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BEFORE THE SKAGIT COUNTY BOARD OF COMMISSIONERS

In the matter of the Appeal of
Predators of the Heart
of the Hearing Examiner's denial of
Special Use Permit No. PL22-0133

No. PL23-0478

**NEIGHBOR PARTIES' RESPONSE TO
PREDATORS' APPEAL BRIEF**

1 Parties of Record Edward and Lynne Borlin, David and Pamela Knutsen, Nolan Berlin
2 and Millicent Swietzer, and Kevin and Jenny Welch (the “Neighbor Parties”) respectfully
3 submit this brief in response to Predators of the Heart’s (“Predators”) appeal of the Skagit
4 County Hearing Examiner’s (“Hearing Examiner”) denial of Special Use Permit No. PL22-
5 0133 (the “Decision”).
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10 The issue before the Hearing Examiner at the Special Use Permit hearing was whether
11 Predators’ Special Use Permit application satisfied all applicable special use criteria under the
12 County Code. *See* SCC 14.16.900. The Hearing Examiner correctly decided that Predators’
13 Special Use Permit application failed to show compliance with the County Code, and that
14 Predators’ proposed use in fact *violates* the County Code. Here, Predators’ appeal fails to meet
15 the “clearly erroneous” standard as required by the County Code. SCC 14.06.120(11). The
16 Skagit County Board of Commissioners (“Commissioners”) should deny Predators’ appeal
17 and affirm the Hearing Examiner’s Decision of denial.
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26 STANDARD OF REVIEW

27 The procedures for the Commissioners’ review are found in County Code
28 14.06.120(11). Predators’ appeal must be “processed as a closed record appeal, pursuant to
29 the provisions of SCC 14.06.170.” SCC 14.16.120(11). Predators has the burden of proof and
30 can only succeed if it shows that the Hearing Examiner’s Decision was “clearly erroneous.”
31 *Id.* (The Commissioners cannot overturn the Hearing Examiner’s Decision “unless they find
32 that it is clearly erroneous.”). Under Washington law, a decision is clearly erroneous if it
33 leaves the Commission with “a definite and firm conviction that a mistake has been commit-
34 ted.” *City of Federal Way v. Town & Country Real Estate, LLC*, 161 Wn. App. 17, 42, 252
35 P.3d 382 (2011). Here, Predators fails to establish such a mistake. The Hearing Examiner’s
36 Decision correctly interprets the relevant County Code and state statutes pursuant to the plain
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1 meaning of these provisions. *Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 9,
2 43 P.3d 4 (2002). Predators, on the other hand, urges the Commissioners to adopt its strained
3 interpretations that would lead to absurd results. *State v. Votava*, 149 Wn.2d 178, 186-87, 66
4 P.3d 1050 (2003) (denying a statutory interpretation that would lead to “unlikely, absurd, or
5 strained” results). The Commissioners should deny Predators’ appeal and uphold the Hearing
6 Examiner’s Decision.
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12 PROCEDURAL BACKGROUND

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14 Predators has been operating for over twenty years in the face of neighborhood and
15 County legal challenges. To operate legally, Predators must secure a Special Use Permit be-
16 cause its proposed use is not categorized as a permitted use under the County Code. SCC
17 14.16.320. Predators, as the applicant, had the burden of satisfying enumerated criteria to se-
18 cure a Special Use Permit. SCC 14.16.900(1)(b)(v). For example, Predators must establish
19 that its proposed use:
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- 26 1. Complies with the Skagit County Code.
- 27 2. Will be compatible with existing and planned land use.
- 28 3. Will not cause potential adverse effects on the general public health, safety, and
29 welfare, is not in conflict with the health and safety of the community, and will not
30 adversely affect public services to the surrounding areas.
31 4. Will not create undue noise, odor, heat, vibration, air, or water pollution impacts
32 on surrounding, existing, or potential dwelling units.
33 5. Will not generate intrusions on privacy of surrounding uses.
34 6. Will maintain the character, landscape, and lifestyle of the rural area.

