

**ORDINANCE NO. 2019-\_\_\_\_**

**AN ORDINANCE** rezoning parcel 181314-34426 from Two-Family Residential (R-2) to Multi-Family Residential (R-3) and amending the Zoning Map of the City of Yakima.

**WHEREAS**, on March 15, 2019, Traho Architects submitted an application requesting the zoning classification of parcel 181314-34426, located at 600 Superior Ln., to be rezoned from Two-Family Residential (R-2) to Multi-Family Residential (R-3) on the official zoning map (hereinafter "RZ#001-19"); and

**WHEREAS**, pursuant to YMC 6.88, the SEPA Administrative Official issued a Determination of Nonsignificance on May 10, 2019; and

**WHEREAS**, the Future Land Use designation of the subject property is Mixed Residential, which is consistent with the proposed R-3 zoning district; and

**WHEREAS**, notice of the City of Yakima Urban Area Hearing Examiner open record public hearing was properly provided; and

**WHEREAS**, in accordance with YMC 15.23, the Hearing Examiner held an open record public hearing on June 13, 2019 to hear testimony from the public, consider the Rezone, and provide a recommendation to the Yakima City Council; and

**WHEREAS**, after testimony and a review of the record, pursuant to the approval criteria set forth in YMC § 15.23.030, the Hearing Examiner recommended approval of the Rezone from Two-Family Residential (R-2) to Multi-Family Residential (R-3); and

**WHEREAS**, the recommendation was signed by the Hearing Examiner on June 27, 2019, a copy of which is found in Exhibit "A" attached hereto and incorporated herein by this reference; and

**WHEREAS**, pursuant to YMC 15.23.030(E), and after the required notice was properly provided, the Yakima City Council held a public hearing on August 5, 2019 regarding the rezone request; and

**WHEREAS**, the City Council of the City of Yakima, having considered the record herein, the comments received at the public meeting held August 5, 2019, and the recommendation from the Hearing Examiner, hereby finds and determines that approval of the requested Rezone is in the best interest of the residents of 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 August 5, 2019, findings,

conclusions, recommendations and conditions of the Hearing Examiner for RZ#001-19. The legal description of the property is as follows: Bower's Englewood Tracts Lot 9 Block 3. A copy of said recommendation is attached as Exhibit "A".

**Section 2.** Any and all official Zoning or other similar maps shall be amended or modified to reclassify the subject real property set forth herein consistent with the above sections of this ordinance.

**Section 3.** Authorization to File. The City Clerk is hereby authorized and directed to file a certified copy of this ordinance with the Yakima County Auditor.

**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.** 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 5<sup>th</sup> day of August, 2019.

ATTEST:

\_\_\_\_\_  
Kathy Coffey, Mayor

\_\_\_\_\_  
Sonya Claar Tee, City Clerk

Publication Date:\_\_\_\_\_

Effective Date:\_\_\_\_\_

**Exhibit "A"**  
**Hearing Examiner Recommendation**

**City of Yakima, Washington**  
**Hearing Examiner's Recommendations**

June 27, 2019

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<b>In the Matter of an Application</b>	)	
<b>Submitted on Behalf of:</b>	)	<b>RZ#001-19</b>
	)	<b>CL3#002-19</b>
<b>Triumph Treatment Services</b>	)	<b>SEPA#010-19</b>
	)	
<b>For a Project Rezone from the</b>	)	
<b>R-2 Zone to the R-3 Zone; for a</b>	)	
<b>Class (3) Office Use; and for SEPA</b>	)	
<b>Review for Expansion of Existing</b>	)	
<b>Facilities at 600 Superior Lane</b>	)	

**A. Introduction.** The findings relative to the hearing process for this application may be summarized as follows:

(1) The Hearing Examiner conducted an open record public hearing relative to this application on June 13, 2019.

(2) The thorough staff report that was presented by Associate Planner Eric Crowell recommended approval of this application for a project rezone from the Two-Family Residential (R-2) zoning district to the Multifamily Residential (R-3) zoning district and approval of a Class (3) office use in a portion of a proposed 2-story 35-foot-high 13,000-square-foot building, subject to conditions.

(3) The applicant's representative for this application, Nancy Charron of Traho Architects, P.S., indicated that Mr. Crowell has been helpful during the processing of this application and explained the history of the applicant's campus.

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(4) No one else appeared to testify at the hearing.

(5) One written public comment pertaining to this application was submitted by Juan Sanchez who resides at 2706 Jerome Avenue to the effect that he does not wish the water well located on his property to be used for the applicant's adjacent parcels.

