

Variance

What is the purpose of a variance?

The purpose of a variance is to provide relief to property owners where application of the Clark County Code may cause a hardship, due to unusual circumstances of the land.

What are the different types of reviews for variances?

There are three different review processes based upon the extent of the variance being requested.

The Planning Director may grant a variance for a **Type I** review [up to and including 10 percent of the numerical standard, except as provided in Section 40.550.020 (A)(5)], **Type II** review (more than 10 percent up to 25 percent of the numerical standard) for the following numerical standard(s), except as provided in Section 40.550.020 (A)(5) or up to 10 percent on more than one lot including, but not limited to:

- Setback
- Buffers
- Building height
- Landscaping
- Lot coverage
- Lot dimensions
- Parking standards

But not including lot area, density or qualifying standards for program such as infill or density transfer.

Variance requests for a **Type III** review (more than 25 percent of the numerical standard) require a public hearing and are decided by the Hearing Examiner.

Variances from the county's Transportation Standards are reviewed under the Road Modification review process, see Public Work's *Road Modification* handout.

What are the approval criteria for granting a variance?

The review authority may approve a variance when **all** of the following conditions and facts exist.

For Type I and II Reviews:

1. Granting the variance(s) will not:
 - Substantially detract from the livability or appearance of a residential area or from the desired character of a nonresidential area; or,
 - The variance(s) will substantially enhance the livability or appearance of a residential area or the desired character of a nonresidential area, such as by preserving or protecting significant natural, scenic, historic, cultural, open space or energy resources;
2. If variances to more than one regulation are being requested, the cumulative effect of the variances shall be consistent with the purpose of the zone in which the site is situated;
3. Adverse impacts resulting from the variance(s) are mitigated to the extent practical; and,
4. The variance(s) does not substantially impair or impede the availability or safety of access that would otherwise exist for vehicles or for pedestrians or alternative access is provided.

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Community Development
1300 Franklin Street, Vancouver, Washington
Phone: (360) 397-2375 Fax: (360) 397-2011
www.clark.wa.gov/development



For an alternate format, contact the Clark County ADA Compliance Office.
Phone: (360)397-2322
Relay: 711 or (800) 833-6384
E-mail: ADA@clark.wa.gov

For Type III Reviews:

1. Unusual circumstances apply to the property and/or intended use that do not apply to other property in the same vicinity or district;
2. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same vicinity or district;
3. The variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which property is located; and,
4. The variance will not adversely affect the realization of the comprehensive plan. (Sec. 40.550.020(B)).

What if I need a Type II (administrative) variance, but am submitting a Type III development application?

If an application for an administrative variance is associated with another development application, then the application for the administrative variance shall be combined with the associated application(s) for processing and shall be subject to the same procedure type as the highest number procedure type application(s) with which it is combined.

Is a pre-application conference required?

A pre-application conference is not required for a Type I or II review.

A pre-application conference is required before submitting a Type III application. The requirement for a conference may be waived if the Planning Director determines that the proposal is relatively simple. A waiver requires the applicant to submit a completed Pre-Application Review Waiver Request Form and fee.

What is the application process and when will I receive a decision?

Type I:

The applicant must submit a completed application form and fees, together with three copies of the required submittal items (see attached Type I and II Variance Submittal Requirements) to the Permit Center. A written decision on the variance request will be issued within 21 calendar days from determination that the application is complete.

Type II:

The applicant must submit a completed application form and fees, together with six copies of the required submittal items (see attached Type I and II Variance Submittal Requirements) to the Permit Center. A written decision on the variance request will be issued within 78 calendar days from determination that the application is complete.

Type III:

A pre-application conference is required before submitting a Type III review variance request. The next step is to submit a completed application form and fees, together with six copies of the required submittal items (see attached Type III Variance Submittal Requirements) to the Permit Center. A public hearing will be held within 78 calendar days from determination that the application is complete.

Within 14 calendar days after the hearing is closed, the Hearing Examiner will issue a written decision regarding the application. Within 7 calendar days of its issuance, the decision will be mailed to the applicant, other parties of record, and the neighborhood associations.

