

**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 August 12, 2021 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:



***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](mailto: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

- June 10, 2021

APPLICATIONS TO BE CONSIDERED

1. **VAR-35159-2021:** *This is a request by Osman Engineering, PLLC, on behalf of Taco Monster LLC, for a Variance to reduce the front yard setback from 15' to 0' for the addition of a permanent outdoor seating expansion, for the property located at 2198 S. 4<sup>th</sup> Avenue, Yuma, AZ.*
2. **VAR-35164-2021:** *This is a request by Cain Santamaria for a Variance to reduce the front yard setback from 20' to 17'6" for the construction of a garage in the Low Density Residential (R-1-6) District, for the property located at 253 W. George Street, Yuma, Arizona*
3. **VAR-35400-2021:** *This is a request by Sign Masters, LLC, on behalf of Prince of Peace Lutheran Church, for a variance to increase the maximum allowable height of a sign from 6' to 15'2" and the maximum size of a sign from 24 sq.ft. to 61 sq. ft. in the Low Density Residential (R-1-8) District, for the property located at 5954 E. 38<sup>th</sup> Street, Yuma, Arizona.*
4. **VAR-35492-2021:** *This is a request by Westerner Products, on behalf Brian and Jennifer Olea, for a variance to allow an accessory structure in front of the midpoint of the primary building, in the Low Density Residential (R-1-6) District, for the property located at 3959 S Devane Drive, Yuma, Arizona.*

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  
June 10, 2021**

A meeting of the City of Yuma's Hearing Officer was held on June 10, 2021, at City Hall Council Chambers, One City Plaza, Yuma, AZ.

**HEARING OFFICER** in attendance was Sonia Ramirez.

**CITY OF YUMA STAFF MEMBERS** present Kenneth Scott McCoy, Assistant City Attorney; Alyssa Linville, Assistant Director/Zoning Administrator; Agustin Cruz, Senior Civil Engineer; Robert Blevins, Principal Planner; Chad Brown, Associate Planner; Amelia Griffin, Associate Planner; Erika Peterson, Assistant Planner; Alexis Garcia, Assistant Planner; Alejandro Marquez, Administrative Assistant and Lizbeth Sanchez, Administrative Assistant.

---

**Ramirez** called the meeting to order at 9:31 a.m.

---

**CONSENT CALENDAR**

**Ramirez** approved the minutes of May 13, 2021.

---

**PUBLIC HEARINGS**

**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).*

**Erika Peterson, Assistant Planner**, summarized the staff report recommending **APPROVAL**.

**QUESTIONS FOR STAFF**

None

**APPLICANT/APPLICANTS REPRESENTATIVE**

**Raul Figueroa, 1950 S. Ridgeview Drive, Yuma, Arizona** made himself available for questions, and stated that he was in agreement with the Conditions of Approval.

**OPEN PUBLIC COMMENT**

None

**DECISION**

**Ramirez** 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.

---

**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. 16<sup>th</sup> Avenue, Yuma, Arizona (Continued from May 27, 2021).*

**Amelia Griffin, Associate Planner** summarized the staff report recommending **APPROVAL**.

**QUESTIONS FOR STAFF**

None

**APPLICANT/APPLICANTS REPRESENTATIVE**

**Erin Presley, 495 S. 16<sup>th</sup> Ave, Yuma Arizona**, stated that she agreed to all of the conditions except condition #4. **Presley** then asked if she could show a video that showed why she disagreed with condition #4. **Ramirez** replied yes.

**Kenneth Scott McCoy, Assistant City Attorney** informed the applicant that the video would have to be shown in a way where it would be reflected on the record. **Presley** stated that she submitted the video to staff, but the file was too large to download (video was not shown).

**Ramirez** asked if the photo of a wall shown in Attachment D, was the wall she was asking for the height increase. **Presley** replied yes. **Ramirez** asked if the side view of the property was where the proposed wall would go. **Presley** replied yes, and continued by saying she did not believe Condition # 4 was needed because there was enough visibility at that intersection. **Presley** added that she has been having issues with graffiti and stolen items from the property and that the wall would make the property more secure. **Ramirez** asked if increasing the height of the wall was problematic for traffic turning the corner. **Presley** replied no.

**Ramirez** asked why the City was requesting the site triangle. **Augustin Cruz, Senior Civil Engineer** replied that the 14 x 14 corner visibility triangle was for safety, because it is a local street with a right-of-way. **Cruz** stated that because Presley would increase the existing wall by more than 3½ ft. it would create a visibility problem. **Cruz** added that the requested corner triangle is a reduction from the standard 25 x 25, as the right-of-way of the adjacent roadways is wider than the standard widths of local streets.

#### **OPEN PUBLIC COMMENT**

None

#### **DECISION**

**Ramirez** granted the variance, subject to the Conditions of Approval in Attachment A, to include Condition #4, finding that the four criteria of Yuma City Code §154-03.04(D)(1) had been met.

---

**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.*

**Chad Brown, Associate Planner**, summarized the staff report recommending **APPROVAL**.

#### **QUESTIONS FOR STAFF**

None

#### **APPLICANT/APPLICANTS REPRESENTATIVE**

**Israel Galvez, 3805 Las Cruces Lane, Yuma, Arizona**, made himself available for questions, and stated he was in agreement with the Conditions of Approval.

#### **OPEN PUBLIC COMMENT**

None

#### **DECISION**

**Ramirez** 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.

---

**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 24<sup>th</sup> St., Yuma, AZ.*

**Chad Brown, Associate Planner**, summarized the staff report recommending **APPROVAL**.

#### **QUESTIONS FOR STAFF**

None

**APPLICANT/APPLICANTS REPRESENTATIVE**

**Jesse Chavez, 1929 S. Magnolia Avenue, Yuma, Arizona**, made himself available for questions, and stated that he was in agreement with the Conditions of Approval.

**OPEN PUBLIC COMMENT**

None

**DECISION**

**Ramirez** 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.

---

**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.*

**Robert Blevins, Principal Planner**, summarized the staff report recommending **APPROVAL**.

**QUESTIONS FOR STAFF**

None

**APPLICANT/APPLICANTS REPRESENTATIVE**

**Scott Mulhern, Dahl Robinson & Associates 1560 S. 5<sup>th</sup> Ave Yuma, Arizona**, made himself available for questions, and stated that he was in agreement with the Conditions of Approval.

**OPEN PUBLIC COMMENT**

None

**DECISION**

**Ramirez** 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.

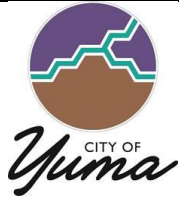
---

**Ramirez** adjourned the meeting at 9:50 a.m.

---

Minutes approved and signed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Hearing Officer



