

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF KITTITAS  
STATE OF WASHINGTON**

**SHORELINE SETBACK VARIANCE APPROVAL  
3160 VIA KACHESS SHORELINE VARIANCE (SV-14-00001)**

**RESOLUTION**

NO. 2014- 105

**WHEREAS**, according to Kittitas County Code Title 15A, relating to Hearings, an open record hearing was held by the Kittitas County Hearing Examiner on May 8, 2014 for the purpose of considering a shoreline setback variance known as 3160 VIA Kachess Shoreline Variance SV-14-00001 and described as follows:

*A request for a variance to allow the remodel and addition (including deck) of an existing residential structure to be no closer than approximately 58 feet from the Ordinary High Water Mark (OHWM) of Lake Kachess. The Shoreline Master Program requires all single family residential development to be at least 100 feet landward of the OHWM.*

*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.*

**WHEREAS**, no one from the public testified for or against the proposal; and,

**WHEREAS**, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such use; and,

**WHEREAS**, the Hearing Examiner recommended approval of said proposed shoreline structural setback variance; and,

**WHEREAS**, a closed record public hearing was held by the Board of County Commissioners on June 3, 2014 to consider the Hearing Examiner's recommendation on this matter; and,

**WHEREAS**, the Kittitas County Board of Commissioners make the following FINDINGS OF FACT and CONCLUSIONS OF LAW concerning said proposed conditional use permit:

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 Kittitas County Comprehensive Plan's Land Use Element designates the subject property as Rural Working and the zoning for this proposal is Forest and Range.
4. 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.
5. The following agencies provided comments during the comment period: Kittitas County Department of Public Works and Kittitas County Department of Environmental Health. These comments were considered when preparing the recommended conditions for this proposal. Public comments were submitted for this proposal at the time of staff review and were considered.
6. The Hearing Examiner hearing was held on May 8, 2014 at 6:00 p.m. No members of the Public were present to provide testimony. On May 14, 2014 the Kittitas County Hearing Examiner recommended approval of 3160 VIA Kachess Shoreline Variance (SV-14-00001).
7. The Board of County Commissioners conducted a closed record meeting on June 3, 2014 for the purpose of considering the 3160 VIA Kachess Shoreline Variance (SV-14-00001). A motion was made and seconded that the shoreline variance be approved subject to the

Hearing Examiner's Recommended Shoreline Management Permit Action Sheet (see Exhibit A), the motion carried with a vote of 3-0.

8. The Board of County Commissioners finds that additional conditions **are not** necessary to protect the public's interest.

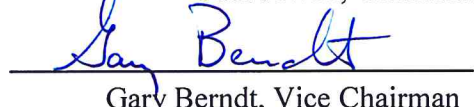
**NOW THEREFORE,**

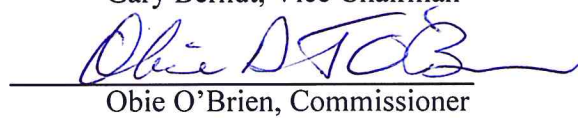
**BE IT HEREBY RESOLVED** that the Kittitas County Board of Commissioners hereby grants approval of **3160 VIA Kachess Shoreline Variance (SV-14-00001)** and adopts the Kittitas County Land Use Hearing Examiner's Recommended Shoreline Management Permit Action Sheet (Exhibit A) and the same hereby is approved with the proposed development configuration (See Exhibit B).

DATED this 17<sup>th</sup> day of June, 2014 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS  
KIT TITAS COUNTY, WASHINGTON

  
\_\_\_\_\_  
Paul Jewell, Chairman

  
\_\_\_\_\_  
Gary Berndt, Vice Chairman

  
\_\_\_\_\_  
Obie O'Brien, Commissioner



ATTEST:  
CLERK OF THE BOARD *Deputy*

  
\_\_\_\_\_  
Julie A. Kjorsvik

APPROVED AS TO FORM:

\_\_\_\_\_  
Greg Zempel WSBA #19125

# Exhibit "A"

## RECOMMENDED SHORELINE MANAGEMENT PERMIT ACTION SHEET

**Application #:** SV-14-00001  
**Administering Agency** Kittitas County Transportation and Land Services  
**Type of Permit:**  Shoreline Setback Variance  
**Recommended Action:**  Approved  Denied  
**Date of Recommended Action:** May 14, 2014

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THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on May 8, 2014, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

**Applicant:** **Richard Landen**  
3160 Via Kachess Road  
Easton, WA 98925

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.

