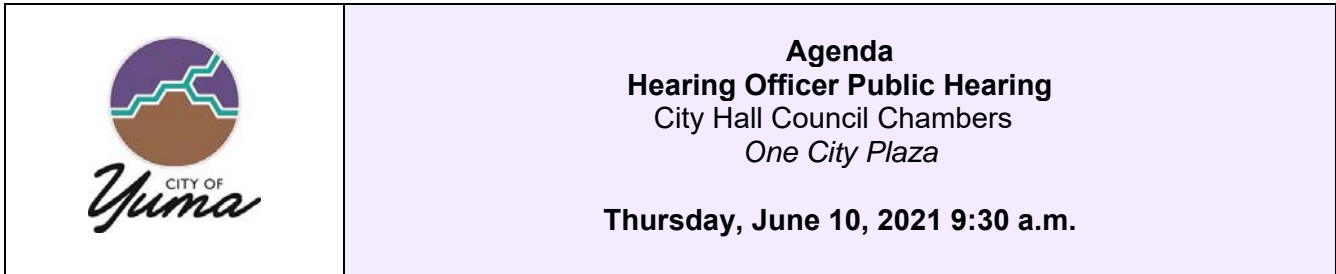


**Notice of Public Hearing of the
Hearing Officer of The City of Yuma**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Hearing Officer of the City of Yuma and to the general public that the Hearing Officer will hold a hearing open to the public on June 10, 2021 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:



Consistent with the March 13, 2020 Arizona Attorney General informal opinion Relating to Arizona's Open Meeting Law and COVID-19, in order to protect the public and reduce the chance of COVID-19 transmission, the meetings of the City of Yuma Hearing Officer will be conducted with limited public, in-person access, consistent with social distancing requirements.

City Hall Council Chambers will be open with limited public access.

Public comment regarding any **agenda** item can be provided in written format to the Hearing Officer Secretary at email address planning@yumaaz.gov no later than 15 minutes prior to the start of the scheduled meeting. Comments received timely will be read into the record when the referenced agenda item is discussed.

CALL TO ORDER

CONSENT CALENDAR – All items listed under the consent calendar will be approved by one motion. There will be no separate discussion of these items unless the Hearing Officer or a member of the audience wishes to speak about an item.

APPROVAL OF MINUTES

- May 13, 2021

APPLICATIONS TO BE CONSIDERED

1. **VAR-34715-2021** *This is a request by Raul and Alicia Figueroa for a Variance to increase the allowable fence height in the front yard setback from 3' to 6' in the High Density Residential (R-3) District, for the property located at 1950 S. Ridgeview Drive, Yuma, Arizona. (continued from May 27, 2021)*
2. **VAR-34791-2021** *This is a request by Erin Presley, for a Variance to increase the maximum allowable wall height in the front yard setback from 3' to 7', in the High Density Residential/Infill Overlay (R-3/IO) District, for the property located at 495 S. 16th Avenue, Yuma, Arizona. (Continued from May 27, 2021)*
3. **VAR-34815-2021** *This is a request by Israel and Patricia Galvez for a variance to place an accessory structure closer to the front of the property than the mid-point of the primary structure, in the Low Density Residential (R-1-6) District, for the property located at 3960 S. Akers Way, Yuma, AZ.*
4. **VAR-34928-2021** *This is a request by Jesse Chaves, on behalf of Jesse Chaves and Silvia CPWROS, for a variance to allow parking in front yard setback area and reduce required parking for outdoor seating, in Limited Commercial (B-1) District, for the property located at 150 E 24th St., Yuma, AZ.*

5. **VAR-34985-2021** *This is a request by Alex Lakey of ARCHSOL, on behalf of Yuma Regional Medical Center, for a variance to reduce the side setback from 10' to 2'-3" to allow the construction of a permanent canopy, in the General Commercial (B-2) District, for the property located at 2851 S. Avenue B, #2801, Yuma, AZ.*

ADJOURN

A copy of the agenda for this meeting may be obtained at the office of the City Clerk at City Hall, One City Plaza, Yuma, Arizona, 85364, during business hours, Monday through Friday, 8:00 A.M. to 5:00 P.M. In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of Yuma does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of Yuma Human Resources Division, One City Plaza, PO Box 13012, Yuma, AZ 85366-3012; (928) 373-5125 or TTY (928) 373-5149

**Hearing Officer Meeting Minutes
May 13, 2021**

A meeting of the City of Yuma's Hearing Officer was held on May 13, 2021, at City Hall Council Chambers, One City Plaza, Yuma, AZ.

HEARING OFFICER in attendance was Pamela Walsma.

CITY OF YUMA STAFF MEMBERS present included Phillip Rodriguez, City Administrator; Kenneth Scott McCoy, Assistant City Attorney; Alyssa Linville, Assistant Director/Zoning Administrator; Shelly Hook, Development Project Coordinator; Chad Brown, Associate Planner; Amelia Griffin, Associate Planner; Alejandro Marquez, Administrative Assistant and Lizbeth Sanchez, Administrative Assistant.

Walsma called the meeting to order at 9:30 a.m.

CONSENT CALENDAR

Walsma approved the minutes of April 22, 2021.

PUBLIC HEARINGS

VAR-33894-2021: *This is a request by Ronald Pailliotet, on behalf of the City of Yuma, for a variance to reduce the minimum square feet of lot area per multi-family unit from 2,000 square feet to 600 square feet and to eliminate the requirement for on-site parking for a proposed rooftop restaurant in the Old Town (OT) District, for the property located at 46 W. 2nd Street, Yuma, AZ.*

Alyssa Linville, Assistant Director DCD, summarized the staff report recommending **APPROVAL**.

QUESTIONS FOR STAFF

Walsma asked how the commercial parking was going to be utilized. **Linville** replied the commercial parking was to be shared by the local businesses and residents of the proposed project.

Walsma then asked how the noise from the commercial properties would affect the residents of the apartment complex. **Linville** deferred the question to the Assistant City's Attorney. **Assistant City Attorney Scott McCoy** replied the residents would be made aware that they would be living in an urban downtown environment, and that there would be noise from neighboring businesses.

APPLICANT/APPLICANTS REPRESENTATIVE

Ronald Pailliotet, 4555 W. La Quinta Loop Yuma AZ, 85364, referred back to the Hearing Officer meeting of April 8, 2021, and wanted to address some of the concerns that were brought up at the meeting. The variance request was consistent with other urban environments, and was important to the success of the project. Patrons of the restaurant would use the shared parking area within the mall, noting that the size of the restaurant has not been determined.

Walsma asked Pailliotet if he had reviewed and accepted the Conditions of Approval in Attachment A. **Pailliotet** answered yes.

Pailliotet then addressed concerns over the noise impacting the residents of the proposed apartments, by stating that the building will contain modern day sound attenuation on all the walls facing the adjoining properties.

OPEN PUBLIC COMMENT

Jim Smith (no address given), expressed concern about the parking and zoning requirements surrounding the proposed project.

Ricky Good (no address given), expressed concern about the lack of parking spaces on 2nd Street.

Chris Wheeler, 278 South Main St. Yuma AZ, 85364, expressed his support for the proposed project and the revitalization of the downtown area.

Sheryl Hehe, representing the Yuma County Chamber of Commerce, read a statement from the Chamber of Commerce in support of the proposed project.

Lenore Stewart, (no address given), said she was a building owner in the downtown area, expressed concern about parking in the downtown area.

Christine McConnaughay, 331 S. Madison Ave. Yuma AZ, 85364, expressed concern about parking in the downtown area.

Mickey Garza, (no address given) said he was owner of a downtown area building, stated he was in favor of the proposed project.

Clint Harrington 2975 S. Ave. B Yuma AZ, 85364, commented that the proposed project was going to help revitalize the downtown area and was in favor of the project.

Robert Rodriguez, 284 S. Main St. Yuma AZ 85364, stated that he was in favor of the proposed project.

Eddie Guzman, 2071 S. 4th Ave. Yuma AZ, 85364, stated that he was in favor of the proposed project.

Yvonne Peach, (no address given) stated she was a local business owner, and expressed concern about parking in the downtown area. She then stated that the City and County need to consider building a parking garage.

Kevin Eatherly, Pilkington Construction, stated that the way the downtown area was going thrive was through private development and by addressing the parking issue.

Walsma asked if there was going to be sufficient parking for the residents of the apartments, and did the parking area meet City Code. **Linville** answered yes.

Walsma asked Linville if she had anything more to add about a comment in the staff report where the City Council indicated their desire to see an increase in residential and mixed-use development within the downtown area. **Linville** answered that the City Council believes in the revitalization of the downtown area, and that residential development will encourage that.

Walsma then asked if there had been any discussions about expanding the parking in the future. **Linville** deferred the question to the Assistant City Attorney. **McCoy** replied yes there have been discussions on ways to enhance the available parking in the downtown area.

DECISION

Walsma granted the variance, subject to the Conditions of Approval in Attachment A, finding that the four criteria of Yuma City Code §154-03.04(D)(1) had been met.

Jim Smith then commented that he wanted to appeal the decision to the Planning and Zoning Commission.

CUP-34547-2021: *This is a request by Alan Cubberley, on behalf of Circle K Stores, Inc., for a Conditional Use Permit for soil and ground water remediation in the General Commercial/Infill Overlay (B-2/IO) District, for the property located at 379 W. 1st Street, Yuma, AZ.*

Alyssa Linville, Assistant Director DCD, summarized the staff report recommending **APPROVAL**.

QUESTIONS FOR STAFF

Walsma asked if there was any comments submitted by the public or property owners. **Linville** answered no.

APPLICANT/APPLICANTS REPRESENTATIVE

Shanda Wagner, Encore Consultants representing Circle K, was present and available for questions.

Walsma asked if the project was for health and safety. **Wagner** replied yes.

OPEN PUBLIC COMMENT

None

DECISION

Walsma granted the variance, subject to the Conditions of Approval in Attachment A, finding that the seven criteria of Yuma City Code §154-03.05(G)(2) had been met.

VAR-34488-2021: *This is a request by Ronald Pailliotet, on behalf of John F. & Flora Pailliotet Trust, to allow an accessory building to exceed 50% of the total square footage of the primary residence and to reduce the minimum side street driveway length of 20' to 10' in the Low Density Residential (R-1-6) District, for the property located at 595 W. 19th Street, Yuma, AZ.*

Amelia Griffin, Associate Planner, summarized the staff report recommending **DENIAL** of the request to allow an accessory building to exceed 50% of the total square footage of the primary residence and **APPROVAL** of the request to reduce the minimum side street driveway length of 20' to 10'.

QUESTIONS FOR STAFF

Walsma asked if there were other structures in the neighborhood of the same size. **Griffin** replied yes, but the Zoning Codes have changed since the existing structures were built. **Walsma** then asked if Staff knew how many of those structures exceeded the current Zoning Code. **Griffin** replied there were two.

Walsma then asked what type of material would be used for the structure. **Griffin** replied metal.

