

PROTECTIVE APPEAL MEMORANDUM

PLAN1-2026-0089 | Skagit County Shoreline Exemption

To: Skagit County Hearing Examiner, through Planning and Development Services

Decision: July 10, 2026

Appellants: Quinn Damerell and Adam Bowman

Address: 23397 Coots Cove Lane, Mount Vernon, WA 98274

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Project: New dock at 18141 West Big Lake Boulevard, parcel P62014

Appeal: July 10, 2026 shoreline exemption, PLAN1-2026-0089

I. Standing, timeliness, and standard

Appellants state that their families co-own and occupy parcel P62019 immediately south of the project. They submitted written comment identifying setback, collision, navigation, and environmental concerns and expressly requested party-of-record status. They now provide a complete address and request confirmation that the comment, portal account or transmittal information, and this filing establish party-of-record status. Independently, the adopted Shoreline Master Program (“SMP”) authorizes any person aggrieved by a statement of exemption to seek Hearing Examiner review. (Ex. 2, Public Comment at 1–2; SMP § 9.11; SMP § 13.01(2).)

A shoreline exemption is a Type 1 decision appealable to the Hearing Examiner in an open-record appeal. Current SCC 14.06.410(3) requires filing within 14 days after the date of decision when no notice of decision is required, together with the appeal fee. Although SMP § 13.01(2) states 15 days, Appellants file within the shorter period. The appeal is timely if received with the fee by 4:30 p.m. on July 24, 2026. A timely appeal stays the exemption decision while the appeal is pending. (SCC 14.06.150 and 14.06.410; Ord. O20250005, Ex. A at 29–30; County fee schedule.)

The appeal should be sustained because the exemption is clearly erroneous on the supplied record. Missing items identified below are absent from the seven project PDFs supplied through the County portal; Appellants request production of anything else the County relied upon.

II. Summary of requested decision

The applicant did not carry the burden of proving a shoreline exemption. The County should reverse and vacate PLAN1-2026-0089 because:

1. The only project value in the application is an unsupported \$12,575 figure, while an independent contractor quote for the submitted design is approximately \$32,000—well above the operative \$13,900 ceiling.
2. No licensed survey establishes the 8-foot setbacks, lawful waterward boundary lines, ordinary high-water mark (“OHWM”), or safe clearance from Appellants’ existing dock and later-added boat lift.

3. No inventory or average establishes the maximum dock length required by SMP § 7.10.2.B(5)(a).
4. The JARPA says SEPA is pending; the ordinary minor-new-construction exemptions do not apply to new work on lands covered by water; and no other SEPA basis appears in the supplied record.
5. The application, plan, habitat report, and approval describe materially different project scopes.
6. The habitat report uses six-year-old, data-free field work, nonoperative proposed Skagit provisions, and Whatcom County law; no required County site inspection or checklist appears; and the report directly conflicts with the approval's planting condition.
7. The supplied record contains no certification or authorization from one of the two deeded owners.
8. The proposed 8-inch steel piles exceed WDFW's stated 6-inch residential-dock design recommendation without explanation, and the plans do not identify the required anti-perching devices.
9. Aquatic-land ownership, prior rights, navigation, and agency authorization remain unresolved, and the two-page approval contains no findings that bridge these gaps.

III. Grounds for appeal

1. The fair-market-value record does not support an exemption

For a new private freshwater dock, the operative indexed exemption ceiling is **\$13,900**. The applicant bears the burden, and shoreline exemptions must be construed narrowly. "Fair market value" is the open-market bid price for completing the development from start to finish, including labor, materials, equipment and facilities, transportation, contractor overhead and profit, and donated or contributed items. (RCW 90.58.030(3)(e)(vii); WSR 23-13-012; WAC 173-27-030(8); WAC 173-27-040(1)(a), (c).)

The JARPA states exactly **\$12,575** but supplies no bid, itemization, source, assumptions, or staff calculation. (Ex. 4, JARPA at 6, 13.) The approval repeats a superseded statutory passage containing the unadjusted \$10,000 base amount and an obsolete later-construction-over-\$2,500 clause, yet makes no finding under the current indexed threshold or regulatory definition. (Ex. 1, Approval at 1.) The current statute retains a \$10,000 base but requires indexing and no longer contains that \$2,500 clause; the approval's quotation is therefore not current law. (2014 Laws, ch. 23, § 1.)

