

ORDINANCE NO. 2018-_____

AN ORDINANCE amending the Future Land Use Map of the City of Yakima for a portion of parcels 191329-41400 and 41404, and 191328-32005 from Low Density Residential to Commercial Mixed Use and zoning map from Suburban Residential (SR) to General Commercial (GC)

WHEREAS, the City of Yakima is required to plan under the Washington State Growth Management Act (GMA), RCW 36.70A.040; and

WHEREAS, RCW 36.70A.130 provides for continuing review and evaluation of comprehensive plans and development regulations at least every five years and for the revision or amendments to such plans not more than once a year but at least once every five years, with certain exceptions; and

WHEREAS, RCW 36.70A.470 requires that counties and cities planning under RCW 36.70A.040 include in their development regulations a procedure for any interested person, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest comprehensive plan amendment (CPA) or development regulation amendments; and

WHEREAS, RCW Ch. 36.70A further requires that the suggested amendments be docketed and considered not more often than once a year, consistent with the provisions of RCW 36.70A.130; and

WHEREAS, on March 16, 2004, the City Council enacted Ch. 16.10 YMC to provide procedures and criteria for amending and updating the Yakima Urban Area Comprehensive Plan; and

WHEREAS, on February 6, 2018, the City Council adopted Resolution No. R-2018-015 to open the Comprehensive Plan Amendment process for 2018; and

WHEREAS, on April 30, 2018 City of Yakima Wastewater, submitted applications for Comprehensive Plan Amendment, Rezone, and Environmental Review (CPA#007-18, RZ#008-18, SEPA#010-18) requesting to change the Future Land Use Map designation for a portion of parcels 191329-41400 and 41404, and 191328-32005, which is legally described in Exhibit "B" attached hereto and incorporated herein by this reference, from Low Density Residential to Commercial Mixed Use and to concurrently rezone from Suburban Residential (SR) to General Commercial (GC); and

WHEREAS, The applications were considered complete for processing on May 29, 2018 and public notice was provided, in accordance with the provisions of YMC Ch. 16.10, on June 8, 2018, and July 5, 2018; and

WHEREAS, SEPA Environmental Review was completed with a Determination of Nonsignificance issued on July 5, 2018, which was not appealed; and

WHEREAS, The City of Yakima Planning Commission (YPC) held a study session to review this Comprehensive Plan Amendment and Rezone on June 27, 2018; and

WHEREAS, The Yakima Planning Commission held a properly noticed open record public hearing on August 8, 2018, and heard the staff presentation regarding the proposed CPA and Rezone, held a public hearing, considered public testimony, and considered the Amendment and Rezone; and

WHEREAS, based on testimony received at the August 8, 2018 meeting, the public hearing was continued to September 12, 2018, to allow additional time to receive public comment, provide a history of homeless activities in the City of Yakima, and review the Greenway Master Plan; and

WHEREAS, The Yakima Planning Commission held the continued open record public hearing on September 12, 2018, heard additional comments from staff, considered testimony from the public, and evaluated the CPA and Rezone; and

WHEREAS, pursuant to the approval criteria set forth in YMC § 16.10.040 and YMC § 15.23.030, the YPC unanimously recommended approval of the Comprehensive Plan Amendment from Low Density Residential to Commercial Mixed Use and denial of the Rezone from Suburban Residential (SR) to General Commercial (GC); and

WHEREAS, the YPC recommendation was signed by the Chair on September 26, 2018, a copy of which is found in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, pursuant to YMC § 16.10.090, and after the required notice was provided, the Yakima City Council held a public hearing on November 6, 2018, to receive public comments on the Planning Commission's recommended findings on the proposed CPA and Rezone; and

WHEREAS, the City Council of the City of Yakima, having considered the record herein, the comments received at the public hearing held November 6, 2018, and the recommendation from the Planning Commission, hereby finds and determines that approval of the requested CPA and Rezone is in the best interest of residents and the City of Yakima and will promote the general health, safety and welfare; now, therefore

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. Findings, Analysis and Conclusions. Subject to the specific terms of this Ordinance, the Yakima City Council adopts the September 26, 2018 findings, conclusions, and recommendation of the Yakima Planning Commission for CPA#007-18. A copy of said recommendation is attached as Exhibit "A".

