



## **Gibbs Zoning Variance File Number VA-25-00005**

### **FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

#### **I. GENERAL INFORMATION**

Requested Action: The applicant is requesting a zoning variance pursuant to KCC 17.84, from the 25' required setback per KCC 17.31.070 to reduce a 25-foot setback to 10 feet on the rear lot line of the parcel to rebuild an existing garage damaged by fire. The space above the garage is planned to be used as storage. If the variance is approved, building into the setback would be permissible.

Location: The proposed project is located approximately 0.13 miles from the intersection of Fourth Parallel Road & Badger Pocket Road on Badger Pocket Road in Ellensburg, WA. The property is in Section 36, Township 17, Range 19 in Kittitas County. Map number 17-19-36051-0001. The property is 5.19 acres and is zoned Commercial Agriculture with a Commercial Agriculture land use designation.

#### **II. SITE INFORMATION**

|                      |   |
|----------------------|---|
| Total Property Size: | 5.19 acres                                      |
| Number of Lots:      | 1 (no new lots are being proposed)              |
| Fire Protection:     | Kittitas Valley Fire & Rescue (Fire District 2) |
| Irrigation District: | Kittitas Reclamation District                   |

Site Characteristics:

|               |  |
|---------------|--|
| <u>North:</u> | Primarily agricultural lands & residential development |
| <u>South:</u> | Primarily agricultural lands & residential development |
| <u>East:</u>  | Primarily agricultural lands & residential development |
| <u>West:</u>  | Primarily agricultural lands & residential development |

Access: The site is accessed via Badger Pocket Road.

#### **III. ZONING AND DEVELOPMENT STANDARDS**

The subject property has a zoning designation of Commercial Agriculture and Commercial Agriculture Land Use designation. The purpose and intent of the Commercial Agriculture zone is to preserve fertile farmland from encroachment by nonagricultural land uses and protect the rights and traditions of those engaged in agriculture. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from KCC 17.31.070. Title 17.84.010 of the Kittitas County Code outlines four criteria in which a variance may be granted. The applicant must demonstrate that the proposal **has met all four criteria**.

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

#### **KCC 17.84.010 Granting Criteria (all four must be met):**

1. Unusual circumstances or conditions applying to the property and/or the intended use that do not apply generally to other property in the same vicinity or district, such as topography;

Applicant Response

*“The unusual circumstance is that the original building we are trying to replace was built a long time ago before the new setback codes were created. And due to the unique shape of the property where we want to build, building to current codes would cause major disruption to how we use our land.”*

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. The applicant is seeking permission to rebuild a garage damaged by fire. The new garage will match the same setback to the rear property line as the previous garage.

**The applicant has demonstrated in a factual and meaningful way the existence of “unusual circumstances or conditions” that does not generally apply to other property in the same vicinity. Further, the applicant has demonstrated in a factual and meaningful way the existence of “undue hardship” caused by the application of setback requirements as stipulated in KCC 17.31.070. The variance, as presented, is consistent with KCC 17.84.010(1).**

2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by owners of other properties in the same vicinity.

Applicant Response

*“In order to utilize our most used area of our property, I believe that building over the old building footprint is necessary. I also think that a few of our neighbors also have buildings close to their property lines.”*

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. The variance would allow the applicant to rebuild their garage with the same setback to the rear property line it had prior to being damaged by a fire.

**The applicant has demonstrated in a factual and meaningful way the existence of a “substantial property right” that may be negated by the application of the setback requirements as stipulated in KCC 17.31.070. The variance, as presented, is consistent with KCC 17.84.010(2).**

3. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity.

Applicant Response

*“Authorization of this variance will not be detrimental to the public due to its proposed location and the proximity to commercial farmland.”*

Staff Response

CDS finds the proposal is unlikely to be detrimental to public welfare or injurious to property in the vicinity. The previous garage existed for many years prior to being damaged by fire.

**The applicant has demonstrated in a factual and meaningful way that the proposed variance will not be “materially detrimental to the public welfare or injurious to property in the vicinity” as required in KCC 17.84.010(3).**

4. The granting of such a variance will not adversely affect the realization of the comprehensive development pattern of this area.

Applicant Response

*“The granting of this variance will not adversely affect the development patterns due to minimum lot sizes.”*

Staff Response

CDS has concluded that the requested variance will not adversely affect the realization of the comprehensive development pattern of the area.