Appellants have obtained an independent contractor quote of approximately **\$32,000** based on the submitted Viking Marine drawings. (Ex. 8, Email from Boat Lifts International, Jeff Prestmo, Founder.) If authenticated and based on a comparable scope, that quote independently exceeds the ceiling without depending on disputed treatment of demolition or restoration work. The approved access ramp and landing are integral to the dock proposal and must be included in any genuinely comparable dock valuation. Separately, the demolition, pocket-beach/restoration, stabilization, and planting work must be evaluated as additional project components under the whole-project rule discussed in Ground 5, rather than silently omitted from the authorized scope. The exemption should be vacated. If the authenticated market evidence establishes that the dock's fair market value exceeds \$13,900, an SSDP is

required; at minimum, the matter must be remanded for a supported valuation of one complete and coherent project.

2. No reliable survey proves setbacks, lawful location, or safe navigation

The applicant's deed describes the shoreline access tract as the **southerly 20 feet**. (Ex. 3, Deed at 3.) SMP § 7.10.2.B(4)(b) requires an 8-foot setback from each side property line. A 4-foot dock between two 8-foot setbacks on a 20-foot strip consumes the entire nominal width, leaving no demonstrated allowance for boundary uncertainty, nonparallel waterward lines, piles, hardware, or overhang. (SMP § 7.10.2.B(4)(b).)

The Viking plan labels OHWM "APPROX." and states that lot boundaries and buildings came from the deed and County assessor GIS. It is not a licensed boundary, OHWM, bathymetric, or riparian/littoral survey; it does not dimension both setbacks or plot Appellants' boat lift. (Ex. 6, Viking Plan at 1–2.) HCA Figure 4 depicts the proposal extremely close to, and apparently conflicting with, a feature in Appellants' moorage area. The figure is not a survey and does not prove an intersection, but it makes approval without surveyed clearance unreasonable. (Ex. 7, HCA at 15, fig. 4.)

The SMP requires the dock's location relative to property lines and OHWM and prohibits a location that hazards navigation or materially interferes with normal water use. (SMP § 7.10.2.B(2), (14).) Approval should be reversed or remanded for a licensed survey plotting OHWM, deed lines and the legally proper waterward boundaries, all piles and structural extremities, adjacent docks/lifts, bathymetry, setbacks at shore and lakeward ends, and usable navigational clearance.

3. The required 300-foot average-length analysis is absent

Where docks exist within 300 feet of the side property lines, a private dock may be no longer than the average length of those docks measured from OHWM. The application also must identify aquatic-land ownership, the proposal's position relative to property lines and OHWM, and the location and length of docks on adjacent properties. (SMP § 7.10.2.B(2), (5)(a).)

The record contains no 300-foot inventory, measurement table, average, or comparison supporting 60 feet. The HCA supplies only two "bounding" measurements—66 feet north and 63.5 feet south—and does not purport to identify every dock within 300 feet or calculate the required average. (Ex. 7, HCA at 5, 15.) The HCA also treats a 4-by-14-foot ramp as separate from a 60-foot dock, while the approval ambiguously says the 60-foot project "will include" a ramp and landing. (Ex. 7, HCA at 4, 14–15; Ex. 1, Approval at 1.) The County could not make a lawful length finding on this record.

4. The record does not establish SEPA compliance

The JARPA marks SEPA as pending, leaves the lead agency blank, and gives an expected date of May 2026; the approval does not identify a threshold determination or other SEPA disposition. (Ex. 4, JARPA at 13; Ex. 1, Approval at 1–2.) Big Lake below OHWM is "lands covered by water." The ordinary minor-new-construction exemptions in WAC 197-11-800(1) and (2) do not apply when a project is wholly or partly on such lands, and subsection (3)'s limited overwater repair/replacement language does not naturally cover a brand-new 60-foot dock. (WAC 197-11-756(1); WAC 197-11-800(1)(a)(i), (2)(a)(i), (3).)

