

SHORELINE MANAGEMENT PERMIT
ACTION SHEET

RECEIVED
JUN 26 2015
KITITAS COUNTY
CDS

Application #: CU-14-00006
SD-14-00003
Administering Agency Kittitas County Land Use Hearing Examiner

Type of Permit: Zoning Conditional Use Permit
Recommended Action: Shoreline Substantial Development Permit
 Shoreline Conditional Use Permit
 Approved Denied

Date of Action: June 24th, 2015

Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of the Kittitas County, a permit is hereby granted to:

Washington State Department of Fish & Wildlife

To undertake the following development: Washington State Department of Fish and Wildlife (WDFW) submitted an application packet requesting a zoning conditional use permit, a shoreline substantial development permit, and a shoreline conditional use permit for a new haul-out area on the Yakima River along with up to 12 parking spaces and a portable toilet facility on a 3.19 acre parcel that is zoned Agriculture 20. The parking will include eight (8) passenger car spaces, one (1) of which will be designated as ADA accessible, and four (4) spaces intended for trailer or longer vehicles. The project was revised and two (2) passenger vehicle spaces have been eliminated.

Upon the following property: in a portion of Section 12, T. 18 N., R. 17 E., W.M. in Kittitas County, Washington.

Within 200 feet of the Yakima River and/or its associated wetlands.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within Rural Shoreline (west of river) and Conservancy Shoreline (eastside of river) designations. The Shoreline Master Program is applicable to this development:

Development pursuant to this permit shall be undertaken in conformance with the following terms and conditions:

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.

2. The project shall proceed in substantial conformance with the plans and application materials on file dated November 6, 2014 and subsequent information included in the complete file index except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. All development, design and construction shall comply with Kittitas County Code and the most current version of the International Fire & Building Codes.
5. The haul-out ramp shall maintain at least a 25 foot buffer from the two PSSC wetlands known to be on-site.
6. All work shall take place outside of the OHWM except that work necessary to construct the boat haul-out ramp. All work performed shall be completed in conformance with the best practices and mitigation measures described in the Biological Assessment (Index #39) and information, including site plans/construction drawings, associated with the SEPA DNS revised packet (Index #37) and additional information submitted on December 29, 2014 (Index #5).
7. Prior to any construction activity within the regulated floodplain, a floodplain substantial development permit is required to be issued by Kittitas County.
8. Prior to any construction activity on-site, a clearing and grading permit is required to be issued by Kittitas County.
9. All requirements of WA Department of Transportation (WSDOT) shall be complied with. The access permit and lease have been approved by WSDOT. The approach must be constructed and approved by WSDOT.
10. Informational signage is required to be posted on site with warnings and rules of use. The sign(s) shall include at a minimum: notice of danger regarding the dam downstream of the haul-out ramp, hours of operation, respecting surrounding private property, pack-it-out policy if no waste receptacle is provided by WDFW, and that boat launches are prohibited.
11. Signage less than 7 feet in height is exempt from a building permit and will not require engineering. Information signage is exempt from a land use sign permit. Applicant is encouraged to contact Kittitas County Community Development Services regarding any signage prior to placement to determine if any permits will be required.
12. The proposed vault toilet or portable toilet will require a building permit if the entire structure is larger than 120 square feet in size.
13. A turn-around shall be provided for fire department access. The applicant shall consult with the Kittitas County Fire Marshal's office for specific requirements.
14. Access shall be a minimum width of 20 feet and the address shall be clearly visible from both directions of travel on the highway.
15. The applicant shall take reasonable steps to prohibit boat launches from the site.

RECOMMENDED FINDINGS OF FACT

1. Washington State Department of Fish and Wildlife (WDFW) submitted an application packet requesting a zoning conditional use permit, a shoreline substantial development permit, and a shoreline conditional use permit for a new boat haul-out area on the Yakima River along with up to 12 parking spaces and a portable toilet facility on a 3.19 acre parcel that is zoned Agriculture 20. The parking will include eight (8) passenger car spaces, one (1) of which will be designated as

ADA accessible, and four (4) spaces intended for trailer or longer vehicles. The project was revised and two (2) passenger vehicle spaces have been eliminated.