(6) The request for approval of the project rezone, the request for approval of a Class (3) office use in a new building on the applicant's campus and the request to allow the building height on its campus to be 35 feet rather than the 24 feet required by a 1998 development agreement are issued as recommendations to the Yakima City Council because Section 15.11.100 of the Yakima Municipal Code provides that if any required approvals constitute a recommendation to the legislative body, the decision of the administrative official as to all requested permits or approvals shall constitute a recommendation to the legislative body.

(7) These recommendations relative to the requested rezone of a 0.21-acre parcel adjacent to the applicant's existing campus from the R-2 zoning district to the R-3 zoning district and relative to the requested Class (3) office use for a 35-foot-high 13,000-square-foot building on the applicant's campus which is already zoned R-3 have been issued within ten business days of the hearing.

**B. Summary of Recommendations.** The Hearing Examiner recommends that the Yakima City Council allow the expansion and improvement of the existing Triumph Treatment Services campus at 600 Superior Lane (i) by approving the requested project rezone of the 0.21-acre parcel no. 181314-34426 from the Two-Family Residential (R-2) zoning district to the Multifamily Residential (R-3) zoning district to allow a childcare play area, open space and/or other accessory uses on that parcel and (ii) by approving the requested Class (3) office use for part of a proposed 35-foot-high 13,000-square-foot building on the adjacent parcel no. 181314-33413 west of the parcel proposed for a rezone, subject to several conditions.

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**C. Basis for Recommendations.** Based upon a view of the site on June 12, 2019, with no one else present; the application, staff report, exhibits and testimony presented at the open record public hearing on June 13, 2019; and a review of both the 2040 Yakima Urban Area Comprehensive Plan and the Yakima Urban Area Zoning Ordinance, Title 15 of the Yakima Municipal Code (YMC); the Hearing Examiner makes and issues the following:

## **FINDINGS**

**I. Property Owner, Applicant and Representative.** The property owner is an entity operated under the umbrella of the applicant, Triumph Treatment Services, which is named Yakima Valley Council on Alcoholism, 120 South 3<sup>rd</sup> Street, Yakima, Washington 98901. The representative of the property owner and applicant who submitted this application is Nancy Charron of Traho Architects, P.S., 9 North 11<sup>th</sup> Avenue, Yakima, Washington 98902.

**II. Location.** The location of the 0.21-acre parcel proposed for the rezone is 2708 Jerome Avenue adjacent to the east side of the applicant's property (Assessor's Parcel Number 181314-34426). The location of the proposed 35-foot-high 13,000-square-foot building to be used partly for office purposes is west of the parcel proposed for the rezone (Assessor's Parcel Number 181314-33413).

**III. Application.** The main aspects of this master application for approval of both a rezone and a Class (3) use may be summarized as follows:

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(1) This application for a rezone, a Class (3) office use, revision of a prior 24-foot height limitation and SEPA environmental review was received on March 15, 2019. A notice of a complete application was sent on April 12, 2019. The purpose of the application is to accommodate needed program growth of the current Triumph Treatment Services residential campus and facilities without adding new programs. There are three DSHS treatment programs, each for 16 women and their children under 5 years of age. The residents live and stay at the facility full time with residential staff. They do not have cars. The clinical, childcare and counseling management staff members are on the site every day with reduced staff on weekends. The current childcare is provided half day for residents. The facility currently has more than 30 parking spaces on the campus. An additional 15 parking spaces would be for food delivery, refuse dumpster access, kitchen employees, the van to deliver food to the Triumph Treatment Services facility at 3300 Roosevelt Avenue, current campus staff and visitors on weekends. The campus and facilities are accessed by way of Englewood Avenue. There would be no vehicular or pedestrian access to Superior Lane from Jerome Avenue except through a secure entry for maintenance purposes.

(2) The application requests approval of a project rezone of an adjacent 0.21-acre parcel purchased by Triumph Treatment Services in 2018 from the Two-Family Residential (R-2) zoning district to the Multifamily Residential (R-3) zoning district to allow it to be used for an accessory childcare play area, open space and/or other accessory uses. The application also requests approval of a Class (3) office use for a portion of a proposed 35-foot-high 13,000-square-foot building to be constructed west of the parcel proposed for a rezone.

(3) The additional building with 15 new parking spaces would be located on the east side of the existing Triumph Treatment Services campus which is zoned R-3. A portion of the building would be used for counselor offices in addition to other existing accessory uses such as childcare, a multi-purpose dining room and a commercial kitchen. The new kitchen would replace the applicant's current kitchen at its facility at 3300 Roosevelt Avenue. Meals would be delivered to that facility. All site residents would eat meals at the multi-purpose dining room. The therapeutic childcare would be relocated from the current campus buildings and part of the upper floor would be offices for staff and conference/group rooms. Vacated spaces in existing buildings would improve current living conditions and be used for additional resident living areas, a potential medical exam room and offices that provide private counseling for mental and chemical

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dependency issues. The new childcare space would allow for all-day childcare and thus additional opportunity for adult residential therapy.