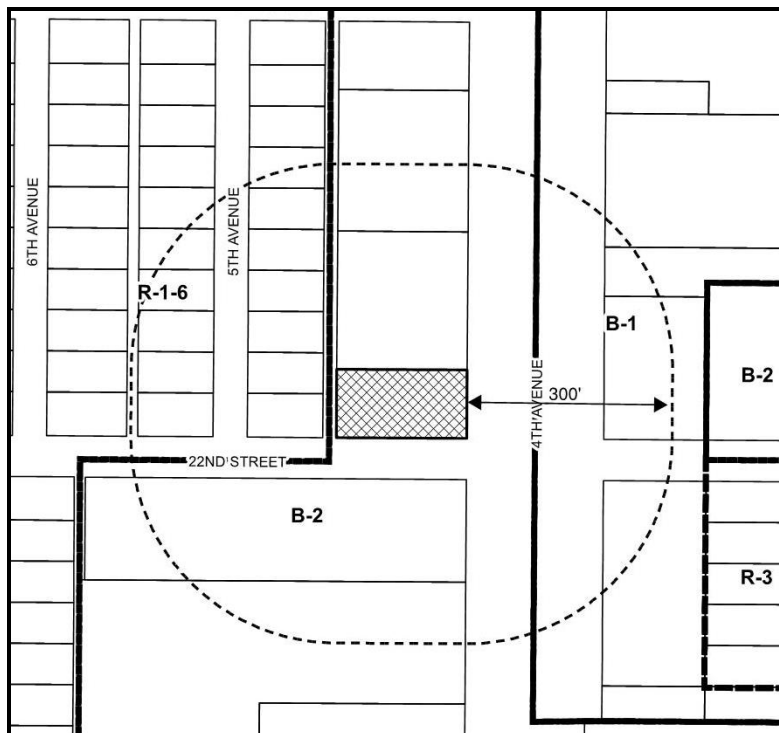
**STAFF REPORT TO THE HEARING OFFICER  
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES  
COMMUNITY PLANNING DIVISION  
CASE TYPE – VARIANCE  
Case Planner: Amelia Griffin**

**Hearing Date:** August 12, 2021                      **Case Number:** VAR-35159-2021

**Project Description/Location:** This is a request by Osman Engineering, PLLC, on behalf of Taco Monster LLC, for a Variance to reduce the front yard setback from 15’ to 0’ for the addition of a permanent outdoor seating expansion, in the General Commercial (B-2) District, for the property located at 2198 S. 4<sup>th</sup> Avenue, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
<b>Site</b>	General Commercial (B-2) District	Restaurant	Commercial
<b>North</b>	General Commercial (B-2) District	Patina Plaza / Office Suites	Commercial
<b>South</b>	General Commercial (B-2) District	Post Office	Commercial
<b>East</b>	Limited Commercial (B-2) District	Office Suites	Commercial
<b>West</b>	Low Density Residential (R-1-6) District	Single-Family Residences	Commercial

**Location Map:**



**Prior site actions:** Annexation: Ordinance #672 (July 21, 1956); Variance: HO2009-011; Pre-Development Meeting: PDM-33736-2021 (February 11, 2021)

**Staff recommendation:** Staff recommends **APPROVAL** of the request to reduce the front yard setback from 15' to 0' for the addition of a permanent outdoor seating expansion in the General Commercial (B-2) 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)			Yes
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
VAR-15676-2016	Reduce building setback from 15' to 0'	Approval	Approval
HO2007-022	Reduce landscape buffer/setback from 20' to 3' for construction of a multi-tenant building	Denial	Denied
BA1992-006	Reduce front yard setback from 15' to 8' and reduce street side yard setback from 15' to 0'	Approval	Approved
BA1990-027	Reduce front yard setback from 15' to 0'	Denial	Approved a front yard setback reduction of 15' to 5'
BA1990-006	Reduce front yard setback from 15' to 0' and reduce street side yard setback from 15' to 0'	Denial	Approved
BA1990-003	Reduce front yard setback from 20' to 15'	Approval	Approved

**Staff Analysis:** The subject property is located at the northwest corner of 22<sup>nd</sup> Street and 4<sup>th</sup> Avenue. Developed in 1982, the 19,000 square foot property features an approximately 5,753 square foot restaurant. The existing restaurant was constructed in accordance with the "Business B" District development standards in 1982.

The property is zoned General Commercial (B-2) District and is subject to a minimum 15' setback from any public or private street right-of-way line. The parking requirement for restaurants is one space for each 50 square feet of gross floor area where the public is served. A parking agreement between the subject property and the property to the north was recorded in 2009 (Fee No. 2009-00734). Based upon the current uses on both properties as a restaurant and office space, a total of 93 parking spaces are required. There are a total of 97 parking spaces being shared between the two properties. Additionally, the original approved site plan for the construction of the restaurant allowed for the 11 spaces in the right-of-way to count towards provided parking, which is included in the total number of parking spaces provided.

With this request, the applicant is requesting a Variance to reduce the front yard setback from 15' to 0', to allow the addition of a 12' 8" X 42' 2" permanent outdoor seating expansion and a door that would allow access from the dining area to the outdoor seating area. Although the restaurant was developed to City standards in

1982, the outdoor seating expansion does not meet the current setback requirements for the General Commercial (B-2) District.

In September 2020, an amendment related to emergency business operations affected by COVID-19 allowed businesses under Executive Order Closures to apply for an expansion permit extending their operations to outdoor areas. A temporary permit for exterior dining was issued March 2021 for this property. However, the applicant would like to permanently offer an outdoor seating option.

**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 restaurant was erected near (within a couple of feet) of the east property line. It appears that the exterior east wall is within the City of Yuma setback requirements (15’). The exterior east columns and the east overhang also are within the setback.”*

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. The building was constructed in accordance with existing Codes and Ordinances of the City of Yuma in 1982 and has historically been utilized as a restaurant. At present, the temporary outdoor seating expansion is located approximately 0’ from the front property line. Locating the outdoor seating expansion outside the front yard setback could potentially create parking deficiencies for the property. Additionally, over the decades, the 4<sup>th</sup> Avenue right-of-way has increased in width, resulting in the large right-of-way along 4<sup>th</sup> Avenue.

**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 stated before, the existing restaurant was constructed within the current City of Yuma setbacks. This special circumstance was created when the building was erected, or if applicable, when the city amended the setback requirements. The owner did not create this “special circumstance”. In addition, the proposed exterior dining area will be aligned with the existing exterior east columns and will not create special circumstances. The proposed door from the dining area to the exterior dining area will be installed on the existing exterior east wall (see attached plans for further clarification).”*

Staff Analysis: The special circumstance was not created or caused by the property owner as the restaurant was constructed prior to the current owner’s purchase of the property in 2019.

**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 exterior dining area was erected on April 2021. The citizens of Yuma and tourist can now enjoy eating outdoors in this superior establishment. The owner(s) want to improve the service, by installing a door from the dining area to the proposed exterior dining area. The City of Yuma is in need of facilities that can provide exterior dining options for all the citizens and visitors, to continue to thrive, especially under the current situation that COVID-19 created.”*

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. There are numerous properties located in the General Commercial (B-2) District along 4<sup>th</sup> Avenue that encroach into their front yard setbacks due to several factors including the age of the buildings, the structures were constructed under different development standards, and the ongoing widening of 4<sup>th</sup> Avenue.

**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: *“Although, the proposed exterior dining area and door will be within the 15’ setback, it will not be detrimental to any residents or neighbors. The public welfare and safety will not be compromised, as the proposed exterior dining area and door will be aligned with existing exterior columns and roof overhang, and within the property lines. The proposed exterior dining area blends with the existing structure and enhances the lives of all their clients.”*

Staff Analysis: The granting of the variance will not be 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 addition of an outdoor seating expansion.

