



# KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

## WSDOT Shoreline Substantial Development Permit File Number SD-19-00001

### FINDINGS OF FACT, DECISION AND CONDITIONS OF APPROVAL

#### I. GENERAL INFORMATION

**Requested Action:** Washington State Department of Transportation is proposing plans to reconstruct I-90 in the Easton area from two (2) to three (3) lanes in each direction, replace truck climbing lanes, provide new stormwater treatment, bring the west and east bound lanes together by moving the existing westbound lanes next to the east bound lanes between MP 67.5 and MP 69.5, replace all existing bridges and structures and construct new bridges and structures that better meet current demand.

**Location:** The proposed project spans Interstate 90 beginning in the Easton area near exit 70 Easton Sparks Road, and moving west through the following locations: Sections 2, 3, 4, and 11 of T 20 N. R 13 E., W.M., Sections 24, 25, and 36 of T 21 N. R 12 E., W.M., and Sections 31, 32, 33 of T 21 N. R 13 E., W.M.

#### II. SITE INFORMATION

Total Property Size:	Project footprint approximately 256 acres
Number of Lots:	The project will be primarily contained within the existing I-90 WSDOT ROW
Domestic Water:	N/A
Sewage Disposal:	N/A
Power/Electricity:	N/A
Fire Protection:	Fire District 3 and areas outside of fire districts
Irrigation District:	N/A

#### Site Characteristics:

North: Combination of private and state owned lands in various levels of development

South: Combination of private and state owned lands in various levels of development

East: Combination of private and state owned lands in various levels of development

West: Combination of private and state owned lands in various levels of development

Access: The project site is primarily within the I-90 WSDOT Right-of-Way

**Zoning and Development Standards:** The subject properties are located on lands with a zoning designation of Commercial Forest, Forest and Range, and Rural 5. The project area is primarily within the existing WSDOT I-90 ROW.

#### **Shoreline Master Program**

KCC 17B.07.060 provides the criteria for approving a Shorelines Substantial Development permit:

- "2. Substantial development permits. A substantial development permit shall be granted only when the applicant demonstrates all of the following:
  - a. That the proposal is consistent with the policies and procedures in RCW Chapter 90.58 and WAC Chapter 173-27;

- b. That the proposal is consistent with the policies and procedures of the Master Program; and
- c. That the proposal has been appropriately conditioned where necessary to assure consistency of the project with the Act and the local Master Program”

### III. ADMINISTRATIVE REVIEW

**Deemed Complete:** A Shorelines Substantial Development permit application was submitted to Kittitas County Community Development Services (CDS) on September 6, 2019. The application was deemed complete on October 2, 2019.

**Notice of Application** A Notice of Application was mailed to all federal, state and local agencies/departments with jurisdiction as required by KCC 17B.07.070 and 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 tax parcels on October 15, 2019. The comment period for this notice ended on November 14, 2019.

### IV. ENVIRONMENTAL REVIEW

Pursuant to WAC 197-11-600(4)(a) on October 15, 2019 the County adopted the I-90 Snoqualmie Pass East FEIS issued on August 2008 as sufficient to address environmental impacts within the project area. A copy of the FEIS summary may be obtained from the County.

### V. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. The following agencies and individuals submitted substantive comments during the comment period; Michael Jones, Washington State Department of Parks and Recreation Commission, Washington State Department of Ecology and Kittitas County Public Works. All comments are on file and available for public review. The following are a summary of the substantive comments submitted.

October 21, 2019: Michael Jones – Michael Jones submitted concerns regarding noise level increases as a consequence of the project. Specifically Mr. Jones stated concerns for three areas; Lake Easton State Park, Lake Easton Estates, and West Easton Subdivision. Mr. Jones suggested several methods for noise mitigation along these areas.

*Staff Response: The summary FEIS submitted by the applicant notes that noise levels will comply with Washington State and Kittitas County standards. The Shoreline Substantial Development review process includes an examination of the impacts exclusively within the shoreline jurisdiction. CDS finds that the specific issues noted by Mr. Jones are not within the scope of our review of a Shoreline Substantial Development application.*

November 4, 2019: WA State Parks and Recreation – Washington State Parks and Recreation Commission requested that WSDOT obtain a legal easement if the project will need to utilize State Parks land. Additionally State Parks requested noise mitigation considerations to limit impacts on State Park recreational areas.

