

**GRANT COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
P 20-0107)	DECISION AND CONDITIONS
Trinetra Inc.)	OF APPROVAL

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on June 4, 2020, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This application for a variance received by Grant County on March 27, 2020 from Tri-Netra Inc. The applicant seeks a variance to the 35-foot setback from a public road right-of-way for the construction of a gas station fuel island overhead canopy. The applicant is requesting 11.5-foot setback from the property line, which also serves as the boundary of the Right-of-Way for Washington State Route #26. The fuel island will utilize existing fuel storage tanks. The parcel is located in the Urban Commercial 2 (UC2) Zoning District of Grant County. This request for variance is the result of a Site Plan Review application for the additional fuel island and canopy.
2. The Applicant/Owner is Trinetra Inc., 13426 Rd E SW, Royal City, WA 99357. The project agent is Park Construction, Attn: Joe Park, P.O. Box 527, Yakima, WA 98907.
3. The site address of the subject parcel is 13436 Rd E SW, Royal City WA 99357. The parcel is located adjacent to the intersection of Grant County Rd E SW and Washington State Route 26, in the Northeast quarter of Section 7, Township 16 North, Range 26 East, WM, Grant County, WA. Parcel #21-0770-001.
4. The zoning for the property is Urban Commercial 2.
5. The zoning for neighboring parcels is north: Agriculture; south: Urban Light Industrial; east: Agriculture; and west: Agriculture.
6. The Comprehensive Plan designation for the subject property is Commercial Urban.
7. Pursuant to and in compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of the Grant County Unified Development Code, a critical areas review of the project site was conducted as part of the application process for this proposal. The subject parcel is not located in, nor does it contain, any Critical Areas as defined by Grant County Code. An environmental review was not required for this application.
8. Information detailing this project was sent to agencies of jurisdiction for their review and comments starting May 1, 2020 and ending on May 18, 2020.

<i>Agencies Notified</i>	<i>Response Received</i>	<i>Agencies Notified</i>	<i>Response Received</i>
Grant County Fire Marshal	05/07/20	Grant County P.U.D.	None
Grant County Building Official	None	U.S. Bureau of Reclamation	05/27/20
Grant County Health District	None	WA State Dept. of Transportation	05/06/20
Grant County Public Works Department	05/07/20	WA State Department of Ecology (Olympia)	None
Grant County Assessor's Office	05/07/20	Grant County Noxious Weed District #1	None
Grant County Emergency Management	None	Grant County Fire District #10	None
Grant County Auditor's Office	None	Quincy Columbia Basin Irrigation District	None
Grant County Treasurer's Office	None	City of Royal City	None

9. The following is a summary of comments received:

9.1 Grant County Assessor's Office:

9.1.1 Parcel 20-077-001 is a 3.14-acre parcel with a mini mart and three manufactured homes. The owner is Trinetra Inc.

9.2 Grant County Fire Marshal:

9.2.1 No adverse comments or concerns about this project

9.3 Grant County Public Works:

9.3.1 An approach permit shall be obtained from public works.

9.4 WA State Dept. of Transportation:

9.4.1 In regarding the setback variance, the Department's comment is to refer to Grant County's judgment on this issue

9.5 US Bureau of Reclamation:

9.5.1 Thank you for the opportunity to review and comment on the subject proposal located at 13436 Road E SW in the NE1/4 of Section 7, Township 16 North, Range

26 East, Royal City, Grant County, Washington. This letter is in response to your request for comments due May 18, 2020.

The Bureau of Reclamation currently has surface irrigation facilities, the DRB6 Drain, the DCC1-Drain, the Crab Creek Lateral Extension, and the Red Rock Coulee Wasteway, adjacent to the proposed project site to the east, northeast, and southeast along Reclamation's fee-tile property. The surface lateral is for distribution water for the Columbia Basin Project (Project), and the drains and wasteways are for irrigation water return flows to the Columbia River from the Project. The proponent should be aware of several matters that could impact Project objectives.

The proponent and planning department should be aware that the Crab Creek Lateral Extension, Red Rock Coulee Wasteway, the DCC1 Wasteway, and Red Rock Lake, drain into a natural waterbody (Crab Creek) approximately five miles to the south. Crab Creek has been designated as critical habitat by the National Marine Fisheries Service for Endangered Species Act (ESA) listed fish species (Chinook salmon and steelhead). Reclamation established the presence of the previously mentioned spawning ESA species in the DCC I/Red Rock Coulee Wasteway in the document, *Anadromous Salmonid Habitat in Three Watersheds of the Columbia Basin Project*, written by Mark D. Bowen and published in February 2003.

Construction storm water or runoff of any type from a construction site or developed property should not enter any of Reclamation's lands or facilities at any time and must be contained on site. Surface water runoff resulting from construction activities can potentially enter Project facilities and adversely affect water quality. A General Construction Storm Water Permit from the Washington State Department of Ecology will be needed for any construction project one acre or greater in size. Construction should be conducted in a manner that minimizes adverse effects to the lands, operations, waters, facilities, and resources of the Project. Upon completion of construction activities, no connections to Project facilities will be allowed that would collect or discharge storm water or any other non-agricultural discharges.