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45 See SCC 14.16.900(1)(b)(v)(A)-(E), (G)-(I).
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1 The Hearing Examiner correctly decided that Predators’ proposed use fails to comply
2 with the County Code because Predators could not satisfy any exception to the prohibition for
3 possessing potentially dangerous wild animals. Under the County Code, “[a] person may not
4 own, possess, keep, harbor, bring into the County, or have custody, control of any potentially
5 dangerous wild animal within the unincorporated area of Skagit County.” SCC 7.04.030. The
6 County Code defines “potentially dangerous wild animal” to include “all animals listed in
7 RCW 16.30.010(2);” “all animals of the family Canidae (as dogs, wolves, jackals, or foxes)
8 and *their hybrids*;” and “all cougars.” SCC 7.04.010 (emphasis added). This prohibition does
9 not apply to “the persons and entities listed in RCW 16.30.020.” SCC 7.04.020.
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18 ARGUMENT

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21 Predators’ appeal requests the Commissioners overturn the Hearing Examiner’s Deci-
22 sion, ignore the plain meaning of several statutory exceptions, and twist the meaning of those
23 exceptions to comport with Predators’ illegal proposed use. The Commissioners should reject
24 Predators’ request because its interpretation of each statutory exception leads to an “unlikely,
25 absurd, or strained result[.]” *City of Yakima v. Godoy*, 175 Wn. App. 233, 236, 305 P.3d 1100
26 (2013). Instead, the Commissioners should uphold the Hearing Examiner’s Decision because
27 Predators fails to carry its burden under the clearly erroneous standard as required under the
28 County Code. SCC 14.06.120(11).
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37 **A. The Hearing Examiner correctly interpreted the Animal Control Excep-**
38 **tion; Predator’s interpretation renders the exception meaningless and**
39 **leads to absurd results.**
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41 Predators asserts that the Hearing Examiner “erred by interpreting” the Animal Con-
42 trol exception “to require each [potentially dangerous wild animal] possessed by [Predators]
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1 to be housed at the written request of animal control.” Predator’s Br. at 7 (emphasis in origi-
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3 nal). Predators’ assertion is both factually and legally incorrect.

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5 The Animal Control Exception under RCW 16.30.020(1)(c) provides an exception to
6
7 the County’s ban on owning potentially dangerous wild animals to those

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9 [d]uly incorporated nonprofit animal protection organizations,
10 such as humane societies and shelters, housing an animal at the
11 written request of the animal control authority or acting under
12 the authority of this chapter.
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15 As correctly decided by the Hearing Examiner, there are no facts in the record to support
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17 Predators’ argument for several reasons. First, the evidence in the record plainly shows that
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19 every single wolf (or as Predators calls them, “wolfdogs” or wolf-hybrids¹) and “at least some
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21 of the cougars” were born at Predators’ facility. Hearing Examiner Decision at 85. Second,
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23 Predators has “no documentation” of any written request from an animal control authority
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25 granting Predators permission to house the wolves or cougars—of course because these po-
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27 tentially dangerous wild animals were born and bred at Predators’ facility. *Id.*

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29 Predators’ requested statutory interpretation twists the plain language of the exception
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31 into an absurd result and urges the Commissioners to disregard the written words of the ex-
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33 ception. Predators argues “that an organization is exempt if it houses ‘an animal,’ singular, at
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35 the written request of animal control.” Predator’s Br. at 7. That is, if Predators receives one
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37 single animal at the written request of animal control, it opens the gates to allow Predators to
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39 possess the same animal from any other source. *Id.* This interpretation renders the exception
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41 meaningless.
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44 ¹ There is no evidence in the record, other than Ms. Carr’s own testimony, that the wolves in question
45 are *actually* wolf-hybrids or “wolf dogs”. The record does not contain any information relating to the
46 genetic testing for these wolves. As a result, it is unclear whether the wolves are indeed wolf-hybrids
47 as Ms. Carr suggests.

