

# Shoreline Management Variance Permits

The purpose of a variance permit is strictly limited to granting relief to specific bulk, dimensional or performance standards set forth in the master program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the master program would impose unnecessary hardships on the applicant or thwart the policies set forth in the Shoreline Management Act.

1. Variance permits should be granted in a circumstance where denial of the permit would result in a thwarting of the policies of the Shoreline Management Act. In all instances extraordinary circumstances shall be shown, and the public interest shall suffer no substantial detrimental effect.

2. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies of the Shoreline Management Act, and should not produce substantial adverse effects to the shoreline environment.

3. Variance permits for development that will be located landward of the ordinary high water mark, except within those areas designated as marshes, bogs, or swamps, pursuant to WAC 173-22, shall be authorized only if the applicant can demonstrate all of the following:

permitted activities in the area, and will not cause adverse effects to adjacent proper

a. That the strict application of the bulk, dimensional, or performance standards set forth in the master program precludes or significantly interferes with a reasonable permitted use of the property;

b. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features, and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

c. That the design of the project will be compatible with other uses or the shoreline environment designation;

d. That the variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief;

e. That the public interest will suffer no substantial detrimental effects.

4. Variance permits for development that will be located either waterward of the ordinary high water mark, or within marshes, bogs, or swamps designated pursuant to WAC 173-22, shall be authorized only if the applicant can demonstrate all of the following:

- a. That the strict application of the bulk, dimensional, or performance standards set forth in the master program precludes or significantly interferes with a reasonable permitted use of the property;
- b. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features, and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
- c. That the design of the project will be compatible with other permitted activities in the area, and will not cause adverse effects to adjacent properties or the shoreline environment designation;
- d. That the variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief;
- e. That the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance;
- f. That the public interest will suffer no substantial detrimental effects.

(Amended Ord. No. 89-012 dated March 15, 1989)

All applications for substantial development, variance and conditional use permits shall be forwarded to the Department of Ecology, pursuant to WAC 173-14-090 and 173-14-130, as amended, for final approval or disapproval. No approval or disapproval shall be considered final until same has been acted upon by the Department of Ecology or until appeal proceedings have been terminated. Local government shall notify those interested persons having requested notification from local government pursuant to WAC 173-14-070 of the department's final decision.

(Amended Ord. No. 88-075 dated October 12, 1988)

### **Nonconforming Development Standards**

The following standards apply to nonconforming development, which is defined as a shoreline use or structure which was lawfully constructed or established prior to the effective date of the Shoreline Management Act or the Snohomish County Shoreline Management Master Program, or amendments thereto, but which does not conform to present regulations or standards of the program or policies of the Act.

1. Nonconforming development may be continued provided that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity.
2. A nonconforming development which is moved any distance must be brought into conformance with the SMMP and the Act.

3. If a nonconforming development is damaged to an extent not exceeding seventy-five percent replacement cost of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one year of the date of damage.

4. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, any subsequent use shall be conforming. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire.

5. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed.

6. An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the Act or the SMMP but which does not conform to the present lot size or density standards may be developed so long as such development conforms to other requirements of the SMMP and the Act.