324) but now

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Ph: 360 733-6668

unlawfully furthered by including "vehicles" as unpermitted land use violation (**Kaskos' 3.G**) and continuing flood zone "violation" (Exhibits11-13), after Skagit County resisted conclusions regarding continuing nonabandoned storage capacities improvement and maintenance land uses (PL23-0324). To date no conclusions address vehicle storage capacities improvement by inventory reduction as nonabandoned land use evidence that is plainly excepted (SCC 14.16.880(1)) "change in occupancy and ownership" land use, therefore code enforcement under a "violation has not been removed" finding (Exhibits 7, 11, 12, 13) unlawfully replaces ¶11, PL23-0325 manifest violation of Skagit County's SCC 14.06.120(9), .120(2), (5), .160, (7)(a)-(e) and RCW 36.70.970(1)-(3) while denying right of Kasko's examination and examiner alternative finality elections.

Records exhibiting fraud upon examiner proceeding legitimacy here include -but are not limited to- **Kaskos' Ex3.T** "Application" that was concealed from the examiner. Published notice of PL23-0324 examiner proceedings also assured that other physical records exist and that the Administrator's request exists, since Officer Wenzl caused that notice to represent or infer that such records exist (**Kaskos' Ex3.Q).** Therefore decision PL 23-0324 was represented as authorized by a still-concealed Administrative Official decision record and Administrator requested examiner services that require an existing physical record for authority of legitimate official proceedings identified by date of June 30, 2023. **Kaskos' Ex3.Q** was published to assure reliance upon fact of existence of fully authorized interpretation, acts and determinations by an Administrative Official's fully delegated authority (**Kaskos Ex3.Q;** SCC 14.06.040(1);SCC 14.16.020(2)), but Exhibits 11 and 12 cover-up and replace the PL23-0324 truncated purpose announcement.

Now, because such records including Administrative Official delegation and determinations were concealed along with the "Application" (**Kaskos' Ex3.T**) until after PL23-

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0324 -and even after Kaskos' appeal to the Board of County Commissioners- it is apparent that the June 30, 2023, publication facts were always false, uttered without SSC 14.16.040(1) and SCC 14.16.020(2) authority; published to fraudulently conceal absence of any delegated Administrative Official authority when the only record so dated is no more than a request for Administrative Official interpretation, not examiner services. **Kaskos Ex3.T** was never filed with the examiner. It was concealed until filed as a mysterious "Application" September 13, 2024, and if Kaskos never filed in Superior Court it would never have been seen (proceeding 24-2-00730-29; **Kaskos' Ex3.F**).

Administrative Official authority, determination, application, was always being concealed (e.g. **Kaskos' Ex3.E. Ex3.F**). **Kaskos Ex3.T** is evidence that Administrative Official authority and Examiner authority were unlawfully usurped for color of law; and **Kaskos Ex3.A-D** establish that concealment was according to plan to interfere with Kaskos access to witnesses, planning staff cooperation, examination (SCC 14.06.160(7)(a)-(e)) to prevent Kasmo's discovery of absence of any Administrative Official's protective determination or delegated SCC 14.06.040(1) authority.

Long concealed replacement artifice **Kaskos Ex3.T** establishes the published Skagit County representation was not just false; it was made only for representation that Code Enforcement Officer Wenzl has the Administrative Official's authority, in direct challenge to the Administrative Official's decision-making. Records appended here establish falsely represented Administrative Official authority; cover-up of unauthorized determinations by a Code Enforcement Officer seeking opinion of "others" (**Kaskos Ex3.A-D**) which are also unlawfully concealed from the public eye, Kaskos and a hearing examiner who no doubt believed he could pursue RCCW 36.70.970(1)-(3) examiner alternative finality in fraud upon the examiner, superior court judges and Court of Appeals judges (July 13, 2023, Skagit County Planning And

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Development Services Notice Of Development Application, referring to June 30 request for hearing Examiner Services, **Kaskos' Ex3.Q**). The County Board of County Commissioners never had evidence the record included the Application, **Kaskos' Ex3.**

Every Notice, Order And Decision appealed as well as those earlier (Exhibit 11, 12; PL 23-0324) is grounded in an unauthorized proceeding PL 23-0324; is fraudulently induced by inference of availability of a mandatory pre-application meeting (SCC 14.06.120(2)); by unauthorized inference of official proceeding physical record of any Administrative Official mandatory Letter of Completion (SCC 14.06.100(2)); by unauthorized inference of availability of Administrative Official interpretation and application (SCC 14.06.040(1); by authority falsely represented (SCC 14.16.020(2)) without any record of any authority that remains concealed for misrepresentation depriving Kaskos of opportunity to respond sooner, demonstrably planned (Kaskos Ex3.A-D) for Kaskos' prejudice that this appeal stands to end, as do Examiner rules (E.g. Rule 14).

November 8, 2023, hearing examiner proceeding PL23-0324 resulted in an examiner's December 8, 2023, report that review was specifically bifurcated to exclude "storage" conclusions (¶11 of EX18; relied on in this examiner's October 25, 2025, EX12). September 13, 2024, the deceptively renamed "Application" **(Kaskos. Ex3.T)** was filed in Superior Court, still without no agency certifying the record as complete, as a previously unavailable exhibit, concealed during PL23-0324pproceedings from the examiner's notice, record-keeping, decision-making, and proceedings. **Kaskos. Ex3.T** was entirely concealed during Kaskos appeal to the Board of County Commissioners, its meaning far from knowable by courts, given an artificial name applied thereto ("Application."). Officer Thomas Wenzl wanted to disagree with the Administrative Official's authority so he could get and use "different opinions from other people" (March 15, 2023, **Kaskos. Ex3.A)**, in abuse of PVA process to instead represent (hang

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Ph: 360 733-6668

this all on") "Flood Development Permit" control that no Administrative Official's staff report or examination opportunity by Kaskos would be ready for **(Kaskos. Ex3.B)** in PL23-0324 because Code Enforcement Officer Wenzl wanted made them unavailable to Kaskos for cooperation or SCC 14.06.160(5)(a)-(e) examination (backed "staff out of the way early") in retaliation for past First Amendment petitioning by Kasko ("litigation," **Kaskos. Ex3.C).**

Now the supplemental records incontrovertibly obstruct Kaskos' appeal burden as clear error without Administrative Official authority or inference is being intentionally interposed to interfere with First Amendment participation and petitioning otherwise required for meaningful decision-making, warned by the examiners as bifurcated (PL23-0324) in nonfinality **(Kaskos. Ex3.A-H; Ex.3.T)** and violation of nonmodifiable procedures (SCC 14.06.120(1)-(5); SCC 14.06.160(1)-(7)(b); **Kaskos. Ex3.H-N**) according to a scheme designed to deny Kaskos the examiner's conclusions of law as to entry of protective conclusions addressing continuous uninspected, nonabandoned vehicle "storage" capacities maintenance evidence, inextricably intertwined with "wrecking" and also obstructing the complete defense against abandonment that other land uses such as storage capacities improvement provide against charge that a single nonconforming use is abandoned. E.g. *Johnson v. Seattle*, 184 Wn. APP 8, 335 P.3d 1027 (2014)(denial of recognition of other nonconforming uses comprising complete defense arbitrarily and capriciously denies due process).

Concealed by unrepresentative labeling ("Application"), neither later disclosure of absence of any Administrative Official authority **(Kaskos' EX3.T. Ex3.Q)** nor any other record has ever been accompanied by any agency-certified record of completeness of proceedings. appears in court or Examiner records, unlawfully concealed.

Unavailability of **Kaskos' EX3.T** is still unlawfully concealing official proceeding physical records in unlawful denial of due process risking unlawful inclusion of impermissible

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Ph: 360 733-6668

modification (SCC 15.0-06.160(8)), involvement of examiners and prosecuting attorneys in contrived denial of Planning Enabling Act finality as urged by Skagit County at ¶11, PL23-0324. Compare first disclosure after two listings with no "Application." **Kaskos Ex3.D. 3.E, with 3.F,** Superior Court. RCW 9A.72.010(4); RCW 9A.72.150(1)(a); RCW 9A.80.010(a), (b)).

Kaskos. Ex3.T establishes that no Administrative Official requested any hearing examiner service PVA determination, much less one corrupted by a Code Enforcement Officer's desire to carve away continuous nonabandoned vehicle "storage" capacities maintenance and improvement the placement of "vehicles," for enforcement citation to deny abandonment protection intended in SCC 14.06.880(1), (4)(b)("any" interest claimed or retained"); and (f)("buildings"), when conclusions of law that continuous nonabandoned vehicle "storage" capacities improvement is inextricably intertwined with proof that other land uses are not abandoned . e.g. *Tateuchi v. City of Bellevue*, 15 Wn.App.2d 888, 478 P.2d 142 (2020)(capacity remained whether used or not, abandonment disallowed).

Because it (**Ex.3.T**) was concealed from public notice (**Kaskos Ex3.Q**), from Examiner notice, from Board of County Commissioners' notice and from Kaskos' notice **Kaskos Ex3.E**, Kaskos had to file for Superior Court review of bifurcated decision-making under highly restricted discovery (RCW 36.70C.120(5)) during this scheme to deny Kaskos access to staff and administrative Official determinations that cannot now be regarded final determination (RCW 36.70C.020(2); ¶11, PL23-0324) or as Skagit County's election of its method of Planning Enabling Act examiner alternative finality (SCC 14.06.120(2), (3) (5), (9); RCW 36.70.970(1)-(3)) disposing of uninspected, nonabandoned, continuous capacities maintenance of vehicle "storage" denied conclusions as reported at ¶11, pg. 13 PL23-0324 **(Kaskos Ex3.D).**

Code Enforcement Officer Wenzl and "others" created notices that concealed and stated no delegated authority while Kaskos were being denied SCC 14.06.160(7)(a)-(e) meaningful

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Ph: 360 733-6668

opportunity to prepare for flood control examination (excerpt, **Kaskos' Ex3.S**, Examiner decision, comprising Ex.18, of the EX12 Examiner Decision) appealed by Kaskos under threat of loss of access (RCW 36.70C.030(1)) to Superior Court.

Kaskos' Ex.3.T establishes that every aspect of public notice given by Code Enforcement Officer Wenzl (**Kaskos Ex3.Q, 3.R,** June 15, 2023; **Kaskos' Ex.3.S**) was false, designed for information withholding threat, and denial of Kaskos' access to planning staff and Administrative Official determinations, pre-application meeting (SCC 14.06.120(2), "hold off" **Kaskos' Ex3.A**); even designed to conceal unlawful denial of open administration of justice obstructing communications (**Kaskos' Ex3.C**) by denial of physical record thereof (**Kaskos EX3.A, B, C, D, E, F, T, O, P, R**).

There never was "proper notification" required under SCC 14.16.880(6) by the Administrative Official "the Department"(SCC 14.16.020(2)) when vital to legitimate PVA abandonment process. Each section's mandate for "Level II permit application" under well orchestrated Notice and meaningful decision-making opportunities which PL 23-0324 would have reflected with staff reporting for legitimacy was stablished by nothing (SCC 14.06.120(1)-(6), SCC 14.06160(1)-(7)(b)) **Kaskos Ex3.I, J, K, L, M, N**).

Here the inclusion of "vehicles" (Exhibit 11) and as continuing "violation" is no different. Ater concealment from Kaskos EX3.E, F, the Wenzl scheme (Kaskos' Ex3.A-C) that sought overturn the Administrative Official determination (Kaskos EX3.B, O, P, R) and simultaneously deprive Kaskos of meaningful opportunity to prepare includes "vehicles" with notice the Examiner was encouraged to serve a purpose leaving storage capacities improvement of vehicles nonabandoned, which Officer Wenzl knew had been action for flood regulation:

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> "[w]e will probably have to hang all of this on the Flood Development Permit..." Email of Code Compliance Officer Thomas Wenzl to Administrative Official Brandon Black, **Kaskos Ex3.C.**

After announced plan to abuse procedure for verification of abandonment of nonconforming uses and apply misdirection of PVA process for flood control without notice, again no physical record establishes any Administrative Official interpretation, application or determination, nor record of delegation of Administrative Official authority to Code Enforcement Officer Wenzl to act for the Administrative Official (**Kaskos Ex3.Q**), PL 23-0324 warned and facially established bifurcated purposes, rather than broader mandatory scope of final determination of "any" record claimed or retained. SCC 14.16.880(4)(b)).

Disclosure that no Administrative official function, interpretation, application and authority was available to Kaskos for examination regarding meaningful decision making finality after bifurcated land use abandonment process reported as nonfinal left both flood regulation and "storage" land use involved in PVA process, although PVA process was designed to mandate duty to examine "any" interest claimed or retained. (SCC 14.16.880(4)(b)).

Kaskos Ex3.Aand EX3.R establish that in addition to interference with the preapplication information and notice Kaskos were seeking from Planning Department staff members ("Before you reply to Vadim's question about preexisting use of Art's can you hold off..."SCC 14.06.120(2)) determinations of record were those of Wenzl (**Kaskos Ex3.R** "I have determined...") leaving the Administrative Official believing "we are waiting for the applicant to submit more information before the pre-development meeting" **(Kaskos Ex3.B).**

Kaskos have had absolutely no evidence of PVA legitimacy nor any mandatory physical report of any SCC 14.06.040(1), SCC 14.16.020(2) delegated authority from the Administrative Official .

Kaskos Ex3.B and **EX3.P** establish Wenzl's knowledge that the Administrative Official did not support -and has not determined SCC 14.16.880(6) any notice of PVA process

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Ph: 360 733-6668

appropriate establishes Wenzl action without authority as a scheme to make the Administrative Official's determination unavailable to Kaskos, thereby while **EX3.P** instead establishes the Administrative Official determination that notice should conform to flood zone regulatory function "not the use being nonconforming to the RB zone" (SCC 14.06.120(1)-(6); SCC 14.06.160(1)-(7((b)), "[P]roper notice" mandatory for SCC 14.16.880(6) would have accorded Kaskos opportunity for examination as well as pre-application (SCC 14.06.120(2); SCC 15.06.160(7(a)-(e)) that is not modifiable (SCC 14.06.180(8):

"[W]here a statute, which is the source of a municipal or quasi- municipal corporation's power, confers specific functions to particular officers or boards, such functions may not be delegated to others unless the statute expressly authorizes such delegation to some other officer or body." *Noe v. Edmonds Sch. Dist.*, 83 Wn.2d 97,103,515 P.2d 977 (1973).

Code Enforcement Officer Wenzl's usurpation of Administrative Official authority according to a scheme to "back staff out of the way" was no mere "ministerial" function here. The Code Compliance Officer acted with others, to be sure, but SCC 14.06.120(1)-(5), and SCC 14.06.160(1)-(8) leave no ambiguity to construe. The Planning Enabling Act mandates election of finality in plain terms. RCW 36.70.970 "must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous." *Whatcom Cty. v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996). Delegated power may not be further delegated by the person to whom such power is delegated *In re Puget Sound Pilots Ass 'n*, 63 Wn.2d 142, 385 P.2d 711 (1963) (citing the "general principle of law"). The Examiner decision in PL 23-0324 facially establishes that matters of vehicle storage were rendered immaterial to the decision, removed therefrom by nondelegable persuasion (FF 11, pg. 13, **Kaskos' EX3.D**) interfering with pre-application meeting ("hold off," **Kaskos' Ex.3.A**) , Administrative Official functions and Planning Enabling Act hearing examiner alternatives at the

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Ph: 360 733-6668

core of hearing examiner legitimacy (**Kaskos' Ex.3.C**), when an administrative official disapproves of abandonment theory (**Kaskos' Ex.3.B,**) without knowledge of Wenzl's plan to "back staff away early" (**Kaskos' Ex3.C**) knowing the Administrative Official determined abandonment process inappropriate (**Kaskos' Ex3.B, P)** and knowing that the Official determined Wenzl should "avoid representation that the use is nonconforming to the zone," id.

Abandonment process was abused to install opinion of "others," usurp Administrative Official Authority (**Kaskos' Ex3.R "I have determined**) cover-up highly material vehicle storage capacities improvement evidence under false representation of authority to bifurcate SCC 14.16.880(4)(b) determination whether the owner claimed or retained "any" interest including "storage" capacities maintenance and improvement exempted as "change in occupancy and ownership" (SCC 14.16.880(1), (4)(b)) knowingly depriving Kaskos and their investment-backed expectancies of protective examination of flood control staff reporting as well as functional determinations of the Administrative Official and examiner who would have had such information seven (7) days before the PL 23-0324 hearing according to SCC 14.06.120(5) for Washington's hearing examiner alternative under Planning Enabling Act finality selections made by Skagit County.

