



COMMUNITY DEVELOPMENT DEPARTMENT

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**CITY OF YAKIMA
HEARING EXAMINER
AGENDA**

**Thursday April 2, 2015
Yakima Convention Center
10 North 8th Street, Yakima, WA 98901
Beginning at 6:00 p.m.**

I. CALL TO ORDER

II. INTRODUCTION

III. PUBLIC HEARINGS

A. YAKIMA NEIGHBORHOOD HEALTH SERVICES (INT#001-14, CL2#018-14)

Planner: Jeff Peters

Address: 201 South 6th Street

Request: Yakima Neighborhood Health Services is requesting an unclassified use interpretation for a proposal to establish a new use and definition for "Community Resource Service Center" in the Yakima Municipal Code (YMC) § 15.04 Table 4-1 Table of Permitted Uses in the SCC zoning district, and YMC § 15.02 Definitions.

IV. ADJOURNMENT

If you are unable to attend the hearing, you may submit your comments in writing prior to the hearing. You may also submit written testimony at the hearing. Additional information is available online at:

<http://www.yakimawa.gov/services/planning/> under Quick Links

CITY OF YAKIMA

FINDINGS of FACT, CONCLUSIONS & RECOMMENDATION

for

**REQUEST FOR UNCLASSIFIED USE INTERPRETATION YAKIMA MUNICIPAL CODE §
15.04.040**

Application: INT#001-14 & CL2#018-14
APPLICANT: Yakima Neighborhood Health Services (YNHS)
APPLICANT ADDRESS: 12 S. 8th St., Yakima, WA 98901
PROJECT LOCATION: 201 S. 6th St., Yakima, WA 98901
TAX PARCEL NUMBERS: 191319-13473
DATE OF REQUEST: November 18, 2014
DATE OF RECOMMENDATION: March 26, 2015
STAFF CONTACT: Jeff Peters, Supervising Planner

I. DESCRIPTION OF REQUEST:

Request for an Unclassified Use Interpretation under YMC § 15.04.040 and 15.22. Specifically, to differentiate the use of a Community Center from that of a Mission use (Mission) (presently defined by City of Yakima Interpretations INT#1-92, and INT#2-95), interpretation of a Mixed Use Building, and establishment of a "Community Resource Service Center" definition and land use category.

The applicant's submittal for Class (2) Review is deferred until the use Interpretation is resolved or decided by the City of Yakima Hearing Examiner.

II. SUMMARY OF RECOMMENDATION:

The Administrative Official recommends the proposed uses not be classified as a Community Center nor Mixed Use Building. The Hearing Examiner will need to fully evaluate the proposal to determine if it is consistent with the definition of a Mission as previously defined by City of Yakima Interpretation #1-92 and #2-95, or proposed "Community Resource Service Center".

III. FACTS:

A. Abbreviated History of Mission Use

On February 13, 1992, at the request of the City of Yakima (City), a Use Interpretation was initiated by the City Hearing Examiner (Examiner). The purpose of the interpretation, as defined by the Examiner's decision INT# 1-92, was to review the nature of the activities conducted by the Union Gospel Mission (UGM), and determine whether those activities fit within an existing land use classifications of the City's zoning ordinance. Also, in the event that there was no acceptable category of land use, a new land use and level of review would be established and defined.

The Examiner defined the activities provided by the UGM as a range of services including: spiritual and material support, meals both on and offsite, clothing and other staples, dental clinics, foot clinic, shower and similar facilities, residential facilities, youth center, food and lodging facilities for homeless men and families, drug and alcohol rehabilitation, dormitory and family shelter, dining and kitchen facilities, auditorium, gymnasium, and maintenance repair shops. The uses primarily reviewed by the Examiner included: Community Center, Halfway House, Detention Centers, Hospitals, Group Home, High Density Multi-Family Dwelling Units, and Boarding Houses. The zoning districts considered included the Central Business District (CBD), Central Business District Support (CBDS) (Currently known as General Commercial (GC)), and Light Industrial Zoning District (M-1).

On February 27, 1992, the Examiner issued his Use Interpretation stating that *"The combination of uses typified by the UGM shall be characterized as a "Mission," subject to Class (2) Review in the Central Business District (CBD) and Central Business District Support (CBDS) zones."* The Examiner went on to define the Mission use as *"...a facility typically owned or operated by a public agency or non-profit corporation, providing a variety of services for the disadvantaged, typically including but not limited to temporary housing for the homeless, dining facilities, health and counseling activities, whether or not of a spiritual nature, with such services being generally provided to the community at large."*

On July 10, 1992, the City of Yakima processed and issued a Class (2) Review CL(2) #10-92 to locate the UGM at 1300 North First Street, subject to three conditions of approval.

On July 24, 1992, the Yakima Gateway Organization appealed the Administrative Official's decision for CL(2) #10-92 to the Examiner on the grounds that: 1) the Administrative Official did not have authority to consider the UGM's application; 2) the Administrative Official's refusal to consider comments was unlawful; 3) the proposed use was incompatible with the uses surrounding it; 4) the proposed use would adversely impact adjoining property values; and 5) the proposal lacked adequate parking.

On October 20, 1992, the Examiner rendered his decision on the application submitted by the Yakima Gateway Organization upholding the Administrative Official's decision to approve the CL(2) #10-92 application, to allow the UGM to locate at 1300 N. 1st Street.

On June 9, 1995, at the request of the UGM, the Examiner issued a second use interpretation, amending the previous 1992 interpretation, reaffirming the uses considered to be part of the Mission definition to: *"churches, community centers, day care centers half-way houses, hospitals, correctional facilities, libraries, and schools"*, and allowing the Mission use to be considered in the M-1 zoning district.

B. Environmental Review.

The proposed Use Interpretations are exempt from State Environmental Policy Act review because they fall below the City of Yakima's flexible threshold for SEPA, as established in Section 6.88.070 YMC.

C. Comprehensive Plan.

The City of Yakima's 2006 Yakima Urban Area Comprehensive Plan 2025, Future Land Use Map III-3 designates the subject property, where the resulting use would be located, as Neighborhood Commercial.

D. Statement of Cause.

Pursuant to YMC § 15.04.040 and 15.22.020, the applicants have provided, in their application dated November 21, 2014, and March 4, 2015, the following paraphrased statements explaining their reasons for the proposed Use Interpretation (see INT#001-14 and CL2 Narratives):

1. **Statement of Cause Community Center:** *“YHNS is an integral provider of essential services to underserved populations of the Yakima County. Services include medical, dental, pharmacy, behavioral health, nutrition (including WIC) and maternity support services. An integral component of community programs are assistance services for the homeless including respite care, case management transitional and permanent supportive housing, employment assistance and outreach. The programs have been in place for years and will be consolidated at the proposed site. The primary purpose of the facility will be to provide these needed services as well as modest warming shelter.*

The proposed use is a “community center” in the truest form of the ordinance definition. The proposed facility is intended to provide public assistance to the homeless population. A “community center” is defined as follows:

Community Center means a facility owned and operated by a public agency or nonprofit corporation, provided the principal use of the facility is for public assistance, community improvement, or public assembly.

YMC 15.02.020. The definition provides that the “principal use” of the facility shall be for (1) public assistance; (2) community improvement; or (3) public assembly. The proposal is for a facility that provides public assistance in the form of case management, health and social services, employment and housing consultation, and temporary homeless warming shelter. A “community center is a Class 2 use...

2. **Statement of Cause Mixed Use Building:** *“It has been suggested that the warming shelter/residential use is inconsistent with permitted uses within the Small Convenience Center (SCC) zoning district. This interpretation, however is inconsistent with other permitted uses within the zoning district. SCC specifically permits “mixed-use building” which is defined as follows:*

Mixed-use building “means a building in a commercial district or planned development used partly for residential use and partly for a community facility or commercial use...”

YMC 15.02.020. This provision was added to the ordinance after the “Mission” interpretation and clearly evidences a legislative intent that “residential use” may be offered at a community facility. It is well recognized that “zoning laws may regulate the use of the land, not the identity of the users.” Phillips Supply Co. v. Cincinnati Zoning Board of Appeals, 17 NE 3d 1 (Ohio 2014). A mixed use building is a Class I use. Multiple uses within a facility are reviewed at the level of the highest classified use. YMC 04...”

3. **Statement of Cause Hearing Examiner Interpretation Decision Not Determinative:** *“...the use classification of “Mission” under Hearing Examiner’s Interpretation (February 17, 1992) (“Examiner’s Interpretation”) An important beginning point is that the 1992 Interpretation applied to a unique facility proposed by Union Gospel Mission (UGM) within the Central Business/District (CBD) and Central Business (CBDS) zoning districts. More importantly, the interpretation was “based upon a specific factual circumstance” and not intended for broad application. Examiner’s Interpretation – 11.”*

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- a. *Background and Decision.* "... (City No. UAZO-Interp. #1-92). The interpretation was taken in the context of relocation of the Union Gospel Mission to North First Street, Yakima, WA. The proposed use had generated significant public comment and was undertaken in the context to changes to the UAZO that reduced the level of review for "community centers" from Class (2) to Class (1) uses..."
- "Hearing Examiner recognized that the City of Yakima and Yakima County had interpreted the Urban Area Zoning Ordinance (UAZO) to classify UGM activities as a "community center." Hearing Examiner reviewed a very broad proposed use in the context of the appropriate "standard of review..."
 - "Examiner's Interpretation 2-3. Union Gospel Mission was proposing a very large diversified and significant facility that provided both short-term and long-term uses. Examiner recognized that the breadth of the proposed uses and acknowledged the potential of several land use categories including community center, halfway house, group home and high density multi-family dwelling units..."
 - "Examiner's Interpretation – 7. Examiner also discusses detention centers, hospitals, and group homes as potentially within the scope of proposed uses. Examiner's Interpretation – 8. The interpretation was driven, however, by the unique combination of a very diverse set of land uses. Hearing Examiner then focused on the importance of public review and participation..."
 - "Examiner's Interpretation – 11. It is clear that the interpretation related to the "specific factual circumstances" presented in the application. It is significant that City of Yakima did not incorporate the definition of "Mission" in subsequent amendments to the Urban Area Zoning Ordinance (UAZO). In fact, subsequent amendments recognized the permissibility combination of residential and community service uses within a single facility – i.e. "mixed-use building."
- b. *Distinctions Between "Mission" and current application.* "YNHS application is substantively different than the Mission use considered by the Hearing Examiner for Union Gospel Mission. The proposed use is substantially smaller in scale, focuses on assistance services for the homeless and is provided in the context of medical and health care services provided on nearby campuses. Among the substantive distinction are the following:
- Interpretation was limited to the "specific factual circumstance" of the UGM use proposal...
 - Union Gospel Mission's "...primary purpose is the provision of spiritual and material support for those in need. "YNHS does not incorporate religious or spiritual components in the provision of services to the homeless".
 - The Mission's primary use is of the provision of housing (overnight accommodations) with people leaving the facility during the day. YNHS's proposal is the reverse: It is primarily public assistance (services) during the day with overnight accommodations, as needed.
 - Mission provided services and accommodations that were similar to Group Homes and Halfway Houses. YNHS does not provide any services that are similar to those land uses.
 - Mission provides services and facilities on a much larger and broader scale...YNHS will provide a small warming center. YNHS is a part of the Homeless Network of Yakima County; housing is coordinated with housing providers (public and private) throughout the county. Services, like the

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supportive housing described above are facilitated by partners such as Triumph Treatment Services (chemical dependency services) and the YWCA (domestic violence services).