APPLICANT/APPLICANTS REPRESENTATIVE

Ronald Pailliotet, 4555 W. La Quinta Loop Yuma AZ, 85364, gave a brief presentation of the proposed project.

Walsma asked if the proposed project would exceed 50% coverage. **Pailliotet** replied that the structure is right at 50% coverage. **Walsma** then asked if there were any alternatives to avoid exceeding the 50%. **Pailliotet** replied the only way to do it would be to shrink the size of the building. **Walsma** asked if it could be attached to the residence. **Pailliotet** replied no.

OPEN PUBLIC COMMENT

Alan Pruitt, 1906 S. 6th Avenue Yuma AZ, 85364, stated that he was in full support of the proposed project. **Walsma** asked if he was concerned about the height of the structure. **Pruitt** replied no, because it was going to be in character with the neighborhood.

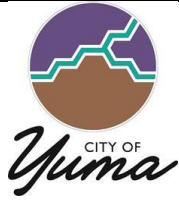
DECISION

Walsma granted the variance, subject to the Conditions of Approval in Attachment A, finding that the four criteria of Yuma City Code §154-03.04(D)(1) had been met.

Walsma adjourned the meeting at 9:47 a.m.

Minutes approved and signed this _____ day of _____, 2021.

Hearing Officer



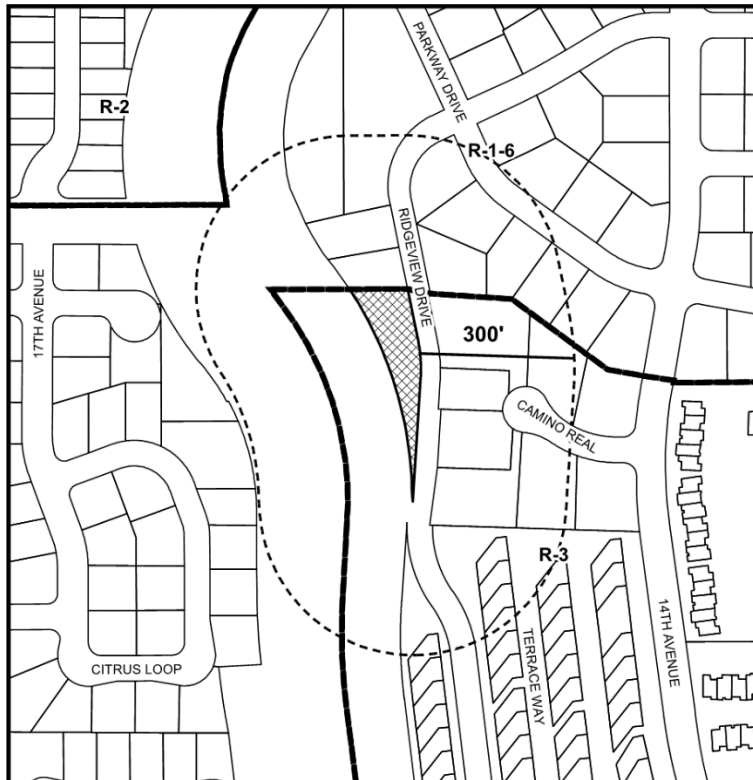
STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: ERIKA PETERSON

Hearing Date: JUNE 10, 2021 **Case Number:** VAR-34715-2021

Project Description/Location: This is a request by Raul and Alicia Figueroa for a Variance to increase the allowable fence height in the front yard setback from 3' to 6' in the High Density Residential (R-3) District, for the property located at 1950 S. Ridgeview Drive, Yuma, Arizona.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	High Density Residential (R-3) District	Residential	Low Density Residential
North	Low Density Residential (R-1-6) District	Residential	Low Density Residential
South	High Density Residential (R-3) District	Residential	High Density Residential
East	High Density Residential (R-3) District	Undeveloped	Low Density Residential
West	Low Density Residential (R-1-6) District	Residential	Low Density Residential

Location Map:



Prior site actions: Annexation: Ord. 787 (December 31, 1959); Rezone: Ord. 1331 (November 7, 1973); Subdivision: Vista Del Valle Estates (September 2, 1981); Variance: Expired- Reduce front yard setback from 20' to 10 (November 28, 1984)

Staff recommendation: Staff recommends **APPROVAL** of the request to increase the allowable fence height in the front yard setback from 3' to 6' in the High Density Residential (R-3) District, subject to the conditions outlined in Attachment A, because it meets the criteria of §154-.03.04 of the Yuma City Code.

Have there been any other variance requests of a similar nature in the vicinity and zoning district? (If "YES", attach vicinity map showing locations of those variances)	No
---	----

Staff Analysis: The subject property is a wedge shaped parcel located along the west side of the Vista Del Valle Estates. The property is situated east of the East Main Canal, south of the Vista Del Valle No. 2 Subdivision and west of an 18-foot high retaining wall, surrounded by single-family residences. The applicant is requesting to increase the allowable fence height in the front yard setback from 3 feet to 6 feet for the construction of a block wall with two metal gates.

Currently, the property features a single-family residence with a block wall dividing half of the parcel. The southern portion of the parcel is undeveloped, sitting along a steep slope to the west and is in close proximity to the bike/walking path along the East Main Canal. The undeveloped portion of this parcel has been utilized as a shortcut to access the bike/walking path and as a dumping area by residents within the area.

The location, size and triangular shape of the property the safety of the property, poses itself as both a special circumstance and safety concern for the property owners. The proposed fence would provide the required privacy and safety, preventing residents within the area from crossing over their property to access the bike/walk path along the East Main Canal and would deter others from dumping their unwanted items. The property owners intend to landscape the area to allow for more play room for their children and dogs.

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) "There is a special circumstance(s) or conditions(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district."

Is this statement correct for this application?

Yes No

Applicant Response: "As you can see by the attached documents our property shape is not the normal square or rectangular shape. Our property is a very elongated triangle and is situated on Ridgeview Drive by the entrance to the bike/walking path on the canal, and ledge."

Staff Analysis: The subject property was subdivided in 1981 and later in 2002 the home was constructed. The property is an odd shape, with only one adjoining residential property to the north. The previous owners constructed a block wall which did not go around the entire

property leaving the south portion of the property exposed to illegal dumping. In addition, the property receives unwanted vehicular and pedestrian traffic as it is situated east of the entrance to the bike/walking path along the East Main Canal. The elongated, undeveloped area is a potential safety hazard, providing easy access to those who wish to walk/drive down the steep slope and along the canal path.

B) “The special circumstance was not created or caused by the property owner or applicant.”

Is this statement correct for this application?

Yes

No

Applicant Response: *“We are wanting to put up a block wall, no higher than 6 foot, surrounding the lot with two metal gates to access the area. We have a few reasons for requesting this variance. We have many people that cut across the lot to gain access to the canal and bike/walking path by going down the steep slope of the ledge. We also have a few people within the neighborhood with off-road vehicles such as RZR’s and Can-AMs that have cross through our lot and gone down the slope to get to the canal. We are concerned that with the crossing of our lot that someone will eventually get hurt. By putting up the block wall this will eliminate bot the foot traffic and the motorized traffic from crossing through and force them to take the safer, designated course.”*

“We have also had multiple people dump their unwanted kittens and cats in boxes on the lot. Resulting in us calling animal control to pick up the poor animals and bring them to the humane society for care. Almost anything you can think of people have dumped on the lot causing us to have to clean it up or hire someone to come out and clean it up. We believe that with the lack of landscaping, and fences that people believe it is a place that they can dump their unwanted items.”

Staff Analysis: The special circumstance was not created or caused by the property owner. The owners purchased this property in 2015 with the home and surrounding block wall in it current location. The previous property owners constructed a block wall dividing the lot into two separate areas. As a result, by not fencing the property in its entirety, the property has become a safety hazard for the existing property owners and the residents within the area.

C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”

Is this statement correct for this application?

Yes

No

Applicant Response: *“The granting of this variance would allow us to enjoy our home and property to the full extent while also creating a much better curb appeal to the street.” Our street consists of 4 homes including ours, all of which are to the north of our lot. None of which would not be impacted by the granting of this variance.”*

Staff Analysis: Staff believes the proposed block wall would not significantly alter the character of the neighborhood. Because of the shape and proximity to a steep slope and path entrance, the block wall would provide a safety barrier from both pedestrian and vehicular traffic, and illegal dumping. Therefore, the granting of this variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.

D) "The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare."

Is this statement correct for this application?

Yes No

Applicant Response: "Our street consists of 4 homes including ours, all of which are to the north of our lot. None of which would be impacted by the granting of this variance."

Staff Analysis: The block wall, as proposed, will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare. The granting of this variance will provide a safety barrier and deter others from illegal dumping and from crossing through the subject property to access the bike/walk path way.

2. Are any of the adjacent property owners opposed to this request? No.

Public Comments Received: None received.

External Agency Comments: None received.

Neighborhood Meeting Comments: No meeting required.

Proposed conditions delivered to applicant on: May 19, 2021

Final staff report delivered to applicant on:

- Applicant agreed with all of the conditions of approval on: May 19, 2021
- Applicant did not agree with the following conditions of approval: (list #'s)
- (If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.)

Attachments

A	B	C	D	E
Conditions of Approval	Site Plan	Agency Notifications	Site Photos	Aerial Photo

Prepared By: 
 Erika Peterson
 Assistant Planner Erika.Peterson@YumaAZ.Gov

Date: 6/3/2021
 (928)373-5000, x3071

Approved By: 
 Alyssa Linville,
 Assistant Director Community Development

Date: 06/03/2021

**ATTACHMENT A
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Alyssa Linville, Assistant Director
Community Development, (928) 373-5000 x 3037:**

