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**From:**

**To:**

**Cc:**

**Sent:** Tuesday, May 04, 2010 12:54 PM

**Subject:** Fort Discovery - New Videos Uploaded!

Dear family, friends, citizens and business associates:

# Hagen Sets the Record Straight on Shoreline Master Program

- [May 2, 2010 - Jim Hagen - Jefferson County Shoreline Master Program - Part I](#)
- [May 2, 2010 - Jim Hagen - Jefferson County Shoreline Master Program - Part II](#)

## Non-Conforming Uses are Disfavored in Washington State

*In Washington, nonconforming uses are disfavored. [Rhod-A-Zalea v. Snohomish County](#), 136 Wn.2d 1, 959 P.2d 1024 (1998). Therefore, it is the landowner's burden when confronted with an enforcement action to prove a lawful nonconforming use which existed prior to the adoption of the land use regulation. [State v. County of Pierce](#), 65 Wn. App. 614, 623-24, 829 P.2d 217 (1992).*

# Jefferson County Attorney Uses Nonconforming Status Against Local Small Disadvantaged Business

The following was taken from briefs filed against SSNW regarding its legal nonconforming use (for the exception of the red text inserted) Is Jefferson County talking out of both sides of their mouths when it come to nonconforming? You decide.

JCC 18.20.260(1) provides clear restrictions on any alteration or replacement of a non-conforming use in a Rural Residential zone: The following standards apply to all legal nonconforming structures and uses: (1) Alteration or replacement of a nonresidential nonconforming use in Rural Residential districts is allowed subject to a conditional use permit. provided: (a) The use is compatible with surrounding rural uses; (b) The activity does not require additional urban levels of government service; (c) The proposal shall comply with the standards of this code to the maximum extent feasible; and (d) The proposal shall not have an adverse impact on an environmentally sensitive area or the immediate neighborhood. (Emphasis added).

Moreover, the 1992 Code included Administrative Rules which mandated that changes and expansions in nonconforming uses be processed through County agencies, including the Hearing Examiner. *(The Counties fails to tell anyone that the 1992 admin. rules were never adopted by the County Commissioners EVER!) Also, watch the end of The History of Ft. Discovery were the Port Hadlock Chamber scolds Jefferson County for NO notice to the public regarding the 1992 CODE.)*

Similar regulations were applicable as far back as 1992. As the Examiner noted, after enactment of the Zoning Code in 1992, a property owner or

tenant wishing to expand or alter a nonconforming use was required to submit an application for review by the Hearing Examiner. 1992 Administrative Rule IX, Ordinance 2-0127-92. (CP 36, CP 333- 337). (Opposing counsel (Jefferson County) use ordinance # 2-0127-92 as a head fake to the Court of Appeal. This was an Ordinance all right, but no for the Administrative Rules...the house of cards is starting to come down...now that you've read this Mr. Alvarez/Ms. Dalzell don't you have a duty to report this error to the Court of Appeals? If I remember correctly you did take an oath.)

As noted above, the law strongly disfavors nonconforming uses. Therefore, when considering a claim by a landowner of prior lawful use, the court or agency may properly require that allegations of prior use be supported by objective, credible evidence. Thus, it is frequently stated that the denial of nonconforming use rights will be sustained when the evidence of the prior use is "insufficient" or "contradictory. " Anderson, American Law of Zoning, Vol. 1, 56.09. The evidence supporting nonconforming use should be "objective evidence. " Overstreet v . Zoning Hearings Board, 412 A.2d 169 (Pa. 1980)

# **Insurance Fees Could Rise for Shoreline (creeks, streams & rivers) Property Owners**

In general terms coverage is on a "Replacement Cost Basis" new for old at the current site or another location.

If the insured cannot rebuild at their current site the carriers obligation is replacement cost as if rebuilt on the original site. The additional costs to rebuild at a conforming property could be substantial with architectural & engineering fees. underground utilities, foundation, landscaping, etc which are not covered unless damaged.

The permitting process to rebuild, replace or remodel in a non-conforming location usually increases the time and cost over a conforming location and there are several coverage options one should considered. Coverage considerations:

Increased Cost of Construction also known as **Ordinance and Law** pays for the additional costs to meet current building codes.