WAC 197-11-305(2) does not require an agency to document a genuine categorical exemption, so silence alone is not Appellants' claim. The defect is that the application itself says review was pending, no applicable exemption is apparent, and the obvious minor-construction exemptions are unavailable. Physically or functionally related dock, ramp, demolition, beach, and mitigation work also may not be segmented into exempt and nonexempt actions. (WAC 197-11-305(1)(b), (2).)

Unless the County identifies a valid categorical or statutory exemption and its factual basis, a documented threshold determination was required. (WAC 197-11-310(1), (5).) SCC 14.06.150(3)(a) requires a project otherwise processed as Type 1 to receive Type 2 or higher review when SEPA review is required. The exemption should be vacated and remanded for the legally correct SEPA and notice process.

5. The County did not review one complete, coherent project

The application, JARPA, and Viking plan describe only a 4-by-60-foot dock with eight 8-inch piles. (Ex. 4, JARPA at 5–6, 9; Ex. 5, Shoreline Application at 3; Ex. 6, Viking Plan at 1–2.) The HCA adds a separate 4-by-14-foot ramp, removal of a deck, block wall and footings, and a 178-square-foot pocket beach. (Ex. 7, HCA at 4, 7, 14–15.) Approval conditions then require removal, stabilization, restoration, and ten live stakes, while also referring to a ramp and landing. (Ex. 1, Approval at 1–2, conditions 4–5.)

Shoreline “development” includes piling, construction, filling, and related obstruction. Removal is excluded only when there is no associated development or redevelopment; here it is expressly tied to the new dock and shoreline restoration. (WAC 173-27-030(6).) If any component of the proposed development is not independently exempt, an SSDP is required for the entire project. (WAC 173-27-040(1)(d).) At minimum, the inconsistent scopes prevent the supplied record from reliably supporting the valuation, length, SEPA, and habitat determinations and require review of one definitive plan.

6. The habitat assessment is unreliable, and its planting conclusion conflicts with the approval

The HCA's Skagit citations are not merely outdated numbering. It cites “SCC 14.26.420” and “SCC 14.26.720” as governing shoreline provisions, but those sections derive from Ordinance O20220010, the County's proposed 2022 Shoreline Master Program update. O20220010 provides that the amendments become effective only 14 days after Ecology's final action, and Ecology continues to list the Skagit County Coalition update as “In Review,” with no final approval or effective date. Under RCW 90.58.090(7), an SMP amendment does not become effective until 14 days after Ecology's written final action. (Ord. O20220010 §§ 3–5 at 3; Ecology, Active SMP Amendments—Skagit County Coalition; RCW 90.58.090(7).)

Current SCC Chapter 14.26 concerns parking and contains no §§ 14.26.420 or 14.26.720; SCC 14.48.010 instead points to the County's Shoreline Master Program, whose operative dock standards remain SMP § 7.10. The HCA additionally relies on WCC 16.16.760, WCC 16.16.265, and WCC Title 23—Whatcom County authorities—for this Skagit County project. (Ex. 7, HCA at 3, 8.) Thus, the HCA's compliance conclusions were framed under both nonoperative proposed Skagit provisions and another county's code, while the supplied record contains no comparable analysis under operative SMP § 7.10. This does

not automatically void every factual observation in the report, but it materially undermines the report's ability to support the County's legal-compliance finding.

The HCA relies on a February 2020 visit, approximately six years before the application, and says it recorded no habitat data because it considered the upland habitat and absence of wetland conditions obvious. It supplies no reproducible OHWM field notes, elevations, datum, surveyed points, current aquatic survey, or bathymetry. (Id. at 4–6.) It lists salmonids potentially present while the JARPA answers ESA and Priority Habitat and Species questions "Unknown." (Id. at 6; Ex. 4, JARPA at 12.) Appellants do not contend that every fish-and-wildlife habitat assessment automatically expires after five years. The more direct defect is that SCC 14.24.080(5)(c)(ii)–(iii) requires scientifically valid field reconnaissance, identification and characterization of critical areas and buffers, analysis of direct, indirect, and cumulative impacts, and application of the mitigation sequence; SCC 14.24.520 requires analysis of affected habitat functions and values and buffer functions. The report's six-year-old, data-free visit does not establish those requirements for the 2026 project without additional current evidence. (SCC 14.24.080; SCC 14.24.520.)

