



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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STAFF REPORT

TO: Kittitas County Hearing Examiner

FROM: Lindsey Ozbolt, Planner II

DATE: May 8, 2014 (hearing date)

SUBJECT: 3160 VIA Kachess Shoreline Setback Variance (SV-14-00001)

I. BACKGROUND INFORMATION

Proposal:

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.

Location:

The property is located on Lot 1, Plat of Kachess I (recording #393674), Via Kachess Rd., Easton, WA 98925, a portion of Section 17, T.21N, R.13E, W.M. in Kittitas County. Parcel number 21-13-17051-0001. The property is located on Lake Kachess in an established residential/recreation area. The Plat of Kachess was platted in the 1970s and many of the existing lots within the shoreline of Lake Kachess cannot meet the current shoreline and zoning setbacks. The parcel in question has approximately the following dimensions: a north property line of approximately 103.22 feet, east property line of approximately 106.99 feet, south property line of approximately 100.00 feet, and a west property line of approximately 99.62 feet. The total parcel is approximately 0.22 acres in size. The development of this lot and other lots in this plat are restricted by lot size, zoning, shoreline, and environmental regulations.

II. ADMINISTRATIVE REVIEW

Notice of Application:

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.

III. COMPREHENSIVE PLAN

The Kittitas County Comprehensive Plan designates the subject property as Rural Working Land. Kittitas County has established the following goals and policies to guide activities within the rural lands. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies:

GPO 2.2 – Protect, preserve, maintain, and enhance the County’s natural resource industry base, natural environment, and rural character, including but not limited to timber, agriculture, mineral, water and energy resources. The County shall avoid land use conflicts with its resource industry by applying low residential densities to lands adjacent to resource lands.

GPO 2.7 – Kittitas County will maintain a flexible balance of land uses which will protect, preserve, and enhance the rural character, historical forest lands, agriculture industries, mineral lands, and high quality environment.

GPO 8.1 – Rural lands are characterized by a lower level of services; mixed residential, agricultural and open space uses; broad visual landscapes and parcels of varying sizes, a variety of housing types and small unincorporated communities.

GPO 8.2 – Rural lands often have an established land use pattern that inhibits urban character and are generally, and anticipated to continue to be, served by septic systems and individual wells or small community water systems.

GPO 8.4 – Development in rural areas is subject to agricultural and forestry activities that may take place as a right on adjacent properties.

GPO 8.16 – Give preferences to land uses in Rural designated areas that are related to agriculture, rural residential development, tourism, outdoor recreation, and the other open space activities.

IV. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments have been included as Exhibits in the Hearing Examiner packet.

V. PROJECT ANALYSIS

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, 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 Comprehensive Plan:

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.

Consistency with the Shoreline Master Program:

Lake Kachess is a shoreline of statewide significance. The Kittitas County Shoreline Master Program requires a 100-foot structural setback from the Ordinary High Water Mark. A variance from this requirement may be granted under extraordinary circumstances provided the applicant demonstrates the following [See WAC 173-27-170]:

- That the strict application of this requirement precludes or interferes with reasonable use of the property.
- That the hardship is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or other natural features and the application program and not, for example, from deed restrictions or the applicant's own actions.
- 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 shorelines environment.
- That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.
- That the variance is the minimum necessary to afford relief.
- That the public interest will suffer no substantial detrimental effect.

The site is located within the Conservancy shoreline environment that is characterized by recreational and natural resource related uses. The intent of this designation is to sustain natural resource development while maintaining the natural character of the shoreline area. Please review the following applicable sections from the Kittitas County Shoreline Master Program:

Section 14: Shoreline Setback Regulations

- (1) Shoreline Setback. All structures will be set back a minimum of 100 feet from the ordinary high water mark on all shorelines

Section 19: Protection of the Natural Shoreline Features

- (1) Resource Management. All constructions shall be designed to protect the adjacent shoreline lands against erosion, uncontrolled drainage, slides, pollution, excessive excavations and fills and other actors detrimental to the environment, and shoreline development shall not substantially diminish the natural quality or near natural qualities of nearby areas including the quality of the water involved.
- (2) Vegetation. Buffer strips of permanent vegetation between shoreline developments and associated water bodies are encouraged, and private and public land owners shall be responsible for the preservation of vegetation to minimize erosion within the shoreline area.
- (3) Project Area Restoration. Upon completion of installation of any substantial development which disrupts the environment, the disturbed areas shall be regarded to compatibility with the natural terrain and replanted to provide an attractive vegetation cover which is harmonious with the surrounding area and the project requirements.

