

SECTION SEVEN -- APPENDICES

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I. WAC REVIEW CRITERIA

The following section contains the most recent edition of the Washington Administrative Code (WAC) regarding the review criteria for shoreline permits. The provisions for a Substantial Development Permit (SDP), a Shoreline Conditional Use Permit, and a Shoreline Variance Permit are as follows, and relate to the discussion on pages - 1 - through - 17 -. Amendments to the text or mapped shoreline "environment" designations are specifically discussed on pages - 14 - through - 17 -.

A. WAC 173-14-100 REVIEW CRITERIA FOR SUBSTANTIAL DEVELOPMENT PERMITS.

1. Prior to the effective date of an applicable master program, a substantial development permit shall be granted only when the development proposed is consistent with:
 - a. The policies and procedures of the act.
 - b. The guidelines and regulations of the department.
 - c. So far as can be ascertained, the master program being developed for the area.
2. After the adoption or approval, as appropriate, by the department of an applicable master program, a substantial development permit shall be granted only when the development proposed is consistent with:
 - a. The policies and procedures of the act.
 - b. The provisions of this regulation.
 - c. The applicable master program adopted or approved for the area.

The State Environmental Policy Act, Chapter 43.21C RCW, has been determined to be applicable to government permit programs. See WAC 461-08-175, Rules of Practice and Procedures of the Shoreline Hearings Board. Also see State Environmental Policy Act guidelines.

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B. WAC 173-14-140 REVIEW CRITERIA FOR CONDITIONAL USE PERMITS

The purpose of a conditional use permit is to allow greater flexibility in varying the application of the use regulations of the master program in a manner consistent with the policies of RCW 90.58.020: PROVIDED, that conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use.

1. Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided the applicant can demonstrate all of the following:
 - a. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the master program.
 - b. That the proposed use will not interfere with the normal public use of public shorelines.
 - c. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.
 - d. That the proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is to be located.
 - e. That the public interest suffers no substantial detrimental effect.
2. Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate, in addition to the criteria set forth in WAC 173-14-140(1) above, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the master program.

3. Uses which are specifically prohibited by the master program may not be authorized.
4. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses should also remain consistent with the policies of RCW 90.58.020 and should not produce substantial adverse effects to the shoreline environment.

C. WAC 173-14-150 REVIEW CRITERIA FOR 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 applicable 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 RCW 90.58.020.

1. Variance permits should be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances should be shown and the public interest shall suffer no substantial detrimental effect.
2. Variance permits for development that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), except within those areas designated by the department as marshes, bogs, or swamps pursuant to Chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the master program.

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- b. That the hardship described in WAC 173-14-150(2)(a) 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 interest will suffer no substantial detrimental effect.
3. Variance permits for development that will be located either waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), or within marshes, bogs, or swamps as designated by the department pursuant to Chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:
- a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes a reasonable use of the property not otherwise prohibited by the master program.
 - b. That the hardship described in WAC 173-14-150(3)(a) 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 requested variance will 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 effect.
4. 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 RCW 90.58.020 and should not produce substantial adverse effects to the shoreline environment.
5. Requests for varying the use to which a shoreline area is to be put are not requests for variances, but rather requests for conditional uses. Such requests shall be evaluated using the criteria set forth in WAC 173-14-140.

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