The record now establishes manifestly identified and corrupted access to open administration of justice and finality is grounded in a scheme to deny Kaskos meaningful opportunity to discover physical records and authority vital to SCC 14.06.120 and SCC 14.06.160 substance and procedures required for legitimate Administrative Official Authority to commence Skagit County PVA, concealing any evidence of an Administrative Official acting with full SCC 14.06.040(1) and SCC 14.16.020(2) authority and public notice to avoid finding the three elements" of nonconforming uses, by excluding conclusions that intertwined "storage" maintenance uses comprise a complete defense to abandonment unauthorized process abuse that

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Ph: 360 733-6668

denies due process. e.g. fn. 14, 15, *State ex rel Lige, Dickson, v. County of Pierce*, 65 Wn. App. 614, 829 P.2d 217(1992); *Durocher v. King County*, 80 Wn.2d 139, 143,492 P.2d 547 (1972)("RCW 36.70 is the enabling statute which provides authority for, and the procedures to be followed by, a county in adopting and administering a zoning code.)

This record and supplemental exhibits prevents any examiner from finding that an agency acting within its competence made a final decision. Instead two very different proceedings conflict with each other as to vehicle storage when information regarding how flood control regulation apply to the continuous storage capacities maintenance has ben specifically denied Kaskos after interference with pre-application meeting Kaskos requested and deprivation of a meaningful staff report that Exhibit 12 now asserts is procedure competent to confuse nonconforming storage capacities maintenance land uses which PL 23-0324 did not determine abandoned because Officer Wenzl obstructed Kaskos' preapplication request that matriculated into fill-blown denial of access to meaningful examination and decision-making opportunity (SCC 14.06.120(5). 160(5), 9(7)(a)-(e)("back staff out of the way early, so that comments (such as mine) don't come back," **Kaskos ' Ex3C**).

That fraudulent scheme incontrovertibly deprived Kaskos of access to Administrative official information, interpretation, determinations and authority as well, thereby specifically obstructing Kaskos notice of Flood regulations according to Code Enforcement officer Wenzl admission to others this appeal and well before abandonment proceeding PL 23-0324 ("We'll probably have to hang all this on the Flood Development Permit", **Kaskos ' Ex3C**) in contrived misdirection away from "any" interest claimed or retained (SCC 14.16.880(4)(b)) occurred as reported (¶11, PL23-0324 **Kaskos Ex3.D**), when physical evidentiary records of "proper notification" (SCC 14.16.880(6)) excluded any evidence of delegated Administrative Official authority (**Kaskos' Ex3.E, F, Q, R, S, T**) until disclosure nearly a year later was disclosed as

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involving misrepresentative "application" (Kakos. Ex3.T) not any Administrative Official request for Abandonment or Examiner proceeding PL23-0324 (Kaskos' Ex3.Q) followed by request to truncate the proceedings and enter no "storage" conclusions (¶11 Kaskos' Ex.3.D) .in misdirection proposed for adoption in EX13 reference to its Exhibit 18 (identifying PL23-0324) where an Examiner facially preserved corrupt persuasion to bifurcate and truncate due process to conceal uncontroverted, inextricably intertwined evidence of fully tried but uninspected, continuous, nonabandoned vehicle "storage" capacities improvement evidence from "wrecking" conclusions of law in part of the same scheme that denied Kaskos any Administrative Official "flood control" notice (Kaskos Ex3.B) in factual and legal illegitimacy, continuously depriving Kaskos of finality in open-ended scheme to expose "storage" capacities maintenance evidence to enforcement instead of complete defense by its continuous nonabandoned nonconforming storage capacities maintenance qualities, when the evidence would -with conclusions respecting fully tried uncontroverted testimony[9] has been precluded from conclusions of law.

Nonfinality sham and illegitimacy are compounded in official misconduct if this matter proceeds further given evidence added in Kaskos' appended Ex 3, now requiring the Examiner to sustain Kaskos' objections, and requiring this proceeding to immediately vacate and dismiss for abuse of the examiner system intentionally corrupted to evade substantive code finality in proceeding PL 23-0324, for manifest direction of violation of mandatory finality.(Kaskos' Appended Exhibit 3. The evidence suppressed from conclusions as well as the following evidence comprises comprising absolute defense against PVA due process and also evidence of deprivation of access to material decision-making. e.g. *Johnson v. Seattle*, 184 Wn. APP 8, 335

[9] No investigation into "storage" by Skagit's PL 23-0324 Code Enforcement Officers was referenced or desired. The examiner's PL23-0324 exhibits and record include no Planning Staff testimony record; and no reference to Planning Staff or Code Enforcement Officer testimony respecting any Administrative Official determination record of any kind is listed in PL 23-0324 EX. 18 to this proceeding's EX12.

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P.3d 1027 (2014); *Maytown Sand and Gravel v. Thurston County*, 191 Wn.2d 392, 423 P.3d 223 (2018)(deprivation of access to material decision-making)

SCC 14.34.190(1) "Standards for development activities in floodways" prohibit encroachments including fill, "unless certification by a registered professional engineer licensed in the State of Washington is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice as well as the 'Procedures for No-Rise Certification' as published by FEMA" is "provided" (accord, pg12 of 16 October 29, 2025, HE Decision – APL25-0008– Kasko NOPF (Notice And Order To Pay Fines) and Kasko have satisfied SCC 14.34.190(1) by providing the study exhibited at **Kaskos; Ex.1** hereto admitted as received by Counsel for Skagit County in prehearing conference September 18, 2026.

2. Concealment And Obstruction Of Open Administration of Justice Is Interfering with Skagit County's Hearing Examiner Alternative Finality Selection, Required To Administer "Level II permit Application" Due Process Vital To "Any" Interest Claimed Or Retained, Exemptions thereto, And Washington Planning Enabling Act Finality (SCC 14.06.120(9); SCC 14.16.880(1), (4)(b), (5), (6); RCW 36.70.970(1)-(3)).

"SCHE §14 grants parties the right to object to evidence and to cross-examine." (¶VI, pg. 4, October 29, 2025, APL 25-0008 Appeal from CE25-0009 Findings Of Fact, Conclusions Of Law, And Decision, denying Kaskos' appeal Administrative Order to Abate numbered CE25-0009).

Deliberate Evasion Of Examiner Alternative Finality. Skagit County elected the examiner system alternative for "appeals of administrative decisions or determinations" RCW 36.70.970(1)(b), (2)("shall by ordinance specify the legal effect"). Finality by "Level II permit application" due process mandating SCC 14.06 is specifically prescribed by Skagit County as vital to legitimate SCC 14.16.880(6) PVA (Process Verifying Abandonment of nonconforming uses; SCC 14.06.120(9)("final"). Several interpretations and applications are vital to legitimate

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"Level II permit application" due process, being the sole responsibility of the Administrative Official involving non-modifiable procedures (SCC 14.06.120(8)) before delivery of the record of Administrative Official abandonment determination to the Examiner in de novo standard of review (Accord, October 30, 2023, Skagit County prehearing brief to Examiner) and Washington Planning Enabling Act finality.

SCC 14.16.120(2)-(6) **Kasko Ex. 3.J,** K; SCC 14.06.160(1)-(7)(b); SCC 14.06.040(1); SCC 14.06.080(2); SCC 14.06.100, SCC 14.06.150; SCC 14.16.020(2) **Kasko Ex, 3.I**; SCC 14.16.880(1)-(6) **Kasko Ex. 3.M-N**.

Each produces and requires availability of a physical record in the Official Proceeding as a matter of County Code and State law. RCW 36.70.970(1)(vested examiner authority over "any other class of applications")-(3); RCW 9A.72.010(4), and .150(1)"authority" (a)("conceal…availability"), (b)("false physical evidence"); RCW 9A.80.010(1)(deprive "of a lawful right or privilege: (a)("commit"), (b)("refrain from committing").

Kasko Ex.3.Q. June 15, 2023. Code Compliance Officer Thomas Wenzl caused delivery of his Letter to Kaskos informing him of his decision that abandonment occurred. ("I have determined…").

Kasko Ex.O-P. Public Disclosure records delivered to Vadim Kasko including Worksheets Re: Skagit County Planning And Development Services Notice Of Development Application reflect deletion of public notice as follows:

> "request to review the Skagit County Planning And Development Services (Department) Decision made pursuant to Skagit County Code (SCC) 14.16.880(6), that the pre-existing nonconforming use as an auto Wrecker has been abandoned";

and also reflect direction by the Administrative Official direction to avoid representation that the use is "nonconforming" to the zone.

Kasko Ex3.Q. Skagit County Planning And Development Notice Of Development Application for publication unsupportably notified of June 30, 2023, acts of a Code Compliance

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Officer Thomas Wenzl, on behalf of Skagit County, including recital put forward that there is a (1) Notice of Completion; (2) Application for services of the Examiner; but (3) avoiding ay representation that an Administrative Official determination has been made that that abandonment of nonconforming land use has been made; and (4) in no way identifying Code Compliance Officer Authority to act for the Administrative Official in that regard.

Kasko EX. 3.S. This Cover page and Excerpt of Proceedings (66:20, RP 11/08.2023) establishes absence knowledge of Code Enforcement Officer Wenzl of planning department policy regarding abandonment in testimony under oath on such date in proceeding PL23-0324.

Kasko EX.3.D. This record is an excerpt exhibiting all exhibits listed at pgs. 2-3, December 7, 2023, Skagit County Hearing Examiner Findings, Conclusions, and Decision" in PL23-0324; and includes pg. 13, Examiner Finding ¶11 preservation of direction to the examiner that conclusions on vehicle "storage" are not included ("the question was not whether the property had been used to store …vehicles…").

Kasko EX.3.E. This October 15, 2023, excerpt of "Consolidated Exhibit & Witnesses List" exhibit record delivered to Kaskos for their preparation for proceeding PL23-0324 November 8, 2023, exhibits concealment of **Kasko Ex. A-C** emails and concealment of **Kasko Ex.3.F** "Application" added nearly a year later in September 13, 2024 in Superior Court No. 24-2-00730-29, to an Index of Records (**Kasko EX.F**) well after November 8, 2023 Examiner proceedings in PL23-0324, **and** which "Application" and email information (**Kasko Ex.A-C**), are similarly concealed from Kasko Ex 3.D above.

Kasko EX.3.A. This Skagit County public disclosure response received by Vadim Kasko establishes March 14, 2023, request of Code Enforcement Officer Wenzl request that Planning And Development Services "hold off" on response to Vadim Kasko request for an informative pre-application meeting

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Kasko EX.3.B. This Skagit County public disclosure response received by Vadim Kasko establishes March 17, 2023, Code Enforcement Officer recommendation to the Administrative Official of plan "to hang all this on the flood Development Permit" that a preapplication meeting would inform of, and SCC 14.06.040(1) Administrative Official in SCC 14.16.100 Letter of Completion would interpret as vital information in an SCC 14.06.120(5) staff report.

Kasko EX.3.C. This Skagit County public disclosure response received by Vadim Kasko exhibits March 29, 2023, purpose to oppose the Administrative Official and further render determination of the administrative official and staff reporting unavailable physical records in official proceedings of the Skagit County hearing examiner, specifically to conceal comments, interpretations and applications under SCC 14.06.080, SCC 14.06.100, SCC 14.06.120, SCC 14.06.150 and SCC14.06.160 from disclosures to landowners Kasko.

Kasko Exhibit 3.T. This is a true and correct copy of the form entitled Planning and Development Services Request for Administrative Interpretation" "Level II Review Pursuant To Interpretation …Level II Interpretation" stamped "Received Jun 30, 2023, Skagit County PDS" appearing as a document executed by named Code Enforcement Officer Tom Wenzel added to records in Superior Court and the only June 30, 2023, record. It exhibits no SCC 14.06.040(1) or SCC 14.16.020(2) delegated authority of the Administrative Official; no Determination of Completeness ,request for hearing examiner determination, or any determination by the Administrative Official.

XIV. CONCLUSION

Absolutely no authority exists for inclusion of "vehicles" in SCC 14.34.190(1) flood development proceedings grounded in obstructed examination (SCC 14.06.160(7)(a)-(e)) and exclusion of conclusions regarding nonabandoned vehicle storage capacities land use improvement evidence for PVA fraud upon Kaskos, public, Administrative Officials, examiners,

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and couprts by denial of Planning Enabling Act and examiner alternative finality during concealment of Administrative Official record evidence and deliberate bifurcation modifying unmodifiable process (SCC 14.06.120 and 160(2)-(7)(e)) instead of the finality Skagit County assured of under Washington's Planning Enabling Act examiner alterative for SCC 14.16.880(6) legally established nonconforming use verifications and SCC 14.06.160(8) therefore says so to examiners, as does SCC 14.16.880(4)(a)(" any" interest claimed or retained) restraining additional emphasis (Exhibit 12) without Administrative Official authority (SCC 14.06.040(1),; SCC 14.16.020(2)).

Skagit County adopted examiner rules under SCC 14.02.070 because of Washington's Planning Enabling Act, RCW 36.70.970(2), here corrupted under false notice depriving legitimacy of examiner alternative proceedings and SCC 14.06 process from reaching SCC 14.06.120(9) finality. SCC 14.06.160(8). Resolution #R20240280 amendment to rules of the Hearing Examiner under SCC 14.02.070(8) authority that "supplement[s]" SCC Title 14 have not amended vital response to SCC 14.06.160(1-7)(a)-(e) examinations and (8)) concerning "Level II permit application" due process" mandated by SCC 14.16.880(6), SCC 14.06.040(1) and SCC 14.16.020(2) primary responsibility and scope of delegated authority that limits examiner authority over "these procedures" (SCC 14.06.100, .120, 160(8)) where "Level II permit application" hearings leaving no room for confusion in the record except as evidence of contrived finality that ¶11, PL23-0324 already reported as being improperly modified.

Now vacation of the exhibits is called for. These cannot be introduced as evidence except as fraud upon the examiner alternative, SCC 14.06 and SCC 14.16 finality, unless perhaps immediate clarification enters that the fraud delayed Kaskos' response and there is no legitimate determination that ¶11, PL23-0324 ever determined continuing nonabandoned vehicle storage capacities improvement land use evidence as abandoned, after Skagit County urged

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modification by what "the question was not about," whether the property had been used to store vehicles. (¶11 of PL23-0324)

Respectfully submitted, this 30th day of September 2026.

David C. Cottingham WSB 9553 Attorney for Owners
Vadim Kasko and Sergey Kasko

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SKAGIT COUNTY HEARING EXAMINER

In Re Matter Of HE-Appeal-2025-0008; CE2025-0009	KASKOS' PROPOSED EVIDENTIARY TABLE OF TITLES, DATES AND EXHIBITS. EXAMINER'S RULE 21.C.