- YNHS uses services model of “Harm Reduction”, meaning they work with clients in their current condition. While YNHS does have rules, they do not terminate care or services as a result of noncompliance.
- YNHS provides health-based services. It is not unusual for YNHS to receive referrals from the Mission to provide respite care and support services for high need clients, particularly those with mental health needs.
- YNHS focuses on an integrated and interdisciplinary approach to case management and assistance. The community service include resource services (safe shelter, transportation, rental or utility assistance, etc.) Assistance is also provided with respect to transitional and permanent supportive housing, employment and available community programs and similar activities.”

4. Statement of Cause “Community Resource Service Center”:

“Yakima Neighborhood Health Services (“YNHS”) has proposed a Community Resource Center (with emergency warming shelter) at 201 South 6th Street, Yakima, Washington 98901 (Assessor’s Parcel No. 191319-13473). The proposal is for a mixed use facility with the primary use being a community center providing resources, assistance and services to the pre-homeless and homeless populations of the immediate geographic area. Ancillary uses include an emergency warming shelter for homeless individuals. YNHS’ application requested zoning review of the project proposal as a “Community Center” and “Mixed-Use Building.”

“...this submission will supplement the filed application and requests a contingent interpretation of the proposed use pursuant to the non-classified use review provisions of YMC 15.04.040. The proposed definition for the contemplated use is as follows:

“Community Resource Service Center” means a mixed use facility providing programs, resources, assistance and temporary shelter to homeless and pre-homeless populations of the immediate community.”

“Yakima Neighborhood Health Services. Yakima Neighborhood Health Services (YNHS) is a Washington nonprofit corporation. The mission of Yakima Neighborhood Health Services is to provide affordable, accessible, quality health care, to promote learning opportunities for students of health professions, and to end homelessness and improve quality of life in our communities. YNHS has been an active participant in provision of resources and assistance to the homeless populations of Yakima County. YNHS currently operates YNHS “Resource Centers” in both Yakima and Sunnyside.

Project Proposal-Location. YNHS is proposing to establish a “Community Resource Service Center” designed to provide resources and assistance to the homeless population of central and southeast Yakima. The proposed location is at the current site of Roy’s Market, 201 South 6th Street, Yakima, WA 98901... The project proposal implements an integral component of this community’s commitment to end homelessness and provide resources and assistance to our homeless population...”

“The primary purpose and use of the Resource Center is to provide a range of resources, services and assistance to the homeless and pre-homeless within the immediate geographic area. The services and resources provided include the following:

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- Homeless Prevention Assistance
- Coordinated Entry to Transitional and Permanent Supportive Housing
- Medical Respite Care for the Homeless
- Transportation Assistance
- Self Sufficiency Help
- Resources and Referrals for Health care
- Connection to Employment and Training
- Resources for Health Insurance and Other Application Assistance
- Basic needs and Hygiene Items
- Overnight Warming Shelter and Essential Needs”

“An ancillary component of the Resource Center will be an overnight warming shelter with kitchen and limited food service. Homeless Network Ten Year Plan specifically recognizes that provision of emergency homeless services (including overnight shelter) is an integral component of the continuum of care service model. The project contemplates a maximum of fifty (50) beds for temporary shelter. There will be no provision for short-term or long-term residential uses at this site. YNHS provides resources for transitional and permanent housing provided by other agencies and organizations including Yakima Housing Authority.

YNHS will not provide medical, dental or other health care services at this facility. There will be limited chemical dependency treatment, mental health evaluation and treatment, or otherwise specialized care. The Resource Center will serve as a Coordinated Entry point to connect clients to services at other locations (YNHS Medical, Dental and Health care Facilities) or through partner agencies (Triumph Treatment Services, Central Washington Comprehensive Mental Health, YWCA, etc.)”

“Proposed Definition. Community Resource Service Center is defined as follows:
 “Community Resource Service Center” means a mixed use facility providing programs, resources, assistance and temporary shelter to homeless and pre-homeless populations of the immediate community...

1. The primary purpose of the Community Resource Service Center shall be to provide resources, services and assistance to the homeless and pre-homeless within the immediate community. The Resource Center will be provided resources with respect to housing placement (temporary, transitional and permanent), medical and healthcare referrals, transportation, mental health care and treatment referrals, chemical dependency case/care management and referrals, employment and job assistance, and treatment assistance and referrals.
2. The facility shall be staffed 24/7 and is located in an area with demonstrated need for homeless support services.
3. The facility is located within 1000 feet of a public transportation stop or hub.
4. A warming shelter is provided with a maximum of sixty beds. All shelter services will be for temporary shelter and there will be no short-term or long-term residencies.
5. Site development conditions include:
 - Site Screening Standard C shall be applicable to property lines adjacent R-1 properties. YMC 15.07.040 and.050.
 - YNHS proposes to provide 26 onsite parking spaces. The current warming shelters report very low volumes of vehicle traffic. The high end estimate is between 6-8 cars per night for a 50 bed facility. YNHS proposes a parking standard of 1 parking space per 3 beds.

- *Site plan to be reviewed and approved with compliance with applicable development conditions and mitigation.*

Other conditions and/or site development standards may be established through the permit and hearing review process as well as environmental review under State Environmental Policy Act (SEPA)."

E. Processing.

1. On October 22, 2014, YNHS submitted an application for a Use Interpretation under YMC § 15.04.030, INT#001-14, and Class (3) Review, CL(3)#006-14, to have the Hearing Examiner differentiate a Mission use from that of a Community Center to allow their proposal to operate a Community Center, providing public assistance services in the form of a food bank, health and social services, laundromat facility, and temporary homeless warming shelter, in the SCC zoning district.
2. On November 18, 2014, the applicant revised their proposed application eliminating the Class (3) Review, and submitting a Class (2) Review application (CL2#018-14) for a Community Center, providing public assistance services in the form of a food bank, health and social services, laundromat facility, and temporary homeless warming shelter, in the SCC zoning district. Use Interpretation #001-14 was retained, but was further modified to include a request for consideration of a Mixed Use Building.
3. In addition to the revised applications, the applicant, in accordance with YMC § 16.03.010 (B), requested that the applications be reviewed at the highest level of use set forth in Table 4-1. The highest level set forth for a Community Center is a Class (2) use. The applicant further agreed to: 1) review the application and interpretation by the Examiner at an open record public hearing (City File INT#001-14); 2) consolidation of the hearings for both the use interpretation and Class 2 Review; and 3) simultaneous processing of the two applications. Furthermore, it was also agreed that the City of Yakima would accept the two applications as complete for submittal, however the applicant would be responsible for providing the City with all additional information necessary for the City's Development Services Team (DST) to review the proposed site plan prior to the application being scheduled for public hearing before the Examiner.
4. The revised applications were deemed complete for processing on November 20, 2014.
5. On November 25, 2014, in accordance with YMC § 15.14.040, the City of Yakima Planning Division requested additional information necessary to clarify the proposal and site plan for processing in accordance with YMC § 16.03.010 (B).
6. On December 18, 2014, the City of Yakima received the necessary information to continue processing the proposed applications, and a letter of completion was sent to YNHS on December 29, 2014.
7. On January 13, 2015, a DST meeting was held on the proposed Class (2) site plan.
8. Following the January 13, 2015, DST meeting, the City of Yakima Planning Division held several informal meetings with the applicant highlighting some of the development and process challenges with their application.
9. On March 19, 2015, due to the challenges presented, the applicants agreed to remove their Class (2) Review application from consideration until the Examiner rendered his decisions on the Use Interpretations, and additionally revised their use interpretation

request to include an Unclassified Use Interpretation to add the use of "Community Resource Service Center" into the City's Zoning Ordinance.

10. In accordance with YMC § 15.22.030, and the revised agreed process, the City of Yakima Planning Division forwarded all submitted applications to the Examiner on March 17, 2015, and scheduled the combined public hearing for March 25, 2015.
11. A Community Center is classified as a Class (2) use, a Mixed Use Building is classified as a Class (1) use in the SCC zone, and a Community Resource Service Center is an Unclassified Use; which are being forwarded to the Examiner as City File Number INT #001-14, for a Use Interpretation processed under the combined provisions of YMC §§ 15.04.030, 15.22, 15.14, 15.15, and 16.03.010 (B).
12. Pursuant to YMC Ch. 1.43, the Examiner has the authority to make a decision on matters prescribed by YMC Title 15.
13. Pursuant to YMC § 16.05.010, a Notice of Application and Public Hearing was sent to the applicant, interested parties of record, and property owners within 300-feet of all SCC zoning districts on March 6, 2015. Comments were received by the public during the 20-day public comment period.

F. Applicable Law. Yakima Urban Area Zoning Ordinance:

1. Use Interpretation:

- i. Pursuant to YMC § 15.22.030 Review by the hearing examiner, "the department shall, within five days of the receipt of any request for interpretation, forward all applications for interpretation to the hearing examiner for decision. The hearing examiner may refer any application or request for interpretation to any interested, affected, or concerned agencies or person for review and comment. In addition, the hearing examiner may, at his sole discretion, schedule and hold a public hearing on any proposed interpretation issue..."
- ii. Pursuant to YMC § 15.22.040 (B), "The hearing examiner shall clearly state the analysis and reasons upon which any interpretation is based and, if the interpretation is a use interpretation, how the interpretation is consistent with the specific conditions established in YMC § 15.22.050."
- iii. Pursuant to YMC § 15.22.050 Use Interpretations, "the following conditions shall govern the hearing examiner in issuing use interpretations (see YMC 15.04.040):
 - A. No use interpretation shall vary the location or review requirements of any use listed in Table 4-1...
 - B. No use interpretation shall permit any use in any zoning district unless evidence is presented which demonstrates that it will comply with the intent and evidence is presented which demonstrates that it will comply with the development standards established for the particular district..."
- iv. Pursuant to YMC § 15.04.040 Unclassified uses, "Any use not listed in Table 4-1 is an unclassified use and shall be permitted only in those districts so

designated by the hearing examiner. Any unclassified use permitted in a particular zoning district shall be allowed only as a Class (2) or (3) use. The hearing examiner shall follow the provisions of YMC Chapter 15.22 when determining which zoning districts are appropriate for a particular unclassified use.”

