

**COUNTY OF YAKIMA, WASHINGTON
HEARING EXAMINER'S DECISION**

November 1, 2018

**In the Matter of an Application for)
Expansion of a Preexisting Legal)
Nonconforming Use Submitted by:)**

**Darren & Jennifer Warehime, Applicants)
Sadie & Anthony Heckart, Owners)**

CUP2018-00086

**To Expand a Preexisting Legal Non-)
Conforming Use of Heavy Construction)
Equipment Storage, Maintenance, Repair)
And Contracting Services by Addition)
Of an Office and Expansion of Outdoor)
Uses in the Rural-10/5 (R-10/5) Zone)**

A. Introduction. The preliminary background findings relative to the public hearing process conducted for this application are as follows:

(1) The Hearing Examiner conducted an open record public hearing regarding this application on October 18, 2018.

(2) The staff report presented by Yakima County Project Planner Jacob Clay recommended approval of the application subject to conditions.

(3) Applicant Jennifer Warehime testified that the Superior Grading and Paving business which is mostly conducted by phone and computer will improve the site by adding a

shop with four parking stalls, by grading and gravelling portions of the site and by replacing an existing cyclone fence.

(4) No other testimony was submitted at the hearing. No written comments from neighbors were submitted.

(5) This decision has been issued within ten business days of the public hearing.

B. Summary of Decision. This application is approved subject to conditions.

C. Basis for Decision. Based on a view of the site with no one else present on October 15, 2018; a consideration of the information in the staff report, exhibits, testimony and other evidence presented at an open record public hearing on October 18, 2018; and a review of the Yakima County Comprehensive Plan and the Yakima County Unified Land Development Code, Yakima County Code Title 19; the Hearing Examiner makes the following:

FINDINGS

I. Applicants/Property Owners. The applicants are Darren and Jennifer Warehime, P.O. Box 9573, Yakima, Washington 98909. The property owners are Sadie and Anthony Heckart, 2212 Jerome Avenue, Yakima, Washington 98902.

II. Location. The property is not assigned an address. It is northwest of McLaughlin Road about one-half mile northwest of its intersection with State Route Highway 12 and about four miles northwest of the City of Yakima.

III. Hearing Examiner's Jurisdiction. The details regarding the Hearing Examiner's jurisdiction in this matter may be summarized as follows:

(1) The proposal is subject to the Yakima County Unified Land Development Code, Title 19 of the Yakima County Code (YCC), which became effective on October 1, 2015. YCC Table 19.14-1 entitled Allowable Land Uses lists "Heavy construction equipment storage, maintenance, repair and contracting services" for some zoning districts, but not for the Rural-10/5 (R-10/5) zoning district where the subject property is located unless it satisfies the review criteria for extension of an existing legal nonconforming use.

(2) It has already been determined administratively through the evidence presented for CUP2018-00059 issued on June 14, 2018, that the use of the subject parcel for heavy construction storage, maintenance, repair and contracting services, as well as for stockpiling earthen materials as an accessory use, is a legal nonconforming use of the parcel that was established prior to adoption of the County's initial zoning ordinance in 1974.

(3) The Hearing Examiner's jurisdiction to consider this type of application by means of Type 3 review, and the criteria for considering an application to alter, enlarge, expand, extend or reconstruct an existing legal nonconforming use, such as here by constructing a shop building on a parcel or expanding the outdoor use on a parcel, are specified by YCC §19.33.060(4)(d). YCC §16B.03.030 provides that Type 3 review is quasi-judicial in nature and requires an open record public hearing before the Hearing Examiner who issues a final decision subject to no further administrative review.

IV. Application. The main aspects of this application and proposal may be summarized as follows:

(1) This proposal is to expand a legal nonconforming use that has existed prior to adoption of Yakima County zoning ordinances as was determined administratively on June 14, 2018, by means of CUP2018-00059. It was determined that the existing use for heavy construction equipment storage, maintenance, repair and contracting services, as well as for stockpiling earthen materials as an accessory use, was established on the subject parcel as early as 1971.

(2) A shop once existed on the parcel but was destroyed by a fire in the late 1990's.

