

1 **BEFORE THE HEARING EXAMINER FOR JEFFERSON COUNTY**

2 Irv Berteig, Hearing Examiner

3 **RE:** Janet L. Stimach application) **File No. ZON02-00010**
4 for a Conditional Use Permit to)
5 expand an existing residence)
6 located in a Category I Wetland)
Buffer.) **FINDINGS, CONCLUSIONS,**
7) **AND DECISION**
8)

9 **BACKGROUND INFORMATION**

10 The property contains two residences on 1.25 acres. One of the
11 buildings was originally a garage, later changed to a studio, and in
12 2000, converted to an accessory dwelling unit. The Applicant is
13 requesting to remove the garage/studio/accessory dwelling and expand
14 the remaining single-family residence. Since both buildings predate
15 current wetland regulations, they are considered legal nonconforming.

16 **PROCEDURAL INFORMATION**

17 **Notices:** **Mailed:** February 13, 2002
18 **Posted:** February 13, 2002
19 **Publication:** February 13, 2002 (Port Townsend-
20 Jefferson County Leader).

21 **Site Visit:** March 5, 2002 (post hearing visit).

22 **Open Record Hearing Date:** March 5, 2002.

23 The hearing was opened at 1:00 p.m. in the Courthouse First Floor
24 Conference Room. After the procedures were explained, testimony was
25 accepted. A verbatim recording of the public hearing was made. The
26 tape is maintained in the Jefferson Permit Center file.

27 **Participants:**

28 Kevin Russell, Associate Planner

29 Janet Stimach, Applicant

1 Ryan Tillman, P.E., representing the Applicant

2 **The Hearing Examiner closed the public hearing at 1:25 p.m.**

3 **TABLE OF EXHIBITS:**

4

Exhibit / Attachment	Document	Date
5 1	Staff Report together with 32 Log Items	2/25/2002
6 2	Ltr from Ryan Tillman	3/5/2002
7 3	Statement from Dick and Bev Keithahn	2/28/2002
8 4	Statement from Gary and Patty Olson	3/1/2002
9 5	Statement from Dave and Donna Kuehn	2/28/2002
10 6	Statement from Michael Holland	3/4/2002

11 **FINDINGS OF FACT**

12 1. The proposal is for an expansion to an existing residence located
13 within a Class I Wetland Buffer. The expansion will add up to 1,300-
14 square feet of impervious surface.¹ The parcel contains two existing
15 dwellings. In addition, the applicant is proposing to remove the
16 other existing accessory dwelling prior to the proposed expansion.

17 2. The parcel is legally described as Parcel #821333005 in the South
18 West ¼ of Section 33, Township 28, Range 01 East of the W.M. The
19 parcel encompasses 1.25 acres.

20 3. The site is located at 351 & 352 Margaret Street, approximately
21 600 feet south of the SR 104 and South Point Road intersection. The
22 site is at the end of Margaret Street. The record indicates that
23 Margaret Street is built on fill placed for the road and building
24 sites about 1964.² Property research by the Department indicates that
25 the buildings were constructed prior to the wetland regulations, and
26 therefore are considered legal nonconforming buildings.³

27 ¹ Log Item 18 at 1 states 1,300 SF for added roof area including overhang,
28 while Site Plan (Log Item 9) shows 720 SF building area.

29 ² Log Item 19, Wetland Delineation Report dated July 2001 at page 1 referring
to a survey conducted by W.K. Merridith.

³ Log Items 7 and 10. Staff Report at 3.

1 4. A Master Use Permit Application was signed October 1, 2001;⁴ and
2 a Pre-Application Conference application was signed and date stamped
3 October 12, 2001.⁵ The Master Use Permit application was date stamped
4 on January 25, 2002, at which time the application was complete.⁶

5 5. The Department found the proposal is Categorically EXEMPT from
6 the State Environmental Policy Act per WAC 197-11-800(1)(b)(i).

7 6. Dixie Llewellyn, Principal Biologist, Olympic Wetland Resources,
8 Inc., prepared two reports for the Applicant: Wetland Delineation
9 Report and Re-vegetation Plan.⁷

10 a. The Wetland Delineation Report covers the Applicant's
11 property plus two additional parcels, describes as ...*three adjacent*
12 *parcels on a flat peninsula bisected by a gravel road*. These parcels
13 and the road were filled before 1964 to create building sites. Two
14 wetlands adjoin. The Class I wetland is a large saltwater estuary of
15 Shine Creek, a tidal marsh off Squamish Harbor and Hood Canal. The
16 Class III wetland is on and adjoins the other two parcels. The
17 Wetland Delineation Report notes that the Class I wetland requires a
18 150-foot buffer, which encompasses the road and both buildings on the
19 Applicant's property.