*Staff Response: Potential noise impacts were assessed during the FEIS process and subsequently in March 2018 through a Noise Discipline Report prepared by WSDOT in collaboration with Jacobs Engineering. As mentioned above, noise mitigation for areas outside of shoreline jurisdiction are not a consideration for Substantial Shoreline Development review.*

November 12, 2019: WA State Department of Ecology (DOE) – The Washington State Department of Ecology provided comments associated with stormwater requirements. DOE recommends a NPDES Construction Stormwater General Permit if the project is anticipated to have the potential for stormwater runoff off-site.

*Staff Response: The adopted FEIS for this project notes that the WSDOT Highway Runoff Manual procedures and standards will be applied for the stormwater system, utilizing the “equivalent area” approach to mitigate for constrained areas in which stormwater treatment is physically impossible.*

November 14, 2019: Kittitas County Public Works – Kittitas County Public Works provided the following substantive comments:

- Washington State Department of Transportation will need to update the Sparks Road Haul Agreement with Kittitas County Public Works
- Washington State Department of Transportation will need to prepare a Quit Claim Deed to be submitted to the County Surveyor, Justin Turnbull for review and approval with the Board of County Commissioners.
- Any work over Sparks Road (temporary construction easement) will require a Right of Way Use Permit issued by Kittitas County Public Works.
- Washington State Department of Transportation shall provide the temporary construction easement for review by Kittitas County Public Works in advance of construction.
- Washington State Department of transportation and Kittitas County Public Works staff has communicated about the applicability of a Floodplain Development Permit. Kittitas County Public Works staff has confirmed that as long as all work is conducted above the base flood elevation for the one percent (1%) chance event, no Floodplain Development Permit is required.

*Staff Response: Kittitas County CDS notes the various requirements outlined by Kittitas County Public Works to be addressed in this determination and shall become conditions of approval.*

## **VI. PROJECT ANALYSIS**

As part of the review of this proposal the following were considered; Kittitas County Shoreline Master Program, the Kittitas County Comprehensive Plan, Kittitas County Code, public and agency comments, any identified environmental concerns, and state and federal requirements. Identified below is planning staff’s analysis and consistency review for the subject application.

### **Consistency with the Kittitas County Shoreline Master Program:**

In compliance with the Shoreline Management Act, Kittitas County has adopted Title 17B Shorelines. KCC 17B.07.060 requires that the applicant must demonstrate:

- a. That the proposal is consistent with the policies and procedures in RCW Chapter 90.58 and WAC Chapter 173-27;

*Staff Response: 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 which was developed in accordance with state shoreline regulations.*

- b. That the proposal is consistent with the policies and procedures of the Master Program;

*Staff Response: The Kittitas County Shoreline Master Program Chapter 3 outlines goals and objectives of the program. The proposed project meets the intent of the SMP pursuant to the goals and objectives, and the appropriate permit process procedures have been followed.*

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

*Staff Response: This project has been reviewed and conditioned to ensure that it meets the intent and standards of the Shoreline Management Act and Kittitas County Shoreline Master Program.*

**The Following Goals and Objectives of the Shoreline Master Program are applicable:**

**SMP Goals**

3.1(A)(1) “Develop and implement management practices that will conserve and sustain shoreline resources and important natural features.”

3.1(A)(3) “Protect fragile natural areas and resources.”

3.2(A)(1) ”Consider the use and development of shorelines and adjacent land areas for public and private land uses in relation to the natural environment.”

3.3(A)(2) “Support uses that contribute to the region’s economy while maintaining the qualities and functions of the shoreline, flood prone areas and channel migration zone.”

3.4(A)(1) “Develop and maintain a network of safe, convenient and diversified access opportunities for the public to enjoy the physical and aesthetic qualities of thee shorelines of Kittitas County.”

*Staff Response: This project has been reviewed and conditioned to ensure that it meets the intent of the SMP Goals identified above. The project contributes to the region’s economy through necessary expansion of the State Highway system to accommodate growth while protecting existing shoreline function and fragile areas through best management practices and mitigations described in the FEIS issued in August 2008.*

**SMP Objectives**

3.2(B)(3) “Allow non-water-oriented uses only when substantial public benefit is provided with respect to the goals of the ACT for public access and ecological restoration.”