**Loss of Use** — The time to rebuild or repair. Some companies have limitations of 12 months and or a maximum coverage amount. Chubb Companies have no time or dollar limitation other than a “reasonable time period to rebuild”. Other companies have 24 months of coverage. Since the permitting process alone can take a year or more, this should be an important consideration.

Reconstruction costs are normally **greater in nonconforming areas** as contractors are seeking approvals from multiply governmental agencies before during and after construction. Building material requirements in shoreline locations may be more stringent and construction fees greater.

# Fort Discovery 218 Years Old...This Week!

- [The History of Fort Discovery](#) (watch the end you will be shocked)

## Other News:

- PTTV drops out of videotaping Monday morning BOCC meeting...*Jeffco101* approaching two year anniversary
- Commissioner Sullivan stuck on Whidbey Island...twice in six months...will Sullivan take vacation days or stick it to the employee and citizens of Jefferson County?
- Jeffco Home show bombs...attendance worst than expected. Sequim Home Show thrives...Only twenty miles difference...?

- May 11, 2010, DOE Shoreline Master Program written comment deadline...send your comments to Mr. Jeffree Stewart, Regional Planner for DOE **Email:** [jeff.stewart@ecy.wa.gov](mailto:jeff.stewart@ecy.wa.gov)
- Need ammunition? SSNW is an approved **WINCHESTER** dealer [info@ssnwhq.com](mailto:info@ssnwhq.com) "*SSNW helping citizens shoot more for less*"
- Interested in learning how to do Public Records Request? Contact Jeffco101 at [Jeffco101@yahoo.com](mailto:Jeffco101@yahoo.com)

What's going on in Jefferson County? Watch [Jeffco101](#) and find out.

## **New Videos Uploaded:**

**May 3, 2010, Jefferson County Board of County Commissioners - Public Comment (click on link below)**

- [Joe D'Amico](#) - Nonconforming Insurance - Fort Discovery History
- [Bill Miller](#) - Nonconforming Insurance
- [Jim Fritz](#) - Real Estate Sales/150 Buffers
- [Jim Boyer - Nonconforming - Video of the Week!](#)

**May 3, 2010 - Jefferson County Commissioners Briefing - [Regarding Shoreline Master Program & Misinformation](#)**

Jefferson County admits current website on SMP has misinformation posted. Would this be some of the information that Michelle McConnell mention in last week's email regarding a "*mix of facts*" (see below). Does the right hand know what the left hand is doing?

### **GET THE FACTS**

As the [Locally Approved SMP](#) (LA-SMP) continues through the State review process, many Jefferson County residents and land owners have been tuning in for the first time in this nearly 5-year process. There seems to be a mix of facts and rumors circulating through our community. We want citizens to be well informed as they form opinions and potentially

provide comments on the proposed update to the existing Shoreline Master Program (SMP).

### **Other related SMP Videos:**

- April 26, 2010 - [Commissioners Briefing - Shoreline Master Program Part - 1](#) "WOW" - *Commissioners now would like to consider changing the word non-conforming... Watch Commission Sullivan explain. Will that be for SSNW too or will that be only for those wealthy shoreline owners?*
- April 26, 2010 - [Commissioners Briefing - Shoreline Master Program Part - 2](#) "That's a good comment" Al Scalf

### **Upcoming Meetings/Events:**

May 10, 2010, 0900 hrs, **Jefferson County Board of County Commissioners** (BOCC) Meeting;

- ✓ 0901 - Public Comment (up to 30 minutes);
- ✓ - Commissioners Briefing (time and duration indeterminate);
- ✓ - Regular Agenda (time and duration indeterminate);
- ✓ - Recess to lunch;
- ✓ 1330 - County Administrator Briefing (duration indeterminate).

May 28, 2010, **Juan de Fuca Festival of the Arts**, Port Angeles;  
August 14, 2010, **Fort Discovery Picnic**, 1200 hrs, USN SAR Helicopter, 56th US Army Band, Airlift NW, USN EOD Bangor, US Border Patrol, SSNW ATFP Boat, Jefferson County Fire District #5, Clallam County Fire Dist #3, Jefferson County Sheriff's Department and Costco.

**Over 13,879 [Jeffco101](#) channel views from concerned citizens!**

Listen to citizens speak about the real issues in Jefferson County. Watch for yourself and see what actually happens with your own eyes and ears. **Forward this email to your family and friends.**

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**Respectfully,**

**Joe D'Amico, Editor  
Jeffco101**