



**Dvorak Reasonable Use
File Number RU-25-00002
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

I. GENERAL INFORMATION

Requested Action: Kevin, Emily, and Carol Dvorak (property owners) submitted a reasonable use application to build a driveway and single-family residence on parcel 756735. Reasonable Use exceptions are processed under KCC 17A.01.060.

Location: One tax parcel (#756735), located off Mountain Home Lane, approximately 600 feet from the intersection of Mountain Home Lane and Via Kachess Road in Easton, WA. Section 17, Township 21, Range 13; Kittitas County parcel map number 21-13-17050-0058.

II. SITE INFORMATION

Total Property Size: 0.49 Acres
Number of Lots: 1
Domestic Water: Group A Water System
Sewage Disposal: On-Site Sewage
Fire Protection: Snoqualmie Pass Fire and Rescue

Site Characteristics:

North: Privately owned land primarily used for residential purposes
South: Privately owned land primarily used for residential purposes
East: Privately owned land primarily used for residential purposes
West: Community owned land used for utilities

Access: The site is accessed via Mountain Home Lane.

III. ZONING, ENVIRONMENTAL AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Forest and Range 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. Forest and Range zones have a required 25-foot front setback and 10-foot side and rear setbacks.

A Type Np stream is located on the property and has a 212-foot setback buffer landward from the OHWM based on the Site Potential Tree Height (SPTH200) for site. There is also a required 15-foot structural setback from the buffer edge (KCC 17A.01.090.5).

The applicant is requesting to utilize the reasonable use exception process pursuant to KCC 17A.01.060(2), to deviate from the prescribed critical area buffer requirements in KCC 17A.04.030. Title 17A.01.060(2)(c) of the Kittitas County Code outlines seven criteria in which a reasonable use can be granted. The applicant must demonstrate that the proposal has met all seven

criteria. The following is a summary describing whether each criterion has been satisfactorily demonstrated:

KCC 17A.01.060(2)(c) Granting Criteria (all seven must be met):

1. The application of this Title would deny all economic use of the property.

Applicant Response

“The 100’ buffer of the Type Np stream covers the entire parcel. The strict application of this buffer would deny all reasonable use of the property meeting these criteria.”

Staff Response

CDS staff have reviewed the complete file information, including but not limited to the applicant submitted information and comments received during the comment period. The current critical areas and associated buffers for the lot, as outlined in the Critical Areas report, deny all reasonable economic use of the property.

The applicant has demonstrated in a factual and meaningful way that the application of this Title (KCC 17A) would deny all economic use of the property. The reasonable use exemption request, as presented, is consistent with KCC 17A.01.060(2)(c)(i).

2. No other reasonable economic use of the property has less impact on the critical area and its buffer.

Applicant Response

“The parcel is zoned for a single-family home. There is no other use of the parcel other than for a single-family home with less impact on the stream buffer than is proposed on the existing attached site plan.”

Staff Response

CDS staff have reviewed the complete file information, including but not limited to the applicant’s submitted information and comments received during the comment period. CDS believes that unless the applicant does nothing with the property or leaves it vacant for recreational use, a single-family residence has the least amount of impact on the critical areas & their associated buffers.

The applicant has demonstrated in a factual and meaningful way there are no other reasonable economic uses that have less impact on the critical area and its buffer on the property. The reasonable use exemption request, as presented, is consistent with KCC 17A.01.060(2)(c)(ii).

3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property.

Applicant Response

“The proposed 1,125 square foot home is typical of those in the area and is the minimum necessary to provide an adequate living space.”



Staff Response

The single-family home will present the minimum necessary impact to the critical area while allowing reasonable use of the property. Based on county records, aerial imagery, and a site visit, staff can confirm that this size home is consistent with others in the area.

The applicant has demonstrated in a factual and meaningful way that the proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property. The reasonable use exemption request, as presented, is consistent with KCC 17A.01.060(2)(c)(iii)

4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this Title.

Applicant Response

"The parcel existed prior to the enactment of the stream buffers which now require this reasonable use, which went into effect in December 2021. This parcel existed prior to the effective date of this Title and is not a result of any action taken by the owner of the parcel."

Staff Response

The critical areas buffer that governed when the subject application was submitted (effective 2/7/2022) increased the buffers on this property to a point that derived it of reasonable economic use. The critical areas and their corresponding buffers cover all the buildable areas on the property, making it difficult to utilize the property for any economic means.

