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September 26, 2019

RECEIVED

SEP 26 2019

Kittitas County  
Board of Commissioners  
Room 108, County Courthouse  
205 W 5th Avenue  
Ellensburg, WA 98926

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P.A.  
CDS

RE: Notice of Administrative Appeal

Dear Board of Commissioners:

Shree Holdings LLC respectfully appeals Kittitas County Community Development Services' decision on September 12, 2019 to deny the Thorp sign height variance request, VA-19-00002. Shree Holdings LLC is a family company owned by Ekta and Sanjay Saini. They've been operating gas stations in Central Washington since 2005. The subject property is parcel #953186 located off of Highway 90, in Section 13, T 18 N, R 17E, within unincorporated Kittitas County. This Notice of Appeal and the accompanying fee are timely filed and the appellants have standing.

The Shree property is zoned Highway Commercial within the Thorp Limited Area of More Intense Rural Development. As the Kittitas County Community of Development Services (CDS) recognized in their findings of fact for this variance request, "[t]he purpose and intent of this zone is to provide for motorist-tourist dependent businesses... requiring convenient access to passing traffic pursuant to KCC 17.44 Highway Commercial Zone." The appellants own and operate a gas station business at the site in conformance with the purpose of the zoning designation, and wish to install signage that would be appropriately sized to be visible to highway traffic in both directions.

Due to the topography of the Shree property, signs at a conforming height would not be visible at all to any eastbound traffic on Interstate 90 because the current height limit for freestanding outdoor advertising signs at this location is merely 13 feet. KCC 17.70.070(2). Therefore, Shree Holdings LLC, submitted a zoning variance request pursuant to KCC 17.84.010, to accommodate a freestanding sign appropriately sized for traffic in both direction on the highway. An appropriately sized sign will allow drivers to safely identify the business a few miles before the Thorp exit, giving them time to decide whether to exit the highway, and to safely do so if they wish. Ekta and Sanjay have worked closely with experienced consultants to find the best solution to their signage needs. A flag test at the site showed that the topography of this property requires a sign that that clears 65 feet minimum. Without sufficient height, any signage at this location would be hidden from eastbound drivers on I-90. At that height, the sign needs an area of approximately one thousand square feet in order to be legibly display usable information to eastbound drivers on I-90.

This proposed variance is not controversial. Notice of the application was sent to all 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; no substantive public comments were submitted. CDS has also determined that the proposed signage will have no significant environmental impacts and is exempt from SEPA review.

Title 17.84.010 of the Kittitas County Code outlines the four criteria for a variance to be granted. The four criteria are as follows:

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;*
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;*

In this case, CDS has already agreed that the proposal meets the third and fourth criteria. CDS agreed that the project will not be materially detrimental to the public welfare or injurious to property in the vicinity, and would not "adversely affect the realization of the comprehensive development pattern of this area" as stipulated in KCC17.84.010 (4). Therefore, disagreement remains only as to the degree to which the proposal meets the first two criteria. In addition, CDS contended that the variance request was inconsistent with the adopted comprehensive plan and "inconsistent with rural character," despite the fact that the comprehensive plan explicitly adopted the zoning scheme that declared the Shree property within a Highway Commercial zone and an area of "More Intense" development.

In sum, the issues on appeal are (1) whether 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) whether Shree's proposed 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) whether the variance request is consistent with the adopted comprehensive plan and rural character. We address each of these issues in further detail below.

**Criteria #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."*

The Shree property is zoned Highway Commercial within the Thorp Limited Area of More Intense Rural Development. The property in and of itself is unique; it is adjacent to Interstate-90 and close to a freeway interchange, and zoned for highway motor-tourist dependent uses. Yet the property is blocked from the line of sight of oncoming traffic by the natural topography of the property as well as an elevated highway overpass.

As CDS acknowledges, “[t]he purpose and intent of this zone is to provide for motorist-tourist dependent businesses... requiring convenient access to passing traffic.” Unfortunately, the topography of the Shree Holdings LLC property effectively hides the motorist-tourist dependent gas station from east-bound traffic on I-90. The 13-foot height restriction on free standing signs at this location cannot overcome the unique topographical challenge at this site. Any code compliant sign at this location would be invisible to east bound traffic and utterly futile. Appellants would be happy to provide further supporting documentation and details about the topography and visibility restrictions during the appeal process.

