SKAGIT COUNTY
OFFICE OF THE HEARING EXAMINER

***re*:** Appeal by Shaughnessy of an Administrative SEPA Decision by Skagit County Planning and Development in PLAN2-2025-0005; and Appeal by Shaughnessy and Andrews of Development Permit Approval by Skagit County Planning and Development in BLDC-2024-0011 & LDA-2024-0019 "*Skagit Golf & Country Club*"	**APL 2025-0006** (SEPA, Shaughnessy) of PLAN2-2025-0005 **APL 2025-0009** (Dev. Permit, Shaughnessy) of BLDC-2024-0011 & LDA-2024-0019 **APL 2025-0010** (Dev. Permit, Andrews) of BLDC-2024-0011 & LDA-2024-0019 **FINDINGS & ORDERS ON MOTIONS and DISMISSAL OF APPEALS (FINAL ORDER)** *Clerk's Action at Page 11*

The Hearing Examiner having received three motions: one from the Applicant to Dismiss as a matter of law (Ex. 22); one from the Department (Ex. 23) to dismiss as a matter of law; and one from Appellant Shaughnessy to continue both the motion hearing date for the two aforementioned motions and the final hearing date (Ex. 26); as well as some responsive pleading; and with the authority pursuant to the Skagit County Hearing Examiner's Rules of Procedure (SCRE) §10, 12(A and D) and 25; the Hearing Examiner hereby makes findings and an order:

FINDINGS

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted and evidence presented and arguments asserted at properly noted hearings.

I.

Background

The Skagit Golf & Country Club ("SGCC") seeks to replace an existing maintenance structure with a larger structure. The proposed project is located on Bayview Ridge at 12352 Eleventh Tee Lane, Burlington, and is located on Parcel P21018 that is over 93 acres, the vast majority of which is landscaped as a recreational golf course or is naturally landscaped. It is zoned Bayview Ridge Residential (BR-R), which serves the purpose of "maintain an urban residential community that continues to reflect a high quality of life and to implement the Subarea Plan policies." [1]

The project involves removal of 3,931 square feet of the existing maintenance shed and several existing smaller accessory structures to construct a new structure referred to as the "Turf Care Center." The Turf Care Center is a 10,500 square foot pre-engineered metal building that will continue to serve a similar function as a maintenance shed. As such SGCC applied for a building permit,[2] the associated land disturbance permit,[3] and was subject to SEPA review.[4]

Skagit County Planning and Development Services ("Department") determined the application to be complete on March 17, 2025.[5] The decision that an application is complete is an administrative decision, and thus a Type 1 director decision without notice.[6] There was no appeal of that decision.

On May 12, 2025, the Department approved the State Environmental Policy Act ("SEPA") checklist review #PLAN2-2025-0005.[7] The next day, on May 13, 2025, the Department issued a

[1] SCC 14.16.340(1).
[2] Ch. 15.04 SCC.
[3] Ch. 14.30 SCC.
[4] Ch. 16.12 SCC.
[5] Ex. 22(D)
[6] SCC Table 14.06.150-1(1).
[7] Ex. 10(a)

Mitigated Determination of Non-Significance ("MDNS").[8] An MDNS is the determination that while the project has probable significant environmental impacts, those impacts can be sufficiently mitigated by conditioning the project.[9] Among those conditions was that the project comply with all requirements of SCC 14.16, including applicable zoning and landscaping requirements. Condition number 7 provides, in full:

> The proposal, and site development, must comply with all requirements of SCC 14.16, and specifically SCC 14.16.340 (BR-R), SCC 14.16.210 (Airport Environs), SCC 14.16.215 (Bayview Ridge UGA), SCC 14.16.800 (Parking), and SCC 14.16.830 (Landscaping).

Meanwhile, SGCC applied for construction permits on February 25, 2025. On September 16, 2025, the Department approved development permits BLDC-2024-0011 and LDA-2024-0019 for the New Turf Grass Center project.

Appellant Shaughnessy appeals the County's SEPA threshold determination associated with this project as captioned above. Appellants Shaughnessy and Andrews for different reasons seek to appeal the development permits.[10]

II.

