

**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 26, 2021 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:

	Agenda Hearing Officer Public Hearing City Hall Council Chambers <i>One City Plaza</i> Thursday, August 26, 2021 9:30 a.m.
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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

- August 12, 2021

APPLICATIONS TO BE CONSIDERED

1. **VAR-36005-2021:** This is a request by Mike Miller, for a variance to allow single-family dwellings on two lots of 5,447 square feet and 5,390 square feet, which is less than 6,000 square feet minimum, in the High Density Residential/Infill Overlay (R-3/IO) District, for the property located at 1594 W. Colorado St., 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
August 12, 2021**

A meeting of the City of Yuma's Hearing Officer was held on August 12, 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; Randall Crist, Assistant Director DCD; Alyssa Linville, Assistant Director/Zoning Administrator; Agustin Cruz, Senior Civil Engineer; Amelia Griffin, Associate Planner; Alejandro Marquez, Administrative Assistant and Lizbeth Sanchez, Administrative Assistant.

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

CONSENT CALENDAR

Ramirez approved the minutes of June 10, 2021.

PUBLIC HEARINGS

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. 4th Avenue, Yuma, AZ.*

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

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

None

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-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.*

Alyssa Linville, Assistant Director/Zoning Administrator, summarized the staff report recommending **APPROVAL**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

None

OPEN PUBLIC COMMENT

Elva Karolsky, 263 W. George St. Yuma AZ, 85364, stated that she was in support of the proposed project.

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-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. 38th Street, Yuma, Arizona.*

Alyssa Linville, Assistant Director/Zoning Administrator, summarized the staff report recommending **DENIAL**.

QUESTIONS FOR STAFF

Ramirez asked if the church had been there since 2013. **Linville** replied yes. **Linville** stated that the property was zoned in 2004 and purchased in 2013 by the church. **Linville** also stated that there was an existing sign on site that met the City's requirements. **Ramirez** asked if there were any residents that were in agreement with the proposed project. **Linville** stated that the residents that attended the neighborhood meeting were not in favor of the proposed project because of the height and LED lighting. **Ramirez** then asked if the sign was going to be LED on both sides. **Linville** replied yes. **Ramirez** asked would the staff's recommendation change if the sign was placed in a different location. **Linville** stated that the issue with the proposed sign was the height not the placement. **Ramirez** ask what was the maximum height allowed by the City for the proposed sign. **Linville** replied 6 feet, and stated that the request was to increase the size of the sign.

APPLICANT/APPLICANTS REPRESENTATIVE

Greg Villapando, 2205 W. 12th St. Yuma AZ 85364, on behalf of Sign Masters, stated that he attended the neighborhood meeting and discussed with the applicants about planting trees near the walls so that the sign would not disturb the neighbors. **Villapando** then stated that the sign would shut off at a designated time and stated that the current sign was not visible to the public. **Villapando** stated that Sign Masters had done similar signs before in existing neighborhoods that didn't disturb the public. **Ramirez** asked Villapando for the size of those signs. **Villapando** replied that the most recent sign was 16 feet tall. **Ramirez** asked if there was a way to make the sign not so bright. **Villapando** stated that the sign was designed to dim at night.

OPEN PUBLIC COMMENT

Anthony Spano, on behalf of Prince of Peace Church, stated that the sign could be moved closer to the building so that it would not affect the neighbors. **Spano** added that the reason they are requesting to increase the height was because semi-trucks parked along Avenue 6E block the view of the current sign.

David Fleischmann, Pastor of Prince of Peace Church, stated that he would make sure that the sign would be turned off at night, and that it's not the church's intention to disturb the neighbors with the placement of the sign. **Ramirez** asked what the reason for the new sign was. **Fleischmann** replied that he wanted the new sign to be more visible to the public and to relay messages to the public. **Ramirez** stated that turning the sign off at eleven o'clock would be too late. **Fleishmann** agreed. **Ramirez** stated that eight o'clock would be a better time. **Fleishmann** agreed. **Ramirez** asked Fleishmann what he thought about the height of the sign being reduced. **Fleishmann** replied that reducing the height of the sign a little bit would be acceptable.

