

ORDINANCE NO. 2023-_____

AN ORDINANCE rezoning parcels 191330-41485 and 41486 from Two Family Residential (R-2) to local Business (B-2) and amending the Zoning Map of the City of Yakima.

WHEREAS, on September 9, 2022, PLSA Engineering and Surveying, on behalf of Rosa and Sarah Harati, submitted an application requesting the zoning classification of parcels 191330-41485 and 41486, located at 1406 S Fair Ave and 909 LaFollette Street., to be rezoned from Two-Family Residential (R-2) to Local Business (B-2) on the official zoning map (hereinafter "RZ#001-22"); and

WHEREAS, the proposal qualifies as a project-specific action and included applications CL2#025-22 and ADJ#024-22 which propose an automotive sales use, setback and parking adjustments which would become permitted if the Rezone is approved; and

WHEREAS, pursuant to YMC 6.88, the SEPA Administrative Official issued a Determination of Nonsignificance on November 30, 2022, which was not appealed; and

WHEREAS, the Future Land Use designation of the subject property is Community Mixed Use, which is consistent with the proposed B-2 zoning district; and

WHEREAS, notice of the Hearing Examiner open record public hearing was properly provided; and

WHEREAS, in accordance with YMC 15.23, the Yakima Hearing Examiner held an open record public hearing on December 22, 2022 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 Local Business (B-2); and

WHEREAS, the Hearing Examiner recommendation was submitted on January 6, 2023 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 meeting on March 7, 2023, 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 September 15, 2020, 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 January 6, 2023, findings, conclusions, recommendations and conditions of the Hearing Examiner for RZ#001-22. A copy of said recommendation is attached as Exhibit "A" and fully incorporated herein.

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 7th day of March, 2023.

ATTEST:

Janice Deccio , Mayor

Sonya Claar Tee, City Clerk

Publication Date: _____

Effective Date: _____

Exhibit "A"
Hearing Examiner Recommendation

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City of Yakima, Washington
Hearing Examiner's Recommendations

January 6, 2023

In the Matter of an Application)	
Submitted on Behalf of:)	RZ#001-22
)	CL2#025-22
Rosa Harati & Sarah Harati)	ADJ#024-22
)	SEPA#017-22
For a Project Rezone from the)	
R-2 Zone to the B-2 Zone and a)	
Class (2) Automotive Dealership)	
Use with Setback and Parking)	
Adjustments at 909 La Follette)	
Street/1406 South Fair 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 December 22, 2022.

(2) The thorough staff report presented by the City of Yakima Planning Manager Joseph Calhoun recommended approval of these applications subject to conditions. The applications request a project Rezone from the Two-Family Residential (R-2) zoning district to the Local Business (B-2) zoning district and approval of a Class (2) automotive sales use with building setback and parking lot

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surfacing 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.

(3) Thomas Durant, Planning Manager for PLSA Engineering & Surveying who is the representative of the applicant Rosa Harati and the property owner Sarah Harati, testified in favor of the requested Rezone and the proposed Class (2) use with Administrative Adjustments to the side setback and the surfacing of the parking lot for reasons stated in his detailed narratives for the applications. He submitted an additional Exhibit as Document Index AA-1 showing the current surveyed right-of-way width for La Follette Street and requested clarification of two of the recommended conditions. 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 (10) business days of the public hearing. They are issued pursuant to Subsection 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 Yakima 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. The Hearing Examiner recommends that the Yakima City Council approve the requested project Rezone from the Two-Family Residential (R-2) zoning district to the Local Business (B-2) zoning district and the requested Class (2) automotive sales use with side setback and parking lot surfacing adjustments, subject to conditions.

C. Basis for Recommendations. Based upon a view of the site on December 19, 2022, with no one else present; the application, staff report, exhibits and testimony presented at the open record public hearing on December 22, 2022; and

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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. Applicant/Property Owner/Representative. The applicant is Rosa Harati and the property owner is Sarah Harati, P.O. Box 1109, Manhattan Beach, CA, 90267. Their representative for these applications is Thomas R. Durant, Planning Manager of PLSA Engineering & Surveying, 521 North 20th Avenue, #3, Yakima, WA 98902.