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

**Public Comments Received:** None

**External Agency Comments:** See Attachment

**Neighborhood Meeting Comments:** No Meeting Required.

**Proposed conditions delivered to applicant on:** 6/15/21

**Final staff report delivered to applicant on:** 8/2/21

- Applicant agreed with all of the conditions of approval on: 6/15/21
- 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	F
Conditions of Approval	Site Plan	Agency Notifications	Agency Comments	Site Photos	Aerial Photo

**Prepared By:**  **Date:** 7/7/21  
 Amelia Griffin  
 Associate Planner                      Amelia.Griffin@yumaaz.gov    (928)373-5000, x3034

**Approved By:**  **Date:** 07/20/2021  
 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.

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

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 C  
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (06/05/21)
- 300' Vicinity Mailing: (05/26/21)
- Site Posted on: (08/12/21)
- 34 Commenting/Reviewing Agencies Noticed: (05/26/21)
- Neighborhood Meeting Date: (N/A)
- Hearing Date: (08/05/21)
- Comments Due: (06/07/21)

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	YES	06/01/21	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	05/27/21	X		
Yuma County Planning & Zoning	YES	05/28/21	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	06/01/21	X		
Yuma Irrigation District	NR				
Arizona Game and Fish	YES	05/27/21	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	05/26/21	X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	NR				
Building Safety	YES	05/26/21			X
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	05/26/21	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT D  
AGENCY COMMENTS**

Enter conditions here: Comment only. If the variance is approved, plans and a building permit would be needed for the new exterior door and review of means of egress for the outdoor dining space.

DATE: 6-3-2021      NAME: Alan Kircher      TITLE: Deputy Building Official  
CITY DEPT: DCD/Building Safety  
PHONE: 928-373-5169  
RETURN TO: Amelia Griffin  
Amelia.Griffin@YumaAZ.gov

**ATTACHMENT F  
SITE PHOTOS**

Location of outdoor seating expansion

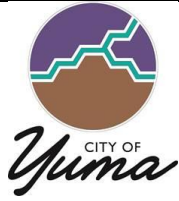




**ATTACHMENT G**  
**AERIAL PHOTO**







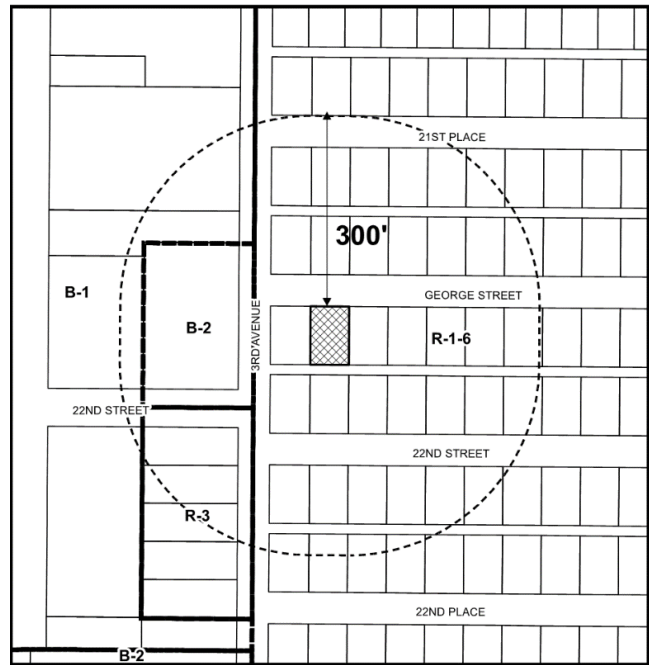
**STAFF REPORT TO THE HEARING OFFICER  
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES  
COMMUNITY PLANNING  
CASE TYPE – VARIANCE  
Case Planner: ERIKA PETERSON**

**Hearing Date:** AUGUST 12, 2021                      **Case Number:** VAR-35164-2021

**Project Description/Location:** This is a request by Cain Santamaria for a Variance to reduce the front yard setback from 20' to 17'6" for the construction of a garage in the Low Density Residential (R-1-6) District, for the property located at 253 W. George Street, Yuma, Arizona.

	<b>Existing Zoning</b>	<b>Use(s) on-site</b>	<b>General Plan Designation</b>
<b>Site</b>	Low Density Residential/Infill Overlay (R-1-6/IO) District	Residential	Low Density Residential
<b>North</b>	Low Density Residential/Infill Overlay (R-1-6/IO) District	Residential	Low Density Residential
<b>South</b>	Low Density Residential/Infill Overlay (R-1-6/IO) District	Residential	Low Density Residential
<b>East</b>	Low Density Residential/Infill Overlay (R-1-6/IO) District	Residential	Low Density Residential
<b>West</b>	Low Density Residential/Infill Overlay (R-1-6/IO) District	Residential	Low Density Residential

**Location Map:**



**Prior site actions:** Subdivision: Lowell Manor No. 2 (April 23, 1954); Annexation: Ord. 672 (July 21, 1956).

**Staff recommendation:** Staff recommends **APPROVAL** of the request to reduce the front yard setback from 20' to 17'6" for the construction of a garage 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? (If "YES", attach vicinity map showing locations of those variances)			
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
BA-78-22	Enclose an existing carport within 5 feet of the side property line.	Approval	Approved
BA-6-65	Side yard variance request for the construction of an attached storage room within 5 feet 2 inches of the side property line.	Approval	Approved
BA-17-69	Side yard setback reduction to 5 feet for the construction of an open carport with the roof overhang on the front aligning with the front roof line of the existing front and rear porches.	Approval	Approved

**Staff Analysis:** The subject property, located in the Lowell Manor No.2 Subdivision, was constructed in 1954 under Yuma County's jurisdiction and later annexed into the City of Yuma in 1956. The property is of regular shape, measuring 61 feet wide and 92.2 feet long, a total of 5,624.4 square feet. Following the current development standards set forth in the City of Yuma Zoning Ordinance, properties within the Low Density Residential (R-1-6) District have a minimum lot size of 6,000 square feet.

The property is zoned Low Density Residential (R-1-6) District and the setbacks for this district are as follow: the front yard setback is 20 feet, the side yard setbacks are 7 feet and the rear yard setback is 10 feet. In addition, this property is in the Infill Overlay District, where incentives, such as a reduction in setbacks and an increase in lot coverage, are allowed to match existing development patterns within the neighborhood.

Currently, the property features a single-family residence with a carport and two attached storage structures totaling approximately 1,526 square feet. With this request the applicant is proposing to extend the carport into the front yard setback resulting in a 17 foot 6 inch front yard setback and enclosing into a garage to meet his accessibility needs.

**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:** *“I need a variance of 2’6” to make my garage long enough to fit my 2007 Ford F-150 Super Cab truck. I am a handy ramp person and I utilize a mobility scooter, the truck has a ramp so I can transport it. The carport is 10’-10”w x 10’2”, which is not enough for my needs. I am trying to enclose the carport and make it a garage. The garage will be 10’10”w x 28’6”L to make it long enough so I can have access to put my mobility scooter in the truck ramp.”*

**Staff Analysis:** The subject property is located approximately 63 feet east of the intersection of S. 3<sup>rd</sup> Avenue and W. George Street, in the Lowell Manor No. 2 Subdivision. The property was constructed under Yuma County’s jurisdiction in 1954 and later annexed into the City of Yuma in 1956. The property is of regular shape measuring approximately 5,624.4 square feet and is located in the Low Density Residential (R-1-6) District. Properties developed today within the Low Density Residential (R-1-6) District are required to be a minimum of 6,000 square feet. Many of the residences constructed in the neighborhood do not meet the minimum front yard setback requirement of 20 feet and side yard setbacks of 7 feet, as they were constructed in the 1950’s. Other properties within the neighborhood were granted variances for reduced side yard setbacks for the expansion of the primary residence or carport enclosures. This variance request is to reduce the front yard setback from 20 feet to 17 feet 6 inches to accommodate the enclosure and expansion of the carport for the construction of a garage.

