



**Staff Report Allen Shoreline Variance Permit
(SV-25-00001)**

TO: Kittitas County Hearing Examiner
FROM: Zach Torrance-Smith, Staff Planner
RE: Allen Shoreline Variance (SV-25-00001)
DATE: May 14, 2025 (Hearing Date)

I. GENERAL INFORMATION

Requested Action: Applicant is proposing a minor deck addition to an existing Single-Family Residence. The net addition to the deck will be 179 square feet. A smaller 63 square foot deck will be removed. The project also includes a remodel to the interior of the Single-Family Residence, with no increase to the existing footprint. This work is proposed within the Shoreline Residential Shoreline of the State of the Yakima River.

Location: 320 Morning Dove Lane, in a portion of the SE ¼ of Sec. 22, T. 20 N., R. 14 E., WM in Kittitas County; Parcel number 820734.

II. SITE INFORMATION

Total Property Size:	0.40 Acres
Number of Lots:	1
Domestic Water:	Group A Water System
Sewage Disposal:	Individual Septic System
Power/Electricity:	Identified Power Connection
Fire Protection:	Fire District #7 (Cle Elum)
Irrigation District:	N/A

Site Characteristics:

North: Existing residential development within a Rural-5 zoning designation.

South: Existing residential development within a Rural-5 zoning designation. The Yakima River lies directly to the South of this parcel.

East: Existing residential development within a Rural-5 zoning designation. The Yakima River lies directly to the East of this parcel.

West: Existing residential development within a Rural-5 zoning designation.

Access: The site is accessed from Morning Dove Lane, a private road, approximately 2.78 miles Northwest of the City of Cle Elum.

III. ZONING AND DEVELOPMENT STANDARDS

The project parcel is zoned Rural-5 within a Rural-Residential Land Use designation. The parcel abuts the Yakima River which is designated as a shoreline of statewide significance and has a shoreline designation of Shoreline Residential. The purpose of the Shoreline Residential environment is to accommodate residential

development and accessory structures as well as appropriate public access and recreational uses. The proposed project will add 179 square feet of deck area as an addition. This deck addition will take place within the shoreline buffer zone. KCC Title 17B.07.020(4)(c)(iii) requires a shoreline variance for this action.

IV. ADMINISTRATIVE REVIEW

Deem Complete: A shoreline variance application (See Index #1) (SV-25-00001) was submitted by Jason Allen, landowner, to Kittitas County Community Development Services department on February 6, 2025. The application was deemed complete (See Index #6) on February 25, 2025. CDS received an affidavit of posting from the applicant in accordance with KCC 15A.03.110 on February 28, 2025 (See Index #9).

Notice of Application: A notice of application (See Index #10) for the Allen Shoreline Variance (SV-25-00001) was mailed and/or emailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's tax parcel & applicable agencies. Notice was given to and published in the official newspaper of record for Kittitas County, and notice was posted to the Kittitas County Website on February 28, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A) (See Index #11).

V. SHORELINE MASTER PROGRAM

The Kittitas County Shoreline Master Program is designated as part of the Comprehensive Plan under RCW 36.70A.480(1). The purpose and intent of the SMP is to “promote the public health, safety and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of shorelines within Kittitas County.” The following Goals and Objectives from the Shoreline Master Program have been identified as applicable to this application:

SMP 3.2(A) Goals:

- (1) Consider the use and development of shorelines and adjacent land areas for public and private land uses in relation to the natural environment.
- (2) Ensure no net loss of ecological function.

Staff Consistency Statement: The proposed project has been reviewed for ecological impacts. A proposal was submitted by the applicants to mitigate adverse impacts to the riparian environment. The Washington State Department of Fish and Wildlife indicated this proposal is insufficient to mitigate adverse impacts to the riparian environment and the applicant’s agents subsequently indicated the applicants will implement the mitigation plans proposed by WDFW. The project involves further expansion upon a non-conforming use. As proposed, the project will likely lead to net loss of ecological function.