Section 33: Residential

(4) Conservancy Environment

- (b) Single-family residences shall be permitted in a Conservancy Environment.

Section 40: Variance

(2) The applicant shall submit information or evidence demonstrating all of the following:

- (a) That the hardship that serves as basis for granting of a variance is specifically related to the property of the applicant.
- (b) That the hardship results from the application of the requirements of the Act and not from; example, deed restrictions or the applicant's own actions.
- (c) That the variance granted will be in harmony with the general purpose and intent of the Master Program.
- (d) That the public welfare and interest will be preserved.

Consistency with KCC 17 Zoning Code:

The subject property is located within the Forest & Range zoning district, which requires a 25' front yard setback, a 10-foot side yard, and a 10-foot rear-yard setback for all structures. The applicant may be required to apply for a zoning set back variance of the front and/or side zoning setbacks prior to approval of the building permit.

Consistency with KCC 17A Critical Areas:

An administrative site analysis was completed by Community Development Services in compliance with Title 17A, KCC. Consistent with similar setback variance development applications on this and other Type 1 Waters, the following provisions will apply to this proposal:

KCC 17A.010 Riparian habitat

KCC 17A.07.010(1) & (2)

Type 1 Waters: 40-200 feet from OHWM.

KCC 17A.07.010(3): Based on the criteria for buffer ranges specified in Sub-section C of this Section, a 40 foot riparian buffer shall be established landward from all edges of the ordinary high water mark.

KCC 17A.07.010(5): Natural Condition of Riparian Habitat Buffer: Riparian habitat buffer areas shall be retained in their natural condition or may be improved to enhance buffer functions and values. Where buffer disturbance has occurred during construction, re-vegetation with native vegetation may be required. The Kittitas County noxious weed ordinance shall be adhered to.

KCC 17A.07.010(6): Allowed Uses. Allowed uses are exempt activities and activities deemed by the administrator to be consistent with the purpose and function of the habitat buffer and which do not cause a significant adverse impact to the habitat and its buffer based on sensitivity of the habitat including but not limited to stock watering, utilization of water rights, trails, recreational uses, hunting, and fishing.

Consistency with KCC 14.08 Flood Damage Prevention

The property has received a Letter of Map Amendment (LOMA) from FEMA, therefore it is no longer considered to be within the regulatory floodplain. This LOMA was submitted to CDS

with the Shoreline Structural Setback Variance Application and has been assigned Case No. 14-10-0523A by FEMA. As conditioned this project is consistent.

Consistency with KCC 12 Roads and Bridges

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

Agency Comments:

The following agencies provided comments during the comment period: Kittitas County Department of Public Works and Kittitas County Environmental Health Department. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.

Public Comments:

Public comments were submitted for this proposal at the time of staff review and were considered. They are attached to this staff report as part of the 3160 VIA Kachess Shoreline Structural Setback Variance index file.

VI. RECOMMENDATION

As conditioned below, staff finds that the application is not detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 12, Title 14.06, Title 17, Title 17A of the Kittitas County Code, the Kittitas County Comprehensive Plan and the Kittitas County Shoreline Master Program. Staff recommends approval of the 3160 VIA Kachess Shoreline Structural Setback Variance application, subject to the following findings of fact and conditions:

Staff 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. Staff has reviewed the Shoreline Master Program and has concluded that the applicant has 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.
 - 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.
 - 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. They have been included in the index file record.

Staff Conclusions:

1. As conditioned, the proposal meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
2. 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.

3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. 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.

Recommended Conditions of Approval:

1. Any structure on the property shall not be constructed any closer than 58 feet landward of the OHWM.
2. A zoning setback variance may be required prior to issuance of the building permit for the front and/or side yard setbacks.
3. 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.
4. Floodplain: This property received a LOMA from FEMA and is no longer considered to be within the regulatory floodplain. Case No. 14-10-0523A.
5. 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.