Landowners should be aware of existing Reclamation and Quincy-Columbia Basin Irrigation District (QCBID) rights to construct, reconstruct, operate, and maintain Project facilities as necessary. Reclamation and QCBID must review and approve any work that will involve these facilities or the existing rights-of-way prior to commencing such work. Structures are prohibited from encroaching upon existing rights-of-way corridors without prior approval from Reclamation and QCBID. This includes, but is not limited to, temporary improvements such as on-site sewage disposal systems, drain fields, domestic wells, paving, fencing, and landscaping. It is important to note that Reclamation's concurrence to this proposal is conditioned upon the assurance that there are no encroachments upon Project facilities or rights-of-way.

10. The application was determined to be technically complete on April 29, 2020.
11. This proposal was originally sent out for comment May 1, 2020 to May 18, 2020.
12. This application for variance was the result of a Site Plan Review Application that was found to be technically incomplete with the issue of the variance to roadside setback preventing a finding of completeness.
13. The proposed canopy outer boundary will be approximately 60 ft. from highway edge.
14. This location to operate as a store and fuel station was previously established through Conditional Use Application review. Permit # 72-97- 1972.
15. This proposal was processed as a Type III Quasi-Judicial Decision.
16. The proposal was reviewed for compliance with Chapter 24.08 “Critical Areas and Cultural Resources” of the Grant County Unified Development Code. No Critical Areas were found to be located on the parcel.
17. The project is located within the UGA of the City of Royal City.
18. Grant County Code 23.12, Table 1, requires a 35’ setback from front and road property lines located in the Urban Commercial 2 zone. The subject parcel is adjacent to a public roadway.
19. The application was reviewed by, and comments received from, agencies of jurisdiction. No comments were received that would prohibit development.
20. The Notice of Application was sent to neighboring property owners and no comments regarding the proposal were received.
21. The proposed variance, if approved, would be for this parcel and this parcel structures only.
22. Staff Comments/Analysis: Special conditions and circumstances exist that are peculiar to the land such that literal interpretation and application of the provisions of GCC Titles 22, 23, and 24 would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the terms of GCC Titles 22, 23, and 24.
 - 22.1 The applicant is requesting a variance to be able to meet health standards for having a 100’ radius from the well on the property. To provide adequate traffic flow safe with distance the only space available is the proposed location.
 - 22.2 Special conditions and circumstances do exist. The applicant has specified in the applications that the proposed setback of 11’6” will be best to suit the needs of the property. The existing well on the property will create a smaller building envelop for other location on the property.
23. Allowing the variance will be in harmony with the intent and spirit of GCC Titles 22, 23, and 24.

- 23.1 The proposed facility will be in harmony with the intent and spirit of GCC Titles 22, 23, and 24. The requested set back will be 11.5 feet. Environmental standards will not be compromised for this project.
 - 23.2 The granting of the proposed variance will be in harmony with the intent and spirit of GCC Titles 22, 23, and 24. The proposed variance would allow Trinetra Inc. to expand a previously approved existing business.
24. A variance is necessary for the preservation and enjoyment of a property right possessed by other property in the same vicinity or district, but which is denied to the property in questions because of special circumstances on that property.
- 24.1 Due to the unusual property line the location of the existing well and the location of the septic drain field, the requested location is the only safe place to locate the new fuel equipment. The canopy is 14' above the ground level and the nearest column is 22' from the property line.
 - 24.2 A Variance is needed for the applicant to enjoy the property rights that would otherwise be denied without the variance. The applicant, Trinetra Inc., is proposing to construct a new fuel island and cover canopy in order to continue to provide fuel and convenience store opportunities for traveling public and surrounding community.
25. The special conditions and circumstances described in Criteria #1 above, are specifically related to the property and are the result of unique conditions such as specifically irregular lot shape, size, or natural feature, and the application of GCC Titles 22, 23, and 24, and not, for example, from deed restrictions or the applicant's own actions.
- 25.1 The special conditions caused by the property shape limits space available meet all safety, environmental and structural requirements. Every effort has been made to meet all these requirements.
 - 25.2 Special conditions, due exist. The variance is necessary to accommodate the expansion of the existing store and fueling station with the space and configured provided. The applicant feels that the established well protection zone will make other locations on the property out of consideration.
26. The granting of the variance requested will not confer on the person seeking the variance any special privilege that is denied by this Chapter to other lands, structure, or buildings under similar circumstances.
- 26.1 These unique conditions will provide additional needed service to the community. It will not influence other neighbors or travelers on Highway 26. This setback variance will not grant any special privileges to the proposed land that would be denied elsewhere under similar circumstances.
 - 26.2 Approval of this variance would not grant the applicant any special privileges that would be denied to any other property owner under similar circumstances.
27. The variance requested is the minimum necessary to afford relief.
- 27.1 In order to meet the environmental, safety, and traffic flow requirements this is the only solution. The canopy is 14' above ground.