The Council does not adopt the findings, analysis and conclusions of the Yakima Planning Commission for RZ#008-18. Specifically, the City Council rejects Findings (b), (f) and (g); and Conclusion (5).

The City Council enacts the following Findings, Analysis and Conclusions regarding RZ#008-18 per YMC 15.23.030(D) after reviewing the complete record, hearing the staff presentation and considering the public testimony at the hearing and at the prior hearings in front of the Yakima Planning Commission:

A. Findings of Fact

1. The applicant requests to Rezone the property from Suburban Residential (SR) to General Commercial (GC) to enable a future proposal for low-barrier homeless housing.
2. This is a non-project rezone. No conceptual site plan is required or necessary before the Rezone can be approved.
3. The subject area consists of portions of three parcels that lie outside the 100-year floodplain, approximately 2.5 acres in size, and set back so as to not be immediately adjacent to the Greenway path or Yakima River.
4. Although comments during the November 6, 2018 public hearing requested additional time, and the Planning Commission's findings were that this process should be slowed down, the City Council finds that this application has gone through the required process and should move forward without further delay.
5. The proposed Rezone is compatible with the surrounding neighborhood—it is surrounded by GC-zoned property to the West, and otherwise surrounded by vacant City-owned property—and is suitable for uses permitted in the GC zoning district.
6. The proposed Rezone is consistent with the Commercial Mixed Use designation and several goals and policies of the 2040 Plan.
7. The property has adequate access to public services—it is currently accessed by a public street and is capable of being served by necessary utilities through a utility extension.
8. The public need for this proposed change is to provide an area suitable for low-barrier homeless housing or shelter use, which will require a separate public review process.

B. Conclusions

1. The Rezone is a non-project rezone.
2. Written and oral testimony was provided in opposition to this request at both the Planning Commission level and the public hearing in front of the City Council.
3. This proposal underwent environmental review.
4. The Rezone from Suburban Residential (SR) to General Commercial (GC) is consistent with the Yakima Urban Area Zoning Ordinance and Yakima Comprehensive Plan 2040.
5. The Rezone application RZ#008-18 is hereby approved.

Section 2. Any and all official Zoning, Future Land Use, or similar maps shall be amended to reclassify the subject real properties set forth herein consistent with the above sections of this Ordinance.

Section 3. Transmittal to State. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce within ten days of adoption.

Section 4. Severability/Validity. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Ratification. Any act consistent with the authority, and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 6. Authorization to File. The City Clerk is hereby authorized and directed to file a certified copy of this ordinance with the Yakima County Auditor, as necessary.

Section 7. Effective Date. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 4th day of December, 2018.

ATTEST:

Kathy Coffey, Mayor

Sonya Claar Tee, City Clerk

Publication Date:_____

Effective Date:_____

Exhibit "A"
YPC Recommendation



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

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YAKIMA PLANNING COMMISSION

**RECOMMENDATION TO THE YAKIMA CITY COUNCIL
FOR
COMPREHENSIVE PLAN AMENDMENT AND REZONE
CPA#007-18, RZ#008-18**

September 26, 2018

WHEREAS, The City of Yakima adopted the Yakima Comprehensive Plan 2040 in June 6, 2017; and

WHEREAS, The City of Yakima last amended its Title 15 Zoning Ordinance on June 6, 2017; and

WHEREAS, The Washington Growth Management Act and local ordinances provide a process for the annual review of amendments to the Plan as requested by citizens, property owners and/or local government; and

WHEREAS, Under the provisions of YMC Ch. 1.42 the Yakima Planning Commission (YPC) is responsible for the review of these applications and for recommending the approval, modification or denial of each request; and

WHEREAS, On April 30, 2018 applications for Comprehensive Plan Amendment and Rezone were submitted by the City of Yakima Wastewater Division, to amend the Comprehensive Plan Future Land Use Map Designation from Low-Density Residential to Commercial Mixed Use, and concurrently Rezone from Suburban Residential (SR) to General Commercial (GC), a portion of parcels 191329-41400, 41404, and 191328-32005 (City File CPA#007-18, RZ#008-18); and