(4) The application includes a request to increase the maximum allowed building height on the existing campus from the 24 feet required by a 1998 Hearing Examiner decision and development agreement for this campus. It requests a maximum height of 35 feet for campus buildings even though the existing R-3 zoning would otherwise allow a maximum height of 50 feet. The additional height would allow for (E occupancy) childcare for 50 children on the first floor with (B occupancy) offices on a smaller upper floor about one-third the size of the first floor of the building that would be set back from Superior Lane to match the character of the existing attractive buildings on the well-maintained campus. The building would be fully fire-sprinklered and have rated occupancy separations with high acoustical properties and 9-foot ceilings. The upper office windows would allow for staff observation of the new childcare play area.

(5) An existing small shed and storage container would be moved to allow for construction of the new building. An existing residence in poor condition would be removed from the parcel to be rezoned in order to allow that parcel to be used as a childcare play area, open space and/or other accessory uses. The rezone would match the R-3 zoning of the applicant's existing campus to the west, and would allow the small parcel to be included and fenced as part of the existing facility and campus.

(6) Pursuant to YMC §15.11.100, all aspects of this application are decided by the City Council with the aid of these recommendations from the Hearing Examiner.

**IV. Notices.** Notices for the June 13, 2019, open record public hearing were provided in accordance with applicable ordinance requirements in the following manners:

Posting of property with land use action signs:	April 12, 2019
Mailing of hearing notice to owners within 300 feet:	April 18, 2019
Publishing of hearing notice in the newspaper:	April 18, 2019

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**V. Environmental Review.** A Notice of Application and SEPA Environmental Review was mailed to SEPA agencies, the applicant and adjoining property owners within 300 feet of the subject property on April 18, 2019. Two written comments from members of the public were received during the comment period that ended on May 8, 2019. One of them was not relevant to this application. The other was from an owner of property adjacent to the parcel proposed for the rezone who indicated that he would not consent to share the use of the well on his property. A SEPA Determination of Nonsignificance (DNS) was issued on May 10, 2019, which became final without any appeals.

**VI. Zoning and Land Uses.** The 0.21-acre parcel no. 181314-34426 proposed for a rezone from the Two-Family Residential (R-2) zoning district to the Multi-family Residential (R-3) zoning district to allow a childcare play area, open space and/or other accessory uses on that parcel currently is the site of a residence in poor condition that would be removed. The adjacent parcel no. 181314-33413 immediately to the west proposed as the site for a new 35-foot-high 13,000-square-foot building to be used in part for a Class (3) office use would require the removal of a storage container and a shed. Adjacent properties currently have zoning and land use characteristics that can be described as follows:

- (1) The 0.21-acre parcel proposed for a rezone to the R-3 zoning district:

<u>Location</u>	<u>Existing Zoning</u>	<u>Existing Land Use</u>
North	R-2	Residential
South	R-2	Residential
East	R-2	Residential
West	R-3	Community Services

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(2) The applicant's existing campus adjacent to the west of the parcel proposed for the rezone:

<u>Location</u>	<u>Existing Zoning</u>	<u>Existing Land Use</u>
North	R-3	Vacant Land
South	R-2	Residential
East	R-2	Residential
West	R-3	Community Services

## **VII. Written Comments of the Development Services Team (DST) and**

**Others.** The Development Services Team meeting was held for this project on April 2, 2019. The following comments were received from the DST, from other public agencies and from one individual regarding this application:

(1) Codes: Pursuant to Chapter 5 and Appendices B and C of the 2015 International Fire Code, additional fire hydrants may be required depending on the occupancy and construction types of the building, and whether or not the building will be equipped with a fire sprinkler system. These findings are not intended to be an exhaustive review of this proposal.

(2) Surface Water: Since this project creates more than 5,000 square feet of impervious area, complete drainage plans and calculations shall be submitted to the Surface Water Engineer for review and approval. The plans and calculations shall be completed by a Professional Engineer registered in Washington State. Underground Injection Control (UIC) wells are required to be registered with the Washington State Department of Ecology.

(3) Yakima Regional Clean Air Agency (YRCAA): Contractors doing excavation, clearing, construction, landscaping or demolition work must file a Dust Control Plan with YRCAA and get approval prior to the start of any work. Prior to demolishing any structures an asbestos survey must be done by a certified asbestos abatement building inspector. Any asbestos found must be removed by a licensed asbestos abatement contractor prior to demolition. A Notification of Demolition and Renovation (NODR) application must be filed with YRCAA for which there is a fee to be paid.

