

**SHORELINE MANAGEMENT PERMIT  
ACTION SHEET**

**Application #:** SD-19-00002

**Administering Agency** Kittitas County Land Use Hearing Examiner

**Type of Permit:** ■ Shoreline Substantial Development Permit

**Recommended Action:** ■ Approved    □ Denied

**Date of Action:** March 19, 2021

**Date Mailed to DOE/AG**

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

**Robert Wallace and Wallace Ranch II, LLC**

To undertake the following development: Charles Marshall, authorized agent for Robert Wallace, landowner, submitted an application for a 58 detached residential lot conservation plat through 6-8 phases. The proposal includes three development areas over 1,163.7 acres. The proposed lots range in size from 2 acres to 5 acres. Eighteen of the proposed lots are within Shoreline jurisdiction requiring a separate Shoreline Substantial Development permit.

Upon the following property: The project area is located approximately 3 miles east of the City of Cle Elum along the Yakima River. It includes 72 parcels owned by Wallace Ranch II, LLC. The parcels span sections 3, 10, 11, 12, 13, and 14 of T19N, R16E, W.M., Kittitas County.

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

**I. CONDITIONS OF APPROVAL**

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

1. The project shall proceed in substantial conformance with the plans and application materials on file dated December 18, 2019 except as amended by the conditions herein or the results of an Archeological Survey.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. All accesses and roads shall be IFC compliant.
4. As development progresses the applicant shall work with the Kittitas County Fire Marshal to determine fire flow needs and hydrants. The applicant shall comply with all KC Fire Marshal requirements.

5. Any gates associated with the development shall have Knox Keyboxes, padlocks, or gate actuator keyways as prescribed by the Kittitas County Fire Marshal.
6. The applicant will place a minimum 815 acres in Open Space for perpetuity and this will be designated on the final mylar(s) clearly demonstrating Open Space acreages.
7. The final plat shall include plat notes and appropriate covenants and restrictions ensuring that the open space tract will not be further developed or subdivided in the future.
8. The use of the open space area will be for passive and active recreational uses as allowed in KCC 16.09.
9. Soil logs are required for all lots. In accordance with KCC 13.04.090, a minimum of one soil log from each proposed lot where individual sewage disposal systems are contemplated must be completed prior to final approval.
10. In accordance with KCC 13.35.027, the applicant shall provide one of the following documents before final plat approval
  - 10.1. A letter from a water purveyor stating the purveyor has adequate water rights and will provide the necessary water for the new use.
  - 10.2. An adequate water right for the new use.
  - 10.3. A certificate of water budget neutrality from the Department of Ecology or other adequate interest in water rights from a water bank.
11. Proof of water adequacy including a well log or 4 hour draw down test, and a mitigation certificate for each proposed lot shall be submitted to Kittitas County prior to final approval.
12. It is the responsibility of the applicant to contact the Kittitas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.
13. Computer sheets shall be submitted with the final plat showing the closure of plat boundaries, blocks, lots or any tract. It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
14. The Final Plat shall meet all requirements of applicable law as defined in KCC Title 16.
15. The Final Plat shall contain the name of the Engineer/Surveyor responsible for preparing the documents.
16. Water availability certificates shall be provided for each of the 58 lots created by this subdivision.
17. The applicant shall provide access to lot 1, as no access is shown on the plat.
18. The applicant shall provide the easement/agreement to Public Works for access across the Burlington Northern property and connect the private road to State Route 10.
19. The private road accessing Thorp Prairie Road must meet access spacing and sight distance requirements. The public road classification at this location requires spacing of 300 feet between accesses and a sight distance of 475 feet. Please ensure this access will meet these requirements given the current vegetation and curvature of the roadway.
20. Private road and driveway easements shall be clearly depicted on the face of the plat. Roadways and accesses shall be constructed in accordance with the standards shown in the Kittitas County Code 12: section 12.04.080 table 4-4 Private Road Minimum Design Standards.
21. Private roads serving any of the lots within this development shall be inspected and certified by a licensed professional engineer for conformance with current Kittitas County Road Standards.

Kittitas County Public Works shall require this road certification to be completed prior to the issuance of a building permit for any of the structures within the proposed plat.

22. A transportation impact analysis will be required for all development that will generate more than 9 peak hour vehicle trips.
23. This application is subject to the latest revision of the Kittitas County Road Standards, dated 12/15/15.
24. When a road extends more than 150' from the centerline of a County road or other publicly maintained road or serves more than three lots, a turnaround shall be provided. The turnaround shall be a cul-de-sac for roads serving five or more lots. Cul-de-sac design must conform to the specifications of the International Fire Code. A cul-de-sac shall have an easement diameter of at least 110 feet and a driving surface of at least 96 feet in diameter.
25. A driveway shall serve no more than four tax parcels. See Kittitas County Road Standards 12.04.080.
  - 25.1 New access easements shall be a minimum of 30' wide. The roadway width shall have a minimum width of 12' if the length of the driveway is less than 150', or 16' if the length of the driveway is more than 150'.
  - 25.2 Maximum grade shall be 15%.
  - 25.3 Crushed surface depth per WSDOT standards.
  - 25.4 Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
  - 25.5 Any further subdivision or lots to be served by proposed access may result in further access requirements.
26. Lot and road dimensions are to be shown on the face of the plat.
27. The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
28. An approved access permit shall be required from the Department of Public Works prior to creating any new driveway access or performing work within the county road right of way.
29. The applicant shall contact the Kittitas County Rural Addressing Coordinator at (509) 962-7523 to obtain addresses prior to obtaining a building permit. A parcel cannot receive a building permit or utilities until such parcel is identified with a 911 address.
30. Civil Plans will be reviewed and approved as submitted prior to final plat approval.
31. Additional survey conditions may be added by Kittitas County Public Works once a survey is submitted that is consistent with WAC 332-130-145.
32. The project shall adhere to all requirements outlined in the comment letter provided by Kittitas County Public Works on April 7, 2020.
33. Any portion of the development within the FEMA identified 100-year floodplain shall comply with KCC 14.08.220 Subdivision proposals. In the case that base flood plain elevation is not available, the applicant shall develop base flood plain elevations.
34. A copy of an approved access connection permit from WSDOT allowing for the change in use shall be provided prior to final plat approval. Approval of this permit is contingent on an approved Railroad Crossing Agreement.