WHEREAS, The applications were considered complete for processing on May 29, 2018 and public notice was provided, in accordance with the provisions of YMC Ch. 16.10, on June 8, 2018, and July 5, 2018; and

WHEREAS, SEPA Environmental Review was completed with a Determination of Nonsignificance issued on July 5, 2018, which was not appealed (City File SEPA#010-18); and

WHEREAS, The YPC held a study session to review this Comprehensive Plan Amendment and Rezone on June 27, 2018; and

WHEREAS, The Yakima Planning Commission held an open record public hearing on August 8, 2018, to hear testimony from the public, consider the Amendment and Rezone, and provide a recommendation to the Yakima City Council; and

WHEREAS, Based on testimony received at the August 8, 2018 meeting, the public hearing was continued to September 12, 2018 to allow additional time to receive public comment, provide a history of homeless activities in the City of Yakima, and review the Greenway Master Plan; and

WHEREAS, The Yakima Planning Commission held the continued open record public hearing on September 12, 2018 and heard testimony from the public; and

Now therefore, the Yakima City Planning Commission presents the following findings of fact, conclusions, and recommendation to the Yakima City Council:

APPLICATION # CPA#007-18, RZ#008-18
APPLICANT: City of Yakima Wastewater
APPLICANT ADDRESS: 2220 E. Viola Ave
PROJECT LOCATION: Vicinity of Highway 24 and S 22nd St.
PARCEL(S): 191329-41400, 41404, and 191328-32005

FINDINGS OF FACT

1. The applicant requests to amend the Comprehensive Plan Future Land Use Map designation from Low-Density Residential to Commercial Mixed Use with a concurrent non-project Rezone from Suburban Residential (SR) to General Commercial (GC) to enable a future proposal for low-barrier homeless housing.
2. The subject area consists of portions of the above listed parcels that lie outside of the mapped 100-year floodplain, and are approximately 2.5 acres in size.
3. The City of Yakima Planning Division provided a detailed staff report to the Planning Commission for review during their August 8, 2018 public hearing, with the recommendation of APPROVAL of the proposed amendment and rezone.
4. At the August 8, 2018 public hearing, the Planning Commission heard testimony from Lynda Hopkins and Kellie Connaughton (representing the Yakima Greenway Foundation). Based on this testimony, the hearing was continued until September 12, 2018. Prior to September 12, 2018, city staff provided the Planning Commission with a memo describing recent efforts within the city to address homelessness (pursuant to the YPC's request), a copy of code citations relevant to the Greenway Overlay, and a copy of the 1995 Greenway Master Plan.
5. The subject area and immediate vicinity lie within the Greenway Overlay District and are designated as the Northwest Section of the Riverside Conservation Area of the Greenway Master Plan.
6. The proposed Comprehensive Plan Amendment is consistent with the applicable approval criteria in YMC § 16.10.040, as follows:
 - a. The amendment will enable a future proposal the rezone the property to General Commercial.
 - b. The Commercial Mixed Use designation implements several goals and policies of the 2040 plan.

