

**RECOMMENDED SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SV-14-00001
Administering Agency: Kittitas County Transportation and Land Services

RECEIVED

MAY 16 2014

Type of Permit: ■ Shoreline Setback Variance
Recommended Action: ■ Approved □ Denied

KITTITAS COUNTY
CDS

Date of Recommended Action: May 14, 2014

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on May 8, 2014, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

Applicant: **Richard Landen**
3160 Via Kachess Road
Easton, WA 98925

Richard Landen, landowner, submitted an application for a Structural Setback Shoreline Variance (SV-14-00001) with associated JARPA on March 10, 2014 to Kittitas County Community Development Services Department to allow for a remodel and addition to an existing residential structure, including a deck. The Shoreline Master Program requires all single family residential development to be at least 100 feet landward of the Ordinary High Water Mark (OHWM). This proposal is located within the Conservancy Shoreline Designation. The request is for a variance to allow the structure to be no closer than approximately 58 feet from the OHWM of Lake Kachess.

Upon the following property: Lot 1, Plat of Kachess I (recording #393674), 3160 Via Kachess Rd., Easton, WA 98925.

Within 200 feet of **Lake Kachess** 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 a **Conservancy** designation. The Kittitas County Shoreline Master Program is applicable to this development.

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

RECOMMENDED CONDITIONS OF APPROVAL

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. Any structure on the property shall not be constructed any closer than 58 feet landward of the OHWM.
3. A zoning setback variance may be required prior to issuance of the building permit for the front and/or side yard setbacks.
4. Based on the criteria for riparian habitat specified in Title 17A.07.010(5), the natural condition of the riparian lands that in this case encompass all of the parcel shall be retained in its natural condition. Where disturbance has occurred, during construction, re-vegetation with native vegetation is required. The Kittitas County Noxious Weed ordinance shall be adhered to.
5. Floodplain: This property received a LOMA from FEMA and is no longer considered to be within the regulatory floodplain. Case No. 14-10-0523A.
6. Access: This project proposes a new access from the county road. An access permit must be applied for and issued prior to beginning any work within the county right-of-way. Access must be completed prior to issuance of a building permit.

RECOMMENDED FINDINGS OF FACT

1. Richard Landen, landowner, submitted an application for a Structural Setback Shoreline Variance (SV-14-00001) with associated JARPA on March 10, 2014 to Kittitas County Community Development Services Department to allow for a remodel and addition to an existing residential structure, including a deck. The Shoreline Master Program requires all single family residential development to be at least 100 feet landward of the Ordinary High Water Mark (OHWM). This proposal is located within the Conservancy Shoreline Designation. The request is for a variance to allow the structure to be no closer than approximately 58 feet from the OHWM of Lake Kachess.
2. This proposal encompasses 1 parcel, located at 3160 Via Kachess Road, Easton, Washington along Lake Kachess, in a portion of Section 17, T21N, R13E, WM in Kittitas County, bearing Assessor’s map number 21-13-17050-0001.
3. The Comprehensive Plan designation is “Rural Working Land.”
4. The subject property is zoned “Forest and Range.”
5. A shoreline structural setback variance application was submitted to Kittitas County Community Development Services Department (CDS) on March 10, 2014. This application was deemed complete on March 31, 2014. The Notice of Application for the shoreline structural setback variance was issued on April 15, 2014. 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. The last day to submit written comments was on April 30, 2014.
6. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan GPOs apply to this proposal: GPO 2.2, 2.7, 8.1, 8.2, 8.4, and 8.16.