1 The statute is clear—the exception applies *only* to the specific potentially dangerous
2 wild animal housed at the written request of animal control “or acting under the authority of”
3 Chapter 16.30 RCW.² RCW 16.30.020(1)(c). The Hearing Examiner’s Decision correctly
4 concurs with this interpretation. Hearing Examiner Decision at 85 (“[T]he Hearing Examiner
5 interprets the rescue exception’s use of the phrase ‘housing an animal’ to mean that the ex-
6 ception applies only during the housing of a particular animal and only to that animal.”). The
7 reference to “an animal” in the statute does not, as Predators has argued, mean that someone
8 can breed and lawfully possess dozens of banned animals simply because it managed to secure
9 a single animal from the authorities. Ex. 7 at 3; *see City of Yakima*, 175 Wn. App. at 236
10 (“[We] cannot read a statute in a way that renders unlikely, absurd, or strained results.”). Pred-
11 ators’ interpretation would “open such a wide loophole in the dangerous animal regulations.”
12 Hearing Examiner Decision at 85.
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25 Predators cannot illegally breed and possess cougars and wolves and then claim to be
26 a “rescue organization” simply because it has accepted other animals, like parakeets and liz-
27 ards, from animal control authorities (which in all events were presumably unaware that Pred-
28 ators was operating without a permit, in violation of County law). *See* SCC 7.04.030(1). In
29 other words, that *some* of Predators’ many animals may have come from animal control does
30 not give it a free pass to violate the County Code by possessing home-grown wolves and
31 cougars.³
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² Predators also makes the argument that it “receives requests for transfers of animals from other facilities, as well as members of the public.” Predators’ Br. at 8. This activity falls outside of the statutory exception. The exception is quite simple and clear—Predators can *only* accept potentially dangerous wild animals at the “written request of animal control or acting under the authority of” Chapter 16.30 RCW. “Other facilities” and/or “members of the public” do not fall within this narrow exception.

³ At a minimum, therefore, Predators’ home-grown wolves and cougars are not covered by this exception. Hearing Examiner Decision at 85; *see, e.g.*, Ex. 2 at 12 (admitting in application that “[o]ur

1 **B. The Hearing Examiner correctly decided Predators is not a wildlife**
2 **sanctuary.**
3

4 Predators asserts that the Hearing Examiner incorrectly interpreted the Wildlife Sanc-
5 tuary exception in RCW 16.30.020(1)(g) and RCW 16.30.010(5) to apply to an entire facility
6 or organization rather than to certain parts of a facility or to certain programs. Predators again
7 incorrectly interpret the plain language of the exception.
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10 To qualify for the exception under RCW 16.30.020(1)(g), a “wildlife sanctuary” must
11 meet *all* aspects of the definition in RCW 16.30.010(5). Under this definition, a “wildlife
12 sanctuary” is a
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14 “nonprofit organization . . . that cares for animals defined as
15 potentially dangerous and:
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- 17 a) No activity that is not inherent to the animal’s
18 nature, natural conduct, or in the animal in its
19 natural habitat is conducted;
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21 b) No commercial activity involving an animal oc-
22 curs including, but not limited to, the sale of or
23 trade in animals, animal parts, animal by-prod-
24 ucts, or animal offspring, or the sale of photo-
25 graphic opportunities involving an animal, or
26 the use of an animal for any type of entertain-
27 ment purpose;
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29 c) No unescorted public visitations or direct con-
30 tact between the public and an animal; or
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32 d) No breeding of animals in the facility.”
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41 RCW 16.30.010(5)(a)–(d). This definition of “wildlife sanctuary” contemplates a “nonprofit
42 organization” that does not engage in *any* of the enumerated activities—Predators engages in
43 _____ (wolves are bred”); Ex. 56 at 18 (at least two of three cougars were bred, and none are housed at animal
44 control’s request).
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1 *all* of these activities. The definition does not, as Predators suggests, allow an organization to
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3 partition disqualifying animals and/or activities to then allow for the definition to apply to
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5 other parts of the same organization.

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7 The Hearing Examiner correctly interpreted the plain language of this exception and
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9 definition. If a *nonprofit organization* engages in *any* of the disqualifying activities listed in
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11 the definition, it cannot maintain sanctuary status. Hearing Examiner Decision at 87 (“The
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13 definition of wildlife sanctuary lists four categories of conduct in which an organization may
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15 not engage if it wishes to maintain its sanctuary status. Any conduct on this list disqualifies
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17 the organization as a whole from sanctuary status.”). The language in the definition contem-
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19 plates an entire organization by its use of the words “nonprofit organization,” as a wildlife
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21 sanctuary. There is nothing in the definition that would allow the wildlife sanctuary term to
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23 apply to certain parts of a nonprofit organization or to a nonprofit organization’s specific pro-
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25 grams but not to other parts or programs of that same nonprofit organization.⁴ Predators’ in-
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27 terpretation indeed *adds* language that does not exist in the statute.

