

**SKAGIT COUNTY
OFFICE OF THE HEARING EXAMINER**

re: Appeal of an Administrative Order to Abate
CE23-0084 by Jeremy Kredlo

APL 25-0004

Appeal from CE23-0084

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION**

SUMMARY OF APPLICATION AND DECISION

Application: The Appellant, Jeremy Kredlo, is appealing an Administrative Order to Abate Violation issued by Skagit County Planning & Development Services to remove an existing cabin/treehouse or reconstruct it elsewhere on the property and to complete all required permits prior.

Decision: The Administrative Appeal of CE23-0084 is denied.

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted and evidence presented at a properly noticed public hearing.

FINDINGS OF FACT

I.

Appellants: Jeremy Kredlo
47424 State Route 20
Concrete, WA 98237

Site Address: 47424 State Route 20
Concrete, WA 98237

Assessor's Parcel No(s): P109259

Lot Size: 18 acres

Zoning: Rural Reserve

Application Date: Appeal *filed*: April 23, 2025

Notice Information: Administrative Order to Abate, *issued* April 9, 2025

Primary Authorizing Codes, Policies, Plans, and Programs:

- Revised Code of Washington (RCW)
 - RCW 36.70A, Growth Management Act
 - RCW 36.70B, Local Project Review
 - RCW 90.58, Shoreline Management Act
- Washington Administrative Code (WCC)
 - WAC Title 222
 - WAC 222-16-030, Water Typing Systems
- Skagit County Code (SCC)
 - SCC 14 – Unified Development Code
 - SCC 14.02 – General Provisions
 - SCC 14.02.070 – Office of the Hearing Examiner
 - SCC 14.06 – Permit Procedures
 - SCC 14.16 – Zoning
 - SCC 14.16.320 - Rural Reserve (RRv)
 - SCC 14.24, Critical Areas
 - SCC 14.24.060 – Authorizations required
 - SCC 14.24.520 - Fish and wildlife habitat conservation area protection standards
 - SCC 14.44, Enforcement/Penalties
 - SCC 15 – Building and Construction
- International Building Code (2021)
- Skagit County Comprehensive Plan of 6/30/16, as amended by Skagit County Board of Commissioners through 12/19/23 (SCP or “Comprehensive Plan”)

- Skagit County Office of the Hearing Examiner Rules of Procedure for Hearings (SCRPH), as authorized by Skagit County Commissioners per Resolution #R20080511 on 11/24/08

Hearing Date: August 15, 2025

Testifying Parties of Record:

Thomas Wenzl
Skagit County Planning & Development Services
1800 Continental Place
Mount Vernon, WA 98273

Jeremy Kredlo
47424 State Route 20
Concrete, WA 98237

Leah Forbes
Skagit County Planning & Development Services
1800 Continental Place
Mount Vernon, WA 98273

Hearing Examiner Exhibit List:

1. Administrative Order to Abate Violation, *issued* 4/9/25
2. Photos
3. Investigator Reports
4. NOV to Morey
5. Pre-Dev Notes
6. NOV Kredlo
7. Follow up letter Kredlo
8. Certified Mail Confirmation
9. Critical Area Review
10. Fish and Wildlife Review
11. Kredlo Appeal Docs
12. Staff Report, *filed* 7/18/25

II.

The Appellant, Jeremy Kredlo, owns the property at 47424 State Route 20, an area zoned Rural Reserve.

On 5/4/2023, Leah Forbes in the Natural Resources Department, reported to the Code Enforcement Unit, that she had discovered an elevated cabin that was built by an unknown party within the Shoreline Buffer of Jackman Creek. Jackman Creek is a Type-S water body.

Photographs of the structure show it is a fully enclosed, elaborate tree house estimated to be 8-10 feet above the ground based on how many steps are present to reach the elevated deck.

The structure is an unpermitted structure and approximately 45 feet from Jackman Creek. Research revealed that not only did this structure violate building codes, but it also violates the Shoreline and Critical Area Ordinances. A letter was sent by the Department to the property owner at the time, Lorrie Morey, on 5/4/2023, informing her of the violation, and gave her until 6/4/2023 to contact our office.¹

On 5/18/2023, Jeremy Kredlo requested a pre-development meeting when considering purchasing this property. During that meeting, the Department brought to Kredlo's attention that both this 'tree house' and a composting toilet were constructed within the buffer of Jackman Creek and would have to be removed. These comments were outlined in Leah Forbes's report for this meeting, a copy of which was supplied to Mr. Kredlo at the meeting. At the time of the meeting Mr. Kredlo had not purchased the property but was under contract to purchase the property.² Prior to this meeting, Mr. Kredlo had been assured by the seller or their agents that all buildings and activity on the property was permitted.