SCC 14.24.080(2)(c)(ii)(C)–(D) separately requires the Director, during standard critical-areas review, to inspect the site and complete a Critical Areas Inspection Checklist. Neither the County inspection nor the checklist appears in the supplied record. (SCC 14.24.080.) The County should produce those materials. If they do not exist, the exemption lacks the required critical-areas review and should be vacated and remanded for a current assessment; the consultant's 2020 visit is not a substitute for the Director's required review.

Most directly, the HCA states that the narrow corridor "precludes a planting strategy," while approval condition 5 requires at least ten red-osier dogwood or native willow stakes on both sides of the ramp/landing. (Ex. 7, HCA at 9; Ex. 1, Approval at 2.) The record does not explain where those stakes can be placed, whether they will survive, or how an infeasible strategy became mandatory mitigation.

The operative SMP reinforces the need to consider less intrusive alternatives. SMP § 7.10.1.A(3) encourages multiple use and expansion of existing docks over proliferation of new facilities; § 7.10.1.A(4) states that shoreline developments proposing new docks should provide common or joint-use facilities; and § 7.10.1.A(7) prefers mooring buoys where docking facilities are unavailable or insufficient. (SMP § 7.10.1.A(3), (4), (7).) These policies do not compel Appellants to share their dock, convey consent or an easement, or automatically prohibit a new individual dock. They do, however, support reasoned evaluation of whether existing or voluntarily shared moorage, a buoy, a shorter dock, relocation, or another less intrusive design could meet the applicant's needs without constructing an additional overwater structure. No such analysis appears in the supplied record. The supplied HCA cannot reliably support reapproval without a current, corrected, Skagit-specific assessment applying the mitigation sequence to one final surveyed design.

The County also cannot rely selectively on proposed SCC 14.26.420. Without conceding that Ordinance O20220010 is operative, proposed SCC 14.26.420(4)(b)(iii)(C) states that an individual dock on an existing lot is allowed only if the applicant demonstrates that all other reasonable community or joint-use options have been investigated and found infeasible. That proposed development standard would apply whether the project were processed through an SSDP or an exemption: proposed SCC 14.26.400(3)(a) and (4) apply Part IV standards to both routes, proposed SCC 14.26.405(1)(a) defines

“SD/E” accordingly, and the use matrix classifies an individual dock as “SD/E.” (Ord. O20220010, Ex. 1, proposed SCC 14.26.400, .405, and .420, PDF pp. 86–88, 103.) The application describes a private dock serving one residence, yet the supplied record contains no investigation of reasonable community or joint-use options, voluntary shared-moorage outreach, or finding that those options are infeasible. If the County contends proposed SCC 14.26.420 supplies the governing or validating standard for the HCA, the record fails that same section. If the County disclaims it as nonoperative, the HCA’s reliance on it cannot establish compliance with operative law. This alternative argument neither obligates Appellants to share nor conveys consent, access rights, or an easement.

7. The supplied record does not establish authorization from both deeded owners

The recorded deed conveys parcel P62014 to **Gennadiy Darakhovskiy and Lada Darakhovskaya**. (Ex. 3, Deed at 1.) The shoreline application and JARPA identify Gennadiy as the owner/applicant; the JARPA leaves the multiple-owner box unchecked and the separate property-owner signature block blank. Gennadiy signed as applicant/owner and Jay Irwin signed as agent, but no Lada authorization appears in the supplied record. (Ex. 4, JARPA at 1–2, 14; Ex. 5, Shoreline Application at 4–5.)

SCC 14.06.230 requires certification that the applicant exclusively owns all subject property or authorization from the owners to apply as their agent. It does not necessarily require Lada’s personal signature if a valid separate authorization or existing submitted document satisfies the requirement, and the Director may waive an application item when the code’s waiver standard is met. The County should produce the certification or authorization it accepted—or identify the specific waiver and factual basis. (SCC 14.06.230; Ord. O20240005, Ex. A at 17.) Without one of those showings, the supplied record does not establish a complete application.