1. Appellant Andrews had notice of the hearing as documented by Office of the Hearing Examiner records, did not file responses to either motion, did not file with any party or the Office of the Hearing Examiner of any unavailability, and did not appear at the hearing.

2. Appellant Shaughnessy had notice of the hearing as documented by Office of the Hearing Examiner records, did not file responses to either motion, did not file with any party or the Office of the Hearing Examiner of any unavailability, and did not appear at the hearing.

[8] Ex. 1
[9] RCW 43.21C.240(1).
[10] *See generally* Ex. 19 at §3(b)

a. Counsel for Appellant Shaughnessy who filed an NoA (Ex. 25) had notice of the hearing as documented by Office of the Hearing Examiner records and by the nature of her filed pleadings, did not file responses to either motion, did not file with any party or the Office of the Hearing Examiner of any unavailability for the date of the hearing itself,[11] and did not appear at the hearing.

3. The Motion filing, response and hearing schedule was set with specific deadlines well in advance of the motion hearing (Ex. 19 at §4). Appellant Shaughnessy, through counsel, filed, on a request for shortened time, a motion for continuance of the motion hearing (Ex. 26). That motion was preliminarily ruled on that the motion hearing would remain on the calendar with responsive arguments from other parties to be allowed on shortened time (Ex. 29). A response was filed by the Applicant (Ex. 30).

4. Appellant Shaughnessy's Motion to Continue the motion hearing was predicated on the unavailability of an attorney Paul Taylor based on a January 21, 2026 cancer diagnosis. Paul Taylor has never appeared in this case. Appellant Shaughnessy was aware at the December 29, 2025 conference that he was expected to proceed with or without representation. The need to obtain substitute counsel therefore arose long before new counsel entered the matter or indicated any scheduling conflict. There is no known or disclosed conflict that would prevent Appellant Shaughnessy or his appearing counsel from appearing.

5. The motions of both the Department and the Applicant stand without written or oral opposition.

6. The Current Record

[11] *But see* unavailability filed not including this date in Ex. 26 and 33

Given that this is a final order. The record of this case is as follows:

1. Skagit County Planning and Development Services Mitigated Determination of Nonsignificance (MDNS) and Notice of Decision, *published* 5/15/25
2. Appellant Shaughnessy's Appeal Letter, *filed* 5/28/25
    a. Appellant Shaughnessy Response to Appeal Questions
3. Pre-Hearing Conference Order, *entered* 6/23/25
4. Declaration of Black re: Date of Appeal Filing, *filed* 6/26/25
5. Department Pre Hearing Conference Memo, *filed* 6/27/25
6. Appellant Shaughnessy's Pre Hearing Conference Filings, *filed* 7/7/25
    a. List of Applicable and Relevant Bodies of Law
    b. List of Evidence
    c. List of Evidence 2
7. Applicant Shaughnessy's Pre Hearing Conference Memo, *filed* 7/7/25
8. Notice & Order on Attempted *Ex-Parte* Contact, *filed* 7/10/25
9. Post-Conference Order, entered 7/11/25
10. Department Provided Evidence Submission, *filed* 8/11/25
    a. Plan2-2025-0005 SEPA checklist signed
    b. Plan2-2025-0005 Skagit Golf & CC TURF center optional notice
    c. Plan2-2025-0005 Black Request for response to SEPA comment letter
    d. Plan2-2025-0005 T. Zempel Response to SEPA comments
    e. SG&CC Turf Building Conformed Set date
11. Appellant Shaughnessy Provided Evidence re: SEPA, *filed* 8/11/25
    a. Letter to Hearing Examiner
    b. SEPA application
    c. Emails between Brandon Black and Shaughnessy
    d. Emails between Allen Rozema and Shaughnessy
    e. Definitions
    f. Email Rebecca Miller to Launa Black
    g. Email from Semritc
    h. Email Semritc
    i. Email McNett to Miller
    j. Email Black to Miller
    k. Email Miller to McNett
    l. Email from Herman

m. Civil Drawlings
n. CC and R
o. First amendment CCR
p. Alternative location
q. Additional SEPA application discrepancies