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29 Nevertheless, the evidence in the record indisputably supports the Hearing Examiner’s
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31 Decision that Predators cannot qualify as a wildlife sanctuary under RCW 16.30.020(1)(g)
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33 and RCW 16.30.010(5). Allowing humans to “touch, photograph, and even howl with wolf
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35 dogs” is “not inherent to the animal’s nature.” Ex. 55; *see also* Ex. 45 (USDA citation for
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37 allowing “direct contact between the public and hybrid wolves”); Ex. 16 (2015 sworn
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40 ⁴ Predators attempts to argue that under the Hearing Examiner’s Decision, “even if a wildlife sanctuary
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42 engaged in a breeding program as part of an AZA species survival plan—its own exemption (RCW
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44 16.30.020(1)(b))—it would lose its sanctuary status.” Predators’ Br. at 10. This is a frivolous argument.
45
46 The exceptions in RCW 16.30.020(1) allow an organization to lawfully possess potentially dangerous
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wild animals. In Predators’ hypothetical, losing “sanctuary status” would not affect the organization
in question from possessing the potentially dangerous wild animals because another exception—as
pointed about by Predators, RCW 16.30.020(1)(b)—would still apply. Here, however, Predators can-
not meet *any* exception provided in RCW 16.30.020(1).

1 statement from County expert that “display[ing]” wolf-hybrids and cougars “in close proxim-
2 ity to humans . . . would not qualify as natural conduct”); Hearing Examiner Decision at 86
3 (Predators “has not met its burden to show that the petting and touching it offers during its
4 tours are part of a wolf-dog’s ‘natural conduct.’”). Predators’ Airbnb tours also involve both
5 “the sale of photographic opportunities” and “direct contact between the public and” wolves.
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See e.g., Ex. 59 at 5–6 (“Dave Coleburn proposed a money making idea of taking pictures of individuals with an animal [I]t was a great money making idea to create revenue for POTH.”). That is the whole point of Predators’ \$200/person “Howling with Ambassadors” tours. Ex. 55; see also Hearing Examiner Decision at 86-87 (“The tours [Predators] offers represent an exchange of money for the privilege of being in close physical proximity to an animal, perhaps even touching it.”). Lastly, Predators repeatedly reserved the right to continue breeding wolves “at some point in the future.” Hearing Examiner Decision at 87.

Predators’ argument that the Hearing Examiner “erred in concluding that [it] was not a ‘wildlife sanctuary’ where it is undisputed that wolfdog program aside, all other aspects of [its] operation meets the wildlife sanctuary criteria” disregards the plain language and meaning of the statute. Predators’ Br. at 10. Predators’ interpretation impermissibly broadens the words and meaning of the definition of wildlife sanctuary. The definition clearly contemplates the exception applying to an entire nonprofit organization, not certain aspects or programs of the same nonprofit organization. Furthermore, Predators engages in *every single* disqualifying activity under the definition; the Hearing Examiner was correct to determine that Predators’ own behavior precluded it from receiving wildlife sanctuary status under Washington law.

1 **C. The Hearing Examiner correctly decided that Predator’s wolves are**
2 **not domesticated animals.**

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4 Predators asserts that the Hearing Examiner incorrectly interpreted the interplay be-
5 tween the domestic animal exception and the County Code’s ban on possessing wolves and
6 wolf-hybrids. Under the County Code, wolves and wolf-hybrids are specifically included as
7 potentially dangerous wild animals. SCC 7.04.010(1)(b). State law (which is incorporated by
8 reference into the County Code) notes that “domesticated animals subject to [Title 16 RCW]”
9 are exempt from the ban on possessing dangerous wild animals. RCW 16.30.020(1)(k). How-
10 ever, Chapter 16.30 RCW does not define “domesticated animals” and neither does any Chap-
11 ter under Title 16 RCW.⁵ The evidence in the record shows that in 2014, the County made a
12 deliberate choice to include wolf-hybrids in the definition of a potentially dangerous wild
13 animal. Hearing Examiner Decision at 88; Ex. 82. If wolf-hybrids are considered “domesti-
14 cated animals,” as Predators argues, then the County’s “deliberate move in 2014 to prohibit
15 the keeping of wolf-dogs would have been an exercise in futility.” Hearing Examiner Decision
16 at 88. The Hearing Examiner’s Decision correctly notes that “cannot be the case that the
17 County would *both* adopt an ordinance to prohibit wolf-dogs, which, per Exhibit 82, the
18 County believes ‘are inherently dangerous’ and ‘pose unique threats to human life,’ *while also*