***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:** *“I just purchased this home on October 2020 and it only had a carport measuring 10’10”w x 19’2” long. The columns that were supporting the roof were not holding nothing, it had some metal plates nail it to the ground. This plate was already corroded. This is the primary reason I want it to enclose the carport and make it a garage for safety. But as I mention before the garage has to fit my needs.”*

**Staff Analysis:** Although the property is of regular shape, it does not meet the current development standards for the City of Yuma in regards to minimum lot size. The special circumstance was not created by the property owner as the property was subdivided by the developer under the jurisdiction of Yuma County.

***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 the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity under identical zoning designation.”*

**Staff Analysis:** The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity. There are other properties within the neighborhood who have carports that encroach into the front yard setback. The granting of this variance will allow the expansion and enclosure of a carport to meet the applicant's accessibility needs.

**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 granting of the variance shall not be materially detrimental to any person(s) residing, or working, in the vicinity, to adjacent property, to the neighborhood or to the public health, safety or general welfare."

**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. There are several properties within the area that have illegal structures encroaching into the front setback. With this request, they would be legally reducing the front yard setback from 20 feet to 17 feet 6 inches. The granting of the variance will be minimal in comparison to other structures within the area and will not have a negative impact to the neighborhood.

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

**Public Comments Received:** Yes.

Name:		Phil Tellez			Contact Information: (928)783-9037					
Method of Contact:	Phone	<input checked="" type="checkbox"/>	FAX		Email		Letter		Other	
Mr. Phil Tellez wanted to voice his support for the requested variance. He states "I see what the man across the street is doing and I am not opposed and think it is okay. I hope he will be able to continue building it. I will not be able to attend the public hearing but wanted to make sure my response was received."										

**External Agency Comments:** None Received.

**Neighborhood Meeting Comments:** No Meeting Required.

**Proposed conditions delivered to applicant on:** 6/4/2021

**Final staff report delivered to applicant on:**

- Applicant agreed with all of the conditions of approval on: 6/4/2021
- Applicant did not agree with the following conditions of approval: (list #'s)
- The applicant was e-mailed the conditions of approval on 6/4/21 and a response opposing the conditions of approval has not been received.

**Attachments**

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

**Prepared By:**  **Date:** 7/21/2021  
 Erika Peterson  
 Assistant Planner [Erika.Peterson@YumaAZ.Gov](mailto:Erika.Peterson@YumaAZ.Gov) (928)373-5000, x3071

**Approved By:**  **Date:** 07/20/2021  
 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: Erika Peterson, Assistant Planner, (928) 373-5000 x3071**

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 C  
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (05/31/21)
- 300' Vicinity Mailing: (05/26/21)
- Site Posted on: (08/05/21)
- 34 Commenting/Reviewing Agencies Noticed: (05/26/21)
- Neighborhood Meeting Date: (N/A)
- Hearing Date: (08/12/21)
- Comments Due: (06/07/21)

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	YES	6/1/2021	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	5/28/2021	X		
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.	YES	6/1/2021	X		
Yuma Irrigation District	NR				
Arizona Game and Fish	YES	5/28/2021	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	5/28/2021	X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	6/1/2021	X		
Building Safety	YES	6/3/2021	X		
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	6/3/2021	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

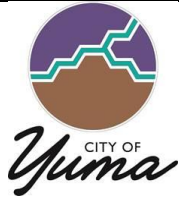


**ATTACHMENT E  
SITE PHOTOS**



ATTACHMENT F  
AERIAL PHOTO





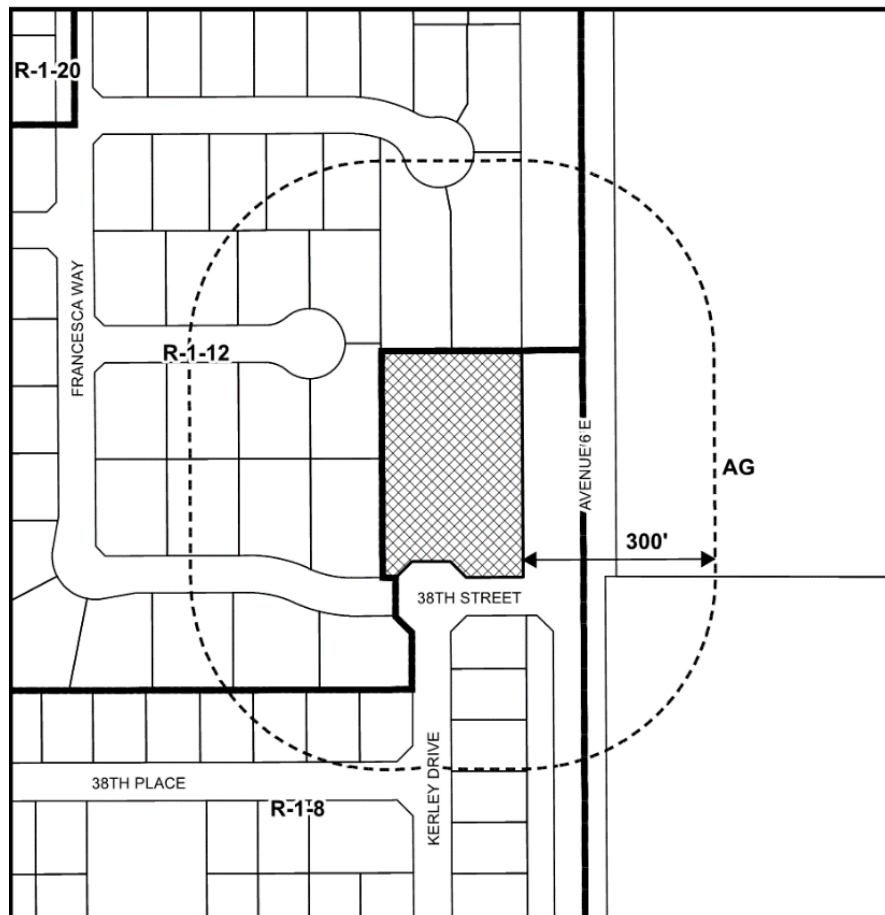
**STAFF REPORT TO THE HEARING OFFICER  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
COMMUNITY PLANNING DIVISION  
CASE TYPE – VARIANCE  
Case Planner: ERIKA PETERSON**

**Hearing Date:** AUGUST 12, 2021      **Case Number:** VAR-35400-2021

**Project Description/Location:** This is a request by Sign Masters, LLC, on behalf of Prince of Peace Lutheran Church, for a variance to increase the maximum allowable height of a sign from 6' to 15'2" and the maximum size of a sign from 24 sq.ft. to 61 sq. ft. in the Low Density Residential (R-1-8) District, for the property located at 5954 E. 38<sup>th</sup> Street, Yuma, Arizona.

	Existing Zoning	Use(s) on-site	General Plan Designation
<b>Site</b>	Low Density Residential (R-1-8) District	Church	Low Density Residential
<b>North</b>	Low Density Residential (R-1-12) District	Residential	Low Density Residential
<b>South</b>	Low Density Residential (R-1-8) District	Residential	Low Density Residential
<b>East</b>	Agriculture (AG) District	Undeveloped	Public/Quasi Public
<b>West</b>	Low Density Residential (R-1-12) District	Residential	Low Density Residential

**Location Map:**



**Prior site actions:** Annexation: Ord. O99-81 (8/7/199); Rezone: Z2003-020 (March 4, 2004); Lot Split: LOTS-002081-2012- KDC of Yuma Lot Split; Conditional Use Permit: CUP-002376-2012- Church in Residential (1/28/2013).