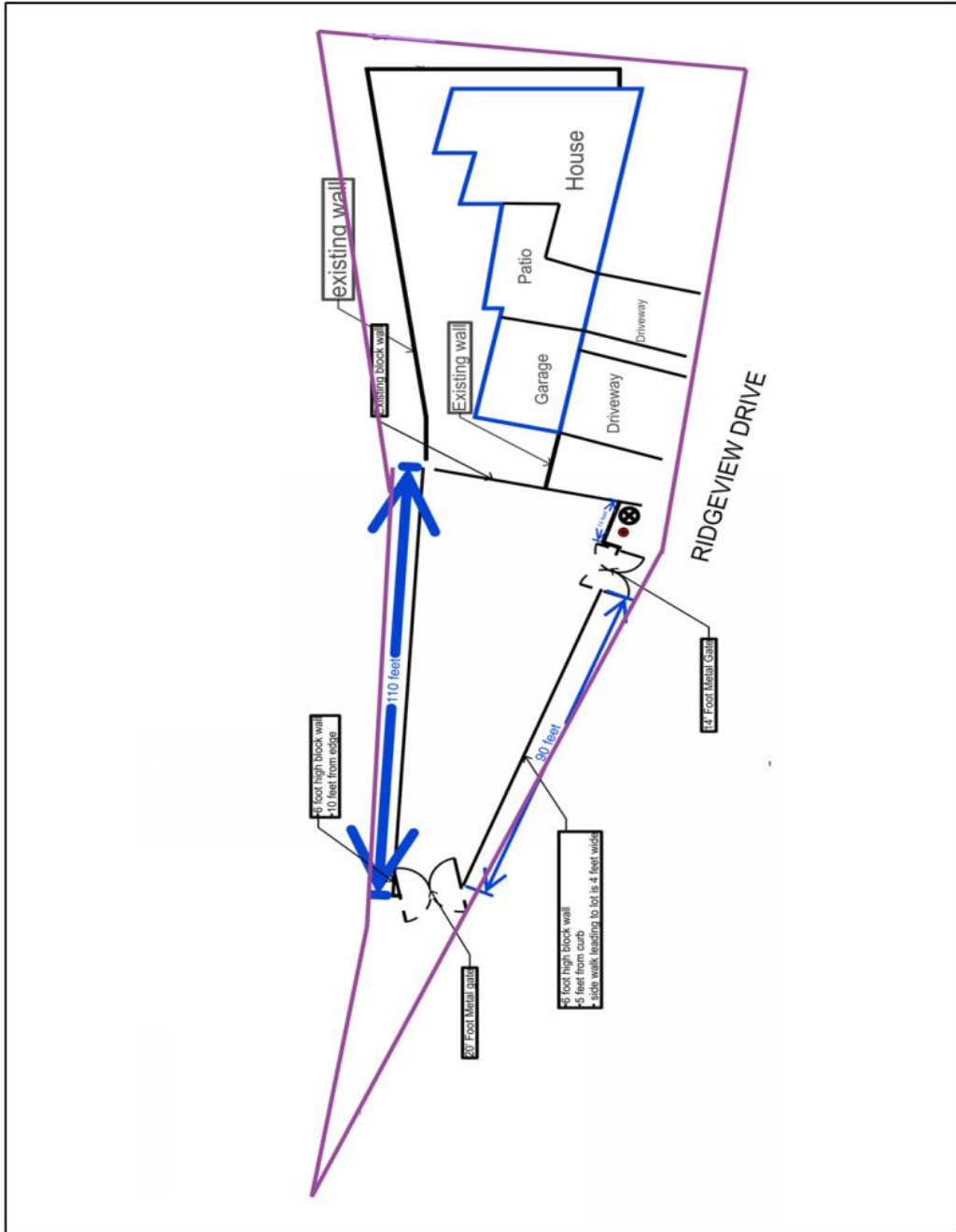
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.
3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.

Community Planning: Erika Peterson, Assistant Planner, (928) 373-5000 x 3071

4. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
5. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
6. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

**ATTACHMENT B
SITE PLAN**



SITE PLAN



Prepared by: EP

Checked by:



Date: 4/21/2021

Revised:

Revised:

Case #:

VAR-34715-2021

**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun 05/21/2021
- 300' Vicinity Mailing: 04/28/2021
- Site Posted on: 06/03/2021
- 34 Commenting/Reviewing Agencies Noticed:
04/28/2021
- Neighborhood Meeting Date: N/A
- Hearing Date: 06/10/2021
- Comments Due: 05/10/2021

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	4/28/2021	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	4/29/2021	X		
Yuma County Planning & Zoning	YES	4/30/2021	X		
Yuma County Assessor	YES	4/30/2021	X		
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	YES	5/3/2021	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	YES	4/28/2021	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	4/29/2021	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	4/28/2021	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	4/29/2021	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
SITE PHOTOS



ATTACHMENT E
AERIAL PHOTO





**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Amelia Griffin**

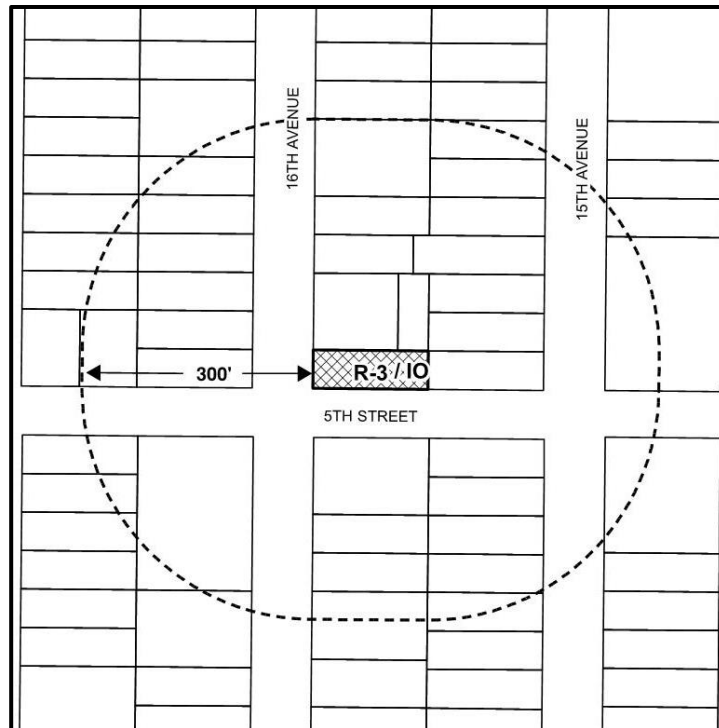
Hearing Date: June 10, 2021

Case Number: VAR-34791-2021

Project Description/Location: This is a request by Erin Presley, for a Variance to increase the maximum allowable wall height in the front yard setback from 3’ to 7’, in the High Density Residential/Infill Overlay (R-3/IO) District, for the property located at 495 S. 16th Avenue, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	High Density Residential / Infill Overlay (R-3/IO) District	Duplex	Medium Density Residential
North	High Density Residential / Infill Overlay (R-3/IO) District	Single Family Residence	Medium Density Residential
South	High Density Residential / Infill Overlay (R-3/IO) District	Vacant	Medium Density Residential
East	High Density Residential / Infill Overlay (R-3/IO) District	Apartments	Medium Density Residential
West	High Density Residential / Infill Overlay (R-3/IO) District	Single Family Residence	Medium Density Residential

Location Map:



Prior site actions: Annexation: Ordinance #605 (February 6, 1954); Subdivision: Townsend Tract (March 23, 1905); Pre-Development Meeting: PDM-34646-2021 (April 13, 2021)

Staff recommendation: Staff recommends **APPROVAL** of the request to increase the maximum allowable wall height in the front yard setback from 3’ to 7’, in the High Density Residential/Infill Overlay (R-3/IO) District, subject to the conditions outlined in Attachment A, because it meets the criteria of §154-.03.04 of the Yuma City Code.

Have there been any other variance requests of a similar nature in the vicinity and zoning district?	No.
--	-----

Staff Analysis: The subject property is located at the northwest corner of 16th Avenue and 5th Street and is zoned High Density Residential / Infill Overlay (R-3/IO) District. Currently, the property features a duplex, which was constructed in 2020. The Infill Overlay (IO) District allows for reductions in required setbacks to increase buildable area of the site. The property is subject to the following development standards: minimum front yard setback of 20’, side yard setback of 5’, street side yard setback of 9’, rear yard setback of 10’, and 50% maximum lot coverage.

The applicant is requesting to increase the allowable fence height in the front yard setback from 3’ to 7’. The City of Yuma’s Zoning Code allows a wall or fence along any lot line in the High Density Residential zoning district, however no wall or fence taller than three feet is permitted within a required front yard setback area.

With this request, the applicant is proposing a 7’ tall block wall along the front and a portion of the side property line. According to the applicant, without the addition of the 7’ tall block wall, there is potential for break-ins and theft. Additionally, the applicant noted that there are safety concerns with the amount of foot traffic and animals in the area.

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) “There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district.”

Is this statement correct for this application?

Yes No

Applicant Response: “Yes, this is a duplex on a corner lot that was built backwards. The back yard is facing the front (16th Ave) instead of the front yard!”

Staff Analysis: After analyzing the subject property, it has been determined that a special circumstance does apply to the property that does not apply to most other properties within the district and surrounding residential development. While the property meets the development standards for the zoning district, the building was oriented as to where the patio is located within the front yard setback. Additionally, there are numerous walls on surrounding properties that are non-conforming in regard to present day standards.

B) “The special circumstance was not created or caused by the property owner or applicant.”

Is this statement correct for this application?

Yes No

Applicant Response: “No the issue was not created by me but is just a special circumstance being on a corner lot.”

Staff Analysis: The special circumstance was not created or caused by the property owner as the duplex was developed prior to the current owner’s purchase of the property.

C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”

Is this statement correct for this application?

Yes No

Applicant Response: “Yes, it feels very unsafe not only for me and my family but also for the future tenants and children on the property.”

Staff Analysis: The granting of the Variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations. While a wall or fence is permitted within the front yard setback, the wall or fence cannot be taller than 3’, leaving the property owners patio area exposed to any foot traffic. Additionally, the fence would not significantly alter the character of the neighborhood.

D) “The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.”

Is this statement correct for this application?

Yes No

Applicant Response: “Correct, this issue does not involve any other neighbor, or public health/safety but is for the safety of the residents only.”

Staff Analysis: The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare. The granting of the Variance would allow the property owner to enclose the patio area.

2. Are any of the adjacent property owners opposed to this request? No.

Public Comments Received: None Received.

External Agency Comments: None Received.

Neighborhood Meeting Comments: No Meeting Required.

Proposed conditions delivered to applicant on: May 19, 2021

Final staff report delivered to applicant on: May 26, 2021

- Applicant agreed with all of the conditions of approval on: N/A
- Applicant did not agree with the following conditions of approval: #4
(If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.)
-

Attachments

A	B	C	D	E
Conditions of Approval	Site Plan	Agency Notifications	Site Photos	Aerial Photo

Prepared By: 
Amelia Griffin
Associate Planner
Date: 06/01/21
Amelia.Griffin@yumaaz.gov (928)373-5000, x3034

Approved By: 
Alyssa Linville,
Assistant Director Community Development
Date: 06/01/2021

**ATTACHMENT A
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Alyssa Linville, Assistant Director
Community Development, (928) 373-5000 x 3037:**

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.
3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.