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(4) Washington State Department of Ecology: Based upon the historical agricultural use of this land, there is a possibility that the soil contains residual concentrations of pesticides. Ecology recommends that the soils be sampled and analyzed for lead and arsenic, and for organochlorine pesticides. If these contaminants are found at concentrations above the Model Toxics Control Act cleanup levels, Ecology recommends that potential buyers be notified of their occurrence. Comments relative to water issues are as follows:

(a) Regarding the answer provided in subsection B(3)(b)(1) of the Environmental Checklist entitled Environmental Elements – Water – Ground Water, the domestic well is not located upon land owned by the applicant. Obtaining the right to access or right to use land which the applicant does not possess is a private matter between the applicant and the owner of that land. The SEPA Checklist did not specify the authorization for water use, and no permitted water rights with Ecology list this well as a source for water use.

(b) If water is from a permitted source such as city water, a water association or an irrigation or reclamation district, then the water purveyor is responsible for ensuring that the proposed use(s) are within the limitations of its water rights. If the proposal's actions are different than the existing water right (source, purpose, the place of use or period of use), then it is subject to approval from the Department of Ecology pursuant to Sections 90.03.380 RCW and 90.44.100 RCW.

(c) Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, industrial purposes, stock watering or for the irrigation of up to one-half acre of lawn and garden are exempt from the permitting process. Any ground water development proposal that will withdraw water in excess of 5,000 gallons per day will require a permit from the Department of Ecology.

(5) Public Comments: Two comments were received, one of which was irrelevant to any part of this proposal, and another from a neighboring property owner who is concerned by a statement by the applicant in the Environmental Checklist expressing a desire to use a current active domestic well for irrigation of

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the site and the Genesis building. The adjacent property owner states that he does not have irrigation nor a lot of water currently on his property, and does not plan to share the well with the applicant. In response to that comment, the comments from the Department of Ecology confirm the property owner's statement to the effect that the domestic well is not on land owned by the applicant, but notes that the Environmental Checklist does not claim ownership of said well; that Ecology has no record of this well having permitted water rights; that this is a private matter between the two property owners; and that it is up to the applicant to determine how water will be delivered to the site for irrigation purposes.

**VIII. Rezone Review Criteria.** The Hearing Examiner's recommendations regarding rezone applications within the Yakima Urban Area must be based upon the following criteria specified in YMC §15.23.030(D):

(1) **The testimony at the public hearing.** Associate Planner Eric Crowell and the applicant's representative, Nancy Charron of Traho Architects, P.S., both testified in favor of the requested rezone of the 0.21-acre parcel no. 181314-34426 from the R-2 zone to the R-3 zone to allow it to be included within the fencing for the existing adjacent campus that is already zoned R-3 so that it may be used for a childcare play area, open space and/or other accessory uses. Notice of this application was mailed to SEPA agencies and all property owners within 300 feet of the subject properties on April 18, 2019, wherein the public was invited to submit written and/or oral comments at the public hearing on this proposed rezone. Only one relevant written public comment was received which did not oppose the requested project rezone. No testimony was presented at the hearing in opposition to the requested rezone.

(2) **The suitability of the property in question for uses permitted under the proposed zoning.** The small parcel proposed for a rezone to the same zone as the adjacent campus would be well suited for integration into the applicant's existing campus to be used for a childcare play area, open space and/or other accessory uses. It would result in removal of a residence that is in poor condition and would be included within the fencing for the applicant's existing campus

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which is zoned R-3. Since this is a project rezone to allow specific play area, open space and/or other accessory uses for the applicant's adjacent campus, there is no need to consider the suitability of the property for other uses allowed in the R-3 zoning district. No one opposed the requested project rezone.

(3) **The recommendation from interested agencies and departments.** The Planning Division recommends approval of the proposed project rezone. No agencies or departments opposed this requested project rezone.

(4) **The extent to which the requested zoning amendment is in compliance with and/or deviates from the goals and policies as adopted in the Yakima Urban Area Comprehensive Plan and the intent of the zoning ordinance.** The R-3 zoning district would be in compliance with the current Mixed Residential designation of the 0.21-acre parcel as is prescribed by the Future Land Use Map III-3 and Table III-11 entitled Future Land Use and Current Zoning Comparison of the City's 2040 Comprehensive Plan. It would also be in compliance with the following goal and policies in the 2040 Comprehensive Plan:

(a) Goal 2.3: Preserve and enhance the quality, character and function of Yakima's residential neighborhoods.