What if I didn't submit all of the required information?

The county conducts two application checks to ensure that applications are complete

before staff begins their development review process. Prior to accepting your application, the Permit Center staff will conduct a **Counter Complete** review of your submittal package. This initial review ensures that all main listed within the subdivision submittal requirements have been submitted before accepting your application (see attached submittal list). These include:

1. Application form
2. Application fee
3. Pre-Application Conference report (for Type III reviews only)
4. Developer's GIS Packet
5. Narrative
6. Submittal copies

Once your application is accepted, the original submittal package is routed to our review staff. Staff conducts a second completeness check, known as the **Fully Complete** review. This more detailed review ensures that all items under the numbered headings of the attached Type III Subdivision Submittal Requirements have been submitted. As an example, does the "Narrative" address **all** the approval criteria?

If required items are missing from your original submittal, you will receive a letter of **Not Fully Complete** with a list of the missing items. If you have not submitted the requested information within 30 days of this written request, staff will return your application and refund the application fee, less the processing costs incurred to date.

What kind of public notice is provided?

For Type I reviews, notice is only provided to the applicant.

For Type II and Type III reviews, within 14 days of the fully-complete date, a notice of the application, with the date, time and place for the public hearing will be mailed to:

- Applicant
- Neighborhood Association, if any
- Property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site
- SEPA notice to newspaper and listed SEPA agencies

The notice will invite written comments to be submitted within 14 calendar days of the date of the notice. Copies of any written comments received in a timely manner will be sent to the applicant. The applicant may submit a written response within 14 days from the date the comments are mailed.

For Type III reviews, the applicant and the county are required to post public hearing notices.

At least 30 calendar days prior to the public hearing, the **applicant** must post a public notice sign.

Our Applicant Posting Requirements handout contains the basic posting requirements plus sign specifications needed by the sign company and a sample *Affidavit of Posting*.

At least 15 calendar days prior to the public hearing date, the county will post public notices including the date, time and place of the hearing and describing the proposal as follows:

- Posted at the site
- Published in the newspaper
- Mailed to property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site
- Mailed to the Neighborhood Association
- Mailed to the applicant

The notice will invite interested parties to present testimony at the hearing either orally or in writing.

What is a Staff Report for a Type III review?

Staff's role is to prepare a Staff Report that summarizes their review of the proposed change(s) against the requirements of the Clark County Code. The staff report will make a recommendation to the Hearing Examiner for their consideration and decision.

What happens at a public hearing for a Type III review?

First, the applicant or their representative will be asked to present an overview of the proposed project to the audience, including those viewing the hearing over CTV cable access television. The applicant will next give a detailed description of the project and design considerations, showing the site plan and other drawings by either utilizing the overhead projector or making pre-meeting arrangements to use the Power Point projector.

Once the overview is completed, the applicant may next raise issues regarding the staff report and recommendations. This is also the time for the applicant to address issues that they believe may be brought up during the public testimony portion of the hearing, and/or issues they believe the Hearings Examiner may raise.

Once the applicant has completed their presentation, county staff will present an overview of their analysis, findings and recommendation as to whether the application meets or exceeds the approval criteria.

Following the staff presentation, the hearing will be open to the general public for their testimony.

Once all the public testimony has been presented, the applicant will have the opportunity to provide rebuttal testimony.

The Hearing Examiner will then close the public hearing.

Staff's decision may be appealed to the county Hearing Examiner by the applicant or any person or group. An appellant must submit an appeal application and fee within 14 calendar days after the written notice of the decision is mailed.

A decision by the Hearing Examiner is final unless a motion is filed for reconsideration or an appeal is filed with Superior Court.

Can the decision be appealed?

For Type I and II reviews the Responsible Official's decision may be appealed to the county Hearing Examiner by the applicant or any person or group. An appellant must submit an appeal application and fee within 14 calendar days after the written notice of the decision is mailed.