- c. The amendment does not correct an obvious mapping error, does not address a deficiency of the 2040 plan, and is consistent with the Growth Management Act and County-wide Planning Policies.
 - d. In consideration of cumulative impacts, the loss of Low-Density Residential land is minimal.
7. The proposed Rezone from Suburban Residential (SR) to General Commercial (GC) was reviewed per the approval criteria in YMC § 15.23.030, as follows:
- a. Written correspondence and oral testimony at the August 8, 2018 and September 12, 2018 public hearing contained the following:
 - i. Written Correspondence:
 - 1. May 15, 2018 – Email from Lynni Serrata asking for the property to be rezoned so that the homeless group can have a permanent place to go.
 - 2. July 10, 2018 – Email from Katy Weatherley in opposition. The email cited tourism, beautification related to the location, and Greenway concerns.
 - 3. August 2, 2018 – Written letter from the Yakima Greenway Foundation unanimously opposing the rezone of the property. The letter cited inconsistency with the 2040 plan and the Greenway Overlay Zone
 - 4. September 7, 2018 – Email from Katy Weatherley in opposition. The email talked about the need to have a long term plan for homeless, stated that Mrs. Byers has a conflict of interest due to her involvement with Transform Yakima Together, concerns about project/non project and citing minutes from YVCOG meetings that discussed recent awards to Transform Yakima Together, the burden that a homeless shelter and services places on its vicinity, and repercussions to the Greenway users.
 - 5. September 8, 2018 – Email from Zach Randolph in opposition. The email cited disagreement with the location at the entrance to Yakima, and provided general statements about the homeless in Yakima.
 - 6. September 11, 2018 – Letter from Leslie Wahl, on behalf of the Yakima Area Arboretum Board of Directors. The letter is in opposition to the rezone because the location should remain as open/green space along the Yakima River corridor. The letter provides some general background on the Arboretum and its operation, cites an increase in negative interactions since the opening of Camp Hope in 2017, and notes that the rezone to General Commercial would impair the ability of the Arboretum to generate financial resources.
 - ii. August 8, 2018 minutes: Calhoun presented staff's findings of fact, conclusions, and recommendation on this matter. Community Development Director Joan Davenport provided additional information, as requested by the Planning Commission, on why the City is making this request. Additional information included the City Council's list of several city-owned locations where a homeless camp could be established, and the fact that the Council decided on land by the wastewater treatment plant by K-Mart, which came to be known as "Camp Hope." She explained that if the Commission recommends approval of the amendment and concurrent rezone and Council approves it, Council would have discussion on what the criteria would be for the homeless housing or shelter, put out an RFP/RFQ to solicit partners in the community and make a selection, and then take the project through land use review. Brief discussion took place on how other jurisdictions are approaching this problem. Davenport and Calhoun clarified that a lot line adjustment would be done before the future land use map

amendment and rezone takes effect if approved so that the land being rezoned encompasses the areas outside of the floodplain.

Audience member Linda Hopkins shared her concern about the "land use action" sign being visually blocked by weeds. She then expressed her opposition to the proposal being labeled as "non-project" and spoke on problems caused by the homeless population. Hopkins voiced her opinion that there are other commercially zoned properties in the city that could be used that have utilities available.

Kellie Connaughton, Executive Director of the Greenway Foundation, shared her observation of the erosion of neighborhoods near mission-type uses. She emphasized that the Greenway is already dealing with complications due to the temporary encampment, though they try to work with TYT. Connaughton articulated that areas around the Greenway need to be conserved and that the Greenway will lose public support if a permanent shelter goes in.

Davenport clarified that staff was previously tasked with looking at city-owned properties appropriate for a shelter, not privately owned property. She mentioned a few sites that were contemplated and reasons why they were taken out of consideration. The Commission requested that Davenport bring back a complete list of locations that were considered by the City Council with reasons why they were not selected, as well as how the City could look into using private property for the shelter and what barriers there may be in pursuing that route. Connaughton told the Commission members she would provide to them copies of the Greenway Master Plan. It was motioned by Commissioner Liddicoat and seconded by Commissioner Hughes-Mickel to continue this hearing to their meeting on September 12th.

- iii. September 12, 2018 minutes: Chairwoman Byers began by stating that a comment letter received for this proposal voiced concerns regarding Byers not choosing to recuse herself from this vote on account of her involvement with the organization Transform Yakima Together (TYT). Byers reiterated from the first hearing on this matter that she is affiliated with TYT but is not associated with the "Camp Hope" function of TYT, and emphasized that TYT is not the proponent of this proposal.

Calhoun recapped staff's findings of fact, conclusions, and recommendation on this matter and introduced additional materials for the record including the Greenway Master Plan Update 1995, a document containing sections of the YMC addressing the Greenway Overlay, and a memo from Community Development Director Joan Davenport speaking to past efforts in Yakima regarding homelessness. Calhoun described the difference between a project-specific rezone and a non-project rezone.