8. Eight-inch piles and the incomplete HPA record require further review

The JARPA says an HPA is required, but no issued HPA appears in the supplied record. (Ex. 4, JARPA at 13.) The plan proposes eight 8-inch steel piles. WDFW’s freshwater-dock rule requires the mitigation sequence and the smallest diameter and number of piles needed for a safe structure and states that residential steel piles “should not exceed six inches in diameter.” (WAC 220-660-140(3)(a), (4)(a)–(b).)

“Should not exceed” is not an absolute prohibition; WDFW may accept a supported alternative. But neither the plan nor HCA explains why 8-inch piles are necessary, how they are the smallest safe option, or how the design follows the mitigation sequence. This undercuts the HCA’s assertion of WDFW compliance and requires agency review and a reasoned design determination before construction.

The same rule also provides that “[a]ll pilings must be fitted with devices to prevent perching by fish-eating birds.” (WAC 220-660-140(4)(e).) Neither the JARPA nor HCA identifies such devices, and the Viking sheets do not label or specify them; Sheet 2 merely depicts approximate “pile and pile cap spacing.” (Ex. 4, JARPA at 5; Ex. 6, Viking Plan at 1–2; Ex. 7, HCA at 3–4.) The omission is material to the HCA’s own analysis because the report says potential salmonid-predator habitat will be minimized through WDFW design standards. (Ex. 7, HCA at 7.) Because this requirement is administered through the HPA process—and no issued HPA appears in the supplied record—the record does not establish compliance. WDFW should determine whether the proposed pile-cap configuration prevents perching or require explicit compliant devices in the final HPA-approved design.

9. Aquatic-land ownership and prior rights remain unresolved, and the approval supplies no responsive findings

The SMP requires disclosure of tideland, shoreland, or bedland ownership. If the footprint is on state-owned tidelands or shorelands, the SMP states that no permit or exemption may issue without a DNR lease. (SMP § 7.10.2.B(1)–(2).) The deed does not establish lakebed ownership and expressly preserves issues involving lateral aquatic boundaries, shifting water boundaries, state/public rights, and private riparian rights. (Ex. 3, Deed at 5.) The JARPA ambiguously states that the owner “holds lease rights to dock property,” does not clearly identify DNR-managed land, leaves DNR Aquatic Use Authorization unchecked, and supplies no DNR instrument. (Ex. 4, JARPA at 2–3, 13.)

State law may allow a qualifying abutting residential owner nonexclusive, no-charge permission on available state aquatic land, but only if no prior rights exist and all other laws are met. DNR can investigate availability and can revoke or relocate a dock that significantly interferes with navigation or adjacent upland access; the rule creates no aquatic boundaries. (RCW 79.105.430(1), (3); WAC 332-30-144(4), (5), (8).) Thus, state ownership or denial is not established—but neither is the applicant’s right to occupy the proposed footprint.

The approval offers only a generalized consistency conclusion and does not resolve valuation, SEPA, the 300-foot average, exact setbacks, navigational clearance, owner authorization, aquatic-land status, the project-scope conflicts, or the HCA contradictions. (Ex. 1, Approval at 1–2.) The JARPA also misspells Quinn’s name, combines the Mount Vernon street address with an Issaquah city/ZIP, and omits Adam, further showing an unreliable record. (Ex. 4, JARPA at 3.) These cumulative omissions leave a definite and firm basis to conclude that the exemption was issued in error.

IV. Evidence and open-record appeal

Because a Type 1 decision receives an open-record Hearing Examiner appeal, Appellants request admission of the contractor quote, any supporting contractor declaration or itemization, a declaration explaining the navigation concern, historical aerials and photographs, the comment-submission receipt, and any survey or agency correspondence obtained before the hearing. (SCC 14.06.150.) The approximately \$32,000 quote is directly relevant to whether the exemption exists and was not included in the limited, no-notice Type 1 record before approval.