The unique geography and layout of this property does not allow for signage that would be appropriately sized to be visible to highway traffic in both directions without a variance. This is a challenge unique to the way the freeway approaches and passes by the property, the presence of an existing highway over pass that restrict driver’s line of sight, and the property’s unique position below the horizon as drivers approach from the east. This fact constitutes an unusual circumstance applying to the property and the intended use that do not apply generally to other property in the same vicinity or district and therefore satisfies condition 1.

We urge the Commissioners to find that the applicant has demonstrated the existence of "unusual circumstances or conditions" that do not generally apply to other property in the same circumstance as required under KCC17.84.010(1).

**Criteria #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.”*

Proper signage that is clear and legible to highway traffic in both directions is key to both the purpose for which the “Highway Commercial,” “Area of More Intense Rural Development” zone was establish, as well as the reasonable investment-backed expectations of Shree Holdings LLC.

As discussed above, the Shree property faces unique topographical challenges and require this variance in order to have a sign that is appropriately sized so as to be visible to on-coming traffic from the highway. CDS explicitly acknowledges the “economic benefit the proposed sign could generate.” The inability to install signage that complements the topography of this site puts this property at a definite disadvantage relative to other potential property owners in the same Highway Commercial zone in the same LAMIRD.

Other prospective businesses choosing to locate in the same LAMIRD will necessarily have different lines of sight and geometric orientation towards the highway. They may not face the same geographical challenge in advertising visibly to traffic on the highway. This variance is necessary to fulfill the purpose for which is property is zoned, and the purpose for which the Ekta and Sanjay purchased the property. Without a sign, the traffic does not have enough time to decide whether to exit, and if so, to take the exit in a safe manner, which is crucial to a “motorist-tourist dependent business... requiring convenient access to passing traffic.” Without the variance, Ekta and Sanjay cannot realize their reasonable investment-backed expectations, which is a substantial impairment of their property rights. *See Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978) (“The economic impact of the regulation on the claimant and, particularly, the extent to which the regulation has interfered with distinct investment-backed expectations are, of course, relevant considerations.”) The concept of distinct investment-backed expectations brings the economic impact of a regulation into the takings analysis by asking whether the regulation interferes impermissibly with expectations on which the owner has invested resources. *See Daniel R. Mandelker, Investment-Backed Expectations in Taking Law*, 27 URB. LAW. 215 (1995), § 2.13. The variance is necessary to for the preservation and enjoyment of the applicant’s substantial property right to use the property in conformity with the purpose for which it is zoned.

Ekta and Sanjay's reasonable investment-backed expectation that the property they purchased through Shree Holdings LLC may indeed be used for the purpose for which it is zoned is indeed a "substantial property right." And that substantial property right is negated if they cannot install appropriate signage that is visible from the highway. A variance is necessary for the preservation and enjoyment of this substantial property right.

#### **Consistency with Comprehensive Plan**

CDS contended that the variance request was inconsistent with the adopted comprehensive plan and "inconsistent with rural character," despite the fact that the existing comprehensive plan as adopted explicitly recognizes the zoning scheme that declared the Shree property within a Highway Commercial zone and an area of "more intense" development."

As (CDS) recognized in their findings of fact, "[t]he purpose and intent of this zone is to provide for motorist-tourist dependent businesses... requiring convenient access to passing traffic pursuant to KCC 17.44 Highway Commercial Zone." Signage visible to "motorist-tourist" is inherently consistent with "motorist-tourist dependent businesses" such as the Shree gas station. In discussing consistency with the Comprehensive Plan, CDS again concedes that "a LAMIRD does allow for more intense rural development," but then goes on to assert that the request would not be consistent with rural character without any justification. Washington's Growth Management Act provides for limited areas of more intensive rural development (LAMIRDs) to be included in the Rural Element of a Comprehensive Plan. The LAMIRD is a planning tool meant to allow intensification of development on lots containing isolated nonresidential uses or new development of isolated small-scale businesses that provide job opportunities for rural residents. There is nothing discordant about an appropriately sized sign for a gas station at a rural highway interchange at a location specifically zoned for such a business.

