

ORDINANCE NO. 2021-_____

AN ORDINANCE amending the Future Land Use Map and Zoning Map of the City of Yakima for Parcel 181328-11008 as follows: Future Land Use Map from Low Density Residential to Community Mixed-Use and Zoning Map from Single-Family Residential (R-1) to Local Business (B-2)

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 January 19, 2021, the City Council adopted Resolution No. R-2021-009 to open the Comprehensive Plan Amendment process for 2021; and

WHEREAS, on April 30, 2021, Digital Design and Development, on behalf of Kerry and Gina Martin, submitted applications for Comprehensive Plan Amendment, Rezone, and Environmental Review (CPA#006-21, RZ#006-21, SEPA#016-21) requesting to change the Future Land Use Map designation for parcel 181328-11008, which is legally described in Exhibit "C" attached hereto and incorporated herein by this reference, from Low Density Residential to Community Mixed-Use and to concurrently rezone from Single-Family Residential (R-1) to Local Business (B-2); and

WHEREAS, the application also included a project specific action to develop the site with multifamily dwellings (CL2#024-21 and ADJ#012-21); and

WHEREAS, The applications were considered complete for processing on June 4, 2021 and public notice was provided, in accordance with the provisions of YMC Ch. 16.10, on June 25, 2021, and July 22, 2021; and

WHEREAS, SEPA Environmental Review was completed with a Determination of Nonsignificance issued on July 22, 2021, which was not appealed; and

WHEREAS, The City of Yakima Planning Commission (YPC) held a study session to review this Comprehensive Plan Amendment on July 14, 2021; and

WHEREAS, after proper notice, on August 11, 2021, the Yakima Planning Commission (YPC) heard the staff presentation regarding the proposed CPA, held a public hearing, considered the public testimony; and,

WHEREAS, pursuant to the approval criteria set forth in YMC § 16.10.040, the YPC unanimously recommended approval of the proposal; and

WHEREAS, the YPC recommendation and findings was signed by the Chair on August 25, 2021, a copy of which is found in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, after proper notice, on September 9, 2021, the Hearing Examiner heard the staff presentation regarding the proposed Rezone, Class 2 Use, and Administrative Adjustment, held a public hearing, considered the public testimony; and,

WHEREAS, pursuant to the approval criteria set forth in YMC §§ 15.10.020, 15.14.040, and 15.23.030, the Hearing Examiner recommended approval of the proposal subject to adoption of the CPA; and

WHEREAS, the Hearing Examiner recommendation and findings was rendered on September 23, 2021, a copy of which is found in Exhibit "B" 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 1, 2021, to receive public comments on the Planning Commission's recommended findings on the proposed CPA and the Hearing Examiner's recommended findings on the proposed Rezone; and

WHEREAS, the City Council of the City of Yakima, having considered the record herein and the recommendation from the Planning Commission and Hearing Examiner, the comments received at the public hearing held November 1, 2021, 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 August 11, 2021 findings, conclusions, and recommendation of the Yakima Planning Commission for CPA#006-21. A copy of said recommendation is attached as Exhibit "A". The Yakima City Council also adopts the September 23, 2021 findings, conclusions, and recommendation of the Hearing Examiner for RZ#006-21, CL2#024-21, and ADJ#012-21. A copy of said recommendation is attached as Exhibit "B".

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 16th day of November, 2021.

ATTEST:

Patricia Byers, 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

129 North Second Street, 2nd Floor, Yakima, WA 98901

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YAKIMA PLANNING COMMISSION

**RECOMMENDATION TO THE YAKIMA CITY COUNCIL
FOR
COMPREHENSIVE PLAN AMENDMENT AND REZONE
CPA#006-21**

August 11, 2021

WHEREAS, The City of Yakima adopted the Yakima Comprehensive Plan 2040 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, 2021 applications for Comprehensive Plan Amendment and Rezone were submitted by Digital Design and Development, to amend the Comprehensive Plan Future Land Use Map Designation from Low Density Residential to Community Mixed-Use, for parcel 181328-11008 (City File CPA#002-21); and

WHEREAS, The application was considered complete for processing on June 4, 2021 and public notice was provided, in accordance with the provisions of YMC Ch. 16.10, on June 25, 2021, and July 22, 2021; and

WHEREAS, SEPA Environmental Review was completed with a Determination of Nonsignificance issued on July 22, 2021, which was not appealed (City File SEPA#016-21); and

WHEREAS, The YPC held a study session to review this Comprehensive Plan Amendment on July 14, 2021; and

WHEREAS, The Yakima Planning Commission held an open record public hearing on August 11, 2021 to hear testimony from the public, consider the Amendment, and provide a recommendation to the Yakima City Council;

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

APPLICATION # CPA#006-21
APPLICANT: Digital Design & Development c/o Leanne Liddicoat
APPLICANT ADDRESS: 1909 W. Lincoln Ave #1 Yakima, WA 98902
PROJECT LOCATION: 706 S. 48th Ave.
PARCEL(S): 181328-11008