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36 ⁵ During the hearing, Predators argued that USDA’s definition should control. The Hearing Examiner
37 correctly denied this argument. Hearing Examiner at 87. USDA regulations do not preempt state and
38 local law. *Id.* Additionally, any court reviewing an undefined term would use its plain and ordinary
39 meaning. Black’s law dictionary defines wild animal as “[a]n animal that is not customarily devoted
40 to the service of humankind in the place where it normally lives, such as a bear or fox; esp., a type of
41 animal that, as a matter of common knowledge, is naturally untamable, unpredictable, dangerous, or
42 mischievous. “ *Animal*, Black’s Law Dictionary (11th ed. 2019). Merriam Webster defines “domesti-
43 cated” as “adapted over time (as by selective breeding) from a wild or natural state to life in close
44 association with and to the benefit of humans.” *Domesticated*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/domesticated>. There is no evidence in the record that wolves or wolf-
45 hybrids have been “domesticated,” nor is there any evidence to suggest that Predators’ wolves are
46 “domesticated.” Instead, there is ample evidence to the contrary.
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1 subjecting the new prohibition to an exception for domesticated animals that would nullify
2 the prohibition.” *Id.* (emphasis in original); *see also Dep’t of Ecology*, 146 Wn.2d at 9–10
3 (The “fundamental objective” of statutory interpretation “is to ascertain and carry out the Leg-
4 islature’s intent[.]”). It would be an absurd interpretation of the County Code if wolf-hybrids
5 are *specifically* defined as potentially dangerous wild animals, but then are also considered
6 “domesticated animals” that would then allow possession. *See City of Yakima*, 175 Wn. App.
7 at 236 (declining to “read a statute in a way that renders unlikely, absurd, or strained results”).
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15 Predators also argues that it was in error to conclude that there could never be a situa-
16 tion in which wolves or wolf-hybrids could be considered “domesticated animals.” Predators’
17 Br. at 11. Assuming Predators’ statutory interpretation is correct (it is not), there is no evidence
18 in the record that Predators’ wolves are “domesticated.” Instead, there is abundant evidence
19 to the contrary that Predators’ wolves pose significant health and safety concerns.⁶ Ex. 6 at 3-
20 4, 8 (Mayor and City Attorney of Anacortes comment letter regarding Predators’ proposal);
21 Ex. 23 (October 19, 2021 news article discussing Predators’ escapes wolves); Ex. 26 (Decem-
22 ber 16, 2017 news article discussing Predators’ escaped wolves); Ex. 56 (Predators’ discovery
23 responses in separate lawsuit discussing escaped animals); Ex. 59 (Predators’ meeting minutes
24 discussing escaped animals); Ex. 62 (March 7, 2022 demand letter to Predators regarding how
25 three escaped wolves killed a pet dog); Ex. 75 (photograph of dead pet dog); Ex. 78 (video of
26 Predators’ three escaped wolves with the dead pet dog); Ex. 79 (video of Predators’ three
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⁶ The Animal Legal Defense Fund provided written and oral testimony regarding the expert genetic testing of four wolves from Predators’ facility. Ex. 131 at 5 (“The United States District Court for the Western District of Washington held in 2022 that four wolves who [Predators] bred and transferred to a roadside zoo—Tonka, Grace, Seth, and Sam—are not hybrid wolf-dogs bur rather gray wolves protected under the [Endangered Species Act]. After reviewing [Predators’] transfer records and expert genetic testing of the wolves, the Court found that “[t]here is no indication that any of the wolves had a parent, grandparent, or even great-grandparent that was a dog.””).