In conclusion, Shree Holdings LLC respectfully appeals Kittitas County Community Development Services' decision denying the Thorp sign height variance request, VA-19-00002. It is undisputed that the Shree property is zoned for the purpose of "provid[ing] for motorist-tourist dependent businesses... requiring convenient access to passing traffic." The appellants have a substantial property right in their reasonable investment-backed expectation of owning and operating a gas station business at the site in conformance with the purpose of the zoning designation. Due to the topographical challenges from the geography at this location, the variance is necessary for the applicant to install appropriately sized signage visible to highway traffic in both directions. Shree Holdings LLC expressly reserves and any and all rights arising under or related to this dispute, including the right to supplement the record on appeal.

This proposal indeed meets all four criteria of KCC Title 17.84.010, it is also consistent with the Kittitas County Comprehensive Plan goals and policies for the LAMIRD land use designation. Therefore, Appellants respectfully request that the variance requested by Shree Holdings LLC be granted.

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

  
James C. Carmody

JCC:dg



## KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

### Shree Holdings Sign Variance VA-19-00002

## FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

### I. GENERAL INFORMATION

**Requested Action:** Shree Holdings LLC, property owners, have submitted a zoning variance request to exceed the sign dimension limits. This variance is requested to accommodate a freestanding sign at Shree's gas station. The height limit for freestanding outdoor advertising signs in Kittitas County Code is 13', while the proposed sign height is 87.5'. The face area limit in Kittitas County Code is 325 square feet, while the proposed sign face is approximately 1176 square feet.

**Location:** The subject property is parcel # 953186 located off of Highway 90 in the Thorp Type 3 LAMIRD, in Section 13, T 18N, R 17E. Map number 18-17-13051-0002.

### II. SITE INFORMATION

Total Property Size:	2.39 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	WSLC
Sewage Disposal:	On Site Septic (Commercial)
Power/Electricity:	Kittitas PUD District 2
Fire Protection:	Fire District 1 (Rural Thorp)
Irrigation District:	West Side

**Site Characteristics:**

<b>North:</b>	single-family residence, agriculture lands
<b>South:</b>	I-90 Corridor and agriculture lands
<b>East:</b>	residential and agriculture lands
<b>West:</b>	retail agriculture sales and highway interchange

**Access:** The site is accessed via Gladmar Rd., a paved county road off of the Thorp I-90 interchange.

### III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Highway Commercial within the Thorp Limited Area of More Intense Rural Development – Type 3. The purpose and intent of this zone is provide for motorist- tourist dependent businesses having little interdependence and requiring convenient access to passing traffic pursuant to KCC 17.44 Highway Commercial Zone. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from the prescribed sign dimensions requirements in KCC 17.70.070(2). Title 17.84.010 of the Kittitas County Code outlines four criteria in which a variance can be granted. The applicant must demonstrate that the proposal **has met all four criteria**. The following is a summary describing whether or not each criterion has been satisfactorily demonstrated:

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

On April 10, 2019 CDS sent a request for additional information letter to the applicant. The letter instructed the applicant to clarify several items including a revised narrative for variance criteria 1-3, demonstrating how their proposal is consistent with these requirements as mandated in KCC 17.84.010. Items 1-3 listed below are drawn from the applicant response to this request, while item 4 is drawn from the original application.

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 property location, interstate boundaries topography, elevation of exist –vs- overpass, approach and access negatively affects the recognition and timely reaction to take advantage of the services and benefits provided by the businesses located at the site it limits the full utilization of the property to attract customers, thus it would have a negative impact on income. In regards to the WSDOT motorized information has always been debated as to its affect and the actual impact on driver decisions. If you need to understand the faith businesses have in the WSDOT program, please not pictures attached at south interchange where each major company has chosen to spend and install their signs and logos high into air and visible from the interstate. There are 18 such signs at this location.”