FINDINGS OF FACT

1. The applicant requests to amend the Comprehensive Plan Future Land Use Map designation from Low Density Residential to Community Mixed-Use.
2. The subject parcel is approximately .58 acres in size, and is surrounded by single family and multifamily housing.
3. The City of Yakima Planning Division provided a detailed staff report to the Planning Commission for review during their August 11, 2021 public hearing, with the recommendation of APPROVAL of the proposed amendment.
4. The proposed Comprehensive Plan Amendment is consistent with the applicable approval criteria in YMC § 16.10.040, as follows:
 - a. This project is being processed to facilitate a project specific Rezone of the property to B-2 and create multifamily development.
 - b. The Community 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. The impact should be minimal because the property under consideration will alter the site to better accommodate for future multifamily housing. The total acreage of this proposal will remove .58 acres of Low Density Residential land. However, examining all proposals for the previous cycles since 2018, the net impact is an increase of 3.29 acres of Community Mixed-Use land and an 11.04 acres decrease Low Density Residential land.

CONCLUSIONS

1. The Amendment is minor in nature;
2. No adverse impacts have been identified;
3. No written comments or testimony was received in opposition to the request;
4. This proposal underwent Environmental Review;
5. The proposed Comprehensive Plan Future Land Use Map Amendment from Low Density Mixed Use to Community Mixed-Use is 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 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 Community Mixed-Use for file CPA#006-21.

SIGNED this 25th day of August, 2021.

By: 

Jacob Liddicoat, Chair
Yakima Planning Commission

Exhibit "B"
Hearing Examiner Recommendation

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City of Yakima, Washington
Hearing Examiner's Recommendations

September 23, 2021

In the Matter of an Application)	
Submitted on Behalf of:)	
)	RZ#006-21
Kerry and Gina Martin)	CL2#024-21
)	ADJ#012-21
)	SEPA#016-21
For a Project Rezone from the)	
R-1 Zone to the B-2 Zone and a)	
Class (2) Multifamily Residential)	
Use with Setback Adjustments)	
Located at 706 South 48 th Avenue)	

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 September 9, 2021.

(2) The detailed staff report that was presented by Senior Planner Trevor Martin recommended approval of this application for a project Rezone from the Single-Family Residential (R-1) zoning district to the Local Business (B-2) zoning district and approval of a Class (2) multifamily development consisting of 14 units with 29 parking spaces and setback adjustments. The Rezone application is referred to as a project Rezone because a specific use is proposed for the site if the Rezone is approved.

Kerry and Gina Martin
Project Rezone from R-1 to B-2
Class (2) 14-Unit Multifamily Use
Located at 706 South 48th Avenue
RZ#006-21; CL2#024-21; ADJ#012-21

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(3) Leanne Liddicoat of Digital Design and Development, who is representative of the applicants Kerry and Gina Martin, testified in favor of the requested Rezone and the proposed Class (2) multifamily use with Administrative Adjustments to the setbacks. No one else testified at the hearing.

(4) No written public comments from neighbors or nearby property owners were submitted at or before the open record public hearing.

(5) These recommendations are issued within ten business days of the public hearing pursuant to Section 15.11.100(A)(1) of the Yakima Municipal Code which provides that uses that are usually decided administratively such as Class (2) uses and Administrative Adjustments shall also require a recommendation to the City Council if any of the requests in the application require a recommendation to the City Council such as this request for a Rezone.

B. Summary of Recommendations. If the City Council approves the requested Comprehensive Plan amendment from the Low Density Residential to the Community Mixed Use designation, the Hearing Examiner then recommends that the Yakima City Council approve the requested project Rezone from the Single-Family Residential (R-1) zoning district to the Local Business (B-2) zoning district and the requested Class (2) 14-unit multifamily use to be located in two buildings with side setback and rear setback Adjustments, subject to conditions.

C. Basis for Recommendations. Based upon a view of the site on August 24, 2021, with no one else present; the application, staff report, exhibits and testimony presented at the open record public hearing on September 9, 2021; 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:

Kerry and Gina Martin
Project Rezone from R-1 to B-2
Class (2) 14-Unit Multifamily Use
Located at 706 South 48th Avenue
RZ#006-21; CL2#024-21; ADJ#012-21

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FINDINGS

I. Property Owners/Applicants/Representative. The property owners and applicants are Kerry and Gina Martin. Their representative is Leanne Liddicoat of Digital Design & Development, 1909 West Lincoln Avenue, Suite #1, Yakima, Washington 98902.

II. Location. The location of the 0.58-acre parcel proposed for the Rezone and a 14-unit multifamily use with side and rear setbacks is 706 South 48th Avenue on the west side of the street. The Assessor's Parcel Number is 181328-11008.