12. Appellant Shaughnessy Appeal Documents re: Development Permit Appeal APL 2025-0009, *filed* 9/30/25
a. Letter to Hearing Examiner, *dated* August 8, 2025
b. SEPA application
c. Emails between Brandon Black and Shaughnessy
d. Emails between Allen Rozema and Shaughnessy
e. Email Rebecca Miller to Launa Black
f. Email from Semritc
g. Email Semritc
h. Email McNett to Miller
i. Email Black to Miller
j. Email Miller to McNett
k. Email from Herman
l. Civil Drawlings
m. CC and R
n. First amendment CC and R
o. Alternative location
p. Additional SEPA application discrepancies
q. Definitions
r. Evidence List
s. Letter to Hearing Examiner, *dated* September 25, 2025
t. Signature page

13. Appellant Andrews Appeal Documents re: Development Permit Appeal APL 2025-0010, *filed* 9/30/25
a. Letter to Hearing Examiner, *dated* September 30, 2025
b. Signature page

14. 2nd Pre-Hearing Conference Order, *entered* 12/5/25
a. Re-Issued 2nd Pre-Hearing Conference Order - Amendment of 12/5/25

15. Applicant's Pre-hearing Memo, *filed* 11/21/25

16. Department's Pre-hearing Memo, *filed 11/21/25*

17. 3rd Pre-Hearing Conference Order, *entered* 12/29/25

18. Shaughnessy Pre-Hearing Conference Memo with attachments, *filed* 12/31/25
a. Preconference Pre-hearing Position Statement
b. Preconference Hearing Outline

19. 2nd Post-Conference Order, *entered* 1/5/25

20. Declaration of Brandon Black Declaration re: 14.06.410, filed 1/12/26
21. Certificate of Service, *filed* 1/12/26
22. PDS's Motion to Dismiss exhibits, *filed* 1/30/26
- **a.** Ex A, Skagit.Golf_PLAT_AN827765
- **b.** Ex B, Skagit.Golf_Approved Plans BLDC-2024-0011
- **c.** Ex C, Skagit.Golf_Approved Civil Plans LDA-24-0019
- **d.** Ex D, Skagit.Golf_Permit Review Checklist for BLDC-2024-0011
- **e.** Ex E, Skagit.Golf_Notice of Decision for BLDC-2024-0011 & LDA-2024-0019

23. PDS Motion to Dismiss, *filed* 1/30/26
24. Applicant SGCC Dispositive Motions, *filed* 1/30/26
25. Notice of Appearance of Herber, *filed* 1/30/26
26. Apl. Shaughnessy Mot. to Continue Hearing, *filed* 1/30/26
27. Apl. Shaughnessy Proposed Order to Continue Hearing, *filed* 1/30/26
28. Atty Julie Herber Enclosure Ltr., *filed* 1/30/26
29. Prelim Order on Motion to Continue, *entered* 2/2/26
30. SGCC Opposition to Continue, *filed* 2/2/26
31. Applicant Skagit Golf and Country Club's statement pursuant to the Preliminary Order on Motions of Appellant, *filed* 2/6/26
32. SGCC Statement on Shaunessy's Meet and Conference, *filed* 2/6/26
33. PDS Statement on Meeting and conference, *filed* 2/6/26
34. Shaughnessy Statement on Meet and Conference, *filed* 2/7/26
35. SGCC Reply in support of Dispositive motions, *filed* 2/11/26
36. This Order and Final Decision.

III.

Any Conclusion of Law below which is deemed a Finding of Fact is hereby adopted as such.

Based on the foregoing Findings of Fact and the totality of the record, now are entered the following:

CONCLUSIONS OF LAW

I.

The motions to continue were not argued as neither the appellant Shaughnessy nor counsel did manifest. The Hearing Examiner was not inclined to continue the motion hearing

based on the pleadings alone but was inclined to continue the final hearing. The issue of the final hearing date is mooted by the following sections.