II. Location. The location of the 0.16-acre parcel and the adjacent 0.17-acre parcel proposed for a Rezone and for a Class (2) automotive sales use with side setback and parking lot surfacing adjustments is on the northwest corner of 909 La Follette Street and 1406 South Fair Avenue approximately 150 feet south of Nob Hill Boulevard. The County Assessor's Parcel Numbers are 191330-41485 and 41486.

III. Applications. The main aspects of this master application for approval of both a Rezone and a Class (2) automotive sales use with side setback and parking lot surfacing adjustments may be summarized as follows:

(1) These applications were received on September 9, 2022. They are being processed under YMC Chapter 15.23 for Rezone Review, YMC Chapters 15.14

Rosa Harati and Sarah Harati
Project Rezone from R-2 to B-2
Class (2) Automobile Dealership
909 La Follette St./1406 S. Fair Ave.
RZ#001-22; CL2#025-22; ADJ#024-22

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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 Council with the aid of these recommendations from the Hearing Examiner.

(2) The Rezone request is to reclassify the two parcels from the Two-Family Residential (R-2) zoning district to the Local Business (B-2) zoning district in order to allow for a Class (2) "Automotive Dealer New and Used Sales" use to be conducted on the parcels with an adjustment of a building setback from 20 feet to 6 feet on one side of a parcel and an adjustment of parking lot surfacing from asphalt to gravel on a portion of one of the parcels in order to comply with the maximum lot coverage standard.

(3) The existing single-family residence on the westernmost parcel along La Follette Street would be either removed, demolished or relocated so as to form an addition to the garage on that parcel. The single-family residence along South Fair Avenue would be used as an office for sales activities including financing and insurance services. The garage with its proposed addition on the westernmost parcel would be used for purposes related to automobile sales such as storage and maintenance. There would be 22 spaces for the inventory of vehicles offered for sale and 4 spaces for employee and customer parking. The parcels are accessed from both South Fair Avenue and La Follette Street. Access could also be provided from the alley along the north side of the parcels.

(4) The requested side setback adjustment from 20 feet to 6 feet would be for an addition to an existing legal nonconforming garage which is about 3 feet from the west property line of the westernmost parcel. The adjustment would allow a portion of the parcel to be used which could not otherwise be used if the addition had to be 20 feet from the west property line. The addition would be behind and to the north of the existing garage and would be 35 to 40 feet from the adjacent residence to the west which is located toward the front of that lot.

(5) The adjustment to allow gravel rather than asphalt surfacing on the northwest rear corner of the site in an area 59 feet by 19-21 feet (1,194.8 square feet) is requested in order to preserve a pervious area on the site so that it will

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comply with the 80% maximum lot coverage standard for the B-2 zoning district. The B-2 zoning district allows less impervious surface than is allowed in other zoning districts where automobile sales lots are permitted.

IV. Notices. Notices for the open record public hearing of December 22, 2022, 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 October 10, 2022.

(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 October 10, 2022.

(3) On November 30, 2022, 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. No public comments were received from nearby property owners or residents during the 20-day SEPA comment period from October 10 through October 31, 2022. One agency comment was received during the 20-day comment period. The Washington State Department of Ecology (DOE) commented as follows:

This project is located within the Yakima Railroad Area. The Yakima Railroad Area is a six-square mile area identified as having a high likelihood that groundwater is contaminated with tetrachloroethene (also known as PCE, perc, or perchloroethylene) above state cleanup levels. Concentrations of PCE above cleanup levels in the shallow aquifer have the potential to impact indoor air quality.

V. Environmental Review. A Notice of Application and SEPA Environmental Review was mailed to SEPA agencies, the applicant, and adjoining property

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owners within 300 feet of the subject property on October 10, 2022. The DOE comment was the only comment received during the comment period. A SEPA Determination of Nonsignificance (DNS) was issued on November 30, 2022, which was not appealed.