The applicant has demonstrated in a factual and meaningful way that the proposal is not the result of actions taken by the applicant after the effective date of this Title (KCC 17A). The reasonable use exemption request, as presented, is consistent with KCC 17A.01.060(2)(c)(iv).

5. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site.

Applicant Response

"The request to construct a home within a portion of stream buffer on a site zoned for a single-family home does not impose any threat to any property around the site or public health, safety, and welfare. The home is being constructed in a residential neighborhood where identical development has occurred surrounding the site. The buffer reduction does not in itself impose any unreasonable threat as it does not create any special hazard or risk or threat to any property around it. There is no known risk hazard of characteristic of the site that would impose any threat to any of the surrounding properties or public, health, safety, or welfare."

Staff Response

The proposal has similar qualities to other single-family dwellings and will not pose an unreasonable threat to public health, safety and welfare. Many single-family dwellings are located closer to the RMZ buffer than the proposed development, impacts greater than what already exist are not anticipated.

The applicant has demonstrated in a factual and meaningful way that the proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site. The reasonable use exemption request, as presented, is consistent with KCC 17A.01.060(2)(c)(v).

6. The proposal will result in no net loss of critical area functions and values consistent with the best available science.

Applicant Response

“The proposed cumulative impacts from the home and its associated 15’BSBL around the structure totals 4,092 square feet of existing buffer.

To compensate for the 4,092 square feet of permanent impact to the buffer from the home, a total of 40 trees and 60 shrubs planted in the existing cleared buffer area (approximately 7,200 square feet) outside the proposed structure and it’s 15 BSBL. Native plants to be planted include a mix of silver fir, western red cedar, and douglas fir based upon availability. The shrub strata would be planted with a mix of wine maple and mountain huckleberry.

The proposed buffer enchantment will result in no net loss of buffer function to the stream, will increase three cover to the Type Np stream, and utilize best available science.”

Staff Response

With the assistance of Sewall Wetland Consulting, Inc and the Washington Department of Fish & Wildlife, the applicant is proposing mitigation measures to protect and enhance the stream buffer and stream. CDS has conditioned this determination to ensure the applicant works with the Washington Department of Fish & Wildlife to develop a mitigation plan that results in a no net loss of critical area functions and values.

The applicant has demonstrated in a factual and meaningful way that the proposal will result in no net loss of critical area functions and values consistent with the best available science. The reasonable use exemption request, as presented, is consistent with KCC 17A.01.060(2)(c)(vi).

7. The proposal is consistent with other application regulations and standards.

Applicant Response

“The proposal to build a single-family home on the site is what the site is zoned for under county regulations as “forest and Range Zoning”. A septic system has been installed on the site with appropriate county permits. Under the Critical Areas regulations that were adopted after this parcel was created, a 100’ buffer now covers all of the site from the stream on the site. As a result, a parcel that previously t would have as area outside the stream buffer, is now completely covered with buffer requiring going through the reasonable use process under 17A.01.060.2. These criteria were answered in the July 8, 2025, CAR for the site. All proposed work on the site for construction of the home (building permits, grading permits, etc.) will be permitted with the appropriate county permit and application regulations.”

Staff Response

The proposal is conditioned to be consistent with all other applicable regulations and standards.

The applicant has demonstrated in a factual and meaningful way that the proposal is consistent with other application regulations and standards. The reasonable use exemption request, as presented, is consistent with KCC 17A.01.060(2)(c)(vii).

Staff Conclusions

Staff finds that the reasonable use exception request **does** meet all seven criteria outlined in KCC 17A.01.060(2)(c) as described above. Therefore, the critical areas reasonable use request is consistent with the conditions necessary to grant a reasonable use exception under KCC 17A.01.060(2)(c).

IV. ADMINISTRATIVE REVIEW

Deem Complete: The application was determined complete on August 4, 2025.

Notice of Application: Notice of Application was sent to property owners within 500 feet and all agencies with jurisdiction, published in the official newspaper of record for Kittitas County, and posted on the Kittitas County website on August 7, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on August 22, 2025, and all comments were transmitted to the applicant on August 25, 2025.

V. ENVIRONMENTAL REVIEW

A Critical Areas Report was completed by Sewall Wetland Consulting, Inc which identified a Type Np stream on the property. No other critical areas were identified.

For Type Np Streams, KCC 17A.04.030(4) established a 100-foot buffer from the Ordinary High-Water Mark (OHWM) within the Cascade Ecoregion, at the time this application was submitted. This does not include the additional 15' building setback in KCC 17A.01.090.5. The proposed building footprint is entirely within the RMZ buffer for the Type Np stream and requires a reasonable use exception for the proposed development.

