



Appeal or Request for Reconsideration

Planning & Development Services · 1800 Continental Place · Mount Vernon WA 98273
voice 360-416-1320 · inspections 360-416-1330 · www.skagitcounty.net/planning

File #:

Received by:

Appeal

What are you appealing?

- ☒ Appeal of an Administrative Interpretation/Decision/Action to the Hearing Examiner
- ☒ Appeal of an Administrative Order to Abate (code enforcement order) to the Hearing Examiner
- ☐ Appeal of Impact Fees to the Hearing Examiner (impact fees must be paid) (SCC 14.30.070)
- ☐ Appeal of Hearing Examiner Decision/Action to the Board of County Commissioners
- ☐ Request for Reconsideration of a Hearing Examiner Decision (SCC 14.06.180)

File # of Appealed Decision or Permit	March 6 2026	Appeal Fee	\$	PDS will calculate
Date of Appealed Decision or Permit	March 18 2020	Publication Fee	\$	PDS will calculate

PDS staff: do not accept appeal form without full payment of fees

Appellant

Standing to appeal	<input checked="" type="checkbox"/> Permit applicant <input type="checkbox"/> Party of Record <input type="checkbox"/> Party subject to code enforcement order <input type="checkbox"/> Other			
Name	Eric Battles and Emily McLaughlin			
Address	5412 B South Fletcher Street			
City, State	Seattle Wa	Zip	98118	Phone 360 843 532-6408
Email	jane@jkotrlaw.com	Signature	Jane Koter for Eric Battles	

Attorney or Representative

☐ None

Name	Jane Koter			
Address	6659 Kimball Dr: B 201 Gig			
City, State	Gig Harbor	Zip	98335	Phone 253 853-1806
Email	jane@jkotrlaw.com			

Attachments

- ☒ For any of the **appeals** listed above, please attach a concise statement with numbered responses to the following questions.

- What is your interest in this decision?
- How are you aggrieved by the decision you are appealing?
- What are the specific reasons you believe the decision is wrong?
e.g. erroneous procedures, error in law, error in judgment, discovery of new evidence
- Describe any new evidence.
- List relevant sections of Skagit County Code.
- Describe your desired outcome or changes to the decision.

See attached

- ☐ For a request for **reconsideration** of a Hearing Examiner decision, attach a statement identifying the specific errors alleged.



Appeals or Request for Reconsideration Narrative

Planning & Development Services · 1800 Continental Place · Mount Vernon WA 98273
Main: 360-416-1320 · www.skagitcounty.net/planning

This narrative must be completed and uploaded as part of the Appeal or Reconsideration request. Please select which type of action you are appealing.

File number of the decision being appealed:

- ☒ Appeal of an Administrative Interpretation, Decision, Action to the Hearing Examiner
- ☒ Appeal of an Administrative Code Enforcement Order to Abate to the Hearing Examiner
- ☐ Appeal of Impact Fees to the Hearing Examiner, [SCC 14.30.070](#)
- ☐ Appeal of Hearing Examiner Decision, Action to the Board of County Commissioners
- ☐ Request for Reconsideration of a Hearing Examiner Decision, [SCC 14.06.180](#)

1. What is your interest in this decision?

The County wants to tear down the Battle-McLaughlin home.

2. How are you aggrieved by the decision you are appealing?

They want to keep their home; they are making mortgage payments on it.

3. What are the specific reasons you believe the decision is wrong? e.g., erroneous procedures, error in law, error in judgment, discovery of new evidence.

See attached appeal

4. Describe any new evidence.

The home at issue is a protected non-conforming structure.

5. Describe your desired outcome or changes to the decision.

Reversal of decision.

6. For a request of reconsideration of the Hearing Examiner decision, describe the specific errors alleged.

N/A

SAVE

PRINT

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8 **SKAGIT COUNTY**
OFFICE OF THE HEARING EXAMINER

9 **Eric Battles and Emily McLaughlin**)
)
10 Applicant/Appellant,)
)
11 **Skagit County, a Washington Municipal**)
County)
12 Appellee.)
)
13)

CAUSE NO:

**APPEAL OF
SUBSTANTIAL IMPROVEMENT &
SUBSTANTIAL DAMAGE COST
DETERMINATION**

14 **1. Parties**

15 1.1 Eric Battles and Emily McLaughlin own a residence at 41649 North Shoreline in
16 the concrete area of unincorporated Skagit County.