Davenport presented information from her memo to the Commission which went over the history of the City of Yakima's involvement with locating homeless encampments and winter weather shelters, an overview of sites previously considered by City Council for a homeless encampment, TYT's search for a permanent location for low-barrier homeless housing or a shelter, an explanation

of the next steps for establishing a low-barrier shelter on this land pending approval of the Comprehensive Plan Amendment and Rezone, and examples of other uses that may be suitable at this location if no community partner is found to operate low-barrier homeless housing or shelter.

Senior Assistant City Attorney Sara Watkins summarized a decision from the court of appeals, *Martin v. City of Boise*, which held that before an individual can be removed from sleeping in public via an unlawful camping ordinance, disorderly conduct ordinance, etc., there must be "available shelter space," which excludes shelters that only allow individuals to stay on the condition that they join one of their programs. Watkins added that the trending model for low-barrier emergency homeless housing is representative of apartment-style living, and that there are several options and combinations of housing styles that could be used. Calhoun emphasized that any project proposed would have to meet site design standards as well as any additional standards imposed by the Greenway Overlay.

Lance Reese, President of the Yakima Greenway Foundation, stated that the Greenway believes it is a conflict of interest that Chairwoman Byers did not recuse herself. Reese voiced their strong opposition to this proposal and elaborated that they would be concerned of the potential impacts of putting any business in this location. He said that the Greenway has plans for expansion in this area and would rather see this land turned into a park.

Audience member Lynda Hopkins said that the Land Use Action sign posted at the site had been relocated so it was more visible but it has since blown away. She advocated that there are many available beds in the city on a regular basis. Hopkins added that she believes it is a conflict of interest that Byers did not recuse herself. She then read a portion of the May 21, 2018 meeting minutes of the Yakima Valley Conference of Governments (YVCOG) in which the City was thanked for rezoning this property for a low-barrier homeless shelter, giving the appearance that the proposal had already been approved. Hopkins said the June 16, 2018 YVCOG minutes state that County Commissioner Mike Leita approved and authorized YVCOG to issue an RFP for an amount up to \$250,000 for sewer and water facilities for a permanent shelter.

Leslie Wahl of the Yakima Area Arboretum communicated that the Arboretum has been directly impacted by the homeless and that the homelessness issue is reaching critical proportions.

Andrew Bates, U-Haul General Manager, indicated that they are opposed to this proposal for reasons that have already been stated by other individuals.

Discussion took place surrounding the confusion on what authority the Greenway Master Plan 1995 has in this matter, which states, "Commercial development must be placed in the Greenway with a great deal of planning and consideration for the other needs of the Greenway. For this reason, commercial development has been encouraged only in those areas already zoned or developed commercially." Commissioner Hughes-Mickel motioned to deny the requests for amendment from Low-Density Residential to Commercial Mixed Use and

concurrent rezone from Suburban Residential (SR) to General Commercial (GC). The motion failed for the lack of a second.

Further discussion followed on the relationship between the City and the Greenway. Calhoun stated that the subject property is in the northwest section of the riverside conservation area. Kellie Connaughton, Executive Director of the Yakima Greenway Foundation, explained that the boundary of the Greenway Overlay is from I-82 to the middle of the Yakima River. She described interactions between the Greenway and the City as a working relationship with frequent communication, and mentioned that the Greenway has an ongoing maintenance agreement with the City for portions of trails in the city limits. Davenport reported that the Greenway Master Plan was adopted by reference into the 1998 Comprehensive Plan.

Discussion took place on the possibility of denying the rezone to make way for an opportunity for a project-specific rezone to be proposed to allow for a better evaluation process. It was motioned by Commissioner Liddicoat and seconded by Vice-Chair Rose that the Yakima Planning Commission recommend approval of this amendment request from Low-Density Residential to Commercial Mixed Use, and to deny the rezone from SR (Suburban Residential) to GC (General Commercial) to the Yakima City Council. The motion carried unanimously.