IV. FINDINGS of FACT

Application Process:

- 1) This application is being processed under the combined provisions of YMC §§ 15.04.030, 15.22, 15.14, 15.15, and 16.03.010 (B).
- 2) Pursuant to YMC Ch. 1.43, the Examiner has the authority to make a decision on matters prescribed by YMC Title 15.
- 3) On November 18, 2014, the applicant (Yakima Neighborhood Health Services) submitted a revised Class (2) and Use Interpretation application for the establishment of a Community Center/Mixed Use Building, for providing public assistance services in the form of a food bank, health and social services, laundromat facility, and temporary homeless warming shelter, in the SCC zoning district, at 201 S. 6th St. (City File Numbers: CL2#018-14, INT#001-14).
- 4) The subject property where YNHS would like to locate the proposed use is owned by Sung Cho Lee, and Ok Chu Lee, 201 S. 6th St. Yakima, WA 98901.
- 5) The City of Yakima Planning Division deemed the revised applications complete for processing on November 20, 2014.
- 6) On November 25, 2014, in accordance with YMC § 15.14.040, the City of Yakima Planning Division requested additional information necessary to clarify the proposal and site plan, in accordance with YMC § 16.03.010 (B).
- 7) On December 18, 2014, the City of Yakima received the necessary information to continue processing the proposed applications, and a letter of receipt of additional information was sent to YNHS on December 29, 2014. (See FACTS E. Processing above for further explanation of application process and history).
- 8) A Community Center is classified as a Class (2) use, a Mixed Use Building is classified as a Class (1) use in the SCC zone, and a Community Resource Service Center is considered an Unclassified Use. These three applications are being reviewed under the Type (3) Review process, as requested by the applicant and forwarded to the Examiner as City File Number INT#001-14.
- 9) Pursuant to YMC § 15.04.020(C), “Class (3) uses are generally not permitted but may be allowed by the Hearing Examiner after Type (3) Review and public hearing. The Hearing Examiner may approve, deny, or impose conditions on the proposed land use and site improvements 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 Ch. 15.15 shall be used to review and evaluate Class (3) uses or Class (2) uses that have been forwarded to the Hearing Examiner for review.”

Planning Division Findings Regarding Community Center Use:

- 1) Prior to 1992, both the City and County Planning staff classified the Union Gospel Mission facilities as a "Community Center". The subsequent appeal by a citizen of this practice led to the 1992 and 1995 Use Interpretations which resulted in a new use definition of a "mission".
- 2) The applicant's Class (2) narrative dated November 21, 2014, describes their use as a Community Center to provide public assistance in the form of a food bank, health and social services, laundromat, and temporary homeless warming shelter. The applicant further explains that the food bank, health and social services, and laundromat will all be open during regular business hours, and the site will have 18 on-site parking spaces, and 15 angled street parking spaces, with staff on hand 24-hours a day for the warming shelter with the services of the center within walking distance for neighbors to enjoy...
- 3) The supplemental narrative dated November 21, 2014, further describes that the Community Center will be an "essential service to underserved populations of Yakima County" (inferring that the center is to be utilized by all of Yakima County not just the surrounding neighborhood or the City of Yakima). The services including medical, dental, pharmacy, behavioral health, nutrition, maternity support services, assistance services for the homeless (respite care, case management transitional and permanent supportive housing, employment assistance and outreach programs) are to be consolidated at the subject site.
- 4) The City of Yakima Zoning Ordinance defines a "Community Center" as "a facility owned and operated by a public agency or nonprofit corporation, provided the principal use of the facility is for public assistance, community improvement, or public assembly."
- 5) The applicant states that the proposal is compatible with the surrounding neighboring properties because "it will provide a safe place for the homeless of this neighborhood, a safe place to connect with services, and to clean up away from businesses and neighbor's lawns." However, the applicant's answer to narrative questions "A & B" of the Class (2) application contradicts statements made in the applicant's supplemental narrative which indicated that the intent of the facility is to provide an "essential service to the underserved populations of Yakima County", thus providing more of a regional use in addition to a neighborhood use.
- 6) The Operations Narrative dated December 18, 2014, indicates that the proposed facility will provide 1-2 warm meals a day, clean clothes and place to shower, food and clothing bank, and shelter for 40 – 60 beds.
- 7) Pursuant to YMC § 15.22.050 (B), No use interpretation shall permit any use in any zoning district unless evidence is presented which demonstrates that it will comply with the intent and development standards established for the particular district. The applicant states in item "D" of their Class (2) narrative that the proposal is consistent with the SCC zoning district and the "Community Service Center", as "uses in this district should be retail or personal service establishments dealing directly with the consumer", and that the laundromat and food bank are also supported as the SCC zoning district supports "small commercial centers, generally two to five acres in size, where most of the commercial uses have located in a coordinated manner around a common parking lot and one major commercial approach driveway."

While the proposed development does provide for a laundromat, the developer has failed to satisfy the intent of the SCC zoning district which is to 1) provide areas for commercial activities outside the downtown commercial district that meet community retail shopping and service needs; and 2) accommodate small commercial centers, generally two to five acres in

size... Small convenience centers serve the day-to-day convenience shopping and service needs of the surrounding neighborhood and should be designed to minimize undesirable impacts of the center on the neighborhood it serves. Uses in the district should be retail or personal service establishments dealing directly with the consumer, the primary occupants usually being such uses as a supermarket, fast food restaurants, and drugstores.

- 8) The subject development, as described in the above narratives, does not provide for, or meet the following description of the SCC zoning district: 1) commercial activities outside the downtown commercial district, as the services provided are public health and social service related; 2) are not retail shopping related; 3) the definition of personal services (as personal services are defined as a business providing specialized services such as interior home or business design and shopping services...); 4) the site does not meet criteria for a Small Commercial Center, two to five acres in size, as the subject property is only .68 acres in size, and the subject building is 13,748 sq. ft. in size; 5) the proposal does not provide for uses such as a supermarkets, fast food restaurants or drugstores; and 6) the applicant's proposed mitigation of renovating the building, parking area, and providing landscaping shown on the site plan that do not meet the development standards of the district (as more fully described below in this report).
- 9) The definition of a Community Center in the City of Yakima's Zoning Ordinance indicates that the facility is to be owned and operated by a public agency or nonprofit corporation, and that the principal use of the facility is for public assistance, community improvement, or public assembly. However, the Revised Code of Washington (RCW) §§ 35.59.010, and 70.10.020 provides for two other definitions of similar land uses which may be better suited to describe of the proposed use:

"Comprehensive community health center" defined: The term "comprehensive community health center" as used in this chapter shall mean a health facility housing community health, mental health, and developmental disabilities services; and

"Multi-purpose community center" as used in this chapter means the lands, interests in lands, property, property rights, equipment, buildings, structures and other improvements developed as an integrated, multi-purpose, public facility on a single site or immediately adjacent sites for the housing and furnishing of any combination of the following community or public services or facilities: Administrative, legislative or judicial offices and chambers of any municipality, public health facilities, public safety facilities including without limitation, adult and juvenile detention facilities, fire and police stations, public halls, auditoria, libraries and museums, public facilities for the teaching, practice or exhibition of arts and crafts, educational facilities, playfields, playgrounds, parks, indoor and outdoor sports and recreation facilities. The term multi-purpose community center shall also mean and include walks, ramps, bridges, terminal and parking facilities for private vehicles and public transportation vehicles and systems, utilities, accessories, landscaping, and appurtenances incident to and necessary for such centers.

Planning Division Findings Regarding Mission Use:

- 1) In 1992 and 1995, the Hearing Examiner defined the activities provided by the UGM proposed at 1300 North 1st Street as a range of services including:
"spiritual and material support, meals both on and offsite, clothing and other staples, dental clinics, foot clinic, shower and similar facilities, residential facilities, youth center, food and lodging facilities for homeless men and families, drug and alcohol rehabilitation, dormitory

and family shelter, dining and kitchen facilities, auditorium, gymnasium, and maintenance repair shops”.

The uses primarily reviewed by the Examiner included: Community Center, Halfway House, Detention Centers, Hospitals, Group Home, High Density Multi-Family Dwelling Units, and Boarding Houses. The zoning districts considered included the Central Business District (CBD), Central Business District Support (CBDS), and Light Industrial Zoning District (M-1). Similarly, as stated in the October 20, 1992, appeal decision by the Examiner, “by definition the Interpretation does not allow location of the Mission use in other zones within the Yakima Urban Area. Accordingly, the Mission is not permitted to locate in the following zones: Suburban Residential (SR), Single-Family Residential (R-1), Two Family Residential (R-2), Multi-Family Residential (R-3), Professional Business (B-1), Local Business (B-2), Small Convenience Center (SCC), Large Convenience Center (LCC), Light Industrial (M-1), or Heavy Industrial (M-2) zones.”

In contrast to the Mission use, the YNHS Community Center/Community Resource Service Center will provide the following services: food bank, health and social services, laundromat, temporary homeless warming shelter (24-hours) with up to 60 beds for overnight accommodation of the homeless, medical, dental, pharmacy, behavioral health, mental health treatment, nutrition (including WIC) and maternity support services, respite care, case management transitional and permanent supportive housing, employment assistance and outreach, homeless prevention assistance, coordinated entry to transitional and permanent supportive housing, transportation assistance, self-sufficiency help, resource and referrals for healthcare, employment and training assistance, basic needs and hygiene items, limited chemical dependency treatment, mental health evaluation and treatment, other specialized care, 1-2 warm meals a day (implying a commercial kitchen), shower facilities, and clothing bank.

- 2) The Examiner issued his use interpretation stating that “the combination of uses typified by the Yakima Union Gospel Mission shall be characterized as a “Mission,” subject to Class (2) review in the Central Business District (CBD) and Central Business District Support (CBDS) zones.” The Examiner went on to define the Mission use as “...a facility typically owned or operated by a public agency or non-profit corporation, providing a variety of services for the disadvantaged, typically including but not limited to temporary housing for the homeless, dining facilities, health and counseling activities, whether or not of a spiritual nature, with such services being generally provided to the community at large.”

In comparison, YNHS Use Interpretations could be viewed as meeting the intent of the definition for a Mission as they are a non-profit corporation which provide a variety of services described above for the disadvantaged. Their proposal includes temporary housing for the homeless (overnight), dining facilities (1-2 meals a day), health and counseling activities (medical, dental, pharmacy, mental health treatment, social services), they do not provide services of a spiritual nature, and they are planning to provide their services to all of Yakima County and surrounding neighborhood.