Appellants also request the complete administrative record, including all valuation materials; SEPA records; owner certifications; survey/OHWM material; 300-foot measurements; HCA field notes; County site-inspection records and the Critical Areas Inspection Checklist; joint-use alternatives or infeasibility materials; DNR, WDFW/HPA, Corps, tribal, and Ecology correspondence; all plan versions; staff notes and communications; portal metadata; and proof of how the decision and appeal information were transmitted. Appellants reserve the right to refine or supplement these grounds as allowed after production.

V. Relief requested

Appellants respectfully request that the Hearing Examiner:

1. **Reverse and vacate** the July 10, 2026 approval of PLAN1-2026-0089.
2. Determine that, if the authenticated comparable market evidence establishes a dock value above \$13,900, the applicant has not carried the burden of proving a shoreline exemption and an SSDP is required.
3. Alternatively, remand with instructions that no reapproval occur without:
 - a supported fair-market-value determination for one complete project;
 - a licensed boundary, OHWM, waterward-boundary, bathymetric, and navigation survey;
 - the complete 300-foot dock inventory and average;
 - an identified SEPA exemption with its basis or a documented threshold determination and correct review process;
 - a single final plan covering the dock, ramp/landing, piles, demolition, beach work, stabilization, and planting;
 - a current, corrected habitat and mitigation-sequence analysis, supported by the required County inspection and checklist, that resolves planting feasibility, pile size, and anti-perching treatment;
 - the certification or authorization required from both deeded owners;
 - a determination of aquatic-land ownership, availability, prior rights, and any DNR requirements; and
 - all required WDFW/HPA and other agency approvals before construction.
4. Confirm that the timely appeal stays the shoreline exemption and that no construction may proceed while the stay remains effective.
5. Correct Appellants' names and address in the record, confirm their party/aggrieved status, and provide notice of all further proceedings.
6. Grant such other relief as is necessary to protect Appellants' property, riparian/littoral access, navigation, safety, and procedural rights.

VI. Conclusion

The applicant bears the burden of establishing the exemption and compliance with all operative shoreline requirements. The supplied record does not establish a supported value, lawful surveyed location and length, SEPA disposition, one complete project, current and legally correct critical-areas analysis, owner authorization, WDFW-compliant design, or aquatic-land authority. Considered individually and cumulatively, these defects require reversal and vacatur or, at minimum, remand with no construction until the applicant supplies a complete, surveyed, current, and legally compliant record. Appellants respectfully request the relief stated above.

VII. Verification and signatures

Each undersigned declares under penalty of perjury under the laws of the State of Washington that he has read this appeal; factual statements made from personal knowledge are true and correct; and statements based on the cited record are believed to be true and correct.

Signed at 14840 119th NE PL, Kirkland, Washington, on July 23rd, 2026.

 Quinn Damerell

 Adam Bowman

Exhibit list

1. July 10, 2026 shoreline exemption approval
2. Damerell/Bowman public comment and portal/email submission confirmation
3. Applicant's recorded deed, AFN 202506130031
4. JARPA
5. Shoreline Exemption Application
6. Viking Marine site/dock plan dated April 27, 2026
7. HCA Assessment Report dated May 11, 2026
8. Independent contractor quote; Email from Boat Lifts International's Founder/CEO Jeff Prestmo.
9. September 1968 aerial;
10. Google Maps images taken on 7/23/2026 showing ~6 docks within ~300 ft of the Applicant's property lines.

Principal authorities

- RCW 90.58.030(3)(e)(vii); WSR 23-13-012
- RCW 90.58.090(7); Ord. O20220010 §§ 3–5; Ecology, Active SMP Amendments
- WAC 173-27-030; WAC 173-27-040
- WAC 197-11-305; WAC 197-11-310; WAC 197-11-756; WAC 197-11-800
- WAC 220-660-140
- RCW 79.105.430; WAC 332-30-144
- SCC 14.06.150, 14.06.230, and 14.06.410
- SCC 14.24.080 and 14.24.520
- Skagit County SMP Chapter 7, § 7.10; Chapter 9, § 9.11; Chapter 13, § 13.01(2)