17 1.2 Skagit County is a Washington municipal corporation which administers local
18 regulations, state legislation, and federal legislation governing floodplains.

19 1.3 Skagit County Planning and Development Sources Issued a "Substantial
20 Improvement and Substantial Damage Cost Determination" to appellants Battle and
21 McLaughlin requiring them to tear down their house located within the flood plain.
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2. Factual Background and Appeal

2.1 This paragraph incorporates the above paragraphs as though fully set forth herein.

2.2 Skagit County, acting on a recommendation of the State Department of Ecology ordered Appellants to tear down their house which had sustained damage in a flood.

2.3 The Battle/McLaughlin home, on the banks of the Skagit River, was built in 1967.

2.4 The federal government adopted the National Flood Plain Insurance Act in 1968; it adopted the Flood Protection Act in 1977.

2.5 The State of Washington legislature adopted flood plain management legislation in 1987. See eg. Chapter 86.16.RCW.

2.6 Part of that legislation allows the government to disallow the reconstruction of a residence if it sustains damage exceeding 50% of its assessed value. SCC 14.34.190 demands removal of substantially damaged structures located within the floodplain.

2.7 Skagit County has ordered Appellants Battle and McLaughlin to tear down their home because it sustained damage in a flood exceeding 50% of its value.

2.8 Appellants home on the Skagit River is surrounded by residences which, like theirs, got constructed on the river front before floodplain regulations prohibited residences within the floodplain.

2.9 Skagit County adopted Chapter 14.34 of the Code in 2007, that governs construction within flood plains, long after the Battles/McLaughlin home got built.

2.10 Skagit County has demanded that Appellants tear down their 1964 home.

2.11 The county has advised the Appellants that upon demolition of their river front home that they can use their property, fronting on the river, for recreational use like summer picnics. Mr. Battles and Ms. McLaughlin continue to pay taxes on their lot and home. They are making substantial monthly mortgage payments on the home that the County has ordered them to demolish.

2.12 The Assessor has not offered them a deduction on their property taxes that reflects its non-buildable status.

3. Non-Conforming Right to Continue Enjoyment of 1964 Home

3.1 In Washington State the right to maintain non-conforming structures and uses is a constitutionally protected property right.

3.2 Here the Battles/McLaughlin house was built in 1964 before the federal or state governments enacted regulations prohibiting the construction/reconstruction of homes located within the floodplain.

3.3 The Battles/McLaughlin home was a legal structure when it was constructed in 1964.

3.4 It was constructed before Skagit County, the state government and federal government regulated floodplains.

3.5 It is a legal non-conforming use and structure. Skagit County apparently is giving retroactive effect to SCC 14.34.190. But that code section did not get enacted until 2007/ORDINANCE NO.020070002.

3.6 The County should refrain from giving retroactive effect to SCC 14.34.190.

1
2 3.7 Because Appellants possess non-conforming rights, they are entitled to
3 maintain their riverfront home and repair it.

4 4. Taking and Damaging Appellants Property Rights

5 4.1 This paragraph incorporates all of the above paragraphs as though they are
6 fully set from here on.

7 4.2 Article 1 Section 16 of the Washington State Constitution prohibits the
8 government from taking and damaging owners' personal or real property for a public purpose
9 without compensating the owner.

10 4.3 Here the County must pay Mr. Battles and Ms. McLaughlin the fair market
11 value of the home they are being ordered to demolish.

12 5. Appellants Should Be Given a Jury Trial

13 5.1 This paragraph incorporates all of the above paragraphs as the full set forth
14 herein. This case essentially involves an inverse condemnation claim.

15 5.2 The order at issue will inflict grave harm on Appellants. The County should
16 defer from using its hearing examiner to address this appeal. The County should allow a
17 Skagit County jury to determine this case. Mr. Battles and Ms. McLaughlin have a
18 constitutionally protected right, accorded to them by the Seventh Amendment, to have a jury
19 trial.