The applicants would like to build a new 2,400-square-foot shop with office space and reorganize the existing use of the parcel. Earthen material is being stored on the parcel. Heavy equipment vehicles currently stored on the property will be removed. The earthen material will be stored on the existing concrete slab that was once the site of the shop and will be separated with ecology blocks. Vehicle storage will be in the southwestern and western portions of the subject parcel.

(3) Hours of operation of the applicants' Superior Grading and Paving business will be Monday through Saturday from 6:00 a.m. to 6:00 p.m. Access to the subject parcel is proposed from a private-shared driveway from McLaughlin Road. McLaughlin Road is a paved local access road that intersects with State Route 12 approximately one-half mile southeast of the subject parcel.

(4) According to Yakima County GIS, there are no critical areas located on or near the subject parcel that would be affected by this proposal.

V. Notices. Notices of the October 18, 2018, open record public hearing were provided in the following ways:

Mailing of hearing notice to property owners within 300 feet:	September 28, 2018
Publishing of hearing notice in the Yakima Herald-Republic:	September 28, 2018
Posting of hearing notice on the property:	October 1, 2018

No comments were received from nearby property owners.

VI. Environmental Review. This proposal is exempt from State Environmental Policy Act (SEPA) review because it does not exceed the threshold set forth in YCC §16.04.100(b) which specifies that only the construction of commercial buildings larger than 12,000 square feet require completion of a SEPA Checklist and are subject to such review.

VII. Zoning and Land Use. The zoning and land use characteristics of the subject parcel and of nearby properties may be summarized as follows:

(1) Pursuant to the Yakima County Unified Land Development Code, YCC Title 19, the subject property is located within the Rural-10/5 zoning district. YCC §19.11.030 provides: “The rural districts are intended to serve as a buffer between urban lands and resource lands, provide non-resource areas for future urban expansion, limit the costs of providing services to remote or underdeveloped areas, and retain the rural/agrarian character of the County while offering a variety of lifestyle choices for the residents of Yakima County.”

(2) The Yakima County Comprehensive Plan (*Horizon 2040*) designates the subject parcel as Rural Self-Sufficient. The intent of this land use category is to implement Growth Management Act Planning Goals related to reducing sprawl, protecting the environment and providing adequate facilities and services commensurate with the density of development.

(3) The subject parcel is 3.00 acres in size. Surrounding properties are also located within the R-10/5 zoning district. Neighboring parcels range in size from 0.28 acres to 4.80 acres and contain manufacturing, industrial and single-family residential uses. To the north of the subject parcel is State Route Highway 12.

VIII. Development Standards. The development standards applicable to the proposed expansion of the existing legal nonconforming use of the subject parcel and the manner of satisfying them may be summarized as follows:

(1) **Conformity with All Regulations Required (YCC §19.10.040(1)):** Any development or structure shall conform to all of the regulations specified in YCC Title 19 for the situation and zoning district in which they are located in order to be authorized, erected, constructed, reconstructed, moved or structurally altered. Here the expanded use will conform to all of the applicable regulations of YCC Title 19 and of the R-10/5 zoning district if the conditions are met.

(2) **Yards, Lots and Off-Street Parking or Loading Spaces (YCC §19.10.040(2)(c) and §19.22.050(4)):** No part of a yard or lot existing at the time of adoption of YCC Title 19

shall be reduced in dimension or area below the minimum requirements thereof. No shared parking or loading area may be allowed without signage, or an approved parking easement if on separate parcels. Here the proposal does not reduce the size of any existing yard or lot and does not include the sharing of any parking or loading area with other uses or parcels.

(3) Access Required (YCC §19.10.040(3)): All new development shall have a minimum of 20 feet of lot frontage upon a public road or be served by an access easement conforming to the dimensional requirements of YCC §19.23.040 and YCC §19.23.050 to provide for access to the development. The approach location shall be reviewed by the County Engineer for compliance with YCC Chapter 10.08. Approach connections to other public roads are subject to review by the applicable agency. Verification of legal access and a valid road approach permit shall be required prior to final approval of any permit granted under YCC Title 19. Here the Yakima County Transportation Division provided the following comment:

“Yakima County Transportation has no record of a Road Approach Permit (RAP) for this parcel. Per title 10.08.020 and 19.10.040(3) and RCW 36.75.130 the applicant shall obtain a RAP from the Yakima County Transportation Division for all existing accesses to the county roadway system. The fact that the road approach application is in conjunction with a CUP must be disclosed by the applicant at the time of application. No future building permits can be issued without the completion and approval of a RAP.”