3.2(B)(4) “Locate, design, and manage shoreline uses to prevent a net loss of shoreline ecological functions and processes over time. Where adverse impacts are unavoidable, require mitigation to ensure no net loss of shoreline ecological functions.”

*Staff Response: As proposed, the project fulfills these Objectives. As described in the application this project is designed to reconstruct and expand capacity for a section of I-90 west of Easton. The adopted alternative in the FEIS describes numerous mitigations to protect ecological resources and functions. The project will provide substantial public benefit through a safer and more efficient highway system that can meet the needs of travelers as the user population continues to expand.*

**Consistency with the Comprehensive Plan:**

Chapter 2 section 5 of the Kittitas County Comprehensive Plan states that “the 2016 Kittitas County Shoreline Master Program goals and policies are adopted by reference into this comprehensive plan.

*Staff Consistency Statement: As conditioned, this project meets and conforms to the Shoreline Master Program.*

*Therefore staff finds this project consistent with the comprehensive plan. See “Consistency with the Shoreline Master Program” above.*

**Consistency with KCC 15, Environmental Policy:**

Pursuant to WAC 197-11-600(4)(a) on October 15, 2019 the County adopted the I-90 Snoqualmie Pass East FEIS issued on August 2008 as sufficient to address environmental impacts within the project area.. A copy of the FEIS summary may be obtained from the County.

**Consistency with the provisions of KCC 17A, Critical Areas:**

An administrative critical area site analysis was completed by staff in compliance with Title 17A: Critical Areas. Parts of the project site fall within the Shorelines of the State under the Rural Conservancy designation. Various critical areas were discovered along the project route including wetlands and streams of various designations. The 2008 FEIS for this project notes these critical areas with appropriate mitigation prescriptions.

Based upon the critical areas analysis and FEIS report, the proposed use is consistent and in compliance with the Critical Areas Ordinance (and code) of Kittitas County (KCC 17A).

**Consistency with the provision of KCC 17B.07.060, Review Criteria**

The project, as conditioned, is consistent with the KCC Title 17B.07.060 as described in section VI of this document.

**Consistency with the provision of KCC 17B.04.090.1, Shoreline Use and Modification Table:**

Roads and Bridges are a permitted use within the Rural Conservancy Shoreline environment. As such the project is consistent with Title 17B.04.090.1.

**Consistency with the provision of KCC Title 12, Roads and Bridges:**

As conditioned, the project is consistent with the provisions of KCC Title 12.

**Consistency with the Kittitas County Flood Damage Prevention:**

The proposed project is proposed above base flood elevation and therefore is consistent with Kittitas County Flood Damage Prevention,

**Consistency with the provisions of KCC Title 20, Fire and Life Safety:**

The project is consistent with the provisions of KCC Title 20.

## VII. FINDINGS OF FACT

1. Washington State Department of Transportation is proposing plans to reconstruct I-90 in the Easton area from two (2) to three (3) lanes in each direction, replace truck climbing lanes, provide new stormwater treatment, bring the west and east bound lanes together by moving the existing westbound lanes next to the east bound lanes between MP 67.5 and MP 69.5, replace all existing bridges and structures and construct new bridges and structures that better meet current demand.
2. The proposed project spans Interstate 90 beginning in the Easton area near exit 70 Easton Sparks Road, and moving west through the following locations: Sections 2, 3, 4, and 11 of T 20 N. R 13 E., W.M., Sections 24, 25, and 36 of T 21 N. R 12 E., W.M., and Sections 31, 32, 33 of T 21 N. R 13 E., W.M.