Staff Response

CDS staff have reviewed the applicants response above in reference to the first of four requirements necessary to obtain a variance under KCC17.84.010. This criterion requires that the applicant demonstrate “unusual circumstances or conditions applying to the property and/or intended use that do not apply generally to other property in the same vicinity or district.” CDS does not interpret potential impacts on income as “unusual circumstances or conditions” that would not apply to neighboring properties. The questionable efficacy of WSDOT motorized information signs as a means of advertising does not qualify as “unusual circumstances or conditions,” as they are a common practice for informing motorists of upcoming services throughout the State. Finally the applicant cites the common use of large free standing signs within the jurisdiction of the City of Ellensburg, which administers its own zoning regulations, informed by different criteria and regulations than the Kittitas County Code. CDS staff finds that there are not unusual circumstances or conditions applying to this property and/or the intended use that do not apply generally to other property in the same vicinity or district. Full utilization of a properties’ income potential is not a sufficient reason to grant a zoning variance under this criteria. CDS staff finds that criterion 1 of the KCC 17.84.010 has not been met.

**The applicant has failed to demonstrate in a factual and meaningful way the existence of any “unusual circumstances or conditions” that do not generally apply to other property in the same vicinity as required under KCC17.84.010(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

“When property rights are viewed as an attribute of economic good the needs of the applicant and those in area will be greatly improved upon approval. Given the above not having the proper signage puts this property at a definite disadvantage. Competitively, the proper signage will enhance the success of all the businesses at this location plus provide additional traffic into Thorp’s developing tourist business and better traffic flow especially for trucks coming into Ellensburg.””

Staff Response

CDS staff have reviewed the complete file information, including but not limited to, the applicant submitted information and comments received during the comment period. CDS does not contest the potential economic benefit the proposed sign could generate. However, under KCC17.84.010(2) the applicant must demonstrate a 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.” The free standing sign dimensional standards outlined in KCC17.70.070(2) apply to all proposed free standing signs within the County jurisdiction since ordinance 2014-015 was enacted, establishing a revised sign code. CDS does not understand potential economic advantage to be a “substantial property right.” CDS disagrees with the assertion that the applicant will be put at a definite disadvantage without a substantial sign variance, as any perspective business choosing to locate in the same LAMIRD would be held to the same free standing sign dimension standards under KCC17.70.070(2). CDS staff finds that a variance is not necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by owners of other properties in the same vicinity. CDS staff finds that criterion 2 of KCC 17.84.010 has not been met.

**The applicant has failed to demonstrate in a factual and meaningful way the existence of a “substantial property right” that may be negated by the application of the free standing sign dimensional requirements as stipulated in KCC17.84.010 (2).**

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

Applicant Response

“The height of the sign has been reduced from 120’ to 100’ to 87.5’ Placement is on the applicant’s property within the fall zone radius. Please note exhibit attached. We will comply with requirements that only one sign allowed per frontage. The current sign will be replaced and removed and not be relocated and thus avoid another variance request. Also please note that in the direction and in consideration of the NW winds the fall zone to NW is totally fenced and will deny any pedestrian access. The NW fall zone in between fire storage pond and stormwater detention ponds and non-business area.

Installation: will be in control of the YESCO engineers. They will be applying for permit, controlling the installation of the sign. This company is well known, been in business since 1920 has over 85 sign centers and has 1000 employees. Each sign will carry an engineer stamp plus liability coverage.

One of the stated concerns was compliance with the 17.70.030 of free standing and outdoor sign currently in place will be removed.”

Staff Response

Upon receiving an updated site plan by the applicant on June 6, 2019, demonstrating the potential fall radius and property setbacks, CDS finds that the applicant has demonstrated that the project will likely not be materially detrimental to the public welfare or injurious to property in the vicinity.

**The applicant has demonstrated in a factual and meaningful way that the project would not be “materially detrimental to the public welfare or injurious to property in the vicinity” as stipulated 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

“Granting of this variance request will not adversely affect the realization of the comprehensive development pattern and may assist other property owners with a reason to further develop existing properties or expand their business. This is a request for a sign on our own property that does not interfere with at all. All of this would be consistent with the comprehensive development pattern for the County and Thorp in particular. The applicants have assisted their communities over the past years and would like to add the following information and rationale for your consideration. The applicant respectfully requests the County’s approval of their variance request. ”

Staff Response

CDS has concluded that the requested proposed sign would not impact the comprehensive development pattern of the area. The subject property exists in a Type 3 LAMIRD which allows for a certain amount of more intense development.