35. The applicant shall comply with all BPA development restrictions within the BPA right-of-ways and easements.
36. Landowners within the Wallace Ranch Plat shall not encroach on KRD right-of-ways.
37. The applicant and future developers shall utilize best management practices during development to prevent entry of sediment and turbidity to the Yakima River or its tributaries.
38. Should development anticipate any potential for stormwater discharge off-site, the applicant shall obtain an NPDES Construction Stormwater General Permit from the Department of Ecology.
39. Plat Notes: The following plat notes shall be added for final plat approval
  - 39.1 All development must comply with International Fire Code.
  - 39.2 Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel.
  - 39.3 Maintenance of the access is the responsibility of the property owners who benefit from its use.
  - 39.4 An approved access permit will be required from the Department of Public Works prior to creating any new driveway access or performing work within the county road right-of-way.
  - 39.5 Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
  - 39.6 A public utility easement 10 feet in width is reserved along all lot lines. The 10 foot easement shall abut the exterior plat boundary and shall be divided by 5 feet on each side of interior lot lines. Said easement may also be used for irrigation.
  - 39.7 The subject property is within or near existing agricultural or other natural resource areas on which a variety of activities may occur that are not compatible with residential development for certain periods of varying duration. Agricultural or other natural resource activities performed in accordance with county, state and federal laws are not subject to legal action as public nuisances. Kittitas County has adopted right to farm provisions contained in the Section 17.74 of the Kittitas County Zoning Code.
  - 39.8 This plat was platted as a conservation plat pursuant to KCC 16.09. Conservation platting allows for an alternative method for land division while conserving resource lands and preserving rural character. Future subdivision shall not exceed the maximum density allowed in the Forest and Range zone of this entire plat. Pursuant to KCC 16.09.040(6), development within the platted parcels shall respect the underlying density of the Forest and Range zone.
  - 39.9 Metering is required for all new uses of domestic water for residential well connections and usage must be recorded in a manner consistent with Kittitas County Code Chapter 13.35.027 and Ecology regulations.
  - 39.10 The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law.
  - 39.11 The Wallace Ranch Conservation Plat development areas are categorized within the D-1 seismic zone.



39.12 The subject property is within or near designated agricultural lands, forestlands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

40. In addition to the conditions noted above, the following MDNS conditions shall also apply

Critical Areas:

40.1 Wetlands A, B and C, as identified in the Critical Areas study performed by Sewell Consulting (8/31/2020), shall require an eighty (80) foot structural buffer from the wetland boundary.

40.2 Wetland D, as identified in the Critical Areas study performed by Sewell Consulting (8/31/2020), shall maintain a one hundred and fifty (150) foot structural buffer from the wetland boundary. Wetland D and its 150-foot buffer shall be designated as Open Space on the face of the final plat and be subject to all conditions pertaining to Open Space in subsequent determinations for this project. A Notice to Title shall be included for each lot that contains any section of Wetland D, noting Wetland D and its 150-foot buffer area as not eligible for development in perpetuity.

40.3 Signs identifying the buffer boundaries of Wetlands A, B, C and D shall be installed by the applicant prior to final plat approval. These signs shall be no smaller than 11" x 17". There shall be no less than four (4) signs for each wetland, erected clearly and legibly centered along each edge of the wetland boundary. The signs shall identify the area as a critical area and wildlife migration protection zone. Signs shall be maintained by the developer until such time that an HOA or similar governing authority assumes responsibility. These critical areas shall be identified in any CC&R documents as protected zones in perpetuity. These actions shall be completed prior to final plat approval.

40.4 Any encroachment into wetland buffer areas as established above for the purposes of access shall adhere to the mitigation ratios outlined in KCC 17A.04.050 for Wetlands A, B and C and KCC 17B.05.020I for Wetland D. Any such encroachment shall require a mitigation plan submitted to CDS prior to final plat approval.

41. Cultural Resources:

41.1 A Cultural Resource Survey shall be conducted by a professional archeological surveyor licensed in the State of Washington. This study shall include the development area directly adjacent to the Yakima River Shoreline jurisdiction. The results of this study shall be submitted to CDS, DAHP and the Yakima Nation for review. The development plan shall be adjusted where necessary to protect Cultural Resources, should the survey result in the discovery of resources. Any necessary adjustment to the proposed development shall not become inconsistent with the density and development regulation outlined in KCC 16.09 Cluster Platting, Conservation and Agriculture Platting, and shall comply with all conditions associated with an approval of this application.

41.2 Should ground disturbing or other activities related to the proposed subdivision result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State Department of Archaeology and Historic Preservation (DAHP). Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.

42. Regarding the buffer area for the lots located along the Yakima River, the Applicant shall be required to prepare and execute any and all required documents, said document's form and content to be acceptable to both the Washington State Department of Fish and Wildlife, and Kittitas County, that will ensure that the buffer area for all waterfront lots is not developed in any way and that multiple, individual, access points for all lots are to be prohibited and that the shoreline is to be kept in its natural state. There are many ways this can be achieved. Any document requiring this prohibition of use shall be recorded and may be enforced by the Washington State Department of Fish and Wildlife and/or Kittitas County. This does not preclude the Applicant, the Department of Fish and Wildlife, and Kittitas County from coming to an agreement limiting, if not prohibiting, the number of river access points for the river lots an preserving the riverfront in its natural condition. In the event mutual agreement cannot be reached, the Hearing Examiner will require that the buffer areas be removed from the lot legal description, that the buffer area be determined to be open space, and that there be a prohibition of any development, of any kind, within that open space.
43. Regarding the shared boundary between the Applicant and the Chimpanzee Sanctuary Northwest, there shall be, within that open space, a 200' buffer from the property line shared between the Applicant and Chimpanzee Sanctuary Northwest. There shall be no development of any kind within this open space buffer area, including any trails. All recreational activities will be required to be passive and non-motorized. This condition is set so that any potential impacts the Chimpanzees within the Sanctuary may have, based on the Applicant's project, may be mitigated.