VI. Zoning and Land Uses. The zoning of the two parcels totaling one-third of an acre is presently Two-Family Residential (R-2) which is not consistent with their Comprehensive Plan designation of Community Mixed Use. The requested zoning of Local Business (B-2) would be consistent with the Community Mixed Use designation of the Comprehensive Plan. The two parcels currently each contain a single-family residence. There is a garage on the westernmost parcel. The surrounding properties have the following current zoning and land use characteristics:

<u>Location</u>	<u>Existing Zoning</u>	<u>Existing Land Use</u>
North	General Commercial (GC)	Commercial
South	Two-Family Residential (R-2)	Single-Family Residences
East	General Commercial (GC)	Grocery Store/Shopping Center
West	Two-Family Residential (R-2)	Single-Family Residences

VII. Comprehensive Plan 2040. These two parcels have the Future Land Use Map designation of Community Mixed Use. This designation is intended to allow for a mixture of scaled retail, commercial service, office and high-density residential uses. The current R-2 zoning is not consistent with the Comprehensive Plan designation. The proposed B-2 zoning is consistent with the Comprehensive

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Plan designation and the proposed automobile sales use is consistent with the following Comprehensive Plan Goals and Policies:

(1) Goal 2.2: Provide a mix of land use designations consistent with the community's vision.

(2) Policy 2.2.3(B): Community Mixed-Use Locational Criteria – Existing and planned future neighborhood center areas, sites along key arterials and collector streets, and transitional areas between residential uses and downtown or other mixed-use centers.

(3) Policy 2.2.3(C): Community Mixed-Use Principal uses and density – A mixture of retail, commercial service, office, and high-density residential uses depending on the area's context.

(4) Goal 2.5: Arterial corridors and other mixed-use centers. Enhance the character, function, and economic vitality of Yakima's arterial corridors and mixed-used centers.

(5) Policy 2.5.1: Allow for a mixture of compatible land uses along corridors and within mixed-use designated areas. This includes the integration of multi-family residential and office uses with retail and service commercial uses.

VIII. Summary of the Applicant's Written Description of the Grounds for Approval of the Applications. A brief summary of the detailed grounds described by the applicant in support of these applications (*Document Index E-1, E-2 and E-3*) is as follows:

(1) Rezone: This is an application to change the zoning of two parcels totaling about one-third of an acre at the northwest corner of South Fair Avenue and La Follette Street from the Two-Family Residential (R-2) zoning district to the Local Business (B-2) zoning district. The requested B-2 zoning would be consistent with the Comprehensive Plan's Community Mixed Use designation for the parcels. The current R-2 zoning is not consistent with that designation. The requested B-2 zoning of these parcels would serve as a transitional zoning district

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between the General Commercial zoning with commercial uses currently north and east of the site and the R-2 zoning with single-family residential uses currently south and west of the site.

(2) Class (2) “Automotive Dealer New and Used Sales” Use: The proposed automobile sales business would consist of a lot with 22 spaces for the inventory of vehicles for sale and two buildings for the sales office and related activities including financing, insurance, sale of tools and maintenance. Four dedicated parking spaces for employees and customers are proposed which comply with the number of parking spaces required for retail vehicle sales taking place in less than 1,000 square-feet of the buildings and on the sales lot. There is no showroom. Business operations are expected to occur seven days per week. Some parts of buildings could be leased to other small businesses. Given the limited amount of space, these businesses would be small in scale and would be expected to require no more parking than for the use associated with automobile sales.

(3) Administrative Adjustment of Side Setback Standard: The existing garage on the westernmost parcel would be used for storage and other purposes supportive of the proposed automobile sales business. The garage is located within 5 feet of the west property line of the site which would become the boundary line between the commercial zoning of the site and the R-2 zoning west of the site. The adjustment would permit a proposed addition to this building to be set back 6 feet rather than 20 feet from the property line in order to allow access to and use of the northwest portion of the site. The proposed addition would be located behind and to the north of the existing garage in a location that would still be 35 to 40 feet from the residence located toward the front of the adjacent lot to the west.

(4) Administrative Adjustment of the Surfacing of a Portion of the Vehicle Sales Lot: A small part of the northwest corner of the area where the inventory of vehicles for sale would be parked is proposed to be surfaced in gravel rather than hard surfacing as required by code in order for the site development to conform to the 80% lot coverage standard of the B-2 zoning district. The area proposed for this adjustment measures 59 feet by 19 to 21 feet (1,194.8 square feet) comprising less than half of the pervious surface area of the site. This adjustment would be preferable to adjusting the lot coverage standard because the graveled area would be used for vehicles waiting to be sold rather than for employee or customer parking and would be in the rear corner of the site. The graveled area would be

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relatively small and would not be substantially used by the public or noticeable from surrounding properties. Strict enforcement of both the hard surfacing and the lot coverage standards would unnecessarily reduce the usable area of the site for the proposed use.