### 3. Site Information:

Total Property Size:	Project footprint approximately 256 acres
Number of Lots:	0, The project will be primarily contained within the existing I-90 WSDOT ROW
Domestic Water:	N/A
Sewage Disposal:	N/A
Power/Electricity:	N/A
Fire Protection:	Fire District 3 and areas outside of fire districts
Irrigation District:	N/A

### 4. Site Characteristics:

<u>North:</u>	Combination of private and state owned lands in various levels of development
<u>South:</u>	Combination of private and state owned lands in various levels of development
<u>East:</u>	Combination of private and state owned lands in various levels of development
<u>West:</u>	Combination of private and state owned lands in various levels of development

Access: The project site is primarily within the I-90 WSDOT ROW

5. The subject properties are located on lands with a zoning designation of Commercial Forest, Forest and Range, and Rural 5. The project area is primarily within the existing WSDOT I-90 ROW.
6. A Shorelines Substantial Development permit application was submitted to Kittitas County Community Development Services (CDS) on September 6, 2019. The application was deemed complete on October 2, 2019.
7. A Notice of Application was mailed to all federal, state and local agencies/departments with jurisdiction as required by KCC 17B.07.070 and 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 tax parcels on October 15, 2019. The comment period for this notice ended on November 14, 2019.
8. Pursuant to WAC 197-11-600(4)(a) on October 15, 2019 the County adopted the I-90 Snoqualmie Pass East FEIS issued on August 2008 as sufficient to address environmental impacts within the project area.. A copy of the FEIS summary may be obtained from the County.
9. The following agencies and individuals submitted substantive comments during the comment period; Michael Jones, Washington State Department of Parks and Recreation Commission, Washington State Department of Ecology and Kittitas County Public Works,
10. The proposal is consistent with the provisions of KCC 17B, Shoreline Master Program as conditioned.

11. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan.
12. The proposal is consistent with the provisions of KCC 15, Environmental Policy.
13. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
14. The proposal is consistent with the provision of KCC 17B.07.060, Review Criteria
15. The proposal is consistent with the provision of KCC 17B.04.090.1, Shoreline Use and modification Table.
16. The proposal is consistent with the provisions of KCC Title 12, Roads and Bridges as conditioned.
17. The proposal is consistent with the provisions of Kittitas County Flood Damage Prevention as conditioned.
18. The proposal is consistent with KCC 20, Fire Life and Safety.

### **VIII. CONCLUSIONS**

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. The proposal meets the criteria outlined in KCC 17B Shorelines.
4. As conditioned, the proposal is consistent with Kittitas County Code Title 12 Roads and Bridges, Title 17 Zoning, and Title 17A Critical Areas.

### **IX. DECISION & CONDITIONS OF APPROVAL**

Kittitas County Community Development Services grants approval of the WSDOT Shoreline Substantial Development Permit (SD-19-00001) based on the above staff analysis, findings of fact, and conclusions with the following conditions of approval:

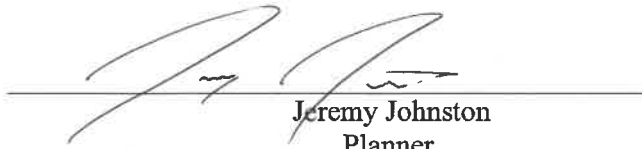
1. Development shall occur in substantial conformance with the application materials submitted to Kittitas county CDS on September 6, 2019. Any alterations to these plans shall be reviewed by Kittitas County prior to construction to ensure it still meets the requirements of all applicable regulations.
2. The applicant is responsible for compliance with all applicable local, state, and federal rules, codes, and regulations, and must obtain all appropriate permits and approvals. Failure to do so may result in the revocation of the shorelines substantial development permit.
3. Should ground disturbing or other activities related to the proposed conditional use permit 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.
4. The applicant shall update the Sparks Road Haul Agreement with Kittitas County Public Works prior to any

ground activity related to this project.

5. The applicant shall prepare a Quit Claim Deed to be submitted to Kittitas County Public Works for review and BOCC approval prior to any ground activity related to this project.
6. The applicant shall obtain a Right of Way Use permit from Kittitas County Public Works for any temporary construction over Sparks Road prior to any ground activity related to this project.
7. The applicant shall provide a temporary construction easement for review by Kittitas County Public Works prior to any construction.

**This decision can be appealed to the Shorelines Hearings Board within 21 days of the date of filing with the Washington State Department of Ecology pursuant to RCW 90.58.180.**

**Responsible Staff**

  
Jeremy Johnston  
Planner

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**Date:** December 9, 2019