(b) Policy 2.3.1: Provide for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population.

(c) Policy 2.3.6: Allow some compatible nonresidential uses in residential zones, such as appropriately scaled schools, churches, parks, and other public/community facilities, home occupations, daycare centers, and other uses that provide places for people to gather. Maintain standards in the zoning code for locating and designing these uses in a manner that respects the character and scale of the neighborhood.

The proposed project rezone would also be in compliance with the intent of the zoning ordinance for the requested R-3 zoning district. YMC §15.03.020(D)(1) provides that the intent of the existing R-3 zoning district is in part to exclude activities which are not compatible with residential uses. YMC §15.02.020 defines "compatibility" as the characteristics of different uses or developments that permit them to be located near each other in harmony with or without special mitigation. The proposed childcare play area, open space and/or other accessory

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uses would be compatible with the residential uses in the applicant's campus as well as with the character of the residential uses located in the R-3 zoning district. The requested project rezone would also be in compliance with the intent of the zoning ordinance if it satisfies the criteria in the zoning ordinance for approval of the requested rezone from the R-2 zoning district to the R-3 zoning district.

**(5) The adequacy of public facilities, such as roads, sewer, water and other required public services.** The subject property is accessed by Englewood Avenue which is a Collector Arterial and which has existing curb, gutter and sidewalk along the property frontage. Fairbanks Avenue and Jerome Avenue both dead-end at the eastern property line of the applicant's campus. They are not proposed for access to the applicant's campus except for a single locked access from Jerome Avenue that would only be used for maintenance purposes. The subject property is served by City of Yakima water and sewer, Pacific Power electricity, Cascade Natural Gas, CenturyLink telephone, Charter cable TV, and City of Yakima garbage collection services, police department services and fire department services.

**(6) The compatibility of the proposed zone change and associated uses with neighboring land uses.** The proposed zone change to R-3 and the proposed childcare play area, open space and/or other accessory uses on the 0.21-acre parcel would be compatible with the uses of the applicant's adjacent parcel to the west. The proposed new use of the 0.21-acre parcel would be integrated by perimeter fencing into the applicant's existing campus as an accessory use in the same R-3 zoning district. It would result in the removal of an unsightly residence in poor condition from the residential neighborhood east of the applicant's campus. The requested rezone would be a low-density play area, open space and/or other accessory uses that would not increase the number of residents of the applicant's campus or the amount of traffic. None of the residents of the neighborhood submitted written comments or testimony in opposition to the requested project rezone.

**(7) The public need for the proposed change.** The changed circumstances which support the public need for the zoning change from the R-2 zoning district to the R-3 zoning district include the applicant's purchase of the adjacent 0.21-acre parcel proposed for the R-3 zone in 2018 in order to better serve its residents by providing a secure childcare play area, open space and/or other accessory uses

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for its campus. The expansion of the applicant's campus to include the 0.21-acre parcel within the perimeter fencing of its adjacent campus to the west would help accommodate the public need for the services provided by the applicant. Those services include a campus that provides a quality healing atmosphere which in turn serves the best interests of the community by allowing children to reside with healthy parents.

**IX. Class (3) Review Criteria for a Proposed 35-Foot-High 13,000-Square-Foot Building to be Used in Part for Offices in the Existing R-3**

**Zoning District.** Since "Offices" are listed as Class (3) uses in the R-3 zoning district by YMC Table 4-1 in YMC §15.04.030, the Hearing Examiner's findings and conclusions relative to the proposed 35-foot-high 13,000-square-foot building which would be used in part for office purposes within the applicant's R-3 zoned campus are required to include specific reasons and ordinance provisions demonstrating that the proposal satisfies the following requirements set forth in YMC §15.04.020(C) and YMC §15.15.040(E):

**(1) Compliance and Compatibility with the Objectives and Development Standards of the Comprehensive Plan.** The proposed 35-foot-high 13,000-square-foot building to be used in part for a Class (3) office use in the R-3 zoning district would be compliant and compatible with the City's Comprehensive Plan Future Land Use Map due to the Mixed Residential designation of the applicant's campus. The proposed office use of the proposed building would also be compliant and compatible with the following Comprehensive Plan Goal 2.3 and Policies 2.3.1 and 2.3.6:

(a) Goal 2.3: Preserve and enhance the quality, character and function of Yakima's residential neighborhoods.

(b) Policy 2.3.1: Provide for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population.

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(c) Policy 2.3.6: Allow some compatible nonresidential uses in residential zones, such as appropriately scaled schools, churches, parks, and other public/community facilities, home occupations, daycare centers, and other uses that provide places for people to gather. Maintain standards in the zoning code for locating and designing these uses in a manner that respects the character and scale of the neighborhood.