III. Applications. The main aspects of this master application for approval of both a Rezone and a Class (2) multifamily use with setback Adjustments may be summarized as follows:

(1) Applications for a Rezone and Environmental Review were received on April 30, 2021. The applications for Type 2 Review and setback Administrative Adjustments were received on June 1, 2021. They were deemed complete for processing on June 4, 2021. The Rezone and Class (2) multifamily use can only be approved if the City Council approves the requested Comprehensive Plan amendment after a recommendation from the Planning Commission.

(2) These applications are being processed under YMC Chapter 15.23 for Rezone Review, YMC Chapters 15.14 and 15.15 for Type (3) Review of Class (2) uses, YMC Chapter 15.10 for Administrative Adjustments and YMC Chapter 6.88 for Environmental Review. Pursuant to YMC Chapter 1.43 and YMC §15.23.030, the Hearing Examiner has the authority to hold a public hearing and provide a recommendation to the City Council regarding a Rezone request. Pursuant to YMC §15.11.100(A)(1), all aspects of these applications are decided by the City

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Council with the aid of these recommendations from the Hearing Examiner and subject to the City Council's approval of a requested Comprehensive Plan amendment from the Low Density Residential designation to the Community Mixed Use designation after a recommendation from the Planning Commission.

IV. Notices. Notices for the open record public hearing which was originally scheduled for August 26, 2021, were given in accordance with YMC Table 11-1 in YMC §15.11.020, YMC §15.11.080 and YMC §16.05.010 as follows:

(1) The subject property was posted with a land use action sign on June 16, 2021.

(2) A Notice of Application, Environmental Review and Public Hearing was sent to the applicant, SEPA agencies and adjoining property owners within 300 feet of the subject property on June 25, 2021.

(3) On July 22, 2021, a Notice of Public Hearing and of a SEPA Determination of Nonsignificance (DNS) was sent to the applicant, SEPA agencies and adjoining property owners within 300 feet of the subject property and published in the Yakima Herald-Republic. Only one comment was received during the 20-day SEPA comment period. That comment from the Washington State Department of Ecology (DOE) was as follows:

Historical aerial photos indicate a portion of your property was occupied by orchard during the time period when lead arsenate was applied as a pesticide, often resulting in shallow soil contamination from lead and/or arsenic. Because your project is converting agricultural or vacant property to a new land use that increases exposure risk, this project is required to conduct soil sampling prior to development and submit results to Ecology at: formerorchards@ecy.wa.gov. Ecology may require cleanup of your property if sampling indicates concentrations of arsenic or lead above State cleanup levels. This cleanup requirement is not part of the development and permitting process through your local building authority. This is a requirement of the Model Toxics Control Act (Chapter 173-340 WAC). Cleanup can be quick and easy for commercial or industrial developments.

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Buildings and permanent surfaces are an acceptable barrier to prevent exposure to contaminated soils. Landscaped areas require a cover of clean soil. The Department of Ecology plans to use Model Remedies for lead and arsenic pesticide contamination in historical orchards of Central Washington. Model Remedies provide specific technical guidance for sampling and cleanup of former orchard properties. A Focus Sheet on the Model Remedies can be found at <https://apps.ecology.wa.gov/publications/documents/2109007.pdf>. Compliance with a Model Remedy ensures your project meets the minimum standards of the Model Toxics Control Act, and if implemented as described, your property will be successfully cleaned up to Washington State standards. Using a Model Remedy also allows Ecology to waive review fees and reduce response time. Ecology can provide free initial sampling, as well as free technical assistance for your project.

(4) The staff response to the comment is that the applicant shall conduct a soil sampling analysis and submit the results to the Department of Ecology prior to the issuance of building permits on the site. This action can be conducted during a project specific application for the site.

(5) On August 26, 2021, Mr. Martin indicated that the applicants' representative was unable to attend the hearing and requested that it be continued. No one else appeared to testify relative to this application. The hearing was therefore continued on the record until September 9, 2021, and notice thereof was posted at the entrance to the hearing room immediately after the continuance on the record. No written public comments from neighbors or nearby residents were received at or prior to the open record public hearing which was conducted on September 9, 2021, and no testimony from neighbors or nearby residents was presented at the public hearing.

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 June 25, 2021. The DOE comment was the only comment received during the comment period. A SEPA

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Determination of Nonsignificance (DNS) was issued on July 22, 2021, which was not appealed.