Engineering: Andrew McGarvie, Engineering Manager, (928) 373-5000 x3044

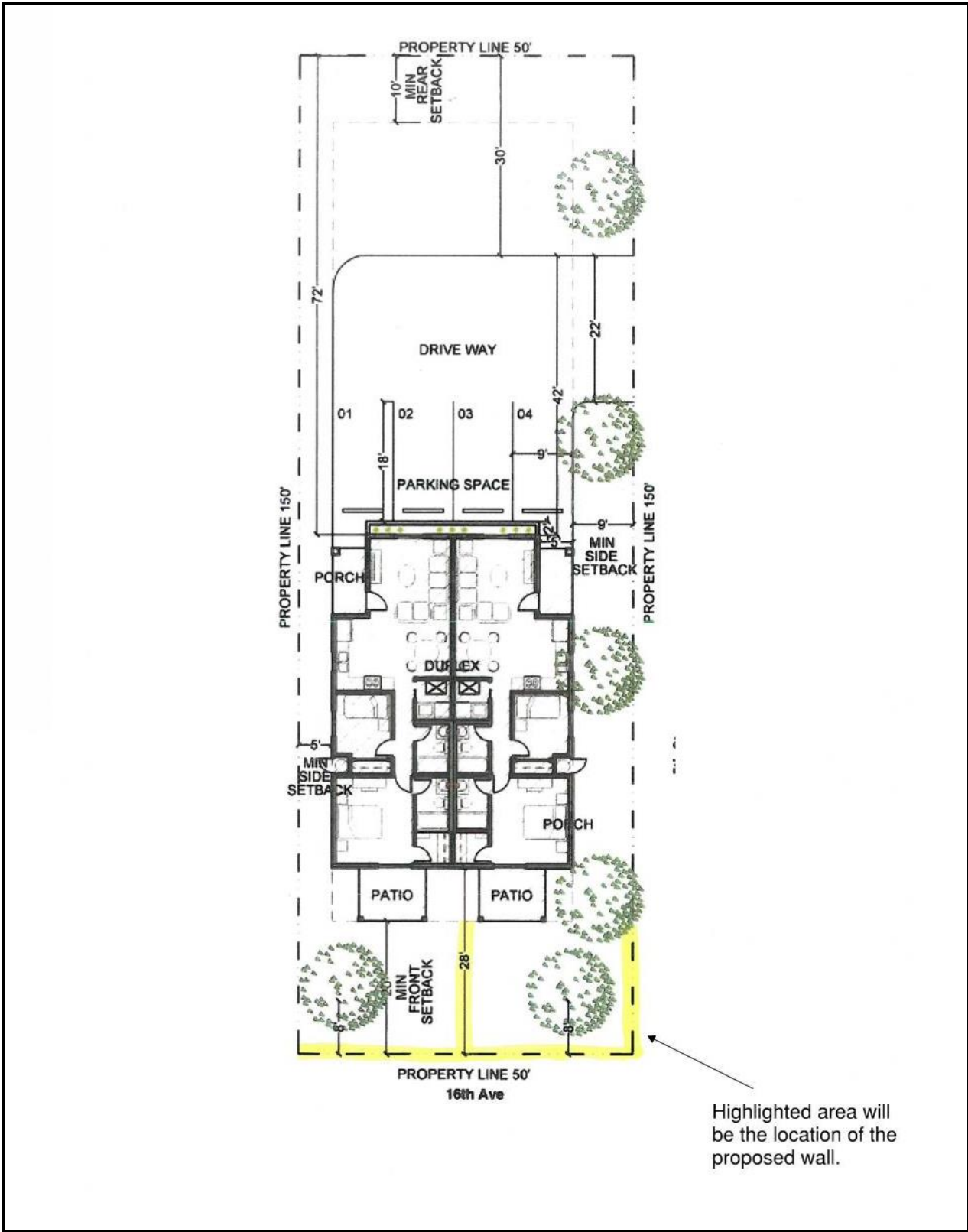
4. The applicant/owner shall provide a corner site triangle in the new fence at the southwest corner of the property, being the intersection of 16th Avenue and 5th Street, with 14 feet legs in order to provide corner visibility for motorist negotiating said intersection.

Community Planning: Amelia Griffin, Associate Planner, (928) 373-5000 x3034

5. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
6. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
7. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B
SITE PLAN



**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (05/07/21)
- 300' Vicinity Mailing: (04/28/21)
- Site Posted on: (06/03/21)
- 34 Commenting/Reviewing Agencies Noticed: (04/28/21)
- Neighborhood Meeting Date: (N/A)
- Hearing Date: (06/10/21)
- Comments Due: (05/10/21)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	004/28/21	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	04/29/21	X		
Yuma County Planning & Zoning	YES	04/30/21	X		
Yuma County Assessor	YES	04/30/21	X		
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	YES	05/03/21	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	YES	04/28/21	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	04/29/21	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	04/28/21	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	04/28/21	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT D
SITE PHOTOS**



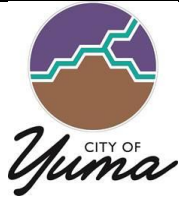
Proposed location of wall.



Proposed location of wall.

**ATTACHMENT E
AERIAL PHOTO**





**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Chad Brown**

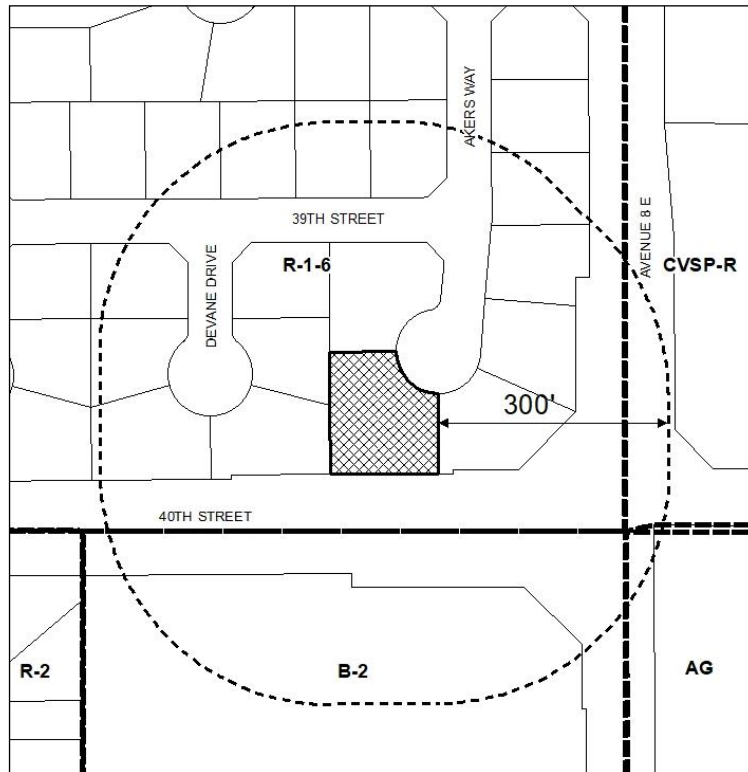
Hearing Date: June 10, 2021

Case Number: VAR-34815-2021

Project Description/Location: This is a request by Israel and Patricia Galvez for a variance to place an accessory structure closer to the front of the property than the mid-point of the primary structure, in the Low Density Residential (R-1-6) District, for the property located at 3960 S. Akers Way, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Low Density Residential (R-1-6)	Single Family Residence	Low Density Residential
North	Low Density Residential (R-1-6)	Single Family Residence	Low Density Residential
South	General Commercial (B-2)	Vacant Parcel	Commercial
East	Low Density Residential (R-1-6)	Single Family Residence	Low Density Residential
West	Low Density Residential (R-1-6)	Single Family Residence	Low Density Residential

Location Map:



Prior site actions: Annexation: Ord. #O99-29 (July 3, 1999); General Plan Amendment: GP2005-003 (July 20, 2005); Rezone: Z2005-020 (Rezone from AG to R-1-6); Subdivision: Sierra Montana Unit No. 2 (February 28, 2007)

Staff recommendation: Staff recommends **APPROVAL** of the request to allow the location of an accessory structure (detached garage) in line with the principal dwelling in the Low Density Residential (R-1-6) District, subject to the conditions outlined in Attachment A, because it meets the criteria of §154-.03.04 of the Yuma City Code.

Have there been any other variance requests of a similar nature in the vicinity and zoning district?			Yes.
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
VAR-7817-2014	Reduce the required front yard setback from 20 feet to 15 feet for a garage	Approval	Approved

Staff Analysis: The subject property, located within the Sierra Montana Unit No. 2 Subdivision, is located at the end of a cul-de-sac on S. Akers Way, near the intersection of S. Akers Way and E. 39th St. Currently, the property owner is developing the vacant lot with a single-story, single-family residence. This future residence is subject to the following setback requirements: the front yard setback would be 20 feet, the side yard setbacks would be 7 feet, the street side yard setback would be 10 feet, and the rear yard setback would be 10 feet.

The applicant is seeking to build a workshop/garage near the front portion of the property. The proposed structure meets all setback requirements of a primary structure, however the accessory structure section of the City of Yuma Zoning Code (§154-15.15(c)(1)(b)(1)) states: “accessory buildings or structures shall be located behind the midpoint of the principal building.”

Due to the fact that the property is located along a cul-de-sac the front of the property has an irregular shape. This shape and layout of the lot creates a barrier to placing the proposed garage/workshop in the rear side of the property. The impacts of the cul-de-sac also create the basis for a special circumstance.

The proposed accessory structure is proposed to be built like a garage. A large roll up door with vehicles moving in and out of the space. The proposed variance would allow paved access to the proposed accessory structure to be adjacent to already existing parking and access—as opposed to paving a path along the side and back of the home to reach the other buildable areas. The proposed variation from the code would allow the proposed use to meet a key section of the City Parking Code (§154-16.04(D)4): Each residential lot shall have no more than one area of parking and/or storage.

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) ***“There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district.”***

Is this statement correct for this application?

Yes

No

Applicant Response: *“Being that our property is situated in a cul-de-sac, and it only has a small portion of property facing the street, with an existing curb and gutter in place, with designation of where our driveway needs to be placed, the house placed at an angle to correspond with the street and allow driveway access to the garages. We were left with very minimal space to construct workshop beyond the midpoint of the new house.”*

Staff Analysis: After reviewing the subject property, it has been determined that there is a special circumstance that applies to this property that does not apply to most of the properties in the district. The subject property is located in the Sierra Montana Unit No. 2 Subdivision and is greatly impacted by the curve of the cul-de-sac. This curve creates the special circumstance for the subject variance.

B) ***“The special circumstance was not created or caused by the property owner or applicant.”***

Is this statement correct for this application?

Yes

No

Applicant Response: *“As normal lots have 4 property lines, we actually have 5 property lines, with required setbacks which must be met. Which forced us to build house at an angle, and were left with very little space behind midpoint of home.”*

Staff Analysis: The special circumstance regarding the effect of the cul-de-sac was not created by the property owner. This was actually created by the developer upon the subdividing of the subdivision.

C) ***“The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”***

Is this statement correct for this application?

Yes

No

Applicant Response: *“Construction of workshop would be exactly to match the house construction, and would not affect the look of the neighborhood as to being an eyesore. If we would had known that any structures had to be beyond the midpoint of the house, we would have designed it to be part of the original house as one building.”*

Staff Analysis: The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations. Due to the fact that a majority of the surrounding properties are not located on a cul-de-sac and are generally rectangular in shape, property owners have a greater opportunity to develop their property without encountering the challenges in which the applicant is facing.