Barney Brienza, 5881 E. 38th St., Yuma AZ, stated that he was against any change to the neighborhood, and he was not in agreement with the proposed sign.

Ramirez asked Linville if there were any more concerns about the proposed sign. **Linville** expressed concern about the height of the sign, stating that as proposed, the light of the sign would shine into the neighbor's backyard. **Linville** then stated the sign being turned off at eight o'clock would be agreeable if the sign does get turned off at that time.

Ramirez asked Fleischmann if he would consider a sign that was not illuminated. **Fleischmann** replied yes.

Ramirez asked Linville if a letter sign would be a better option. **Linville** replied that it would take care of the illumination concern, and added that a monument sign would be a better option.

Ramirez then asked for a short recess to discuss the case with Staff and the Applicant at 10:15 a.m. **Ramirez** resumed the meeting at 10:20 a.m.

Kenneth Scott McCoy, Assistant City Attorney, stated the following modifications to the Conditions in Attachment A, stating that Condition #3 will now read “**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 8 p.m., the surface luminosity limit shall be a maximum of 342 NITS in full white mode. From 8 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.**” and the addition of Condition #7, “**Prior to illumination of the sign the Applicant will install four 36 inch box trees a species type acceptable to the Zoning Administrator on the north end of the property line, and four 36 inch box trees a species type acceptable to the Zoning Administrator on the south end of the property line to screen adjacent properties from light trespass and visibility of the sign.**

McCoy then stated, as a consideration of approval the sign height is to be reduced from 15 feet 2 inches to 10 feet, and that it would become a monument sign as opposed to the requested pole sign.

DECISION

Ramirez granted the variance, finding that the four criteria of Yuma City Code §154-03.04(D) (1) had been met.

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.*

Alyssa Linville, Assistant Director/Zoning Administrator, summarized the staff report recommending **APPROVAL**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

None

OPEN PUBLIC COMMENT

None

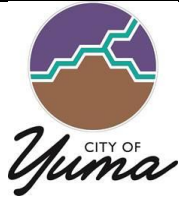
DECISION

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 10.19 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: Alexis Garcia**

Hearing Date:

August 26, 2021

Case Number:

VAR-36005-2021

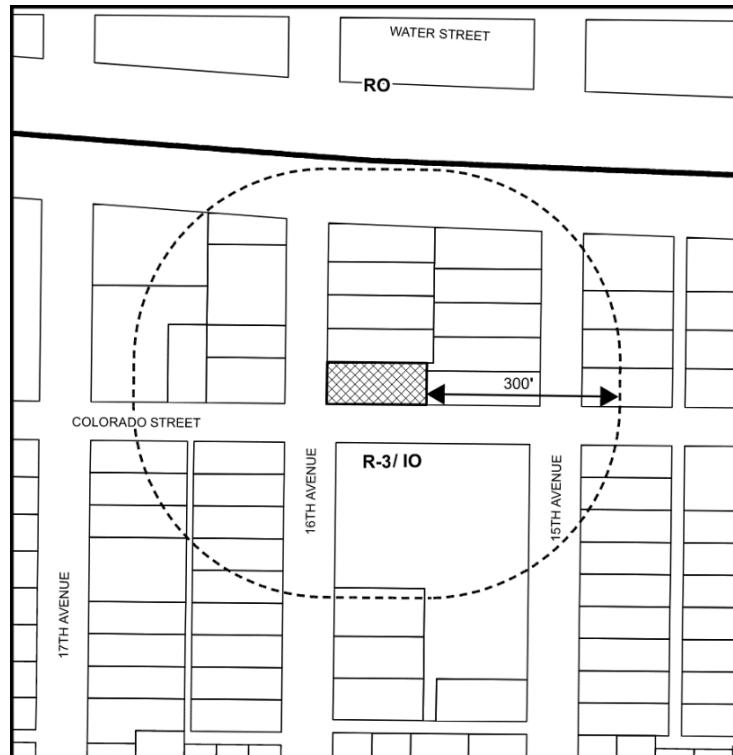
Project

Description/Location:

This is a request by Mike and Tawnee Miller, for a variance to allow single-family dwellings on two lots of approximately 5,447 square feet and 5,390 square feet, which is less than 6,000 square feet minimum, in the High Density Residential/Infill Overlay (R-3/IO) District, for the property located at 1594 W. Colorado St., Yuma, Arizona.