VI. Zoning and Land Uses. The 0.58-acre Parcel No. 181328-11008 is proposed for a Rezone from the Single-Family Residential (R-1) zoning district to the Local Business (B-2) zoning district and three existing single-family residences are proposed to be replaced by two buildings with 29 parking spaces between them which would contain a total of 14 multifamily dwelling units. Nearby properties have the following zoning and land use characteristics:

<u>Location</u>	<u>Existing Zoning</u>	<u>Existing Land Use</u>
North	Local Business (B-2)	Multifamily
South	Single-Family Residential (R-1)	Detached Single-Family
	Two-Family Residential (R-2)	Dwelling/Duplex
East	Two-Family Residential (R-2)	Multifamily Dwelling
West	Two-Family Residential (R-2)	Multifamily Dwelling
	Single-Family Residential (R-1)	Single-Family

VII. Applicant's Written Description of the Grounds for Approval of the Rezone Application. The applicants' grounds for approval of the proposed Rezone application from the Single-Family Residential (R-1) zoning district to the Local Business (B-2) zoning district pursuant to YMC Chapter 15.23 are set forth as follows in italics in response to the City's requests for detailed information:

(1) How is the subject property suitable for uses permitted under the proposed zoning? *The property is currently zoned R-1 with 3 existing single-family residences. It is next to a B-2 property to the north which is located in the future land use designation of Community Mixed Use. A request to the underlying future*

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land use type has been requested and is in process with the Yakima Planning Commission. Neighboring parcels are zoned R-1 and R-2.

(2) What is the status of the existing land use? *The property is zoned R-1 and has three single family residences.*

(3) How is the rezone request in compliance with and/or how does the request deviate from the Yakima Urban Area Comprehensive Plan? *The rezone request will comply with the Yakima Urban Area Comprehensive Plan future land use designation of Community Mixed Use which has been requested before the Yakima Planning Commission.*

(4) Are there adequate public facilities, such as traffic capacity, sewer services, potable water, stormwater drainage, schools, fire and police services, and other public services and infrastructure existing on and around the subject property? *The property is on 48th Avenue and has access to all needed utilities and infrastructure.*

(5) Are the existing public facilities capable of supporting the most intensive use of the new (requested) zone? If not, what mitigating measures are going to be implemented to address any short falls in public services that may exist? *Existing public facilities would be able to handle any B-2 zoning use. The neighboring commercial properties to the north have made the changes required through the planning and building permit process.*

(6) How is the proposed zone change compatible with the existing neighboring uses? *The neighborhood is close to the 48th Avenue and Nob Hill intersection. All neighbors to the north are B-2 properties and include retail, professional and medical offices, a bank, convenience store and restaurants. The Glenmoor Green apartment complex is to the east, duplexes are to the west, and a single family residence is to the south. Farther south towards the 48th Avenue and Nob Hill intersection are neighborhood service businesses and residential.*

(7) What mitigating measures are planned to address incompatibility, such as sitescreening, buffering, building design, open space, traffic flow alteration, etc.? *The site will comply with any mitigation measures requested from the City. Additionally, there will be enough on-site parking to accommodate all the tenants of the proposed development.*

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(8) What is the public need for the proposed change? *More residential options are needed in Yakima and this change will provide 14 units, and it fits within the Community Mixed Use classification.*

VIII. Applicant's Written Description of the Grounds for Approval of the Class (2) Multifamily Use Application. The applicants' grounds for approval of the proposed Class (2) multifamily use pursuant to YMC Chapter 15.14 are set forth as follows in italics following the City's requests for detailed information:

(1) Fully describe the proposed development, including number of dwelling units and parking spaces. If the proposal is for a business, describe hours of operation, days per week and all other relevant information related to the business. *The proposal is for 14 apartment units in two 2-story buildings with 29 parking spots provided. A small maintenance office is also on the property.*

(2) How is the proposal compatible to neighboring properties? *The neighboring properties are R-2, R-2, and B-2, so a multifamily apartment complex is a compatible project.*

(3) What mitigation measures are proposed to promote compatibility? *The appropriate site screening will be included in the project as well as shielded outdoor lighting.*

(4) How is your proposal consistent with current zoning of your property? *Applications for a Comprehensive Plan amendment for Community Mixed Use and rezone to B-2 have been submitted. The proposed project is a Type 2 use in a B-2 zone.*

(5) How is your proposal in the best interest of the community? *This proposal will provide additional housing in a neighborhood that already reflects a variety of housing types.*

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IX. Applicant's Written Description of the Grounds for Approval of the Setback Administrative Adjustment Application. The applicants' grounds for approval of the requested Administrative Adjustment application to reduce the side setbacks from 20 feet to 10 feet and the rear setback from 20 feet to 15 feet pursuant to YMC Chapter 15.10 are set forth as follows in italics following the City's requests for detailed information:

(1) How would the strict enforcement of the current standard affect your project? *Without the adjustment the project would be reduced by 4 housing units.*

(2) How is the proposal compatible with neighboring properties? Have other adjustments been granted nearby? *Neighboring properties are single family, duplex apartment, and other multi-family uses. The B-2 property to the north has a rear setback of 10 feet.*

(3) How is your proposal consistent with current zoning of your property? *B-2 zoning with a Type 2 review is an appropriate land use for multi-family housing.*

(4) How is your proposal consistent with uses and zoning of neighboring properties? *The neighboring properties are B-2, R-2, and R-1 with a variety of housing types, so this proposal is consistent with other uses in the area.*

(5) How is your proposal in the best interest of the community? *This project adds more multi-family housing which has been identified as a need by the City of Yakima.*

X. Applicable City Ordinance Provisions. City Ordinance provisions applicable to these applications include the following:

(1) **Rezoning:** Pursuant to YMC §15.02.020, "Rezoning" means to change the zoning district classification of particular lot(s) or parcel(s) of land.