D) "The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare."

Is this statement correct for this application?

Yes No

Applicant Response: "I do not feel granting variance would be materially detrimental to anyone in the neighborhood or vicinity, and hope to get approval of variance, thank you."

Staff Analysis: The granting of this variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety and general welfare.

2. Are any of the adjacent property owners opposed to this request? No.

External Agency Comments: None Received.

Neighborhood Meeting Comments: See Attachment D.

Proposed conditions delivered to applicant on: June 4, 2021

Final staff report delivered to applicant on: June 4, 2021

Applicant agreed with all of the conditions of approval on: June 4, 2021

Attachments

A	B	C	D	E	F	G
Conditions of Approval	Site Plan	Agency Notifications	Neighborhood Meeting Comments	Site Photos	Aerial Photo	Proposed Structure

Prepared By: 
 Chad Brown
 Associate Planner Chad.Brown@yumaaz.gov (928)373-5000, x1234
Date: 6/4/21

Approved By: 
 Alyssa Linville,
 Assistant Director Community Development
Date: 06/03/2021

**ATTACHMENT A
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Alyssa Linville, Assistant Director
Community Development, (928) 373-5000 x 3037:**

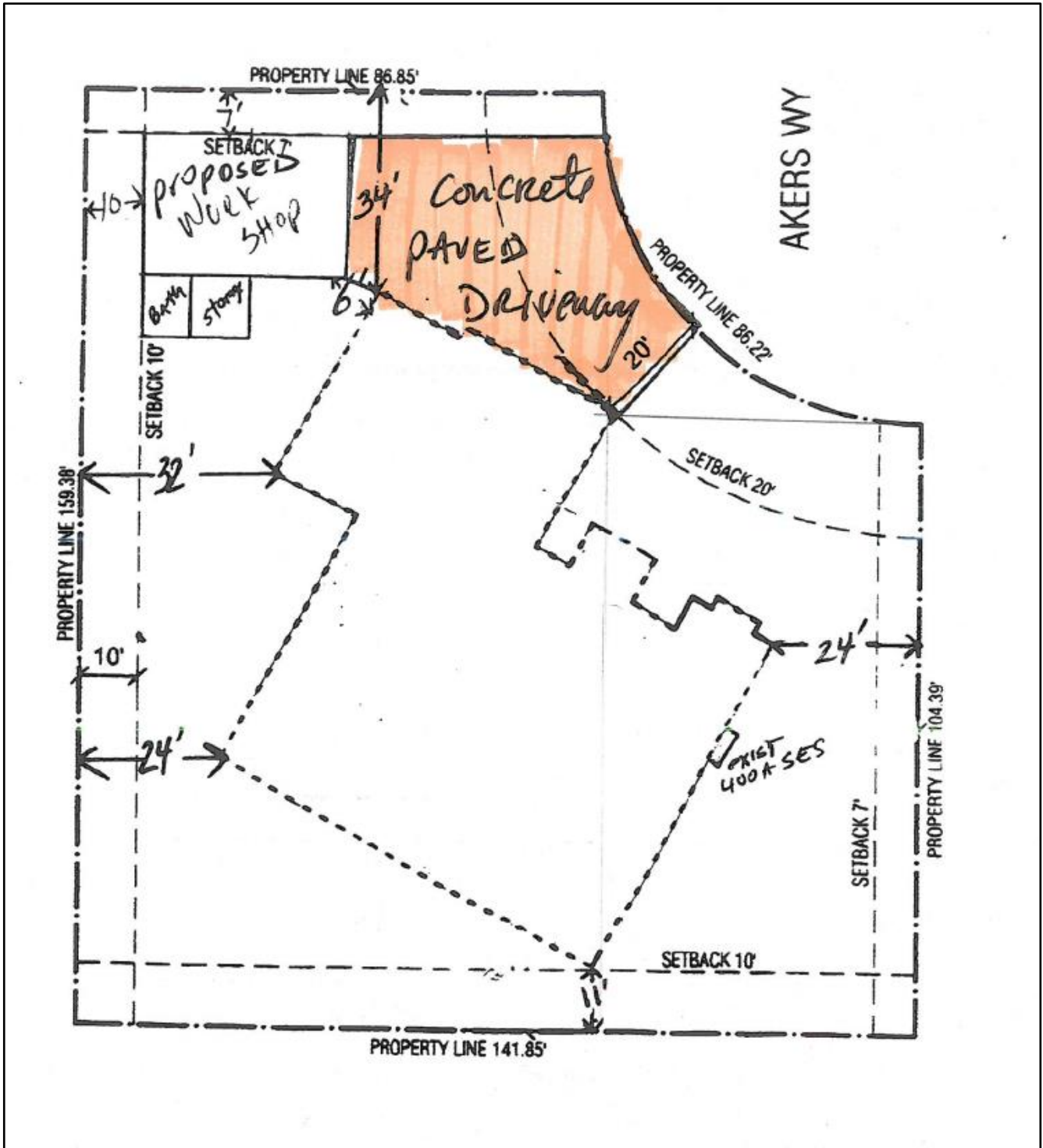
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.

Community Planning: Chad Brown, Associate Planner, (928) 373-5000 x 3038

4. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
5. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
6. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B
SITE PLAN



**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (5/21/21)
- 300' Vicinity Mailing: (5/12/21)
- Site Posted on: (5/11/21)
- 34 Commenting/Reviewing Agencies Noticed: (5/12/21)
- Neighborhood Meeting Date: (5/18/21)
- Hearing Date: (6/10/21)
- Comments Due: (5/24/21)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	NR				
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	NR				
Yuma County Planning & Zoning	NR				
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	NR				
Yuma Irrigation District	NR				
Arizona Fish and Game	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	NR				
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	NR				
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	NR				
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
NEIGHBORHOOD MEETING COMMENTS

Date Held: 05/18/21

Location: subject property; 3960 S. Akers Way,
Yuma, AZ.

Attendees: Chad Brown; City of Yuma, Mr. and Ms. Galvez; property owner, Dena and Michael Swift; neighboring property owners, Jennifer Olea and Roger Bojorques; neighboring property owners.

SUMMARY OF ATTENDEE(S)' COMMENTS RELATED TO THE PROJECT:

Staff explained: what the variance request is for; why the variance was needed for the development goal; how the variance process works; and when the Hearing Officer meeting date would be.

Neighbors wanted to know how the proposed structure would be built. After hearing that the proposed structure met standard setbacks and that it would be built with a similar style to the home they made statements of support.

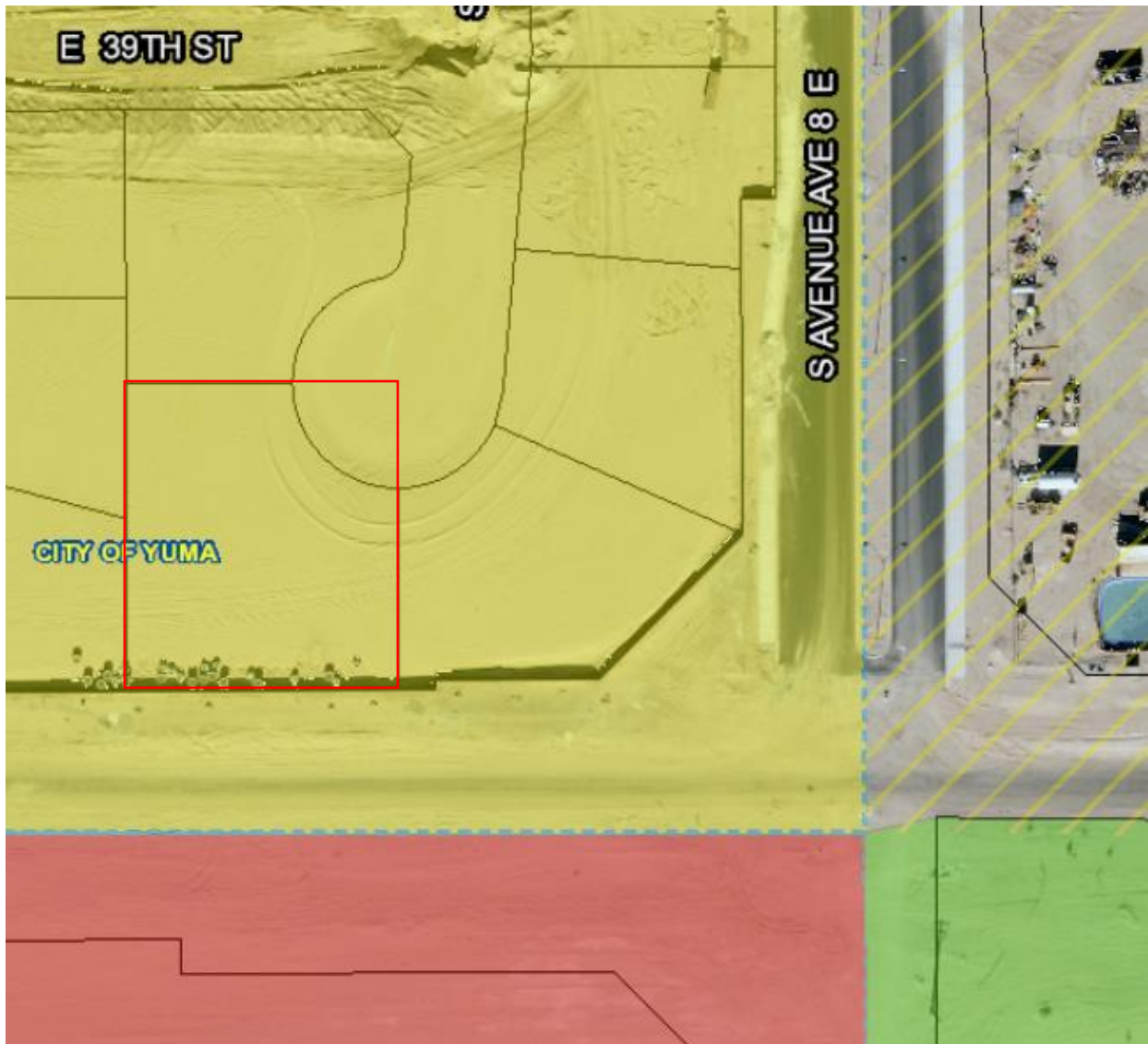
Frustrations about the general sound level of 40th St was mentioned, and it seemed as if each attendee expressed worry about the speed of vehicles on Avenue 8 E.

