

# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## Environmentally Critical Areas — Yard & Setback, Steep Slope Erosion Hazard and Wetland Buffer Variances:

### Application Instructions and Submittal Requirements

Updated May 15, 2017

*Note: When this Tip refers to ECA regulations that apply within the Shoreline District, please reference ECA regulations dated before May 15, 2017. When the Tip refers to ECA regulations that apply outside the Shoreline District, please reference ECA regulations dated May 15, 2017.*

#### YARD AND SETBACK VARIANCES

City of Seattle regulations for environmentally critical areas (ECAs) include a provision authorizing the Seattle Department of Construction and Inspections (SDCI) to allow a 25 percent reduction (up to a maximum of 5 feet) in yard or setback requirements for development on a lot in existence as a legal building site prior to Oct. 31, 1992. This reduction does not require a variance if the full width of a riparian management area, steep slope erosion hazard area buffer, or wetland buffer is maintained. ECA regulations are contained in the Seattle Municipal Code (SMC), Chapter 25.09.

Any yard or setback reduction greater than 5 feet that also maintains the full width of a riparian management area, steep slope erosion hazard area buffer, or wetland buffer requires approval through an ECA yard or setback reduction variance. The Director may establish conditions to mitigate the reduction of the yard, setback, steep slope erosion hazard area buffer and steep slope erosion hazard area. For more detailed information, please see SMC Section 25.09.280. For proposals in ECA areas that are within a Shoreline District (generally land within 200 feet of a shoreline),

ECA variances must be requested as a Shoreline Variance (see TIP 209, [Application Requirements for Shoreline Permits](#)).

Before applying for a yard or setback reduction variance, applicants should consider other provisions that may change a wetland buffer or steep slope erosion hazard area buffer or allow development in the riparian management area. These other provisions are set out in SMC sections 25.09.160 (wetlands), and 25.09.180 (steep slopes) for projects within the Shoreline District (Chapter 23.60A) and 25.09.090 for projects outside the Shoreline District. If reducing the yard or setback does not mitigate the hardship unless the ECA buffer is also reduced, then no variance can be granted under 25.09.280. However, for steep slopes, a variance may be possible under 25.09.180.E, for projects within the Shoreline District (Chapter 23.60A) and 25.09.290 for projects outside the Shoreline District, or a Category IV wetland buffer may be reduced under 25.09.160.D for projects within the Shoreline District (Chapter 23.60A) and 25.09.160.E for projects outside the Shoreline District.

If the remedies provided in these sections are insufficient, the applicant may be eligible for an ECA exception. Please see SMC Section 25.09.300 and Tip 328, [Environmentally Critical Area Exceptions](#).

#### STEEP SLOPE EROSION HAZARD AREA VARIANCES

The Director may reduce the steep slope erosion hazard area buffer and/or may authorize limited intrusion into the steep slope erosion hazard area. The applicant must demonstrate that the lot where the steep slope and/or steep slope buffer is located was in existence before Oct. 31, 1992; and that the variance criteria under Section 25.09.280.B for projects within the Shoreline District (Chapter 23.60A) and 25.09.290 for projects outside the Shoreline District are met.

The Director is authorized to allow only the minimum reduction or intrusion needed to mitigate the hardship found under SMC Section 25.09.280.B.2 for projects



within the Shoreline District (Chapter 23.60A) and 25.09.290 for projects outside the Shoreline District and must do so in the following order of priority:

1. Reduce the yards and setbacks
2. Reduce the steep slope erosion hazard buffer
3. Allow an intrusion into the steep slope erosion hazard buffer
4. Allow an intrusion into not more than 30 percent of the steep slope erosion hazard area

## CATEGORY IV WETLAND BUFFER REDUCTION VARIANCES

Like the steep slope erosion hazard area variance, there may be circumstances where the application meets the criteria for a yard or setback reduction variance, but reducing the yard or setback does not result in completely maintaining a wetland buffer. The Director is authorized to reduce the required wetland buffer for Category IV wetlands, but never to less than 35 feet. The lot where the buffer is located must have been in existence before Oct. 31, 1992.

The Director can approve a wetland buffer reduction variance only if the site does not meet the criteria for buffer averaging in SMC Section 25.09.160.D.1 for projects within the Shoreline District (Chapter 23.60A) and 25.09.160.E.1 for projects outside the Shoreline District or if buffer averaging does not relieve the hardship found under SMC Section 25.09.280.B.2. The Director is authorized to allow only the minimum reduction needed to mitigate the hardship after the yards or setbacks have been reduced and after buffer averaging (if allowed). The wetland must be restored on site, and the Director may establish conditions to mitigate the reduction of the yard, setback, or buffer.