- b. The process for this property should be slowed down to allow text amendments to pass and become effective.
- c. This property is subject to the Greenway Master Plan and Overlay.
- d. The GC zoning district is an implementing zone of the Commercial Mixed Use Future Land Use Designation.
- e. Necessary public utilities would need to be extended for future development, and the property can be accessed by public streets.
- f. The proposed Rezone is not considered compatible with the surrounding neighborhood.
- g. Without a site plan or conceptual site plan to review the property should not be rezoned
- h. The public need for this Rezone is to provide an area for a low-barrier homeless housing and/or shelter use.

CONCLUSIONS

- 1. The Amendment and Rezone are non-project;
- 2. Written and oral testimony was presented in opposition to this request.
- 3. This proposal underwent Environmental Review;
- 4. The proposed Comprehensive Plan Future Land Use Map Amendment from Low-Density Residential to Commercial Mixed Use is consistent with the Yakima Urban Area Zoning Ordinance and Yakima Comprehensive Plan 2040.
- 5. Without a site plan to consider, the proposed concurrent Rezone from Suburban Residential (SR) to General Commercial (GC) is not consistent with the Yakima Urban Area Zoning Ordinance and Yakima Comprehensive Plan 2040.

MOTION

Based on the testimony and evidence presented during the public hearing, it was moved and seconded that the City of Yakima Planning Commission draft findings of fact and forward a

recommendation of approval of the Comprehensive Plan Amendment and denial of the Rezone to the Yakima City Council . The motion carried unanimously.

RECOMMENDATION TO CITY COUNCIL

The Planning Commission of the City of Yakima, having received and considered all evidence and testimony presented at the public hearing, and having received and reviewed the record herein, hereby recommends that the City Council of the City of Yakima APPROVE the proposed Comprehensive Plan Amendment from Low-Density Residential to Commercial Mixed Use and DENY the proposed Rezone from Suburban Residential (SR) to General Commercial (GC) for files CPA#007-18 and RZ#008-18.

RECOMMENDED this 26th day of September, 2018.

By: 
Patricia Byers, Chair
Yakima Planning Commission

Exhibit "B"
Legal Description

That part of the Southwest quarter of Section 28 and the Southeast quarter of Section 29, Township 13 North, Range 19 East, W.M., described as follows:

Commencing at the East quarter corner of said Section 29;

Thence North 89°17'40" West along the North line of the Southeast quarter of said Section 29 a distance of 205.60 feet to the Northerly extension of the "W-Line" shown on Washington State Department of Transportation (WSDOT) right of way plans "SR 82 SR 24 Interchange" dated March 26, 2004;

Thence South 0°25'20" West along said "W-Line" and its Northerly extension 396.05 feet;

Thence South 89°34' 40" East 70.00 feet the Easterly right of way line of South 22nd Street as shown on said WSDOT right of way plans and the Point of Beginning;

Thence North 0°25'20" East along said right of way line 138.99 feet to an angle point in the Southerly right of way line of State Route 24;

Thence North 59°34'05" East along said right of way line 86.13 feet to a point on a curve concave to the Southwest, the center of said curve bearing South 18°19'49" West 1575.00 feet; Thence Southeasterly along said curve consuming a central angle of 17°23'43" an arc length of 478.18 feet;

Thence North 71 °25'18" West 21.68 feet to the point of curvature of a curve concave to the South and having a radius of 45.00 feet;

Thence Southwesterly along said curve consuming a central angle of 86°38'41" an arc length of 68.05 feet;

Thence South 21 °56'01" West 39.49 feet to the point of curvature of a curve concave to the Northwest and having a radius of 400.00 feet;

Thence Southwesterly along said curve consuming a central angle of 23°37'37" an arc length of 164.95 feet;

Thence South 45°33'39" West 25.92 feet to the point of curvature of a curve concave to the Northeast and having a radius of 82.00 feet;

Thence consuming central angle of 126°10'43" an arc length of 180.58 feet;

Thence North 8°15'39" West 73.57 feet to the point of curvature of a curve concave to the Southwest and having a radius of 125.00 feet;

Thence consuming a central angle of 61 °58'27" and arc length of 135.21 feet;

Thence North 70°14'06" West 72.45 feet to the Point of Beginning;

Situate in Yakima County, Washington.