		Kasko Ex.
Kaskos Motion Appended Exhibit 1		
1-12	Bob Elliott PE, Senior Engineer, and Kristina Roller Watershed Science & Engineering study of the Kasko Property Skagit River Floodway Analysis August 27, 2026	1
Kaskos Motion Appended Exhibit 2		
13-17	SCC 14.34 Flood Damage Prevention Code Excerpts; SCC 14.34.060, .100, .190	2
18	SCC 14.28.070 Critical Areas Code Excerpt	2
Kaskos' Motion; Appended Exhibit 3, Kasko Nos.:		
20	Email March 15, 2023, enc. March 14, 2023, 4:47 "hold off" email by Code Enforcement Officer Wenzl	3.A
21	Email March 17, 2023, 11:14 AM Code Enforcement Officer Wenzl, enc. Brandon Black Email March 17, 2023, exhibiting Wenzl challenge by use of opinions of "others" to reference to desire to "hang all of this on the flood Development Permit,"	3.B
22	Email March 29, 2023, 9:42 AM Code Enforcement Officer Wenzl, disagreeing with Brandon Black; and "back staff out of the way early, so that comments (such as mine) don't come back."	3.C
23	Excerpt pgs. 1-3 Exhibit listing concealing "Application" of "3.T" infra, pg. 13, ¶11: denial of recognition of "storage" conclusions "The County …the question was not whether the property had been used to store …vehicles…" December 7, 2023, Skagit County Hearing Examiner Decision Exhibits list, to PL23-0324 Findings, Conclusions, Decision	3.D
25	October 15, 2023, "Consolidated Exhibit & Witnesses List" exhibit record concealing "Application" of "3.T" infra "Application" later added in Superior Court.	3.E
27	September 13, 2024, Superior Court "Index of Record "filing, adding "Application" of **Kaskos Ex.3.T** infra concealed from Kaskos Ex. 3D (December 2, 2023, Examiners list, PL23-0324); and also from Ex3.E ("October 15, 2023, Consolidated Exhibits & Witness List)	3.F
31	Pg. 1 only, Administrative Order to Abate Violation including "vehicles."	3.G
32	Pg. 1 and 52 only, *Maytown Sand & Gravel Inc. v. Thurston County*	3.H
34	Ordinance 17938 excerpt BK0094pg3767, SCC 14.16.010 Title And Purpose, SCC 14.16.020(2) responsibility of SCC 14.06.040(1) Official	3.I

35	Ordinance 17938 excerpt, SCC 14.120 Level; II Review Procedures, SCC 14.06,120(2), (3), (5), (7)	3.J
36	Ordinance 17938 excerpt BK0094pg3724, SCC 14.160 Open Record Public Hearings Procedures, SCC 14.120(5)(a), (b),	3.K
37	Ordinance 17938 excerpt BK0094pg3725, SCC 14.160 Open Record Public Hearings Procedures, SCC 14.06.160(7), (8)	3.L
38	Ordinance 17938 excerpt BK0094pg3850, SCC 14.16.880(1), (2)	3.M
39	Ordinance 17938 excerpt BK0094pg3850, SCC 14.16.880(3)-(6), and specification of "Level II permit application" due process.	3.N
40	Comments Worksheet upon draft upon draft Notice for publication: Skagit County Planning And Development Services Notice Of Development Application Notice from Public Disclosure Response To Vadim Kasko from Skagit County Public Records	3.O
41	Comments Worksheet upon draft Notice for publication: Skagit County Planning And Development Services Notice Of Development Application, reporting directions to avoid representation that the use is nonconforming to the zone; Public Disclosure Response To Vadim Kasko from Skagit County Public Records	3.P
42	Notice as Published: Skagit County Planning And Development Services Notice Of Development Application, July 13, 2023, referring to June 30 request for hearing Examiner Services P,	3.Q
43	June 15, 2023. Code Compliance Officer Thomas Wenzl Letter to Kaskos, stating "I have determined…"	3.R
45-46	Page 1 Volume I RP 11/08/2023, PL23-0324 Hearing Examiner Proceeding and page 66:20 underlined, as filed in Superior Court	3.S
47	"Level II Review Pursuant To Interpretation …Level II Interpretation Pursuant to SCC 14.06.050(1)(b)(iv)" with warning against its use; stamped "Received Jun 30, 2023 Skagit County PDS" "Application" appearing September 13, 2024 when finally added to listing in Superior Court .[after concealment from Ex3.E and Ex3.F]: "Planning and Development Services Request for Administrative Interpretation"	3.T

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EXHIBIT 1,

Memorandum from Bob Elliott PE, Sienionr Engineer, and Kristina Roller Watershed Science & Engineering study of the Kasko Property Skagit River Floodway Analysis

To Prehearing Appeal Brief

of

VADIM KASKO, SERGEY KASKO

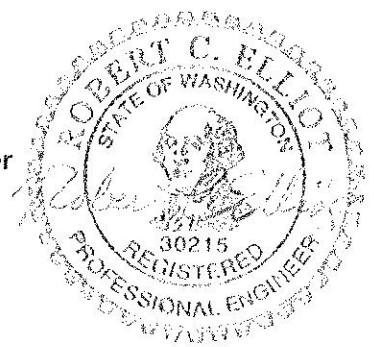
Memorandum

To: Vadim and Sergey Kasko

From: Bob Elliot PE, Senior Engineer; Kristina Roller, Junior Engineer
Watershed Science & Engineering

Date: August 27, 2026

Re: Kasko Property Skagit River Floodway Analysis



1 INTRODUCTION

Watershed Science and Engineering (WSE) was retained to evaluate flood conditions along properties owned by Vadim and Sergey Kasko within the Skagit River floodway near the City of Sedro-Woolley in unincorporated Skagit County. The properties are situated on the right (north) overbank about 2400 feet upstream of the SR-9 bridge, east of South 3rd Street on both sides of River Road (Figure 1). The property was formerly the site of Art's Auto Wrecking, and as such is occupied with salvage vehicles extending from about 500 feet to 1200 feet landward (north) from the Skagit River channel bank. Cleanup efforts have been ongoing to remove salvaged vehicles and other obstructions from the property.

Past fires and floods have damaged residential and other structures on the property. The Kaskos desire to rebuild and elevate as many of these structures as can be permitted, and continue other pre-existing uses including auto wrecking and repair, dealership, and storage up to the same level of obstruction as compared to its previous salvage yard operation. The requirements for development in floodways and no-rise evaluation thereof are found in the federal regulation along with Skagit County Code 14.34.190.

This document summarizes analyses undertaken to evaluate backwater rise/reduction and potential flood risk at the present level of obstruction as compared to the properties' prior usage as an active salvage yard.

RECEIVED

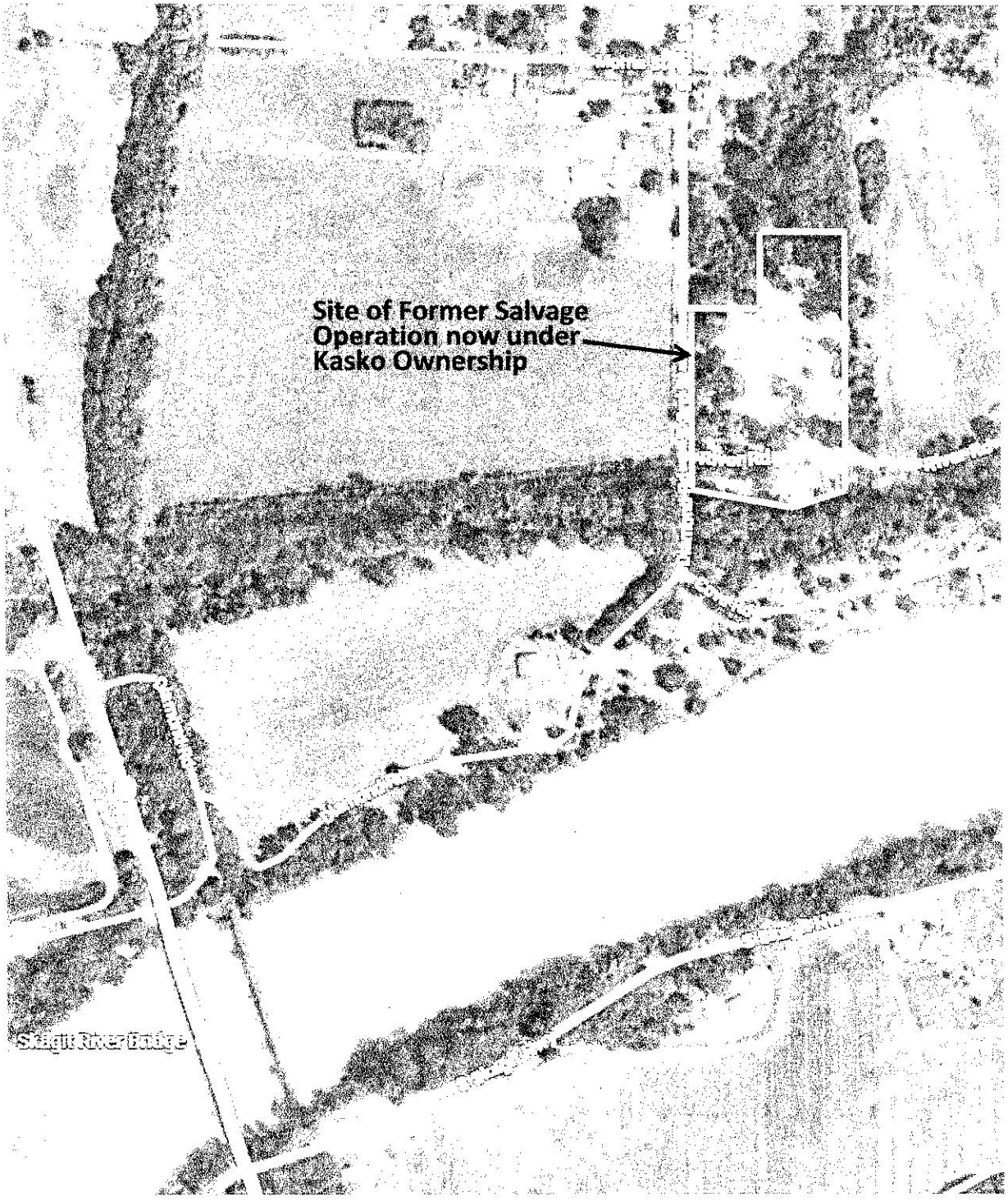


Figure 1: Project Location Map Showing Site of Former Auto Wrecking Yard on Kasko Properties

2 HYDRAULIC MODELING

2.1 BASELINE CONDITIONS

The one-dimensional (1D) hydraulic backwater modeling used to create the currently adopted FEMA effective 100-year flood hazard maps was completed in 1980. The elevation datum of the effective model and mapping is NGVD 1929. The modeling relied on legacy software developed by the Seattle District of the U.S. Army Corps of Engineers that is now outdated, unsupported, and no longer available for use. Recent floodplain topographic data necessary for developing a new model are available from the Washington State Department of Natural Resources (DNR) LiDAR portal, however none of the data sets include bathymetric riverbed data along the Skagit River channel. Inquiries were made to the local FEMA Region 10 contractors (STARR II) who were able to locate recent HEC-RAS hybrid 1D-2D model terrain data dated 2017 to 2019 which included channel bathymetry, all with respect to the newer NAVD 1988 elevation datum. The model covers a large domain of the Skagit watershed from Puget Sound up to Newhalem, and was apparently developed for flood forecasting purposes but included neither any 100-year inflows nor other hydrologic data. For the purposes of the present study, the FEMA 100-year peak discharge of 229,000 cfs from the summary discharge table in the Flood Insurance Study report (FEMA, 1989), near Sedro-Woolley was used.

The river channel and most of the adjacent floodplain in the hybrid model provided was defined by 1D cross sections. These were carried over to the present analysis using HEC-RAS v7.0.1 but truncated to represent a more appropriate local reach. The trimmed model extent runs from a location about 6 miles upstream of SR-9 to 3.5 miles downstream of SR-9 near the Nookachamps Creek confluence. This provides sufficient reach length to establish tailwater conditions downstream of the Kasko property and evaluate any impacts upstream. The cross sections in the original hybrid model generally extended north to SR-20, which is sufficient to evaluate the 100-year floodplain. Downstream of SR-9, a storage area existed in the original model on the south floodplain along lower Nookachamps Creek. In this reach, the cross sections were extended to cover this area rather than using the storage area, with ineffective areas added where appropriate. The SR-9 and abandoned railroad bridge just upstream including road fills across the floodplain were represented in the model as bridge structures. New cross sections were cut from the terrain and added to the model within the Kasko site, to provide sufficient resolution for evaluating salvage yard obstructions. The resulting model is fully 1D with only cross section representation and no 2D or storage areas, which is appropriate for the steady-state step-backwater modeling that was undertaken. Figure 2 illustrates the terrain used in the final 1D model along with the final cross section locations and alignments.

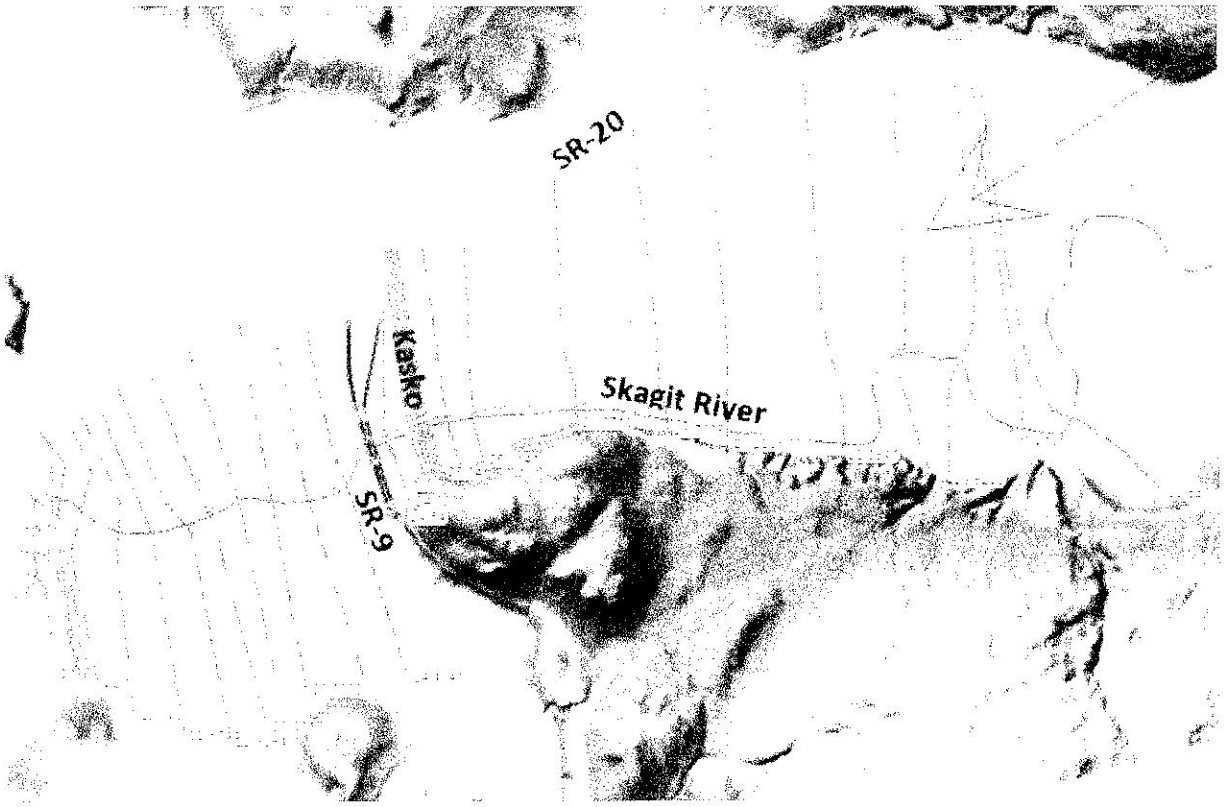


Figure 2: HEC-RAS 1D Cross Sections and Model Terrain

The roughness coefficients (n-values) from the hybrid model 1D cross sections were refined slightly to reproduce water surface elevations reasonably close (generally with a half foot) to the FEMA Base Flood Elevations (BFEs). The FEMA BFEs were adjusted by 3.81 feet to convert them to the NAVD 1988 datum. The final n-values ranged from 0.034 to 0.036 in the channel, and from 0.05 to 0.088 on the overbank depending on the vegetation land cover. These values are within acceptable ranges for the Skagit River and its floodplain.

For the purpose of this evaluation, baseline conditions represent a pre-existing condition during peak operation of Art's Auto Wrecking. This baseline is intended to demonstrate that by comparison, present conditions on the properties reduce the backwater upstream. Aerial imagery compared between 1969 and 1998 showed a similar level of obstructions. The FEMA maps were issued in the 1980s also during the period of Art's Auto Wrecking. For this reason, we feel this historical period is an appropriate baseline consistent with the application of federal and County floodway and no-rise requirements. The 1969 aerial provided the clearest imagery for this period and was used to determine obstructions from salvaged vehicles during this time. These clusters of salvaged vehicles were examined and approximated in the model as terrain modifications, with the cross sections updated accordingly. It was assumed the height

of all obstructions would exceed flood depths. Figure 3 compares the aerial imagery from 1969 to the cross sections with terrain modifications added to represent the obstructions.