**The applicant has demonstrated in a factual and meaningful way that the project would not “adversely affect the realization of the comprehensive development pattern of this area” as stipulated in KCC17.84.010 (4).**

Staff Conclusions

Staff finds that the zoning variance request **does not** meet all four criteria outlined in KCC 17.84.010 as described above and that only criteria 3 and 4 can be satisfied. Therefore, the zoning variance request cannot be approved.

**IV. ADMINISTRATIVE REVIEW**

Project Submittal: A Zoning Variance Application was submitted to Kittitas County Community Development Services department on March 22, 2019.

Deem Complete: The application was determined incomplete and additional information was requested on April 10, 2019. On June 6, 2019 the applicant submitted additional information. On June 19, 2019 the application was deemed complete.

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 July 1, 2019, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on July 16, 2019 and all comments were transmitted to the applicant on July 17, 2019.

**V. COMPREHENSIVE PLAN**

This variance request is to accommodate a freestanding sign at Shree’s gas station. The height limit for freestanding outdoor advertising signs in Kittitas County Code is 13’, while the proposed sign height is 87.5’. The face area limit in Kittitas County Code is 325 square feet, while the proposed sign face is approximately 1176 square feet located in the Thorp Type 3 Rural LAMIRD. A LAMIRD is a local area of more intense rural development that is allowed to occur consistent with the State’s Growth Management Act and is a way to preserve the County’s overall rural character. The following are Goals and Policies from the Kittitas County Comprehensive Plan Chapter 8, Rural and Resource Lands, that are pertinent to signs within LAMIRDs.

RR-P102: “Require that development or redevelopment harmonize with the rural character of the surrounding areas.”

Staff Consistency Statement:



This zoning sign variance is requested on a parcel located within the existing Thorp Type 3 LAMIRD. While a LAMIRD does allow for more intense rural development, a sign variance of the magnitude proposed would not be consistent with rural character as reflected in LAMIRD designations throughout the County. Therefore, this request is not consistent with this Comprehensive Plan Policy.

RR-G32: "Provide for rural community settings which do not require urban levels of services and maintain existing rural development patterns that have existed for long periods of time."

Staff Consistency Statement:

This sign variance is requested on a parcel located within the existing Thorp Type 3 LAMIRD and does not require urban levels of service. A sign variance several times larger than dimensional standards established under KCC 17.70 would not be consistent with rural development patterns within Kittitas County. Therefore, this request is not consistent with this Comprehensive Plan Goal.

## **VI. ENVIRONMENTAL REVIEW**

Based upon review of the submitted application materials and an initial critical areas review CDS determined that the Shree Sign Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e).

## **VII. 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.

## **VIII. 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 not consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section V of this staff report, the following Comprehensive Plan Goals and Policies apply to this proposal: RR-P102 and RR-G32.

The requested sign variance related to construction of a free standing sign beyond dimensional standards on a parcel located within the existing Thorp Type 3 LAMIRD is not consistent with the Comprehensive Plan because it does not reflect the Goals and Policies outlined above in Section V, and does not satisfy all requirements of KCC 17.84.010 which is an implementing regulation of the Comprehensive Plan.

Consistency with the provisions of KCC 17A. Critical Areas:

Staff conducted an administrative critical area review in accordance with KCC 17A. GIS information indicates no known critical areas on the subject property. This request is consistent with critical areas provisions.

Consistency with the provisions of KCC 17.70 Signs:

This proposal, without approval of the sign variance, is not consistent with the sign dimensions outlined in Kittitas County Zoning Code 17.70.

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 not consistent and cannot meet criteria 1 and 2 as described above in Section III of this staff report.

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

All buildings and/or structures 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:

Substantive comments were received from the following agencies: Washington State Department of Transportation and Kittitas County CDS Building. All comments are on file and available for public review.