- 27.2 The area requested for setback will be 11' 6' for the canopy cover. The pillars supporting the canopy will be approximately 22' from the property line. This is the minimum necessary to afford relief.
28. The requested variance will not create significant impacts to critical areas and will not be materially detrimental to the public welfare, injurious to the right of other property owners in the vicinity, or contrary to the public interest.
- 28.1 The proposed facility is located on the north edge of campus and will not create a significant impact to critical areas. It will not be materially detrimental to the public welfare.
- 28.2 The variance will not impact adjacent property owners. It will not hinder visibility on Highway 26. It provides a more environmentally safe solution to fuel dispensing. Traffic in and out of property and existing retail store is not impacted. Approval of this variance will not have a negative effect on Critical Areas. No critical areas were found to be present on the parcel. The variance if approved would not be detrimental to public welfare, injurious to the right of adjacent property owners and would not be contrary to the public interest.
29. The required variance to build additional fuel facilities is constant with the present prescribed use of the property. This use is not prohibited by GCC title 23. The proposed facility will merely allow for the expansion of an existing fuel station convenience store with an additional fueling island and canopy. All zoning regulations in GCC 23 will be followed and will not be compromised.
- 29.1 The required variance to build additional fuel facilities is constant with the present prescribed use of the property. This use is not prohibited by GCC title 23. Proposed facility will merely allow for the expansion of an existing fuel station convenience store with an additional fueling island and canopy. All zoning regulations in GCC 23 will be followed and will not be compromised.
- 29.2 The variance will not allow a use prohibited by GCC Title 23. Approval of the variance would facilitate construction of a new fuel island and cover canopy in an area that is being utilized as store parking
30. An open record public hearing after due legal notice was held on June 4, 2020.
31. At this hearing, the entire planning staff file was admitted into the record.
32. Appearing and testifying at this hearing was Joe Park of Park Construction, the project agent for the owners/applicants, Trinetra Inc. Mr. Park testified that he was an agent of the Applicant and was authorized to speak on their behalf. Mr. Park stated that the applicant had reviewed the proposed conditions of approval and had no objection to any of them.
33. No member of the public testified at this hearing.
34. The Hearing Examiner has reviewed and considered the application materials and the comments received for the proposal.
35. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.

2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
3. The proposal conforms to the standards specified in Grant County Code §§ 24.08 and 25.08.060(b).
4. Granting of the proposed variance would be in harmony with the intent and spirit of GCC Titles 22, 23, and 24.
5. 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, Conditional Use Permit Application P20-0107 is hereby **APPROVED** subject to the following Conditions of Approval.

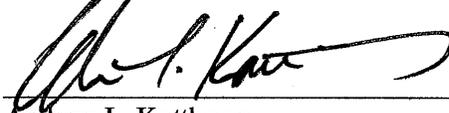
IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns:

1. The landowner/applicant is responsible to determine if other permits and/or licenses will be required by other local, state, and federal agencies. The landowner/applicant shall acquire all such permits and/or licenses as required.
2. A Variance to the Development Standards as defined in GCC § 23.12 Table 3 in the Urban Commercial 2 Zoning District has been granted in order to allow only construction of a fuel island and cover canopy on parcel #21-077-001 as depicted on a Site Plan submitted to the Grant County Development Services - Planning Division by the applicants on March 27, 2020. Any further development beyond the scope of this project as proposed, including changes to the development or any requests for additional construction, shall be reviewed by the Grant County Development Services and may require other permitting.
3. The applicant shall comply with all requirements as deemed necessary by the Grant County Public Works Department, including, but not limited to:
 - 3.1 Approach permit shall be obtained for County Road access.
4. The applicant shall comply with all requirements as deemed necessary by the Grant County Planning Department, including, but not limited to:
 - 4.1 The development authorized by this Variance shall be completed within five (5) years of the date of permit approval or the permit shall become null and void. An extension of up to one (1) year may be granted by the Decision Maker if the permittee demonstrates good cause for an extension.
5. This variance applies to the construction of the fuel island canopy structure depicted in the site plan and allows for an 11 foot 6 inch setback (11' 6") setback from the side roadside property line. The variance area also includes a portion of the western most fuel dispenser. No other variances are authorized.

Dated this 5th day of June, 2020.

GRANT COUNTY HEARING EXAMINER

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

Andrew L. Kottkamp

EXCEPT AS PROVIDED BY GRANT COUNTY UNIFORM DEVELOPMENT CODE, SECTION 25.32.150, THE DECISION OF THE HEARING EXAMINER IS FINAL AND CONCLUSIVE UNLESS APPEALED TO THE GRANT COUNTY SUPERIOR COURT WITHIN TWENTY-ONE (21) DAYS AFTER THE ISSUANCE OF THIS DECISION AS PROVIDED BY RCW 36.70C.040 AND GRANT COUNTY UNIFORM DEVELOPMENT CODE, SECTIONS 25.32.160 AND 25.04.430.