**Staff recommendation:**

Staff recommends **DENIAL** of the request to allow the increase the maximum allowable height of a sign from 6’ to 15’2” and the maximum size if a sign from 24 sq. ft. to 61 sq. ft. in the Low Density Residential (R-1-8) District, because it does not meet one of the four the criteria of §154-.03.04 of the Yuma City Code.

If the Hearing Officer were to **APPROVE** this, staff requests the Conditions of Approval in Attachment A be made part of the approval.

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 located on the northwest corner of E. 38<sup>th</sup> Street and Avenue 6E and is approximately 1.74 acres in size. It was annexed into the City of Yuma in 1999. The property later underwent several land use actions such as a lot split, a rezone, and in 2013 a conditional use permit approving a church within a residentially zoned area.

The City of Yuma Zoning Code allows signs in the Low Density Residential (R-1-8) District for nonresidential uses. For a freestanding sign, the maximum height of a sign outside of the street yard setback is 6 feet, with a maximum total area of all sign face(s) of 24 square feet. This particular property is surrounded by residential uses on three sides.

The property owners are proposing to install an LED, freestanding pole sign measuring 15 feet 2 inches in height, featuring a sign face area of approximately 61 square feet outside of the street setback.

A neighborhood meeting was held on July 27, 2021 with neighbors in attendance. The main concerns voiced at the neighborhood meeting included:

1. The negative impacts of the proposed sign to the surrounding residential area;
2. Concern that the proposed sign would diminish property values, obstruct the view with it being so large, and would make the area lose its residential feeling, resembling commercial developments with large LED signs;
3. Concern about the brightness and illumination of the sign shining on neighboring properties, specifically into bedroom windows.
4. Neighbors were not opposed to a sign in general, however, they were not in favor of the proposed LED sign within this request.

Full comments from the neighborhood meeting can be reviewed under Attachment E.

**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:** *“There does exist a special circumstance or condition that applies to the property, building or use referred to in the application that does NOT apply to most other properties in the district. The existing zoning is R-1-8 and most other properties in this district are homes, and by no means the size of this building.”*

**Staff Analysis:** The subject property is located on the northwest corner of E. 38<sup>th</sup> Street and Avenue 6E and is situated south of Kerley Ranch Unit 3, east of Kerley Ranch Unit 1, and north of Belleza Unit 1 subdivisions. In 2013, the property was part of a lot split and in November of 2013 the church was constructed following the approval of a Conditional Use Permit. The property is zoned Low Density Residential and is surrounded by residential uses with the nearest church and nonresidential use located on 32<sup>nd</sup> Street and Avenue 6E. The church serves a commercial use in a residentially zoned area, therefore it does not receive the same benefits as other churches that are in commercial areas.

**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:** *“This special circumstance was NOT created or caused by the property owner or applicant since neither were involved in making the sign regulations. The owners also did not request the zoning designation of R-1-8 for their property.”*

**Staff Analysis:** The property was part of a rezone in 2004 changing the zoning from Agriculture (AG) to Low Density Residential (R-1-8), several years prior to the current owners acquisition of the property. The City of Yuma Zoning Code also permits the use of religious institutions, including related buildings and activities within the Low Density Residential (R-1-8) District with the approval of a Conditional Use Permit. However, the approval of a Conditional Use Permit does not allow the use of commercial signage allowances; allowances that commercially zoned churches would be subject to.

**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 is not necessary for the reservation of substantial property rights enjoyed by other property owners in the vicinity under identical zoning designations since all other buildings in the vicinity are residential homes. However, there are a number of Churches throughout Yuma in Zoned Residential areas that have large pole signs and large monument signs such as Saint Francis of Assisi Church.”*

**Staff Analysis:** 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. Within the Low Density Residential (R-1-8) District signs are permitted.

Although the properties around the subject property are residences they can all apply for a variance to request a larger sign than what the Zoning Code allows, assumed they have a special circumstance. Other churches in residentially zoned areas have signs similar to what is being proposed, many of which were approved through a variance request.

**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 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. The sign would be located well away from neighboring homes. The proposed sign would not create any unsafe visibility obstruction for vehicles entering or existing the site (based on field checks and photos presented with the variance application). Plus, the pole sign would add character to the area as well as making it easier to identify the nature of the building.”*

**Staff Analysis:** The construction of a larger LED sign would be materially detrimental to adjacent properties within the residential neighborhood. Because the church is located in a residentially zoned area a new, larger sign would have a negative impact on the properties around it. Although, the applicant has provided a plan to help mitigate the effects of the LED lit sign affecting the neighbor to the north, staff feel that the LED sign would take away from the residential character of the surrounding area.

**2. Are any of the adjacent property owners opposed to this request? Yes, a few neighbors have voiced concerns and opposition to this request.**

**Public Comments Received:** See Attachment C.

Name:	Barney Brienza			Contact Information:	(406)490-5342				
Method of Contact:	Phone	X	FAX	Email	Letter	Other			
<p>Mr. Brienza purchased the property and assumed no one could put up a sign. He states “I am concerned with allowing a sign with the way the whole county and world is going.” He doesn’t feel it will be a good idea to permit the sign. I informed Mr. Brienza that the church already had a sign but the variance request is to increase the allowable height and maximum size of their sign, many of the materials from the existing sign would be used for the construction of the new sign. In addition the sign will be in a different location. He was not aware of the existing sign located on the property.</p>									

**External Agency Comments:** None Received.

**Neighborhood Meeting Comments:** See Attachment E.

**Proposed conditions delivered to applicant on:** 7/13/2021

**Final staff report delivered to applicant on:** 8/9/2021

- Applicant agreed with all of the conditions of approval on: 7/13/2021
- 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	F	G
Conditions of Approval	Site Plan	Public Comments	Agency Notifications	Neighborhood Meeting Comments	Sign Elevations	Aerial Photo

**Prepared By:**  
Erika Peterson  
Assistant Planner

**Date:**

[Erika.Peterson@YumaAZ.Gov](mailto:Erika.Peterson@YumaAZ.Gov) (928)373-5000, x3071

**Approved By:**  
Alyssa Linville,  
Assistant Director Community Development

**Date: August 9, 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: Erika Peterson, Assistant Planner, (928) 373-5000 x3071**

3. The sign shall be limited to a maximum surface luminosity limit of 6,500 NITS in full white mode during daytime hours. After sunset and before 11:00 p.m., the surface luminosity limit shall be a maximum of 342 NITS in full white mode. From 11:00 p.m. until sunrise, illumination shall be extinguished. The sign shall be equipped and provide automatic dimming based upon ambient lighting conditions, including evening and overcast weather.
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 C  
PUBLIC COMMENTS**

**From:** Kelli Walsh <[kelli.walsh128@gmail.com](mailto:kelli.walsh128@gmail.com)>  
**Sent:** Monday, June 28, 2021 11:07 PM  
**To:** Peterson, Erika S. - Assistant Planner <[Erika.Peterson@YumaAz.Gov](mailto:Erika.Peterson@YumaAz.Gov)>  
**Subject:** Sign at Price of Peace Church  
Erika,

I received a notice in the mail about a lit sign being proposed at the Prince of Peace Lutheran Church. My home is located directly behind the church (5943 E 36th Lane) and would be the property most affected by installation of this sign. The yellow area highlighted in the attached photo.

I am concerned about this sign constantly illuminating my backyard in the evenings. I would like to understand where on the church's lot line this sign is planned to be installed and which way it will face.

I will not be able to attend the public hearing as it conflicts with my work schedule, but would like to have my comments heard and my questions answered.