1 escaped wolves with the dead pet dog). The Hearing Examiner, after reviewing the record,
2 agreed noting that “[t]he highly destructive behaviors the wolf-dogs have exhibited during
3 their escapes is also evidence that these are animals are not docile pets.” Hearing Examiner
4 Decision at 86.
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9 **D. The Hearing Examiner correctly decided that Predators’ facility does**
10 **not qualify for the state fair exception.**
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12 Predators argues that the Hearing Examiner’s interpretation of the exception in RCW
13 16.30.020(1)(l) “renders the exception meaningless.” Predators’ Br. at 11. Predators again
14 disregards the plain language of the exception in its arguments.
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18 The state fair exception in RCW 16.30.020(1)(l) provides an exemption to possessing
19 a potentially dangerous wild animal to “[a] person displaying animals at a fair approved by
20 the Washington department of agriculture pursuant to chapter 15.76 or 36.37 RCW.” The
21 statute’s use of the word “displaying” in the present tense means that the exception *only* ap-
22 plies during the period of time that an organization “is actually displaying animals at a fair.”
23 Hearing Examiner Decision at 88. The Hearing Examiner rightly decided that when an organ-
24 ization is not actively displaying the potentially dangerous wild animal at a fair, it “must find
25 some other exception” to apply. *Id.* Because of the use of the present tense “displaying,” the
26 exception does not apply to an operation simply because it may occasionally attend a fair with
27 certain animals at some point in time or that it had attended such fairs in the past. Such an
28 interpretation would be absurd. *See City of Yakima*, 175 Wn. App. at 236. In any event, Pred-
29 ators acknowledged that it no longer attends fairs. Ex. 56 (December 2022 interrogatory re-
30 sponse indicating that Predators last attended a fair in 2021). Predators is asking for this ex-
31 ception to apply for an activity it performed more than two years ago.
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1 The Hearing Examiner’s interpretation does not render the exception meaningless, as
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3 Predators suggests. There is nothing in RCW 16.30.020 or in Chapter 16.30 RCW more
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5 broadly that prohibits more than one exception applying to an organization or individual at
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7 one time. For example, an organization could be “[a] holder of a valid wildlife rehabilitation
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9 permit issued by the Washington department of fish and wildlife” under RCW 16.30.020(1)(f)
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11 and also use the state fair exception under RCW 16.30.020(1)(l) to show the same animal at
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13 an authorized state fair. Having both exceptions apply to the same organization does not ren-
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15 der either “superfluous.”⁷ Predators’ Br. at 11.

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17 **E. Predators’ application fails to meet the criteria for a Special Use Per-**
18 **mit.**

19 The Hearing Examiner correctly decided that, as a threshold matter, Predators’ appli-
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21 cation violates County Code because Predators cannot satisfy any of the potentially dangerous
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23 wild animal possession exceptions. Predators cannot meet the special use permit criteria and
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25 to argue otherwise ignores the extensive record developed during public comments and during
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27 the three-day hearing. Predators’ Br. at 12. Predators grossly mischaracterizes the evidence
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29 presented at the three-day hearing by claiming “there was very little genuine opposition to the
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31 remaining [Special Use Permit criteria].”*Id.* In reality, the Neighbor Parties, the City of Ana-
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33 cortes, and several animal rights organizations vigorously opposed Predators’ proposed use.
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35 Indeed, the County itself recommended denial of Predators’ Special Use Permit application.
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39 _____
40 ⁷ Predators includes a footnote that the Hearing Examiner’s Decision regarding the state fair exception
41 “conflicts with evidence in the record that the County stopped enforcement action against [Predators]
42 in 2015 after concluding that it qualified for” the state fair exception. Predators’ Br. at 11 n.23. This is
43 a red herring. Whether or not at some time in the past a County official, or any other state official, may
44 have made a determination that the state fair exception did apply at that specific point in time, does
45 not have any relevance now. The state fair exception only applies to an individual actively displaying
46 an animal at such a fair. Hearing Examiner Decision at 88. The record shows that Predators failed to
47 make such a showing here and now.