20 b. The Re-vegetation Plan focuses on the disturbed areas on
21 the Applicant's parcel. At the time the Plan was prepared,
22 approximately 4,540 square-feet had been disturbed due to the
23 installation of new septic systems. Since preparation of the Re-
24 vegetation Plan in February 2001, the Applicant now plans to remove
25 the garage/accessory building and expand the main residence. The goal

26 _____
27 ⁴ Log Item 16.

28 ⁵ Log Item 8.

29 ⁶ Log Item 21.

⁷ Log Item 19, Wetland Delineation Report dated July 2001; and Log Item 20, Re-vegetation Plan dated February 2001.

1 of the Re-vegetation Plan is to create a dense vegetation layer of
2 native plants on the disturbed areas.

3 7. The Site Plan contains the following information:⁸

4 a. The existing accessory residence and deck proposed for
5 removal scales to approximately 1,270 square-feet. The Site Plan does
6 not delineate the OHWM on Squamish Harbor; however, scaling to various
7 topography lines indicates that the residence proposed for removal is
8 about 50+ feet from the six-foot contour line and 90-feet from the
9 one-foot contour line.

10 b. The main residence has a roof area of 1,382 square-feet,
11 and the proposed expansion would add a total new impervious area of
12 720 square-feet. The Site Plan delineates an area around both existing
13 and addition plus work area for a total site disturbance of 2,610
14 square-feet. The overall proposal would have a net reduction of
15 approximately 550 square-feet of total building impervious area.

16 8. The Staff Report contains additional information, including *Staff*
17 *Comments* in a section labeled **Staff Findings and Conclusions**. The
18 Examiner has reviewed the Staff Report, other documents, visited the
19 site after the public hearing, and finds the information contained in
20 the Staff Report to be accurate, and now adopts the Staff Report as
21 part of these Findings of Fact.

22 9. After review and clarification of the Staff Recommended
23 Conditions, the Applicant concurred.

24 REVIEW CRITERIA

25 The Applicable Jefferson County Ordinances and Plans include:

26 • **Jefferson County Comprehensive Plan**

27 Chapter 8, "Environmental Element", page 8-38.
28

29 ⁸ Log Item 9.

1 • **Jefferson County Unified Development Code**

2 Section 4 (Performance and Use Standards), Section 6 (Development
3 Standards), and Section 8 (Conditional Use Criteria).

4 • **Jefferson County Shoreline Master Program**

5 The Examiner must review the application in light of the several
6 applicable regulations and specifically assure that the Conditional
7 Use Criteria of the UDC Section 8.8 are met.

8
9 **CONCLUSIONS OF LAW**

10 1. The Staff Report contains a section-by-section review of Uniform
11 Development Code applicable criteria, including that for a conditional
12 use permit, in a section labeled **Staff Findings and Conclusions**. The
13 Examiner now accepts the Staff recommended conclusions 1 through 11 at
14 pages 3 through 6, as his own Conclusions.

15 2. Although the Shoreline Master Program [SMP] was not part of the
16 application, the proposal is consistent with the nonconforming
17 provisions of the SMP.

18 3. The Conditional Use Permit is appropriate to approve with
19 conditions.

20
21 **DECISION**

22 Based upon the testimony presented at the Public Hearing, a site
23 visit by the Examiner, the documents and exhibits admitted into the
24 record, and the above Findings of Fact and Conclusions of Law, it is
25 hereby the decision of the Hearing Examiner that the Conditional Use
26 Permit application by Janet Stimach to remove an existing accessory
27 residence and to allow an existing main residence to be expanded
28 within a Class I Buffer, be **APPROVED** subject to the following
29 conditions:

1. The proposal shall adhere to the submitted and approved re-vegetation plan. The plan was approved by the Jefferson County Community Development Department on February 4, 2002.
2. Implement the provisions specified under Section 3.3 of the approved Re-Vegetation Plan.
3. Building height and setbacks shall conform to the Uniform Building Code.
4. Prior to final building inspection, the applicant shall contact the Development Review Division to ensure that the above conditions have been met.
5. A conditional use permit automatically expires and becomes void if the applicant fails to file for a building permit or other necessary development permit within three (3) years of the effective date (the date of the decision granting the permit) of the permit unless the permit approval provides for a greater period of time.
6. Extensions to the duration of the original permit approval are prohibited.
7. The Department of Community Development shall not be responsible for notifying the applicant of an impending expiration.

DATED this 19th day of March 2002.



**Irv Berteig
Jefferson County Hearing Examiner**

ib

Transmitted by the Jefferson Count Permit Center to the following:

DATE TRANSMITTED:

Janet L. Stimach, 1920 Spokane Street, Seattle, WA 98144

Ryan Tillman, P.E., Tillman Engineering,
P.O. Box 1375, Port Hadlock, WA98339