**ATTACHMENT E
SITE PHOTOS**



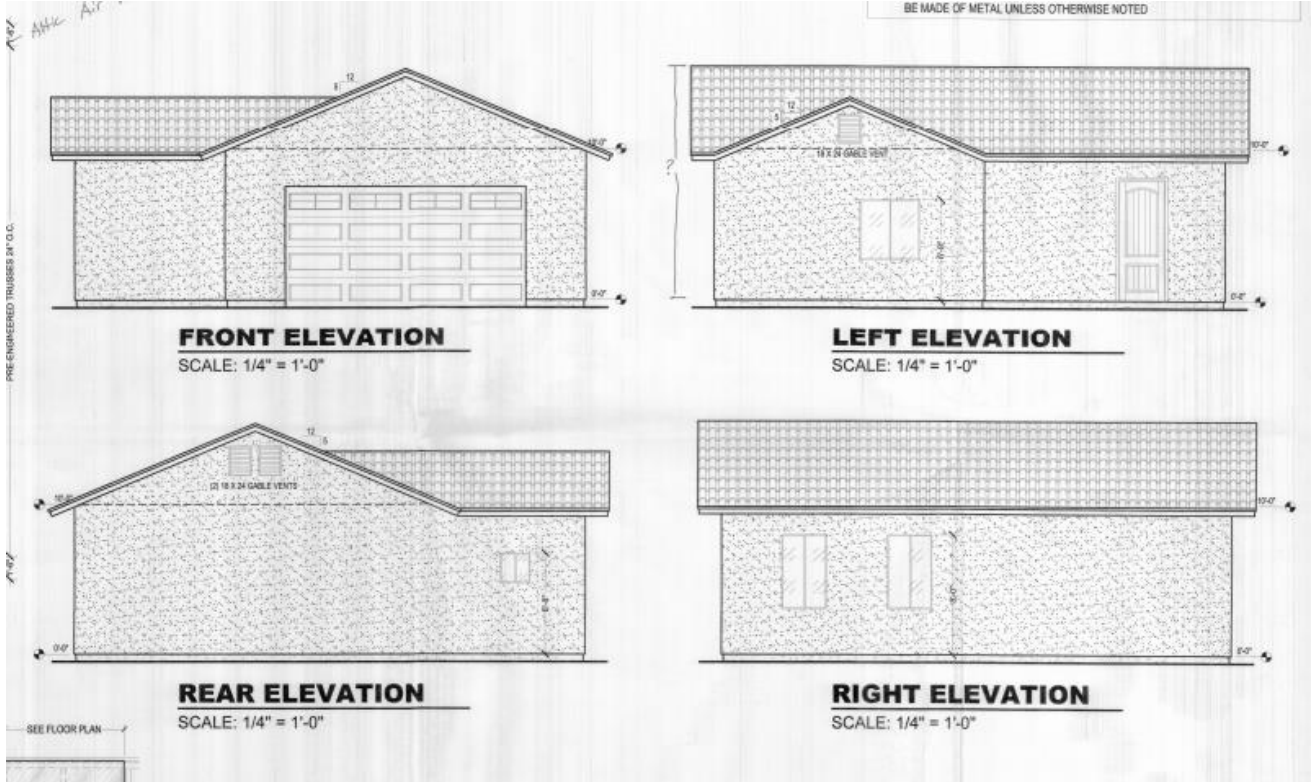
Red rectangle marks the approximate location of the proposed structure.

ATTACHMENT F
AERIAL PHOTO

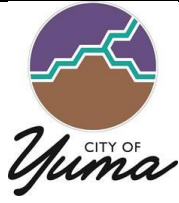


Red rectangle illustrates location of the subject property.

**ATTACHMENT G
PROPOSED STRUCTURE**



The applicant stated that the proposed structure would be built in the same style and colors as the primary structure.



**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Chad Brown**

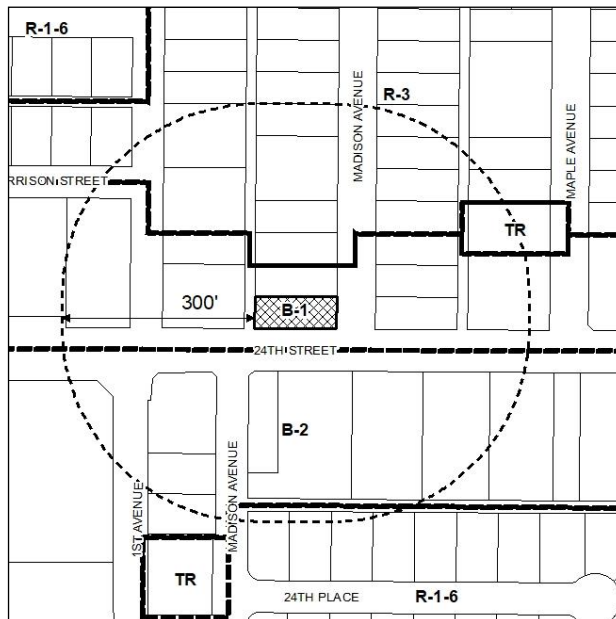
Hearing Date: June 10, 2021

Case Number: VAR-34928-2021

Project Description/Location: This is a request by Jesse Chaves, on behalf of Jesse and Silvia Chaves CPWROS, for a variance to allow parking in the front yard setback and reduce required parking for outdoor seating, in the Limited Commercial/Infill Overlay (B-1/IO) District, for the property located at 150 E 24th St., Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Limited Commercial/Infill Overlay (B-1/IO)	La Patrona Hot Dogs	Low Density Residential
North	Limited Commercial/Infill Overlay (B-1/IO)	Golden Asian Massage	Low Density Residential
South	General Commercial (B-2)	Vista Moving Storage/R.C. Liquor Drive Thru	Mixed Use
East	Limited Commercial/Infill Overlay (B-1/IO)	Desert Health Mobility Plus	Low Density Residential
West	Limited Commercial/Infill Overlay (B-1/IO)	Multi-Tenant Building	Low Density Residential

Location Map:



Prior site actions: Annexation: July 7, 1956 (Ordinance No. 672); Subdivision: May 19, 1950 (Mesa Heights Unit 5); Variance: June 13, 2019 (VAR-26039-2019).

Staff recommendation: Staff is recommending **APPROVAL** of the request for a variance to reduce the required amount of parking from 20 to 9 spaces, and to legalize non-conforming parking locations within setbacks, in the Limited Commercial/Infill Overlay (B-1/IO) District.

Have there been any other variance requests of a similar nature in the vicinity and zoning district? (If "YES", attach vicinity map showing locations of those variances)			Yes.
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
VAR-26039-2019	Reduce the required amount of parking from 20 to 11 spaces, and to legalize non-conforming parking locations within setbacks	Approval	Approved

Staff Analysis: The subject property is located on the northwest corner of 24th street and Madison Avenue. The property was annexed into the City of Yuma on July 7, 1956. It is in the Mesa Heights Number 5 Subdivision, lot 12, recorded in May 19, 1950. The total lot size is 6,395 square feet, and features a 1,088 square foot commercial building that was built in 1961.

The Limited Commercial (B-1) District requires any building to be setback 15 feet from any public or private street right-of-way line; provided, however, such setbacks shall be increased to a minimum of 20 feet for any lot or parcel located on the same block on the same street as a residential zoning district. The subject property would then be required to have a street side setback of 15 feet and a 20 front yard setback. Additionally the minimum lot size for the Limited Commercial (B-1) District 9,000 square feet.

In 2019 the applicant applied for and received a variance to go from the required 20 parking spaces to 11 parking spaces. The customer did not complete the Conditions of Approval in the allotted amount of time. Since the approval of the variance, the applicant purchased the subject property and the parcel to the north of the subject parcel. The parcel to the north is developed and laid out in the same way as the subject property.

With the applicants growing success they have found a need for an outdoor seating area, illustrated on Attachment B. In order to complete the requirements of the last variance and to address the increased need for parking, the applicant has applied for this variance and created a shared parking agreement (#2021-15314) with the property to the north. The property to the north features a massage facility that serves clientele primarily during the day. The subject restaurant only opens in the evenings. With the offset hours, shared parking, and the proposed variance, ample parking should be available for both uses.

The special circumstance for the property is based on several factors, including the fact that development standards have changed since the property was originally developed and that the lot is smaller than most commercial properties within identical zoning designations. The commercial uses in this area were almost all designed with inadequate parking for modern demand, including the subject

property's existing parking. The proposed parking is pre-existing and any impacts should be negligible and incidental on neighboring properties.

The subject property has 121 feet of frontage on 24th St and 44 feet of frontage on Madison Ave. The City of Yuma Zoning Code would require one tree to be planted every 35 feet of frontage and four bushes per tree. This would mean that the subject property would need to plant 5 trees and 20 shrubs to conform to the Code. After a staff dialogue with the Zoning Administrator, it was agreed that trees could be replaced with cactus/water-wise plants and that landscaping could be reduced to an amount that would fit in the existing planter area, located on 24th St. Staff is recommending three large cactus (15 gallon pots or larger) and 5 shrubs, all plants should be chosen from the City's Recommended Plants List.

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) "There is a special circumstance(s) or conditions(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district."

Is this statement correct for this application?

Yes

No

Applicant Response: *"The special circumstances with my properties is that, while it is listed as separate items, they are located side by side on the same parcel of land. They share parking and street access. There will be a recorded property agreement between the above listed properties to expand additional parking."*

Staff Analysis: The subject property is located on the northwest corner of 24th Street and Madison Avenue. It is in the Mesa Heights Number 5 Subdivision, lot 12, recorded in May 19, 1950. The total lot size is 6,395 square feet. The minimum lot size for the Limited Commercial (B-1) District, the zoning district of the subject property, is 9,000 square feet.

The special circumstance for the property is based on several factors, including the fact that development standards have changed since the property was originally developed and that the lot is smaller than most commercial properties within identical zoning designations.

B) "The special circumstance was not created or caused by the property owner or applicant."

Is this statement correct for this application?

Yes

No

Applicant Response: *"The special circumstance was not created by me, as this property remains fundamentally the same as when it was initially purchased."*

Staff Analysis: The applicant did not design or build the non-conforming site compositions.

C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”

Is this statement correct for this application?

Yes

No

Applicant Response: *“By granting me this variance, I will have the same variances as many of my surrounding businesses that currently enjoy reduced parking opportunities. Additionally, the differences in business hours, primarily evening hours, offers reduced area traffic and many more potential parking spaces in and around the local area.”*

Staff Analysis: The granting of this variance for parking in the front yard setback and reduced parking is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations. Parking in the front setback is a substantial property right enjoyed by surrounding commercial properties, and the proposed parking reduction impacts will be subjugated by the shared parking agreement.

D) “The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.”

Is this statement correct for this application?

Yes

No

Applicant Response: *“The intention of this development is to provide additional outdoor seating. This variance will not be materially detrimental to any person(s) residing, or working, in the vicinity, to adjacent property, to the neighborhood or the public health, safety, and general welfare.”*

Staff Analysis: The proposed parking is pre-existing and any impacts should be negligible and incidental on neighboring properties.

2. Are any of the adjacent property owners opposed to this request? No.

External Agency Comments: None Received.

Neighborhood Meeting Comments: See Attachment D.