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

(1) Rezone: YMC §15.02.020 defines “Rezone” as a change in the zoning district classification of particular lot(s) or parcel(s) of land.

(2) Purpose of the Local Business District (B-2) Zone: YMC §15.03.020(F) provides that 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

(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.

(3) Class (2) Land Use Defined: YMC §15.04.020(B) states that 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.

(4) Compatibility Defined: 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 measures.

(5) Type (2) Review: YMC §15.14.020 provides that Type (2) Review is required for any proposed use shown on Table 4-1 as a Class (2) use, for Class (1)

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uses requiring Type (2) review in YMC §15.13.020, and for other specific reviews established by this title.

(6) Number of Parking Spaces Required: YMC Table 6-1 in YMC §15.06.040 provides that automotive sales uses require 1 parking space for every 500 square feet of showroom area and 1 space for every 1,000 square feet of retail sales floor area.

(7) Surfacing of Vehicle Sales Lots: YMC §15.06.110(A) provides that all vehicle sales lots having a capacity of three or more 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.

(8) Landscaping of Parking and Vehicle Storage Lots: YMC §15.06.090(A) provides that the standard for landscaping of parking and vehicle storage lots with five or more spaces shall be ten percent of the total parking area which may be included to satisfy the lot coverage (impermeable surface) requirements.

(9) Sitescreening: YMC Table 7-1 in YMC §15.07.050 requires Sitescreening Standard C on the west property line because the lowest intensity zoning district in which the proposed “Automotive Dealer New and Used Sales” is a Class (1) use is the General Commercial (GC) zoning district and the lowest intensity zoning district where the adjacent “Detached Single-Family Dwelling” is a Class (1) use is the Suburban Residential (SR) zoning district. YMC §15.07.060 requires Sitescreening Standard A or higher along the south property line adjacent to La Follette Street because sitescreening is required there by Table 7-1 and the adjoining land use is separated from the proposed use by a collector or local access street. La Follette Street is a Local Access Street. The applicant proposes the requisite Sitescreening Standard C along the west property line and indicated at the hearing that Sitescreening Standard A or higher would be installed along the south property line. YMC §15.07.040 states that Standard A consists of a 10-foot-wide landscaped planting strip with trees at 20-foot to 30-foot centers, which includes shrubs and groundcover; that Standard B consists of a 3-foot-wide planting strip that will create a living evergreen screen that is at least 6 feet in height within 3 years; and that Standard C consists of a six-foot-high, view-obscuring fence made of wood, masonry block, concrete or slatted chain link material with a 3-foot-wide planting strip landscaped with a combination of trees,

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shrubs and groundcover along the outside of the fence when it is adjacent to a street, alley or pedestrian way.

(10) Frontage Improvements: Frontage improvements are existing along the site's South Fair Avenue frontage and are required to be extended along the site's La Follette Street frontage.

X. Written Comments of the Development Services Team (DST). The Development Services Team meeting was held for technical review of these Rezone, Class (2) use and Administrative Adjustment applications on November 22, 2022. The following comments were received:

(1) Engineering: This project proposes that an automobile dealership be developed on the property. The property currently has multiple residential buildings that are on a "Safe Routes to School" designated roadway, has existing sidewalks on S. Fair Ave. only and has multiple residential driveway approaches. Right of way at this property on La Follette St. is 30', 20' below the City requirement of 50' for Residential roadways. Right of way at this property on S. Fair Ave. is 74', 6' below the City requirement of 80' for Minor Arterial roadways. The proposed development will cause increased pedestrian and vehicle traffic without adequate safety precautions for pedestrians and inadequate safe ingress and egress for vehicles. Current frontage infrastructure is not adequate enough to handle the proposed change in use to an automobile dealership. Further, the existing right of way will not allow for the required City standard frontage improvements necessary to address the issues associated with development of the property described herein to be constructed entirely on City property. This project requires Title 8 and 12 improvements, including but not limited to the following:

(a) YMC 8.60 and 12.05 – New curb, gutter and sidewalk, including associated pavement widening and storm drainage, shall be installed along the site's frontage on La Follette. Street improvements shall conform to standard detail R3. New sidewalks shall be constructed per standard detail

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R5. If alley is used for access to site, alley shall be paved for length of frontage, as well as replacement of driveway approach to alley.