## II. FINDINGS OF FACT

1. Charles Marshall, authorized agent for Robert Wallace and Wallace Ranch II, LLC, landowner, submitted an application for a 58 detached residential lot conservation plat through 6-8 phases. The proposal includes three development areas over 1,163.7 acres. The proposed lots range in size from 2 acres to 5 acres. Eighteen of the proposed lots are within Shoreline jurisdiction requiring a separate Shoreline Substantial Development permit.
2. The project area is located approximately 3 miles east of the City of Cle Elum along the Yakima River. It includes 72 parcels owned by Wallace Ranch II, LLC. The parcels span sections 3, 10, 11, 12, 13, and 14 of T19N, R16E, W.M., Kittitas County.
3. Site Information:
 

Total Project Size:	1,163.7 acres
Number of Lots:	72 original; 58 lots proposed
Domestic Water:	Community Water System
Sewage Disposal:	Community Septic System
Fire Protection:	Fire District 7, Fire District 6
Irrigation District:	None
4. Site Characteristics:
  - North: Primarily undeveloped land with some residential uses.
  - South: Primarily undeveloped land with some residential uses.
  - East: Primarily undeveloped land with some residential uses.
  - West: Primarily undeveloped land with some residential uses.
5. Access: Primary access to the site will be provided via Thorp Prairie Road and SR-10.

6. Zoning and Development Standards: The subject property is located within the Forest and Range zoning designation and a Rural Working land use designation. The purpose and intent of this zone is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged.
7. Conservation Plats: The project is being proposed under KCC Chapter 16.09 Cluster Platting, Conservation and Agriculture Platting. KCC Chapter 16.09.025(2) allows Conservation Plats in the Forest and Range zone for projects encompassing a minimum of 40 acres. Conservation plats must demonstrate consistency with development regulations established in KCC 16.09.040(6) in addition to KCC 16.12, Preliminary Plats.
8. Deemed Complete. A Long Plat (Conservation Plat) and a Shoreline Substantial Development application were submitted to Kittitas County Community Development Services on December 18, 2019. The applications were deemed complete on January 29, 2020
9. Notice of Application: The site was posted pursuant to KCC 15A.03.110 on February 19, 2020. Two posting sites were established near two primary access routes. A Notice of Application was mailed to all state and local agencies/departments with potential interest in the project as required by KCC 15A.03.060, as well as to adjacent landowners located within five hundred (500) feet of any portion of the boundary of the proposal's contiguous tax parcels on March 9, 2020. Due to the Shoreline Substantial Development application that accompanied the long plat application a 30-day comment period was required in accordance with Table A in KCC 15A. The comment period for this notice ended on April 8, 2020.
10. Shoreline Substantial Development: The proposed project includes a development area within a Rural Conservancy Shoreline designation. Any development within shoreline jurisdiction requires consistency with several sub sections of Title 17B including; 17B.06.140 Residential Development, 17B.05.020B General Regulations for Environmental Protection, and 17B.07.060(2) Substantial Development Permits.
11. COMPREHENSIVE PLAN: The Kittitas County Comprehensive Plan designates the proposal site as "Rural and Resource Lands." Kittitas County has established the following goals and policies to guide activities that are designated in these lands. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies:
  - 11.1 RR-G25: Provide areas of low intensity land use activities within the agriculture and forest activities.
    - 11.1.1 The project proposal will establish three (3) low intensity development areas on lots between 2 and 5 acres. At least 70% of the total acreage will be retained as open space in perpetuity, protecting the land from future development. KCC 16.09 established Conservation Platting as an approved method of development within the Forest and Range zone and Rural Working land use designation.
  - 11.2 RR-P40: Conveyance instruments including plats and short plats, development permits and building permits, within 500 feet of land designated as Rural Working lands or Resource Lands shall contain a notice to potential buyers and residents as directed within RCW 36.70A.060(1)(b).
    - 11.2.1 This decision includes a plat note condition that will provide notice to potential buyers and residents addressing the potential conflict between commercial activities and residential uses in accordance with RCW 36.70A.060(1)(b).
  - 11.3 RR-P43: Kittitas County will continue to research new land use techniques such as Transfer Development Rights, Purchase of Development Rights and open space

preservation tools to provide economic incentives to farmers to continue agriculture activities.

11.3.1 Kittitas County Code 16.09 established Conservation Platting as an appropriate tool for the conservation of open space. The project area zone and land use designation are explicitly noted as eligible for Conservation Platting when minimum acreage requirements are met.

11.4 RR-P51: Where proposed residential development is determined in conflict with natural resource activities, all mitigation measures to make the development compatible with the activities shall be completed and cost borne by the developer.

11.4.1 The proposed development area does not directly conflict with any existing natural resource activities. Portions of the project areas are adjacent to critical areas and the Yakima River (a Shoreline of the State). Maximum buffer requirements under Kittitas County Code have been conditioned to ensure protection of these areas from residential development impacts.

11.4.2 The Hearing Examiner reviewed the project for consistency with the Kittitas County Comprehensive Plan as described above. The Hearing Examiner finds the proposed development consistent with the Goals and Policies of the Kittitas County Comprehensive Plan.

12. During the review process of the Wallace Ranch Conservation Plat and associated Shoreline Substantial Development application, the applicant was required to submit a Critical Areas Report (See Exhibit #52 ), Traffic Impact Analysis (See Exhibit #53 ), and Cultural Resource Scoping Survey (See Exhibit #54). Each of these studies were performed by professionals licensed in the State of Washington. The Critical Areas Report noted type 4 streams and three (3) wetlands associated with these streams. The report also noted a type 1 stream (Yakima River) and some wetland areas associated with this shoreline. This report included recommended buffer distances and habitat scores for the associated wetlands.
13. The Cultural Resource Scoping Study included a detailed explanation of the methods and techniques that will be employed to ensure protection of cultural resources at the site prior to any development activity.
14. A Traffic Study was also performed within the areas of development to assess vehicular trip generation, traffic impacts as well as site access and safety issues. The report concluded no significant adverse traffic impacts were expected as a result of this development.
15. Kittitas County CDS issued an MDNS for this project on November 17, 2020 after utilizing the optional DNS process. The SEPA MDNS includes wetland buffer conditions designed to protect the wetlands identified in the Critical Areas Report. CDS adopted the strictest buffer standards allowed under Kittitas County Code 17A to the wetlands associated with the type 4 streams (Wetlands A, B and C). A 150-foot structural buffer zone was established for the wetlands associated with the Type 1 stream (Wetland D) and a requirement for open space designation was applied to this area. The MDNS also included a requirement for signage to be established along all of the wetland (A, B, C and D) boundaries to ensure future residents are aware of these protected areas.
16. The SEPA MDNS determination was appealed by the Chimpanzee Sanctuary NorthWest on December 1, 2020. The appeal was dismissed for lack of standing by the Kittitas County Hearings Examiner on January 22, 2021. The Hearings Examiner issued an addendum to the decision on January 26, 2021 referencing appeal procedures.

17. Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal and have been notified of the Public Hearing. Public comments were received and are included in the record. The Washington Department of Health (DOH), Bonneville Power Administration, Kittitas Reclamation District, Washington State Department of Fish and Wildlife, Washington State Department of Transportation, Washington State Department of Archeology and Historic Preservation, the Yakama Nation, the Washington State Department of Ecology (DOE), Kittitas County Public Health, the Kittitas County Fire Marshal and Kittitas County Public Works all submitted timely comments. Below are summaries of the substantive agency comments submitted.
- 17.1 KC Fire Marshal: The Kittitas County Fire Marshal provided comments requiring all access roads to be IFC and Public Works compliant, expressed the need for ongoing discussion regarding fire flow and hydrant needs, and described the fire requirements for any access gates associated with the development.
- 17.1.1 Applicant response: "Noted and will comply."
- 17.2 KC Public Works: Public Works provided notes on issues to be addressed prior to final approval and conditioned to include for any preliminary approval. These conditions include easements, private road certification, a transportation impact analysis, plat note requirements, driveways, turnarounds, etc. Additionally, Public Works noted that a survey will be required that meets WAC 332-130-145. Public Works reserved the right to comment and add additional comments further once a such a survey is submitted.
- 17.2.1 Applicant response: "Noted and will comply" "A 30-ft easement will be provided to serve Lot 1 and will be shown on the next round of plans. Applicant is working with Burlington Northern on documents, including traffic review by TENW.
- 17.3 Bonneville Power Administration: BPA responded with comments noting certain development restrictions associated with a BPA easement that traverses some of the property involved.
- 17.3.1 Applicant response: "Applicant has contacted BPA and they see no issue with the plan. If applicant wishes to build a roadway or water/utility line across the BPA right-of-way it will require a standard application from BPA which applicant has been told are generally granted."
- 17.4 Kittitas Reclamation District: KR D reported that the development parcels do not include any KR D irrigable acres. KR D wanted the applicant to be aware that future landowners and developers would not be allowed to use the KR D Right-of-way that borders the project boundary.
- 17.4.1 Applicant response: "Applicant has spoken with KR D and has received map showing their area of concern. None of applicant's lots impact the KR D Right-of-Way."
- 17.5 Washington State Department of Fish and Wildlife: WDFW provided comment requesting that conservation measures be taken to protect critical areas and wildlife/wildlife migration corridors in all development and open space areas. WDFW requested a critical area report be performed in the project area to identify specific impacts and recommend mitigations.
- 17.5.1 Applicant response: "Applicant is working with Fish and Wildlife and has engaged with Sewall Wetland Consulting, Inc."
- 17.6 Washington State Department of Ecology: DOE requested that any erosion related to development along the Yakima River be controlled and not impact streamside vegetation or water quality standards associated with KR D canals and laterals. DOE stated that streamside vegetation must be protected. DOE noted that a NPDES Construction Stormwater permit and pollution prevention plan would be required for any anticipated stormwater discharge offsite.
- 17.6.1 Applicant response: "Noted and will comply."



- 17.7 Washington State Department of Transportation: WSDOT submitted comment noting the necessity for an Access Connection Permit for the development area along SR-10. WSDOT also pointed out the developments proximity to SR 10 and I-90 will likely result in traffic noise that may continue to grow over time. WSDOT noted it would be the applicant's responsibility to mitigate for current or future noise impacts.  
17.7.1 Applicant response: "Noted and will comply."
- 17.8 Department of Archaeology & Historic Preservation: DAHP provided comment noting a high probability of cultural resources in the development area. DAHP recommended a cultural resource survey be performed to ensure no resources are destroyed during development.  
17.8.1 Applicant response: "Applicant will complete a survey as requested and is currently seeking proposals from firms suggested by DAHP."
- 17.9 Yakima Nation: Yakima Nation provided comment requesting a full archaeological survey of the project area.  
17.9.1 Applicant response: "Applicant will complete a survey as requested and is currently seeking proposals from firms suggested by DAHP."
- 17.10 Washington State Department of Health (Office of Drinking Water): DOH provided comment noting a requirement for a public water system for the project. DOH noted that the applicant was in early discussions with DOH for such a system.  
17.10.1 Applicant response: "See response letter from water rights attorney Thomas Pors. As to the timing of approval of water rights, it is clear under state law that a water right and water system approval is required prior to final plat but not prior to preliminary plat approval. See JZ Knight v. City of Yelm, 173 Wn.2d 325, 267 P.3d 973 (2011). See also Kittitas County PHD comment, Finding 1 re Water, below."
- 17.11 Kittitas County Public Health: Kittitas County Public Health noted a requirement for proof of water adequacy and septic requirements for the project. KC Public Health also noted plat notes that will be required.  
17.11.1 Applicant response: "Applicant will comply and provide soil logs prior to final plat approval. Client is proposing single, shared and/or community septic systems to be provided. See Tom Pors letter. Noted. This does not dispute or prevent the project's ability to demonstrate physical and legal water availability. See Tom Pors letter. Applicant has corresponded with KCDOH and will comply prior to final plat approval and not preliminary plat approval. Jesse Cox has confirmed this timing as accurate. Agreed – this is in county regs and is consistent with the subdivision statute (RCW 58.17.110)."
18. In addition to these agency comments the following individuals submitted comment during the comment period: Henry Fraser, Robert Philip and Denny Kidder. Below are summaries of the timely public comments submitted:
- 18.1 Henry Fraser: Mr. Fraser described concerns with wildlife corridors and requested additional open space corridors along the Yakima River. Mr. Fraser requested a Critical Areas Study be performed and that the Yakima Nation and WDFW be involved in mitigation discussions (See Exhibit # 27).
- 18.2 Applicant response: "Applicant is working with Fish and Wildlife and has engaged with Sewall Wetland Consulting, Inc. A critical area report will be provided. See response to WDFW above."
- 18.3 Robert Philip: Mr. Philip submitted comment noting concerns about deer and elk migration impacts, disputed the current agriculture use noted in application materials, expressed a preference for development within the current lot configuration, property taxes, aquifer impacts, concerns about open space, disputed property lines, fire mitigation, and potential ingress/egress issues ( See Exhibit # 28 and 57).