20 5.3 Here, Skagit County drafted the regulation at issue, enforced it, and will have its
21 contract hearing examiner decide this dispute *Haas v. San Bernadino County* held that it
22 violated Mr. Haas' right to due process to allow a contract hearing examiner to resolve their
23 dispute with the County because the contract hearing examiner wants to issue a pleasing
24

1
2 opinion to the County in the hope of getting further work assignments. He/She thus has a
3 financial interest in the outcome of the appeal.

4 5.4 The US Supreme Court in *Jarskey v. Security and Exchange Commission* held
5 Jarskey had a constitutional right, guaranteed by the Seventh Amendment, to a
6 jury trial. The desire of the Security and Exchange Commission to have its administrative law
7 judge resolve Mr. Jarsley's appeal would deprive him of that right.

8 5.5 Because significant damages and rights are at issue here; the County should
9 agree to allow a jury to resolve this case.

10 **6. Illegal Tax/ First Amendment Violation**

11 6.1 The County's filing fee for the appeal exceeds \$2,000.00.

12 6.2 Such a steep fee is an illegal tax; it is not authorized by state law.

13 6.3 The steep fee poses a barrier for property owners who wish to appeal; it is
14 much higher than any federal or state court filing fee.

15 6.4 It penalizes citizens who want to petition their government; the steep fee
16 impairs the First Amendment rights of citizens by imposing a financial barrier to the exercise
17 of citizens' First Amendment right to petition their government.

18 6.5 This Court should declare that the steep appeal fee is an illegal tax.

19 6.6 This Court should declare that the steep fee burdens the First Amendment right
20 of citizens to petition their government.

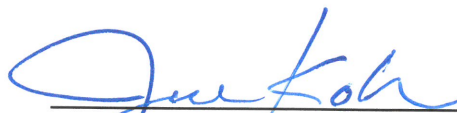
21 6.7 Neither the County Code, the County Website, nor County employees describe
22 or explain how an appeal can be filed and how to pay the appeal fee. This is a First
23 Amendment problem; it impairs the rights of Appellants to petition their government.

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3 **7. Prayer For Relief**

4 Declare that the March 6, 2026 County demand to tear down the Battles/McLaughlin
5 home is invalid because:

- 6 1. Appellants possess a non-conforming right to keep their house which is
7 constitutionally protected;
8 2. Article 1 Section 16 of the Washington Constitution demands that the County
9 compensate Appellants for taking and damaging their property rights;
10 3. The Seventh Amendment of the U.S. Constitution gives Appellants the right to a
11 jury trial; and
12 4. This tribunal should declare that the appeal fee is an unauthorized tax which
13 burdens Appellants' right to address their government.

14 DATED this 18th day of March, 2026, at Gig Harbor, Washington.

15 

16 Jane Koler, WSBA # 13504
17 Attorney for Appellants Eric Battles and
18 Emily McLaughlin
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Skagit County Planning & Development Services

1800 CONTINENTAL PLACE, MOUNT VERNON, WA 98273 | PHONE (360) 416-1320 | EMAIL pds@co.skagit.wa.us
Jack Moore, Director Randy Johnson, Building Official

Substantial Improvement & Substantial Damage Cost Determination

Skagit County Code Chapter 14.34, State Statutes, and Federal requirements, require that commercial structure or residential homes located in the floodplain that are improved or damaged in value, which equals or exceeds 50% of the assessed or appraised value of such structure, before construction starts or damage occurred, must meet current code requirements. Including, the requirement to be elevated one foot above the 100-year frequency flood. Heating and electrical systems are also required to be elevated. The tracking of such cost is cumulative over a 10-year period. Residential structures located within the designated floodway are not allowed and as such are not repairable. The Washington State Department of Ecology is authorized to assess the risk of harm to life and property per WAC 173-158-076 and provide Skagit County a waiver recommendation based on their best professional judgment using scientific analysis of depth, velocity and flood-related erosions to allow repair or replacement within a designated floodway other than farmhouses.