- 3) The applicant’s arguments against being classified as a Mission are:
 - a) “YNHS application is substantively different than the Mission use considered by the Hearing Examiner for Union Gospel Mission. The proposed use is substantially smaller in scale, focuses on assistance services for the homeless, and is provided in the context of medical and health care services provided on nearby campuses. Among the substantive distinction are the following:

- b) The interpretation was limited to the “specific factual circumstance” of the UGM use proposal...
 - c) UGM’s “...primary purpose is the provision of spiritual and material support for those in need.” “YNHS does not incorporate religious or spiritual components in the provision of services to the homeless”.
 - d) The UGM’s primary use is of the provision of housing (overnight accommodations) with people leaving the facility during the day. YNHS’s proposal is the reverse: It is primarily public assistance (services) during the day with overnight accommodations, as needed.
 - e) The UGM provided services and accommodations that were similar to Group Homes and Halfway Houses. YNHS does not provide any services that are similar to those land uses.
 - f) The UGM provides services and facilities on a much larger and broader scale... YNHS will provide a small warming center. YNHS is a part of the Homeless Network of Yakima County; housing is coordinated with housing providers (public and private) throughout the county. Services, like the supportive housing described above are facilitated by partners such as Triumph Treatment Services (chemical dependency services) and the YWCA (domestic violence services).
 - g) YNHS uses services model of “Harm Reduction”, meaning they work with clients in their current condition. While YNHS does have rules, they do not terminate care or services as a result of noncompliance.
 - h) YNHS provides health-based services. It is not unusual for YNHS to receive referrals from the Mission to provide respite care and support services for high need clients, particularly those with mental health needs.
 - i) YNHS focuses on an integrated and interdisciplinary approach to case management and assistance. The Community Service include resources services (safe shelter, transportation, rental or utility assistance, ect). Assistance is also provided with respect to transitional and permanent supportive housing, employment and available community programs and similar activities.”
- 4) In response to the applicant’s nine points above the City of Yakima finds the following:
- a) The services provided by the UGM are similar in nature and scale as those provided by YNHS, as documented above, and taken from the applicant’s narratives.
 - b) The proposed use’s operation is most definitely smaller in scale and overall size in comparison to the UGM, as the UGM provides more services, has a larger campus, and houses a larger amount of people for longer periods of time.
 - c) *The interpretation was not limited to the “specific factual circumstance” of the UGM use proposal as the Examiner considered multiple land use categories, uses not present in the City’s Zoning Ordinance, as well as, the impact of the proposed use upon all of the City of Yakima’s zoning districts (described in #1 above).*
 - d) The Examiner did not limit the definition of a Mission to only organizations that *incorporate religious or spiritual components in the provision of services to the homeless*. Rather it was stated that a Mission is “...a facility typically owned or operated by a public agency or non-profit corporation, providing a variety of services for the disadvantaged, typically including but not limited to temporary housing for the homeless, dining facilities, health and counseling activities, **whether or not of a spiritual nature**, with such services being generally provided to the community at large.”
 - e) Both the UGM and YNHS provide services for overnight accommodation of the homeless which occur during both day and night.
 - f) YNHS has provided several examples of their operational attributes, and statements of why their operation model is unlike the UGM. However, the applicant has not provided any documentation from the UGM to compare to their use and proposal.

Planning Division Findings Regarding Mixed Use Building:

- 1) The applicant states that "... SCC specifically permits "mixed-use building" which is defined as follows: "Mixed-use building" means a building in a commercial district or planned development used partially for residential use and partly for a community facility or commercial use." In addition, the applicant also asserts that "this provision was added to the ordinance after the "Mission" interpretation and clearly evidences a legislative intent that a "residential use" may be offered at a community facility."
- 2) In response to the applicant's statement that the definition of a mixed-use building allows a "residential use" as part of a community facility the Planning Division finds this statement to be correct provided it is classified as a "Mixed-Use Building" as regulated under YMC § 15.04 Table 4-1.
- 3) A review of the legislative process for the establishment of the term "Mixed-Use Building", definition, and inclusion in Table 4-1 Permitted Land Uses, revealed that the term Mixed-Use Building replaced the term/use of "Above Ground Floor Non Residential" in YMC § 15.04 Table 4-1, and added the above definition of Mixed Use Building through Ord. 2010-16. Although no definition was provided in the Zoning Ordinance for the term "Above Ground Floor Non Residential", the interpretation of this use by the Administrative Official was that it was intended to allow residences to locate both above and below an existing business within an existing building located within a commercial zoning district.
- 4) The City of Yakima Zoning Ordinance does not provide for a definition of residential use or residence. However, it does provide for a definition of Dwelling which is defined as "a structure or portion thereof designed exclusively for residential purposes". In further researching this definition, the Planning Division found that Black's Law Dictionary defines a dwelling as "living or dwelling in a certain place permanently or for a considerable length of time. The place where a man makes his home, or where he dwells permanently or for an extended period of time..." Similarly this definition continues to encompass the term resident or residential stating that "'Residence" means a fixed and permanent abode or dwelling-place for the time being, as contradistinguished from a mere temporary locality of existence.... the terms "residence" and "resident" mean legal residence; and legal residence is the place of a man's fixed habitation, where his political rights are to be exercised, and where he is liable to taxation." (See full definition as stated under Applicable Law above)

In the case of YNHS, the applicant has clearly stated in their March 4, 2015, narrative that "a warming shelter is provided with a maximum of sixty beds. All shelter services will be for temporary shelter and there will be no short-term or long-term residencies." Therefore, based upon the above definition of dwelling and residence requiring a permanent place of abode, or fixed place of habitation; and the applicant's statement that there will be no residencies, the Planning Division finds that adding a Mixed Use Building to this Use Interpretation is not supported.

Planning Division Findings Regarding Community Resource Service Center:

- 1) On March 4, 2015, due to the applicant's repeated insistence that their use was not a Mission, the applicant submitted a request for a Non-Classified Use Interpretation for a "Community Resource Service Center" which is defined as a "mixed use facility, providing programs, resources, assistance, and temporary shelter to homeless and pre-homeless populations of the immediate community." The proposal suggests that the new use be limited to the subject

site of Roy's Market 201 S. 6th Street, Yakima, WA 98901, and the immediate geographic area. The applicant, provides a list of services described in the Statement of Cause, Community Resource Service Center, and proposes five limiting factors for a Community Resource Service Center as follows:

- a) The primary purpose of the Community Resource Service Center shall be to provide resources, services and assistance to the homeless and pre-homeless within the immediate community. The Resource Center will provide resources with respect to housing placement (temporary, transitional and permanent), medical and healthcare referrals, transportation, mental health care and treatment referrals, chemical dependency case/care management and referrals, employment and job assistance, and treatment assistance and referrals.
 - b) The facility shall be staffed 24/7 and is located in an area with demonstrated need for homeless support services.
 - c) The facility is located within 1000 feet of a public transportation stop or hub.
 - d) A warming shelter is provided with a maximum of sixty (60) beds. All shelter services will be for temporary shelter and there will be no short-term or long-term residencies.
 - e) The site development conditions include:
 1. Site Screening Standard C shall be applicable to property lines adjacent to R-1 properties; and
 2. Twenty six (26) onsite parking spaces for a 50 bed facility at a parking standard of 1 per three beds.
- 2) In response to the applicant's proposal, the Planning Division finds the following:
- a) The Examiner has the authority to create a new land use definition and category for a Community Resource Service Center as provided for by YMC § 15.22 and 15.04.040;
 - b) The list of permitted services provided, is similar in scope to that of the Mission land use definition;
 - c) The characterization of a warming shelter as a 24-hour shelter is inconsistent with the definition of a warming shelter provided by Wikipedia, and King County Emergency Shelter and Transitional (Short-Term) Housing definition. Wikipedia: A warming shelter is "a short term emergency shelter that operates when temperatures or a combination of precipitation, wind chill, wind and temperature become dangerously inclement. Their paramount purpose is the prevention of death and injury related to exposure to the elements. This may include acute trauma from falling objects such as trees, or cold weather injury to extremities due to frostbite. A more prevalent emergency which warming centers seek to prevent is hypothermia, the risk for which is aggravated by factors such as age, alcohol consumption, and homelessness." Wikipedia further indicated that the purpose of a warming shelter is "warming centers are frequently directed to the circumstances of persons who are "unsheltered" due to a personal state of homelessness and who, for one reason or another, do not utilize existing homeless shelters. In other circumstances, centers serve stranded motorists or, during cold-weather power outages, homeowners and tenants." King County: "...Emergency shelter is a short term response that provides a safe alternative to the street for individuals and families. Shelters offer time-limited stays – from one night to usually no longer than 90 days – and some services, ranging from simple shelter from the cold during the winter months, to intensive case management. Shelter programs serve a variety of homeless populations, including youth, individuals and families."
 - d) The requirement for 24-hour staffing is an appropriate site restriction given the nature of the subject operation;
 - e) The overall development site for the Community Resources Service Center is approximately 50% or smaller than that of the UGM;

- f) The Community Resource Service Center property is located in an area with demonstrated need, and close proximity to public transit, which is an appropriate siting criteria, as a large percentage of the homeless do not have the means to drive;
- g) The proposed Resource Service Center does not meet the goals and policies of the City's Comprehensive Plan as described below;
- h) The existing site does not meet the development standards of the SCC zoning district as described below, and the applicant has not provided any documentation to show how their proposed modified development standards will meet the district intent statement of the SCC zoning district, or mitigate for the developments impacts to the surrounding properties and neighborhood.

History and Use of Site:

According to the records of the Yakima County Assessor's Office, the subject building at 201 S. 6th St., was constructed in 1957, as a retail convenience store. City fire inspection records document the site as a "neighborhood convenience store" back as far as 1999, and City business license data indicates that the store has operated as "Roy's Market" with an active business license from 1989 (start of city business licensing) to present. From 2002 to a date uncertain, roughly half of the subject building's internal space was shared with a clothing and accessory store operating under the name of "Star IndoorMart", and starting in year 2011 to present, the site has been permitted for the location of a "taco-truck", in the subject property's parking lot.

Status of Current Use and Site to Current City Development Standards:

The subject property, as it is presently developed, can be described as a "Convenience Store – Closed 10:00 p.m. to 6:00 a.m.", or a "Convenience Store – Open 10:00 p.m. to 6:00 a.m." both permitted as either a Class (1) or (2) Use in the SCC zoning district which is intended to serve the residents of the surrounding neighborhood (YMC § Table 4-1). The convenience store itself consists of a 13,748 sq. ft. masonry block building constructed with a zero setback upon the north half of the lot abutting N. 6th St., East Walnut St., and a 20 foot alley running along the east property line. While the remainder of the existing development can be described as a completely paved parking lot, with space for approximately 15 parking stalls, one loading zone, two 20-foot driveway entrances; while lacking in landscaping, lighting, site screening, and buffering from adjacent residential zoned lots.

Based upon YMC § 15.19.050, and the above listed Facts, Applicable Law, and Development Standards, the existing development would be considered legal non-conforming in terms of: 1) off-street parking; 2) parking lot lighting; 3) parking lot landscaping and mitigation; 4) driveway distance from a signalized intersection; 5) setbacks from an abutting residential zoning district; and 6) lot coverage as the existing development does not meet the City's pervious mentioned development standards, and the building and use were established prior to the City's existing 2013 zoning ordinance.

Zoning and Comprehensive Plan Designation of Subject Property:

The location of the subject property where the community center/mixed use building is sought to be located is 201 S. 6th St., Yakima, WA 98901. The subject property is approximately 29,657 sq. ft. in size, is zoned Small Convenience Center (SCC), and has an underlying Comprehensive Plan Future Land Use designation of Neighborhood Commercial.

a. Zoning:

Pursuant to YMC § 15.03.020(H), the SCC district is intended to:

1. Provide areas for commercial activities outside the downtown commercial district that meet community retail shopping and service needs; and
2. Accommodate small commercial centers, generally two to five acres in size, where most of the commercial uses have located in a coordinated manner around a common parking lot and one major commercial approach driveway.

... should be designed to minimize undesirable impacts of the center on the neighborhood it serves...