- 18.4 Applicant response: “Wallace Ranch owns senior rights and has its own diversion from the Yakima River. It is not a member of KRD. Also, lots will be served with public water systems that will require mitigation, and a portion of the Wallace Ranch senior irrigation rights are proposed for mitigation. The Department of Ecology has jurisdiction over approval of water rights and mitigation for the Wallace Ranch development, including the determination whether any domestic wells in the vicinity will be impaired. Both a water right and public water system approval will be needed before final plat approval. Once Covid-19 restrictions are lifted, the applicant’s surveyor will clearly show the Wallace boundary on the ground to clarify any confusion there may be. Applicant has begun discussions with Fire District 7 and TENW for traffic analysis.”
- 18.5 Denny and Alison Kidder: The Kidders submitted concerns regarding lot sizes and general consistency with the Kittitas County Comprehensive Plan Goals and Policies. The Kidders expressed concerns that a development like the one being proposed might spark additional and similar developments in the area. The Kidders requested a traffic study to address potential traffic impacts and noted concerns that the project cannot meet Kittitas County water requirements. The Kidders also asserted that the open space areas described in the application are made up of primarily undevelopable areas and that the project could have negative impacts on rural character (See Exhibit # 29).
- 18.6 Applicant response: “Applicant has reached out to Mr. & Mrs. Kidder to discuss in more detail.”
19. CDS also received public comments after the conclusion of the comment period. These submittals include: J.B. Mulcahy (Chimpanzee Sanctuary Northwest) and Bradley J. Rorem (Shady Grove Properties).
- 19.1 Bradley J. Rorem (submitted after the conclusion of the comment period) : Mr. Rorem submitted comment requesting to be added as a party of record, be provided application related materials, and requesting the County reconsider a SEPA DNS determination for the project and that detailed studies be performed prior to a SEPA determination.
- 19.2 Applicant response: “See JMMK letter. Applicant has reached out to discuss with Shady Grove Properties in more detail.”
- 19.3 J.B. Mulcahy (submitted after the conclusion of the comment period): Mr. Mulcahy requested to be a party of record and then stated several concerns and need for additional studies regarding the project proposal. Mr. Mulcahy asserted inconsistencies with the Kittitas County Comprehensive Plan including zoning, land use and rural character. Mr. Mulcahy also asserted inconsistencies with the Kittitas County Shoreline Master Program and concerns for negative shoreline impacts. Mr. Mulcahy requested that the project be required to undergo an Environmental Impact Statement. Mr. Mulcahy noted concerns related to air pollution, surface water and groundwater impacts, traffic, light and glare, energy, and utilities (See Exhibit # 33).
- 19.4 Applicant response: “See JMMK and Pors Letters. Applicant has reached out to JB Mulcahy to discuss in more detail.”
20. The Hearing Examiner has reviewed all of the comments submitted and conditioned his decision to address many of the concerns noted. Three additional comment letters were submitted many months outside of the formal comment period but have been added to the record.
21. In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below are the Hearing Examiner’s findings regarding consistency with the Kittitas County Code.

22. KCC 16.09.040(6), Development Regulations Consistency: Conservation plats are subject to the following provisions:
- 22.1 The conservation development does not exceed the density permitted by the zone in which the development is located
    - 22.1.1 The project, as proposed, includes 1,163.7 acres within the Forest and Range zone. The Forest and Range zone requires a twenty (20) acre minimum lot size. The density permitted in the zone allows 58 lots, which is consistent with the number of lots being proposed for the Wallace Ranch Conservation Plat. The Hearing Examiner finds the proposal to be consistent with the density requirements of the zone.
  - 22.2 No conservation plat is adjacent to another cluster or conservation plat so that the total conservation development exceeds six (6) units unless the proposed developments are separated by an existing County road.
    - 22.2.1 The project, as proposed, is not adjacent to any other cluster or conservation plat. The Hearing Examiner finds the proposal to be consistent with this regulation.
  - 22.3 In a residential development in a conservation plat, lots must be located adjacent to one another upon no more than fifty percent (50%) of the total property being divided.
    - 22.3.1 The proposal includes 3 adjacent development areas and more than 800 acres of open space. Fifty percent of the total acreage (1,163.7) would result in 581.85 acres. The proposal will include no more than 349 acres utilized for development. The Hearing Examiner finds the proposal consistent with this regulation.
  - 22.4 Seventy percent (70%) of the land outside of the conservation cluster remains in open space for resource use in perpetuity. Open space in conservation plats may either be held in common ownership, owned by a conservation entity, or remain in the ownership of the farmstead or resource parcel.
    - 22.4.1 The application materials describe more than 800 acres of open space with this proposal. This decision has been conditioned to ensure a minimum of 70% of the land outside of the conservation clusters remains in open space. The Hearing Examiner finds the proposal, as conditioned, consistent with this regulation.
  - 22.5 The Hearing Examiner has reviewed the application for consistency with KCC 16.09.040(6) as described above. The Hearing Examiner finds the application, as conditioned, consistent with this Title.
23. Consistency with KCC 17B and The Kittitas County Shoreline Master Program: Projects in Kittitas County proposed within Shoreline jurisdiction require consistency with the Shoreline Master Program and Title 17B. The Wallace Ranch Conservation Plat proposal includes one development area within the Rural Conservancy Shoreline Jurisdiction requiring a Shoreline Substantial Development application to be processed concurrently with the Conservation Plat application. The Hearing Examiner's findings regarding the criteria for a Shoreline Substantial Development permit are set forth below:
- 23.1 KCC 17B.07.060 Review Criteria: 2. Substantial development permits. A substantial development permit shall be granted only when the applicant demonstrates all of the following:
    - 23.1.1 That the proposal is consistent with the policies and procedures in RCW Chapter 90.58 and WAC Chapter 173-27;
    - 23.1.2 Hearing Examiner Finding: The proposal is consistent with both RCW 90.58 and WAC 173-27. The project as conditioned meets the requirements of the local shoreline program (as described in item b, below) which was developed in accordance with state shoreline regulations and procedures established in RCW 90.58 and WAC 173-27.
    - 23.1.3 That the proposal is consistent with the policies and procedures of the Master Program; and