Kind regards,

Kelli Walsh  
<image001.jpg>

Sent from my iPhone  
<SP.pdf>

Erika,

Thank you so much for sending the site plan. I will check my calendar for August, appreciate the update there! I do have some additional comments to include:

The proposed location and height of this new sign is unacceptable and would be just a few feet from my backyard. Even with raising my block wall, which would be a substantial cost to me, I would still have direct light illuminating my backyard during the night. This light would shine directly into the two bedrooms that face the church, one of which is my children's and additionally would cause a disturbance in the ambiance which is one of many reasons I purchased this parcel of land a few year ago. Is the steeple and current sign not enough to indicate this is a church?

Thank you,

Kelli Walsh

Sent from my iPhone

Good Afternoon Erika, or good morning if you don't see this until then...

My wife and I live at 5926 E. 38th Street. I am contacting you regarding case #: VAR-35400-2021 (5954 E. 38th Street). I apologize for the late e-mail, as I intended on attending the public hearing but now I'm not sure I'll be able to make it.

I do have some questions/concerns regarding the variation request. The notice does indicate the requested increase in size and overall height of the sign, but it does not indicate the type.

1. Is the sign they are requesting a traditional sign, or more like an LED style? (scrolling text, flashing lights, etc.)
2. Assuming it is lighted either way, are they intending on lighting the sign during all hours of darkness?
3. Again assuming it is lighted, how bright do they intend on having it?

Obviously our primary concern is having a large brightly lit sign directly next door. If the new sign is put in the same location as the current sign, it will be in direct view of 2 bedroom windows. We just moved into the neighborhood and are happy to have the church as a neighbor, and we are not completely against them increasing the size of their sign. However, it is a residential area and we don't necessarily think such a large/tall sign is appropriate for the location, especially if brightly lit. I would think any members of the church would have reservations if it was next door to their homes.

I'm not really sure how this process works, so if you could please let me know I would appreciate it. I can be reached via e-mail, or by phone @ 928-597-3002.

Thank you,

Kevin Cusic

Re: CASE # VAR-35400-2021

Hi Erika,

I received a notice regarding the sign for Prince of Peace Church. I am writing because I will be out of town on the date of the public hearing. I wish to go on record that I vehemently OPPOSE the proposal to increase the size of the sign by the proposed 250%.

I live 3 homes away from the church. Our Kerley Ranch neighborhood is pretty and serene, with the one exception being the tin shed eyesore that is this Church.

Here's what we have now:



As you can plainly see, the existing sign is plenty large. There is no mistaking the name, and it is easily visible from the street. And as you can also see, there is ample signage on the front of this barn that also makes it impossible to miss.

There is simply no reason to create a sign 2.5x larger except to detract further from our lovely neighborhood. Church members obviously know where their own church is located, so they don't need a bigger sign to find it. Plus, nobody suddenly decides where they are going to worship as they are driving by on a Sunday morning. Furthermore, people do not choose their house of worship based on the size of the sign! Those that do would be missing the entire message of Jesus...

If the church was proposing an exterior remodel to make it look like less of an airplane hangar, I would go for that. But calling more attention to this eyesore is a mistake.

So, on behalf of myself and all my neighbors, I would like to go on record that I oppose any increase in the size of the sign.

Sincerely,

James Leiferman  
5882 E 38th St  
Yuma, AZ 85365

**ATTACHMENT D  
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (07/23/21)
- 300' Vicinity Mailing: (07/14/21)
- Site Posted on: (07/21/21)
- 34 Commenting/Reviewing Agencies Noticed:  
(05/26/21 & 7/14/21)
- Neighborhood Meeting Date: 07/27/2021
- Hearing Date: (08/12/21)
- Comments Due: (06/07/21 & 7/26/21)

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	YES	6/10/2021	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	6/9/2021	X		
Yuma County Planning & Zoning	YES	7/20/2021	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	7/14/2021	X		
Yuma Irrigation District	NR				
Arizona Game and Fish	YES	6/9/2021	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	6/11/2021	X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	7/14/21	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	7/19/21	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT E**  
**NEIGHBORHOOD MEETING COMMENTS**

**Date Held:** 07/27/2021

**Location:** Prince of Peace Church

**Attendees:**

Agent: Greg Villapando- Sign Masters LLC

Applicant: Pastor David Fleischmann, Elder Anthony Spano- Prince of Peace Church

Staff: Erika Peterson- City of Yuma

Attendees: Charles Hoff, Mr. & Mrs. Kevin Cusic, Barney Brienza

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

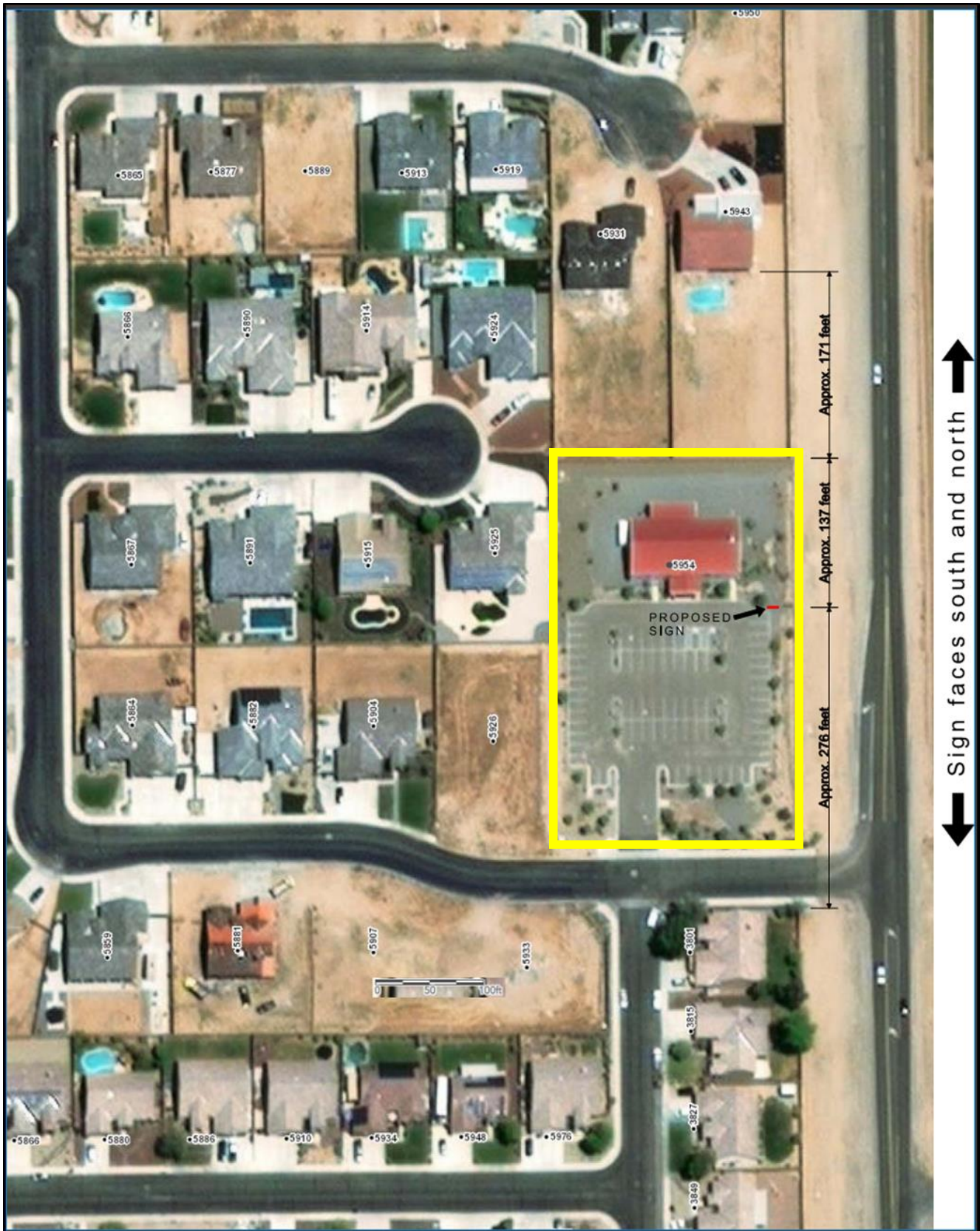
- Mr. Kevin Cusic- Concerned about being surrounded by large signs, enjoys quiet area, not a fan of 15' tall sign at current location, also concerned about property losing value. Asked about a new design which would impact the area less. Is less opposed to landscape lights, rather than LED sign.
- Barney Brienza- Does not think church needs an LED sign, does not like the lit sign. Spoke about family business in sign making, moved to neighborhood because there were no signs near. Does not think new sign will bring new people to church. Concerned about aesthetics and what sign would do to the neighborhood.
- Elder Anthony Spano- Explained he is on the sign committee and explained the main purpose of the request, to share the gospel send out messages of services, Does not want sign to inhibit neighborhood feeling.
- Pastor, Fleischmann- Explained that he understand the concerns and does not want to create animosity or irritate the neighbors. Is open to suggestions for signs but would like to still have a new sign at the proposed location. Proposed changing the LED sign to just a backlit sign with landscaping lights illuminating sign.
- Greg Villapando- Provided visual of sign location. Shared information about sign lighting and provided a mitigation efforts to block illumination of sign to surrounding properties. Explained that any illumination from the sign would be directed north and south and the sign would not obstruct visibility to the east as it will be in line with an existing palm tree.