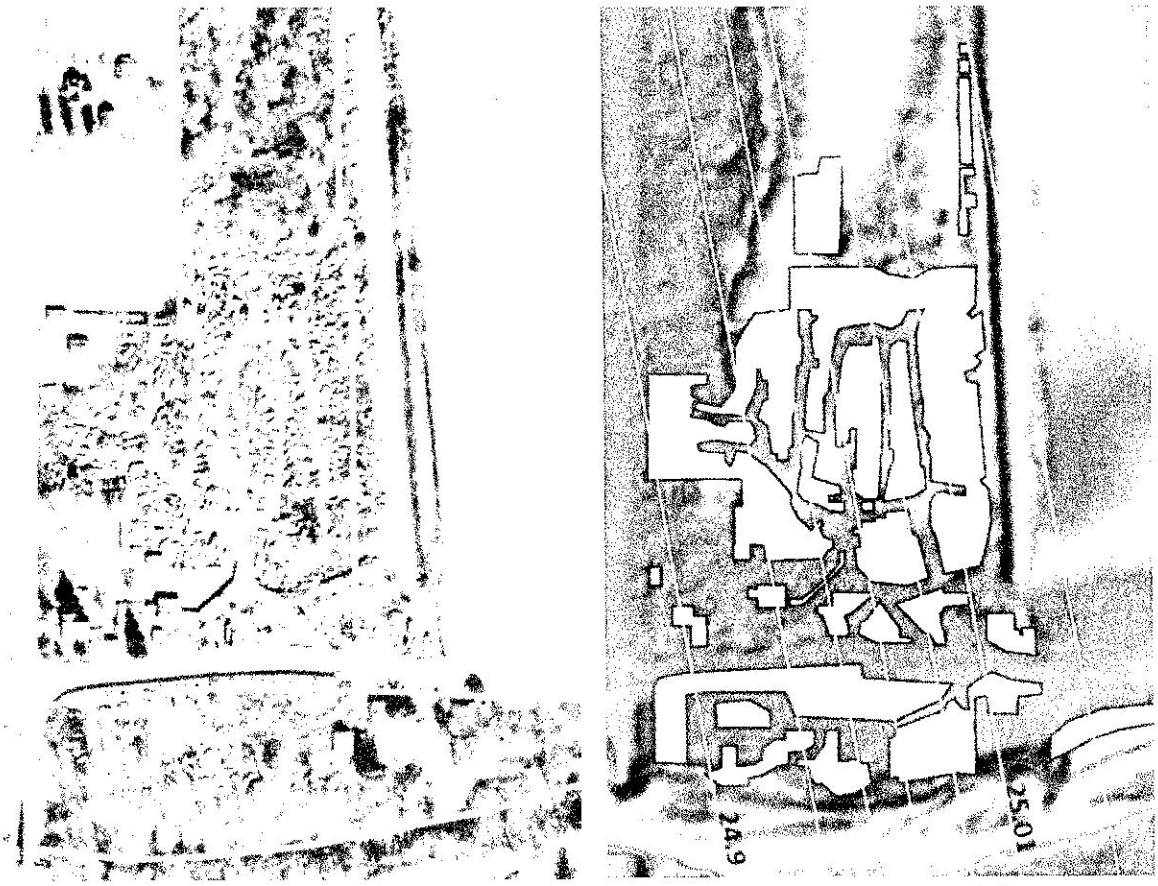


Figure 3: Comparing 1969 aerial imagery of obstructions to terrain modifications of obstructions

2.2 Present Conditions

To represent the present existing conditions at the site, aerial imagery was available from 2025 (see Figure 4). A similar exercise to the 1969 condition was undertaken, with terrain modifications and cross section updates completed to represent the 2025 obstructions. Visual comparison between Figure 3 and Figure 4, of either the aerial image or its model terrain representation, clearly reveals a greater level of obstructions in the former salvage yard as compared to today. One would thus expect the prior 1969 condition to show a more limited capacity for flood conveyance with greater backwater (i.e. upstream rise).

Note that following the November 2021 flood, it was necessary for the Kaskos to lay down approximately 40 cubic yards total of gravel in order to maintain access on their roadways and trafficked areas. This amounts to less than 2 inches of gravel only within these areas. For context, if it were spread across their entire site, it would be the equivalent of only about 1 mm

deep. The volume and blockage resulting from the gravel is insignificant when compared to the historical 1969 condition.

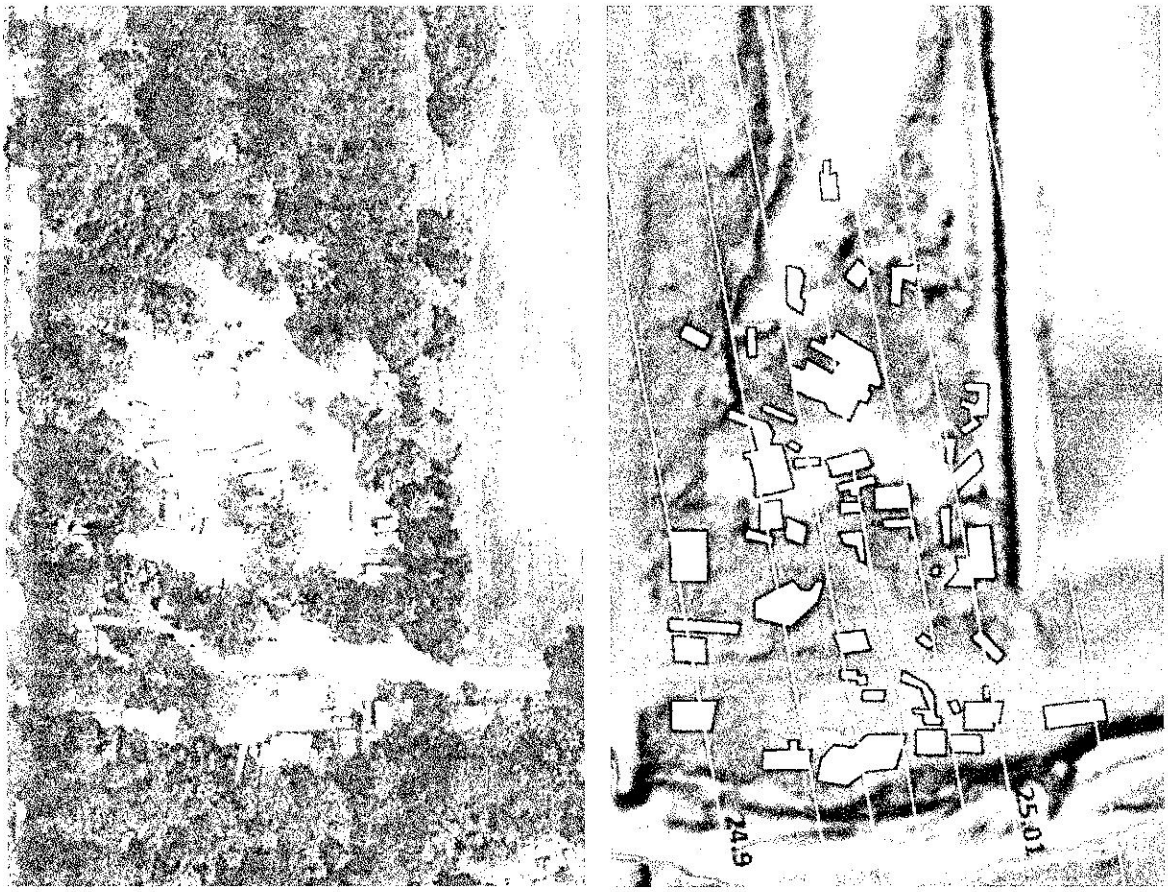


Figure 4: Comparing 2025 aerial imagery of obstructions to terrain modifications of obstructions

2.3 Model Results

The HEC-RAS 1D model was run at the FEMA 100-year flood discharge for both the 1969 and 2025 conditions. Table 1 presents the compared water surface elevation (WSEL) profile results, which shows small local rise (0.07 feet or less) on the cross sections within the Kasko property, but a reduction in WSEL upstream (i.e. reduced backwater) comparing 2025 to 1969. See Figure 3 and Figure 4 for the bounding cross sections on the site (labeled by River Mile). All cross sections upstream of 25.01, above the Kasko properties, predict a reduction in WSEL today as a result of removing the majority of obstructions caused by the old salvaged vehicles. While it isn't possible to recreate the exact conditions of the gravel placement post-flood 2021, due to lack of survey, the trends and conclusions stated above would remain the same even if the numbers in Table 1 were to change slightly.

Table 1: HEC-RAS 100-year Water Surface Elevations and Differences under Baseline (1969) and Present (2025) Conditions

	1969	2025	
River Mile Stn	WSEL (feet NAVD)		Difference* 2025 – 1969
30.6877	64.721	64.719	0.00
30.2105	63.609	63.607	0.00
29.5239	62.770	62.767	0.00
29.0837	62.204	62.201	0.00
28.0547	60.488	60.483	-0.01
27.2005	59.338	59.331	-0.01
26.7509	58.449	58.440	-0.01
26.071	56.475	56.462	-0.01
25.3141	52.574	52.546	-0.03
25.2	51.903	51.870	-0.03
25.04	51.772	51.747	-0.02
25.01	51.565	51.589	
25	51.514	51.549	
24.97	51.292	51.366	
24.95	51.027	51.098	
24.93	50.899	50.936	
24.9	50.803	50.806	
24.8	50.269	50.269	0.00
24.627	49.669	49.669	0.00
24.54	47.566	47.566	0.00
24.533	Railroad Bridge		
24.53	47.564	47.564	0.00
24.52	47.314	47.314	0.00
24.509	SR-9 Bridge		

*FEMA typically reports WSEL differences rounded to two decimal places.

With regard to the rise at the cross sections across the Kasko properties, it is our opinion that any such rises would be local to their site. It would seem unusual that a model should predict a local rise as a result of removing obstructions to flood conveyance, however this is not uncommon in step-backwater modeling. Steady-state step-backwater models often show a greater influence on velocity than on flood depth when removing obstructions. Velocities decrease when the flow is less constricted. This decrease in velocity translates to a decrease in velocity head ($V^2/2g$), where g is acceleration due to gravity. The reduction in velocity head pulls up the hydraulic grade line (which is the water surface in open channel flow). This results

in an increased WSEL with slightly modeled rise locally and typically a reduction in WSEL for properties upstream of the eliminated obstructions, as predicted in this case.

Another accepted method for evaluating flood impacts for an engineering no-rise certification is to perform conveyance compensation calculations (FEMA, undated). HEC-RAS computations already include a calculation of conveyance K. These values were examined at the cross sections along the Kasko site to show that flood conveyance is in fact increased through their property based on today's condition compared to previously. Table 2 summarizes the conveyance increases both for the total cross section as well as just for the right (north) overbank floodplain where the property is located. These increases in conveyance produce the upstream reduction in WSEL.

Table 2: Comparing Conveyance K through Kasko Site under Baseline (1969) and Present (2025) Conditions

	Total Conveyance K (cfs)			Right Overbank Conveyance K (cfs)		
River Mile Stn	1969	2025	Difference 2025 – 1969	1969	2025	Difference 2025 – 1969
25.04	5771174	5777179		1642247	1650441	
25.01	5590573	5704207		1478831	1585996	
25	5413473	5514026		1254255	1347301	
24.97	4956468	5110241		836103	973634	
24.95	4604604	4679445		522725	586502	
24.93	4449250	4474450		467793	489919	
24.9	4191060	4192313		275411	276313	

2.4 Rebuild Application

The Kaskos are seeking to rebuild and elevate structures on their property that have been damaged by flood or fire. Figure 5 identifies the locations of these structures. To be considered for rebuilding in the FEMA Floodway, a determination of velocities and flood depths is required. Table 3 shows the predicted velocities at each of these locations using the velocity distribution option in the HEC-RAS model. Flood depths can be determined from BFEs taken directly from the FEMA 100-year flood profile. This was achieved by creating a separate HEC-RAS model consisting of cross sections aligned with each BFE line on the FEMA maps, then forcing the result at each cross section to match the FEMA BFE (converted to NAVD 1988). HEC-RAS then creates a linearly interpolated water surface between each BFE which can be used to pull off the WSEL at each structure location, the results of which are also tabulated in Table 3. Determining flood depth from these interpolated BFEs will require ground survey of the Lowest Adjacent Grade (LAG) at each structure, which the Kaskos plan to have completed.

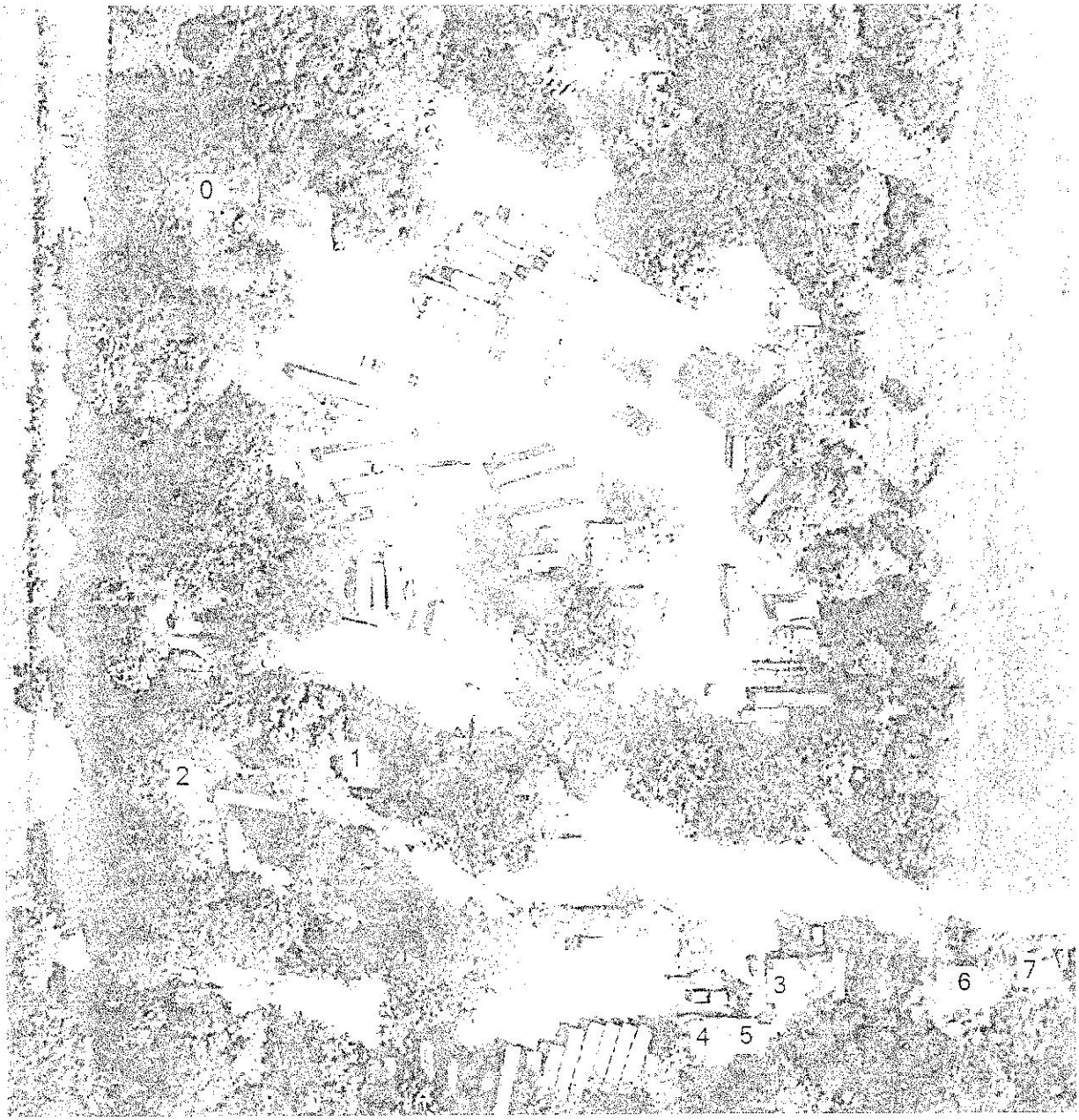


Figure 5: Locations of Damaged Structures Desired to be Rebuilt (numbered 0 through 9)

Table 3: Predicted Velocities and FEMA BFEs at Locations of Damaged Structures

Point	Velocity (feet/sec)	BFE (feet NAVD)
0	2.3	50.89
1	2.3	50.98
2	2.1	50.80
3	1.9	51.41
4	2.1	51.32
5	2.1	51.37
6	2.2	51.60
7	2.2	51.67

3 CONCLUSIONS

Backwater modeling was developed using HEC-RAS to represent today's conditions (2025) compared to previous conditions under operation as Art's Auto Wrecking (1969 similar to 1998). The results show a backwater reduction in the 100-year WSEL upstream of the Kasko properties due to less obstructions in the present condition from fewer salvaged vehicles.