2. The proposal is located in a portion of Section 12, T. 18 N., R. 17 E., W.M. in Kittitas County, Washington. More generally, it is located at MP 101 on Hwy 10 along the eastern shore of the Yakima River. More generally the site is accessed off of State Hwy 10 at MP 101.
3. Site Information:

Total Property Size:	3.19 acres, project on less than 1 acre
Number of Lots:	1; no new lots are being proposed
Domestic Water:	none proposed
Sewage Disposal:	vault toilet/portable toilet
Power/Electricity:	none proposed
Fire Protection:	Fire District 2 - KVHR
Irrigation District:	Thorp Mill & Cascade
4. Site Characteristics:

North:	State Hwy 10 and private properties
South:	Yakima River and private properties
East:	State Hwy 10 and private land with dispersed single family residences
West:	Yakima River and private properties
5. The Comprehensive Plan designation is "Rural Working."
6. The subject property is zoned "Agriculture 20," which allows for the proposed recreational use as a conditional use.
7. A zoning conditional use permit, shoreline substantial development permit, and shoreline conditional use permit were submitted to Community Development Services on November 6, 2014 and were deemed incomplete on December 4, 2014. Additional information was received from the applicant on December 29, 2014. On January 30, 2015, the application packet was deemed complete. The affidavit of site posting in accordance with KCC 15A.03.110 was received by CDS on February 17, 2015. The Notice of Application was issued on March 10, 2015. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. A corrected Notice of Application was published on March 12, 2015 to correct an error regarding the lead agency for SEPA determination. The last day to submit written comments was on April 8, 2015.
8. WDFW acted as the lead agency for the SEPA determination and issued a DNS (Determination of Non-Significance) in February 2014 (Index #2). This determination was not appealed. Based on comments received during the comment period for the permits with Kittitas County, WDFW chose to revise their DNS and amend their SEPA checklist on April 28, 2015 (Index #37). This revised DNS was not appealed.
9. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan.
10. This proposal is consistent with the provisions of KCC Title 12, Roads and Bridges as conditioned.
11. This proposal is consistent with the provisions of KCC Title 14, Buildings and Construction as conditioned.
12. This proposal is consistent with the provisions of KCC Title 17.29, Agriculture 20 zoning.

13. This proposal is consistent with the provisions of KCC 17.60A, Conditional Uses and meets the criteria of KCC 17.60A.015 (1-7).
14. Staff conducted an administrative critical area review in accordance with KCC 17A and found that this proposal is located along the eastern shoreline of the Yakima River which is a Shoreline of the State. The applicant provided a biological assessment regarding the impacts to the environment and habitat due to the placement of a boat launch and haul-out within the Yakima River. Additionally, the applicant is applying concurrently with their zoning conditional use permit for a shoreline substantial development permit and shoreline conditional use permit as required by Kittitas County. The applicant is also working with Kittitas County's Floodplain manager to obtain a floodplain development permit consistent with KCC 14.08 Flood Damage Prevention code section due to work being performed within the 100 year floodplain. Staff review also found that there are two PSSC wetlands on the subject property. The current KCC 17A.04.020 buffer width requirement is a minimum of 25 feet, which this proposal meets. Additionally, the biological assessment addresses mitigation measures both for the in-stream and upland work. Finally, this site has a Priority Habitat Species (PHS) designation of Yakima River: Bald Eagle wintering area, goose nest area. As conditioned, this project is consistent with the provisions of KCC 17A.
15. As conditioned, the proposal is consistent with the Shoreline Master Program. The Conservancy Shoreline designation allows for this proposed recreational project per Section 32 as long as a shoreline conditional use permit is approved per Section 39. Signage will be required for this site to protect the public and private property owners. The related project documents address the need for this project. This proposal meets all of the criteria in Section 39 (2) (a – e) of the current existing 1975 Shoreline Master Program for approval of a shoreline conditional use permit.
16. The following agencies provided comments during the comment period: WA Department of Health, Kittitas Valley Fire and Rescue, KC Fire Marshal, KC Public Works, & KC Building Department. These comments have been considered and included as conditions of approval to address these agency concerns. A late comment was received by the WA Department of Ecology.
17. Numerous public comments were submitted for this proposal at the time of staff review and were considered by the Hearing Examiner in rendering this Recommended Decision.
18. An open record public hearing after legal notice was held on June 11th, 2015.
19. Appearing and testifying at the hearing on behalf of the applicant was Marty Peoples. Mr. Peoples testified that he was biologist with the Washington Department of Fish and Wildlife. He testified that he was an agent to appear and speak on behalf of the applicant and property owner. He indicated that there would be no launching permitted from the project site and that signs would be erected to advise the public that launches were not allowed. He testified that all of the Proposed Conditions of Approval were acceptable. He testified that he did not anticipate that waste facilities would be provided because this would be a primitive site.