(b) YMC 8.64 – Commercial driveway approaches are required which meet the requirements of this chapter and standard detail R4. Any existing driveways not utilized shall be removed and replaced with new sidewalk and full height curb.

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

(d) YMC 12.02 – Easements shall be established per this chapter.

(e) YMC 15.05.040 – Vision Clearance Triangle – All corner lots at unsignalized street intersections shall maintain, for safety vision purposes, a vision clearance triangle. Existing 6' fence shall not be permitted inside the vision clearance triangle at the proposed project property.

(f) YMC 12.06.020 – Right of way – La Follette is classified as Residential, requiring a total of 50' of right of way (25' half width). Applicant shall determine existing right of way width and dedicate adequate right of way to meet the required widths. No right of way is required for S. Fair Ave.

(g) An ENG permit is required for new frontage improvements. Civil plans shall be submitted for review and approval. All improvements shall be completed prior to Certificate of Occupancy.

(2) Wastewater: Per City of Yakima records, the existing structures are not connected to City sewer. If applicant is proposing new connections, a new City 8" sewer mainline will be required to be installed in LaFollette St or in the existing alley to the north of the lots per YMC Title 12 requirements and COY Engineering Standard Details. The existing sewer line in Fair Ave is a 36" Trunk line and is not available for side sewer connections. If applicant is proposing to continue use of existing septic systems, they will need to be shown on the site plan and shall obtain approval from Yakima Health District for their continued use in the new development.

(3) Stormwater: As this project develops more than 5,000 but less than 10,000 square feet of impervious area, a complete stormwater drainage report shall be submitted to the Surface Water Engineer for review and approval. The report

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shall include at a minimum: drainage plans; drainage calculations; temporary erosion and sediment control plan; how core elements #1-5, 7 and 8 are satisfied. The drainage report shall be completed by a Professional Engineer licensed in Washington State. Underground Injection Control Wells shall meet the requirements of the 2019 Stormwater Management Manual for Eastern Washington and are required to be submitted for registration to the Washington State Dept. of Ecology at least 60 days prior to construction.

- Core Element #1: Preparation of a Stormwater Site Plan
- Core Element #2: Construction Stormwater Pollution Prevention
- Core Element #3: Source Control of Pollution
- Core Element #4: Preservation of Natural Drainage Systems
- Core Element #5: Runoff Treatment
- Core Element #6: Flow Control
- Core Element #7: Operation and Maintenance
- Core Element #8: Local Requirements

XI. 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. The City's Planning Manager Joseph Calhoun and PLSA's Planning Manager Thomas Durant presented all of the testimony at the public hearing. All of that testimony favored approval of the requested Rezone.

(2) **The suitability of the property in question for uses permitted under the proposed zoning.** The subject parcel is well-suited for uses permitted in the Local Business (B-2) zoning district, including the proposed use of an automobile

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sales use. The requested project Rezone for this B-2 use in a mixed use area is not opposed by any of the neighboring property owners. The B-2 zoning classification and uses would be consistent with the existing Community Mixed Use designation for the property. The existing R-2 zoning classification and uses for the property are not consistent with their existing Comprehensive Plan designation.

(3) The recommendation from interested agencies and departments.

The Planning Division recommends approval of the requested project Rezone. No agencies or departments opposed this 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 Local Business (B-2) zoning district would implement and be consistent with the Community Mixed Use designation of the Comprehensive Plan 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 Comprehensive Plan Goal 2.2, Policy 2.2.3(B), Policy 2.2.3(C), Goal 2.5 and Policy 2.5.1 which are set forth above in Section VII of these recommendations. The requested Rezone would also be in compliance with the intent of the zoning ordinance so long as it satisfies the criteria for approval of a Rezone.