**(2) Compliance and Compatibility with the Intent and Character of the Multifamily Residential (R-3) Zoning District.** YMC §15.03.020(D)(1) provides that the intent of the existing R-3 zoning district where the new proposed building on the campus would be located is in part to exclude activities which are not compatible with residential uses. YMC §15.02.020 defines “compatibility” as the characteristics of different uses or developments that permit them to be located near each other in harmony with or without special mitigation. The proposed office use would be conducted in a portion of a proposed building which is designed to be compatible with the existing residential uses in the applicant’s campus as well as with the character of the existing residential uses located in the R-3 zoning district. The proposed building would have gable roofs like the buildings in the current residential campus. The additional parking spaces would provide parking for various purposes related to the new building. The office use is allowed in the R-3 zoning district by YMC Table 4-1 in YMC §15.04.030 so long as it satisfies the prescribed criteria for approval of a Class (3) use.

**(3) Compliance with the Provisions and Standards Established in the Zoning Ordinance.** The applicable provisions and standards in the zoning ordinance include some of the requirements detailed above in the comments of the City’s Development Services Team. Some of the additional development standards which apply within the existing R-3 zoning district where the new building would be located include the following:

(a) Number of Parking Spaces Required: YMC Table 6-1 in YMC §15.06.040 requires offices and clinics to have one parking space for each 200 square feet of gross floor area. YMC §15.06.040(A) defines “gross floor area” as the total square footage of all floors in a structure as measured from the interior surface of each exterior wall of the structure and including halls, lobbies, enclosed porches and fully enclosed recreation areas and balconies, but excluding stairways, elevator shafts, attic space,

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mechanical rooms, restrooms, uncovered steps and fire escapes, private garages, carports and off-street parking and loading spaces. Storage areas are included in gross floor area. However, the required off-street parking for storage areas shall be calculated at the rate of one space per five hundred square feet rather than the specific parking standard established in Table 6-1 except when the parking standard for the principal use would require fewer parking spaces (i.e., one space per six hundred square feet). All required off-street parking shall be subject to the procedures of this title and the standards of this section. Here the applicant proposes to provide 15 additional parking spaces, complying with the standard of one space for each 200 square feet of gross floor area. An email from the applicant's representative dated April 15, 2019, indicated that the gross floor area of the office space would be 2,523 square feet, which requires a minimum of 13 parking spaces. The childcare portion of the building is not additional space, but is replacing childcare areas that are currently in the residential buildings. There are no parking requirements for the commercial kitchen and multi-purpose dining room which are considered accessory uses to the overall facility.

(b) Landscaping of Parking Lots Required: YMC §15.06.090(A) requires that landscaping of parking lots with five or more spaces shall be ten percent of the total parking area. The landscaping area may be included to satisfy the lot coverage (impermeable surface) requirements of Table 5-1. In this situation, adjacent landscaping as shown on the site plan shall satisfy this requirement.

(c) Lighting of Parking Lots Required: YMC §15.06.100 provides that lighting shall be provided to illuminate any off-street parking or loading space used at night. When provided, lighting shall be directed to reflect away from adjacent and abutting properties. Parking lots adjacent to residential districts or uses shall be designed with down-shielding and luminaries creating no lighting pollution upon those properties. A photometric lighting plan may be required if the parking lot is located adjacent to or abutting residential properties.

(d) Paving of Parking Lots Required: YMC §15.06.110(A) provides that all off-street parking lots, driveways, travel ways, parking aisles, vehicle storage, and vehicle sales lots having a capacity of three or more

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vehicles shall be paved with two-inch-thick asphaltic surfacing on an aggregate base, or an equivalent surfacing acceptable to the administrative official, so as to eliminate dust or mud. Pervious asphalt or concrete materials are encouraged.

(e) Sitescreening: YMC Table 7-1 in YMC §15.07.050 requires that Sitescreening Standard C shall be installed along the northern and eastern property lines of the 0.21-acre parcel no. 181314-34426 proposed for a rezone. YMC §15.07.040(A) provides that Sitescreening Standard C consists of a six-foot-high, view-obscuring fence, made of wood, masonry block, concrete, or slatted chain link material. A three-foot-wide planting strip landscaped with a combination of trees, shrubs and groundcover along the outside of the fence is also required when the fence is adjacent to a street, alley or pedestrian way. Here the applicant's site plan identifies a "new fence at perimeter" along the northern and eastern property lines of the 0.21-acre parcel no. 181314-34426 where the childcare play area would be located. The fence shall be view-obscuring.