Also testifying on behalf of the applicant was John Hansen. Mr. Hansen is the project manager for Washington Department of Fish and Wildlife. Mr. Hansen testified that the applicant was fully aware of all safety issues related to the highway and the river. Launching was to be prohibited from this site. It's intended solely to be a takeout site. He submitted exhibit 65 regarding proposals not only as to the language on signs but also location of signs.

20. The following member of the public testified generally in favor of the project:
20.1 Leta Davis

- 20.2 Lee Davis
- 20.3 Ralla Vickers
- 20.4 Rick Holmstrom
- 20.5 Derek Young
- 20.6 Tim Gavin
- 20.7 Joe Rotter
- 20.8 Ninon Wheatley
- 20.9 Steve Joyce
- 20.10 Margaret Sahlastrand
- 20.11 Clay Meyers

21. The following members of the public testified generating opposition to the project:

- 21.1 Gordon Tang
- 21.2 Brian Amsbary
- 21.3 Dorothy Redlin
- 21.4 Rhonda Griffin

22. During the open record public hearing, the following exhibits were admitted into the record:

- Exhibit 1. KC application receipts – 11.6.14
- Exhibit 2. Application submittal packet – 11.6.14
- Exhibit 3. Staff Review
- Exhibit 4. Incomplete Application letter – 12.4.14
- Exhibit 5. Additional Information from applicant
- Exhibit 6. Deem complete letter – 1.30.15
- Exhibit 7. Affidavit of Sign Posting
- Exhibit 8. Notice of Application
- Exhibit 9. Notice of Application Legal
- Exhibit 10. Daily Record Notice of Application confirmation
- Exhibit 11. Notice of Application of Application Legal – corrected
- Exhibit 12. Daily Record Notice of Application confirmation – corrected
- Exhibit 13. Affidavit of Mailing & Publication – Notice of Application
- Exhibit 14. KC PW Transportation Concurrency Request
- Exhibit 15. KC PW Determination of Concurrency Finding
- Exhibit 16. Notice of Application DR publishing proof
- Exhibit 17. Notice of Application DR publishing proof – corrected
- Exhibit 18. CDS & applicant email – 4.8.15
- Exhibit 19. COMMENT PERIOD-A Department of Health Comment Email – 3.11.15
- Exhibit 20. COMMENT PERIOD-Kittitas Valley Fire & Rescue Comment Email – 3.11.15
- Exhibit 21. COMMENT PERIOD-KC Fire Marshal Comment Email – 3.11.15
- Exhibit 22. COMMENT PERIOD-D. Young Comment Email – 3.15.15
- Exhibit 23. COMMENT PERIOD-KC Public Works Comment Email – 3.19.15
- Exhibit 24. COMMENT PERIOD-KC Building Dept. Comment Email – 3.20.15
- Exhibit 25. COMMENT PERIOD-W. Fields Comment Email – 4.1.15
- Exhibit 26. COMMENT PERIOD-B. Amsbary Comment Email – 4.7.15
- Exhibit 27. COMMENT PERIOD-B. Williamson Comment Fax (duplicate of email) – 4.8.15
- Exhibit 28. COMMENT PERIOD-B. Williamson Comment Email – 4.8.15
- Exhibit 29. COMMENT PERIOD-B. Williamson Comment Fax (duplicate of email) confirmation – 4.9.15
- Exhibit 30. COMMENT PERIOD-B. Williamson Comment Email confirmation – 4.9.15