The Planning Division finds that the subject site is .68 acres in size, does not provide a commercial center retail shopping function for the neighborhood that it was designed to serve, and has more than one commercial driveway approach which is noncompliant with the City of Yakima's Title 15 Urban Area Zoning Ordinance. Furthermore, the proposed application does not minimize undesirable impacts of the center on the neighborhood it serves as indicated by the development's inability to meet the City of Yakima Title 15 Development Standards described below.

b. Comprehensive Plan and Applicable Goals and Policies:

1. Pursuant to YUACP Pg. III-15, the Neighborhood Commercial designation is defined as "small scale, neighborhood convenience commercial uses and services primarily for residences of adjacent neighborhoods. These areas are typically located along a minor arterial, or at the intersection of a minor arterial and a collector arterial street."
2. The subject proposal regardless of use meets the following goals and policies: 3.3.1, 3.12, 3.12.3, and 3.12.4. However, the subject proposal does not meet the following goals and policies: 3.3, 3.3.2, 3.4, 3.4.3, 3.4.4, 3.6, 3.6.1, 3.6.2, 3.6.3, 3.6.5, 3.8, 3.8.1, 3.8.2, 3.8.5, 3.8.6, 3.8.7, 3.12.1, 3.12.2, 3.12.5, 3.12.7, and 3.12.8.
3. Goal 3.3 is not met as the proposed development will change the character of the subject building from a previous retail establishment that served mainly the surrounding residents of the neighborhood to that of a service business that would serve the homeless of the City of Yakima drawing large amounts of homeless into the surrounding residential neighborhood seeking assistance services as described in the applicant's narrative.
4. Policy 3.3.2 is not met as the applicant has not proposed any development plans which indicate how the redevelopment of the subject site and building will be compatible in scale, style, density, and aesthetic quality to the established neighborhood, nor does the site plan meet the City of Yakima's development standards providing adequate mitigation for the development's impacts to the surrounding neighborhood.
5. Goal 3.4 and policies 3.4.3, and 3.4.4, are not met as the surrounding neighborhood is not considered a mixed use/zoned neighborhood, and there are no other office buildings or apartment complexes in the R-2/R-1 zoned neighborhood (closest multi-family approximately 272 ft., commercial 543 ft. to the N.W.) Furthermore, as the subject property lies within an existing neighborhood the change in use from retail to community service would not preserve the residential character of this historic neighborhood.
6. This proposal could generally be found to meet the intent of goal 3.6 and policies 3.6.2, and 3.6.3 if the subject proposal only involved office space. However, as the subject

proposal involves a commercial kitchen, dining area, dormitory, shower, laundry facilities, respite care, case management transitional and permanent supportive housing, employment assistance, outreach, and warming shelter to serve the homeless (as depicted on the applicant's floor plan), as a mission/community center/mixed use building or other unspecified use, the intensity of the use and the level of review is heightened to the highest level of review of the combined uses. In the case of this application the highest level of review would be that of a Class 2 Review, which could have significant adverse impacts on the adjacent neighborhood if the development standards of the district are not met.

7. The subject development does not meet policies 3.6.1 or 3.6.5 as the existing building is not clustered in and amongst other office buildings, and is not located next to a commercial or industrial area, along an expressway, around a hospital, or in the Central Business District.
8. Goal 3.8 and policies 3.8.1, 3.8.2, 3.8.5, 3.8.6, and 3.8.7 are not met as:
 - a. The applicant's site design does not meet the City of Yakima's Title 15 Development Standards, nor does the site plan provide any form of mitigation to address this development's encroachment into the residential neighborhood or make the proposed development compatible with the surrounding residential area.
 - b. Although the applicant's proposal does provide for transitional residential, and office space, the site design does not have sufficient space to provide any transitional uses or open space to mitigate for the intensified use of the building.
 - c. The applicant has not submitted any site, building, architectural, or landscape, or other plans or narrative which address the commercial structure and adjoining neighborhood's compatibly in terms of building scales, roof style, and building materials.
 - d. The applicant's submitted materials do not provide for any landscape buffers with living plant vegetation such as evergreen, bushes, open space or other design controls to minimize noise, glare, and other impacts associated with commercial land use to ensure that their location will not adversely affect the residential areas surrounding them as provided by policy 3.8.6.
9. The subject parking lot does not provide any screening from the view of residents using vegetation, fences, berms or other screening devices as provided by policy 3.8.7.
10. The subject development does not meet policies 3.12.1, 3.12.2, 3.12.5, 3.12.7 and 3.12.8 as the applicant's proposed use does not provide for: 1) a commercial business such as a grocery store, drug store, restaurant, or other small retail use; 2) is not three to ten acres in size; 3) does not provide any buffering between adjacent residential land uses; 4) if allowed could hinder the stability of the surrounding uses due to lack of appropriate site design and mitigation; and 5) the use of the Neighborhood Commercial district would not be a small-scale business, but rather a more intense land use designed to serve all of Yakima which may have significant adverse impacts on the adjacent neighborhood.

Urban Area Zoning Ordinance Development Standard Compliance:

Although this review is only for a Unclassified Use Interpretation, the below development standard analysis is provided to highlight the areas of the proposed use which may require additional mitigation or adjustment to meet the zoning district development standards, and needs of the surrounding neighborhood. In addition, YNHS has indicated that they will proceed with submittal of their zoning review application following issuance of the City of Yakima Hearing Examiner's Unclassified Use Interpretation.

a. SCC Setback Standards: Pursuant to YMC Ch. 15.05, Table 5-1:

		<u>Setback Required</u>	<u>Existing Setback</u>
Front-yard:	E. Walnut St.	30-feet from the centerline	35 ft.
Rear-yard:	R-1 Dist.	20-feet	86 ft.
Side-yard:	R-2 Dist.	20-feet	24 ft.
Side-yard:	S. 6 th St.	30-feet from the centerline	47 ft.

b. SCC Maximum Lot Coverage: Pursuant to YMC Ch. 15.05, Table 5-1, the maximum lot coverage in the SCC zone is 85%. The existing development has 100% lot coverage, and the applicant's landscaping plan dated December 18, 2014, provides for a total of 84% coverage.

c. Adjacent Zoning of Surrounding Properties:

Adjacent properties to this site have the following zoning and land use characteristics:

	<u>Zoning</u>	<u>Land Use</u>
North	(R-2) Two-Family Residential	Residential Homes
South	(R-2) Two-Family Residential	Vacant
West	(R-2) Tingle-Family Residential	Residential Homes
East	(R-1) Single-Family Residential	Residential Homes

d. Functional Classification and Condition of Surrounding Streets:

The subject property is bordered by the following streets:

<u>Name</u>	<u>Functional Class</u>	<u>RW</u>	<u>Existing</u>	<u>Condition</u>
E. Walnut St.	Collector Arterial	80 ft.	70 ft.	Paved, Curb, Gutter, & Sidewalk
S. 6 th St.	Collector Arterial	80 ft.	95 ft.	Paved, Curb, Gutter, & Sidewalk
None	Alley	20 ft.	24 ft.	Paved

Access Required: Pursuant to YMC § 15.05.020 (H), the subject development is fronted by S. 6th St., E. Walnut St., and an alley. All frontages provide over 20 ft. of frontage upon a public street, however all commercial access to the site comes from S. 6th St.

- e. Maximum Building Height: Pursuant to YMC Ch. 15.05, Table 5-1, the maximum building height in the SCC zoning district is 35 ft. The subject building is existing and stands below 35 ft. in height.
- f. Sidewalk Requirement: Pursuant to YMC § 15.05.020 (J), and as indicated in item #9 above the subject development has sidewalk installed along its street frontage.
- g. Vision Clearance: Pursuant to YMC § 15.05.040 (B), the applicant has provided a vision clearance site plan which is compliant for all proposed driveways and intersections dated December 18, 2014.

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h. Off-Street Parking Standards:

- o Nonconforming Parking: Although the convenience stores parking is considered nonconforming as it was constructed during the 1950's, the change in use from a convenience store to a Community Center/Mission/Mixed Use Building requires that the nonconformity shall cease, and the new use shall provide all the required off-street parking, in accordance with the provisions of YMC Ch. 15.06.
 - o Computation of Required Spaces:
 - o Community Center – $(8,761 \text{ sq. ft. of gross floor area (not storage)} / 100) = 87.61 + (2,568 \text{ sq. ft. of storage (excluding utility)} / 500) = 5.14 = 92.746$. Rounded to the next whole number 93 parking stalls are required.
 - o Mixed Use Building – $(\text{Reception: } 1,541 \text{ sq. ft.} / 40 = 38.52) + (\text{Office – Employment Agency: } 1,661 \text{ sq. ft.} / 200 = 8.30) + (\text{Storage (excluding utility): } 2,568 \text{ sq. ft.} / 500 = 5.14) + (\text{Laundry: } 867 \text{ sq. ft.} / 300 = 2.89) + (\text{Dormitory \& Showers: (based on number of beds) } 60 \text{ beds} / 2 = 30) = 84.24$. Rounded to the next whole number 85 parking stall are required.
 - o Multi-Use Center – $(\text{Total Gross Floor Area (excluding utility \& storage)} 10,428 \text{ sq. ft.} / 300 = 34.76) + (\text{Storage (excluding utility): } 2,568 \text{ sq. ft.} / 500 = 5.14) = 39.9$. Rounded to the next whole number, 40 parking stalls are required.
 - o Convenience Store - $13,748 \text{ sq. ft. of gross floor area} / 300 = 45.82$. Rounded to the next whole number 46 parking spaces are required.
 - o Supplied Parking – 26 total off-street parking stalls provided.
- i. On Street Parking Spaces: The subject development has space available for five on-street parking stalls along S. 6th St. However, pursuant to YMC § 15.06.060 (D), these spaces cannot be counted towards their required off-street parking spaces.
- j. Driveway Locations: Pursuant to YMC § 15.06.065 (A), (C), (F), (G), (I), and the applicant's Vision Clearance plan, the City of Yakima Planning Division finds that:
- k. At present there are two existing driveway approaches which are each approximately 20-feet wide and spaced 25-feet apart;
- l. Both driveways meet the minimum for one-way travel, but lack the necessary 24-foot width for two-way travel;
- m. The first driveway is located approximately 122-feet from the intersection of S. 6th St. and E. Walnut St, and the second driveway is located approximately 167-feet from the intersection;
- n. The applicant's Vision Clearance plan indicates that the driveway closest to the intersection is proposed to be eliminated;
- o. Based upon the fact that the second driveway is closer than 200-feet from the intersection as required by YMC § 15.06.065 (F), the applicant will be required to modify the driveway to be "right-in and right-out only"; and
- p. Based upon the modification of the two driveways, applicant will be required to attain a construction permit in accordance with YMC § 8.64 to close the first driveway and widen the second.