SMP 3.2(B) Objectives:

- (1) Give shoreline use preference to single-family residential uses, ports, shoreline recreational uses, and water-dependent commercial or industrial developments that are consistent with preservation of shoreline ecological processes and functions.
- (4) Locate, design, and manage shoreline uses to prevent a net loss of shoreline ecological functions and process over time. Where adverse impacts are unavoidable, require mitigation to ensure no net loss of shoreline ecological functions.
- (5) Ensure proposed residential developments are compatible with or enhance the aesthetic quality of the shoreline area.

Staff Consistency Statement: The proposed project is not consistent with the objective of preservation of shoreline ecological processes and functions. The existing deck is an existing non-conforming use, and approving a deck addition will expand upon the already non-conforming use on-site. This requires further encroachment into the shoreline buffer zone. The encroachment into the shoreline buffer zone requires a shoreline variance. The applicant submitted a mitigation plan to offset any impacts to the shoreline buffer through riparian planting along the Yakima River. The applicant was informed by the Washington State Department of Fish and Wildlife that the riparian planting mitigation proposal was insufficient to offset shoreline buffer impacts. The authorized agents for the applicants indicated that they will implement the mitigation plan proposed by WDFW (See Index #13). The aesthetic quality of the shoreline area will not be enhanced by further encroachment of a non-conforming use into the shoreline buffer. The proposed project is not consistent with the objectives of the Kittitas County Shoreline Master Program.

This application is not consistent with the goals and objectives of the Kittitas County Shoreline Master Program as outlined above.

VI. ENVIRONMENTAL REVIEW

CDS performed a critical area review of the project parcel. Critical areas present included Shoreline, Floodway, Floodplain, and Channel Migration Zones. After consultation with Kittitas County CDS and the Washington State Department of Fish and Wildlife, the applicants indicated they will implement the mitigation plans proposed by the WDFW in relation to the riparian ecological area.

VII. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. The following agencies provided comment during the comment period: Washington State Dept. of Fish and Wildlife, Bonneville Power Administration, Washington State Dept. of Ecology, Kittitas County Public Works, and the Confederated Tribes of the Colville Reservation. All comments are on file and available for public review. The following are a summary of the substantive comments submitted.

- Bonneville Power Administration provided comments stating that they do not anticipate this project will impact their facilities and they have no objections (See Index #12).
- Confederated Tribes of the Colville Reservation provided comments stating they believe this parcel has a very high risk of containing cultural resources and they request that an Inadvertent Discovery Plan be in place prior to any ground disturbing activities (See Index #12).
- Washington State Department of Ecology provided comments identifying this project as an expansion upon an existing non-conforming use. WSDOE recommended applicants consider the Variance Review criteria in WAC 173-27-170(2). WSDOE further explained that fulfilling these criteria is required to obtain a Shoreline Variance approval (See Index #12).
- Kittitas County Public Works provided comments pertaining to grading/filling requirements, the requirement of obtaining a Floodplain Development Application, and listed other required forms for flood, flood standards, needing to be aware of the presence of Floodway and the associate regulations related to the Floodway (See Index #12).
- Washington State Department of Fish and Wildlife provided comments stating they have visited this site within the previous year. WDFW explained the significance of the Shoreline's presence and stated the applicant's proposed mitigation measures are insufficient. WDFW further outlined more robust mitigation

measures the applicants are encouraged to enact (See Index #12).

- No public comments were submitted during the comment period.

VIII. PROJECT ANALYSIS

In review of this proposal, it is important to consider the goals and policies of the Shoreline Master Program, which is consistent with the Kittitas County Comprehensive Plan, applicable county code, public and agency comments, and 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 Shoreline Master Program:

The proposal is not consistent with the goals and policies of the Kittitas County Shoreline Master Program. As referenced above in Section V of this staff report, the following Goals and Objectives apply to this proposal: SMP 3.2(A)(1), SMP 3.2(A)(2), SMP 3.2(B)(1), SMP 3.2(B)(4), and SMP 3.2(B)(5).

Based upon the Goals and Objectives noted in Section V of this staff report, as they relate to this project, this proposal is not in compliance with the Kittitas County Shoreline Master Program. The applicant is proposing a minor deck addition to an existing Single-Family Residence within the Shoreline Residential zone. The current use of the property is Residential. The deck addition is being proposed in addition to the already non-conforming use. This project within the shoreline buffer requires a shoreline variance under the Shoreline Master Program. This shoreline variance proposal is not consistent with the goals and policies noted in Section V of this staff report. Therefore, the project is not in compliance with the Kittitas County Shoreline Master Program.