(5) The adequacy of public facilities, such as roads, sewer, water and other required public services. The property has access from South Fair Avenue and from La Follette Street. It is capable of being served with City sewer, water and other required public services.

(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 a commercial use in an area that is developed with commercial uses in the General Commercial zone to the north and east. Since the property borders the R-2 zone where single-family residential uses are located, view-obscuring fencing which is SITESCREENING Standard C is required and proposed along the west property line and SITESCREENING Standard A or higher is required and proposed along the south

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property line on the north side of La Follette Street. Recommended conditions of approval that would promote compatibility include frontage improvements along the La Follette Street frontage, commercial driveway approaches, downward-shielded lighting and on-site parking lot landscaping. No owners or residents of neighboring properties expressed any compatibility concerns relative to this requested project Rezone.

(7) **The public need for the proposed change.** The public need for this proposed change would be to allow the property to be developed for a commercial use in a way that is consistent with its Comprehensive Plan designation and in an area that already has been developed with commercial uses to the north and east.

XII. Class (2) Review Criteria for the Proposed Automobile Sales Use.

Since the proposed automobile sales use 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 use 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 automobile sales use would be compliant and compatible with the Comprehensive Plan Community Mixed Use designation of the property and would also be compliant and compatible with Comprehensive Plan Goal 2.2, Policy 2.2.3(B), Policy 2.2.3(C), Goal 2.5 and Policy 2.5.1 as previously detailed above in Section VII.

(2) **Compliance and Compatibility with the Intent and Character of the (B-2) Zoning District.** The proposed automobile sales use would be compliant and compatible with the intent and character of the Local Business (B-2) zoning

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district because that zoning district includes that type of use as Class (2) use and Class (2) uses are a type of use 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 automobile sales use would be located include the following:

(a) Number of Parking Spaces Required: YMC Table 6-1 in YMC §15.06.040 requires 1 parking space for each 500 feet of showroom area and 1 parking space for each 1,000 square feet of retail sales floor area. The application indicates that there will not be a showroom and that there will be 22 for-sale vehicle spaces. That area would total about 3,762 square feet based upon a typical 9-foot by 19-foot parking space and would require 4 parking spaces for employees and customers. The site plan shows 4 parking spaces in compliance with the off-street parking space standard.

(b) Landscaping of Parking Lots: YMC §15.06.090(A) requires that landscaping of parking and vehicle storage 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) Lighting of Parking Areas: If the parking area or other areas are provided with lighting, the lighting shall be downward shielded so that no lighting spills onto adjacent residential properties.

(d) Surfacing of Parking Areas: YMC §15.06.110(A) requires that vehicle sales lots having a capacity of three or more vehicles must 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. The applicant has requested an adjustment to the pavement requirement in order to allow 1,194.8 square feet of the rear area of the sales lot that would be used for parking part of the inventory of vehicles offered for sale to be graveled so as to comply with the 80% lot coverage maximum allowed for impervious surfaces on the site.

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(e) Lot Coverage: With approval of the requested adjustment of the surfacing requirement of the parking area, the site would comply with the maximum lot coverage of 80 percent permitted in the B-2 zoning district.

(f) Setbacks: The applicant has requested an adjustment to allow a proposed 21-foot by 23-foot addition to the rear of an existing garage to be 6 feet rather than 20 feet from the west property line. Even though the existing garage is about 3 feet from the west property line, it is a legal non-conforming use built in accordance with codes at the time of construction. The addition would be about 35 to 40 feet from the residence on the adjacent lot which is located near the front of the lot.

(g) Sitescreening: The site plan shows the requisite Sitescreening Standard C would be installed along the west property line. The requisite Sitescreening Standard A or higher would be installed along the south property line on the north side of La Follette Street.

(h) Public Facilities: City of Yakima sewer (with an extension on La Follette Street) and water are available to the site. The site is accessed from South Fair Avenue which is a Minor Arterial Street and from La Follette Street which is a Local Access Street.