- 23.1.4 Hearing Examiner Finding: The Shoreline element of the Wallace Ranch Conservation Plat proposal requires consistency review of several code section within the Kittitas County Shoreline Master Program. The project has been reviewed for consistency with general development regulations noted throughout the SMP. Certain SMP sections deal specifically with residential development and land divisions within shoreline zones. These sections and consistency reviews are described below.
24. Consistency with KCC 17B.05.020B(4) Land Divisions: When new lots are created within shoreline jurisdiction, they shall meet all of the following conditions:
- 24.1 All lots shall contain sufficient area outside of the shoreline buffer (see Table 5.5-1), wetland and/or wetland buffer, aquatic habitat conservation area and/or aquatic habitat conservation area buffer, floodway, channel migration zone or landslide hazard area and/or landslide hazard area buffer to accommodate the use and/or development. Land divisions for non-water-dependent and non-water-related developments that create more than four (4) new lots shall adhere to the standard shoreline buffer requirements shown in Table 5.5-1 without buffer averaging or reduction. Buffers that have been averaged or reduced by any prior actions administered by Kittitas County shall not be further averaged or reduced;
- 24.1.2 Hearing Examiner Finding: The shoreline element of the Wallace Ranch Conservation Plat resides within the Rural Conservancy Shoreline Designation. Table 5.5-1 expresses a 100-foot shoreline buffer zone within this designation. The critical areas report submitted by the applicant indicates some wetland adjacent to areas within this shoreline zone. The report designates these wetland areas as “wetland D.” The SEPA MDNS issued for the project on November 17, 2020 included conditions to protect these wetlands by requiring a 150-foot buffer zone from the wetland boundaries in which development would not be permitted and required signage to be posted along the wetland buffer boundary to ensure no future encroachment.
- 24.2 Current Kittitas County flood mapping indicates no floodway, channel migration zones, or landslide hazard areas associated with the proposed development area. The proposed parcel sizes within the Shoreline zone are all larger than 2 acres. No buffer averaging or buffer reductions will be necessary to accommodate single family residential development on these parcels despite the 150-foot wetland buffer zone or the 100 foot shoreline buffer zone.
- 24.3 A new lot or parcel may be created in a seismic hazard area as long as there is a note on the face of the plat or other recorded document which indicates the presence of a potential hazard.
- 24.3.1 The Hearing Examiner finds the Wallace Ranch Conservation Plat development areas are categorized as D-1 seismic zone. A plat note requirement has been added to the conditions in this staff report to ensure consistency with this section.
- 24.4 Open space or conservation area lots may be established without a site that is suitable for use and/or development provided there is a note on the face of the plat or other recorded document which indicates the purpose of the lot;
- 24.4.1 Hearing Examiner Finding: This decision includes a condition designating the open space areas associated with the proposal as open space in perpetuity ensuring these lands are not developed in the future.
25. Consistency KCC 17B.06.140(B) Residential Development, Regulations: The Wallace Ranch Conservation Plat will result in one residential development area within Shoreline Jurisdiction. While the regulations below deal primarily with future development, they are important to

consider at this stage as well to ensure the project can remain consistent with the SMP during the development stage of the project.

25.1 New residential development, including lot creation, will not be approved in cases when it can be reasonably foreseeable that the use or development would require structural flood hazard reduction measures within the floodway during the life of the use or development.

25.1.2 Hearing Examiner Finding: There are no development areas proposed within floodway zones.

25.2 New residential development shall assure that the proposal will not require shoreline or slope stabilization measures. Where located in a designated geologically hazardous area, a geotechnical analysis of the site and shoreline characteristics shall demonstrate that shoreline stabilization is unlikely to be necessary; setbacks from steep slopes, bluffs, landslide hazard areas, seismic hazard areas, riparian shoreline and erosion areas, shall be sufficient to protect structures during the life of the structure; and impacts to adjacent, downslope or down-current properties are not likely to occur during the life of the lots created.

25.2.1 Hearing Examiner Finding: The shoreline development area within this proposal will include a minimum 100-foot shoreline buffer. No development activities will be permitted within this zone. The proposed development is not within a geologically hazardous area. Development landward of the buffer zone will not create a need for shoreline or slope stabilization measures.

25.3 New over-water residential structures, including floating homes, are prohibited.

25.3.1 Hearing Examiner Finding: No over-water residential structures are being proposed.

25.4 New residential development shall be designed to comply with applicable setbacks, critical area buffers, lot frontage requirements, height limits and density standards.

25.4.1 Hearing Examiner Finding: The proposal, as conditioned will apply the maximum critical area buffers allowed under Kittitas County Code. Any future residential development will require consistency with the setback, lot frontage, height limits and density standards in place at the time of building permit application submittal.

25.5 Residential development shall make provisions for vegetation conservation in conformance with 17B.05.050 Shoreline buffer and vegetation conservation.

25.5.1 Hearing Examiner Finding: This staff report has been conditioned to protect vegetation within the shoreline buffer zone by restricting any development within these protected areas.

25.6 Shoreline access for residential development shall incorporate access to adjacent publicly owned shorelines or public water bodies as provided for in KCC 17B.05.040, Public access.