(f) Setbacks: Table 5-1 in YMC Chapter 15.05 provides that the required structure setbacks for the proposed building in the R-3 zoning district include a front setback of at least 40 feet from the centerline of the right-of-way and at least 20 feet from the front property line; a rear setback of at least 15 feet from the rear property line; and side setbacks of at least 10 feet from side property lines. Here the applicant's proposed site plan meets or exceeds all required structure setbacks from the property lines and adjacent rights-of-way.

(g) Frontage Improvements: The proposed new building does not require any frontage improvements.

(h) Public Facilities: City of Yakima sewer and water are available. The property is accessed from Englewood Avenue which is a Collector Arterial and which has existing curb, gutter and sidewalk along the frontage of the applicant's campus. Fairbanks Avenue and Jerome Avenue, which dead-end at the subject property's eastern property line, are not currently proposed to be used for access with the exception of a locked access for maintenance purposes only from Jerome Avenue.

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(i) Lot coverage: According to the site plan, the applicant's new building and parking area would only increase the lot coverage of its campus to 48% in the R-3 zoning district which allows 80% lot coverage.

(j) Current 24-Foot Building Height Limitation: Normally the maximum building height in the existing R-3 zoning district area would be 50 feet. However, Condition 2.7 of a 1998 Hearing Examiner's Recommendation in RZ#008-98 and CL3#008-98 which was adopted by the Yakima City Council under Ordinance 98-53 limited the height of buildings on the applicant's campus to a maximum height of 24 feet to ensure compatibility with the neighboring zoning districts. At that time, the property north and east of the applicant's campus was zoned R-1 (which is now zoned R-3 and R-2) and west of the subject property was zoned R-1 and R-2 (which is now zoned R-3). The surrounding area was still quite rural at the time, with orchards immediately abutting the applicant's campus on the north and with orchards located west of the applicant's campus.

(k) Changes Since 1998 Warranting the Requested 35-Foot Building Height Limitation: Since the original approval of the applicant's campus, these agricultural lands have all been subdivided for residential uses, and more intense zoning districts have been approved for surrounding areas. The 24-foot height restriction is no longer necessary because the only remaining R-1 zoning in the area is located southeast of the subject property across Englewood Avenue. None of the comments received from property owners and public agencies opposed the requested increase of the building height of the existing campus to 35 feet with the newly rezoned parcel to have the maximum 50-foot building height allowed for the R-3 zoning district. Therefore, the applicant's request to increase the maximum building height for the existing campus property from 24 feet to 35 feet, which is still lower than the standard building height limitation of 50 feet in the rest of the R-3 zoning district, is a reasonable request that is consistent with its current R-3 zoning and with adjacent R-2 zoning to the east which also has a maximum building height of 35 feet.

**X. The Consistency of a Proposed Building Use as Partly for a Class (3)**

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**Office Use with all Development Regulations and the Comprehensive Plan under the Criteria Required by YMC §16.06.020B** is determined by consideration of the following factors:

(1) **The types of land uses permitted at the site** include the proposed office use which is allowed as a Class (3) use in the existing R-3 zoning of the applicant's campus if, as here, the criteria for approval of a Class (3) use are satisfied.

(2) **The density of residential development** and the level of development such as units per acre would allow for approval of the proposed Class (3) use. The proposed use of the applicant's campus would be considerably less dense than the maximum density allowed in the R-3 zoning district since lot coverage of the applicant's campus would be about 48% in the R-3 zoning district that allows 80% lot coverage.

(3) **The availability and adequacy of infrastructure and public facilities** is not an issue here since there are adequate public and private utility services available for the building and since there is adequate access to the site by way of Englewood Avenue.

(4) **The characteristics of the development** are consistent with the development regulations and Comprehensive Plan considerations as discussed in detail above.

## **CONCLUSIONS**

Based upon the foregoing Findings, the Hearing Examiner reaches the following Conclusions:

(1) Pursuant to YMC Chapter 1.43, the Hearing Examiner has jurisdiction to recommend approval by the Yakima City Council of (i) the requested project rezone of the 0.21-acre parcel no. 181314-34426 from the Two-Family Residential (R-2) zoning district to the Multifamily Residential (R-3) zoning district to allow a

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childcare play area, open space and/or other accessory uses on that parcel and of (ii) the requested Class (3) office use for a portion of a proposed 35-foot-high 13,000-square-foot building on parcel no. 181314-33413 west of the parcel proposed for a rezone in order to expand and improve the existing Triumph Treatment Services facility and campus at 600 Superior Lane, subject to conditions.

(2) Public notice for the June 23, 2019, open record public hearing was provided in accordance with zoning ordinance requirements.