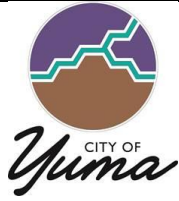
**ATTACHMENT F  
SIGN ELEVATIONS**



ATTACHMENT G  
AERIAL PHOTO







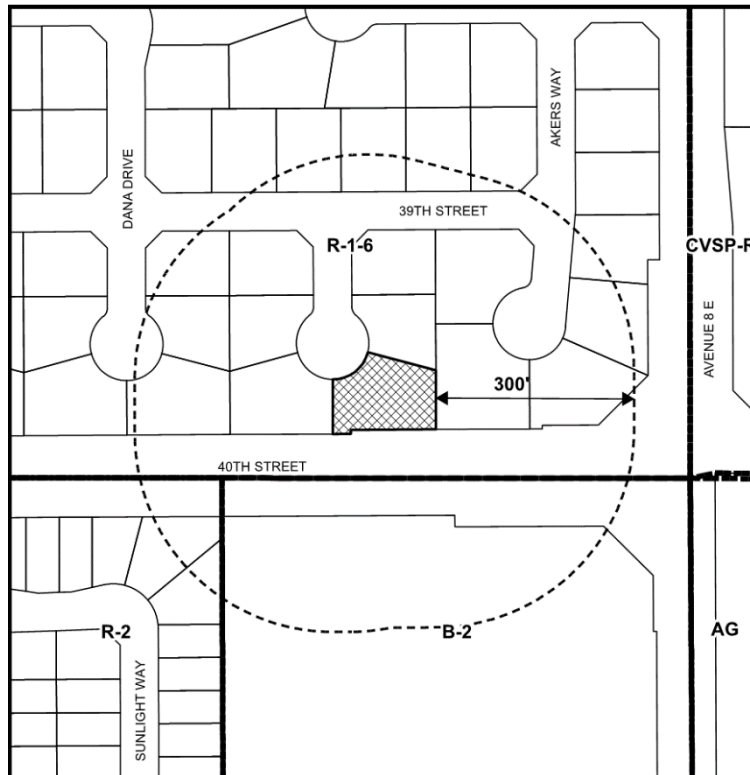
**STAFF REPORT TO THE HEARING OFFICER  
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES  
COMMUNITY PLANNING DIVISION  
CASE TYPE – VARIANCE  
Case Planner: Erika Peterson**

**Hearing Date:** AUGUST 12, 2021                      **Case Number:** VAR-35492-2021

**Project Description/Location:** This is a request by Westerner Products, on behalf Brian and Jennifer Olea, for a variance to allow an accessory structure in front of the midpoint of the primary building, in the Low Density Residential (R-1-6) District, for the property located at 3959 S Devane Drive, Yuma, Arizona.

	Existing Zoning	Use(s) on-site	General Plan Designation
<b>Site</b>	Low Density Residential (R-1-6) District	Residential	Low Density Residential
<b>North</b>	Low Density Residential (R-1-6) District	Residential	Low Density Residential
<b>South</b>	General Commercial (B-2) District	Undeveloped	Commercial
<b>East</b>	Low Density Residential (R-1-6) District	Residential	Low Density Residential
<b>West</b>	Low Density Residential (R-1-6) District	Residential	Low Density Residential

**Location Map:**



**Prior site actions:** Annexation: Ord. O99-29 (7/3/1999); General Plan Amendment: GP2005-003 (7/20/2005); Rezone: Z2005-020 (Rezone from AG to R-1-6); Subdivision: Sierra Montana Unit No. 2 (02/28/2007)

**Staff recommendation:** Staff recommends **APPROVAL** of the request to allow an accessory structure in front of the midpoint of the primary building, 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? (If "YES", attach vicinity map showing locations of those variances)			
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
VAR-78-17-2014	Reduce front yard setback from 20 feet to 15 feet for a garage.	Approval	Approved
VAR-34815-2021	Place accessory structure closer to the front of the property than the midpoint of the primary structure.	Approval	Approved

**Staff Analysis:** The subject property, located within the Sierra Montana Unit No. 2 Subdivision, is located at the end of the cul-de-sac on Devane Drive and 39<sup>th</sup> Street. Currently, the property is developed, and features a single-family home. The existing residence, a 2,966 square foot single-family home, was constructed in 2013 meeting the development standards set forth in the City of Yuma Zoning Ordinance. The 15,388 square foot parcel, is larger than the minimum requirement of the Low Density Residential (R-1-6) District but has some unique challenges as it is located along a cul-de-sac.

The applicant is proposing to construct an 18'x36' (648 square foot) RV shade structure, measuring no taller than 18' in height at the highest point, in front of the midpoint of the primary structure. In 2014, the accessory structures code was adopted requiring accessory structures over 200 square feet in size to be located behind the midpoint of the primary residence; the intent of this requirements is to ensure that the accessory structure does not overwhelm the character of the primary residence. The proposed RV shade structure will be made of a steel material and will feature a garage roll-up door.

Due to the irregular shape of the lot and placement of the home, the construction of the RV shade structure behind the midpoint of the primary residence has become a challenge, resulting in a special circumstance.

**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 lot configuration and home placement on lot makes installation of T.V. Port beyond the midpoint of the primary structure impossible to achieve.”*

**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. Located in the Sierra Montana Unit no. 2 Subdivision, the subject property is located in a cul-de-sac, making it difficult to construct an accessory structures behind the midpoint of the primary structure. As a result, the curve and the irregular shape of the lot create a special circumstance for the subject property, which does not apply to all other properties within the district.

**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 circumstances were not created by the Olea’s or Westerner Products. Although the Oleas contracted to have their home built by the developer, they were not made aware that no accessory structures could be built beyond the midpoint of the primary dwelling. Westerner Products did not build this home, nor did it create the uncommon property layout in which the primary dwelling had to be built.”*

**Staff Analysis:** The subject property was subdivided by the developer prior to the owner purchasing the property. The special circumstance regarding the effect of the cul-de-sac was not created by the property owner.