Consistency with the provisions of KCC 17B.07.060(4), Review Criteria:

KCC 17B.07.060 (4) provides the following review criteria to be considered in a shoreline variance analysis:

- a. *General provisions. 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. Variances from the use regulations of the Master Program are prohibited.*

Applicant Response: The deck addition adheres to, and is consistent with, the policies of RCW 90.58.020, as well as, the Kittitas County Shoreline Master Program. The deck addition fosters reasonable use appropriate for a single-family residence. There will be no impact to the river or floodway. Instead, we are proposing mitigation along the edge of the river in order to increase the net ecological function and add native vegetation to the site. The proposed mitigation would enhance the shoreline leading to long term protection and ultimately benefit the invertebrates and salmonids that utilize the river. Since this is a private residence, with no public access to the river, the deck addition will not impact the public's access to the shoreline, nor its recreational opportunities.

Staff Response: Staff have reviewed the proposal for consistency with the RCW 90.58.020 and the Kittitas County Shoreline Master Program (SMP). The applicant has not demonstrated that extraordinary circumstances exist and that they have made reasonable attempts to avoid a shoreline variance (see staff response for item "b." below). The proposal is not consistent with RCW 90.58.020, as it does not mitigate ecological impacts to the shoreline and does not preserve the natural character of the shoreline. The project as proposed will not result in a long term benefit to the shoreline. The proposal is not consistent with the Kittitas County Shoreline Master Program and RCW 90.58.020.

- b. *Review criteria for all variances. Variance permits for uses and/or development that will be located*

landward of the OHWM and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:

- i. *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;*

Applicant Response: “The existing single-family home was built in 1989 so it is expected that in this amount of time the home would need repairs or remodels in order to keep current with the typical single family living experience. The deck is an accessory use and the addition to it is natural maintenance and repair of that use that is expected over time. The deck addition is a minor reconfiguration ingress/egress from the single-family home which allows for a safer covered entrance to the home. The net addition of deck coverage is 179 sqft. There will be no increase in the footprint of the existing home.”

Staff Response: Staff finds that the application of applicable Master Program regulations does not significantly interfere with the reasonable use of the property. A desktop review revealed that the proposed location is not the only place a deck could be built and further encroachment into the shoreline buffer is not justified in this case. As such, CDS finds the application is not consistent with KCC 17B.07.060(4)(b)(i).

- ii. *That the hardship 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;*

Applicant Response: “The parcel is zoned Rural 5 with a Rural Residential land use within a Shoreline environment. Per 17B.05.050-1 and 17B.06.200-1 the shoreline buffer is 100’ from OHWM and building setbacks are an additional 15’ from the edge of the shoreline buffer. Based off the topographic survey the existing home is fully located within the shoreline buffer so nothing can be done to the existing home, or in the immediate vicinity, that isn’t in the buffer zone.”

Staff Response: Due to the potential to relocate the deck in a manner that does not expand upon an already non-conforming use, the proposed project does not demonstrate unique conditions specific to the project parcel. CDS finds the application is not consistent with KCC 17B.07.060(4)(b)(ii).

- iii. *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 SMP and will not cause adverse impacts to the shoreline environment;*

Applicant Response: “There are existing homes throughout the development, with homes located to the North and South of the parcel. Single family residences are a permitted use in this zone. The adjacent homes both have decks as part of their home construction, and I would assume most developed properties in the area have some sort of outdoor accessory deck or patio to their homes. Decks are a typical accessory use to a single-family residence. The applicant is proposing a minimal deck addition to the home which is scaled to match this smaller single-family structure. The proposed deck addition is at the second story level with the overall impact to the ground being minimal. The footings that will be required for the necessary structural support is a temporary impact to the shoreline buffer. In order to reduce the impact, we are proposing the attached mitigation plan provided by Ed Sewall with Sewall Wetland Consulting, Inc. The proposed mitigation plan would enhance the edge of the river and add native vegetation to the site, therefore increasing the net ecological function of the property waterward of the single-family home.”

