

July 19, 2013

Discussion on Minor Land Use Decisions & Lands Covered By Water Proposals

Minor Land Use Decisions

[To be added to WAC 197-11-800(2), the following language is all new]

(k) The construction of bridge across a Np or Ns water as defined by WAC 222-16-030(3) or (4) if:

(i) there is no existing right of way or easements providing alternative access to the property;

(ii) the application does not propose and the approval does not allow clearing, grading, filling, or construction below the ordinary high water mark;

(iii) the local government's development regulations require the bridge to be designed by a professional engineer to pass the one hundred year flow below the bridge and any channel migration is factored into the design; and

(iv) the local government's development regulations require the identification, avoidance, minimization, and mitigation of adverse impacts to critical areas and their buffers from the development proposal.

Lands Covered by Waters Provisions for Short Plats

WAC 197-11-800

(6) **Minor land use decisions.** The following land use decisions shall be exempt:

(a)(i) Except ~~((upon lands covered by water))~~ as otherwise provided in subsection (6)(a)(ii) and (6)(a)(iii) of this section, the approval of short plats or short subdivisions ~~((pursuant to the procedures required by RCW 58.17.060))~~ under chapter 58.17 RCW.

(ii) ~~((but not including))~~ Further short subdivisions or short platting within ((a)) the original short plat or short subdivision boundaries that would cause the cumulative division to exceed the total residential unit lot exemptions allowed to be created under a short subdivision by this subsection ~~((previously exempted under this subsection))~~ are not exempt.

(iii) Short subdivisions or short plats that have lands covered by water within the boundaries of the short subdivision or short plat are not exempt only if the application and approval prohibits ~~proposes or the approval allows~~ locating building sites, facilities, improvements, structures, fills, excavations, or construction below the ordinary high water mark of a water of the state, in a wetland, or in the local government's associated standard buffer for the water of the state or wetland. A local government may allow modification of the standard buffer through buffer averaging or other similar measures if its development regulations require the development proposal to demonstrate that the ecological structure and function of the resulting buffer is equivalent to or greater than the structure and function before averaging, that the total area of the buffer is not reduced, that the buffer area is contiguous, and that there is no reduction of the minimum buffer for the buffer area waterward of the top of the associated steep slopes.

(b) Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.

(c) Classifications of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.