



## 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:**

**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

**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 vUlt. 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**



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Dan Carlson

**Title:** CDS Planning Director

**Address:** Kittitas County Community Development Services



411 N. Ruby Street, Suite 2  
Ellensburg, WA. 98926  
Phone: (509) 962-7506

**Date:** September 12, 2019

**Pursuant to Chapter 15A.07 KCC, this DNS may be appealed by submitting specific factual objections in writing with a fee of \$1560 to the Kittitas County Board of Commissioners, Kittitas County Courthouse Room 110, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00pm September 26, 2019. Aggrieved parties are encouraged to contact the Board at (509) 962-7508 for more information on the appeal process.**