Small localized increases of up to 0.07 feet on their site are computed in the model due to velocity effects common in step-backwater modeling, but these increases should be considered local to the Kasko properties. Model calculations confirm that flood conveyance through the site as a result of the reduced obstructions actually increases and is not decreased. One could in fact bring the obstructions back to their 1969 baseline levels to eliminate the local increases and not impact properties elsewhere, as compared to the historical conditions. This would have the exact same conveyance and satisfy no-rise by comparison. Nevertheless, the current conditions are still better than the historical conditions even though there are minor local increases on site, as the backwater model shows lower water levels upstream (and no rise downstream).

Velocities are also summarized along with interpolated FEMA BFEs at the locations where structures damaged from past floods and fire may be reconstructed. This provides data that along with depths (to be computed from the BFEs) will be needed in order to apply for a floodway waiver for the proposed rebuilds.

4 REFERENCES

FEMA (1989), *Flood Insurance Study for Skagit County, Washington, and Incorporated Areas*. Federal Emergency Management Agency. Revised September 29, 1989.

FEMA (undated), *Procedures for "No-Rise" Certification For Proposed Developments in the Regulatory Floodway*. Federal Emergency Management Agency, Region X.

USACE. (2026). *HEC-RAS, Hydraulic Engineering Center - River Analysis System, Version 7.0.* Davis, CA: U.S. Army Corps of Engineers.

EXHIBIT 2,

SCC 14.34 Flood Damage Prevention Exemption
SCC 14.24 Activities Allowedp
To Prehearing Appeal Brief
VADIM KASKO, SERGEY KASKO
Appeal No.APL2026-0007 of CODE2025-0009

On 2-6-25 skagit county letter reference case 2025-0009 accused us of violating 14.16.945- junk yard uses and SCC **14.34.190 Standards for development activities in floodways.**

It has come to our attention that fill has been brought into and junk exists at the above-described location, without the required County review, approval, permit or inspections, which violates Skagit County Code. The specific Code(s) in violation is: 14.16.945 Prohibited uses. (2) Storage of Junk. No refining, person may use more than 500 square feet of a lot or parcel of land for the depositing, sorting, or baling, dismantling, or storage of junk except when conducted entirely within an enclosed structure with a special use permit for that purpose. SCC14.34.190. Prohibit encroachments including fill, new the construction, for substantial improvements and other development unless certified in accordance the procedures, No-Rise Certification" improvements, as and published other by FEMA. your grading or construction violates this code section.

On 4-4-25- sent Administrative order to Abate- citing same code as the letter

The following code sections highlight all the exemptions that apply

Please note that all the added code sections below were added after the notices and AOA to the HE files in staff report:

Chapter 14.34

FLOOD DAMAGE PREVENTION

14.34.060 Compliance.

Any construction, location, extension, conversion, or alteration of a structure or land identified in a special flood hazard area shall fully comply within the requirements of this Chapter, Chapter 86.16 RCW, and Chapter 173-158 WAC. (Ord. O20200003 (Att. A); Ord. O20110008 (part): Ord. O20070002 (part): Ord. 17938 Attch. F (part), 2000)

14.34.100 Floodplain project permits.

A floodplain project permit, processed per SCC Chapter 14.06, must be obtained prior to construction or development on any property within a special flood hazard area as established in SCC 14.34.050. The permit is required for all structures and development activities, as well as those activities listed in Subsection (1) of this Section that may or may not otherwise require a project permit.

(1) Activities.

(3) Normal and routine maintenance or repair of existing structures, utilities, sewage disposal systems, potable water systems, drainage facilities, detention/retention ponds, or public and private roads and driveways associated with pre-existing residential or commercial development, provided any maintenance or repair activities shall use best management practices (BMPs) with the least amount of potential impact to the critical areas and any impact to a critical area or its buffer shall be restored after the maintenance to the extent feasible.

(4) Normal maintenance, repair, or operation of existing structures, facilities, and improved areas accessory to a single-family residential use, provided any maintenance or repair activities shall use reasonable methods with the least amount of potential impact to the critical areas and any impact to a critical area or its buffer shall be restored after the maintenance to the extent feasible. This allowance shall not be construed as applying to agricultural activities undertaken outside of the Agriculture-NRL zoning district.

(5) Modification of an existing single-family residence that does not change the use from residential, does not expand the building footprint and does not adversely impact critical areas or their buffers.

(6) Modification of an existing structure other than a single-family residence which does not expand the building footprint, alter the use or increase septic effluent, pursuant to the requirements of the nonconforming use and structure provisions in Chapter 14.16 SCC, and does not adversely impact critical areas or their buffers.

(7) Provided the requirements of SCC 14.24.120(4)(d) are met for ongoing agriculture, the lawful operation and maintenance of public and private diking and drainage systems which protect life and property along the Skagit and Samish Rivers and tidal estuaries in Skagit County. This exemption applies to the existing structures and design prism of levees, dikes, and artificial watercourses 40 feet landward of the landward toe of the structure or facility and 40 feet waterward of the waterward toe of the structure, measured horizontally from the face of the levee, dike or bank of the artificial drainage structure toward the ordinary high water mark. The exempt area for operation and maintenance may be managed to meet Federal standards for funding assistance established by the United States Army Corps of Engineers under Public Law 84-99 or other laws and regulations adopted to guide the diking and drainage functions. This exemption does not apply to public or private activities that expand the levee, dike, or drain beyond its design characteristics as of June 1, 1999, the time of adoption of this Subsection; nor activities that expand or create new facilities.

(8) Education and scientific research activities which do not adversely impact critical areas or their buffers.

(9) Site investigation work necessary for land use applications such as surveys, soil logs and other related activities which does not adversely impact critical areas or their buffers. In every case, critical areas impacts shall be minimized and disturbed areas shall be immediately restored.

(10) Activities adjacent to artificial watercourses which are constructed and actively maintained for irrigation and drainage; provided, that any activity shall comply with Chapter 77.55 RCW by securing written approval from the State Department of Fish and Wildlife; and provided further, that the activity must also comply with all applicable State and local drainage, erosion and sedimentation control requirements for water quality. The operator shall notify the Director in writing regarding the location and nature of anticipated activities a minimum of 14 days prior to commencing any such activity. Such notification shall be a condition for allowance of this activity without standard review. This allowance only applies to activities not subject to SCC 14.24.120(4)(d).

(11) Maintenance activities such as mowing and normal pruning; provided, that such maintenance activities are limited to existing landscaping improvements and do not expand into critical areas or associated buffers, do not expose soils, do not alter topography, do not destroy or clear native vegetation, and do not diminish water quality or quantity. This allowance shall not be construed as applying to agricultural activities undertaken outside the Agriculture-NRL zoning district.

(12) Fish, wildlife, wetland and/or riparian enhancement activities not required as mitigation; provided, that the project is approved by the U.S. Department of Fish and Wildlife, U.S. Army Corps of Engineers, the Washington State Department of Fish and Wildlife or the Washington State Department of Ecology. (Ord. O20240005 § 1 (Exh. A); Ord. O20110013 Attch. A (part); Ord. O20110008 (part): Ord. O20080014 (part))

(a) Septic tanks and drain fields.

(b) Dumping or storage of hazardous waste.

(c) Utility and road maintenance work not exempted pursuant to Subsection (2) of this Section.

(2) Exemptions. The following activities are exempt from the requirement to obtain a floodplain project permit:

(a) Routine maintenance of landscaping that does not involve grading, excavation, or filling.

(b) Removal of noxious weeds and hazard trees and replacement of nonnative vegetation with native vegetation, provided the applicant complies with SCC Chapter 14.24, Critical Areas Ordinance.

(c) Normal maintenance of structures, such as re-roofing and replacing siding, provided such work does not require a building permit and does not qualify as a substantial improvement.

(d) Normal maintenance of utilities and facilities, such as replacing downed power lines and repair or replacement of underground facilities; provided, that all native vegetation disturbed by the maintenance activity is restored; and provided further, that this exemption does not apply to new construction or to an expansion of utility facilities.

(e) Normal street and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, but does not include expansion of gravel or paved areas.

(f) Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility.

(g) Planting, harvesting, livestock management, and other normal farm or agricultural practices and activities, other than structures and filling for structural support; provided, that compliance with SCC Chapter 14.24, Critical Areas Ordinance, is met.

(h) The lawful operation and maintenance of public and private diking and drainage systems which protect life and property along the Skagit and Samish Rivers and tidal estuaries in Skagit County. (Ord. O20250005 § 2 (Exh. A); Ord. O20200003 (Att. A); Ord. O20110008 (part): Ord. O20070002 (part): Ord. 17938 Attch. F (part), 2000)

14.34.190 Standards for development activities in floodways.

Tom wenzel cites a code that Applies to new development not pre-existing uses

Chapter 14.24
CRITICAL AREAS ORDINANCE*

14.24.070 Activities allowed without standard review.

The following developments, land use activities and associated uses are allowed without standard critical areas review; provided, that they are consistent with other applicable provisions of this Chapter and other chapters of the Skagit County Code. Some of the activities listed within this Section may, however, require a floodplain project permit if within the special flood hazard area (SFHA), and therefore require a habitat impact assessment pursuant to SCC 14.34.220. All activities that do not require standard critical areas review shall be carried out in ways that cause the least impact to critical areas and their buffers. If any damage is caused to a critical area or buffer in connection with such activity, the critical area and its buffer must be restored to the extent feasible. To be allowed without standard review does not give permission to destroy a critical area or ignore risk. Proponents of such activities shall be responsible for notifying the Director if any damage occurs and shall provide all necessary restoration or mitigation.

(1) Emergencies That Threaten the Public Health, Safety and Welfare. An "emergency" is an unanticipated and imminent threat to the public health or safety or to the environment which requires immediate action within a period of time too short to allow full compliance with this Chapter. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods that can address the emergency but also that have the least possible impact to the critical area or its buffer. The responsible party shall restore the critical area and buffer after the emergency to the extent feasible. The person or agency undertaking such action shall notify the Director within 1 working day or as soon as practical following commencement of the emergency activity. Following such notification, the Director shall determine if the action taken was within the scope of the emergency actions allowed in this Subsection. If the Director determines that the action taken or any part of the action taken was beyond the scope of allowed emergency actions, then the enforcement provisions of Chapter 14.44 SCC (Enforcement/Penalties) shall apply.

(2) Existing activities defined as ongoing agriculture on designated agricultural land, including related development and activities which do not result in expansion into a critical area or its buffer and which do not result in significant adverse impacts to a critical area or its buffer; provided, that such activities comply with the provisions of SCC 14.24.120.

New development and/or expansion of existing agricultural operations shall comply with both the substantive and procedural provisions of this Chapter. Existing and ongoing agricultural activities that result in significant adverse impacts to a critical area or its buffer shall not be allowed without standard review under this Chapter.

EXHIBIT 3,

Emails eEExhibiting Obstrucion of Pre-Application Process

To Prehearing Appeal Brief

VADIM KASKO, SERGEY KASKO

Appeal No.APL2026-0007 of CODE2025-0009

From: Jason D`Avignon
Sent: Wednesday, March 15, 2023 8:50 AM
To: Thomas Wenzl; Tawnee Clearbrook
Subject: Re: Vadim Kasko question

Categories: CONF/PRIV, Online Meetings, PRR25-701, PL23-0324

I would need more information to know for sure, but sounds like the use was abandoned. If we can show abandonment as set forth in SCC 14.16.880(4),(5), we should then formally request for confirmation of abandonment under SCC 14.16.880(6).

From: Thomas Wenzl
Sent: Tuesday, March 14, 2023 4:47:07 PM
To: Tawnee Clearbrook
Cc: Jason D`Avignon
Subject: Vadim Kasko question

Tawnee,

Before you reply to Vadim's question about pre-existing use of Arts, can you hold off till I can speak with Jason? I've asked Brandon, but I'm also getting different opinions from other people.

Jason,

We have a person who purchased a parcel which was Art's Auto Wrecking in Sedro-Woolley. Arts had been there since the 60's and when the Comp Plan went into effect, it retained its zoning as Rural Business.

Arts went out of business many many years ago. The new owner is stating he wants to start it back up. Wrecking Yard is allowed under a HE Special Use Permit. There never was a SUP in place with Arts (pre-existing), so it's my feeling he'd have to now apply for one because there has been a substantial gap in business. Brandon says only if there was going to be a change of use, The pre-existing use continues for ever, even with a break.

I feel that the core reason for a HE SUP, is to make sure the activities on the property are in line with what we would allow given the totality of the circumstances on this parcel. All parcels surrounding this one, including some that used to be part of the wrecking yard, are now Ag-NRL.

And to add to this, this is a Floodway Property. We would not want a wrecking yard in floodway again. We've already had some citizen concerns expressed over this property.

Tom Wenzl
Code Compliance Officer
Skagit County Planning & Development Services
1800 Continental Pl
Mount Vernon, WA 98273
360.416.1320 Office

From: Thomas Wenzl
Sent: Friday, March 17, 2023 11:14 AM
To: Brandon Black
Subject: RE: P37600 Questions

I see that Tawnee replied to him this morning asking for more information. Which I feel is just going to delay this while he argues that he shouldn't have to discuss anything about continued use. I think after our last conversation, the best path forward is to make sure he's aware that yes, he can continue with a wrecking yard. However, it will need to be done to today's standards. The flaws and failures to protect the environment from the 60's forward does not. We will probably have to hang all of this on the Flood Development Permit, which he's going to argue doesn't apply, because it's pre-existing.

In his mind, he should be able to just pick right up where Arts left off in 2015, and do so by the same standards.

Tom Wenzl
Code Compliance
Skagit County
360-416-1340 TWenzl@co.skagit.wa.us

From: Brandon Black
Sent: Friday, March 17, 2023 11:06 AM
To: Thomas Wenzl
Subject: RE: P37600 Questions

Thanks for forwarding Tom.

So, unless I am misunderstanding, we are still waiting for the applicant to submit more information for the pre-development meeting – and until that comes in we are still continuing on with compliance efforts and timelines.

We can sort our the SPU vs. non-SPU issue with Jason before the meeting.

Let me know if I need to be doing anything in the interim?

Brandon Black
Current Planning Manager
Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

PHONE: 360-416-1326
CELL: 360-399-0201
EMAIL: brandonb@co.skagit.wa.us

"Helping You Plan and Build Better Communities"

From: Thomas Wenzl
Sent: Wednesday, March 29, 2023 9:42 AM
To: Jason D`Avignon; Will W. Honea
Cc: Tawnee Clearbrook
Subject: FW: P37600 Questions

Categories: PRR25-701, PL23-0324

Gentlemen,

Mr. Kasko is determined to dig his heals in on re-establishing a wrecking yard where Art's used to be on River Rd and S 3rd in Sedro.

Kasko owns 6 different parcels there. 5 are zoned Ag-NRL, and one Rural Business. All used to be part of Arts. Arts ceased operations around 2015 and the property was cleaned (not very well apparently) around 2016. There has been no active wrecking yard there since.

The zoning of RB was given because of the pre-existing use from the 60's on. A wrecking yard is an allowed use in RB under a hearing examiner SUP. However, this is also a Floodway property. Clearly we would not want an uncontained wrecking yard as it had previously existed in Floodway.

It has been my opinion with Mr. Kasko that a wrecking yard was a pre-existing non-conforming use. He would not be allowed to just resume the use. Art's never had a SUP, and because the use was discontinued for a significant period of time, he would need to re-establish the use following today's development standards.

In talking to Brandon Black, he has a different thought. Because it was a wrecking yard at one time, even without a SUP, it can continue. Brandon compared it to an old restaurant that closes, and then wants to re-open.

Because of our last dealings with Mr. Kasko, he is going to make this a litigious event. I would prefer that we back staff out of the way early, so that comments (such as mine) don't come back.

I contend that we should go through the SUP process, so that we have a process in which to establish the guidelines he would have to meet if he wants a wrecking yard. That is the purpose of the HE SUP process.

As you read his email below, you can see he has no intention of addressing the pre-existing use.

Tom Wenzl
Code Compliance
Skagit County
360-416-1340 TWenzl@co.skagit.wa.us

From: vadimkasko
Sent: Tuesday, March 28, 2023 10:22 PM
To: Tawnee Clearbrook

BEFORE THE HEARING EXAMINER
FOR SKAGIT COUNTY

In The Matter of an application by	)	No. PL23-0324
	)	
Tom Wenzl, Skagit County Planning and Development	)	FINDINGS, CONCLUSIONS, AND DECISION
for an Abandoned Use Determination	)	

SUMMARY OF DECISION

This decision resolves an application by Skagit County Planning and Development (hereinafter, "County") for a determination by the Hearing Examiner that an auto wrecking yard land use, previously established at the subject property belonging to two landowners, Vadim Kasko and Sergey Kasko (hereinafter, "Kaskos," "landowners," or "Appellants"), had, at some point, been abandoned. The Hearing Examiner concludes that the County has met its burden to prove, by a preponderance of the evidence, that the wrecking yard land use was abandoned prior to the Kaskos' acquisition of the subject property, and therefore the County's application is **GRANTED**. The auto wrecking yard use is hereby deemed abandoned.