Here the applicants have proposed using the existing private shared driveway on the northeast section of the subject parcel. The applicants shall as a condition of approval obtain a Road Approach Permit (RAP) from the Yakima County Transportation Division for access onto McLaughlin Road.

(4) Land Uses (YCC §19.10.040(4)): Uses allowed within a zoning district are listed as permitted, administrative or conditional uses in the Allowable Land Uses Table 19.14-1 within YCC Chapter 19.14. Here, the Table does not allow the existing use in the R-10/5 zoning district, but it has been determined to constitute a preexisting legal nonconforming use which the applicants seek here to expand.

(5) Building Permits Required (YCC §19.10.040(5)): No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the

Building Official under RCW 19.27 and YCC Title 13. No building permit shall be issued except in conformity with YCC Title 19. Here the Yakima County Building and Fire Safety Division provided the following comment:

“No flood plains located on parcel. Building permit required for proposed structures in addition to fire code and supplemental permits as needed. No other issues or concerns.”

Here the applicants shall apply for building permits prior to construction and disturbance of land. (For more information on building and fire code permits, please contact the Building and Fire Safety Division at (509) 574-2300).

(6) Setbacks, Easements, Rights-of-Way (YCC §19.10.040(6) and YCC Table 19.11.030-2): YCC §19.11.030 lists the standard minimum setbacks of buildings or other structures and uses in the R-10/5 zoning district in YCC Table 19.11.030-2. Here the subject parcel fronts a private shared driveway, which requires a 10-foot setback from the edge of the easement. Interior side setbacks and rear setbacks must be 10 feet from the property line. A new shop is proposed to be approximately 82 feet from the private shared driveway which will satisfy all applicable setbacks of the R-10/5 zoning district.

(7) Vision Clearance Triangles at Intersections and Driveways (YCC §19.10.040(7)(b)): A vision clearance triangle shall be maintained at all driveways and curbcuts, and at the intersection of an alley with a public street for vision and safety purposes. The vision clearance triangle shall measure 15 feet along the perpendicular street curb lines or pavement edge, or travel lane of the public street and 15 feet along the driveway or alley, as illustrated in YCC Figure 19.10.040-2. The third side of the triangle shall be a straight line connecting the 15-foot sides described above. No sign or associated landscaping shall be placed within this triangle so as to materially impede vision between the heights of two and one-half feet and ten feet above the centerline grade of the streets. Here, however, according to YCC §19.10.040(7)(b), this subsection applies only to uses established under this YCC Title 19. Since the nonconforming use was established before adoption of the County’s initial zoning ordinance, the applicants are not required to establish a new vision clearance triangle. Moreover, no objects currently exist and no objects are proposed to be placed within the vision clearance triangle area.

(8) Maximum Building Height and Lot Coverage (YCC §19.10.040(8)(a), YCC 19.01.070(2), YCC §19.01.070(12) and YCC Table 19.11.030-2): Building height is

defined as “the vertical distance from grade plane to the average height of the highest roof surface” by YCC §19.01.070(2). YCC §19.01.070(12) defines lot coverage as “the percentage of the area of a lot covered by buildings, accessory structures, or other impervious surfaces.” YCC Table 19.11.030-2 states that the maximum building height in the R-10/5 zoning district is 35 feet and that the maximum lot coverage is unspecified. According to the application, the proposed shop will be about 30 feet tall so as to comply with this development standard.

(9) Fences, Walls and Recreational Screens (YCC §19.10.040(9)): The provisions of YCC §19.10.040(9) shall govern the location and height of fences and walls to allow access to properties by utility employees and emergency response personnel and to maintain good appearance of residential areas and visual access along residential streets and between lots. Here the information submitted with the application indicates that there is an existing six-foot-high cyclone fence on the perimeter of the subject parcel. The applicants’ site plan indicates that a new cyclone fence will be along the private shared driveway and a new gate will be installed. YCC §19.10.040(9)(a)(iii)(C) does not specify any fence height restrictions in the R-10/5 zoning district, but YCC §19.10.040(6)(a)(vi) requires that any new gate must be placed at least 20 feet away from the edge of the private shared driveway easement.