Staff Response: CDS anticipates this expansion to adversely impact the shoreline environment as it is an expansion of an already non-conforming use. This encroachment would not be adequately mitigated through riparian plantings along the Yakima River.

- iv. *That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;*

Applicant Response: “This neighborhood was established in the 1960’s with the plat being recorded in 1963, prior to the establishment of the Shoreline Master Program. There are existing homes located to the North and South of the parcel, and it is likely that the lots were developed without the consideration for the preservation of the natural landscape and ecology. The proposed deck addition is not out of character for properties located along the river and the scale of the addition is minor improvement that does not exceed a reasonable use of the property. In addition, special care was taken to design the deck so it did not impact the floodway area.”

Staff Response: The applicant is seeking to expand upon an existing non-conforming use that is not typical of the surrounding neighborhood. Denial of this variance will not adversely impact the ability of the applicants to utilize their property for residential purposes, similar to many property owners in the area. Approval of this shoreline variance would constitute a special privilege not enjoyed by other property owners in the area.

- v. *That the variance requested is the minimum necessary to afford relief;*

Applicant Response: “The entrances to the home have been condensed to 1 access point, instead of 2. This allows for some modification to the interior home without increasing the dwelling footprint. The roof added over the deck will provide better snow protection during the winter months and a safer access point into the home. We are proposing additional deck area to make the space more useable for the homeowners as recreation space and potentially some outdoor storage area. This is a reasonable use alteration on a single-family home. The 2nd story deck creates very minimal disturbance and impact to the ground. Special attention was given to minimize the overall impact to the shoreline environment, and the impact that was made is being mitigated with buffer enhancement that would not happen without this project development.”

Staff Response: Staff finds that this variance is not necessary to afford relief to the property owners to enjoy use of their property. The proposal, if approved, would not lead to compliance with Kittitas County standards and Department of Ecology shoreline regulations.

- vi. *That the public interest will suffer no substantial detrimental effect; and*

Applicant Response: “There is no life or public safety concerns with this project. The remodel of the existing home will not increase the footprint of the livable space of the single-family home. The mitigation to enhance the shoreline buffer will actually be a benefit to the public as it enhances the habitat near the river.”

Staff Response: The applicant is seeking to expand upon a use that is already non-conforming to the shoreline buffer regulations. This project itself will not have a positive impact to the river environment, although the mitigation plantings may improve the shoreline the increased encroachment could set a precedent for other neighboring uses to expand within the shoreline buffer, and staff anticipates detrimental impacts to the surrounding neighborhood and to the public.

- vii. *That the cumulative impact of additional requests for variances in the area where similar*

circumstances exist would not produce substantial adverse effects to the shoreline environment.

Applicant Response: “Minor improvements to homes along the river should not have an adverse impact on the river as long as they are kept at an appropriate scale and mitigation is required to enhance the shoreline and river habitat. We believe the proposed deck adheres to this criteria.”

Staff Response: CDS believes the impacts associated with this development will have a net negative impact on the shoreline environment due to the expansion of an existing non-conforming use. If similar developments were approved in the area it would likely produce substantial adverse effects.

c. *Additional review criteria for variances waterward of the OHWM. In addition to the criteria established under KCC 17B.07.060(4)(b) above, applicants for variance permits for uses and/or development that will be located waterward of the OHWM must also demonstrate:*

- i. *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; and*
- ii. *That the public rights of navigation and use of the shorelines will not be adversely affected.*

Applicant Response: *Applicants provided a horizontal profile showing that the project will expand waterward toward the OHWM.*

Staff Response: The project proposal does not include work waterward of the OHWM.

Staff Conclusions:

This proposal is not consistent with Kittitas County Code 17B.07.060(4), as described above.

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

CDS performed a critical area review of the project parcel. Critical areas present include Shoreline, Floodway, Floodplain, and Channel Migration Zones extending from the Yakima River. This project proposal includes further encroachment by an existing non-conforming use into the shoreline buffer.

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

The proposal is consistent with the provisions of Title 14.04.

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

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

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

As conditioned, the proposal is consistent with the provisions of KCC Title 20.

Agency Comments:

The following agencies provided comments during the comment period: Washington State Dept. of Fish and Wildlife, Bonneville Power Administration, Washington State Dept. of Ecology, Kittitas County Public Works, and the Confederated Tribes of the Colville Reservation.