XIII. Administrative Adjustment Criteria for the Requested Setback

Adjustment for the Automobile Dealership 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 adjustment in the following ways:

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(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 requested setback adjustment 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 a 20-foot-wide side setback from an adjacent residential zone. Adjusting the side setback of the proposed 21-foot by 23-foot addition to the existing 24-foot by 15-foot garage would provide a setback for the addition of about twice the distance from the residential district than the existing legal nonconforming garage's side setback of about 3 feet. The adjustment would coordinate the addition with adjacent land uses and physical features by being located away from the La Follette Street frontage behind the existing garage near the back of the property about 35 to 40 feet from the adjacent residence which is located towards the front of its lot. The applicant proposes to install the requisite Sitescreening Standard C along the west property line which consists of a 6-foot-high view-obscuring fence to separate the property zoned B-2 from the property zoned R-2. Neither the Planning Division nor any adjacent property owner or resident has an objection to the requested setback for the addition. Failure to allow the adjustment would unnecessarily reduce the otherwise usable space in the northwest corner of the property.

(4) Permit flexibility of design and placement of structures and other site improvements: The requested setback adjustment would permit flexibility of design and placement of structures by maximizing the usable area of the property while still complying with the intent of structural setback standards.

(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 adjustment should be allowed because it would be consistent with the purpose of the zoning ordinance to allow automobile dealerships to be located in the B-2 zoning district; it would be consistent with an objective of the setback standards set forth in YMC 15.05.020(D) to allow for sufficient privacy,

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light and air between buildings; and it 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 adjustment.

XIV. Administrative Adjustment Criteria for the Requested Parking Lot Surfacing Standard for the Proposed Automobile Dealership Use.

YMC §15.06.110(A) requires vehicle sales lots having a capacity of three or more vehicles to 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. The applicant has requested an adjustment to the pavement requirement to allow 1,194.8 square feet of the rear parking area that would be used for parking/storing vehicles offered for sale to be graveled so as to comply with the 80% lot coverage maximum for impervious surfaces on the site. The five objectives listed in YMC §15.10.020 apply, or do not apply, to the requested adjustment of the parking lot surfacing standard 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 requested adjustment to the standard for the surfacing of vehicle sales lots 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:** The requested adjustment to allow 1,194.8 feet of the area for this vehicle sales lot to have a gravel surface rather than pavement would coordinate the sales lot with adjacent land uses and physical features by being located away from the La Follette Street frontage behind the existing garage and proposed

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addition near the back of the property. The applicant proposes to install the requisite Sitescreening Standard C along the west property line which consists of a 6-foot-high view-obscuring fence which would separate the graveled parking area from the view of adjacent property to the west. The graveled area would be less than one-half the size of the paved area. The graveled area would be used for the parking/storing of for-sale vehicles in inventory rather than for employee or customer parking. It would therefore comply with the purpose of the paving requirement to minimize dust or mud on the sales lot. The primary "public area" of the property would be paved in asphalt and would have requisite parking lot landscaping. Neither the Planning Division nor any adjacent property owner or resident has an objection to the proposed 1,194.8-square-foot graveled area in the rear of the lot. Failure to allow the adjustment would unnecessarily require an adjustment to the 80% maximum lot coverage limitation for impervious surfaces on the site. Besides maintaining the 80% maximum lot coverage standard for the site which is more restrictive than other zones that allow automobile dealerships, the graveled area would provide areas for the requisite landscaping.

(4) Permit flexibility of design and placement of structures and other site improvements: The requested adjustment to allow gravel rather than pavement for about 1,194.8 square feet of the vehicle sales lot would permit flexibility of design and placement of structures by preserving pervious surfaces on at least 20% of the site while still complying with the intent of the standard for paved surfacing of vehicle sales lots.

(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 adjustment of the standard for surfacing of vehicle sales lots should be allowed because it would be consistent with the purpose of the zoning ordinance to allow automobile dealerships to be located in the B-2 zoning district as a Class (2) generally permitted use; it would be consistent with an objective of the vehicle sales lots surfacing standards to prevent dust and mud; and it 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 adjustment.

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XV. The Consistency of a Proposed Automobile Dealership 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** include the proposed automobile dealership use if the requested B-2 zoning is approved by the City Council, in which case the proposed use could be allowed as a Class (2) use in the proposed B-2 zoning district with the requested setback and vehicle sales lot paving adjustments in accordance with the findings set forth above in these recommendations.