(10) Exterior Lighting (YCC §19.10.040(10)): Exterior lighting is regulated to minimize light pollution to neighboring properties and encourage true-color, full-spectrum light rendition in projects. Exterior lighting for all uses and signs shall be directed downward and be otherwise arranged, fully shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare or light intrusion into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles. YCC Figures 19.10.040-3 and 19.10.040-4 contain examples of exterior lighting sources and fixtures. Here the proposed new exterior lighting proposed to be installed on and adjacent to the new shop and any other exterior lighting on the parcel shall comply with the requirements set forth in YCC §19.10.040(10).

(11) Floodplain Development (YCC §19.10.040(11)): A pre-application meeting and a Flood Hazard Permit application are required for all new development in floodplains in order to minimize and mitigate potential adverse impacts to property and infrastructure while reducing risks to public health and safety. Yakima County will utilize existing flood hazard data and mapping to assist applicants with the layout and design of their proposal. If the potential adverse impacts cannot be mitigated through the Flood Hazard Permit under YCC

16A.05, 16C.05 and 16D.05, a critical areas and shoreline permit will be required under Yakima County Critical Areas and Shoreline codes. Here, based on the Yakima County Critical Areas maps, the subject property is not within the floodplain. A pre-application meeting was held for the proposed expansion of the nonconforming use under EAC2018-00014, but not because of any floodplain on the subject parcel.

(12) **Stormwater Requirements (YCC §19.10.040(12)):** Stormwater quality and quantity concerns for project permits shall be addressed through YCC Chapter 12.10, the State Environmental Policy Act environmental review process, or through the requirements of the Washington State Department of Ecology. This is to ensure public and private development projects comply with the National Pollution Discharge Elimination System (NPDES) permit requirements under the Federal Clean Water Act where applicable. The Yakima County Water Resources Division had the following comment:

“A stormwater plan along with supporting documentation is required for this project. Approval of a Stormwater Plan by Yakima County Public Services is required prior to issuance of the building permit or land disturbance. A checklist is available online titled “Stormwater Site Plan Checklist” at <http://www.co.yakima.wa.us/1732/Stormwater-Management>. Stormwater must be retained on site. Any natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250. A Washington State Department of Ecology Industrial Stormwater Permit and Construction Stormwater Permit may be required. For questions about these requirements contact Dianna Woods at (509) 574-2300.”

Here stormwater runoff must be retained on-site and comply with the requirements of YCC §12.10.130. A Stormwater Plan is required by the Water Resources Division prior to issuance of the building permit or land use disturbance. Questions regarding stormwater information may be directed to Dianna Woods with the Water Resources Division at (509) 574-2300.

(13) **Signs (YCC §19.20.030(1)):** All on-premises signs are accessory uses and shall be subject to the same procedural and review requirements as the principal use, except that new signs accessory to existing or approved uses may be reviewed as modifications to

existing or approved uses under YCC §19.35.030. All proposed signs are subject to the review procedures of YCC Title 19 and the standards of YCC Chapter 19.20, which include YCC Table 19.20-1 Type of Signs Permitted, YCC Table 19.20-2 Number of Signs Permitted, YCC Table 19.20-3 Maximum Area per Sign Face, and YCC Table 19.20-4 Sign Height and Setbacks. Here the information submitted with the application indicates that a new wall sign and freestanding sign are proposed. According to YCC Table 19.20-1, a freestanding sign and a wall sign are allowed if accessory to a permitted use. According to YCC Table 19.20-2, one freestanding sign is allowed per street frontage. The number of wall signs is not regulated so long as the total area of the wall sign(s) does not exceed the area of the wall to which attached (YCC §19.20.100(1)). According to YCC Table 19.20-3, freestanding signs shall not exceed 32 square feet per sign face. According to YCC Table 19.20-4, freestanding signs shall have a maximum height of ten feet. Wall signs shall not be taller than the wall to which they are attached. Sign area is defined in YCC §19.01.070(19) as “the area contained within one or more perimeters that enclose the entire sign cabinet, and a rectilinear shape encompassing individual letters with no background, but excluding any support or framing structure that does not contain a logo or other symbol which advertises or promotes merchandise, services, goods, or entertainment.” The applicants shall obtain a building permit for proposed signs which shall meet the standards of YCC §19.20.030 and the standards described above.

