



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

December 20, 2023

Bradley Gasawski  
Kittitas County Community Development Services  
411 N. Ruby St; Suite 2  
Ellensburg, WA 98926

**RE: SV-23-00001**

Dear Bradley Gasawski:

Thank you for the opportunity to comment on the Notice of Application process for the Horish Shoreline Variance. The Department of Ecology (Ecology) has the following comments.

**Shorelands and Environmental Assistance**

The new driveway constitutes development proposed to replace existing access to parcel 516534. Documents supporting the Boundary Line Adjustment of parcel 546534 show that an existing driveway provides access to the potential building site noted in the application. This existing driveway provides access to the site with minimal disturbance to the shoreline and shoreline wetland buffers.

The proposed driveway increases disturbance to the shoreline environment and shoreline wetland buffer.

Ecology provided information to Kittitas County and the applicant following a site visit to the site on June 2, 2023. This information included review criteria for approving Shoreline Variance Applications. Each criterion must be met in order to approve a variance.

The criteria, listed in WAC 173-27-170 include:

*The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.*

- (1) Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.*

- (2) *Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(c), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:*
- (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;*
  - (b) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;*
  - (c) That the design of the project 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 shoreline environment;*
  - (d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;*
  - (e) That the variance requested is the minimum necessary to afford relief; and*
  - (f) That the public interest will suffer no substantial detrimental effect.*
- (3) *Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(c), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:*
- (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;*
  - (b) That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section;*
  - (c) That the public rights of navigation and use of the shorelines will not be adversely affected.*
- (4) *In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.*
- (5) *Variances from the use regulations of the master program are prohibited.*

While the application may satisfy some of the criteria provided by WAC 173-27-170, it does not appear that a variance is necessary in order for the applicant to have access to their property. Access can be obtained via the existing easement. Abandonment of the existing easement would occur through the applicant's own actions. Additionally, there is ample space on the parcel to construct a driveway outside of shoreline jurisdiction, wetland buffers, and other areas. Also, the applicant owns the adjacent parcel, which may allow access to the property as well. So, the application does not meet the following criteria:

- (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
- (b) *That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;*

WAC 173-27-180 provides a list of material necessary for a complete application. On the June 2, 2023 site visit and notes following that up, several alternatives to driveway alignment were discussed. The application should provide a site plan that shows these alternatives as part of a complete application.

For additional and future consideration, the proposed future building site is very near the floodway, in rural conservancy shoreline jurisdiction, lies within the 100-year floodplain, and near or within the buffer of riverine wetlands. These considerations were all discussed when Ecology and Kittitas County visited the site on June 2, 2023 and may restrict development on site or require increased evaluation and analysis if development is considered in the future.

Please reach out to Ryan Anderson 509-379-1917 or [rand461@ecy.wa.gov](mailto:rand461@ecy.wa.gov), if you have any questions about these comments.

Sincerely,



Joy Espinoza  
SEPA Coordinator  
Central Regional Office  
509-379-3967  
[crosepacoordinator@ecy.wa.gov](mailto:crosepacoordinator@ecy.wa.gov)

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