(2) **The density of residential development** is not affected by this proposed use. The proposed commercial use would comply with the 80% lot coverage limitation in the B-2 zoning district where the automobile sales use is allowed as a Class (2) use if, as is the case here, the use satisfies the Class (2) use criteria for approval.

(3) **The availability and adequacy of infrastructure and public facilities** is not an issue here because 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, and because there is adequate access to the site by way of South Fair Avenue, as well as by way of La Follette Street which would be widened with frontage improvements to be installed by the applicant.

(4) **The characteristics of the development** would 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:

Rosa Harati and Sarah Harati
Project Rezone from R-2 to B-2
Class (2) Automobile Dealership
909 La Follette St./1406 S. Fair Ave.
RZ#001-22; CL2#025-22; ADJ#024-22

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(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 0.33-acre site from the Two-Family Residential (R-2) zoning district to the Local Business (B-2) zoning district and to recommend approval of the proposed Class (2) automotive sales use with setback and vehicle sales lot surfacing adjustments.

(2) Public notice for the December 22, 2022, 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 November 30, 2022, and became final without any appeals.

(4) The requested Rezone and proposed automotive sales use with setback and sales lot surfacing adjustments are compliant and compatible with the Goals and Policies of the 2040 Yakima Urban Area Comprehensive Plan Community Mixed Use designation of the Comprehensive Plan for the site.

(5) All of the requisite criteria for approval of a Rezone of the 0.33-acre site to the Local Business (B-2) zoning district are satisfied.

(6) The requested Rezone and Class (2) automotive sales use with setback and vehicle sales lot surfacing adjustments satisfy all of the requisite criteria for their approval.

(7) This request for a Rezone and for approval of the proposed Class (2) automotive sales use complies with the YMC §16.06.020(B) criteria for making a Determination of Consistency.

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, the Hearing

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Examiner recommends to the Yakima City Council that the project Rezone from the Two-Family Residential (R-2) zoning district to the Local Business (B-2) zoning district and the Class (2) automotive sales use with side setback and vehicle sales lot surfacing adjustments on Parcel Numbers 191330-41485 and 191330-41486 on the northwest corner of South Fair Avenue and La Follette Street as described herein and in the City's record for File Numbers RZ#001-22, CL2#025-22, ADJ#024-22 and SEPA#017-22 be **APPROVED**, subject to the following conditions:

(1) Ten percent (10%) of the parking and vehicle storage area shall be landscaped.

(2) SITESCREENING Standard C shall be installed along the west property line and SITESCREENING Standard A or higher shall be installed along the south property line.

(3) Site and parking lot lighting shall be downward shielded so that no light spills onto adjacent residential properties.

(4) New curb, gutter and sidewalk, including associated pavement widening and storm drainage, shall be installed along the site's frontage on LaFollette Street.

(5) Commercial driveway approaches are required which meet the requirements of YMC Chapter 8.64 and standard detail R4.

(6) A new City eight-inch (8-inch) sewer mainline will be required to be installed in La Follette Street or in the existing alley to the north of the lots per YMC Title 12 requirements and City of Yakima Engineering Standard Details.

(7) Since La Follette is classified as a Residential street requiring a total of 50 feet of right-of-way (25 feet half-width), ten (10) feet of additional right-of-way shall be dedicated along the site's frontage on La Follette Street to equal the requisite 25 feet half-width of right-of-way for the north half of La Follette Street.

(8) A complete stormwater drainage report, completed by a Professional Engineer licensed in Washington State, shall be submitted to the City of Yakima

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Surface Water Engineer for review and approval.

(9) The applicant shall submit to the City of Yakima Planning Division an updated site plan showing the following:

- (a) Parking lot landscaping equal to a minimum of ten percent (10%) of the parking and vehicle storage area(s).
- (b) Parking lot and site lighting, if provided.
- (c) Vision Clearance triangles at the street intersection and driveway intersections.
- (d) The new frontage improvements and the type of sitescreening on LaFollette Street.
- (e) A right-of-way dedication ten (10) feet in width along the site's frontage on the north side of LaFollette Street.

DATED this 6th day of January, 2023.



Gary M. Cuillier, Hearing Examiner