With the assistance of Sewall Wetland Consulting, Inc. and the Washington Department of Fish & Wildlife, the applicant is proposing mitigation measures to protect and enhance the stream buffer and stream. CDS has conditioned this determination to ensure the applicant works with the Washington Department of Fish & Wildlife to develop a mitigation plan that results in a no net loss of critical area functions and values.

VI. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments are on file and available for public review.

Agency Comments:

Comments were received from the following agencies during the comment period: Bonneville Power Administration (BPA), Yakama Nation Fisheries, Kittitas County Fire Marshal, Washington State Department of Ecology (DOE), Washington State Department of Fish and Wildlife (WDFW), Snoqualmie Indian Tribe, Kittitas County Public Works (KCPW). All comments are on file and available for public review.

Bonneville Power Administration

BPA stated that this proposal will not directly impact BPA facilities over 2 miles southwest of the subjected properties. BPA does not have any objections to the approval of this request currently.

Applicant Response

The applicant provided no response.

Staff Response

Because the comments provided confirm that BPA does not have concerns regarding this project, staff have no further comment.

Yakama Nation Fisheries

Yakama Nation Fisheries states that this project didn't yield any new information that would require further investigation of the potential impacts on Archaeological/Cultural Resources. An Inadvertent Discovery Plan was shared with the applicant and contractor.

Applicant Response

The applicant provided no response.

Staff Response

CDS has conditioned this determination to ensure the applicant shall have an Inadvertent Discovery Plan (IDP) in place prior to beginning construction.

Kittitas County Fire Marshal

The Kittitas County Fire Marshals office stated they have no comments for this project.

Applicant Response

The applicant provided no response.

Staff Response

Because the comments provided confirm that the Kittitas County Fire Marshal does not have concerns regarding this project, staff have no further comment.

Washington State Department of Ecology

DOE provided information about the State's Water Recourses Program.

Applicant Response

The applicant provided no response.

Staff Response

CDS has provided this comment regarding the State's Water Recourses Program to the applicant.

Washington State Department of Fish & Wildlife

The Washington Department of Fish and Wildlife (WDFW) is familiar with the property and met with Erin Minton, landowner representative, and Kittitas County on-site in August 2025 regarding the project's impact on Fish and Wildlife Habitat Conservation Areas (FWHCAs, CAO Chapter 17A.04), specifically riparian habitat.

As observed during our site visit, there is a perennial stream flowing through the parcel, as referenced in the critical areas report. The proposed home site is located within the riparian

management zone (RMZ, CAO 17A.04.030) of the stream. To ensure no net loss, we recommend avoiding and minimizing impacts to the RMZ as much as possible by siting the home and associated infrastructure as far away from the stream as possible. Where impacts cannot be avoided, mitigation will be needed to offset the impacts to the riparian buffer.

We appreciate the critical areas report, including proposed mitigation, included with the application materials. As discussed during our site visit, a planting plan should be developed following the metrics in the critical areas report – 7400sqft of planting, approximately 40 trees and 60 shrubs. Planting should occur on both sides of the stream. WDFW shared a list of native riparian plants for additional plant species consideration. The planting plan should include monitoring requirements to ensure survivability of the planted plants. We recommend at least three years of monitoring with an 80% survivability. If metrics fall below 80%, we recommend that similar plants be planted to replace those that did not survive. We request to review and provide concurrence to Kittitas County on the planting plan when finished.

Applicant Response

The applicant provided no response.

Staff Response

CDS has provided these comments to the applicant and conditioned this determination to ensure the applicant shall work with the Washington Department of Fish and Wildlife to develop a mitigation plan.

Snoqualmie Indian Tribe

The Snoqualmie Indian Tribe recommends a archaeological review be performed for this project because the Snoqualmie Tribe considers the subject area culturally significant with a very high probability to have unknown archaeological deposits. They do not want an Inadvertent Discovery Plan used in lieu of an archaeological investigation.

Applicant Response

The applicant provided no response.

Staff Response

Staff recognize the requirements set forth by the Snoqualmie Indian Tribe but will condition approval upon remaining in compliance with IDP requirement requested by the Yakama Nation Fisheries.