SUMMARY OF RECORD

Party Representatives: The County was represented by Jason D'Avignon, Skagit County Civil Deputy Prosecuting Attorney. The landowners were represented by David C. Cottingham, Attorney.

Prehearing Conference: The parties held a prehearing conference on September 20, 2023. At the conference, the parties agreed that the County was the "applicant" for the abandoned use determination, and therefore the County bore the burden of proof. Although an abandoned use hearing is not, properly speaking, an appeal, the parties agreed that it was an "appeal-like" process, in that the County made a preliminary determination of abandonment, and the landowners dispute that characterization. Therefore, the Hearing Examiner resolved to conduct the hearing in a manner similar to an appeal hearing, with prehearing briefing and exchange of exhibits, in addition to setting aside time for public comment. *Prehearing Order.*

Hearing Date:
The Hearing Examiner held an open record hearing on November 8, 2023.

Testimony:
The following individuals presented testimony under oath at the open record hearing:

landowners had resumed or attempted to resume the auto wrecking use. *Exhibits 37 through 41, and 45 through 47. Landowners' Prehearing Brief.*

11. In its response brief, the County argued that the only question before the Hearing Examiner was whether the wrecking yard use had been abandoned for at least a year at any point in its history. The County conceded there are some uses that are similar to, or overlap with, auto wrecking, such as the storage of junk vehicles or unlicensed or inoperable vehicles. *SCC 14.04.020* (definition of automobile wrecking). But the question was not whether the property had been used to store junk or inoperable vehicles but rather whether the property had been continuously used as an auto wrecking yard, which the County argued it had not. The County denied that SCC 14.16.880(6) imposes any time limit or deadline on the County for issuing its notice of determination of abandonment. The County had no duty to inform prospective purchasers of any property whether it believed a previously existing use on that property had been abandoned. *County's Response Brief.*

Public Testimony

12. At the November 8, 2023 hearing on the merits, Larry Iaccino testified that he purchased 34 acres of property just southwest of the subject property on December 30, 2021. When the subject property came up for sale, he explored purchasing it before the Appellant landowners came on the scene. Mr. Iaccino's understanding at the time was that the wrecking yard operation had been abandoned and its licenses allowed to lapse, which information Mr. Iaccino had learned from his own realtor. Because of that abandonment, environmental remediation of the subject property would be required. Due to the anticipated cost of remediation, he decided not to pursue purchasing the subject property. He was surprised when the Appellant landowners moved in and began moving vehicles onto the property, because he was not aware that any environmental remediation had ever taken place. He also doubted that the current operation was in compliance with environmental regulations, because the vehicles were parked near a critical wetlands area and had no drip pans beneath them. Screening and fencing had also not been installed. *Testimony of Larry Iaccino.*

County's Witness Testimony

13. Troy Giddings, Trooper and Wrecking Yard Inspector, Washington State Patrol, testified that he had been the inspector and licensing reviewer for auto wrecking yards in District Seven (which includes Skagit County) since 2003. He testified that auto wrecking yards are required, under chapter 46.80 RCW, to have licenses and maintain records of their activities, including records of vehicle inventory. He testified that he was familiar with Art's Auto Wrecking and that its operation had been closed since 2016. Prior to 2016, Trooper Giddings had been responsible for inspecting the facility, but in 2016, he

BEFORE THE HEARING EXAMINER FOR SKAGIT COUNTY

IN THE MATTER OF AN APPLICATION BY: **Skagit County Planning and Development** FOR AN ABANDONED USE DETERMINATION	**No.: PL23-0324** **CONSOLIDATED EXHIBIT & WITNESS LIST**

Skagit County respectfully submits the following lists of exhibits and witnesses:

1. Exhibits

Exh

1. Letter re: County's Belief of Abandonment (March 29, 2023)
2. Email from Vadim Kasko to Tom Wenzl, et al. with photos (Mar. 29, 2023)
3. SEPA checklist
4. Email from Vadim Kasko to Tom Wenzl (June 1, 2023)
5. County's Administrative Determination that Pre-Existing Use was Abandoned (June 15, 2023)
6. Kasko Reply to Administrative Determination of Abandonment (July 1, 2023)
7. Notice of Development Application (July 13, 2023)
8. Letter from Vadim & Sergey Kasko to Tom Wenzl
9. Public Comments
10. Kasko Response to Public Comments (Aug. 17, 2023)
11. Zoning Map
12. Aerial Photos:
    - A. 1937 Aerial Photo
    - B. 1956 Aerial Photo
    - C. 1969 Aerial Photo
    - D. 1998 Aerial Photo
    - E. 2001 Aerial Photo

F. 2004 Aerial Photo
G. 2005 Aerial Photo
H. 2006 Aerial Photo
I. 2007 Aerial Photo
J. 2009 Aerial Photo
K. 2011 Aerial Photo
L. 2013 Aerial Photo
M. 2015 Aerial Photo
N. 2017 Aerial Photo
O. 2019 Aerial Photo
P. 2020 Aerial Photo
Q. 2021 Aerial Photo

13. Vehicle Transport/Disposal Addendum (Oct. 30, 2009)
14. Certificate of Formation: Art's Auto Wrecking, LLC (July 27, 2011)
15. Partial Vehicle Transport/Disposal Addendum (Jan. 4, 2012)
16. Email from Angela Mcadow to Troy Giddings (Nov 28, 2012)
17. Motor Vehicle Wrecker Report of inspection, with notes & sketch (Feb. 15, 2013)
18. Motor Vehicle Wrecker Report of Inspection, with notes (July 10, 2014)
19. Reissuance of Coverage under the Industrial Storm water General Permit (Dec. 3, 2014)
20. Renewal & Annual Report for Art's Auto Wrecking, LLC (July 6, 2015)
21. CVEB Wrecking Yard Inspection (July 21, 2015)
22. CVEB Wrecking Yard Inspection (July 29, 2016)
23. Email from Angela Mcadow to Troy Giddings (Dec 31, 2016)
24. Notice of Termination: Industrial Stormwater General Permit (Nov. 17, 2017)
25. Termination of Industrial Stormwater General Permit (Jan. 22, 2018)
26. Administrative Dissolution: Art's Auto Wrecking, LLC (Mar. 4, 2019)
27. Statutory Warranty Deed, AF#202204070092 (April 7, 2022)
28. Dept. of Ecology Cleanup Site Details (Jul 5, 2022)
29. Letter from Brian Shrader to Vadim & Sergey Kasko (Feb. 1, 2023)
30. Email from Tawnee Clearbrook to Tom Wenzl & Brian Schrader (Feb. 6, 2023)
31. Certificate of Formation: Arts Auto Wrecking LLC (Feb. 15, 2023)
32. Secretary of State Certificate, Art's Auto Wrecking (Feb. 15, 2023)
33. Email from dsilbaugh50 to PDS (March 6, 2023)
34. PermitPlus Notes CE22-0110 (Mar. 9, 2023)
35. Email from Tawnee Clearbrook to Vadim Kasko (Mar. 9, 2023)
36. Email from Vadim Kasko to Tawnee Clearbrook (Apr. 22, 2023)
37. Business License: Arts Auto Wrecking LLC (Mar. 17, 2023)
38. Initial Report: Arts Auto Wrecking LLC (Apr. 1, 2023)
39. Angela Mcadow Witness Statement (Apr. 3, 2023)
40. IRS Assignment of EIN for Arts Auto Wrecking LLC (May 2, 2023)
41. Emails between Vadim Kasko & Jeffery MacDonald (May 8, 2023)
42. Draft Letter from Tom Wenzl to Sergey and Vadim Kasko (June 2, 2023)
43. Emails between Troy Giddings & Tom Wenzl (June 27, 2023)
44. Emails between Jack Moore and Vadim Kasko (June 30, 2023)
45. Statement of Reinstatement: Art's Auto Wrecking, LLC (Sept. 20, 2023)

The Skagit County Hearing Examiner
Case No. PL3-0324

The Skagit County Board of County Commissioners
Closed Record Appeal No. PL23-0537

INDEX OF THE RECORD

NO.	DATE	RECORD	BATES NO.
1	06/30/23	Application	00001
2	09/21/23	Pre-Hearing Order	00002
3	10/15/23	Consolidated Witnesses and Documents List, Copies	00005
4	10/15/23	Consolidated Exhibit & Witness List	00006
5	10/30/23	Skagit County's Prehearing Brief	00012
6	10/30/23	Notice of Resp. V. Kasko & S. Kaskos, Oct. 30, 2023, Prehearing Brief	00019
7	10/30/23	Resp. V. Kasko & S. Kaskos, Oct. 30, 2023, Prehearing Brief	00020
8	11/06/23	Skagit County's Response Brief	00032
9		Exhibit 1. Letter re: County's Belief of Abandonment	00035
10		Exhibit 2. Email from Vadim Kasko to Tom Wenzl, et al. with photos	00036
11		Exhibit 3. SEPA checklist	00039
12		Exhibit 4. Email from Vadim Kasko to Tom Wenzl	00056
13		Exhibit 5. County's Administrative Determination that Pre-Existing Use was Abandoned	00058
14		Exhibit 6. Kasko Reply to Administrative Determination of Abandonment	00060
15		Exhibit 7. Notice of Development Application	00062
16		Exhibit 8. Letter from Vadim & Sergey Kasko to Tom Wenzl	00063
17		Exhibit 9. Public Comments	00064
18		Exhibit 10. Kasko Response to Public Comments	00089
19		Exhibit 11. Zoning Map	00092
20		Exhibit 12. Aerial Photos:	00094
21		Exhibit 12.A. 1937 Aerial Photo	00094
22		Exhibit 12.B. 1956 Aerial Photo	00096
23		Exhibit 12.C. 1969 Aerial Photo	00097
24		Exhibit 12.D. 1998 Aerial Photo	00099
25		Exhibit 12.E. 2001 Aerial Photo	00101

SKAGIT COUNTY PROSECUTING ATTORNEY
CIVIL DIVISION
605 South 3rd Street
Mount Vernon, WA 98273
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NO.	DATE	RECORD	BATES NO.
26		Exhibit 12.F. 2004 Aerial Photo	00103
27		Exhibit 12.G. 2005 Aerial Photo	00105
28		Exhibit 12.H. 2006 Aerial Photo	00107
29		Exhibit 12.I. 2007 Aerial Photo	00109
30		Exhibit 12.J. 2009 Aerial Photo	00111
31		Exhibit 12.K. 2011 Aerial Photo	00113
32		Exhibit 12.L. 2013 Aerial Photo	00115
33		Exhibit 12.M. 2015 Aerial Photo	00117
34		Exhibit 12.N. 2017 Aerial Photo	00119
35		Exhibit 12.O. 2019 Aerial Photo	00121
36		Exhibit 12.P. 2020 Aerial Photo	00123
37		Exhibit 12.Q. 2021 Aerial Photo	00125
38		Exhibit 13. Vehicle Transport/Disposal Addendum	00127
39		Exhibit 14. Certificate of Formation: Art's Auto Wrecking, LLC	00129
40		Exhibit 15. Partial Vehicle Transport/Disposal Addendum	00131
41		Exhibit 16. Email from Angela Mcadow to Troy Giddings	00135
42		Exhibit 17. Motor Vehicle Wrecker Report of inspection, with notes & sketch	00136
43		Exhibit 18. Motor Vehicle Wrecker Report of Inspection, with notes	00139
44		Exhibit 19. Reissuance of Coverage under the Industrial Storm water General Permit	00141
45		Exhibit 20. Renewal & Annual Report for Art's Auto Wrecking, LLC	00144
46		Exhibit 21. CVEB Wrecking Yard Inspection	00146
47		Exhibit 22. CVEB Wrecking Yard Inspection	00148
48		Exhibit 23. Email from Angela Mcadow to Troy Giddings	00150
49		Exhibit 24. Notice of Termination: Industrial Stormwater General Permit	00151
50		Exhibit 25. Termination of Industrial Stormwater General Permit	00152
51		Exhibit 26. Administrative Dissolution: Art's Auto Wrecking, LLC	00154
52		Exhibit 27. Statutory Warranty Deed, AF#202204070092	00155
53		Exhibit 28. Dept. of Ecology Cleanup Site Details	00161

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NO.	DATE	RECORD	BATES NO.
54		Exhibit 29. Letter from Brian Shrader to Vadim & Sergey Kasko	00162
55		Exhibit 30. Email from Tawnee Clearbrook to Tom Wenzl & Brian Schrader	00163
56		Exhibit 31. Certificate of Formation: Arts Auto Wrecking LLC	00165
57		Exhibit 32. Secretary of State Certificate, Art's Auto Wrecking	00168
58		Exhibit 33. Email from dsilbaugh50 to PDS	00169
59		Exhibit 34. PermitPlus Notes CE22-0110	00170
60		Exhibit 35. Email from Tawnee Clearbrook to Vadim Kasko	00172
61		Exhibit 36. Email from Vadim Kasko to Tawnee Clearbrook	00175
62		Exhibit 37. Business License: Arts Auto Wrecking LLC	00183
63		Exhibit 38. Initial Report: Arts Auto Wrecking LLC	00185
64		Exhibit 39. Angela Mcadow Witness Statement	00187
65		Exhibit 40. IRS Assignment of EIN for Arts Auto Wrecking LLC	00188
66		Exhibit 41. Emails between Vadim Kasko & Jeffery MacDonald	00190
67		Exhibit 42. Draft Letter from Tom Wenzl to Sergey and Vadim Kasko	00192
68		Exhibit 43. Emails between Troy Giddings & Tom Wenzl	00197
69		Exhibit 44. Emails between Jack Moore and Vadim Kasko	00199
70		Exhibit 45. Statement of Reinstatement: Art's Auto Wrecking, LLC	00204
71		Exhibit 46. Receipt: Reinstatement of Art's Auto Wrecking, LLC	00207
73		Exhibit 47. Kasko Application, Vehicle Transport/Disposal Certificate and Approval	00209
74	12/07/23	Hearing Examiner's Findings, Conclusions, and Decision	00215
75	12/21/23	Appeal or Request for Reconsideration	00242
76	12/21/23	Appendix to Cover Form Appeal of Hearing Examiner Decision December 7, 2023	00243
77	12/29/24	Email to Parties re: Scheduling	00268
78	01/04/24	Appellants Opening Brief	00270
79	01/11/24	Skagit County Response to Appeal	00311

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NO.	DATE	RECORD	BATES NO.
80	01/11/24	Email from L. Hammons to Parties' Counsel with "PL23-0324-0324 Bates numbered.zip" attached	00319
81	01/11/24	Email from L. Hammons to Parties' Counsel with links to Hearing Examiner Record	00320
82	01/18/24	Appellant Kaskos' Reply	00321
83	01/23/24	Skagit County Board of Commissioners Record of Proceedings	00340
84	04/17/24	Email to Parties re Scheduling	00342
85	05/02/24	Appellants' Amended Opening Brief	00344
86	05/07/24	Email from L. Hammons to Parties' Counsel with links to Hearing Examiner Record	00404
87	05/09/24	County's Second Response to Appeal	00408
88	05/16/24	Email from L. Hammons to Parties' Counsel with link to Hearing Examiner Record	00410
89	05/16/23	Appellant Kaskos' Reply & Motion for Reversal of November 7, 2023 Examiner Decision	00411
90	05/21/24	Skagit County Board of Commissioners Record of Proceedings	00423
91	06/18/24	Skagit County Board of Commissioners Record of Proceedings	00426
92	06/18/24	Resolution R20240128: A Resolution Pertaining to the Closed Record Appeals (PL23-0537) of Hearing Examiner Decisions (PL23-0324) Denying Appeal of Abandoned Use Determination by Skagit County Planning and Development Services (CE23-0056)	00429

SKAGIT COUNTY PROSECUTING ATTORNEY
CIVIL DIVISION
605 South 3rd Street
Mount Vernon, WA 98273
T: 360-416-1600 | F: 360-416-1649

Administrative Order to Abate Violation

Planning & Development Services - Code Compliance Unit
1800 Continental Place - Mount Vernon WA 98273
voice 360-416-1320 - www.skagitcounty.net/planning

Case Number CODE2025-0009

Property Owner

Name: Sergey Kasko | Mailing Address: 635 Rainbow Dr
City: Sedro-Woolley, WA | Zip: 98284 | Phone:

Additional Responsible Persons

☒ No additional persons known

Name: | Mailing Address:
City: | Zip: | Phone:

Site of Violation

☐ Same as Owner Mailing Address

Address: 23475 River Road | City: Sedro-Woolley, WA | Zip: 98284
Parcel No(s): P37619 | Zoning: Rural Business

Background

The Administrative Official has issued the following findings of fact relating to code violations on your property:

1. *1-15-2025- request for investigation received for filling of a wetland.*
2. *1-17-2025- Site visit conducted by CCO Schrader. Fill has been brought and piled onto the property. Lots of new junk vehicles have been brought onto the property.* ✔
3. *2-6-2025- Notice of violation sent to owner for a fill and grade and junk violations.* ✔
4. *3-21-2025- Site visit conducted by Schrader. Both violations are still evident.*
5. *4-4-2025- No contact from owner.*

Description of Violation(s)

Based on our investigation, the Administrative Official has found you in violation of the following specific provision(s) of Skagit County Code.