1 Predators argues that the health and safety concerns are “addressed in the MDNS, and
2 are not a basis to deny the [Special Use Permit].”⁸ *Id.* Predators ignores that there are specific
3 special use criteria related to public health and safety. County Code requires that an applicant
4 for a special use permit demonstrate that its proposal “[w]ill not cause potential adverse effects
5 on the general public health, safety, and welfare[.]” SCC 14.16.900(1)(b)(v)(E). The Neighbor
6 Parties provided ample testimony and evidence regarding the privacy and safety impacts from
7 Predators’ proposed use. *Id.*

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15 Wolves and wolf-hybrids are potentially dangerous wild animals under County law.
16 And for good reason. Predators’ attempts to downplay the evidence in the record is just an-
17 other play at disregarding and misrepresenting the real impact and harm the numerous escapes
18 from its facility have had (and continue to have) on residents and on County and City of An-
19 acortes resources.

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25 The evidence in the record shows the reality of a dysfunctional organization in pos-
26 session of wild animals that pose a potentially lethal threat to both humans (particularly chil-
27 dren) and their pets. Evidence in the record of Predators’ meeting minutes describe certain
28 “wolf-dogs . . . that would be considered dangerous to the public and/or employees” and
29 should likely be euthanized, including a wolf-hybrid named Lexi. Ex. 59 at 16 (Predators’
30 meeting minutes from November 2, 2019 indicating that Lexi “is considered dangerous and
31 needs to be euthanized.”). Lexi is one of Predators’ 15 wolf-hybrids. Ex. 56 at 27. Evidence
32 in the record also shows that Predators’ wolf-hybrids have twice killed pet dogs after either
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42 ⁸ Predators also cites to *Victoria Tower P’ship v. City of Seattle*, 59 Wn. App. 592, 602-03, 800 P.2d
43 380 (1990) for the proposition that the Hearing Examiner cannot deny the Special Use Permit based
44 on impacts addressed in the MDNS. The court in *Victoria* says no such thing. That case affirmed the
45 Seattle City Council’s decision to restrict the height of a proposed apartment building tower, it says
46 nothing about a local authority’s ability to deny a permit based on MDNS mitigation measures.
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1 breaking free from their handler or escaping the facility, including a 50-pound lab mix. Exs.
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3 62 & 69. In one of those instances, a family in their own yard watched three wolves kill their
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5 pet dog, forcing closure of the entire Anacortes Community Forest Lands. Ex. 6 at 3-4; Ex.
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7 62; Ex. 75; Ex. 78; Ex. 79. This very same family testified to the safety and privacy impacts
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9 from Predators’ application during the three-day hearing. The City of Anacortes also provided
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11 written comments and public testimony during the three-day hearing that Predators cannot be
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13 trusted to ensure its facility is safe. Ex. 26; Ex. 6 at 4 & 8. Considering this evidence, the
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15 Hearing Examiner concluded that “County staff lack the expertise to supervise the [Predators’]
16
17 facility, and that [Predators] has failed to supervise itself.”⁹ Hearing Examiner Decision at 90.

18 CONCLUSION

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20 The Neighbor Parties respectfully request the Commissioners deny Predator’s appeal
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22 and uphold the decision of the Hearing Examiner denying Predators’ application for a Special
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24 Use Permit.
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43 _____
44 ⁹ Predators has repeatedly relied on its USDA license as a sign of legitimacy. As several animal rights
45 organizations testified to during the three-day hearing, the USDA and the Animal Welfare Act provide
46 a minimum floor for the treatment of animals. The standards set by the USDA and the Animal Welfare
47 Act are notoriously low and should not be considered a viable standard here. *See* Ex. 131 at 2-4, 43-46.

1 Respectfully submitted,
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5 DATED: November 16, 2023
6



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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on the date indicated below, I caused a true and correct copy of the foregoing **NEIGHBOR PARTIES' RESPONSE TO PREDATORS' APPEAL BRIEF** to be served on the following persons via the methods indicated below:

Linda Hammons
Clerk of the Board
Skagit County Board of Commissioners
lindah@co.skagit.wa.us

- Via U.S. Mail, 1st class, postage prepaid
- Via Legal Messenger
- Via Facsimile
- Via Overnight Mail
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DATED this 16th day November, 2023 at Seattle, Washington.



Andrew Ferlo
Associate Attorney