A decision by the Hearing Examiner is final unless a motion is filed for reconsideration or an appeal is filed with Superior Court.

See our *Appeals* handout for more information and fees.

Note: This handout is not a substitute for county code. For more detailed information, please refer to Clark County Code 40.550.020 Variances.

Submittal Requirements

The following checklist identifies information to be included with the application.

All items with an underlined space (i.e., ____) must be submitted before the application will be considered **Counter Complete**.

All items with a check box must be submitted before the application will be determined **Fully Complete**. All bulleted items must be submitted, as applicable, but are not a Fully Complete requirement.

1. ___ **Application form**

The application form shall be completed and original signed in ink by the applicant.

2. ___ **Application fee**

The required fee shall accompany the application. The check is to be made payable to Clark County Community Development.

3. ___ **Developer's GIS packet**

A copy of the Developer's GIS Packet shall be submitted with the application. Applicants have the option of requesting their GIS Developer's Packet in PDF format on a CD or posted to one of our FTP sites. To order Developer's Packets, please contact GIS at (360) 397-2391 ext. 4082 or themapstore@clark.wa.gov.

The packet includes the following:

- General Location Map
- Property Information Fact Sheet
- Arterial Roadway, C-Tran Bus Routes, Parks and Trails Map
- Elevation Contours Map
- Photography Map
- Photography Map with Contours
- Zoning Map
- Comprehensive Plan Map
- Water, Sewer and Storm Systems Map
- Soil Type Map
- Environmental Constraints Map
- Quarter Section Map

4. ___ **Site plan**

- The proposed plan shall be drawn to a minimum engineer's scale of 1" = 200' on a sheet no larger than 24 x 36 inches.

The following information shall be clearly depicted on the site plan:

- Applicant's name
- Owner's Name
- North arrow, scale and date
- Property lines and dimensions

- Location of existing buildings
- Locations and width of easements for access, drainage and utilities, etc.
- Location of proposed buildings, streets and storm drainage systems

5. ___ Narrative

A written narrative shall be submitted that justifies or explains how the variance request meets **all** of the following approval criteria:

For Type I and II Variances:

- Granting the variance(s) will not substantially detract from the livability or appearance of a residential area or from the desired character of a nonresidential area, or the variance(s) will substantially enhance the livability or appearance of a residential area or the desired character of a nonresidential area, such as by preserving or protecting significant natural, scenic, historic, cultural, open space or energy resources;
- If variances to more than one regulation are being requested, the cumulative effect of the variances shall be consistent with the purpose of the zone in which the site is situated;
- Adverse impacts resulting from the variance(s) are mitigated to the extent practical; and,
- The variance(s) does not substantially impair or impede the availability or safety of access that would otherwise exist for vehicles or for pedestrians, or alternative access is provided.

For Type III Variances:

- Unusual circumstances of conditions apply to the property and/or to the intended use that do not apply generally to other property in the same vicinity or district;
- Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district;
- The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which property is located;
- That the granting of such variance will not adversely affect the realization of the comprehensive plan. (Sec. 40.550.020(B)).

6. ___ Submittal copies

Type I review

One bound copy (one with original signature), bound by a jumbo clip or rubber band, of the full application package

Type II or III review

___ One copy of the main submittal, bound by a jumbo clip or rubber band, with original signatures

___ One copy of any special studies (wetland, floodplain, etc.) bound separately

After the application is fully complete, the new copies must contain revisions and any additional information required in the fully complete review. The copies must be bound using jumbo clips, stapled or spiral bound. The applicant must select Option A or B below and proceed as follows:

Option A

Submit a CD in PDF format, with a copy of the fully complete application. Any special studies shall also be included on the CD. The CD application shall be organized as follows:

- The application submittal shall be organized in the same order as the fully complete application table of contents, with a separate PDF document for each separate item.
- The PDF document must be organized into separate files. Each PDF file must be labeled with a number followed by a name (example):
 1. Cover Sheet and Table of Contents
 2. Application Fee
 3. Pre-Application Conference report
 4. etc.

If submitting by CD, you will also need to include three full-size sets of paper plans.