**The applicant has demonstrated in a factual and meaningful way that the proposed setback variance will “not adversely affect the realization of the comprehensive development pattern.” The variance, as presented, is consistent with KCC 17.84.010(4).**

Staff Conclusions

Staff finds that the zoning variance request **does** meet all four criteria outlined in KCC 17.84.010 as described above. Therefore, the zoning variance request is consistent with the conditions necessary to grant a variance under KCC 17.84.

#### **IV. ADMINISTRATIVE REVIEW**

Deem Complete: The application was determined complete on August 21, 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 28, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on September 12, 2025, and all comments were transmitted to the applicant on September 15, 2025.

#### **V. ENVIRONMENTAL REVIEW**

CDS performed a critical area review of the subject parcel and GIS data indicates no critical areas nearby. The proposal is not impacted by critical areas.

#### **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. The following agencies provided comments: Confederated Tribes of the Colville Reservation, Kittitas County Public Health, Kittitas County Public Works. A review of these comments can be seen below.

Bonneville Power Administration

In researching our records, we have found that this proposal will not directly impact BPA facilities over 7 miles west of the subject properties. BPA does not have any objections to the approval of this request currently.

Applicant Response

*No response from the applicant.*

Staff Response

*Staff shared the comments with the applicant.*

Kittitas County Fire Marshall

No comments.

Applicant Response

*No response from the applicant.*

Staff Response

*Staff shared the comments with the applicant.*

Kittitas County Public Works

Access:

1. An approved access permit shall be required from the Kittitas County Department of Public Works prior to creating any new driveway access or altering an existing access.
2. If the proposed building is an ADU then an Access Permit will be required.
3. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses. 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.

Engineer:

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).

Survey:

The provided site plan does not show the existing foundation location. Due to the absence of this information, I propose 2 options:

1. If the new building line nearest the property line will be located on the historic foundation, and will not fall any closer to the boundary than the old building location
2. If the new building line nearest the property line is NOT located on the old foundation, a licensed land surveyor is utilized to ensure the new location falls no closer than the 10' setbacks requested.

Water Mitigation / Metering

If the proposed living space above the new shop is an ADU then KCC 13.35.027 requirements for water mitigation and metering will be applicable.

Applicant Response

*"We are not building an ADU. We are building over the same foundation as the previous garage so no survey will be needed."*

Staff Response

*Staff shared the comments with the applicant and have conditioned the approval to include meeting the*

*requirements of Public Works.*

Snoqualmie Tribe

Based on the information provided and our understanding of the project and its APE we have no substantive comments to offer at this time.

Applicant Response

*No response from the applicant.*

Staff Response

*Staff shared the comments with the applicant.*

Kittitas County Public Health Department

“Adequate water supply determination will be required for the new hop with living above, if this property is served by a two party shared well the well will need to be permitted as a Group B well to serve three connections.”

“If the shop is not already connected to the septic system a permit will be required for the new connection.”

Applicant Response

*“We are not building an ADU.”*

Staff Response

*Staff shared the comments with the applicant.*

Public Comments

No public comments were received for this proposal.

**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 KCC 17A, Critical Areas:

Staff conducted an administrative critical area review in accordance with KCC 17A. There are no identified critical areas or associated buffers near the proposed development.

Consistency with the provisions of KCC 17.31 Commercial Agriculture:

This proposal, with approval of the zoning variance, is consistent with the requirements outlined in Kittitas County Zoning Code 17.31 Commercial Agriculture.

Consistency with the provisions of KCC 17.84, Variances:

This proposal must meet all four of the criteria for granting a zoning variance. The four criteria are:

- 1) unusual circumstances or conditions applying to the property and/or the intended use that do not apply generally to other property in the same vicinity or district, such as topography;
- 2) Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district;
- 3) The authorization of such variance will not be materially detrimental to the public welfare or injurious

to property in the vicinity or district in which the property is located; and  
4) That the granting of such variance will not adversely affect the realization of the comprehensive development pattern. A variance so authorized shall become void after the expiration of one year if no substantial construction has taken place. This proposal is consistent with the required variance criteria.

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.

Agency Comments:

Comments were received from the following agencies: Bonneville Power Association, Kittitas County Fire Marshal, Kittitas County Public Works, Snoqualmie Tribe, and Kittitas County Public Health Department. All comments are on file and available for public review.