For more detailed information, please see Table A for 25.09.160 (wetland buffer), in addition to 25.09.280.

It should be noted that an ECA variance can only modify certain development standards specifically contained within the ECA ordinance or in the Land Use Code. There are other related codes and ordinances that cannot be modified through the ECA variance process. For example, the Floodplain Ordinance restricts development in floodways that cannot be modified with an ECA variance.

## PLANS REQUIRED

SDCI requires plans that clearly describe the proposed structure or development with emphasis on the extent of the modification for which this variance is sought. The applicant must also provide a written analysis of the variance criteria.

### ***The types of plans required may include:***

**SITE PLAN**—All applications will require a detailed site plan, per the requirements of Tip 103B, [ECA Site Plan Requirements](#), describing the existing and proposed developments. The site plan must include the boundaries of all ECAs, ECA buffers, limits of development coverage, limits of site disturbance, location of significant trees and vegetation areas, proposed and existing utility locations, and notations of variations from yard or setback requirements, any proposed buffer reduction, and calculations of any proposed steep slope intrusion. The applicant must also provide a written analysis of the variance criteria.

**ELEVATION PLANS**—Elevation views with particular emphasis on describing those portions of a structure that require a variance action may be helpful.

**FLOOR PLANS**—Floor plans of proposed and existing structures showing the use of all floor areas.

**LANDSCAPING AND OPEN SPACE PLANS**—All projects must show landscaping meeting City standards. All projects involving residential use must show open space or amenity area meeting City standards, particularly where proposed development will replace existing open space. Single family residences in single-family zones do not need to show open space. However, the configuration of existing or proposed landscaping may be used to support an application.

**CONTEXT MAP**—A map illustrating the subject property in relation to developments in the vicinity should be provided to give support to the application.

**TOPOGRAPHIC MAP**—A topographic map is required for sites with steep slope erosion hazard areas and steep slope buffers. This information may also be helpful for variance applications on sites with other ECAs.

### ***Additional requirements:***

SDCI may also require the following technical reports:

- a. Vegetation and revegetation report
- b. Geotechnical report
- c. Hydrology report

- d. Wetlands/riparian corridor report
- e. Other reports as required

For a checklist of the specific plan and application requirements for your project, please visit our Applicant Services Center (ASC). The ASC is located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. Call for business hours at (206) 684-8850 or check online at [www.seattle.gov/dpd/aboutus/whoweare/applicantservicescenter/](http://www.seattle.gov/dpd/aboutus/whoweare/applicantservicescenter/).

## APPLICATION FEES & PROCEDURES

An initial minimum application fee is due at the time you apply. This fee is charged in accordance with the Seattle Fee Subtitle, available from SDCI's Public Resource Center (PRC), or online at [www.seattle.gov/dpd/codesrules/codes/fees/](http://www.seattle.gov/dpd/codesrules/codes/fees/). Additional review fees at an hourly rate apply, and are invoiced monthly. Information on fee rates and procedural requirements is available by calling our PRC at (206) 684-8467.

## APPLICATION INSTRUCTIONS

1. For assistance with specific ECA regulations questions related to your application, you may schedule a presubmittal conference with a land use planner, which is recommended for applicants contemplating an ECA variance application. Please see SMC 23.76.038.
2. To start your application, login to the Project Portal at [www.seattle.gov/sdci](http://www.seattle.gov/sdci).
  - Complete the preliminary application. Once that is submitted, we will assign you a project number.
  - Use the project number to request a preliminary application site visit (fee required.) You will receive a report from the site inspector.
  - Once you have completed the preliminary application and the site visit, use the Project Portal to schedule an intake appointment for your application.
3. For proposals where proposed development in an ECA area is more than 200 feet from the shoreline, complete the attached ECA variance application form. For proposals in a Shoreline District, use the application form in Tip 209, *Application Requirements for Shoreline Permits*. You will need to upload the form to your Project Portal as part of your application.

4. Prepare plans as indicated previously.
5. During the online application intake process, the initial application fees will be collected along with your completed application and plans.

## NOTICE OF APPLICATION

SDCI will prepare a notice of the application in the department's Land Use Information Bulletin (LUIB) and will post a land use sign on the development site. Additionally, all residents and owners of properties within 300 feet of the site will receive mailed notice of the application.

Publication in the LUIB, installing a land use sign and sending the 300-foot mailed notice initiate a 14-day comment period that may be extended for an additional 14 days if a written request is received prior to the end of the initial 14-day comment period. For Shoreline Variance applications, there is only a single comment period of 30 days. The LUIB is available online at <http://web6.seattle.gov/dpd/luib/Default.aspx>.