(3) A SEPA Determination of Nonsignificance (DNS) for this requested rezone and proposed 35-foot-high 13,000-square-foot building to be used in part for an office use was issued on May 10, 2019, and became final without any appeals.

(4) The requested rezone and proposed building to be used in part for an office use are compliant and compatible with the Future Land Use Map III-3, with the Land Use Compatibility Table III-11 and with goals and policies of the 2040 Yakima Urban Area Comprehensive Plan.

(5) R-3 zoning is permitted for the 0.21-acre parcel no. 181314-33426 located within the Mixed Residential designation of the City's 2040 Comprehensive Plan in locations where, as here, it will be compatible with neighboring land uses.

(6) The evidence presented at the hearing was to the effect that there is currently a high demand and need for the services provided by Triumph Treatment Services that support the requested rezone and the proposed Class (3) use.

(7) The proposed 35-foot-high 13,000-square-foot building to be used in part for an office use is less dense than the maximum lot coverage allowed in the R-3 zoning district; is allowed as a Class (3) use in that zoning district; and is compliant and compatible with the intent and with the development standards of that zoning district without the need for any variances or administrative adjustments of the applicable development standards.

(8) Approval of this application for a project rezone from the R-2 zoning district to the R-3 zoning district and for a Class (3) office use in the R-3 zoning district will result in public benefits and will serve the best interests of the community.

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(9) This application satisfies all of the prescribed criteria for approval by the Yakima City Council of a project rezone of the 0.21-acre parcel no. 181314-33426 from the R-2 to the R-3 zoning district to be used as a childcare play area, open space and/or other accessory uses, and for approval of an office use in part of a new 35-foot-high 13,000-square-foot building on parcel no. 181314-33413.

(10) This request for a rezone and for approval of the proposed building for a Class (3) office use complies with the YMC §16.06.020(B) criteria for making a Determination of Consistency.

### **RECOMMENDATIONS**

Pursuant to YMC §15.23.030 which requires the Class (3) use request to constitute a recommendation because it is consolidated with the rezone request, the Hearing Examiner recommends to the Yakima City Council that this application for (i) a project rezone of the 0.21-acre parcel no. 181314-33426 from the Two-Family Residential (R-2) zoning district to the Multifamily Residential (R-3) zoning district to be used for a childcare play area, open space and/or other accessory uses and for (ii) approval of a 35-foot-high 13,000-square-foot building to be used in part for a Class (3) office use in accordance with the documentation submitted for City File Nos. RZ#001-19, CL3#002-19 and SEPA#010-19 be **APPROVED**, subject to the following conditions:

(1) Complete drainage plans and calculations which are completed by a Professional Engineer registered in Washington State shall be submitted to the Surface Water Engineer for review and approval, and Underground Injection Control (UIC) wells shall be registered with the State Department of Ecology;

(2) Contractors doing excavation, clearing, construction, landscaping or demolition work must file a Dust Control Plan with the Yakima Regional Clean Air Agency and obtain approval thereof prior to the start of any work;

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(3) Prior to demolishing any structures, an asbestos survey must be conducted by a certified asbestos abatement building inspector;

(4) Any asbestos found shall be removed by a licensed asbestos abatement contractor prior to demolition of any structures;

(5) A Notification of Demolition and Renovation (NODR) application must be filed with the Yakima Regional Clean Air Agency with payment of the fee;

(6) The Washington State Department of Ecology recommends that the soils be sampled and analyzed for lead and arsenic, and for organochlorine pesticides, and if contaminants are found at concentrations above the Model Toxics Control Act cleanup levels, that potential buyers should be notified of their occurrence;

(7) Since a nearby domestic well is not located upon land owned by the applicant, obtaining the right to access or the right to use land which the applicant does not possess is a private matter between the applicant and that landowner;

(8) Sitescreening Standard C shall be installed along the northern and eastern property lines of the 0.21-acre parcel no. 181314-34426;

(9) The maximum building height allowed on the applicant's campus shall be increased to 35 feet, except for the parcel proposed to be rezoned which may maintain the standard height limitation of 50 feet in the R-3 zoning district; and

(10) The applicant shall provide for approval of the Yakima City Council and for recording with the Yakima County Auditor a modified development agreement or an amendment to the existing development agreement originally approved in 1998 under Ordinance 98-53 in a form satisfactory to the Planning Division which reflects a revised 35-foot maximum building height rather than the current 24-foot maximum building height for the applicant's campus except for the 50-foot height limitation which will be applicable to parcel no. 181314-34426.

**DATED** this 27<sup>th</sup> day of June, 2019.

  
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**Gary M. Cuillier, Hearing Examiner**

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