(14) SITESCREENING AND LANDSCAPING (YCC §19.21.010(2)): The Yakima County Code requires sitescreening to provide a visual buffer between uses of different intensity, streets and structures; reduce erosion and stormwater runoff; protect property values; and eliminate potential land use conflicts by mitigating adverse impacts from dust, odor, litter, noise, glare, lights, signs, buildings or parking areas (YCC §19.21.010(2)). Here the adjacent properties are also within the R-10/5 zoning district which does not require sitescreening or landscape buffers for uses.

(15) PARKING AND LOADING (YCC §19.22.020, YCC §19.22.050(2) and YCC Table 19.22-2): YCC §19.22.020 provides that 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 from the Reviewing Official. All off-street parking and vehicle storage shall be in conformance with YCC Chapter 19.22. Here heavy equipment storage is not listed in the calculation of parking standards YCC Table 19.22-2. YCC §19.22.050(2) states that the Reviewing Official can make a determination to evaluate a

proposed land use based closely on similar land uses listed in YCC Table 19.22-1. The use that most closely fits is “Service or repair shops” which require one space for each 750 square feet of gross floor area. Based on these calculations, the applicants would be required to provide 4 spaces. According to the applicants there are 5 employees and customers will rarely visit the site since meetings are conducted over the phone and at specific sites. Although the applicants have not proposed parking, the expansion of the nonconforming use will require 4 parking spaces. Applicant Jennifer Warehime testified at the hearing that 4 parking spaces will be provided. All parking shall be installed prior to commencement of use of the new shop. Parking shall be surfaced with a minimum of screened gravel (YCC §19.22.070(1)(b)) and graded and drained so all surface water is disposed of on-site (YCC §19.22.070(2)).

(16) **Water and Sewer (YCC Chapter 19.25):** YCC Chapter 19.25 entitled Sewer and Water is intended to provide specific standards that will ensure an adequate source of potable water will be provided prior to development approval. The types of domestic water and sewage disposal system that are authorized for certain projects, if regional sewer and area-wide public water are not available, are listed in order of priority under YCC §19.25.040 and under YCC Tables 19.25-1 and 19.25-2. According to YCC Table 19.25-1, new structures in the R-10/5 zoning district must utilize an existing public water system. If an existing public water system is not available, then they may utilize an individual well. Here the owners are not aware of where the well is located on the parcel. The applicants shall work with the Yakima Health District to determine where the well is located. If there is not an existing well and there is not a public water system in the area, the applicants may drill a new individual well. If there will be restrooms inside the new shop as indicated by applicant Jennifer Warehime at the hearing, the applicants will need to connect to an individual on-site septic system. The Yakima Health District has no records for this project. The applicants shall review the project with the Yakima Health District prior to issuance of building permits. (Please contact the Yakima Health District at (509) 575-4040 for more information).

IX. Review Criteria for Expansion of Legal Nonconforming Uses. The prescribed review criteria for Type 3 open record public hearing review of applications for the expansion of legal nonconforming uses prescribed by YCC §19.33.060(4)(d)(i) relate to the

proposed expansion of the legal nonconforming use on the subject parcel in the following ways:

(1) That the alteration or expansion would not be contrary to the public health, safety or welfare: The expansion of the nonconforming use will not be contrary to the public health, safety or welfare. The use on the property has existed since about 1971 and has not had adverse impacts on the surrounding community. The surrounding area has remained in its configuration since the nonconforming use was established. There are two single-family residences to the southeast of the subject parcel that were built in 1955 and 1935 respectively. Other than those two residences, the surrounding area consists of manufacturing and industrial uses and State Route Highway 12. The proposed expansion of the nonconforming use will have little or no adverse impact on the surrounding community.