Proposed conditions delivered to applicant on: June 4, 2021

Final staff report delivered to applicant on: June 4, 2021

Applicant agreed with all of the conditions of approval on: June 4, 2021

Attachments

A	B	C	D	E	F
Conditions of Approval	Site Plan	Agency Notifications	Neighborhood Meeting Comments	Site Photos	Aerial Photo

Prepared By:  **Date:** 06/04/2021
 Chad Brown
 Associate Planner Chad.Brown@yumaaz.gov (928)373-5000, x 3038

Approved By:  **Date:** 06/04/2021
 Alyssa Linville,
 Assistant Director Community Development

**ATTACHMENT A
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Alyssa Linville, Assistant Director
Community Development, (928) 373-5000 x 3037:**

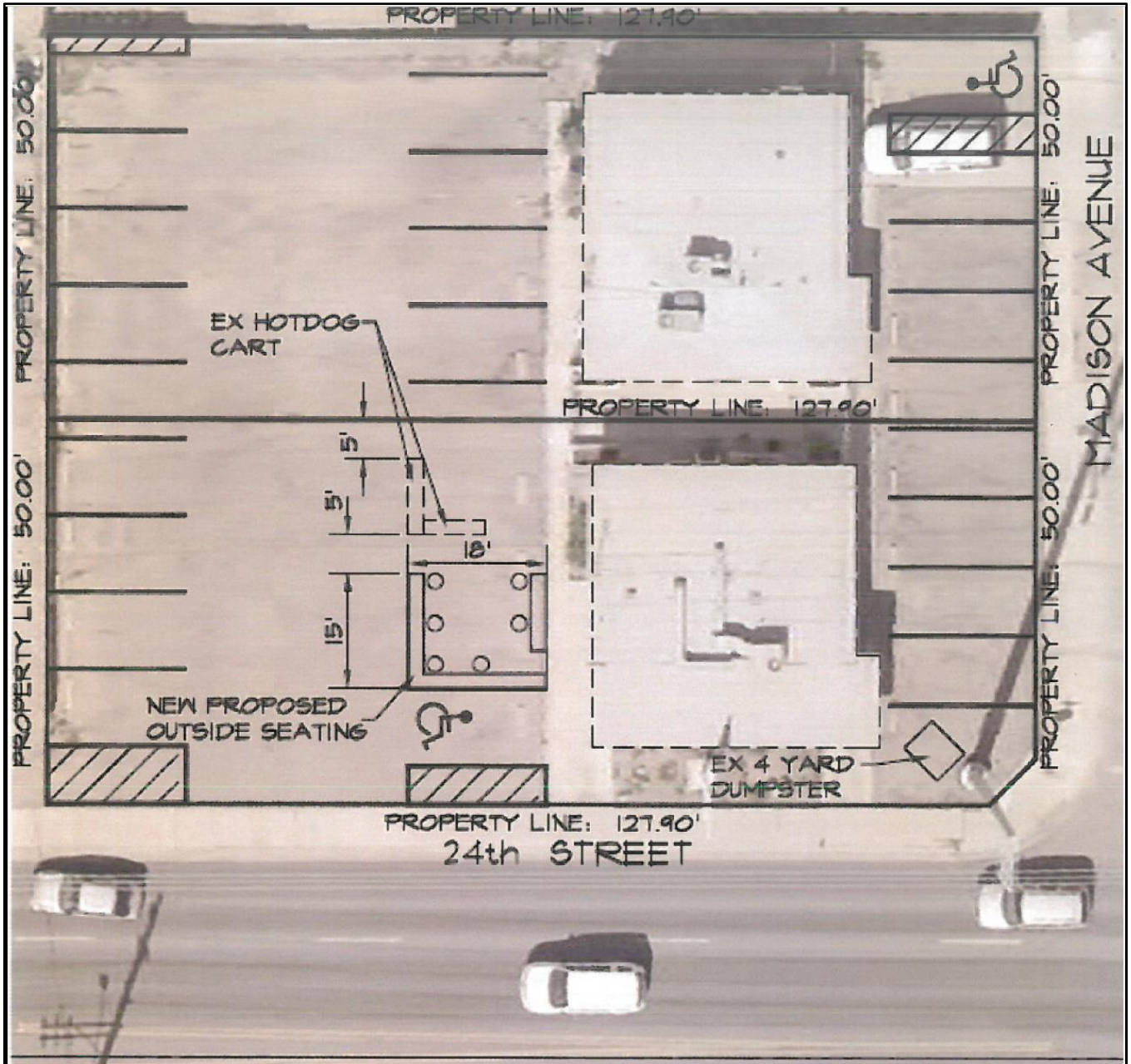
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.
3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.

Community Planning: Chad Brown, Associate Planner, (928) 373-5000 x 3038

4. Landscaping within existing planter on 24th street shall be updated and replanted. Three large cactus or ocotillo (15 gallon pots or larger) and 5 bushes (5 gallons or larger), with irrigation, all plants should be chosen from the Recommended Plants List. The planting must be accompanied by a ground cover, alive or inert.
5. The dumpster must be placed in the rear of the property.
6. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
7. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
8. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B
SITE PLAN



**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (5/21/21)
- 300' Vicinity Mailing: (5/6/21)
- Site Posted on: (5/12/21)
- 34 Commenting/Reviewing Agencies Noticed: (5/6/21)
- Neighborhood Meeting Date: (4/19/21)
- Hearing Date: (6/10/21)
- Comments Due: (5/25/21)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	NR				
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	NR				
Yuma County Planning & Zoning	NR				
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	NR				
Yuma Irrigation District	NR				
Arizona Fish and Game	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	NR				
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	NR				
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	NR				
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
NEIGHBORHOOD MEETING COMMENTS

Date Held: May 19, 2021

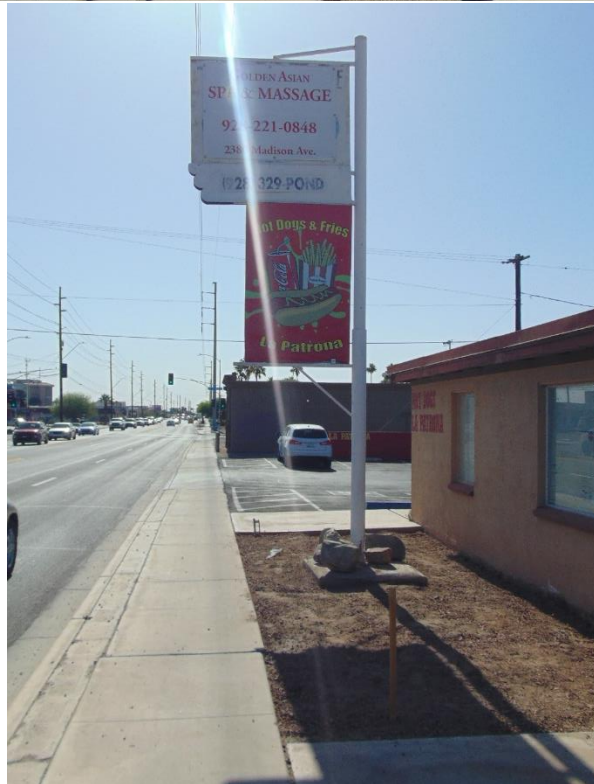
Location: Subject property; 150 E. 24th St.

Attendees: Chad Brown; City of Yuma, Jesse Chavez; property and business owner.

SUMMARY OF ATTENDEE(S)' COMMENTS RELATED TO THE PROJECT:

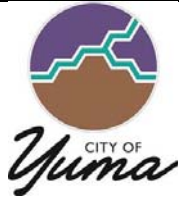
- Staff and applicant spoke about date of hearing, reason for having a neighborhood meeting, and if landscaping would be required. Staff stated that landscape requirements would be shared with conditions of approval.

**ATTACHMENT E
SITE PHOTOS**



ATTACHMENT F
AERIAL PHOTO





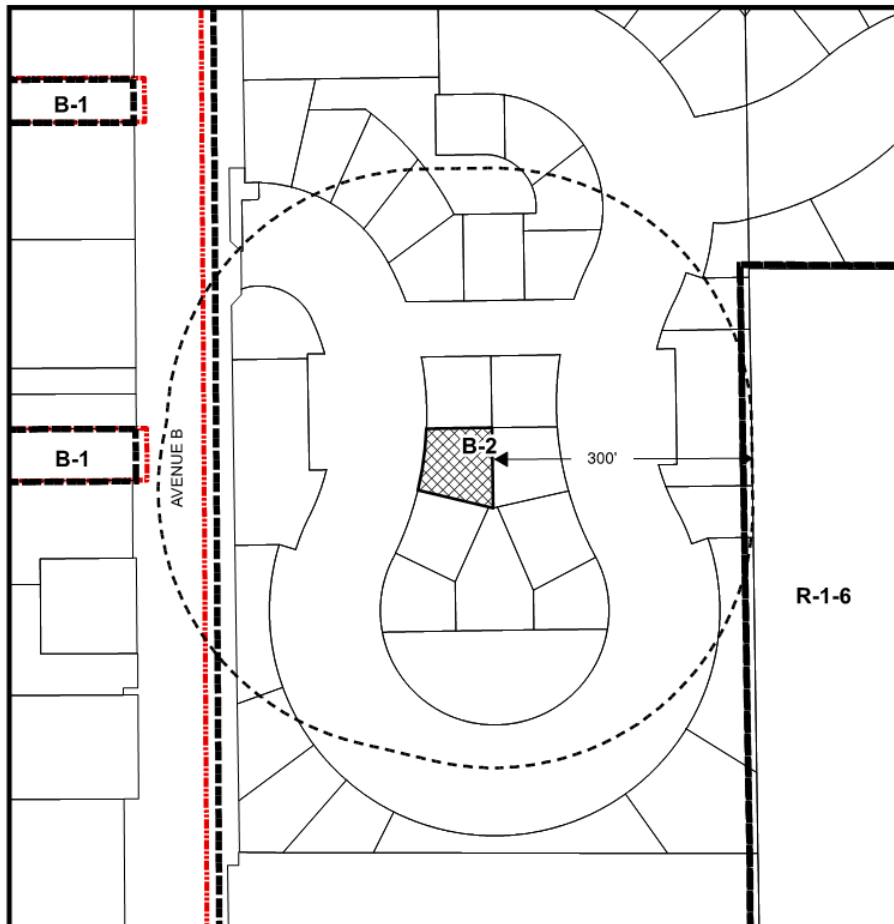
**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Bob Blevins**

Hearing Date: JUNE 10, 2021 **Case Number:** VAR-34985-2021

Project Description/Location: This is a request by Alex Lakey of ARCHSOL, on behalf of Yuma Regional Medical Center, for a variance to reduce the side setback from 10' to 2'-3" to allow the construction of a permanent canopy, in the General Commercial (B-2) District, for the property located at 2851 S. Avenue B, #2801, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	General Commercial (B-2)	Medical Offices	Business Park
North	General Commercial (B-2)	Medical Offices	Business Park
South	General Commercial (B-2)	Medical Offices	Business Park
East	General Commercial (B-2)	Medical Offices	Business Park
West	General Commercial (B-2)	Medical Offices	Business Park

Location Map:



Prior site actions: Annexation: #1518 (09/20/76); Rezone: Z82-15; Subdivision: S2006-002.