II.

The consolidated appeals are before the Hearing Examiner.[12] Both of the appealed decisions were Type 2 Director Decisions with Notice,[13] which are appealable to the Hearing Examiner.[14]

On appeal of a Department decision on project permit applications, the appellant bears the burden of demonstrating that the decisions on the application were clearly erroneous.[15] A decision is clearly erroneous if the Hearing Examiner is "left with the definite and firm conviction that a mistake has been committed."[16] In determining the SEPA appeal, the Hearing Examiner is to give "substantial weight" to the Department's "procedural determination."[17]

III.

The Examiner may grant dispositive relief by dismissing an appeal which cannot prevail as a matter of law or otherwise limit the scope of the hearing to issues properly raised and supported.[18]

The SCHE allows issues to be decided by pre-hearing motions, and case law allows for a quasi-judicial administrative body, like the Hearing Examiner to dispose of issues via summary judgment.[19] It is common practice, and a reasonable one, to adopt Washington

[12] SCC Table 14.06.150-1(1) (Type II)
[13] SCC Table 14.06.150-1(1); SCC 14.06.150(3)(a) (Type 1 decisions treated as Type 2 if SEPA review is required)
[14] SCC Table 14.06.150-1(11).
[15] SCC 14.06.410(6); SCRE 29(A)
[16] *Lauer v. Pierce County*, 173 Wn.2d 242, 253 (2011) (quoting *Phoenix Dev., Inc. v. City of Woodinville*, 171 Wn.2d 820, 829 (2011)).
[17] SCC 16.12.210(4); RCW 43.21C.075(3)(d).
[18] SCRE 12(A)
[19] SCHE §25; ASARCO Inc. v. Air Quality Coal., 92 Wn. 2d 685, 695-98, 601 P.2d 501 (1979).

standards and case law to establish the standards the Hearing Examiner uses in weighing and ruling on a motion for summary judgment.

To rebut the moving party's showing, "the nonmoving party must set out specific facts sufficiently rebutting the moving party's contentions and disclosing the existence of a material issue of fact." [20] The nonmoving party "may not rely on the allegations in the pleadings but must set forth specific facts by affidavit or otherwise that show a genuine issue exists." [21] "An affidavit does not raise a genuine issue for trial unless it sets forth facts evidentiary in nature, *i.e.*, information as to what took place, an act, an incident, a reality as distinguished from supposition or opinion. Ultimate facts, conclusions of fact, or conclusory statements of fact are insufficient to raise a question of fact." [22] The trier of fact must construe the evidence and consider the material facts and all reasonable inferences therefrom in the light most favorable to the nonmoving party.[23]

IV.

In this case the motions are uncontested, and they could be granted on that basis alone. The motions of the Department and the Applicant, however, also appear to be rooted in solid argument about law and fact in the record; to the level which renders the motions as a matter of law, grantable, as the issues raised by the appellants,[24] even when the material facts and all reasonable inferences therefrom are viewed in the light most favorable to the nonmoving party, are not sustainable:

1. **Shaughnessy SEPA Appeal Issue #1**: The Department did not err by issuing a Mitigated Determination of Non-Significance without appropriate accounting for SCC 14.16.830 landscaping requirements, because the Department did in fact condition such compliance. The Department's decision that the nature of the property and project justified implementing

[20] Heath v. Uraga, 106 Wn. App. 506, 513, 24 P.3d 413 (2001).
[21] Las v. Yellow Front Stores, Inc., 66 Wn. App. 196, 198, 831 P.2d 744 (1992).
[22] Curran v. City of Marysville, 53 Wn. App. 358, 367, 766 P.2d 1141 (1989) (citations and quotations omitted).
[23] Weatherbee v. Gustafson, 64 Wn. App. 128, 131, 822 P.2d 1257 (1992).
[24] Identified and outlined in Ex. 19 at §3(b)

landscaping during construction was not erroneous. Shaughnessy cannot meet his burden as a matter of law, and thus the appeal should be dismissed.