(2) That the alteration or expansion is compatible with the character of the neighborhood; and does not significantly jeopardize future development of the area in compliance with the provisions and the intent of the zoning district: The neighboring parcel to the west of the subject parcel has land use approval for race car storage and repair. The neighboring parcel to the south is used for a manufacturing plant for sheet metal. There are two residential uses to the southeast of the subject parcel. The existing uses have existed on the surrounding parcels for over 20 years, including the two residential uses in the vicinity of commercial uses, without any known compatibility issues. Since the surrounding parcels are smaller than the requisite minimum lot size for the R-10/5 zoning district, they cannot be further subdivided. The undisputed evidence presented at the hearing was to the effect that additional traffic on McLaughlin Road is not expected to be an issue because the business is operated on the subject parcel mainly by utilizing telephones and computers and is otherwise conducted at individual work sites away from the subject parcel. None of the owners of nearby property submitted written comments or testimony in opposition to the proposed expansion of the legal nonconforming use. All of the evidence presented at the hearing indicated that the proposed expansion of the legal nonconforming use of the subject parcel will be compatible with the character of the neighborhood and will not jeopardize future development of the area.

(3) That the use or structure was lawful at the time of its inception: Since the use was established about 1971 prior to the adoption of Yakima County's initial zoning ordinance provisions, it was found to be lawful at the time of its inception by the Reviewing

Official by way of CUP2018-00059 issued on June 14, 2018.

(4) **That the value of nearby properties will not be significantly depressed by approving the requested alteration or expansion:** Neighboring property values will not be significantly depressed because the use has existed since about 1971 and the proposed expansion will clean up the site and gravel areas that are now unmaintained. The proposed construction of a new shop will allow some materials and equipment to be stored inside which will in turn make the subject parcel more aesthetically pleasing than it is now.

(5) **That the nonconforming structure shall comply with all development standards and codes to the extent feasible:** The proposed expansion will comply with all applicable development standards such as building height, setbacks, lot coverage and the other development standards discussed above in detail in this Decision. No variances or administrative adjustments from any development standards are being requested for the proposal at this time.

(6) **That the use or structure will not cause, increase or expand detrimental attributes for the area it is located due to: use of hazardous materials; generation of noise, odors or electronic interference; introduction of incompatible uses; or generation of large numbers of vehicle trips; change in hours of operation; and emissions of light or glare:** The proposed expansion of the nonconforming use will not cause, increase or expand detrimental attributes for the area. The site will be utilized more as there will be an office in the new shop and with this will come increased hours of operation and more vehicle trips. The undisputed evidence presented at the hearing indicated that the proposed expansion of the legal nonconforming use will not cause detrimental attributes for the area because the expansion will not significantly increase the vehicle trips to the property or generate significant noise that will affect the community, but will instead make the subject parcel more attractive and aesthetically pleasing.

(7) **That the proposed alteration or expansion requested will not create negative health or safety impacts and need not be excluded to protect the public from harm:** The proposed expansion will not create negative health or safety impacts to the properties in the area, in part because it will instead result in the relocation of some of the materials and equipment used in the business into a new shop and will also better protect the public by preventing fluid spills from vehicles during maintenance that will occur indoors.

X. Consistency of the Proposed Use (YCC §16B.06.020 & RCW 36.70B.040).

The expansion of the existing legal nonconforming use as proposed will be consistent with development regulations and the comprehensive plan in the following ways:

(1) **The type of land use permitted at the site:** The type of land use permitted at the site includes the proposed expansion of a legal nonconforming use in the R-10/5 zoning district because the proposed expansion satisfies all of the prescribed review criteria set forth in YCC §19.01.070(21), YCC §19.30.100(2)(a), YCC §19.33.060(4)(d)(i) and other applicable County ordinance provisions.

(2) **The level of development, such as units per acre, density of residential development or other measures of density:** The level of development of the subject parcel will be in compliance with lot coverage, setback and other development requirements for the R-10/5 zoning district.

(3) **The availability and the adequacy of public facilities:** Public facilities will continue to be available and adequate for the expanded use.

(4) **The proposal's consistency with applicable development standards and the comprehensive plan:** The proposed expansion of the existing legal nonconforming use will be required to be consistent with all of the applicable development standards of the zoning ordinance and the comprehensive plan as discussed in detail above.