## ECA YARD OR SETBACK VARIANCE REVIEW PROCESS AND APPEAL PROCEDURES

A land use planner will be assigned to the project to complete review and analysis. The application may be distributed to other City departments for their comments. The request for an ECA variance application will be evaluated in the context of the applicant's written analysis, proposed development, measures to protect the environment, and measures to minimize and reduce impacts on the surrounding development pattern and zoning designation.

When an ECA exception application is controversial and/or significant public interest in the application is shown SDCI may coordinate meetings between the applicant and interested parties during the application review process to accept public comment and to allow the applicant to hear neighborhood concerns and take these into consideration during final project planning.

When a variance is authorized, conditions may be attached regarding the location, character and other features of a proposed development that may be deemed necessary to carry out the spirit and purpose of the ECA regulations.

These conditions may take the form of granting only a partial variance (by allowing less than the requested amount of variation) or granting less than the number of specific variance components requested.

Once the analysis is completed, a decision will be

made and published in the LUIB and the Daily Journal of Commerce. Notice of the decision will also be sent to individuals who have indicated their interest in receiving it.

The ECA Variance decision made by Seattle DCI may be appealed to the City Hearing Examiner. The hearing examiner's decision is the final City decision. If the ECA Variance is part of a Shoreline Variance, the decision can be appealed to the Washington State Shoreline Hearings Board. The appeal instructions are included with the notice of decision.

## OTHER HELPFUL DOCUMENTS

- **Tip 103B**, [Environmentally Critical Area Site Plan Requirements](#)
- **Tip 111**, [Construction and Development in Floodplains](#)
- **Tip 327a**, [Environmentally Critical Area Exemptions, Relief from Prohibition on Development, and Modifications to Submittal Requirements](#)
- **Tip 327b**, [Environmentally Critical Areas — Small Project Waivers](#)
- **Tip 328**, [Environmentally Critical Areas Exceptions](#)
- **Tip 329**, [Environmentally Critical Areas Administrative Conditional Use Permit](#)
- **Tip 331**, [Environmentally Critical Areas — Tree and Vegetation Overview](#)
- **Tip 331A**, [Environmentally Critical Areas: Vegetation Restoration](#)
- **Tip 331B**, [Hazard Trees](#)

## Access to Information

Links to electronic versions of SDCI Tip, Director's Rules, and the Seattle Municipal Code are available on the "Tools & Resource" page of our website at [www.seattle.gov/sdci](http://www.seattle.gov/sdci). Paper copies of these documents are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.



## Application Form for ECA Variances

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### T O B E C O M P L E T E D B Y A P P L I C A N T

A. Please describe the proposed project indicating square footage of structure, height (1, 2, 3 stories, etc) and other specific details that communicate, with the plans, the nature of the proposed development on the subject site and the features that require a variance.

Please provide a response to each of the five questions below. Use a separate sheet for your answers; please number your answers to correspond to the questions listed below. You will need to address each criterion for each variance being sought.

The lot for which the variance is requested must have been in existence as a legal building site prior to Oct. 31, 1992. All applications must include the following. Please see SMC Section 25.09.280 for more detailed information.

B. You must submit a written analysis of the following facts and conditions as they apply to your request:

- 1. Because of the location of the subject property in or abutting an environmentally critical area or areas, and the size and extent of any required environmentally critical areas buffer, the strict application of the applicable yard or setback requirements of Title 23 would cause unnecessary hardship;**
- 2. The requested variance does not go beyond the minimum to stay out of the full width of the riparian management area or required buffer and to afford relief; and**
- 3. The granting of the variance will not be injurious to the safety or to the property or improvements in the zone or vicinity in which the property is located; and**
- 4. The yard or setback reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining; and**
- 5. The requested variance would be consistent with the spirit and purpose of the Environmentally Critical Policies and Regulations.**

If the remedies provided in these sections are insufficient, the applicant may be eligible for an ECA exception. Please see SMC Section 25.09.300 and Tip 328, *ECA Exception - Application Instructions and Submittal Requirements*.

T O B E C O M P L E T E D B Y A P P L I C A N T

**NAME AND ADDRESS OF OWNER(S) OF THE PROPERTY**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

**NAME AND ADDRESS OF AGENT FOR OWNER(S)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_

Date of Application: \_\_\_\_\_

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T O B E C O M P L E T E D B Y D P D S T A F F

Application Number: \_\_\_\_\_

Receipt #: \_\_\_\_\_

Land Use Planner: \_\_\_\_\_

Fee: \_\_\_\_\_

Analyst: \_\_\_\_\_

Land Use Map Page: \_\_\_\_\_

Zone: \_\_\_\_\_

Type of Critical Area(s): \_\_\_\_\_

Other Land Use Designations: \_\_\_\_\_

Approved: \_\_\_\_\_

Denied: \_\_\_\_\_