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(2) R-1 Zoning District Defined: Pursuant to YMC §15.03.020(B), the intent of the Single-Family Residential district is as follows:

(a) Establish new residential neighborhoods for detached single-family dwellings free from other uses except those which are compatible with, and serve the residents of, this district, which may include duplexes and zero lot lines if established during the subdivision process;

(b) Preserve existing residential neighborhoods for detached single-family dwellings free from other uses to ensure the preservation of the existing residential character, and serve the residents of this district; and

(c) Locate moderate-density residential development, up to seven dwelling units per net residential acre, in areas served by public water and sewer system.

(d) Detached single-family dwellings are the primary use in this district. The district is characterized by up to sixty percent lot coverage; access to individual lots by local access streets; required front, rear and side yard setbacks; and one- and two-story structures. The density in the district is generally seven dwelling units per net residential acre or less.

(e) This zone is intended to afford single-family neighborhoods the highest level of protection from encroachment by potentially incompatible nonresidential land uses or impacts. Nonresidential uses within these zones are not allowed; except for public or quasi-public uses, which will be required to undergo extensive public review and will have all necessary performance or design standards assigned to them as necessary to mitigate potential impacts to adjacent residences.

(f) Duplex and multifamily development up to seven dwelling units per net residential acre may be allowed in accordance with Table 4-1.

(3) Local Business District (B-2) Defined. Pursuant to YMC §15.03.020(F), the purpose of the Local Business District is to:

(a) Provide areas for commercial activities that meet the small retail shopping and service needs of the community; and

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(b) Accommodate small-scale commercial uses that need a higher level of visibility and easy access to major arterials. Uses characteristic of this district include small retail sales and service establishments.

(4) Class (2) Land Use Defined: Pursuant to YMC §15.04.020(B), Class (2) uses are generally permitted in the district. However, the compatibility between a Class (2) use and the surrounding environment cannot be determined in advance, and occasionally a Class (2) use may be incompatible at a particular location. Therefore, a Type (2) review by the administrative official is required in order to promote compatibility with the intent and character of the district and the policies and development criteria of the Yakima Urban Area Comprehensive Plan. The procedures in YMC Chapter 15.14 shall be used to review and evaluate Class (1) uses that require a Type (2) review process.

(5) Type (2) Review: Pursuant to YMC §15.14.020, Type (2) Review is required for any proposed use shown on Table 4-1 as a Class (2) use, for Class (1) uses requiring Type (2) review in YMC §15.13.020, and for other specific reviews established by this title.

(6) Compatibility Defined: Pursuant to YMC §15.02.020, "Compatibility" means the characteristics of different uses or developments that permit them to be located near each other in harmony with or without special mitigation measures.

(7) Development, Multifamily Defined: Pursuant to YMC §15.02.020 "development, multifamily" means a structure or structures, or portion thereof, designed for occupancy by three or more families living independently of each other and containing three or more attached or detached dwelling units on a lot. Any combination of three-plus, duplex and detached single-family dwellings that have a common driveway access on a single lot of record is considered multifamily development.

(8) Number of Parking Spaces: Pursuant to YMC Table 6-1 in YMC §15.06.040, a multi-family development of 10 units or more is required to have 1.5 spaces per dwelling unit.

(9) Construction and Maintenance of Parking Spaces: Pursuant to YMC §15.06.110, all off-street parking lots, driveways, travel ways, parking aisles, vehicle storage, and vehicle sales lots having a capacity of three or more vehicles shall be constructed in the following manner:

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(a) Surfacing. 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.

(b) Grading and Drainage. Graded and drained so all surface water is disposed of on site. Grading and drainage facilities shall be designed according to accepted engineering standards and the Eastern Washington Stormwater Manual, which will require review by the city engineer or a designee.

(c) Border Barricades. Any parking, vehicle storage, or motor vehicle sales area abutting the street property line shall provide a concrete curb at least six inches in height and located at least two feet from the street property line. The curb shall be securely anchored. No curb shall be required across any driveway or entrance to the parking area, or if the parking lot is separated from the street by a fence or hedge.

(d) Markings. All parking spaces (except motor vehicles sales areas) shall be marked by durable painted lines at least four inches wide and extending the length of the stall or by curbs or other means approved by the administrative official to indicate individual parking stalls. Signs or markers located on the parking lot surface shall be used as necessary to ensure safe and efficient use of the parking lot. In addition, when required, all accessible parking spaces shall be marked and signed in compliance with the currently adopted International Building Code.