CONCLUSIONS

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

(1) The Hearing Examiner has jurisdiction to approve an expansion of an existing legal nonconforming use in the R-10/5 zoning district under the circumstances prescribed by the zoning ordinance, which circumstances warrant approval of this application.

(2) This application is exempt from State Environmental Policy Act (SEPA) review by virtue of YCC §16.04.100(b) because the proposed commercial building is not larger than 12,000 square feet.

(3) All public notice requirements for the open record public hearing have been satisfied.

(4) All of the testimony and evidence presented at the public hearing that was held on October 18, 2018, favored approval of this proposal subject to the recommended conditions.

(5) This proposal is adequately conditioned by the conditions set forth below so as to comply with the development standards and criteria for approval of the expansion of an existing legal nonconforming use set forth in YCC Title 19 and other relevant provisions of the Yakima County Code.

(6) YCC §16B.03.030(1)(c) and YCC Table 3-1 in YCC §16B.03.030(4) provide that the Hearing Examiner's written decision relative to a Type 3 process involving an open record hearing constitutes the final decision which is not subject to an administrative appeal and which is therefore subject to appeal to the Yakima County Superior Court within the timeframe and subject to the statutory requirements of the Land Use Petition Act (LUPA) set forth in Chapter 36.70C of the Revised Code of Washington.

DECISION

The Type 3 Conditional Use Permit to expand the heavy construction equipment storage, maintenance, repair and contracting services use, as well as the stockpiling of earthen materials as an accessory use, by constructing a shop on parcel number 181431-21012 and by expanding the outdoor use of said parcel as described in the documentation submitted for application CUP2018-00086, is **APPROVED** subject to the following conditions:

(1) A Stormwater Plan along with supporting documentation is required for this project. (Please contact the Yakima County Public Services Department: Water Resources Division at (509) 574-2300).

(2) The applicants shall apply for and obtain final approvals for all necessary Building & Fire Safety Division permits relevant to any construction of proposed structure(s) and signs prior to occupancy. (Please contact the Yakima County Public Services Department: Building & Fire Safety Division at (509) 574-2300).

(3) The applicants shall obtain a Road Approach Permit (RAP) from the Yakima County Transportation Division for access onto McLaughlin Road.

(4) Any exterior lighting installed shall be directed downward and otherwise arranged, fully shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare or light intrusion into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles on nearby roads.

(5) The applicants shall maintain hours of operation of Monday through Saturday, 6:00 a.m. to 6:00 p.m. Future changes to the hours of operation will require additional review.

(6) The location of gates shall be set back at least twenty (20) feet from access easements on the parcel.

(7) Any future signage associated with this project shall meet the requirements of YCC Table 19.20-1 through 19.20-4.

(8) Pursuant to YCC §19.22.050(2) and YCC §19.22.070(1)(b), the applicants shall provide four (4) parking spaces with a minimum of screened gravel or crushed rock, or better.

(9) **Time Limit:** The conditions of approval for this Conditional Use Permit must be completed within three (3) years of the date of the Hearing Examiner's decision. Extension

of time for cause may be granted pursuant to Subsection 19.30.100(4)(c) of the Yakima County Zoning Ordinance.

(10) The owners, their grantees and assignees in interest will abide by the terms of YCC §16B.07.050 – Compliance, Extension, Expiration and Reinstatement, a copy of which was attached to the Yakima County Planning Division staff report as Attachment A and is adopted herein by this reference. The applicants shall complete all required conditions, submit documentation that all conditions were met and request County inspection or review to determine that the requirements have been fulfilled within the timeframe specified in the decision and any authorized extensions.

The following are ongoing conditions that apply to the project for the life of the permitted use. Failure at any time to comply with these conditions can result in the revocation of this permit.

(11) The project shall not extend beyond that described in this application and associated site plan submitted with the application referenced as file number CUP2018-00086. Any future modification(s) to this project shall be submitted to the Yakima County Planning Division for review and a decision based on County code.

(12) Stormwater must be retained on site and upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC §12.10.130.

DATED this 1st day of November, 2018.



Gary M. Cuillier, Hearing Examiner