- q. Required Landscaping of Parking Areas: Pursuant to YMC § 15.06.090 (A), (B), (E), (F):
- a. The applicant's landscape plan provides for more than the 10 percent landscaping of the subject parking lot;
 - b. All proposed landscaped areas exceed the necessary 24 sq. ft.;
 - c. The proposed landscaping is all located along the north side of the parking lot between the parking lot and building, and not within the parking area or around the perimeter of the parking lot as specified by YMC § 15.06.090 (G); and
 - d. The applicant's landscape and parking circulation plans do not provide a solid wall, view-obscuring fence, landscaped berm, or compact evergreen hedge at least six feet in height along the abutting residential districts on the south and east property lines, as required by YMC § 15.06.090 (F).
- r. Lighting of Parking Lots: Although, the applicant has not specifically identified that the facility and warming shelter will be used at night, the fact that the homeless may come to the facility during the night time hours necessitates the requirement for parking lot lighting. Therefore, pursuant to YMC § 15.06.100, in the event that this application is approved, the applicant should provide a parking lot lighting plan to the City of Yakima Planning Division which directs all light away from adjacent and abutting properties, and provides for zero lumens beyond the subject property line.
- s. Site Screening: Site screening standards for the proposed development within the SCC zoning district are based upon the existing surrounding and proposed uses, and YMC § 15.07.050 - .090 are:
- i. North: Site screening Standard "A";
 - ii. South: None
 - iii. East: Site screening Standard "C";
 - iv. West: Site screening Standard "A"

STANDARD "A": Consists of a ten-foot-wide landscaped planting strip with trees at twenty-foot to thirty-foot centers, which includes shrubs and groundcover.

STANDARD "B": Consists of a three-foot-wide planting strip that will create a living evergreen screen that is at least six feet in height within three years.

STANDARD "C" Consists of a six-foot-high, view-obscuring fence, made of wood, masonry block, concrete, or slatted chain link material. A three-foot-wide planting strip landscaped with a combination of trees, shrubs and groundcover along the outside of the fence is also required when the fence is adjacent to a street, alley or pedestrian way.

1. **Development Services Team Review:**

The project Class (2) Review Application and site plan CL2#018-14 was reviewed by the DST on January 13, 2015. Final comments of the DST members are summarized below.

1. Codes:

- a. The site plan does not show approved accessible parking or associated access aisle(s).
- b. This proposal constitutes a change of occupancy from an existing M occupancy to an R occupancy. A fire sprinkler will be required.
- c. The building will be required to be fire sprinklered in accordance with Section 903.3.1.1 of the International Building Code (IBC) if building area increases. Otherwise, the system may be installed in accordance with IBC § 903.1.1.2.
- d. Fire flow (for fire hydrant service) will be a minimum of 1500 gallons per minute. Adequacy of existing fire hydrants will need to be verified through the City of Yakima Water Department.
- e. The City of Yakima Fire Department will determine if the location of existing fire hydrants is approved for operational purposes.
- f. The Fire Department Connection (FDC) will be required to be located within 50-feet of a fire hydrant.
- g. The site plan does not disclose the location of fire hydrants.

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

- a. 8.64: A new commercial driveway approach is required, which meets the requirements of this chapter and standard detail R4.
- b. 8.67 and 12.05: Where commercial driveway is removed, new curb, gutter and sidewalk shall be installed and match width of existing sidewalk. Existing sidewalk along frontage that is unfit or unsafe also required/replaced. New sidewalk shall be constructed per standard detail R5.
- c. 8.72: An excavation and street break permit shall be obtained for all work within public right-of-way. N. 6th St. was part of the 2014 Grind and Overlay project. Roads less than five years old can be cut, but will cost one hundred fifty percent of restoration fee with no PCI discount.

3. Stormwater: No comment.

4. Water/Irrigation:

- a. There's an existing looped 8" waterline in E. Walnut St. and a looped 6" waterline in S. 6th St.
- b. There is an existing fire hydrant off the looped 6" waterline at the southeast corner of the intersection of E. Walnut St. and S. 6th St.
- c. All new fire hydrants or fire sprinkler requirements are to be determined by the City of Yakima Code Administration Division and Fire Department.
- d. Maximum available fire flow at the site from the looped 6" waterline is 1,600 gallons per minute, and 2,800 gallons per minute for the 8".
- e. The site plan needs to show all existing and proposed utilities on all frontages of the site.

5. Wastewater: Installation of a new sampling port on the existing side sewer is required. Its location and type must be shown on a site utility plan.

6. Streets and Traffic:
 - a. The on-street parking area along 6th Street may remain as parallel parking only, no angle parking.
 - b. Any driveways that may be closed as a result of this development must be removed and replaced with standard curb, gutter and sidewalk.
 - c. No angle parking will be allowed on Walnut Street. If the parking "cut-out" is to be continued to be used as parking it needs to be reconstructed so that there is a curb or other physical barrier between the parking area and the sidewalk.

7. Yakima Transit: The proposed use of the facility doesn't match up with the land use chosen.

V. STAFF ANALYSIS

As stated in the above findings, the applicant has requested to be considered under one or more of three land use categories:

1. Community Center
2. Mixed Use Building, and
3. New Land Use proposed by the applicant, Community Resource Service Center.

A separate but related land use category which is also required to be considered, is that of a "Mission" as the City of Yakima Examiner conducted a Use Interpretation hearing establishing a definition and land use category for Mission uses in 1992 and 1995.

In analyzing these four proposed uses, the City of Yakima Planning Division found that in general the services and activities provided by YNHS very closely resemble those of the UGM (stated above in this report), though, the overall scale and size of YNHS's proposed site is smaller in comparison from which the Examiner created the Mission land use and definition.

In terms of development standard compliance with regard to the current proposed site at 201 S. 6th St., Yakima, WA 98901, the applicant's site plan is considered non-compliant due to parking, lot coverage, and site screening issues as detailed above in Urban Area Zoning Ordinance Development Standard Compliance. In addition, the applicant has not submitted sufficient information to support a reduced standard for the proposed Community Resource Service Center.

The subject proposal, regardless of use, meets the goals and policies of the City of Yakima Comprehensive Plan (as more fully described above in Comprehensive Plan and Applicable Goals and Policies): 3.3.1, 3.12, 3.12.3, and 3.12.4, however, the subject proposal does not meet goals and policies: 3.3, 3.3.2, 3.4, 3.4.3, 3.4.4, 3.6, 3.6.1, 3.6.2, 3.6.3, 3.6.5, 3.8, 3.8.1, 3.8.2, 3.8.5, 3.8.6, 3.8.7, 3.12.1, 3.12.2, 3.12.5, 3.12.7, and 3.12.8.

YNHS's use meets some of the definitional requirements of a Community Center, as YNHS is a non-profit organization that is providing public assistance. However, the combination of direct social services with residential nature of the use exceeds the normal expectations of a Community Center in a small neighborhood shopping district. The applicant's narrative provides for a range of services and service area which is aimed at providing public assistance to the immediate neighborhood and greater Yakima Valley, which does not meet the district intent statement of the SCC zoning district which is to provide areas for commercial activities outside the downtown commercial district that meet the community retail shopping and services needs of the surrounding neighborhood.

The City of Yakima Planning Division found that the proposed definition of a Mixed Use Building would not be applicable because, although the definition of a Mixed Use Building does imply a residential use, YNHS has stated that their proposed facility will not permit "short-term or long-term residencies". A residence means "a fixed and permanent abode or dwelling place."

In comparison to the definitions of Community Center and Mixed Use Building, the definition and land use category for a Community Resource Service Center was generally found to be the most promising of the three land uses proposed by the applicant. However, the areas of inconsistency found with this definition included: 1) the services provided are still very similar to that of the Mission land use, 2) the characterization of a warming shelter being a 24 hour shelter place of stay may be incorrectly defined or characterized, 3) there is insufficient information provided to determine if the applicant's proposed development standards are sufficient to mitigate the impacts created by the proposed use and meet the development standards of the underlying zoning districts proposed, and 4) the applicant has not provided sufficient information to determine if the new proposed use meets the district intent standards of the underlying zoning district. The points of the definition that were found to be consistent included: 1) the requirement for 24 hour staffing, 2) the requirement for demonstrated need, and 3) provided the Hearing Examiner can determine that the proposed use is sufficiently different from a Mission, meets the district intent statement of the underlying zoning district, and provides development standards which mitigate for the development's impacts, the proposed use may be appropriate to incorporate into the City's Zoning Ordinance.

VI. CONCLUSIONS

For the reasons stated above in the findings of fact, and analysis the City of Yakima Planning Division concludes the following:

- 1) Pursuant to YMC Ch. 1.43, the Examiner has the authority to make a decision on matters prescribed by YMC Title 15.
- 2) Pursuant to YMC § 15.22.040 (B), "The Examiner shall clearly state the analysis and reasons upon which any interpretation is based and, if the interpretation is a use interpretation, how the interpretation is consistent with the specific conditions established in YMC § 15.22.050."
- 3) Pursuant to YMC § 15.22.050 Use Interpretations, "the following conditions shall govern the Examiner in issuing use interpretations (see YMC 15.04.040):
 - a) No use interpretation shall vary the location or review requirements of any use listed in Table 4-1...
 - b) No use interpretation shall permit any use in any zoning district unless evidence is presented which demonstrates that it will comply with the intent and evidence is presented which demonstrates that it will comply with the development standards established for the particular district..."
- 4) Pursuant to YMC § 15.04.040 Unclassified uses, "Any use not listed in Table 4-1 is an unclassified use and shall be permitted only in those districts so designated by the hearing examiner. Any unclassified use permitted in a particular zoning district shall be allowed only as a Class (2) or (3) use. The hearing examiner shall follow the provisions of YMC Chapter 15.22 when determining which zoning districts are appropriate for a particular unclassified use."

- 5) A Community Center is classified as a Class (2) use, a Mixed Use Building is classified as a Class (1) use in the SCC zone, and a Community Resource Service Center is an Unclassified Use which are being forwarded to the Examiner as City File Number INT #001-14 for a Use Interpretation processed under the combined provisions of YMC §§ 15.04.030, 15.22, 15.14, 15.15, and 16.03.010 (B).
- 6) Pursuant to YMC § 15.04.020(C), "Class (3) uses are generally not permitted but may be allowed by the Examiner after Type (3) Review and public hearing. The Examiner may approve, deny, or impose conditions on the proposed land use and site improvements 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 Ch. 15.15 shall be used to review and evaluate Class (3) uses or Class (2) uses that have been forwarded to the Examiner for review."
- 7) The Examiner's 1992 Use Interpretation has standing, and defined a Mission use as "...a facility typically owned or operated by a public agency or non-profit corporation, providing a variety of services for the disadvantaged, typically including but not limited to temporary housing for the homeless, dining facilities, health and counseling activities, whether or not of a spiritual nature, with such services being generally provided to the community at large."
- 8) The uses proposed by YNHS are so close in scale and type to that of the definition of Mission that the City of Yakima Planning Division cannot find a substantial difference between the uses of a Mission, and that of a Community Center/Mixed-Use Building/Community Resource Center as proposed by YNHS.
- 9) The combination of a Mixed Use Building and Community Center does not assert or provide a residential component to the proposed project, as a residential use, as used in this context, does not provide for a fixed and permanent abode or dwelling place.
- 10) All applicant proposed uses do not meet the district intent statement of the SCC zoning as stated above in this report, as well as, the Mission use as specified by the Examiner in the October 20, 1992, decision for the Gateway Association appeal.
- 11) The proposed development site plan is not in compliance with the City of Yakima's Title 15 development standards for the Small Convenience Center zoning district.
- 12) The subject uses do not meet the intent of the Neighborhood Commercial Future Land Use designation which is defined as "small scale, neighborhood convenience commercial uses and services primarily for residences of adjacent neighborhoods..." as the applicant's narratives indicate that the intent of the proposed center is to serve the greater Yakima Valley.
- 13) The subject proposal, regardless of use, meets the goals and policies of the City of Yakima Comprehensive Plan: 3.3.1, 3.12, 3.12.3, and 3.12.4.
- 14) The proposal does not meet the Comprehensive Plan goals and policies: 3.3, 3.3.2, 3.4, 3.4.3, 3.4.4, 3.6, 3.6.1, 3.6.2, 3.6.3, 3.6.5, 3.8, 3.8.1, 3.8.2, 3.8.5, 3.8.6, 3.8.7, 3.12.1, 3.12.2, 3.12.5, 3.12.7, and 3.12.8.