Kittitas County Public Works

Access

- An approved access permit shall be required from the Kittitas County Department of Public Works prior to creating any new driveway access or altering existing access.
- Applicants have an issued access permit AA-25-00003.
- Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain access.
- Private Road Certification required for Mountain Home Lane prior to certificate of occupancy.
- In addition to the above-mentioned conditions, all applicable Kittitas County Road Standards apply to this proposal. Access is not guaranteed to any existing or created parcel on this application.

Engineering

- Except as exempted in KCC 14.05.060, no grading or filling upon a site involving more

than one hundred (100) cubic yards shall be performed without a grading permit from the County Engineer or Public Works designer (KCC 14.05.050). An application for grading in excess of five hundred (500) cubic yards shall be accompanied by an engineering grading plan (KCC 14.05.080). This grading plan will be under a joint review with the City of Ellensburg.

Applicant Response

The applicant provided no response.

Staff Response

CDS has conditioned this determination to ensure the applicant shall work with KCPW for Access and Engineering requirements.

Public Comments:

Jeff Potter submitted a comment in support of this reasonable use request.

All comments received during the comment period were transmitted to the applicant on August 25, 2025. The applicant responded with no comments on August 27, 2025.

VII. PROJECT ANALYSIS

In review of this proposal, it is important to consider the applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is the planning staff's analysis and consistency review for the subject application.

Consistency with the provisions of the KCC Title 14.04, Building Code:

All buildings must be consistent with International Building Codes and approved building plans as issued by Kittitas County.

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

The proposal must be consistent with the provisions of KCC Title 20.

Consistency with the provisions of the KCC Title 17, Zoning:

The proposal must be consistent with the provisions of KCC Title 17.

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

A Critical Areas Report was completed by Sewall Wetland Consulting, Inc which identified a Type Np stream on the property. No other critical areas were identified.

For Type Np Streams, KCC 17A.04.030(4) established a 100-foot buffer from the Ordinary High-Water Mark (OHWM) within the Cascade Ecoregion, at the time this application was submitted. This does not include the additional 15' building setback in KCC 17A.01.090.5. The proposed building footprint is entirely within the RMZ buffer for the Type Np stream and requires a reasonable use exception for the proposed development.

With the assistance of Sewall Wetland Consulting, Inc. and the Washington Department of Fish & Wildlife, the applicant is proposing mitigation measures to protect and enhance the stream buffer and stream. CDS has conditioned this determination to ensure the applicant works with the Washington Department of Fish & Wildlife to develop a mitigation plan that results in a no net loss of critical area functions and values.

VIII. FINDINGS OF FACT

1. Kevin, Emily, and Carol Dvorak (property owners) submitted a reasonable use application to build a driveway and single-family residence on parcel 756735. Reasonable Use exceptions are processed under KCC 17A.01.060.
2. One tax parcel (#756735), located off Mountain Home Lane, approximately 600 feet from the intersection of Mountain Home Lane and Via Kachess Road in Easton, WA. Section 17, Township 21, Range 13; Kittitas County parcel map number 21-13-17050-0058.
3. Site Information

Total Property Size:	0.49
Number of Lots:	1
Domestic Water:	Group A Water System
Sewage Disposal:	Onsite Sewage
Fire Protection:	Snoqualmie Pass Fire and Rescue

4. Site Characteristics:

North:	Privately owned land primarily used for residential purposes
South:	Privately owned land primarily used for residential purposes
East:	Privately owned land primarily used for residential purposes
West:	Community owned land used for utilities

5. Access: The site is accessed via Mountain Home Drive.
6. The subject property has a zoning designation of Forest and Range and a Rural Working land use designation.
7. 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. Forest and Range zones have a required 25-foot front setback and 10-foot side and rear setbacks.
8. A Reasonable Use Application was submitted to Kittitas County Community Development Services department on August 4, 2025.
9. The application was deemed complete on August 4, 2025.
10. Notice of Application was sent to property owners within 500 feet and all agencies with jurisdiction, published in the official newspaper of record for Kittitas County, and posted on the Kittitas County website on August 7, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on August 22, 2025, and all comments were transmitted to the applicant on August 25, 2025.
11. The proposal is consistent with the provisions of KCC 17A, Critical Areas as conditioned.
12. The proposal is consistent with the reasonable use exception criteria in KCC 17A.01.060(2)(c). All seven criteria have been satisfied.