(10) Sitescreening: Pursuant to YMC Table 7-1 in YMC §15.07.050, Sitescreening Standard "C" is required along the west and south property lines. Standard "C" is 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.

(11) Setbacks: Pursuant to YMC Table 5-1 in YMC Chapter 15.05, the required structure setbacks in the B-2 zoning district include:

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Front: 30 feet from centerline of right-of-way
Rear: 20 feet from the property line
Side, property line: 20 feet from the property line

(12) Frontage Improvements: The subject site is located along South 48th Avenue which is an Eisenhower and Wilson safe routes to school route. Also sidewalk is located along the same frontage within 200 feet. Therefore, frontage improvements, including curb, gutter, and sidewalk, are required along the property frontage of South 48th Avenue in accordance with YMC §15.05.020(J).

XI. Written Comments of the Development Services Team (DST). The Development Services Team meeting was held for these Rezone, Class (2) and Administrative Adjustment applications during the week of August 3, 2021. The following comments were received:

(1) Code Administration: Preliminary addressing shall be 4800 Bonnie Lane #1-14. Applicable Wastewater connection fees must be paid pursuant to YMC 7.58. Any work performed in the City right-of-way requires an Excavation permit from City Engineering prior to commencing work, YMC 8.72. If the parcel is to be served by City sewer, payment of applicable Wastewater connection fees must be paid pursuant to YMC 7.58. If the site is to be served by a septic system, the applicant must provide proof that necessary approval from the Yakima Health District has been obtained, prior to the issuance of permits.

(2) Engineering: This project requires Title 8 and 12 improvements, including but not limited to the following:

(a) YMC 8.67 and 12.05 – Where existing driveways are not utilized, they shall be removed, and new curb, gutter and sidewalk shall be installed. Any existing curb, gutter or sidewalk along frontage that is unfit or unsafe shall also be repaired/replaced.

(b) YMC 8.64 – A residential driveway approach is required which meets the requirements of this chapter and standard detail R4.

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(c) YMC 8.72 – An excavation and street break permit shall be obtained for all work within the public right of way.

(d) All improvements shall be completed prior to Certificate of Occupancy.

(3) Sewer: All separate buildings using plumbing are required to have a separate side sewer connection to City sewer main line.

(4) Nob Hill Water: Nob Hill Water Association water is available to serve the new project. Customer/owner will need to contact Nob Hill Water Association for a cost estimate after producing finalized engineered cad plans.

XII. 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.** Notice of the public hearing was given by posting on the property, mailing to SEPA agencies and all property owners within 300 feet of the subject property, and publishing in the newspaper wherein the public was invited to submit written and/or oral comments at the public hearing on this proposed Rezone. No written public comments from neighbors or nearby property owners were received. All of the testimony presented at the hearing by Senior Planner Trevor Martin and by Leanne Liddicoat favored approval of the Rezone.

(2) **The suitability of the property in question for uses permitted under the proposed zoning.** The subject parcel is suitable for uses permitted in the Local Business (B-2) zoning district, particularly in view of the fact that this is a request for approval of a project Rezone so as to allow a 14-unit multifamily use with associated parking in a mixed use area that was not opposed by any of the neighboring property owners.

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(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. If the City Council approves the requested Comprehensive Plan amendment from the Low Density Residential designation to the Community Mixed Use designation, the Local Business (B-2) zoning district would implement the proposed Community Mixed Use designation which is intended to allow a mixture of neighborhood scaled retail, commercial, service, office and high density residential uses. The requested B-2 zoning would also be in compliance with the following Goals 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 2.3.2(A): Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood.

(d) Goal 5.1: Encourage diverse and affordable housing choices.

(e) Goal 5.2: Preserve and improve existing residential neighborhoods.

(5) The adequacy of public facilities, such as roads, sewer, water and other required public services. There are various utilities which are available to serve the property along South 48th Avenue including Nob Hill Water Association water, Pacific Power electricity, Cascade Natural Gas, CenturyLink telephone, Charter cable TV, and City of Yakima garbage collection services. City of Yakima Fire and Police departments also serve this area. City of Yakima sewer is in the vicinity and will need to be extended to serve the property.

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(6) **The compatibility of the proposed zone change and associated uses with neighboring land uses.** The requested project Rezone to the B-2 zoning district would permit the property to be redeveloped to allow for residential uses similar to those located to the north, east and west.

(7) **The public need for the proposed change.** The public need for this proposed change would be to allow the property to be developed in a way that is similar to other nearby properties and, if the City Council approves the requested Comprehensive Plan amendment to the Community Mixed Use designation, then to allow the property to be used in accordance with that Comprehensive Plan designation.