25.6.1 Hearing Examiner Finding: KCC 17B.05.040(3) addresses public access for new uses and development by private entities: New shoreline use and development by private entities shall provide public access when:

- a. The development would generate a public demand for one or more forms of such physical or visual access;
- b. The development will impair existing legal access opportunities or rights; or
- c. The development is not a preferred shoreline use (e.g., non-water-oriented commercial or industrial development).

The proposed use involves private lands that will not impact any existing legal access or rights. As the proposed parcels will be utilized for private residential development, no physical or visual access demands will change. Single family residential development is

considered a preferred shoreline use. The proposed development is consistent with KCC17B.05.040(3).

25.7 That the proposal has been appropriately conditioned where necessary to assure consistency of the project with the Act and the local Master Program.

25.7.1 Hearing Examiner Finding: The Hearing Examiner has reviewed the application for consistency with the SMP and Title 17B. Many conditions have been proposed in this decision and through the associated SEPA determination to ensure the project is consistent with these regulations.

26. The Hearing Examiner finds the proposal, as conditioned, is consistent with Title 17B and the Shoreline Master Program as described above. The application has met the criteria for approval of a Shoreline Substantial Development Permit.

27. The Hearing Examiner finds the proposal consistent with the goals and policies of the Kittitas County Comprehensive Plan as described in section IV of this staff report 21.

28. Consistency with Title 17B and the Kittitas County SMP:

28.1 The Hearing Examiner has reviewed the applications for consistency with the Kittitas County Shoreline Master Program and Title 17B. Staff have found the proposal, as conditioned, consistent with these regulations as described in section VII of this decision.

29. Consistency with KCC 17A Critical Areas:

29.1 CDS staff conducted critical area review of the project area and considered the critical areas report prepared by Sewall Wetland Consulting on August 31, 2020. As described in section V above, CDS issued an MDNS for the project observing the buffer recommendations noted in the report. CDS staff performed a site visit with WDFW, Sewall Consulting and the applicant's agent on October 9, 2020 to observe the critical areas in proximity to the proposed development areas. The critical areas report noted the wetland and stream areas as demonstrating most of the evidence of wildlife migration corridors in the area. The MDNS was conditioned to protect these areas. The Hearing Examiner finds the project, as conditioned, consistent with KCC 17A Critical Areas.

30. Consistency with the provision of KCC 17.69, Cluster Platting and Conservation and Agriculture Platting:

30.1 The Hearing Examiner finds the project, as conditioned, to be consistent with KCC 17.69 as described in section VII of this staff report.

31. Consistency with the provisions of KCC 16.12: Preliminary Plat Subdivision Code:

31.1 This proposal is consistent with the Kittitas County Subdivision Code for Preliminary Plats.

32. Consistency with the provisions of KCC Title 12: Roads and Bridges:

32.1 All roads are required to meet all Kittitas County Road Standards as addressed in the Development Agreement.

33. An open record public hearing after due legal notice was held on March 11, 2021 via video conferencing due to the ongoing Covid-19 pandemic.

34. At the open record public hearing the following exhibits were entered into the record:

34.1 Ex. 1 Pre-Application

34.2 Ex. 2 Long Plat Application



- 34.3 Ex. 3 Shoreline Substantial Development Application (SSD)
- 34.4 Ex. 4 SEPA Checklist
- 34.5 Ex. 5 Project Narrative and Site Plans
- 34.6 Ex. 6 Applicable Parcels
- 34.7 Ex. 7 SSD Narrative
- 34.8 Ex. 8 Title Report
- 34.9 Ex. 9 Water Availability
- 34.10 Ex. 10 Slope Analysis
- 34.11 Ex. 11 CDS Staff Maps
- 34.12 Ex. 12 Deemed Incomplete
- 34.13 Ex. 13 Deemed Incomplete Submittal
- 34.14 Ex. 14 Deemed Complete
- 34.15 Ex. 15 Affidavit of Posting
- 34.16 Ex. 16 Notice of Application
- 34.17 Ex. 17 NOA Affidavit of Mailing and Publication
- 34.18 Ex. 18 KC Fire Marshal Comments
- 34.19 Ex. 19 KC Public Works Comments
- 34.20 Ex. 20 BPA Comments
- 34.21 Ex. 21 KRDC Comments
- 34.22 Ex. 22 WDFW Comments
- 34.23 Ex. 23 DOE Comments
- 34.24 Ex. 24 WSDOT Comments
- 34.25 Ex. 25 DAHP Comments
- 34.26 Ex. 26 Yakima Nation Comments
- 34.27 Ex. 27 Henry Fraser Comments
- 34.28 Ex. 28 Robert Philip Comments
- 34.29 Ex. 29 Denny Kidder Comments
- 34.30 Ex. 30 DOH Comments
- 34.31 Ex. 31 KC Public Health Comments
- 34.32 Ex. 32 Bradley J Rorem Comments
- 34.33 Ex. 33 J.B. Mulcahy Comments
- 34.34 Ex. 34 Applicant Comment Response
- 34.35 Ex. 35 SEPA MDNS
- 34.36 Ex. 36 Notice of Hearing and SEPA Action Memo
- 34.37 Ex. 37 Affidavit for SEPA Action and Public Hearing
- 34.38 Ex. 38 Applicant Correspondence
- 34.39 Ex. 39 Agency Correspondence
- 34.40 Ex. 40 SEPA Appeal Letter
- 34.41 Ex. 41 Briefing Schedule
- 34.42 Ex. 42 Notification of Briefing Schedule
- 34.43 Ex. 43 Motion to Dismiss SEPA appeal for Standing
- 34.44 Ex. 44 Mark Kirkpatrick Declaration
- 34.45 Ex. 45 CSNW Motion to Dismiss Response
- 34.46 Ex. 46 Declaration of John Mulcahy
- 34.47 Ex. 47 Certificate of Service
- 34.48 Ex. 48 Applicant Response to CSNW Motion for Standing
- 34.49 Ex. 49 HE Decision on Motion for Standing
- 34.50 Ex. 50 Addendum to HE Decision
- 34.51 Ex. 51 Appeal Correspondence Record
- 34.52 Ex. 52 Critical Areas Study
- 34.53 Ex. 53 Traffic Study
- 34.54 Ex. 54 Cultural Resource Scoping Study