2. **Shaughnessy SEPA Appeal Issue #2**: The Department did not err by issuing a Mitigated Determination of Non-Significance without appropriate accounting for the comprehensive plan and zoning requirements in regard to the Bayview Ridge Subarea, because the Department did in fact condition such compliance. Shaughnessy cannot meet his burden as a matter of law, and thus the appeal should be dismissed.

3. **Shaughnessy & Andrews Development Appeal Issue #1**: The Department did not err by failing to consider that the Application lacks an approved Landscape Plan, because it was considered and addressed. Here there was not a specific stand-alone "landscape plan." And the Code does not require a separate plan. The plan for landscaping was provided in the civil plans, and the approval of those plans indicated an approval of the landscaping as compliance with the Code. Consequently, Shaughnessy and Andrew cannot meet their burden, and this issue should be dismissed.

4. **Andrews Development Appeal Issue #2**: The Department did not err by failing to consider that The property is not zoned for commercial use, because the zoning in fact particularly contemplates golf courses. The maintenance building is a lawful accessory to the broader recreational use under the Skagit County Code.[25] Andrews cannot meet his burden as a matter of law, and thus the appeal should be dismissed.

5. **Andrews Development Appeal Issue #3**: The Department did not err by failing to consider that the existing buildings were constructed without permits because it is irrelevant. The permits are for new construction, and even if the previous building were an *unlawful* preexisting nonconforming structure, it could be replaced with a building that is permitted.[26] Title 14 does not authorize denial of development permits BLDC-2024-0011 and LDA-2024-0019 due to alleged historic permitting deficiencies. The Department properly considered instead whether the present applications complied with applicable development regulations. Andrews cannot meet his burden as a matter of law, and thus the appeal should be dismissed.

[25] SCC 14.18.532 ("A golf course may include as accessory uses: … (c) Caddy shack/maintenance buildings."); SCC 14.04.020 ("'Accessory use'" means a use, building or structure which is dependent on, and subordinate or incidental to, and located on the same lot with a principal use, building, or structure.").
[26] *See* SCC 14.07.040.

6. **Andrews Development Appeal Issue #4**: The Department did not err by failing to consider that there is not a complete permit application as required by Skagit County code, because the Department did determine the application as complete. The decision that the application is complete is an administrative decision, and thus a Type 1 Director Decision without notice.[27] There was no appeal of that decision. Thus, the challenge to the decision is untimely,[28] As the appeal is not timely and thus the appeal should be dismissed.

7. **Andrews Development Appeal Issue #5**: The Department did not err by failing to consider that the Skagit Golf And Country Club Covenants identify residential use only, because this outside of their, or the Hearing Examiner's jurisdiction. CC&Rs are private contracts between property owners and therefore do not bind the County's permitting authority; Private covenants are private restrictions on land use, which may provide grounds for a separate action to enjoin a proposed land use, but are distinct from public restrictions on land use and are therefore generally not grounds for denial of a determination pursuant to local development and zoning regulations.[29] The Department's decision to issue a building permit is governed by public law—zoning, building codes, and objective permit standards—not private covenants.[30] Andrews cannot meet his burden as a matter of law, and thus the appeal should be dismissed.

These appeals cannot be sustained as the appellants have no path as evidenced by the record or law to meet their burden. As a consequence, they should be dismissed.

III.

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:

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[27] SCC Table 14.06.150-1(1).
[28] SCC Table 14.06.210(3).
[29] *See* Martel v. City of Vancouver Bd. Of Adjustment, 35 Wn. App. 250, 257, 666 P.2d 916 (1983); Mains Farm Homeowners Ass'n v. Worthington, 64 Wn. App. 171, 180, 824 P.2d 495 (1992).
[30] SCC 14.06.300(2) ("Applications must be reviewed for consistency, conformity, and compliance with applicable development regulations."); SCC 14.06.380.

FINAL DECISION

1. *The appeals are denied.*
2. *The clerk shall strike the Final Hearing date.*

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 February 13, 2026

Rajeev D. Majumdar
Skagit County Hearing Examiner