Public Comments:

No public comments were received.

## VIII. FINDINGS OF FACT

1. Austin & Christy Gibbs, the applicants are requesting a zoning variance pursuant to KCC 17.84, from the 25' required setback per KCC 17.31.070 to reduce a 25-foot setback to 10 feet on the rear lot line of the parcel to rebuild an existing garage damaged by fire. The space above the garage is planned to be used as storage. If the variance is approved, building into the setback would be permissible.
2. The subject property is parcel # 11677, located approximately 0.13 miles from the intersection of Fourth Parallel Road & Badger Pocket Road on Badger Pocket Road in Ellensburg, WA. The property is in Section 36, Township 17, Range 19 in Kittitas County. Map number 17-19-36051-0001. The property is 5.19 acres and is zoned Commercial Agriculture with a Commercial Agriculture land use designation.
3. Site Information

|                      |   |
|----------------------|---|
| Total Property Size: | 5.19 acres                                      |
| Number of Lots:      | 1 (no new lots are being proposed)              |
| Fire Protection:     | Kittitas Valley Fire & Rescue (Fire District 2) |
| Irrigation District: | Kittitas Reclamation District                   |
4. Site Characteristics:

|        |  |
|--------|--|
| North: | Primarily agricultural lands & residential development |
| South: | Primarily agricultural lands & residential development |
| East:  | Primarily agricultural lands & residential development |
| West:  | Primarily agricultural lands & residential development |
5. Access: The site is accessed via Badger Pocket Road.
6. The Comprehensive Plan land use designation is Commercial Agriculture within Commercial Agriculture zoning.

7. The subject property has a zoning designation of Commercial Agriculture with Commercial Agriculture land use. The purpose and intent of the Commercial Agriculture zone is to preserve fertile farmland from encroachment by nonagricultural land uses and protect the rights and traditions of those engaged in agriculture. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from KCC 17.31.070. Title 17.84.010 of the Kittitas County Code outlines four criteria in which a variance may be granted. The applicant must demonstrate that the proposal has met all four criteria.
8. A Zoning Variance Application was submitted to Kittitas County Community Development Services department on August 6, 2025.
9. The application was determined complete on August 21, 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 28, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on September 12, 2025, and all comments were transmitted to the applicant on September 15, 2025.
11. CDS performed a critical area review of the subject parcel and GIS data indicates no critical areas nearby. The proposal is not impacted by critical areas.
12. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
13. The proposal is not consistent with the provisions of KCC 17.31, Commercial Agriculture zoning without approval of the zoning variance.
14. The proposal is consistent with the KCC 17.84 Variances. All four criteria in KCC 17.84.010 have been satisfied.
15. This proposal is consistent with the provisions of the KCC Title 14.04, Building Code.
16. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety.
17. Comments were received from the following agencies: Bonneville Power Association, Kittitas County Fire Marshal, Kittitas County Public Works, Snoqualmie Tribe, and Kittitas County Public Health Department. All comments are on file and available for public review.
18. No public comments were received.

**IX. STAFF CONCLUSIONS:**

1. This proposal has satisfied all four criteria of KCC Title 17.84.010; therefore, it can be approved.
2. The proposal is consistent with state and federal regulations.
3. The proposal is consistent with local regulations as conditioned including Kittitas County Code Title 14.04 Buildings & Construction, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire and Life Safety.

**X. DECISION:**

Kittitas County Community Development Services finds that the Gibbs Variance (VA-25-00005) has satisfied the requirements of a zoning variance pursuant to KCC 17.84.010 and is hereby **approved**.

**CONDITIONS OF APPROVAL:**

1. The project shall proceed in substantial conformance with the plans and application materials on file.
2. The applicant shall comply with all Local, State and Federal environmental standards and regulations in place at the time of building application submittal.
3. All structures and buildings shall be compliant with the International building and Fire Codes.
4. 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).
5. This rear lot line setback variance shall expire after one year of the decision date if no substantial construction has taken place or an extension has not been applied for under KCC 17.84.010(4).



**Responsible Official** \_\_\_\_\_  
Bradley Gasawski

**Title:** Planner I  
**Address:** Kittitas County Community Development Services  
411 N. Ruby Street, Suite 2  
Ellensburg, WA. 98926  
Phone: (509) 962-7539  
**Date:** September 30, 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 October 15, 2025. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.**