Kittitas County CDS Building

In email correspondence received by CDS on July 16, 2019, the Kittitas County Building Official provided the following comments:

1. My comments are based on the 87.5 maximum sign height listed in the Variance request.
2. The sign construction drawings and calculations shall bear the stamp of a Washington State licensed engineer. Wind speed is 110 vUIt. All design shall be per the current Kittitas County adopted International Building Code with Washington State Amendments.
3. Setbacks to property lines should provide a sufficient fall zone should the sign fail.

Staff Response

Staff agrees that the proposed sign variance would require the building details noted above to protect public safety if the variance request were approved.

Washington State Department of Transportation

The Washington State Department of Transportation provided the following comments:

1. The subject property is adjacent to Interstate 90 (I-90), a fully-controlled limited access facility with a posted speed limit of 70 miles per hour. No direct access to I-90 will be allowed.
2. Outdoor advertising and motorist signing must comply with state criteria.

Staff Response

CDS staff acknowledge the WSDOT requirements as standard requirements for any sign proposal along a State controlled highway.

Public Comments:

- No public comments were submitted during the comment period.

**IX. FINDINGS OF FACT**

1. Shree Holdings LLC, property owners, have submitted a zoning variance request to exceed the sign dimension limits. This variance is requested to accommodate a freestanding sign at Shree’s gas station. The height limit for freestanding outdoor advertising signs in Kittitas County Code is 13’, while the proposed sign height is 87.5’. The face area limit in Kittitas County Code is 325 square feet, while the proposed sign face is approximately 1176 square feet.
2. The subject property is parcel # 953186 located off of Highway 90 in the Thorp Type 3 LAMIRD, in Section 13, T 18N, R 17E. Map number 18-17-13051-0002.

3. Site Information

Total Property Size:	2.39 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	WSLC
Sewage Disposal:	On Site Septic (Commercial)
Power/Electricity:	Kittitas PUD District 2
Fire Protection:	Fire District 1 (Rural Thorp)
Irrigation District:	West Side

4. Site Characteristics:  
North: single-family residence, agriculture lands  
South: I-90 Corridor and agriculture lands  
East: residential and agriculture lands  
West: retail agriculture sales and highway interchange

The site is accessed via Gladmar Rd., a paved county road off of the Thorp I-90 interchange.

5. The subject property has a zoning designation of Highway Commercial within the Thorp Limited Area of More Intense Rural Development – Type 3. The purpose and intent of this zone is provide for motorist- tourist dependent businesses having little interdependence and requiring convenient access to passing traffic pursuant to KCC 17.44 Highway Commercial Zone. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from the prescribed sign dimensions requirements in KCC 17.70.070(2). Title 17.84.010 of the Kittitas County Code outlines four criteria in which a variance can be granted. The applicant must demonstrate that the proposal **has met all four criteria**.
6. A Zoning Variance Application was submitted to Kittitas County Community Development Services department on March 22, 2019.
7. The application was determined incomplete and additional information was requested on April 10, 2019. On June 6, 2019 the applicant submitted additional information. On June 19, 2019 the application was deemed complete.
8. 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 July 1, 2019, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on July 16, 2019 and all comments were transmitted to the applicant on July 17, 2019.
9. The proposal is not consistent with the goals and policies of the Kittitas County Comprehensive Plan.

As referenced above in Section V of this staff report, the following Comprehensive Plan Goals and Policies apply to this proposal: RR-P102 and RR-G32.

10. Based upon review of the submitted application materials and an initial critical areas review CDS determined that the Shree Sign Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e).
11. The proposal is not consistent with the Kittitas County Comprehensive Plan.
12. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
13. The proposal is not consistent with the provisions of KCC 17.70 Signs, without approval of the sign variance.
14. The proposal is not consistent with the KCC 17.84 Variances, more specifically all four review criteria in KCC 17.84.010 must be met and criteria 1 & 2 have not been satisfied.
15. This proposal is not 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: Kittitas County CDS Building and Washington State Department of Transportation. All comments are on file and available for public review.
18. No public comments were received.

**X. STAFF CONCLUSIONS:**

1. This proposal does not meet all four criteria of KCC Title 17.84.010, therefore it cannot be approved.
2. The variance is not consistent with the Kittitas County Comprehensive Plan goals and policies for the LAMIRD land use designation.