Staff recommendation: Staff recommends **APPROVAL** of the request to reduce the side setback from 10' to 2'-3" to allow the construction of a permanent canopy, in the General Commercial (B-2) District, subject to the Conditions of Approval in Attachment A, because it meets the four criteria of §154-03.04 of the Yuma City Code.

Have there been any other variance requests of a similar nature in the vicinity and zoning district? No.

Staff Analysis: The subject property is the location of The Yuma Regional Medical Center – Outpatient Surgical Center, a 3,300 square foot building constructed in 2011.

The Tuscany Medical and Professional Plaza Subdivision was created in 2006 with many unique lot sizes and shapes along with a completely-developed parking, access, infrastructure, and retention area. All of which were completed prior to the construction of the office buildings. The plat allowed ten foot setbacks on all sides of each of the 33+ lots.

Since the interior streets and parking are private, a calculation on the maximum square footage of the floor areas was determined for each lot to ensure sufficient parking was available. This allows the developer of a new lot and the City of Yuma some parameters in order to maximize the usable land in this medical-oriented subdivision. There are design standards, which are reviewed by the subdivision manager and lot owners committee.

The lot (platted as Lot 28) is 6,607.8 square feet with 10 foot setbacks on each side. This variance is to allow a permanent canopy for patients extending out from the building to the parking area.

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) “There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district.”

Is this statement correct for this application?

Yes

No

Applicant Response: *“The existing building will be licensed by the Arizona Department of Health Services (ADHS) as an Outpatient Surgical Center (OSC). There are several requirements to meet in order to license the existing facility as an OSC. One of these requirements is to provide an exterior, overhead canopy cover that is intended to protect patients as they leave the building from climate as they travel to their transportation pickup location.*

“Due to the very tight conditions in regards to the 10’ setback requirements, relative to assumed property lines, it creates an impossible condition to respect the setback and still provide the protective overhead canopy.”

Staff Analysis: One of the special circumstances on this property is the uniquely-shaped lot in a planned medical subdivision, somewhat limiting development possibilities. Additionally, the lot is narrower in width at the front when compared to many others in this subdivision.

B) “The special circumstance was not created or caused by the property owner or applicant.”

Is this statement correct for this application?

Yes No

Applicant Response: *“The ADHS requires all OSC’s to meet the requirements outlined in the Facility Guidelines Institute (FGI) to achieve the pertinent license.*

Staff Analysis: The FGI was not anticipated at the time of the design of the subdivision plat in 2006, or when the site plan for the building was devised in 2011. Additionally, public utility boxes are in the northwest corner; a consideration when planning the canopy.

C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”

Is this statement correct for this application?

Yes No

Applicant Response: *“Although the specifics are unknown, other individuals have been granted variances in other parts of the city under similar zoning designations. Granting the requested variance would allow other property owners in the vicinity to also use the pertinent services given by the OSC.”*

Staff Analysis: This proposed canopy is not office space and it will be open on the sides, so it should not create any additional strains on the infrastructure and parking in the area. Other properties in the B-2 District can have zero foot setbacks on the sides, and there may be instances where awning-type of structures are permitted in the front yard setback.

D) “The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.”

Is this statement correct for this application?

Yes No

Applicant Response: *“Granting of the variance will not create a hazard to life safety conditions to any persons residing or working in the vicinity, to adjacent properties, or to the neighborhood. Examples include, but are not limited to: blocking traffic, creating a trip hazard or causing visibility problems.”*

Staff Analysis: Granting this variance should not be a concern regarding the safety of the neighbors or clientele in this medical office campus. All building and fire safety separations, and appropriate construction materials, will be required.

2. Are any of the adjacent property owners opposed to this request? No.

Public Comments Received: None

External Agency Comments: None Received

Neighborhood Meeting Comments: No Meeting Required.

Proposed conditions delivered to applicant on: May 25, 2021

Final staff report delivered to applicant on: June 2, 2021

- Applicant agreed with all of the conditions of approval on: May 25, 2021
- Applicant did not agree with the following conditions of approval: (list #'s)
- (If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.)

Attachments

A	B	C	D	E
Conditions of Approval	Site Plan	Elevations	Agency Notifications	Aerial Photo

Prepared By: 
Robert M. Blevins
Principal Planner
Date: 6/1/21
Robert.Blevins@yumaaz.gov (928) 373-5189

Approved By: 
Alyssa Linville,
Assistant Director Community Development
Date: 06/01/2021

**ATTACHMENT A
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Alyssa Linville, Assistant Director
Community Development, (928) 373-5000 x 3037:**

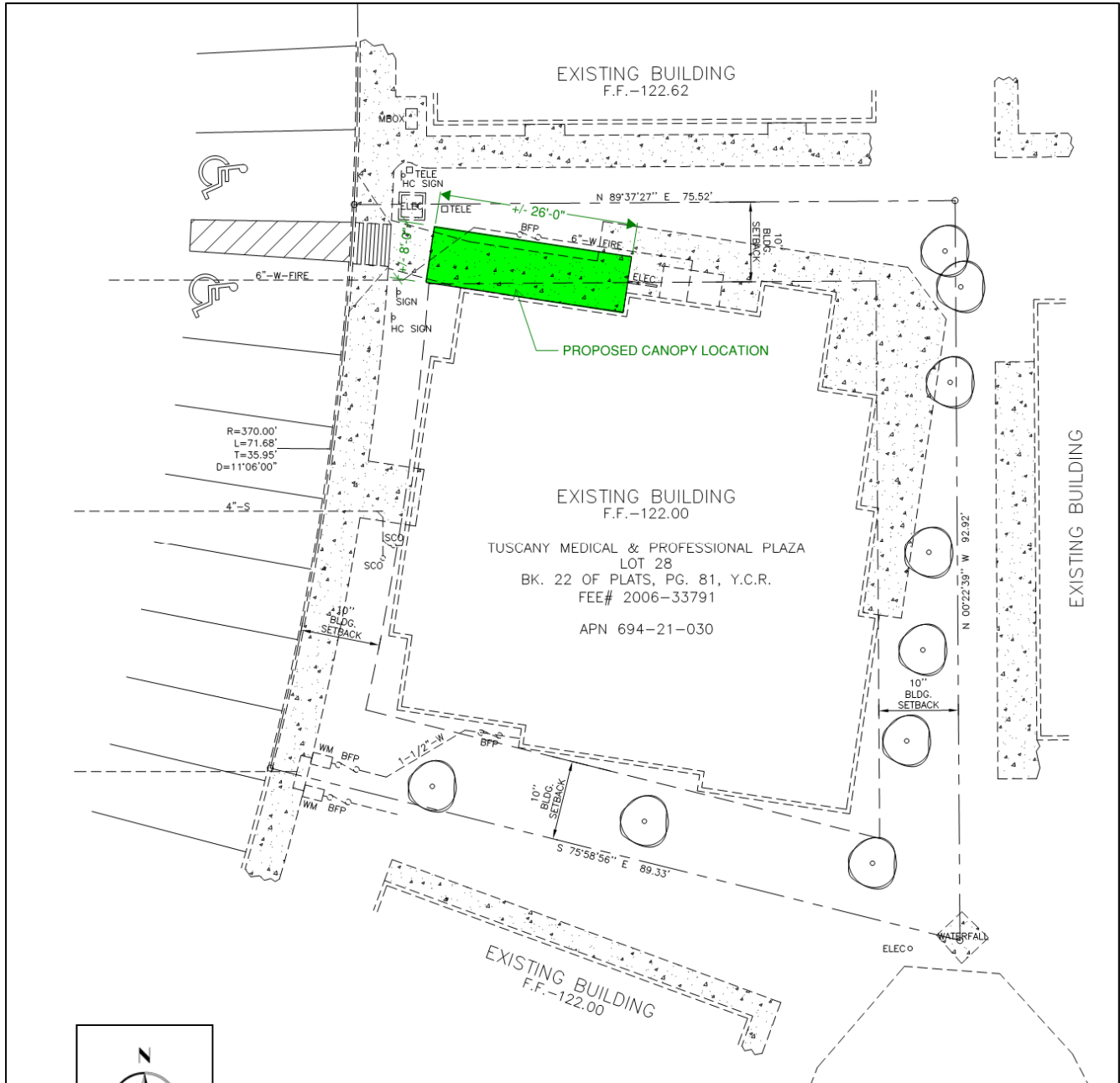
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.

Community Planning: Robert M. Blevins, Principal Planner (928) 373-5189:

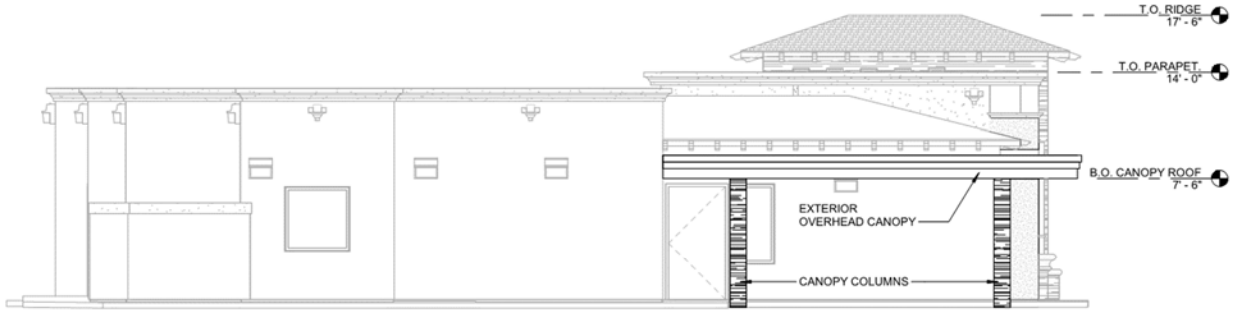
3. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
4. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
5. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

**ATTACHMENT B
SITE PLAN**



ATTACHMENT C ELEVATIONS



1 NORTH ELEVATION - TUSCANY OSC
3/16" = 1'-0"



2 WEST ELEVATION - TUSCANY OSC
3/16" = 1'-0"

**ATTACHMENT D
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun 05/21/21
- 300' Vicinity Mailing: 05/12/21
- Site Posted on: 06/03/21
- 34 Commenting/Reviewing Agencies Noticed: 05/12/21
- Hearing Date: 06/10/21
- Comments Due: 05/24/21

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	05/17/21	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	05/14/21	X		
Yuma County Planning & Zoning	YES	05/20/21	X		
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	YES	05/17/21	X		
Yuma Irrigation District	NR				
Arizona Game and Fish	YES	05/13/21	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	05/14/21	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	NR				
Building Safety	YES	05/17/21	X		
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	05/20/21	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT E AERIAL PHOTO

