

**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
VA-19-00002)	ORDER TO REMAND
Shree Thorp Sign Variance)	

THIS MATTER having come on for an open record public hearing after due legal notice, in front of the Kittitas County Hearing Examiner, on February 13, 2020, the Hearing Examiner having taken evidence, hereby submits the following Recommended Findings of Fact, Conclusions of Law and Decision.

I. FINDINGS OF FACT

1. On March 22, 2019, Shree Holdings, LLC, dba Shree Travel Plaza, submitted an application to Kittitas County Community Development Services for a zoning variance.
2. The Applicant was Shree Holdings, LLC, dba Shree Travel Plaza, P.O. Box 5160, Moses Lake, Washington 98837.
3. The location for the variance was identified as 410 Gladmar Road, Thorp, WA 98946.
4. At the time of this initial application, the applicant was requesting a variance to allow a sign that was larger in face space and taller than allowed by the Kittitas County Code. The applicant was requesting a sign 120 ft. tall. The size of the face of the sign was not specifically mentioned in this initial variance application, or the narrative supporting this application. (Exhibits 2, 3, and 4).
5. Exhibit 5 does depict a proposed sign, apparently showing the dimensions of the face of the sign. However, the Hearing Examiner is not able to decipher those measurements depicted.
6. The zoning of the subject property is Highway Commercial.
7. The Comprehensive Plan Designation for the subject property is in the Thorp Type No. III Rural LAMIREL. (See Ex. No. 8).
8. On April 10, 2019, Kittitas County Community Development Services notified the applicant that they had determined the application to be deemed incomplete and requested additional information.
9. On June 19, 2019, Kittitas County Community Development Services wrote a letter to the applicant indicating that the application has been deemed complete as June 19, 2019, for the purposes of processing. The letter also stated that additional information was needed as requested in the April 10, 2019 letter, including a revised site plan, depicting the likely fall

radius stamped by an engineer licensed in the State of Washington. (See Exhibit 13).

10. Kittitas County Community Development Services issued the Notice of Application on July 1, 2019. (See Exhibit 14).
11. On July 3, 2019, the Washington State Department of Transportation commented on this application. (See Exhibit 19).
12. On July 16, 2019, the Kittitas County Building official commented on the application. (See Exhibit 20).
13. On Thursday, September 12, 2019, Kittitas County Community Development Services issued its Notice of Decision indicating that the request for variance was denied on September 12, 2019. (See Exhibit 23).
14. The Findings of Fact, Conclusions of Law and Decision are found in Exhibit 25.
15. On September 26, 2019, the applicant submitted their appeal by and through their attorney, James Carmody. (See Ex. 27).
16. The Hearing Examiner is authorized to review this variance application de novo, which means that the Hearing Examiner will not be bound by any of the decisions made by Kittitas County Department of Community Development, or the reasons for those decisions, but will conduct a new review of all facts to determine whether or not the reasons for the request for the variance is supported by substantial evidence, upon which factual findings can be made, that the variance criteria set forth in the Kittitas County Code have been met.
17. At the open record public hearing the following exhibits were entered into the record:
 - 17.1 Application
 - 17.2 Contact Information
 - 17.3 Signature Page
 - 17.4 Narrative
 - 17.5 Sign Diagram
 - 17.6 WSDOT Approval
 - 17.7 Location Map
 - 17.8 CDS Maps
 - 17.9 Request for Additional Information
 - 17.10 2nd Submission 6-6-2019
 - 17.11 Signature Page
 - 17.12 Response to RFI Letter Criteria Narrative
 - 17.13 Deemed Complete Letter
 - 17.14 NOA
 - 17.15 NOA Legal
 - 17.16 Affidavit of Mailing
 - 17.17 Agency Request for Comment
 - 17.18 Correspondence

- 17.19 WSDOT Comments
- 17.20 CDS Building Comments
- 17.21 KC Public Health Comments
- 17.22 Transmittal of Comments
- 17.23 NOD
- 17.24 NOD Legal
- 17.25 Findings of Fact
- 17.26 NOD Affidavit of Mailing and Publication
- 17.27 Appeal
- 17.28 Appeal Receipt
- 17.29 Index
- 17.30 December 23, 2019, letter from James Carmody
- 17.31 December 31, 2019, Hearing Examiner Order.
- 17.32 October 22, 2019, Briefing Schedule.
- 17.33 November 26, 2019, Shree Holding Opening Brief.
- 17.34 December 20, 2019, Kittitas County Brief with exhibits A, B, C, and D, along with a Certificate of Service.
- 17.35 January 30, 2020, Shree Holding Supplemental Brief, with attachment A.
- 17.36 December 6, 2019, Kittitas County Supplement Brief ,with Certificate of Service.
- 17.37 February 13, 2020, letter from Trevor McCain to James Carmody.
- 17.38 February 13, 2020, Shree Holdings Hearing Brief, with attachments A, B, and C.
- 17.39 February 13, 2020, unsigned Declaration of Michael Rowley, with attachment.
- 17.40 February 13, 2020, stamped signature Declaration of Dan Risk, with attachments.
- 17.41 February 12, 2020, Declaration of Carl Meyers, P.E., with attachments A, B and C.

18. Testifying at this hearing were the following individuals:

- 18.1 James Carmody
- 18.2 Ekta Saini
- 18.3 Andrew Perkins

19. At the conclusion of this hearing, the Hearing Examiner left the record open until the following dates and for the following specific purposes:

- 19.1 Until 5:00 p.m. on February 28, 2020, for the County response to exhibits 37, 38, 39, 40 and 41, which were submitted by the Applicant/Appellant on the evening of the hearing.
- 19.2 Until 5:00 p.m. on March 13, 2020, the Applicant's rebuttal specifically to any argument specific to the County's responsive materials.

20. On February 28, 2020, Kittitas County submitted their Second Supplemental Brief as authorized by the Hearing Examiner. In this pleading, Kittitas County, based upon the new evidence presented by the Appellant at the open record public hearing, has now determined that the County's original decision denying the Variance application should be reversed and that the County believes that the Variance application should be approved.

21. On February 28, 2020, the Hearing Examiner contacted the County and the Applicant asking whether there was any objection to the Hearing Examiner remanding this matter back to the County for a new decision.
22. Both the applicant and the County requested the Hearing Examiner simply issue an order granting the Variance. However, the Hearing Examiner is extremely uncomfortable in doing so in the event that conditions of approval may be determined by the County to be appropriate.
23. On February 28, 2020, the Hearing Examiner notified the parties that the Hearing Examiner would be remanding this matter back to Kittitas County for a new decision.
24. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, and the agreement by Kittitas County that the Variance should be approved, the Hearing Examiner hereby **REMANDS** this matter back to Kittitas County to issue a revised decision and to set conditions of approval, if appropriate.

Dated this 2nd day of March, 2020.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

This Decision is subject to appeal pursuant to the Kittitas County Code and the Revised Code of Washington.