XIII. Class (2) Review Criteria for the Proposed 14-Unit Multifamily

Use. Since a Multifamily Development of 13+ Dwelling Units per Net Residential Acre is listed as a Class (2) use in the B-2 zoning district by YMC Table 4-1 in YMC §15.04.030, the Hearing Examiner's findings and conclusions relative to the proposed 14-unit multifamily development are required to include specific reasons and ordinance provisions demonstrating that the proposal satisfies the following Type (2) Review criteria that are set forth in YMC §15.04.020(B), in YMC §15.14.040(G) and in the similar Type (3) Review criteria set forth in YMC §15.15.040(I):

(1) **Compliance and Compatibility with the Objectives and Development Standards of the Comprehensive Plan.** The proposed multifamily use would be compliant and compatible with the Comprehensive Plan Community Mixed Use designation of the property which includes high density residential uses if that Plan amendment is approved by the City Council. It would also be compliant and compatible with Comprehensive Plan Goal 2.3, Policy 2.3.1, Policy 2.3.2(A), Goal 5.1 and Goal 5.2 as previously detailed above in Subsection XII(4).

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(2) **Compliance and Compatibility with the Intent and Character of the (B-2) Zoning District.** The proposed 14-unit multifamily use on a 0.58-acre parcel would be compliant and compatible with the intent and character of the Local Business (B-2) zoning district which includes multifamily developments exceeding 12 dwelling units per net residential acre as Class (2) uses that are generally permitted in that zone.

(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 requested B-2 zoning district where the 14-unit multifamily use would be located include the following:

(a) Number of Parking Spaces Required: YMC Table 6-1 in YMC §15.06.040 requires 1.5 parking spaces for each unit which means that 21 parking spaces are required for 14 units. The applicant intends to have 29 parking spaces which would exceed the standard.

(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) limitation of Table 5-1.

(c) Lot Coverage: The estimated lot coverage of 66 percent will comply with the maximum lot coverage of 80 percent permitted in the B-2 zoning district.

(d) Setbacks: The applicants have requested an Administrative Adjustment to allow 10-foot-wide side setbacks and a 15-foot-wide rear setback which will be considered in the following section.

(e) Sitescreening: YMC Table 7-1 in YMC §15.07.050 specifies the type of sitescreening that is required. Sitescreening Standard "C" shall be installed along the west and south property line prior to the issuance of a certificate of occupancy for either of the proposed buildings.

(f) Public Facilities: Nob Hill Water Association water is available to the site and City of Yakima sewer is in the vicinity and can be extended

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to the site. The property is accessed from South 48th Avenue which is a collector arterial street. The applicant is required to install the requisite curb, gutter and sidewalk along the frontage of the subject parcel on South 48th Avenue.

XIV. Administrative Adjustment Criteria for the Requested Setback

Adjustments for the 14-Unit Multifamily Use. YMC §15.10.020 provides flexibility by allowing certain development standards in Chapters 15.05 through 15.08 to be administratively adjusted. A particular standard may be reduced or modified so long as the reviewing official determines that the adjustment is consistent with the purpose of the zoning ordinance, is consistent with the intent and purpose for the standard and will accomplish one or more of five objectives. The five objectives listed in YMC §15.10.020 apply, or do not apply, to the requested setback adjustments in the following ways:

(1) **Allow buildings to be sited in a manner that maximizes solar access:** This objective does not apply. It is not the purpose of the proposed setback adjustments to maximize solar access to any building.

(2) **Allow zero lot line or common wall construction in conformance with the provisions of this title:** This objective does not apply since no zero lot line or common wall construction is proposed.

(3) **Coordinate development with adjacent land uses and physical features:** YMC Table 5-1 in YMC Chapter 15.05 specifies 20-foot-wide side and rear building setbacks. Adjusting the side setbacks to 10 feet and the rear setback to 15 feet in width would be consistent with neighboring uses such as the B-2 property to the north which has a rear building setback of 10 feet in width. There are duplex and other multifamily uses in the area. Neither the Planning Division nor any adjacent property owner has an objection to the requested setbacks. Failure to allow them would require a reduction of four units in the proposed

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multifamily development without any evidence in the record to justify a denial of the requested setback adjustments.

(4) **Permit flexibility of design and placement of structures and other site improvements:** The requested setback adjustments would permit flexibility of design and placement of structures so that 14 rather than 10 multifamily units could be developed on the site.

(5) **Allow development consistent with a specific sub-area plan:** This objective does not apply since no sub-area plans exist to address this area.

Based upon the uncontradicted evidence in the record of these applications, the requested setback adjustments should be allowed because they would be consistent with the purpose of the zoning ordinance to allow multifamily uses in the B-2 zoning district; they would be consistent with an objective of the setback standards to allow for sufficient light and air between buildings; and they would accomplish two of the five listed objectives for an Administrative Adjustment even though only one of those objectives must be served in order to allow the adjustments.

