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Via email

Andrew Kottkamp
Kittitas County Hearing Examiner
Kottkamp, Yedinak & Esworthy, PLLC
435 Orondo Avenue
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Re: Shree Holdings Sign Variance
VA – 19-00002

Dear Mr. Kottkamp:

We received the Brief of Kittitas County late on the afternoon of December 20, 2019. The submission significantly changed the basis for the land use decision. The change of position has placed Shree Holdings in an unfair position of responding to new theories and facts on very short notice. We are requesting three things: (1) that the administrative record be supplemented with previously undisclosed administrative documents; (2) that we be provided an opportunity to address the new theories presented in support of denial of the variance application; and (3) that the hearing be rescheduled to the latter part of January or early February in order to allow appellants time to address the new factual contentions and legal theories.

By way of background, this is an appeal of an administrative land use decision. Kittitas County originally interpreted its ordinance to include two specific restrictions: (1) no freestanding sign may exceed a total of thirteen feet (13'); and (2) the maximum size for outdoor advertising signs is 325 square feet. Kittitas County also directed the sign height and fall zone area.

Kittitas County has now acknowledged two errors in its administrative land use decision.

The County concedes that the appropriate building height for the zone is thirty-five feet (KCC 17.44.060) rather than the thirteen feet referenced in the decision. The County also concedes that consistency with the comprehensive plan should not have been considered.

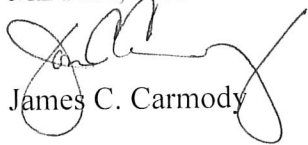
Kittitas County Brief 4:20-23. Kittitas County has pivoted from its original position and now introduced

a new theory as the legal basis for denial of the variance application. That theory is that the sign violates state sign standards set forth in WAC 468-66-050(3)(a)(ii). This theory was neither mentioned nor a basis for administrative decision. We question the timeliness and legal effect of the new theory. As an additional point, Kittitas County relies solely on a hearsay declaration and incomplete email exchange between Neil Caulkins and Trevor McCain. See *Declaration of Neil A. Caulkins* ¶3 (including attached email exchange of December 20, 2019). Shree Holdings is entitled to address this new legal theory and conduct a reasonable and appropriate factual investigation into the claims.

As a second point, Kittitas County has introduced new materials to the administrative record that were not originally provided to either the Appellant or Hearing Examiner. Those records include a portion of the administrative file for the existing sign on the property that was submitted by William Rowley (BP-08-00992). Also introduced are last minute emails (December 20, 2019) with Washington State Department of Transportation (WSDOT). Shree Holdings would request that the entire file from the original sign application be submitted as part of the administrative record as well as all communications with WSDOT.

Finally, Shree Holdings would request that a reasonable period be allowed for submission of a supplemental memorandum on the new issues. Because of the late notice and fact that we are in the middle of the holiday season, we would request that a supplemental brief be submitted by January 6, 2020. We would also request that the hearing on the merits be continued until the hearing examiner's next available date in Kittitas County. This would allow for a fair opportunity to respond to the new issues, investigate the new factual contentions and allow this to proceed to hearing in a manner that recognizes all parties legitimate rights to fairly prepare for a final hearing.

Very truly yours,
MEYER, ELUEGGE & TENNEY, P.S.



James C. Carmody

cc: Neil Caulkins (via email)
Clients (via email)