When 6/4/2023 came and there had been no response from Ms. Morey, additional research revealed that Mr. Kredlo had gone forward purchasing the property on 5/22/2023. On 7/23/2023, a letter was sent to Kredlo to address the Treehouse violation. In the letter, it was outlined to Mr. Kredlo, that the cabin/treehouse would need to be removed, reiterating the information presented at the pre-development meeting.

In November of 2023, Kredlo applied for a Critical Area Review, which triggered a Fish & Wildlife Habitat Assessment. In this assessment, the treehouse is specifically mentioned as being in the 200 foot buffer of a Type S stream. It further is notated on the diagrams.

¹ Ex. 4

² Testimony of Kredlo at hearing

Continued conversations with Mr. Kredlo about moving, or removing the structure stalled, and in April of 2025, and Administrative Order to Abate the violation was sent by certified mail. Mr. Kredlo signed for this Order and filed a timely appeal.

Mr. Kredlo currently does not have a permit to run a primitive campground, but does use the property in an economic manner, including renting the “treehouse” in question here, which is award winning.³

III.

The Skagit County Planning and Development Services Staff (the “Department”) have recommended approval of the requested Special Use Permit in a “Staff Report re: Appeal of Administrative Order” issued on 7/18/25 (“Staff Report,” **Ex. 12**).

The Applicant has contested the legal conclusions in the Staff Report’s findings or conclusions and argues that this order of abatement denies him reasonable use of the property.

The Findings of Fact and Conclusions of Law in the Staff Report, a copy of which is attached hereto and incorporated herein, are supported by the record as a whole and are hereby adopted and incorporated herein by this reference, except where explicitly contradicted by the findings herein.

IV.

No public comments were received by the Office of the Hearing Examiner prior to the hearing, or at the hearing itself.

V.

SCHE §14 grants parties the right to object to evidence and to cross-examine. In the case at hand, with full knowledge of the evidence being admitted, no objection by the applicant or the Department was made to any of the 12 exhibits that were admitted into the record.

VI.

Any Conclusion of Law below which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

³ *Id.*

CONCLUSIONS OF LAW

I.

In addition to or as an alternative to any other judicial or administrative remedy, the Director may order any person who creates or maintains a violation of SCC Title 14 or 15 to correct the violation; this is commonly known as an Order to Abate Violation.⁴ An Order to Abate Violation is an enforcement action which is an administrative order under SCC 14.44.⁵

Appeals of administrative orders issued per SCC 14.44 are Type 1 cases that appeals of which are heard by the hearing examiner.⁶ The appellants bear the burden of proving that the issuance of the order was clearly erroneous.⁷ To find the Department's decision clearly erroneous, the Hearing Examiner must be "left with the definite and firm conviction that a mistake has been committed."⁸

II.

There is a 200-foot stream buffer that surrounds Type S water bodies.⁹ Any construction withing said buffer without a permit is *prima facie* in violation of said buffer restrictions. There is no lawful preexisting use nor any variance or other permit on record. Consequently, the structure is in violation of the law.

Construction requires a building permit in Skagit County.

Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit.¹⁰

There is no record of building permit for this structure, and all evidence points to it having been built unlawfully.

⁴ SCC 14.44.140 and 14.44.340(1); e.g. Ex. 1

⁵ SCC 14.44.140 and 14.44.220(1)

⁶ SCC 14.06.150 (at "Administrative order issued per SCC Chapter 14.44") and 14.44.290

⁷ SCC 14.06.410(6)

⁸ Lauer v. Pierce County, 173 Wn.2d 242, 253 (2011) (*quoting* Phoenix Dev., Inc. v. City of Woodinville, 171 Wn.2d 820, 829 (2011)).

⁹ SCC 14.24.530(1)(c)

¹⁰ SCC 15.04.020(1); IBC (2021) 105.1

III.