VII. RECOMMENDATION

The City of Yakima Planning Division recommends:

1. Denial of the request to classify the proposed use as a Community Center and/or a Mixed Use Building for the above stated reasons; and
2. Consideration of the submitted Type (2) application and site plan should be deferred until the use classification of the proposal is clarified;
3. The City of Yakima Planning Division recommends **careful consideration** of the application for Community Resource Service Center, and only recommends **approval** in the event that the Examiner can sufficiently determine there is a sufficient difference between the services provided and scope of a Mission versus that of a Community Resource Service Center.

RECOMMENDATION made this 26th day of March 2015

/s/ Jeff Peters

Jeffery R. Peters, Supervising Planner
Department of Community Development, Planning Division

Appendix of Terms

1. Yakima Urban Area Zoning Ordinance Definitions (YMC) § 15.02.020 Definitions:

“For the purpose of this title, certain abbreviations, terms, phrases, words and their derivatives shall be construed as specified herein unless the context requires a different meaning. Where terms are not defined, they shall have the ordinary accepted meaning within the context with which they are used. Where an activity or land use could fall under two definitions, the more specific shall apply. The Webster’s Ninth New Collegiate Dictionary, with the assistance of the American Planning Association’s Planner Dictionary and Black’s Law Dictionary, shall be the source for ordinary accepted meaning and for the definition of words not defined below. Specific examples are included as illustrations, but are not intended to restrict a more general definition.

- a. “Accessory use” means a use that is subordinate and incidental to a principal use.
- b. “Boardinghouse” means an establishment providing both lodging and meals for not more than ten persons residing in the facility on a permanent or semi-permanent basis.
- c. “Class (1) uses” are those uses set forth and defined in the text and tables of YMC Chapter 15.04 and are considered compatible and are permitted on any site in the district. The administrative official shall review Class (1) uses for compliance with the provisions and standards of this title.
- d. “Class (2) uses” are those uses set forth and defined in the text and tables of YMC Chapter 15.04 and are generally permitted throughout the district. However, site plan review by the administrative official is required in order to ensure compatibility with the intent and character of the district and the objectives of the Yakima Urban Area Comprehensive Plan.
- e. “Clinic” means a structure for the medical examination and treatment of human patients, but without provision for keeping such patients overnight on the premises.
- f. “Community center” means a facility owned and operated by a public agency or nonprofit corporation, provided the principal use of the facility is for public assistance, community improvement, or public assembly.
- g. “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.
- h. “Dwelling” means a structure or portion thereof designed exclusively for residential purposes.
- i. “Dwelling, multiple-family” 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 dwelling units on a lot.

- j. "Dwelling unit" means one or more rooms in a dwelling for the occupancy of one family and providing complete and independent living facilities, including permanent provisions for living, sleeping, cooking, eating and sanitation. "Dwelling unit" does not include recreational vehicles or mobile homes.
- k. "Group home" means a place for handicapped, physically or developmentally disabled adults, or dependent or predelinquent children, providing special care in a homelike environment. This definition includes homes of this nature for six or fewer persons, excluding house parents, which are protected by state or federal law as residential uses.
- l. Halfway House. A "halfway house" shall include residentially oriented facilities that provide:
 - 1. State-licensed group care homes for juvenile delinquents;
 - 2. Houses providing residence in lieu of instructional sentencing;
 - 3. Houses providing residence to individuals needing correctional institutionalization; or
 - 4. Detoxification centers licensed by the state where alcohol and drug abusers can be placed in lieu of incarceration for detoxification and treatment from effects of alcohol and drugs. (See "Clean and sober facility.")
- m. "Hospital" means an institution providing clinical, temporary, and emergency services of a medical or surgical nature to human patients which is licensed by state law to provide facilities and services for surgery, obstetrics, and general medical practice as distinguished from clinical treatment of mental and nervous disorders.
- n. "Mixed-use building" means a building in a commercial district or planned development used partly for residential use and partly for a community facility or commercial use.
- o. "Mixed-use development" means use of the land or structure for two or more different uses.
- p. "Multiple-occupancy building" means a single structure housing more than one retail business, office, or commercial venture.
- q. "Personal service" means a business providing specialized services such as interior home or business design and shopping services, except as otherwise regulated."
- r. "Public facility" means a facility owned and operated by a governmental agency or owned and operated by a private entity for the purpose of providing essential public services to the public including, but not limited to: water, irrigation, wastewater, garbage, sanitary, transit, police, fire, ambulance, parks and recreation facilities, and street maintenance. The facility should be located to efficiently serve the people benefiting from the service.
- s. "Retail services" means uses providing services, as opposed to products, to the general public. Examples are eating and drinking establishments, motels, real estate and financial offices, and uses providing health education and social

services.

- t. "Use" means the activity or purpose for which land or structures or a combination of land and structures is designed, arranged, occupied, or maintained together with any associated site improvements. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself, including any grading, leveling, paving or excavation. "Use" also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.
- u. "Use, principal" means the primary or predominant use to which a structure, part of a structure, or lot is or may be devoted."
- v. Use/Level of Review:
Pursuant to YMC § 15.04.020 (A), Class (1) uses "are permitted, provided the district standards are met. The administrative official shall use the procedures in YMC Chapter 15.13 to review Class (1) uses and associated site improvements. Class (1) uses in certain situations may require a Type (2) review, as required by YMC 15.13.020. The procedures in YMC Chapter 15.14 shall be used to review and evaluate Class (1) uses that require a Type (2) review process."
- w. 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 (2) uses. In certain circumstances, the administrative official may require that a Class (2) use undergo a Type (3) review, as provided within this title."
- x. Pursuant to YMC § 15.040.020 (D), Uses Not Permitted. "Any use listed in Table 4-1 and not classified as either a Class (1), (2), or (3) use in a particular district shall not be permitted in that district. A request for an unclassified use, under YMC 15.04.040, that is denied by the hearing examiner is considered as a use not permitted."
- y. Pursuant to YMC § 15.040.020 (E), Multiple Uses. "When two or more uses are proposed for the same project, the entire project shall be subject to the type of review required by the highest classified use, Class (3) uses being higher than Class (2), and Class (2) uses being higher than Class (1)."
- z. Small Convenience Center (SCC) Zoning District Defined: Pursuant to YMC § 15.03.020(H), the SCC district is intended to:
 - a. Provide areas for commercial activities outside the downtown commercial district that meet community retail shopping and service needs; and
 - b. Accommodate small commercial centers, generally two to five acres in size, where most of the commercial uses have located in a coordinated manner around a common parking lot and one major commercial approach driveway.

Small convenience centers serve the day-to-day convenience shopping and service needs of the surrounding neighborhood and should be designed to minimize undesirable impacts of the center on the neighborhood it serves. Uses in this district should be retail or personal service establishments dealing directly with the consumer, the primary occupants usually being such uses as a supermarket, fast food restaurants and drug store.

aa. Structure Setbacks:

Purpose statement: Pursuant to YMC § 15.05.020(D), "Structure setbacks are the minimum structure setbacks permitted...with Type (1) Review. In the commercial districts, building setbacks provide visual clearance along streets and areas for site screening and landscaping."

bb. SCC Setback Standards:

Pursuant to YMC Ch. 15.05, Table 5-1, the front, side and rear setbacks in the SCC zoning district are as follows:

- i. Front-yard from a Collector Arterial street: 30-feet from the centerline of the abutting street.
- ii. Rear-yard from abutting residential district: 20-feet.
- iii. Side-yard setback from abutting residential district: 20-feet.
- iv. Side-yard setback form Collector Arterial Street: 30-feet.

cc. Maximum Lot Coverage:

Pursuant to YMC § 15.05.020 (C), "maximum lot coverage is the percentage of net land area of a site that can be covered with structures and other impervious surfaces... In the SCC zoning district the maximum lot coverage requirements are intended to promote development consistent with the character of the district, protect setbacks, and provide the opportunity to integrate open space and landscaping plans into the design and placement of the structure and off-street parking.

Maximum Lot Coverage Standard: Pursuant to YMC Ch. 15.05, Table 5-1, the maximum lot coverage in the SCC zone is 85%.

dd. Access Required.

Pursuant to YMC § 15.05.020 (H), "All new development shall have a minimum of twenty feet of lot frontage upon a public road or be serviced by an access easement at least twenty feet in width. The purpose of this standard is to provide for vehicular access to all new development."

ee. Maximum Building Height.

Pursuant to YMC § 15.05.020 (F) "Maximum building height is intended to maintain building heights compatible with the character and intent of the district." The maximum building height in the SCC zoning district is 35-feet.

ff. Sidewalk Requirement.

Pursuant to YMC § 15.05.020 (J), "Sidewalks on one side of the street are required with new construction... A sidewalk is required if one exists within two hundred feet of the development on the same side of the street. Replacement of existing sidewalk is required only if existing sidewalk presents a safety hazard, except that for applications under the jurisdiction of the City of Yakima, the provisions of Title

12 of the Yakima Municipal Code shall prevail over the provisions of this section to the extent of any conflicts between such provisions.”

gg. Vision Clearance.

Pursuant to YMC § 15.05.040 (B),”...A vision clearance triangle shall be maintained at all driveways, curb cuts, and intersections of an alley with a public street, for vision safety purposes.... No sign or associated landscaping shall be placed within this triangle so as to materially impede visions between the heights of two and one-half and ten feet above the centerline grade of the streets.”

hh. Off-Street Parking and Loading.

Off-street Parking and Loading Spaces Required.

Pursuant to YMC § 15.06.020, No off-street parking or loading spaces shall be placed, constructed, located, relocated or modified after adoption of this title without first receiving a development permit...”

ii. General Provisions.

Pursuant to YMC § 15.06.030:

- v. “The off-street parking and loading facilities required by this chapter shall be established prior to any change in the use of land or structure and/or prior to the occupancy of any new or enlarged structure.
- vi. Required off-street parking spaces shall provide vehicle parking only for residents, customers, patrons, and employees...
- vii. Any area once designated for required off-street parking shall not be used for any other purpose unless and until equal facilities are provided elsewhere and a site plan has been approved to reflect the change...
- viii. A parking circulation plan is required for parking lots and the associated vehicular travel ways for multi-family and nonresidential uses that have five or more required off-street parking spaces. The required off-street parking shall be designed in a manner that eliminates a need for backing and maneuvering from or onto streets, sidewalks, pedestrian ways, or bikeways... Furthermore, the parking lot and associated travel ways shall be designed in a manner that provides for safe and adequate traffic flow.”

jj. Computation of required spaces.

Pursuant to YMC § 15.06.050 (B), Mixed Uses. When different uses occupy a single structure or lot, the total required parking spaces shall be the sum of the requirements of the individual uses.”

c. Off-Street Parking Standards.