**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:** *“Granting of this variance would allow the homeowners to protect their property from weather conditions in this area, as others can with normal lot configurations.”*

**Staff Analysis:** 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. Earlier this year a neighboring property owner to the east was granted approval of their variance request to construct an accessory structure in front of the midpoint of the primary residence, a similar circumstance where the cul-de-sac caused irregular building conditions on the property.

**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 this variance in no manner will affect anybody living or working in the area. There are no residents adjacent the area proposed as this is a cul-de-sac and will not affect the public in any manner."

**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. The granting of this variance will allow the construction of a detached RV shade structure, which will be constructed 34 feet from the front property line and 30 feet from the side property line, a distance far exceeding typical setback requirements.

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

**External Agency Comments:** See Attachment D.

**Neighborhood Meeting Comments:** No Meeting Required.

**Proposed conditions delivered to applicant on:** 8/2/2021

**Final staff report delivered to applicant on:** 8/09/2021

- Applicant agreed with all of the conditions of approval on: 8/5/2021
- 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	F	G
Conditions of Approval	Site Plan	Agency Notifications	Agency Comments	Site Photos	Aerial Photo	Proposed Structure

**Prepared By:**  
Erika Peterson  
Assistant Planner

**Date:**  
[Erika.Peterson@YumaAZ.Gov](mailto:Erika.Peterson@YumaAZ.Gov) (928)373-5000, x3071

**Approved By:**   
Alyssa Linville,  
Assistant Director Community Development

**Date:** 08/09/2021

**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:**

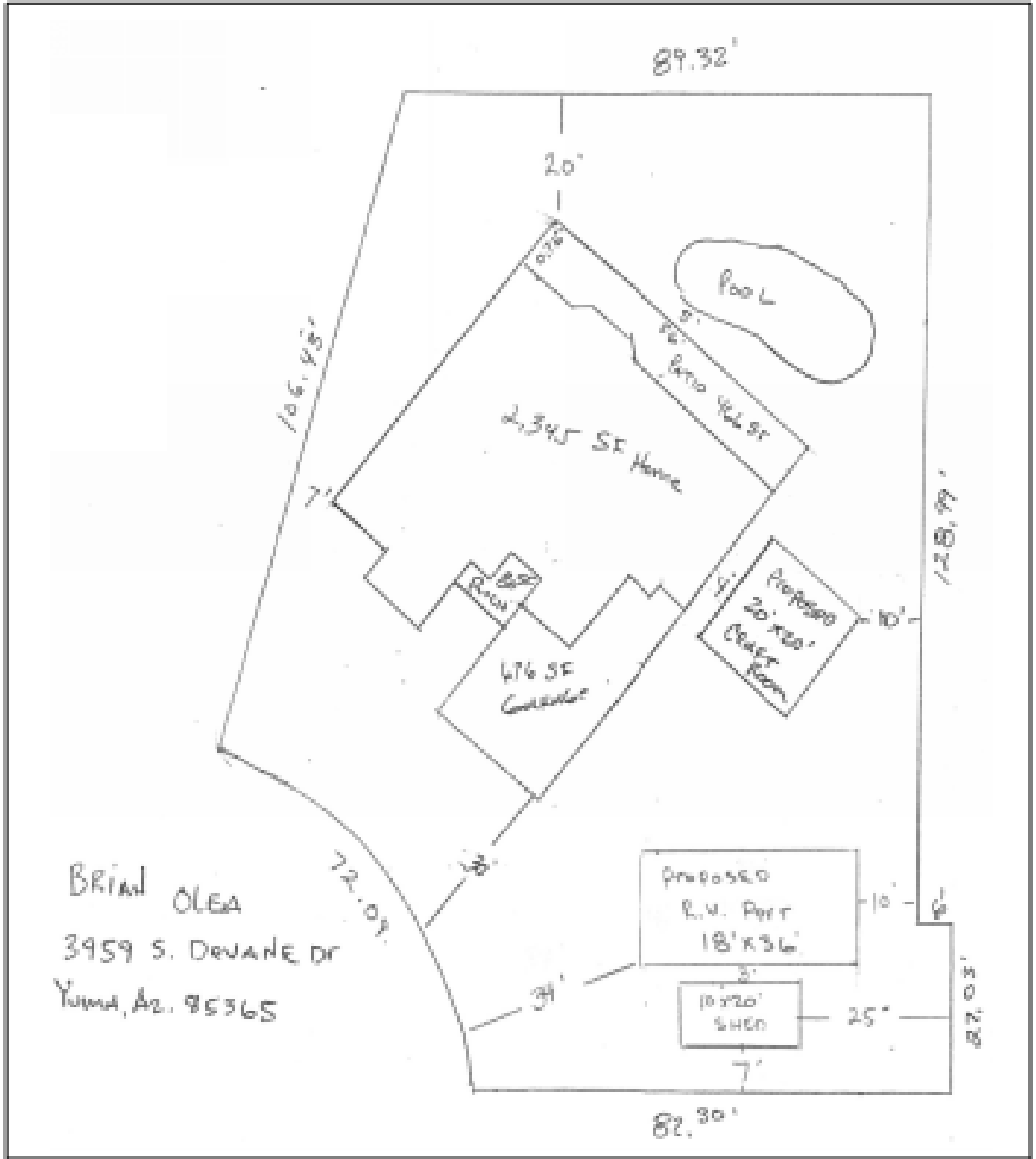
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.

**Community Planning: Erika Peterson, Assistant Planner, (928) 373-5000 x3071**

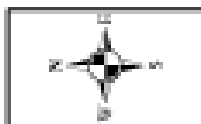
3. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within 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.**

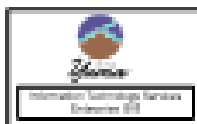
**ATTACHMENT B  
SITE PLAN**



**SITE PLAN**



Prepared by: EP  
Checked by:



Date: 6/16/2021  
Revised:  
Revised:

Project #:  
VAR-35492-2021

**ATTACHMENT C  
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun 07/23/2021
- 300' Vicinity Mailing: 07/13/2021
- Site Posted on: 8/9/2021
- 34 Commenting/Reviewing Agencies Noticed: 7/13/2021
- Neighborhood Meeting Date: None Required.
- Hearing Date: 08/12/2021
- Comments Due: 07/26/2021

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	YES	7/13/2021	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	NR				
Yuma County Planning & Zoning	YES	7/15/2021		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	7/13/2021	X		
Yuma Irrigation District	NR				
Arizona Game and Fish	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	7/15/2021	X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	7/14/2021	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	7/19/2021	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT D  
AGENCY COMMENTS**

COMMENT       NO COMMENT

*Enter comments below:*

If this project were to be in the County, a variance is not required.

On an unrelated item, can the Assessor's parcel number be included in the narrative... It would be appreciated.

DATE:                    07-15-2021    NAME:    Javier B                    TITLE:    Senior Planner  
AGENCY:                Yuma County; Department of Development Services; Planning & Zoning Division  
PHONE:                 (928) 817-5000  
RETURN TO:            Erika Peterson  
                                 Erika.Peterson@YumaAZ.gov



**ATTACHMENT E  
SITE PHOTOS**



Proposed RV shade structure



ATTACHMENT F  
AERIAL PHOTO



**ATTACHMENT G  
PROPOSED STRUCTURE**



The proposed structure will be similar to this RV shade structure measuring 18'x36' and no taller than 18' in height.