7. The Hearing Examiner has reviewed the Shoreline Master Program and has concluded that the applicant demonstrated the following criteria has been met pursuant to WAC 173-27-170 and Section 40 of the Kittitas County Shoreline Master Program:
 - a. The strict application of this requirement precludes or interferes with reasonable use of the subject property, and;
 - b. That this hardship is specifically related to the property, resulting from unique conditions including lot shape, size, and other natural features; and
 - c. That the residential nature of the proposal is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shorelines environment; and
 - d. The variance will not constitute a grant of special privilege not enjoyed by the other properties in the area; and,
 - e. The variance is the minimum necessary to afford relief; and,
 - f. That the public interest will suffer no substantial detrimental effect.
8. This proposal is consistent with KCC 17, specifically KCC 17.56 as conditioned.
9. Staff conducted an administrative critical area review in accordance with KCC 17A. As conditioned, this proposal is compatible.
10. This proposal is consistent with KCC 14.08, as conditioned.
11. This proposal is consistent with KCC 12, as conditioned.
12. The following agencies provided comments during the comment period: Kittitas County Department of Public Works and Kittitas County Department of Environmental Health. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.
13. 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.
14. An open record public hearing after due legal notice was held on May 8, 2014.
15. Admitted into the record were the following exhibits:
 - 15.1 Exhibit 1: KC application fees receipt – 3/10/14
 - 15.2 Exhibit 2: Shoreline Variance application submittal packet – 3/10/14
 - 15.3 Exhibit 3: Additional information submitted by applicant – 3/25/14
 - 15.4 Exhibit 4: Staff review info
 - 15.5 Exhibit 5: Deem Complete Letter – 3/31/14
 - 15.6 Exhibit 6: Email between applicant and staff – 4/2/14
 - 15.7 Exhibit 7: Affidavit of Posting – 4/4/14
 - 15.8 Exhibit 8: Notice of Application memo & legal – 4/15/14
 - 15.9 Exhibit 9: Affidavit of Mailing & Publication – Notice of Application – 4/15/14
 - 15.10 Exhibit 10: Returned mail – Notice of Application
 - 15.11 Exhibit 11: Email from KC Env. Health – 4/23/14
 - 15.12 Exhibit 12: Public Comment – D. Campbell
 - 15.13 Exhibit 13: Public Comment – A. Dulin
 - 15.14 Exhibit 14: Email between applicant and staff – 4/24/14

- 15.15 Exhibit 15: Comment from KC DPW – 5/2/14
- 15.16 Exhibit 16: Transmittal of comments letter – 5/2/14
- 15.17 Exhibit 17: Hearing Examiner Agenda – 5/8/14 (hearing date)
- 15.18 Exhibit 18: May 8, 2014 a letter from the department of Ecology to Kittitas County
Community Development

- 16. Appearing and testifying on behalf of the applicant was Richard Landen. Mr. Landen testified that he is the applicant and the owner of the subject property. Mr. Landen testified that his wife is severally disabled, This disability restricts her mobility. This property presented access issues requiring them to construct a new addition on to this property.
- 17. It is impossible for them to construct this addition without the need for this variance because of the minimal lot size. The hardship is also related to his wife’s disability and a need to modify the access to this structure to allow her to enjoy the property.
- 18. Mr. Landen testified that because his wife is in a wheelchair and is unable to walk, that the size of structure had to be increased due to the nature of handicap accessible buildings needing to be larger to accommodate wheelchairs.
- 19. Mr. Landen further testified that he agreed that they would not do any construction within the Riparian Area. He testified that they would not do any work on Bureau of Reclamation land between his lot line and the ordinary high water mark. He testified that a bridge for the driveway was needed in order for his wife to have access to the property. Finally, he testified that he had no objection to any of the proposed conditions of approval.
- 20. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

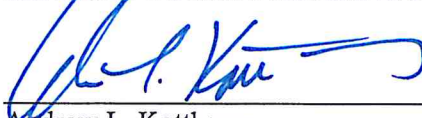
RECOMMENDED CONCLUSIONS

- 1. The Hearing Examiner has been granted authority to render this Decision.
- 2. As conditioned, the proposal meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
- 3. As conditioned, the proposal meets the variance process as described in WAC 173-27-170 and the requirements of the Kittitas County Shoreline Master Program.
- 4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
- 5. Public use and interest will be served by approval of this proposal.
- 6. As conditioned, the proposal is consistent with Kittitas County Code Title 17 Zoning, Title 17A Critical Areas, Title 14.06 Flood Damage Prevention Code, and Title 12 Roads and Bridges.
- 7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

This permit is recommended to be granted pursuant to the Shoreline Master Program of Kittitas County, as amended, and nothing in this recommendation 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).

Approval Recommended this 14th day of May, 2014.

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

KOTTKAMP & YEDINAK

435 Orondo Ave. | Wenatchee, WA 98801
PO Box 1667 | Wenatchee, WA 98807

Attorneys

Andrew L. Kottkamp

Nicholas A. Yedinak

Robert W. Grim

RECEIVED

MAY 16 2014

KITTITAS COUNTY
CDS

May 14, 2014

Ms. Mandy Weed
Kittitas County Community
Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA 98926

Re: SV-14-00001

Dear Mandy:

Enclosed please find the original Recommended Decisions regarding the above-referenced.

Should you have any questions, please do not hesitate to call me.

Sincerely,

ANDREW L. KOTTKAMP

ALK:dn
Enclosures