13. This proposal is consistent with the provisions of the KCC Title 14.04, Building Code as conditioned.
14. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety, as conditioned.
15. The proposal is consistent with the provisions of KCC Title 12, Roads and Bridges as conditioned.
16. Comments were received from the following agencies during the comment period: Bonneville Power Administration (BPA), Yakama Nation Fisheries, Kittitas County Fire Marshal, Washington State Department of Ecology (DOE), Washington State Department of Fish and Wildlife (WDFW), Snoqualmie Indian Tribe, Kittitas County Public Works (KCPW). All comments are on file and available for public review.
17. Jeff Potter submitted a comment in support of this reasonable use request.

IX. STAFF CONCLUSIONS:

1. This proposal has satisfied all seven criteria of KCC Title 17A.01.060(2)(c).
2. The proposal is consistent with state and federal regulations.
3. The proposal is consistent with local regulations including Kittitas County Code Title 12 Roads and Bridges, Title 14.04 Building Code, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire and Life Safety.

X. DECISION AND CONDITIONS OF APPROVAL:

Kittitas County Community Development Services finds that the Dvorak Reasonable Use Exception Request (RU-25-00002) is hereby **approved**. The Dvorak Reasonable Use Exception Request has satisfied the requirements of a reasonable use exception pursuant to KCC 17A.01.060(2)(c).

CONDITIONS OF APPROVAL:

1. The project shall proceed in substantial conformance with the plans and application materials on file with CDS dated July 29, 2025, and subsequent information included in the complete file index except as amended by the conditions herein.
2. The applicant shall comply with all local, State and Federal regulations, including environmental standards and regulations in place at the time of building permit application submittal.
3. The applicant shall comply with local regulations including Kittitas County Code Title 12 Roads and Bridges, Title 14.04 Building Code, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire and Life Safety.
4. The applicant shall comply with the Private Road Certification requirement for Mountain Home Lane prior to certificate of occupancy.
5. In addition to the above-mentioned conditions, all applicable Kittitas County Road Standards apply to this proposal. Access is not guaranteed to any existing or created parcels on this

application.

6. Except as exempted in KCC 14.05.060, no grading or filling upon a site involving more than one hundred (100) cubic yards shall be performed without a grading permit from the County Engineer or Public Works designee (KCC 14.05.050). An application for grading in excess of five hundred (500) cubic yards shall be accompanied by an engineered grading plan (KCC 14.05.080).
7. All current and future owners must comply with International Fire Code.
8. All current and future owners must comply with International Building Code.
9. The applicant shall have an Inadvertent Discovery Plan (IDP) in place prior to beginning construction.
10. Should ground disturbing or other activities related to this proposal 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 findings are 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.
11. The applicant shall develop and submit a mitigation plan, per KCC 17A.04.070, that is approved by the Washington Department of Fish & Wildlife. The mitigation plan is to include minimizing impacts to the riparian buffers and mature conifer trees as well as planting natural plants, shrubs & trees typically found near streams. The mitigation plan is to include improvements to the stream reach.
 - a. A planting plan should be developed following the metrics in the critical areas report – 7400sqft of planting, approximately 40 trees and 60 shrubs. Planting should occur on both sides of the stream. The planting plan should include monitoring requirements to ensure survivability of the planted plants.
 - b. Planting shall be followed by three years of monitoring with an 80% survivability. If metrics fall below 80%, similar plants should be planted to replace those that did not survive.
 - c. The Washington Department of Fish and Wildlife shall review and provide concurrence to Kittitas County on the planting plan when finished.
12. To ensure no net loss, and to avoid and minimize impacts to the RMZ, the home and associated infrastructure should be situated as far away from the stream as possible.
13. The applicant shall work with the Kittitas County Fire Marshall and Washington Department of Fish and Wildlife to meet the requirements of the critical area mitigation plan and the Wildland Urban Interface code.

Per Title 17A.01.090(5), notice on Title shall be recorded with the Kittitas County Auditor's office for all lots involved describing the following:

- i. The presence and location of the critical area and buffer.

- ii. A statement of as to the applicability of Title 17A to the property including this reasonable use exception.
- iii. A statement describing limitations on action in or affecting critical area and buffers approved as part of this reasonable use.

A copy of the recorded notice shall be provided to Kittitas County Community Development Services.

Responsible Official 
Ellie Myers

Title: Planner I

Address: Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7539

Date: September 4, 2025

Pursuant to Chapter 15A.07 KCC, this determination may be appealed by submitting specific factual objections in writing with a fee of \$1670 to the Kittitas County Community Development Services at 411 N Ruby St Ste. 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00pm September 18, 2025. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.