All permit applications for improvements or damage repair for structures within the floodplain and floodway will be required to provide information relating to assessed or appraised value and cost estimates for repair or improvements required. Pre-flood value can be determined by several methods. The easiest method is to utilize the Assessor's valuation of the structure. Private appraisers can also be utilized. Improvement or damage estimates can be submitted in the form of a contractor's itemized cost estimate or insurance adjuster's damage estimate. It should be noted that donated materials, free labor, etc., all must be considered at fair market value in determining costs of improvements and repair.

A site damage assessment from Skagit County is a visual assessment based on water depth within the structure in conjunction with the current International Building Code valuation table of cost per foot.

Date: 3-6-26 Location: 41649 North Shore Lane

Owner Name: John (Eric) Battles

ASSOCIATED PERMIT(S):	FLOOD-2026-0028
PRE-FLOOD ASSESSED/APPRaisal OF THE STRUCTURE: 2021	\$ 71,400.00 50% = \$35,700.00 Used \$1,485.12 Remainder \$34,214.88
INSURANCE ESTIMATE OF REPAIRS:	\$ 107,301.79 Crawford & Company
CONTRACTORS ESTIMATE OF REPAIRS/IMPROVMENTS:	\$
SKAGIT COUNTY DAMAGE ASSESSMENT:	\$ 104,145.30 Exceeded \$34,214.88
DEPARTMENT OF ECOLOGY FLOODWAY RECOMMENDATION:	Not Recommended
PROJECT DETERMINATION TO BE 75.00%	Substantial Damage / No Repairs allow

See attached project valuation calculation and pre-flood market value of the structure documents



Skagit County Planning & Development Services

Jack Moore, Director Randy Johnson, Building Official

2/27/2026

Site Assessment - Flood

Address: 41649 North Shore Lane
Owners: John (Eric) Battles 843-532-6408
Property ID# P62860

Type of Structure: Stick frame - SFR Year: 1967
Square Footage: Main floor 813 SF
Garage:

FIRM Map Panel: 0285 C **Floodway:** Yes 0012
Building Diagram:
BFE: 151.6' **Depth of water in Home:** 72"

Previous Flood Damage – 2021 Assessed Home Value \$71,400.00 lock for 10-year

Background: 2021 flood, Skagit County conducted a Flood damage assessment.
No water inside home, Floor joist and floor insulation only. 2.08% damage

Assessed value \$71,400.00 / 2 = **\$ 35,700.00** = 50% allowed repair or improvements.

Estimated damage was to 813 square feet
Cost per foot value of home for 2021 = \$87.82 x 813 SF = \$71,400.00

Assessed flood damage to 813 sf 2.08% loss = **\$ 1,485.12** is what Skagit County is tracking.
(I do not know what FEMA paid out)

2021 - 50% assessed value \$ 35,700.00 used \$ 1,485.12
(Remainder \$34,214.88) - Not required to elevated home



2/27/2026

Skagit County – Damage Assessment 2025 Flood

Foundation, Floor Framing, Insulation wet

Value 2% - 10%

Damage 10%

Major damage to foundation and framing, Insulation replace

1" – 11" water inside, under electrical plugs

Value 2% - 24%

Damage 24%

(Remove gypsum 24") Floor coverings, baseboards, insulation, gypsum, paint, cabinets.

12" – 24" water inside, including partial electrical, HVAC

Value 25% - 49%

Damage 49%

(Remove Drywall 48") Floor coverings, baseboards, insulation, gypsum, paint, cabinets

25" – 72" water inside, including full electrical, full HVAC

Value 50% - 75%

Damage 65%

(Remove gypsum 48 – 96”) Strip to studs – All interior replacement

73" – 96" water inside, including Full electrical, Full HVAC

Value 76% - 100%

Damage

(Remove gypsum 48 – 96") Strip to studs – All interior replacement, with structural

2025 Total Damage Percentage = 75%

2026 IBC Valuation Table Skagit County

$$\text{SF 813} \times \text{VB-Factor } \$170.80 = \$138,860.40 \times 75\% = \mathbf{\$104,145.30}$$

Remainder allowed to be used **\$34,214.88** Damage assessment greater **\$ 104,145.30**

Conclusion: Floodway requires Department of Ecology Approval, for houses to be elevated.

Note: Owner would like to keep home and elevate

Department of Ecology Recommendation: No waiver to elevate and repair home. Home to be removed from property. Check buyout options or use property only for recreational purposes.