- 34.55 Ex. 55 Rory O' Connor Comment submitted December 22, 2020
- 34.56 Ex. 56 Aron Larsen Comment Submitted on January 6, 2021
- 34.57 Ex. 57 Robert Philip Exhibits
- 34.58 Ex. 58 Steve Worley Comments submitted January 4, 2021
- 34.59 Ex. 59 Affidavit of Mailing and Publication for Virtual Public Hearing

35. Appearing and testifying on behalf of the applicant was Charles Marshall. Mr. Marshall testified that he was an agent authorized to appear and speak on behalf of the property owner and applicant. Mr. Marshall indicated that the applicant had no objection with any of the Conditions of Approval proposed by staff. Mr. Marshall testified about the substantial open space that is going to be created at the open space near the Chimpanzee Sanctuary facility would be for pedestrian, bicycle, and horseback riding. There would be no motorized vehicle use.

36. Testifying from the public were the following individuals:

36.1 Bob Philip. Mr. Philip testified consistent with his written comments. Mr. Philip had concerns regarding water and whether the Applicant's well or wells will impact his water supply. He also testified that the open space being created is mostly unbuildable. He had concerns about fire and fences.

36.2 Jennifer Nelson. Ms. Nelson testified on behalf of the Washington State Department of Fish and Wildlife. Ms. Nelson testified that the Department of Fish and Wildlife believed that the open space needed to be managed in perpetuity. She testified that both banks on the Yakima River needed to be designated as open space in order to prevent multiple, individual, access points.

36.3 John Schultz. Mr. Schultz testified that he is an avid fisherman and had concerns about septic being released or otherwise discharged into the river. He agreed with Ms. Nelson that the buffer area should be open space.

36.4 Leah Hendrix. Ms. Hendrix testified on behalf of the Bureau of Reclamation regarding water issues.

36.5 Matthew Gershman. Mr. Gershman is the attorney for Chimpanzee Sanctuary Northwest. Mr. Gershman testified that the Sanctuary property is above SR-10. The Sanctuary has over 90 acres of property. He indicated that there was a shared border with the Applicant's property, which the Hearing Examiner would describe as the open space north of the Yakima River lots and the western border. Mr. Gershman asked that a 500' buffer of open space on this shared border be created in order to protect not only members of the public on the Applicant's property, but also the animals on the Sanctuary property. He asked that there be no development at all within this buffer area, which would include trails. Mr. Gershman suggested that plat notes should be required indicating there is no further subdivision of any of the open space, and to specify the allowed future uses within the open space. He further indicated the open space needed to be maintained for weeds and fire hazards. Finally, he testified as to his concerns regarding the traffic study submitted by the Applicant in that the current proposal is a six lot increase over the current allowed zoning density.

36.6 Rebecca Wassell. Ms. Wassell testified on behalf of the Mid-Columbia Fisheries Enhancement Group. She agreed with Ms. Nelson that the shoreline buffer should be open space.

37. In rebuttal, the Applicant called the following witnesses:

37.1 Charles Marshall. Mr. Marshall indicated that the Applicant objected to the proposed 500' buffer. He indicated that there would be no significant use along that particular property

line with the Sanctuary. He indicated that even though the use would not be expected to be significant, he stated this is private property and they didn't want to restrict the use.

- 37.2 Mark Kirkpatrick. Mr. Kirkpatrick testified that he was an agent of the Applicant and property owner. He was the Applicant's surveyor. He indicated that their survey would identify all lot lines and that they would have a Class A water system that would provide water for fire protection. He indicated that they would work with the Fire Marshall. He indicated that the lots along the river were separated by significant open space between those river lots and the Sanctuary.
- 37.3 Ed Sewall. Mr. Sewall testified that he was an agent testifying on behalf of the property owner and Applicant. Mr. Sewall testified in response to Mr. Philip indicating that the lots would block the wildlife corridor. Mr. Sewall testified that the wildlife would go through wetlands to stay in cover of the stream and wetland area and that the homes would not inhibit the wildlife passing through the area. He also indicated that a conservation easement or other type of restriction of use along the Yakima River was not needed.
- 37.4 Mike Read. Mr. Read testified that he was an agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Read performed the traffic study. He indicated that the Applicant would need an access connection permit and railroad permit in order to access properties.
- 37.5 Christopher Landreau. Mr. Landreau testified that he was an agent authorized to appear and speak on behalf of the Applicant and property owner. Mr. Landreau had nothing to add regarding the archeological study.
- 37.6 Tyson Carlson. Mr. Carlson testified that he was an agent authorized to appear and speak on behalf of the Applicant and property owner. Mr. Carlson is a hydrologist and testified regarding water supply and water rights and the requirements that the water be sustainable and have no impairment on area users. He stated that these were requirements of the Washington State Department of Ecology.
- 37.7 Duana Kolouskova. Ms. Kolouskova indicated that she was the attorney for the Applicant and was authorized to appear and speak on their behalf. Ms. Kolouskova was not put under oath. The Hearing Examiner asked Ms. Kolouskova if the Applicant wanted a continuance of the hearing in order to review and respond to the request for a 500' buffer. Ms. Kolouskova did not request a continuance. Ms. Kolouskova provided legal argument that open space uses are only those allowed pursuant to the Kittitas County Code.
- 37.8 Thomas Pors. Mr. Pors testified that he was an agent authorized to speak on behalf of the Applicant and property owner. He is the attorney for the Applicant regarding water rights issues. In responding to Mr. Philip's comment, he indicated that community wells would have less impact, there are reporting requirement, and extensive regulations that must be complied with as required by the Washington State Department of Ecology.
38. The Kittitas County Hearing Examiner considered all evidence within the record in rendering this decision.
39. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

### III. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.

2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 17B Shorelines, Title 15 Environmental, and Title 12 Roads and Bridges.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

**Dated this 19th day of March, 2021.**

**KITTITAS COUNTY HEARING EXAMINER**



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Andrew L. Kottkamp

**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.

**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