Violation 1: 14.16.945 Prohibited uses. (2) Storage of Junk. No person may use more than 500 square feet of a lot or parcel of land for the depositing, sorting, refining, baling, dismantling, or storage of junk except when conducted entirely within an enclosed structure or with a special use permit for that purpose.

Violation 2: SCC14.34.190(1) (1) Prohibit encroachments including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer licensed in the State of Washington is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice as well as the "Procedures for No-Rise Certification" as published by FEMA, that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Additionally, Skagit County reserves the right to

FILE
IN CLERKS OFFICE
SUPREME COURT, STATE OF WASHINGTON
DATE AUG 0 9 2018
Tumwater, CO
CHIEF JUSTICE

This opinion was filed for record
at 8 am on August 9, 2018
Susan L Carlson
SUSAN L. CARLSON
SUPREME COURT CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

MAYTOWN SAND AND GRAVEL, LLC,

Respondent,

v.

THURSTON COUNTY,

Petitioner,

BLACK HILLS AUDUBON SOCIETY and FRIENDS OF ROCKY PRAIRIE,

Additional Defendants,

PORT OF TACOMA, a Washington special purpose district,

Respondent.

PORT OF TACOMA, a Washington special purpose district,

Respondent,

v.

THURSTON COUNTY,

Petitioner,

BLACK HILLS AUDUBON SOCIETY and FRIENDS OF ROCKY PRAIRIE,

Additional Defendants,

MAYTOWN SAND AND GRAVEL LLC,

Respondent.

No. 94452-1

EN BANC

Filed AUG 0 9 2018

Following *Del Monte Dunes*, the evidence in this case is also sufficient to support a Section 1983 claim.

3. *The County Is Also Barred from Claiming That Maytown Was Required To Prove the County's Acts "Shocked the Conscience" Because the Jury Instructions That It Requested and Obtained Stated a Different Standard*

Another problem with the County's Section 1983 argument is that it is inconsistent with the jury instructions that the County requested and obtained in this case. The trial court instructed the jury that a due process violation can be proved by showing "[Maytown] was deprived of rights in a way that shocks the conscience *or interferes with rights that are implicit in the concept of ordered liberty.*"[10] CP at 6376-77 (jury instruction 24) (emphasis added). This means that the jury could have predicated its finding of a due process violation on actions that *either* shocked the conscience *or* interfered with ordered liberty.

The right to an impartial decision-maker is clearly a right "implicit in the concept of ordered liberty." The evidence, when viewed in the light most favorable to the jury verdict, establishes that two of the County's board commissioners deliberately interfered with the impartiality of the Department's decision-making

[10] The County does not challenge the jury instruction. Pet'r's Suppl. Br. at 15 ("The jury was correctly instructed . . . ."). That is probably because the County itself requested that instruction. CP at 6104-05.

14.16.010 Title and Purpose.

This Chapter shall be known as the Zoning Code of Skagit County, Washington, constituted by the text and zoning maps. The regulations are intended to carry out the goals and policies of the Skagit County Comprehensive Plan. This Chapter is intended to benefit the public as a whole and not any specific person or group of persons. Applications for permits and approvals are subject to the provisions of this Chapter and other ordinances and laws. This Chapter classifies, designates, and regulates the development of land for agriculture, forest, mineral resource extraction, residential, commercial, industrial and public land uses for the unincorporated area of Skagit County.

14.16.020 Scope.

(1) Construction. This Chapter shall be liberally construed to secure and protect the public health, safety, and welfare of the people and the land. When interpreting this code, the minimum requirement necessary to achieve the intent shall prevail. Wherever the requirements of the ordinance conflict with other laws in effect, that which imposes the higher standard while meeting the intent of the codes shall prevail.

(2) Administrative Official. It shall be the responsibility of the Administrative Official, or designated representative, to interpret and apply the provisions of this Chapter pursuant to SCC 14.06.040.

(3) Interpretation of Uses. When a use is not specifically listed in this Ordinance, it shall be understood that the use may be allowed if it is determined by the Administrative Official that the use is similar to other uses listed. It is further recognized that not every conceivable use can be identified. In anticipation that new uses will evolve over time, this Section establishes the Administrative Official's authority to compare a proposed use and measure it against those listed in this Chapter for determining similarity. In determining similarity, the Administrative Official shall make all of the following findings:

(a) The proposed use shall substantially meet the intent of and be consistent with the goals, objectives and policies of the Comprehensive Plan;

(b) The proposed use shall meet the stated purpose and general intent of the zone in which the use is proposed to be located;

(c) The proposed use shall not adversely impact the public health, safety and general welfare of the residents of the County; and

(d) The proposed use shall share characteristics common with and not be of greater intensity, density or generate more environmental impact than those uses listed in the land use zone in which it is to be located.

14.16.030 Districts, Maps and Boundaries.

Skagit County is hereby divided into land use districts to carry out the policies and objectives of the Comprehensive Plan. This Chapter describes the limitations and regulations for the use of and construction on properties within each zone. The following table illustrates the relationship between Comprehensive Plan land use designations, allowed residential densities and zoning districts.

(d) The Notice of Development Application shall set out the procedures and time limitations for persons to require a public hearing and make comments.

(e) Any person shall have 21 days from the date of the Notice of Development Application to comment on the proposed preliminary Long Subdivision. All comments received shall be provided to the Applicant. The Applicant has 7 days from receipt of the comments to respond thereto.

(f) A public hearing on the proposed subdivision shall be held (and the subdivision shall therefore be processed as a Level III-HE decision) if any person files a request for a hearing with the County within 21 days of the publishing of such notice.

(g) On its own initiative within 21 days of the filing of the complete application, the County is authorized to cause a public hearing to be held on the proposed subdivision.

14.06.120 Level II Review Procedures.

(1) Pre-development meetings described in SCC 14.06.080(1) are optional.

(2) Pre-application meetings described in SCC 14.06.080(2) are required before filing an application, unless the Administrative Official has approved a waiver of the pre-application meeting.

(3) Letter of completeness review procedures from SCC 14.06.100 are required.

(4) The Notice of Development Application and comment period procedures of SCC 14.06.150(3)(b-e) are required.

(5) Before an application has been set for open record public hearing, before the Hearing Examiner and after the close of any required comment period, including any threshold determination comment period required by RCW 43.21C and SCC 14.12, the Department shall coordinate and assemble the comments and recommendations of other County departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the Department findings and supportive recommendations. The staff report shall be filed with the Hearing Examiner at least 7 days prior to the scheduled hearing and copies thereof shall be mailed to the Applicant and shall be made available for use by any interested party at the reproduction cost.

(6) Notice of public hearing shall be as required by SCC 14.06.150(3).

(7) The Hearing Examiner shall conduct review of the Development permit in an open record pre-decision hearing, pursuant to the requirements for those hearings in SCC 14.06.160. A Notice of Decision of the Hearing Examiner shall be issued as required in SCC 14.06.200.

(8) The Hearing Examiner Decision may be subject to a request for reconsideration as provided in SCC 14.06.180.

(9) The decision of the Hearing Examiner after the open record hearing shall be final, unless appealed to the Board by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the Hearing Examiner decision, or decision on reconsideration, if applicable. The appeal fee must accompany the Notice of Appeal, and the Notice of Appeal is not considered filed unless the appeal fee accompanies it.

(10) The Notice of Appeal shall contain a concise statement identifying:

(a) The decision being appealed.

14.06.160 Open Record Public Hearings Procedures.

(1) Types. Open Record public hearings may be one of two types:
- (a) Open record appeal hearings of a Level I administrative decision; or
- (b) An open record pre-decision hearing required before making a decision on a Level II or Level III permit decision.

(2) Standing to Appeal.
- (a) Only the Applicant and Parties of Record as defined by SCC 14.04 shall have standing to file an open record appeal.
- (b) Any interested party may participate orally and/or in writing in an open record pre-decision hearing.

(3) Burden of Proof.
- (a) In the case of open record appeal hearings of Level I administrative decisions, the appellant shall bear the burden of demonstrating that the decision of the Administrative Official is clearly erroneous.
- (b) In the case of open record pre-decision hearings for Level II or Level III decisions, the Applicant for the Development permit shall bear the burden of demonstrating that the project complies with applicable goals and policies of the Comprehensive Plan and the applicable criteria and requirements of the Skagit County Code and other applicable law.

(4) Timing for hearings.
- (a) Open record appeal hearings shall be conducted and a decision rendered within 60 days of the receipt of the written Notice of Appeal.
- (b) Open record pre-decision hearings shall be conducted consistent with the time requirements for decisions described in SCC 14.06.210.

(5) Staff Report by Department.
- (a) In an open record appeal hearing, at least 7 days prior to the date set for the open record public hearing, the Department shall transmit to the hearing body all of the records pertaining to the decision being appealed, together with such additional written report that the Administrative Official deems pertinent explaining the decision being appealed or responding to the statements in the Notice of Appeal. If the Administrative Official prepares an additional written staff report, a copy shall also be sent to the Applicant and to any appellants 7 days prior to the date set for the hearing.
- (b) In the case of a pre-decision open record hearing, the Department shall coordinate and assemble the comments and recommendations of other County departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the Department findings and supportive recommendations. The staff report shall be filed with the Hearing Examiner or the Planning Commission at least 7 days prior to the scheduled hearing and copies thereof shall be mailed to the Applicant and shall be made available for use by any interested party at the reproduction cost.

(6) One Public Hearing. Before rendering a decision or recommendation on the Development permit or appeal, the Hearing Examiner or the Planning Commission shall hold one public hearing pursuant to SCC 14.06.060, however, the public hearing may be continued for more than 1 day. Notice of the public hearing shall be provided as required in SCC 14.06.150(3). The public hearing may be continued to a date, time and place

certain, without requiring additional public notice, as long as the requirements of the Open Public Meetings Act, RCW 42.30, are met.

(7) Open Record Hearing Procedures. Open Record Public Hearings shall be conducted in accordance with the hearing body's rules of procedure as set forth below and shall serve to create or supplement an evidentiary record upon which the body will base its decision. The Chair or Hearing Examiner shall open the public hearing and, in general, observe the following sequence of events:

(a) Staff representation, including submittal of any administrative staff reports. Members of the hearing body may ask questions of the staff.

(b) Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the Applicant.

(c) Testimony or comments by the public germane to the matter. Questions directed to the staff or the Applicant shall be posed by the Chair or Hearing Examiner at its discretion.

(d) An opportunity for parties to cross-examine expert witnesses, if any.

(e) Rebuttal, response or clarifying statements by the staff and the Applicant.

(f) The oral portion of the public hearing shall be closed.

(g) The hearing body may continue the written comment period after the close of the public hearing.

(h) The hearing body shall deliberate on the matter before it.

(8) As described in SCC 14.06.240 and .250, the Hearing Examiner or the Planning Commission may adopt other rules of procedure not inconsistent with these procedures. Further, if deemed appropriate to facilitate review of a particular Development permit, the Hearing Examiner or the Planning Commission may adopt specific procedures for an individual matter.

(9) Decision or Recommendation. Within 15 days after completion of the public hearing or after the date for submittal of all written comments, whichever is later, the Hearing Examiner or the Planning Commission shall render a decision or make a recommendation on the appeal or Development permit. The Hearing Examiner or the Planning Commission decision or recommendation shall be in writing and shall include a statement of the applicable criteria and standards from the Skagit County Comprehensive Plan; the Skagit County Code and other applicable law; a statement of the facts that the Hearing Examiner or the Planning Commission found showing the application does or does not comply with each applicable approval criterion and assurance of compliance with applicable standards; the reasons for the decision or the recommendation to approve or deny the Development permit or appeal; and any conditions or modifications deemed necessary.

14.06.170 Closed Record Hearings/Appeal Procedures.

(1) Types. Closed Record Hearings may be one of two types:

(a) Closed record appeal of a Level I or Level II decision.

(b) Closed record pre-decision hearing before acting on a Level III recommendation.

(2) Standing.

(a) Only the Applicant and Parties of Record as defined by SCC 14.04 shall have standing to file a closed record appeal of a Level I or Level II decision.

mineral resource lands of long-term commercial significance) in Skagit County. A variety of natural resource land commercial activities occur or may occur in the area that may not be compatible with non-resource uses and may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying, pruning, harvesting, or mineral extraction with associated activities, which occasionally generates traffic, dust, smoke, noise, and odor. Skagit County has established natural resource management operations as a priority use on designated natural resource lands, and area residents should be prepared to accept such incompatibilities, inconveniences, or discomfort from normal, necessary natural resource land operations when performed in compliance with best management practices and local, State, and Federal law. In the case of mineral lands, application might be made for mining-related activities including extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals. In addition, greater setbacks than typical may be required from the resource area, consistent with SCC 14.16.810. Contact the Skagit County Planning and Permit Center for details.

14.16.880 Nonconforming Uses and Structures.

(1) Intent. Any lot, building, structure, or use of land, legally permitted or established at the time of the adoption of this Ordinance, shall be permitted to continue. A change in occupancy or ownership shall not affect such right to continue such use, building, or structure. It is the intent of this Ordinance:

(a) To permit these nonconformities to continue until they are removed, but not to encourage their survival, except as expressly provided in this Section; and

(b) That nonconformities shall not be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district; and

(c) That nonconforming uses or structures not be allowed to expand, be altered or reconstructed except as otherwise outlined in this Section.

(2) Enlargement, Alteration, Expansion or Change of Nonconforming Uses.

(a) Nonconforming uses. No nonconforming use shall be permitted to be enlarged, altered, or expanded, except that a nonconforming use may be extended throughout any part of the building which was designed for its use prior to the time of the adoption of this Chapter. This extension is allowed provided that no structural alterations, except those required by law are made therein, and that no expansion of the structure or parking requirements occurs.

(b) No nonconforming use shall be allowed to be re-established after abandonment. Thereafter, the use of the building, structure or site shall be in conformity with the regulations for the district in which it is located.

(c) A nonconforming use shall not hereafter be changed to any other nonconforming use, regardless of the conforming or nonconforming status of the building in which it is housed.

(3) Enlargement, Alteration, Reconstruction of Nonconforming Buildings and Structures. The following items (3(a) and (b)) outline requirements for routine maintenance, reconstruction/replacement after damage by fire, natural disaster, or other calamity, and structural repairs needed to maintain a building or structure in a safe structural condition:

(a) Routine maintenance and repairs may be performed on a nonconforming structure or building.

(b) When a nonconforming building or structure is damaged, said building or structure may be restored or replaced provided:

(i) A complete application for reconstruction or replacement is submitted within 1 year of the damage, and

(ii) That the restoration or replacement shall be made to conform to the regulations of the zoning district in which the building or structure is located, or if such regulations cannot physically be met without reducing the size of the building, the restoration shall not extend any nonconformity that existed prior to the damage.

(4) Abandonment. For the purposes of this Subsection, abandonment shall mean:

(a) An intention to abandon; and

(b) An overt act, which carries the implication that the owner does not claim or retain any interest in the right to the nonconforming use.

(5) Conformance after Abandonment. If any nonconforming use of land and/or building or structure ceases for any reason whatsoever for a period of 1 year or more, any future use of such land, building or structure shall thereafter be in conformity in the zoning district in which it is located. The mere presence of a structure, equipment or material shall not be deemed to constitute a continuance of a nonconforming use unless the structure, equipment, or material are actually being occupied or employed in maintaining such use.