Option B

Submit five additional individually bound paper copies of the fully complete application, except any special studies as identified within the Pre-Application Conference Report.

We are also requesting that an electronic copy of the land division/site plan be submitted by email to: angie.merrill@clark.wa.gov

The applicant will also be required to submit additional individually bound copies of any special studies as identified below.

Copies of any special studies as identified within the Pre-Application Report as following:

- One original and three copies - Traffic Study and Road Modification requests
- One original and two copies of all other special studies or permits to include: Critical Aquifer Recharge Areas (CARA), floodplain, geo-hazard, habitat, shoreline, stormwater, erosion control plan, and wetland.
- Two reduced copies on 11" x 17" for all sheets larger than 11" x 17."

Mining Permit Applications - A sixth copy of the main submittal package must be submitted for distribution to the Department of Natural Resources.

Staff Notes:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

This application was determined to be Counter Complete on: ____/____/____

Permit Technician: _____

Fee schedule

The following fees are required to be paid when the application is submitted.

Type I Review, stand alone

Planning	\$1,014
Issuance	\$53

Type I Review when considered with another development application

Planning	\$499
Issuance	\$53

Engineering	\$575
Issuance	\$53

Stormwater variance request	\$1,207
Issuance	\$53

Fire Marshal, if applicable	\$434
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Type II Review, stand alone

Planning	\$1,780
Issuance	\$53

Type II Review when considered with another development application

Planning	\$731
Issuance	\$53

Engineering	\$575
Issuance	\$53

Stormwater variance request	\$1,207
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Fire Marshal, if applicable	\$434
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Type III Review, stand alone

Planning	\$4,859
Issuance	\$53

Engineering	\$575
Issuance	\$53

Type III Review when considered with another development application

Planning	\$2,928
Issuance	\$53

Engineering	\$575
Issuance	\$53

Stormwater variance request	\$1,207
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Fire Marshal, if applicable	\$434
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Development Application

Project name:		
Type(s) of application (see reverse side):		
Description of proposal:		
Applicant name:		Address:
E-mail address:	Phone and fax:	
Property owner name (list multiple owners on a separate sheet):		Address:
E-mail address:	Phone and fax:	
Contact person name (list if not same as applicant):		Address:
E-mail address:	Phone and fax:	
Project site information:		Comp plan designation:
Site address:		
Cross street:	Zoning:	Parcel numbers:
Overlay zones:	Legal:	Acreage of original parcels:
Township:	Range:	¼ of section:

Authorization

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request. This application gives consent to the county to enter the properties listed above.

Applicant's signature

Date

Property owner or authorized
representative's signature

Date

For staff use only	Case number:		Work order number:	
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Revised 6/14/12



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E-mail: ADA@clark.wa.gov

Application types

If you have any questions regarding the type of application being requested, our Permit Technicians will be happy to assist you.

- Annual Review
- Appeal
- Boundary Line Adjustment and Lot Reconfiguration
- Conditional Use

Environmental/Critical Areas

- Critical Aquifer Recharge Area (CARA)
- Columbia River Gorge
- Forestry + (Moratorium Waiver, Moratorium Removal, Class I, Class IVG or COHP)
- Floodplain
- Geological
- Habitat
- Habitat Monitoring
- Historic
- SEPA
- Shoreline
- Wetland
- Wetland Monitoring

Land Division

- Binding Site Plan
- Final Plat
- Plat Alteration
- Short Plat (___ Infill)
- Subdivision (___ Infill)

Miscellaneous

- Addressing
- Accessory Dwelling
- Covenant Release
- Home Business
- Legal Lot Determination and Innocent Purchasers Determination
- Non-Conforming Use Determination
- Sewer Waiver
- Shooting Range
- Sign

Planning Director Review

- Post Decision
- Pre-Application Conference
- Pre-Application Waiver
- Public Interest Exception
- Similar Use
- Temporary Use
- Planned Unit Develop/Master Plan
- Road Modification
- Site Plan
- Variance
- Zone Change