Upon the following property: Lot 1, Plat of Kachess I (recording #393674), 3160 Via Kachess Rd., Easton, WA 98925.

Within 200 feet of **Lake Kachess** and/or its associated wetlands.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within a **Conservancy** designation. The Kittitas County Shoreline Master Program is applicable to this development.

Development pursuant to this permit shall be undertaken in conformance with the following recommended conditions:

SV-14-00001  
3160 VIA Kachess  
Page 1 of 6

### **RECOMMENDED CONDITIONS OF APPROVAL**

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. Any structure on the property shall not be constructed any closer than 58 feet landward of the OHWM.
3. A zoning setback variance may be required prior to issuance of the building permit for the front and/or side yard setbacks.
4. 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.
5. Floodplain: This property received a LOMA from FEMA and is no longer considered to be within the regulatory floodplain. Case No. 14-10-0523A.
6. 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.

### **RECOMMENDED 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. The Hearing Examiner has reviewed the Shoreline Master Program and has concluded that the applicant 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; and
  - 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; and
  - 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 by the Hearing Examiner in rendering this recommended decision.
14. An open record public hearing after due legal notice was held on May 8, 2014.
15. Admitted into the record were the following exhibits:
  - 15.1 Exhibit 1: KC application fees receipt – 3/10/14
  - 15.2 Exhibit 2: Shoreline Variance application submittal packet – 3/10/14
  - 15.3 Exhibit 3: Additional information submitted by applicant – 3/25/14
  - 15.4 Exhibit 4: Staff review info
  - 15.5 Exhibit 5: Deem Complete Letter – 3/31/14
  - 15.6 Exhibit 6: Email between applicant and staff – 4/2/14
  - 15.7 Exhibit 7: Affidavit of Posting – 4/4/14
  - 15.8 Exhibit 8: Notice of Application memo & legal – 4/15/14
  - 15.9 Exhibit 9: Affidavit of Mailing & Publication – Notice of Application – 4/15/14
  - 15.10 Exhibit 10: Returned mail – Notice of Application
  - 15.11 Exhibit 11: Email from KC Env. Health – 4/23/14
  - 15.12 Exhibit 12: Public Comment – D. Campbell
  - 15.13 Exhibit 13: Public Comment – A. Dulin
  - 15.14 Exhibit 14: Email between applicant and staff – 4/24/14

- 15.15 Exhibit 15: Comment from KC DPW – 5/2/14
- 15.16 Exhibit 16: Transmittal of comments letter – 5/2/14
- 15.17 Exhibit 17: Hearing Examiner Agenda – 5/8/14 (hearing date)
- 15.18 Exhibit 18: May 8, 2014 a letter from the department of Ecology to Kittitas County  
Community Development

- 16. Appearing and testifying on behalf of the applicant was Richard Landen. Mr. Landen testified that he is the applicant and the owner of the subject property. Mr. Landen testified that his wife is severally disabled, This disability restricts her mobility. This property presented access issues requiring them to construct a new addition on to this property.
- 17. It is impossible for them to construct this addition without the need for this variance because of the minimal lot size. The hardship is also related to his wife’s disability and a need to modify the access to this structure to allow her to enjoy the property.
- 18. Mr. Landen testified that because his wife is in a wheelchair and is unable to walk, that the size of structure had to be increased due to the nature of handicap accessible buildings needing to be larger to accommodate wheelchairs.
- 19. Mr. Landen further testified that he agreed that they would not do any construction within the Riparian Area. He testified that they would not do any work on Bureau of Reclamation land between his lot line and the ordinary high water mark. He testified that a bridge for the driveway was needed in order for his wife to have access to the property. Finally, he testified that he had no objection to any of the proposed conditions of approval.
- 20. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

**RECOMMENDED CONCLUSIONS**

- 1. The Hearing Examiner has been granted authority to render this Decision.
- 2. As conditioned, the proposal meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
- 3. 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.
- 4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
- 5. Public use and interest will be served by approval of this proposal.
- 6. 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.
- 7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

This permit is recommended to be granted pursuant to the Shoreline Master Program of Kittitas County, as amended, and nothing in this recommendation shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).

Approval Recommended this 14<sup>th</sup> day of May, 2014.

KITTITAS COUNTY HEARING EXAMINER

A handwritten signature in blue ink, appearing to read "A. L. Kottkamp", written over a horizontal line.

Andrew L. Kottkamp



**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A  
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department \_\_\_\_\_

Approved \_\_\_\_\_

Denied \_\_\_\_\_

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Department Official