(6) Procedure for Verifying Abandonment. When the Department obtains information indicating that a nonconforming use, building or structure has or may have been abandoned, the Department shall send a letter by certified mail return receipt requested to the property owner requesting confirmation of either abandonment or non-abandonment. Documentation that the nonconforming use, structure, or building has been occupied, used, or maintained within the last year shall be required. After proper notification, if the owner fails to respond to the request within 60 days, the building, structure, or use shall be deemed abandoned. If the owner replies that the building, structure, or use is not abandoned, the Department may treat this as a Level II permit application, in which case the Hearing Examiner will make a determination regarding the abandonment status, or the Department may determine that abandonment has not occurred.

14.16.900 Rezone and Special Use Permit Requirements.

(1) Rezones.

(a) All rezones shall be processed in conjunction with Comprehensive Plan amendments. The procedures for application, notice, etc., shall follow those for the Comprehensive Plan, which are found in SCC 14.08.020.

(b) Additional submittal requirements for rezones.

(i) A detailed statement of how the proposal meets the applicable approval criteria; and

SKAGIT COUNTY PLANNING AND DEVELOPMENT SERVICES
NOTICE OF DEVELOPMENT APPLICATION
Hearing Examiner Determination of Abandonment of Non-Conforming Use
File # PL23-0324

Notice is hereby given that on June 30, 2023, Thomas Wenzl, on behalf of Skagit County, filed a request for the hearing examiner to make a determination as to whether a pre-existing non-conforming use of auto wrecking has been abandoned pursuant to 14.16.880. The application was determined to be complete for review purposes on July 10, 2023.

The properties, P37600, P37610, P37619, P37620, P37621 and P37628, are zoned Agricultural-Natural Resource Lands (Ag-NRL), with the exception of P37600, which is zoned Rural Business (RB). The properties are south of the Sedro-Woolley city limits, Within a portion of Section 25, Township 35N, Range 04E W.M., situated within Skagit County, Washington.

The owners of the properties have informed Skagit County of their intent to re-establish the auto wrecking business under the same name as the previous owners, Art's Wrecking, LLC. It is their position that the non-conforming use was never abandoned. Pursuant to SCC 14.16.880(5) and (6), Skagit County requested documentation from them to show the continued use as an Auto Wrecker. Upon review of the provided documents, and other available information, the Department determined that the non-conforming use has been abandoned. Pursuant to SCC 14.16.880(6), this matter will now be treated as a Level II permit application and the hearing examiner will make a determination if the use has been abandonment.

A decision on the application will be made within 120 days of the date the application is determined to be complete pursuant to SCC 14.06.210.

A public hearing before the Skagit County Hearing Examiner will be scheduled in the future in the Board of County Commissioners Hearing Room, 1800 Continental Place, Mount Vernon, Washington for the purpose of determining whether the Hearing Examiner should approve, modify and approve or deny the application as soon as all reviews are completed. Public notification of the hearing will be made consistent with Skagit County Code 14.06.150(3). Any person desiring to express his or her views or to be notified of the action taken on this application should notify Thomas Wenzl **in writing** of his or her interest within 15 days of the date of publication of this notice which is July 13, 2023. Failure to respond within the comment period could result in loss of the right to appeal. The file can be viewed at Planning and Development Services which is located at the Continental Place address listed below.

Written comments must be received no later than 4:30 pm on: **July 28, 2023.**
*Email correspondence **will not** be accepted;* however, comments may be submitted via the PDS website under the "*recent legal notices*" tab. (www.skagitcounty.net/pdscomments).

Thomas Wenzl, Code Compliance Officer
Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA. 98273 (360) 416-1340

Transmitted to the Skagit Valley Herald on July 11, 2023
Please publish: July 13, 2023

Commented [JCD1]: Interpretation doesn't seem to capture what is actually happening (and as best I can tell doesn't reflect what the Code says).
Deleted: Interpretation
Deleted: a Municipal Corporation.,
Deleted: a Level II Hearing Examiner Interpretation
Deleted: (#PL23-0324)
Commented [JCD2]: I don't think this is terribly relevant for this document, or is covered elsewhere.
Deleted: for Arts Auto Wrecking, LLC. The request is to review the Skagit County Planning and Development Services (Department) Decision made pursuant to Skagit County Code (SCC) 14.16.880(6), that the pre-existing non-conforming use as an Auto Wrecker has been abandoned…
Deleted: The underlying belief is that the previous Arts Auto Wrecking, UBI 603 133 416, voluntarily ceased operations in late 2016, early 2017. The property is six (6) contiguous parcels located along River Road and South Third Street in the Sedro-Woolley Urban Growth Area (UGA). P37600, P37610, P37619, P37620, P37621 and P37628. P37600 is zoned Rural Business (RB) while the remaining parcels are zoned Agricultural-Natural Resource…
Commented [BB3]: date can change - just
Deleted: lay
Deleted: and within the Sedro-Woolley UGA
Deleted: The properties also lay within a designated …
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SKAGIT COUNTY PLANNING AND DEVELOPMENT SERVICES
NOTICE OF DEVELOPMENT APPLICATION
Hearing Examiner Interpretation
File # **PL23-0324**

Notice is hereby given that on June 30, 2023, Thomas Wenzl, on behalf of Skagit County, a Municipal Corporation., filed a Level II Hearing Examiner Interpretation request (#PL23-0324) for Arts Auto Wrecking, LLC. The request is to review the Skagit County Planning and Development Services (Department) Decision made pursuant to Skagit County Code (SCC) 14.16.880(6), that the pre-existing non-conforming use as an Auto Wrecker has been abandoned. The underlying belief is that the previous Arts Auto Wrecking, UBI 603 133 416, voluntarily ceased operations in late 2016, early 2017. The property is six (6) contiguous parcels located along River Road and South Third Street in the Sedro-Woolley Urban Growth Area (UGA). P37600, P37610, P37619, P37620, P37621 and P37628. P37600 is zoned Rural Business (RB) while the remaining parcels are zoned Agricultural-Natural Resource Lands (Ag-NRL). An Auto Wrecking company had done business here from the mid 1950's until 2016-2017. 'Auto Wrecker' as defined in SCC 14.04, is not an allowed use in the Ag-NRL zoning district. The application was determined to be complete for review purposes on July 10, 2023.

The properties lay south of the Sedro-Woolley city limits and within the Sedro-Woolley UGA. The properties also lay within a designated Floodway. Within a portion of Section 25, Township 35N, Range 04E W.M., situated within Skagit County, Washington.

The new owners of the properties have informed Skagit County of their intent to re-establish the auto wrecking business under the same name as the previous owners. It is their position that the non-conforming use was never abandoned. Pursuant to SCC 14.16.880(5) and (6), Skagit County requested documentation from them to show the continued use as an Auto Wrecker.

Upon review of the provided documents, and reviewing information gathered by the Department, a notice was given to the owners informing them that the non-conforming use has been abandoned. Pursuant to SCC 14.16.880(6), this matter will now be treated as a Level II Hearing Examiner Interpretation to make a determination if the abandonment has occurred. A public hearing before the Skagit County Hearing Examiner is required to make the determination. Any person desiring to express his or her views or to be notified of the action taken on this application should notify Thomas Wenzl **in writing** of his or her interest within Fifteen (15) days of the date of publication of this notice which is July 13, 2023. Failure to respond within the comment period could result in loss of the right to appeal. The file can be viewed at Planning and Development Services which is located at the Continental Place address listed below.

Written comments must be received no later than 4:30 pm on: **July 28, 2023.**
*Email correspondence **will not** be accepted;* however, comments may be submitted via the PDS website under the "*recent legal notices*" tab. (www.skagitcounty.net/pdscomments).

Thomas Wenzl, Code Compliance Officer
Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA. 98273 (360) 416-1340

Transmitted to the Skagit Valley Herald on July 11, 2023
Please publish: July 13, 2023

Commented [BB1]: date can change - just put that in there to meet SCC 14.06 and anticipated the publication being next week per below.

Commented [BB2]: My opinion on this would be to focus more on the non-conformity being the floodway and Ag-NRL location. Not the use being non-conforming to the RB zone.

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SKAGIT COUNTY PLANNING AND DEVELOPMENT SERVICES
NOTICE OF DEVELOPMENT APPLICATION
Hearing Examiner Determination of Abandonment of Non-Conforming Use
File # **PL23-0324**

Notice is hereby given that on June 30, 2023, Thomas Wenzl, on behalf of Skagit County, filed a request for the hearing examiner to make a determination as to whether a pre-existing non-conforming use of auto wrecking has been abandoned pursuant to 14.16.880. The application was determined to be complete for review purposes on July 10, 2023.

The properties, P37600, P37610, P37619, P37620, P37621 and P37628, are zoned Agricultural-Natural Resource Lands (Ag-NRL), with the exception of P37600, which is zoned Rural Business (RB). The properties are south of the Sedro-Woolley city limits. Within a portion of Section 25, Township 35N, Range 04E W.M., situated within Skagit County, Washington.

The owners of the properties have informed Skagit County of their intent to re-establish the auto wrecking business under the same name as the previous owners, Art's Wrecking, LLC. It is their position that the non-conforming use was never abandoned. Pursuant to SCC 14.16.880(5) and (6), Skagit County requested documentation from them to show the continued use as an Auto Wrecker. Upon review of the provided documents, and other available information, the Department determined that the non-conforming use has been abandoned. Pursuant to SCC 14.16.880(6), this matter will now be treated as a Level II permit application and the hearing examiner will make a determination if the use has been abandonment.

A decision on the application will be made within 120 days of the date the application is determined to be complete pursuant to SCC 14.06.210.

A public hearing before the Skagit County Hearing Examiner will be scheduled in the future in the Board of County Commissioners Hearing Room, 1800 Continental Place, Mount Vernon, Washington for the purpose of determining whether the Hearing Examiner should approve, modify and approve or deny the application as soon as all reviews are completed. Public notification of the hearing will be made consistent with Skagit County Code 14.06.150(3). Any person desiring to express his or her views or to be notified of the action taken on this application should notify Thomas Wenzl **in writing** of his or her interest within 15 days of the date of publication of this notice which is July 13, 2023. Failure to respond within the comment period could result in loss of the right to appeal. The file can be viewed at Planning and Development Services which is located at the Continental Place address listed below.

Written comments must be received no later than 4:30 pm on: **July 28, 2023.**
Email correspondence will not be accepted; however, comments may be submitted via the PDS website under the "*recent legal notices*" tab. (www.skagitcounty.net/pdscomments).

Thomas Wenzl, Code Compliance Officer
Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA. 98273 (360) 416-1340

Transmitted to the Skagit Valley Herald on July 11, 2023
Please publish: July 13, 2023

Skagit County
Planning & Development Services
Jack Moore, Director

June 15, 2023

Sergey and Vadim Kasko
635 Rainbow Dr
Sedro-Woolley, WA 98284

Re: Pre-existing non-conforming use abandonment determination
Parcel: P37600, et al
Case #: CE23-0056

Dear Sergey and Vadim,

The County has reviewed the information you have provided regarding whether the pre-existing non-conforming use of Parcels P37600, P37610, P37619, P37620, P37621, and P37628 (collectively the "Property") for automobile wrecking has been abandoned. I have determined, pursuant to SCC 14.16.880, that the use of the Property for Automobile Wrecking has been abandoned.

The Skagit County Code defines abandonment as "(a) An intention to abandon; and (b) An overt act, which carries the implication that the owner does not claim or retain any interest in the right to the nonconforming use." SCC 14.16.880(4). Furthermore, "[i]f any nonconforming use of land ceases for any reason whatsoever for a period of 1 year or more, any future use of such land, building or structure shall thereafter be in conformity in the zoning district in which it is located." SCC 14.16.880(5).

The information reviewed by the County establishes that the pre-existing non-conforming use of Automobile Wrecking was intentionally abandoned as evidenced by overt acts implying the owner did not claim or retain an interest in retaining the right to use the property for automobile wrecking. In 2016, Angela McAdow, the then-owner of the Property and Art's Wrecking LLC (the operator), emailed the state wrecking yard inspector that she was ceasing operations as the yard as was no longer financially viable and that she was going "to sell the property for commercial use that it is zoned for after we are done cleaning." Mrs. McAdow then did just that. The wrecking yard was cleaned up and closed. Art's Wrecking LLC gave up its motor vehicle wrecker license and dissolved. Aerial photographs from 2017 to 2021 show that automobile wrecking had ceased for more than a year and had been removed from the Property.

As I have determined automobile wrecking has been abandoned on the Property, pursuant to SCC 14.16.880, this matter will be treated as a Level II permit application, see SCC 14.06.120, and the Hearing Examiner will make a determination regarding the abandonment status.

Sincerely,

Tom Wenzl
Code Compliance Officer
TWenzl@co.skagit.wa.us
360-416-1340
PLANNING & DEVELOPMENT SERVICES
SKAGIT COUNTY, WASHINGTON

SKAGIT COUNTY, STATE OF WASHINGTON

In Re:)
)
No. PL23-0324)
)
)
)
)

VOLUME I OF I
VERBATIM REPORT OF PROCEEDINGS
From Electronic Recording

APPEARANCES:

For the County: JASON D'AVIGNON
Skagit County Prosecutor's Office
605 S 3rd St
Mount Vernon, WA 98273-3867

For the Landowner: DAVID COTTINGHAM
Cottingham Law Office P.S.
PO Box 229140
Bellingham, WA 98229-0805

Amy M. Brittingham, Transcriptionist
31 Pineshore Drive
Naches, WA 98937
509.594.2196

Or do you wait until there's a reason to act on an enforcement issue?

A To my understanding it's never been a -- it had never previously been a issue as far as us having to go out and monitor all of the rural business zonings in the county and then inventory those to see which ones are still in use and still not in use. So, that's never been done. This is, from my understanding, one of our first cases in -- in following this procedure because of just circumstances behind it. As -- as a result of this, I do have my eyes on a couple other properties that I know use has been abandoned and we are following up with this procedure just to confirm the abandonment right away to avoid this whole thing happening.

Q But it hasn't been the policy of the county to obtain formal determinations of abandonment where there's no reason to believe that it's not -- where there's no reason to believe that it will not be reestablished?

A No, we have -- we don't have a standard -- in my list of things to do it didn't exist. So, and I'm -- and I wouldn't be familiar with if in the planning department itself if there is a policy of doing this. I've not heard of it.

MR. D'AVIGNON: Okay. I think that's all the questions I have for the moment, Mr. Examiner.

PL23-0324

PLANNING & DEVELOPMENT SERVICES

1800 Continental Place • Mount Vernon, WA 98273
(360) 336-9306 • Office (360) 336-9410 • Fax (360) 336-9416

Date Received
RECEIVED
JUN 30 2023
SKAGIT COUNTY
PDS

Request for Administrative Interpretation

Pursuant to SCC 14.06.040

☐ **Level I Administrative Interpretation**
Pursuant to 14.06.040 related to a particular development permit application, alleged mapping error or to an existing permit or land use approval that did not require a public hearing.

Level II Review Pursuant to SCC 14.06.050(1)(b)(iv)

☑ **Level II Interpretation**
May be requested only by the County or an owner pursuant to SCC 14.06.050(1)(b)(iv) and is related to a previously issued land use permit that had a public hearing.

---

1. ☐ Applicant or ☐ Owner or ☑ County staff

Skagit County Planning and Development
Name

1800 Continental Place Mount Vernon, WA 98273
Address

360-416-1320 — twenzl@co.skagit.wa.us
Phone — Fax — e-mail address

Contact Name Tom Wenzl Phone 360-416-1340

Contact Address 1800 Continental Place Mount Vernon, WA 98273

2. Permit Number or Approvals to be interpreted CE23-0056
Pre-Existing Non-Conforming Use determination

3. Parcel ID#: P37600 Assessor Tax #:_____

* Parcel ID#: P37610 Assessor Tax #:_____

4. Section 25 Township 35 Range 04 Comprehensive Plan/Zoning Designation: RB (P37600) All other parcels Ag-NRL

5. Project, parcel or permit site address: Auto Wrecker Abandoned

6. Please attach a narrative that: (1) concisely identifies the issue, condition or wording that needs interpretation and (2) provides a narrative explaining the desired interpretation.

7. Attach a copy of the code provision or a full copy of the permit that is the subject of the interpretation.

8. Is this a request to interpret an alleged map boundary or mapping error that does not involve reconsideration of the criteria? Yes ☐ No ☐ If yes, please attach a copy of the zoning map and a full scale copy of a tax Assessors map purchased form the Assessor's office.

 *P37619, P37620, P37621 and P37628

00001 (24-2-00730-29)