Pursuant to YMC § 15.06.040 (B), “Uses Not Specified. “Off-street parking requirements for uses not specifically listed in Table 6-1 shall be determined by the reviewing official based upon the requirement for similar uses.”

Table 6-1 Off-Street Parking and Loading provides the following parking standards which could be considered by the Administrative Official:

- a. Community Center – 1 space for each 100 sq. ft. of gross floor area.
- b. Mixed Use Building – None.
- c. Multiple Use Center – 1 space for each 300 sq. ft. of gross floor area.

- d. Medical and Dental Laboratories, Offices, and Clinics – 1 space for each 300 sq. ft. of gross floor area.
- e. Convalescent, Nursing and Group Homes – 1 space for each 2 beds.
- f. Halfway House – 1 space for each 2 beds.
- g. Multifamily Dwellings – 10 units or less: 2 spaces per dwelling
– More than 10 units: 1.5 spaces per dwelling
- h. Reception Area – 1 space for each 40 sq. ft. of general reception/gathering area.
- i. Storage – 1 space for each 500 sq. ft. of gross floor area of storage space.

kk. Location of Required Spaces.

Pursuant to YMC § 15.06.060 (D), “Groups of three or more parking spaces shall be served by a driveway so that no vehicular backing/maneuvering movement will occur within a public right-of-way other than an alley.”

ll. Driveway Locations.

Pursuant to YMC § 15.06.065 (A), (C), (F), (G), (I):

- A. “No driveway approach shall be so located as to create a hazard to pedestrian or motorist, or invite or compel illegal or unsafe traffic movements...”
- C. No driveway access to an arterial street shall be located within seventy-five feet (measured along the arterial) of any such arterial street access on the same side of the street...
- F. Driveway access shall be limited in the vicinity of a signalized street intersection. No driveway shall be permitted within one hundred feet of a signalized intersection, as measured from the right-of-way line. Any driveway within two hundred feet of the right-of-way line of the intersection shall be restricted to right turns only...
- G. The construction of new driveway approaches from a public street or a modification of an existing driveway approach requires a construction permit pursuant to YMC § 8.64 for the specifications of the driveway approach...
- I. Existing driveways in violation of these standards at the time of adoption will not be deemed nonconforming, but redevelopment of the property requires any new or modified driveway to be consistent with these standards.”

mm. Required Landscaping of Parking Areas.

Pursuant to YMC § 15.06.090 (A), (B), (E), (F):

- A. “The standard for landscaping of parking and vehicle storage lots with five or more spaces shall be ten percent of the total parking area...”
- B. The planting area standard, where required, shall be a minimum of twenty-four square feet with the exception of raised planter boxes around buildings...
- E. Landscaping shall be located within the parking area, such as in-between parking spaces or in parking “islands”, or around the perimeter of the parking lot...
- F. Every parking area that abuts property in any residential district shall be separated from such property by a solid wall, view-obscuring fence, landscaped berm, or compact evergreen hedge at least six feet in height. The Administrative Official may increase the height, depth and content of said screening as necessary to adequately protect adjacent single-family residential development. The screening shall be provided and maintained along the property line of such lot...”

nn. Lighting of Parking Lots.

Pursuant to YMC § 15.06.100, "Lighting shall be provided to illuminate any off-street parking or loading space used at night. When provided, lighting shall be directed to reflect away from adjacent and abutting properties..."

oo. Nonconforming Parking.

Pursuant to YMC § 15.06.140 (C), when the use of an existing lot or structure with nonconforming parking is changed to another use listed in Table 4-1, the nonconformity shall cease and the new use shall provide all the required off-street parking in accordance with the provisions of this chapter..."

pp. Site Screening.

The purpose of YMC Ch. 15.07 is to: "establish site screening standards to provide a visual buffer between uses of different intensity, streets and structures, reduce erosion, and storm water runoff; protect property values, and eliminate potential land use conflicts by mitigating adverse impacts from dust, odor, litter, noise, glare, lights, signs, water run-off, buildings, or parking areas."

1. STANDARD "A": Consists of a ten-foot-wide landscaped planting strip with trees at twenty-foot to thirty-foot centers, which includes shrubs and groundcover.
2. STANDARD "B": Consists of a three-foot-wide planting strip that will create a living evergreen screen that is at least six feet in height within three years.
3. STANDARD "C" Consists of a six-foot-high, view-obscuring fence, made of wood, masonry block, concrete, or slatted chain link material. A three-foot-wide planting strip landscaped with a combination of trees, shrubs and groundcover along the outside of the fence is also required when the fence is adjacent to a street, alley or pedestrian way.

qq. Special Conditions of Approval Authorized.

Pursuant to YMC § 15.10.030, "the development standards and other conditions for approval specified in this Title are not a limitation on the authority of a reviewing official to impose additional or greater requirements as conditions of approval on any use, development, or modification being reviewed. Except as otherwise expressly provided, any reviewing official may impose conditions to:

1. Accomplish the objective and intent of any development standard or criteria for approval set forth in this Title;
2. Mitigate any identified specific or general negative impacts of the development, whether environmental or otherwise;
3. Ensure compatibility of the development with existing neighboring land uses;
4. Assure consistency with the intent and character of the zoning district involved; or
5. Achieve and further the expressed intent, goals, objectives, and policies of the Yakima Urban Area Comprehensive Plan and the Yakima Urban Area Zoning Ordinance..."

2. Yakima Urban Area Comprehensive Plan:

1. Future Land Use Designations Defined: For a zoning designation or district to be allowed on a piece of land, it must be compatible with the land use designations on

the Future Land Use Map. It can be assumed that zoning will be applied that results in land being developed as described in the various designations.

2. Neighborhood Commercial Defined: Pursuant to YUACP Pg. III-15, the Neighborhood Commercial designation is defined as “small scale, neighborhood convenience commercial uses and services primarily for residences of adjacent neighborhoods. These areas are typically located along a minor arterial, or at the intersection of a minor arterial and a collector arterial street.”
3. Applicable Comprehensive Plan Goals and Policies.
Purpose Statement: “Goals and Policies will serve two principal purposes: to guide development decisions in the UGA, such as rezone requests, development reviews, etc., or to outline specific actions or programs that implement the Plan...”

3. **Applicable Goals and Policies Listed:**

Goal 3.3: Preserve Existing Neighborhoods.

Policies:

3.3.1: Preserve the character of neighborhoods such as historical character, architecture, natural features and layout.

3.3.2: Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood.

Goal 3.4: Restore Old Neighborhoods and Revitalize Declining Neighborhoods.

Policies:

3.4.3: In the residential areas where commercial and residential uses are heavily mixed, encourage the establishment of neighborhood commercial services and foster mixed uses including retail, office, and apartments...

3.4.4: Maintain and preserve the existing single-family residential neighborhoods of Northeast, Southeast and Barge/Chestnut areas of the City.

Goal 3.6: Provide Opportunities for Office Development to Promote Economic Growth and to Meet the Need for Office Space in the Yakima Urban Area.

Policies:

3.6.1: Encourage clustering of office development in concentrated areas.

3.6.2: Use offices as transitional uses between commercial and residential areas.

3.6.3: Promote small-scale office development that will not have significant adverse impacts on adjacent neighborhoods.

3.6.5: Low to mid-rise office buildings should be located next to commercial or industrial areas, along expressway corridors, on or around hospitals areas, and in the Central Business District...

Goal 3.8: Make Commercial Areas a Desirable Place to Shop and Work.

Policies:

3.8.1: Commercial uses and developments should be designed to be compatible with surrounding land uses, especially to avoid encroachment into residential areas.

3.8.2: Allow and encourage transitional uses or development, such as office, multi-family or buffer areas, such as open spaces.

3.8.5: Ensure compatibility between commercial structures and adjoining residential uses. Require commercial structures to use building scale, roof style, and building materials similar to, or compatible with, the adjoining residential structures.

3.8.6: Commercial uses adjacent to residential areas should use effective landscape buffers with living plant vegetation such as evergreen trees, bushes, open space or other design controls to minimize noise, glare, and other impacts associated with commercial land use to ensure that their location will not adversely affect the residential areas.

3.8.7: Parking lots for commercial land uses that are adjacent to residential housing should be screened from the view of residents using vegetation, fences, berms or other screening devices.

Goal 3.12: Provide Small Scale, Neighborhood Convenience Commercial Uses and Services, Primarily Serving Residents of Adjacent Neighborhoods.

Policies:

3.12.1: A Neighborhood Commercial center will provide land uses for businesses such as grocery stores, drug stores, restaurants and small retail stores.

3.12.2: The typical size of a Neighborhood Commercial development is three to ten acres and serves a population of 3,000 – 40,000 people.

3.12.3: Neighborhood Commercial uses shall be located at the intersection of a principal arterial, minor arterial or collector arterial.

3.12.4: Neighborhood Commercial may be allowed when water and sewer service, street improvements, traffic control devices, municipal services and other development-related improvements are in place.

3.12.5: Adequate buffering shall be provided between adjacent residential land uses.

3.12.7: Neighborhood Commercial uses shall be located in areas that will enhance, rather than hinder, the stability of residential areas.

3.12.8: The predominant uses of Neighborhood Commercial shall be small-scale business that will not have significant adverse impacts on adjacent neighborhoods.

4. Black's Law Dictionary Definitions:

a. **Dwelling:** Living or dwelling in a certain place permanently or for a considerable length of time. The place where a man makes his home, or where he dwells permanently or for an extended period of time. The difference between a residence and a domicile may not be capable of easy definition; but everyone can see at least this distinction: A person domiciled in one state may, for temporary reasons, such as health, reside for one or more years in some other place deemed more favorable. He does not, by so doing, forfeit his domicile in the first state, or, in any proper sense, become a non-resident of it, unless some intention, manifested by some act, of abandoning his residence in the first state is shown. Walker's Estate v. Walker, 1 Mo. App. 404. "Residence" means a fixed and permanent abode or dwelling-place for the time being, as contradistinguished from a mere temporary locality of existence. So does "inhabitation;" and the two are distinguishable in this respect from "domicile." In re Wrigley, 8 Wend. (N. Y.) 134. As they are used in the New York Code of Procedure, the terms "residence" and "resident" mean legal residence; and legal residence is the place of a man's fixed habitation, where his political rights are to be exercised, and where he is liable to taxation. Houghton v. Ault, 10 How. Prac. (N. Y.) 77. A distinction is recognized between legal and actual

residence. A person may be a legal resident of one place and an actual resident of another. He may abide in one state or country without surrendering his legal residence in another, if he so intends. His legal residence may be merely ideal, but his actual residence must be substantial. He may not actually abide at his legal residence at all, but his actual residence must be his abiding place. Tipton v. Tipton. 87 Ky. 243. 8 S. W. 440; Hinds v. Hinds. 1 Iowa, 30; Fitzgerald v. Arel, 03 Iowa, 101. 18 N. W. 713, 50 Am. Rep. 733; Ludlow v. Szold, 00 Iowa, 175, 57 N. W. 070.

Law Dictionary: What is RESIDENCE? definition of RESIDENCE (Black's Law Dictionary)