XV. The Consistency of a Proposed Multifamily Use with Development Regulations and the Comprehensive Plan under the Criteria Required by YMC §16.06.020(B) is determined by consideration of the following factors:

(1) **The types of land uses permitted at the site** would include the proposed 14-unit multifamily use if the requested Comprehensive Plan Mixed Use Commercial designation is approved by the City Council, in which case the proposed multifamily use could be allowed as a Class (2) use in the proposed B-2 zoning district with the requested setback adjustments in accordance with the findings set forth above in these recommendations.

(2) **The density of residential development** of 14 dwelling units on a 0.58-acre parcel would be allowed subject to the 80% lot coverage limitation in the B-2 zoning district where 13+ dwelling units are allowed as a Class (2) use if, as is the case here, the 14-unit multifamily use satisfies the Class (2) use criteria for approval.

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(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 to be utilized, or in the case of City of Yakima sewer available in the vicinity to be extended, for the two proposed buildings and since there is adequate access to the site by way of South 48th Avenue which will have frontage improvements installed by the applicants.

(4) **The characteristics of the development** will be 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) YMC Chapter 1.43 and YMC §15.11.100(A)(1) provide that the Hearing Examiner has jurisdiction to recommend approval by the Yakima City Council of the requested project Rezone of the 0.58-acre Parcel No. 181328-11008 from the Single-Family Residential (R-1) zoning district to the Local Business (B-2) zoning district and to recommend approval of the proposed Class (2) 14-unit multifamily use with setback adjustments, which approval is hereby recommended so long as the City Council approves the applicants' requested Comprehensive Plan amendment from the Low Density Residential designation to the Community Mixed Use designation.

(2) Public notice for the September 9, 2021, open record public hearing was provided in accordance with zoning ordinance requirements.

(3) A SEPA Determination of Nonsignificance (DNS) for this requested Rezone and Class (2) use with Administrative Adjustments was issued on July 22, 2021, and became final without any appeals.

(4) The requested Rezone and proposed multifamily use with setback adjustments are compliant and compatible with the Goals and Policies of the 2040

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Yakima Urban Area Comprehensive Plan if the City Council approves the Comprehensive Plan Community Mixed Use designation for the site.

(5) All of the requisite criteria for approval of a Rezone of the 0.58-acre parcel no. 181328-11008 to the Local Business (B-2) zoning district will be satisfied if the City Council approves the Community Mixed Use designation of the City's 2040 Comprehensive Plan for the parcel.

(6) The requested Rezone and Class (2) multifamily use with setback adjustments satisfy all of the requisite criteria for their approval if the City Council approves the Comprehensive Plan Community Mixed Use designation for the site.

(7) This request for a Rezone and for approval of the proposed Class (2) multifamily use complies with the YMC §16.06.020(B) criteria for making a Determination of Consistency if the City Council approves the Comprehensive Plan Community Mixed Use designation for the site.

RECOMMENDATIONS

Pursuant to YMC §15.11.100(A)(1) which requires the Class (2) use and setback Adjustment decisions to constitute recommendations to the City Council because they are consolidated with a Rezone recommendation, and contingent upon the City Council's approval of the applicants' request for a Comprehensive Plan amendment of the site from the Low Density Residential to the Community Mixed Use designation, the Hearing Examiner recommends to the Yakima City Council that the project Rezone from the Single-Family Residential (R-1) zoning district to the Local Business (B-2) zoning district and the 14-unit multifamily use with 29 parking spaces and with side and rear setback adjustments as described herein and in the City's record for File Nos. RZ#006-21, CL2#024-21, ADJ#012-21 and SEPA#016-21 be **APPROVED**, subject to the following conditions:

Kerry and Gina Martin
Project Rezone from R-1 to B-2
Class (2) 14-Unit Multifamily Use
Located at 706 South 48th Avenue
RZ#006-21; CL2#024-21; ADJ#012-21

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(A) Frontage improvements including curb, gutter, and sidewalk shall be installed along South 48th Avenue.

(B) A residential driveway approach shall be installed that meets the requirements of the Yakima Municipal Code and standard detail R4.

(C) The multifamily buildings shall be connected to City of Yakima sewer.

(D) The multifamily buildings shall be connected to Nob Hill Water Association water.

(E) Any work performed in the right-of-way requires an Excavation Permit from the City Engineering Division prior to starting work.

(F) Ten percent of the parking area shall be landscaped.

(G) A final site plan shall be submitted showing the parking lot landscaping.

(H) The multifamily use shall comply with all other City requirements.

DATED this 23rd day of September, 2021.



Gary M. Cuillier, Hearing Examiner

Exhibit "C"
Legal Description

The W 320 ft of E 340 ft of N 10 ft of SE 14, NE 14, NE 14, S 28, T 13N, R 18E, WM, Ex W 150
Ft