- Exhibit 31. Transmittal of Comments – 4.13.15
- Exhibit 32. DOE comment letter received after comment period ended – 4.9.15
- Exhibit 33. CDS & applicant email – 4.16.15
- Exhibit 34. CDS & applicant email – 4.16.15.2
- Exhibit 35. CDS & applicant email – 4.20.15
- Exhibit 36. CDS & applicant email – 4.28.15
- Exhibit 37. SEPA DNS revised packet from WDFW – 4.28.15
- Exhibit 38. CDS & applicant email – 5.6.15
- Exhibit 39. Biological Assessment
- Exhibit 40. CDS & applicant email – 5.14.15
- Exhibit 41. CDS & Williamson email – 5.15.15
- Exhibit 42. Staff & applicant email – 5.26.15
- Exhibit 43. Notice of Hearing & Affidavit of Publication
- Exhibit 44. Existing 1975 Kittitas County Shoreline Master Program
- Exhibit 45. WSDOT Requirements – Email between C. Wollman and R. Holmstrom – 6.1.15
- Exhibit 46. CDS & Steve-Red’s Fly Shop Email – 6.3.15
- Exhibit 47. CDS & Joe-Red’s Fly Shop Email – 6.3.15
- Exhibit 48. Request for Continuance of HE Hearing and Declaration from B. Amsbary – 6.4.15
- Exhibit 49. Hearing Examiner Email response to Continuance Request – 6.4.15
- Exhibit 50. B. Amsbary Email response to Hearing Examiner Email – 6.4.15
- Exhibit 51. Kittitas County Hearing Examiner Staff Report – 6.11.15 [hearing date]
- Exhibit 52. Kittitas County response to Motion to continue dated June 5, 2015
- Exhibit 53. GT Ranch, LLC replied to County response dated June 5, 2015
- Exhibit 54. Second declaration of Bill Williamson
- Exhibit 55. Washington Department of Fish and Wildlife response to Motion to continue, dated June 8, 2015
- Exhibit 56. Hearing Examiner Decision on Motion to continue dated June 9, 2015
- Exhibit 57. June 10, 2015 email from Mr. Amsbary regarding procedural matters with Hearing Examiner’s response dated June 10, 2015
- Exhibit 58. Seven additional comment letters as follows
 - Exhibit 58.1 June 5, 2015 letter from Attorney Lawrence Martin on behalf of Ellensburg Water Company with attached exhibits 1-8.
 - Exhibit 58.2 June 5, 2015 email from Patrick Barta to Lindsey Ozbolt.
 - Exhibit 58.3 Letter from Steve Rogers to Kittitas County Hearing Examiner dated June 11, 2015.
 - Exhibit 58.4 Letter from Melissa Robertson of Central Washington University to Lindsey Ozbolt dated June 11, 2015
 - Exhibit 58.5 Letter from Steve Locati to Kittitas County Hearing Examiner dated June 11, 2015
 - Exhibit 58.6 Email from William Loder to Kittitas County dated June 11, 2015.
 - Exhibit 58.7 Email from Leta Davis to Kittitas County dated June 11, 2015
- Exhibit 59. Email comments identified as follows
 - Exhibit 59.1 June 8, 2015 email from Christina Gourley to Lindsey Ozbolt.
 - Exhibit 59.2 Email dated June 11, 2015 from Jon Easterbrooks to Leah Hendrix
- Exhibit 60. GT Ranch, LLC submissions dated June 11, 2015 as follows:
 - Exhibit 60.1 Email form Brian Amsbary to Lindsey Ozbolt dated June 11, 2015.
 - Exhibit 60.2 June 11, 2015 letter from Bill Williamson to the Hearing Examiner.
 - Exhibit 60.3 Declaration of Calvin Tang.
 - Exhibit 60.4 Declaration of William Taylor, MS (with resume)
 - Exhibit 60.5 Declaration of Christopher Wright (with resume)

- Exhibit 61. GT Ranch, LLC submissions dated June 11, 2015 including
 - Exhibit 61.1 Email from Brian Amsbary to Kittitas County dated June 11, 2015.
 - Exhibit 61.2 Declaration of David Matthews, PLS
- Exhibit 62. Powerpoint presentation prepared by Kittitas County Community Development staff
- Exhibit 63. Six (6) pages of photographs submitted by staff of the project area
- Exhibit 64. GT Ranch easement exhibit
- Exhibit 65. Applicant's examples of signage and proposed location of signs.

23. Public agencies with potential jurisdiction over this project were given an opportunity to review the proposal. Agencies that responded with comments were admitted into the record and considered by the Hearing Examiner in rendering this Decision.
24. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

RECOMMENDED CONCLUSIONS OF LAW

1. As conditioned, the proposal meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interest will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Kittitas County Code Title 12 Roads & Bridges, Title 14 Building & Construction, Title 17 Zoning, Title 17A Critical Areas, and the Kittitas County Shoreline Master Program.
5. The Hearing Examiner has been granted authority to render this Recommended Decision.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

This permit is granted pursuant to the Shoreline Master Program of the Kittitas County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).

This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.

Approval Recommended this 24th day of June, 2015.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department _____

Approved _____

Denied _____

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

Date

Signature of Authorized Department Official