

DIRECTOR'S INTERPRETATION: VARIANCES AND NONCONFORMANCE

REQUEST SUMMARY

Is a building or structure entitled by a Shoreline Variance or Zoning Variance or Reasonable Use Exception defined as a nonconformance and then qualify for development exceptions related to nonconforming building and structures?

INTERPRETATION

Any development approved via variance or exception does not fall within the definition of nonconformance. As such, modifications or expansions of such developments require the approval of a new variance or exception, or permit revision, if applicable.

David Pyle

David Pyle (Jun 11, 2024 15:02 PDT)

CONTEXT, FACTS, AND FINDINGS

Sammamish Municipal Code (SMC) [21.04.040.B.241](#) defines Nonconformance as *any use, improvement or structure established in conformance with the City's rules and regulations in effect at the time of establishment that no longer conforms to the range of uses permitted in the site's current zone or to the current development standards of the code due to changes in the code or its application to the subject property.*

Code Interpretation [COD2024-00386](#), dated May 24, 2024, further clarifies that *a legal nonconforming building or structure is one that met all applicable building codes and development regulations at the time of construction. This includes improvements that were built when under the jurisdiction of King County, prior to the incorporation of the City of Sammamish. Any development approved via variance or exception does not fall within the definition of nonconformance.*

Related Code References

[SMC 21.04.040.B.241](#) – Nonconformance definition

[SMC 21.09.100.C](#) – Variance Decision Criteria

[SMC 21.03.020.H.2.a](#) – Reasonable Use Exception Criteria

[SMC 25.08.050](#) – Shoreline Variances

[SMC 25.08.140](#) – Permit Revisions

[WAC 173-27-100](#) – Shoreline Permit Revisions

[WAC 173-27-170](#) – Shoreline Variance Permit Criteria

Resources

[King County iMap](#)

[Sammamish Property Tool](#)

Questions?

[Submit Project Guidance](#)

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VARIANCES AND NONCONFORMANCE

Any variance, exception, or deviation from the development standards of the Sammamish Municipal code are intended to grant relief when strict enforcement of regulations results in a property that is not developable. Additionally, the purpose of any variance or exception is to be the minimum necessary to grant relief and not to continue a pattern of development that was established prior to current regulations. This is stated in [SMC 25.08.050](#) regarding shoreline variance criteria, [SMC 21.09.100.C](#) regarding variance criteria, and [SMC 21.03.020.H.2](#) regarding reasonable use exception criteria.

Also specific to development within the Shoreline Jurisdiction and SMC Title 25 Shoreline Master Program (SMP), [SMC 25.08.140](#) states: *A permit revision is required whenever the applicant...proposes substantive changes to the...development from those as approved in the existing and approved permit.* These shoreline permit revisions are limited by [WAC 173-27-100](#) and does not allow development to exceed height, coverage, or setbacks unless already authorized by a variance, and only allows a 10% increase maximum to ground coverage and height.

As the purpose of a variance or exception is to grant relief, any development entitled for such relief does not qualify for the regulations to modify or expand a legal nonconformance.