**XI. DECISION AND CONDITIONS OF APPROVAL:**

Kittitas County Community Development Services finds that the Shree Sign Variance (VA-19-00002) is hereby denied. The Shree Sign Variance does not adequately meet the requirements of a variance pursuant to KCC 17.84.010.

**Responsible Official**



\_\_\_\_\_  
Dan Carlson

**Title:** CDS Planning Director

**Address:** Kittitas County Community Development Services



## KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

### NOTICE OF DECISION Thorp Sign Height Variance VA-19-00002

**Notice of Application:** Monday, July 1, 2019  
**Application Received:** Friday, March 22, 2019  
**Application Complete:** Thursday, June 19, 2019  
**Notice of Decision:** Thursday, September 12, 2019

Pursuant to RCW 36.70B.130 and KCC 15A.06, notice is hereby given that Kittitas County Community Development Services did on September 12, 2019 deny the Thorp Sign Height Variance, a request made by Shree Holdings, landowner, to substantially exceed the sign dimensional standards established under KCC17.70. The subject property is parcel # 953186 located off of Highway 90 in the Thorp Type 3 LAMIRD, in Section 13, T 18N, R 17E. Map number 18-17-13051-0002.

A copy of the Kittitas County Findings of Fact, Conclusions of Law and Decision document along with other related file documents may be examined at Kittitas County Community Development Services, 411 N. Ruby Suite 2, Ellensburg, WA 98926, or online at <https://www.co.kittitas.wa.us/cds/land-use/default.aspx> under "Setback Variances" and then the file number "VA-19-00002". Community Development Services can be reached at (509) 962-7506.

Kittitas County Code (Chapter 15A.07.010) stipulates that an appeal of this land use decision must be filed within 10 (ten) working days by submitting specific factual objections and a fee of \$1560.00 to the Kittitas County Board of Commissioners at 205 West 5<sup>th</sup>, Room 108 Ellensburg, WA 98926. The appeal deadline for this project is September 26, 2019 at 5:00 p.m.

**Designated Permit Coordinator (staff contact):** Jeremy Johnston, Staff Planner: (509) 962-7506; email at [jeremy.johnston@co.kittitas.wa.us](mailto:jeremy.johnston@co.kittitas.wa.us).



**Kittitas County Office Of The Treasurer**  
**Amy Cziske, Treasurer**  
205 W 5th Avenue, Suite 102  
Ellensburg, Wa 98926  
Phone (509) 962-7535 Fax (509) 933-8212

Cash Suspense

Receipt Number: 2019-3690 Date: 09/26/2019

Received From: MANDY BUCHHOLZ DEPUTY CLERK OF THE BOARD II

Check Amount: \$1,560.00

Cash Amount: \$0.00

Other Amount: \$0.00

Total Amount: \$1,560.00

Deputy: MANDYR Receipt Type: CHK

Template: COMMISSIONER! COMMISSIONERS

Comments:

NOTICE OF ADMINISTRATIVE APPEAL SHREE HOLDINGS LLC RECEIVED 9-26-19 RE: SIGN HEIGHT VARIANCE REQUEST VA-19-00002 CHECK #325211

<u>FundCode</u>	<u>GLCode</u>	<u>Description</u>	<u>Amount</u>
402	204213458910	APPEALS FEE	\$1,560.00
Total Amount:			\$1,560.00

Kittitas County Treasurer's Office  
Submitted By: MANDY ROBINSON

*Draft*

# Treasurer

Cashtax Receipt Submission

Name: \* Mandy Buchholz

Department: \* Commissioners

Date: 9/26/2019

Form type: \* Cash Suspense

Cashtax Receipt: SHREE HOLDINGS LLC RECEIPT.pdf 78.76KB

Also Notify:

Notes: NOTICE OF ADMINISTRATIVE APPEAL  
SHREE HOLDINGS LLC RECEIVED 9-26-19  
RE: SIGN HEIGHT VARIANCE REQUEST,  
VA-19-00002 CHECK #325211

Urgent?  Yes  No