Public Comments: No public comments were received during the comment period.

IX. Findings of Fact

1. The applicant is proposing a minor deck addition to an existing Single-Family Residence. The net addition to the deck will be 179 square feet. A smaller 63 square foot deck will be removed. The

project also includes a remodel to the interior of the home, with no increase to the existing footprint. This work is proposed within the Shoreline Residential Shoreline of the State of the Yakima River.

2. Site Information

Total Property Size:	0.40 Acres
Number of Lots:	1
Domestic Water:	Group A Water System
Sewage Disposal:	Existing Individual Septic System
Power/Electricity:	Identified Power Connection
Fire Protection:	Fire District #7 (Cle Elum)
Irrigation District:	N/A

3. Site Characteristics:

North: Existing residential development within a Rural-5 zoning designation.

South: Existing residential development within a Rural-5 zoning designation. The Yakima River lies directly to the South.

East: Existing residential development within a Rural-5 zoning designation. The Yakima River lies directly to the East.

West: Existing residential development within a Rural-5 zoning designation.

4. Access: The site is accessed from Morning Dove Lane, a private road, approximately 2.78 miles Northwest of the City of Cle Elum.

5. The SMP shoreline designation of the site is Shoreline Residential.

6. The project is within the Rural-5 zoning designation.

7. A shoreline variance application (See Index #1) (SV-25-00001) was submitted by Jason Allen, landowner, to Kittitas County Community Development Services department on February 6, 2025. The application was deemed complete (See Index #6) on February 25, 2025. CDS received an affidavit of posting from the applicant in accordance with KCC 15A.03.110 on February 28, 2025 (See Index #9).

8. A notice of application (See Index #10) for the Allen Shoreline Variance (SV-25-00001) was mailed and/or emailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's tax parcel & applicable agencies. Notice was given to and published in the official newspaper of record for Kittitas County, and notice was posted to the Kittitas County Website on February 28, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A) (See Index #11).

9. The proposal is not consistent with the goals and policies of the Kittitas County Shoreline Management Program and by extension the Kittitas County Comprehensive Plan. As referenced above in Section V of this staff report, the following Shoreline Master Program Goals and Objectives apply to this proposal: SMP 3.2(A)(1), SMP 3.2(A)(2), SMP 3.2(B)(1), and SMP 3.2(B)(4).

10. The following agencies provided comments during the comment period: Washington State Dept. of Fish and Wildlife, Bonneville Power Administration, Washington State Dept. of Ecology, Kittitas County Public Works, and the Confederated Tribes of the Colville Reservation.

11. No public comments were received during the comment period.
12. The proposal is not consistent with the goals and policies of the Kittitas County Shoreline Master Program.
13. The proposal is not consistent with Kittitas County Review Criteria 17B.07.060(4), as described in section VIII “Project Analysis” of this determination.
14. This proposal is not consistent with the provisions of KCC Title 17B, Shorelines.
15. This proposal is consistent with the provisions of KCC Title 12, Roads and Bridges as conditioned.
16. This proposal is consistent with the provisions of KCC Title 14, Buildings and Construction.
17. This proposal is not consistent with the provisions of KCC 17A, Critical Areas as described in Section VIII “Project Analysis” of this staff report.
18. This proposal is consistent with KCC 20, Fire Life and Safety.

X. Conclusions:

1. The development does not meet the goals, objectives and implementation recommendations as set forth in the Kittitas County Shoreline Master Program.
2. This proposal is not consistent with applicable federal and state laws and regulations.
3. Public use and interest will not be served by approval of this proposal.
4. The proposal is not consistent with all Kittitas County Code provisions outlined in Kittitas County Code Title 17 Zoning, Title 17A Critical Areas, Title 17B Shorelines, Title 14.04 Building Code, Title 12 Roads and Bridges, and Title 20 Fire and Life Safety.

XI. Recommendation:

Kittitas County recommends *denial* of the Allen Shoreline Variance (SV-25-00001) based on the above staff analysis, findings of fact, and conclusions.



Zach Torrance-Smith
Planner I
Kittitas County Community Development Services
411 N Ruby St # 2, Ellensburg, WA 98926