The purpose of the Rural Reserve Zone (RRv) is to “allow low-density development and to preserve the open space character of those areas not designated as resource lands or as urban growth areas. Lands in this zoning district are transitional areas between resource lands and nonresource lands for those uses that require moderate acreage and provide residential and limited employment and service opportunities for rural residents.”¹¹ Bed and breakfasts, destination campgrounds, and primitive campgrounds are not permitted uses in the RRv but are Administrative Special Uses.¹² There is not currently a permit for this type of commercial activity allowed on the property.

The Order of Abatement does not deny the appellant a reasonable use of the property for any permitted use, including the appellant’s primary purpose for purchasing the property as a primary residence, which is a permitted use anticipated by the RRv zoning.

As the structure is not associated with a permitted activity, its removal does not attack the reasonable use of the property contemplated by the zoning, the secondary activities desired are regulated in this zone, and most importantly that the structure is unpermitted and in violation of both critical area and shoreline buffers, there is a *prima facie* case that the abatement action was proper and no mistake was made by the county; indeed, it seems like the appellants were given an enormous grace-filled completely discretionary amount of time to comply or relocate the structure.

IV.

The appellant, however, intentionally or not, has raised a potential defense to the lack of conformity with the current zoning and environmental regime, which is that of being a preexisting nonconforming use, commonly known as a “grandfathered” use.

A lawful preexisting nonconforming use is a “use of land, legally permitted or established at the time of the adoption of the ordinance...” that does not conform to the allowed uses; such uses “shall be permitted to continue.”¹³ Such uses are not allowed to expand or be altered.¹⁴

There is, however, no evidence of lawful permitted use.

¹¹ SCC 14.16.320(1)

¹² SCC 14.15.320(3)(a, b, c)

¹³ SCC 14.16.880(1)

¹⁴ SCC 14.16.880(1)(c)

Consequently, the current use is not a lawful preexisting nonconforming use.

V.

The Appellant argues that the costs are burdensome, and that he was obligated to go through with the purchase of the nonconforming property despite his foreknowledge prior to closing. The costs may be burdensome, but that is not a factor in the analysis. The appellant may have been damaged by reliance on misrepresentations in a contract with the seller of land, but that is not something the Office of the Hearing Examiner has jurisdiction over.

Extended survey of testimony in the hearing revealed that there are potentially unexplored possibilities, but that they would more than likely incur additional costs beyond what the appellant has already explored; that is, unfortunately, a fact outside of the control of the Department or the Office of the Hearing Examiner. These may be costs that the Appellant faces, but they are either the result of the seller's actions/representations and/or Kredlo's own actions.

As a warning, however, it may be in Kredlo's best interests to abate on his own terms on a timeline agreed upon with the Department, as the Department has the power "abate the violation itself and charge the costs of abating the violation as a public nuisance lien against the property."¹⁵

VI.

Any Conclusion of Law deemed to be a Conclusion of Fact is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

The Appeal of the Administrative Order to Abate numbered CE23-0004 is denied.

As a matter of discretion, in recognition of the hardship, the \$100/day fines on the Order of Abatement will not start accumulating until September 1, 2025.

ABATEMENT WARNINGS

See generally SCC 14.14 and the Disclosures in the Administrative Order to Abate Violation.¹⁶

¹⁵ SCC 14.44.340(4)

¹⁶ Ex. 1

NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF THE HEARING EXAMINER

This action of the Hearing Examiner is final.

The applicant, any party of record, or any county department may appeal any final decision of a hearing examiner.

- A.** Type 1 decisions are appealed to Skagit Superior Court, pursuant to the provisions of SCC 14.06.150-1; Appeals to the Superior Court must be filed with the Superior Court within 21 calendar days of the final decision of a hearing examiner pursuant to RCW 36.70C.040(C).
- B.** Type 2 and 3 decisions are appealed to the Skagit County Board of Commissioners, pursuant to the provisions of SCC 14.06.150-1; Appeals to the Skagit County Board of Commissioners require filing of a written notice of appeal within 14 calendar days of the final decision of a hearing examiner for most decisions, *but* Shoreline permit decisions require filing a notice of appeal within five days of the decision per the same ordinance as provided in SCC 14.06.410(3).

More detailed information about reconsideration and appeal procedures are contained in the Skagit County Code Title 14.06 and which is available at <https://www.codepublishing.com/WA/SkagitCounty/>

DATED this 17th day of August 2025



Rajeev D. Majumdar
Skagit County Hearing Examiner