Skagit County Planning & Development Services

Jack Moore, Director Randy Johnson, Building Official

Site Assessment - Flood

Date: 3/6/2026

Address: 41649 North Shore Lane

Owners: John (Eric) Battles 843-532-6408

Property ID# P62860

Type of Structure: Stick frame - SFR

Year: 1967

Square Footage: Main floor 813 SF

Garage: 0

FIRM Map Panel: 0285 C

Floodway: Yes 0012

Building Diagram: 8

BFE: 151.6'

Depth of water in Home: 72"

Previous Flood Damage – 2021 Assessed Home Value \$71,400.00 lock for 10-year

Background: 2021 flood, Skagit County conducted a Flood damage assessment.

No water inside home, Floor joist and floor insulation only. 2.08% damage

Assessed value \$71,400.00 / 2 = **\$ 35,700.00** = 50% allowed repair or improvements.

Assessed flood damage to 813 sf 2.08% loss = **\$ 1,485.12** is what Skagit County is tracking.

(Remainder \$34,214.88) - Not required to elevated home

Skagit County – Damage Assessment 2025 Flood

Foundation, Floor Framing, Insulation wet

Value 2% - 10%

Damage 10%

Major damage to foundation and framing, Insulation replace

1" – 11" water inside, under electrical plugs

Value 2% - 24%

Damage 24%

(Remove gypsum 24") Floor coverings, baseboards, insulation, gypsum, paint, cabinets.

12" – 24" water inside, including partial electrical, HVAC

Value 25% - 49%

Damage 49%

(Remove Drywall 48") Floor coverings, baseboards, insulation, gypsum, paint, cabinets

25" – 72" water inside, including full electrical, full HVAC

Value 50% - 75%

Damage 65%

(Remove gypsum 48 – 96") Strip to studs – All interior replacement

73" – 96" water inside, including Full electrical, Full HVAC

Value 76% - 100%

Damage

(Remove gypsum 48 – 96") Strip to studs – All interior replacement, with structural

2025 Total Damage Percentage = **75%**

2026 IBC Valuation Table Skagit County

SF 813 x VB-Factor \$170.80 = \$138,860.40 x 75% = **\$104,145.30 Greater than > \$34,214.88**



Skagit County Planning & Development Services

Jack Moore, Director Randy Johnson, Building Official

Conclusion: Floodway requires Department of Ecology Approval, for houses to be elevated.

Department of Ecology Recommendation: Not recommended; does not meet requirements of WAC 173-158-or RCW86.16. Flood depth exceeds over 3-feet and velocity exceeds 3feet/second.

Building Official Decision: SCC14.34.190 Standards for development activities in floodways prohibit new construction of residential homes in floodways. Repairs over 50% need review by Department of Ecology.

(Subsection 3) Allows the Department of Ecology to provide a recommendation to the Building Official based on scientific analysis of depth and velocity, and flood-related erosion, by providing a waiver under WAC 173-158-076 or RWC 816.16 that the structure could be repaired and elevated in the floodway.

The Department of Ecology in this case is not recommending the structure be repaired and remain within the floodway. Skagit County Code requires removal of the dwelling unit from the floodway.

For allowed use of floodway property, see Skagit County Code 14.34.190 Standards for development activities in floodways. Below is a partial excerpt covering common usage:

- (4) Recreational vehicles placed in the floodway shall meet the following requirements:
 - (a) Be fully licensed and ready for highway use without the requirement for special highway permits, be towable by a regular duty truck without the requirement for special licenses, be on its wheels or jacking system, and have no permanently attached additions.
 - (b) Shall not be placed in the floodway from November through April of any calendar year.
 - (i) Exception. Recreational vehicles are allowed to be placed for weekend and holiday use for a period not to exceed 14 days.

Appeal.

This decision becomes final unless you file an appeal with the Skagit County Hearing Examiner, with required fees within 14 days of this decision. Appeal forms are available on the Skagit County website through the Civic Access Portal. WWW.SkagitCounty.net/planning Appeals are processed as appeals Level I decisions under Skagit County Code 14.09.290 failure to appeal may constitute waiver of all rights to appeal the decision.