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

Location Map:



Prior site actions: Annexation: City Charter (January 12, 1915); Pre-Development Meeting: PDM-34855-2021 (April 22, 2021)

Staff recommendation: Staff recommends **APPROVAL** of the request to allow single-family dwellings on two lots of approximately 5,447 square feet and 5,390 square feet, which is less than 6,000 square feet minimum, 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? (If "YES", attach vicinity map showing locations of those variances)	No
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Staff Analysis: Located within the Yuma Townsite Subdivision, the subject property is located on the northeast corner of Colorado Street and 16th Avenue. The vacant property is approximately 10,850 square feet. Currently, a pre-existing foundation remains on the property from a single-family home that was demolished in 2014.

The property is located in the High Density Residential/Infill Overlay (R-3/IO) District and requires a minimum lot size of 6,000 square feet. The property is subject to the following development standards; 20' front yard setback; 5' side yard setback; 10' street side yard setback; and 10' rear yard setback. In addition, the Infill Overlay (IO) District allows for some reductions in the front yard setback to meet the physical and aesthetic appearance of established historic neighborhoods.

With this request, the applicant is requesting a Variance to reduce the minimum lot size for the addition of a single-family residence on each lot after the completion of a Lot Split. After further review of the property, it has been determined that a special circumstance exists in regards to the size and the location of the subject property. While the property currently meets the minimum lot size for the High Density Residential/Infill Overlay (R-3/IO) District, the surrounding properties with single-family homes are smaller in size. Additionally, approval of the Variance will enable this vacant parcel to once again be developed; serving as a catalyst for overall aesthetic appeal.

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, the properties are located in the infill overlay district (IO) that encourages infill development. The overlay district provides incentives for infill development. However, incentives to allow a lot size reduction were not provided. (West River Front Area)"

Staff Analysis: The subject property is a larger sized corner lot and is adjacent to both single-family and multi-family development. While the property meets the minimum lot size and density requirements for two units, the High Density Residential (R-3) District does not permit two single-family homes on one lot. Additionally, the Infill Overlay incentives such as reduced

parking and reduced setback requirements would allow for a larger livable space on the two lots.

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: *“Yes, the special circumstance was not created by the property owner. The infill incentive plan was created by the City of Yuma to encourage infill development.”*

Staff Analysis: The special circumstance was not created or caused by the property owner or applicant as the property was subdivided 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, most of the surrounding properties are single family dwellings and the zoning district allows a density of one unit per 4,000 square feet. The proposed project will be within the density requirements since the proposed lots will be at least 5,000 square feet in size. The lot size reduction will allow the property owner to build two single family dwellings like most of the surrounding properties.”*

Staff Analysis: The adjacent properties are zoned High Density Residential/Infill Overlay (R-3/IO) District, which permits single-family homes and multi-family development. Additionally, the site plan provided on Attachment B demonstrates that the proposed development will meet the development standards for the zoning district. The granting of this variance provides an opportunity to put an infill lot to its highest and best use.

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: *“If the variance is granted the proposed project will comply with the rest of the development standards of the zoning district and the infill overlay district to prevent any possible issues with the public health, safety, and general welfare of the adjacent neighbors.”*

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. Approval of the Variance would enhance the overall appearance and provide additional housing opportunities within the neighborhood.

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: 8/9/21

Final staff report delivered to applicant on: 8/17/21

- Applicant agreed with all of the conditions of approval on: 8/9/21
- 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
Conditions of Approval	Site Plan	Agency Notifications	Site Photos	Aerial Photo

Prepared By: 
 Alexis Garcia
 Assistant Planner
 Date: 08/16/2021
 Alexis.Garcia@YumaAZ.Gov (928)373-5000, x3040

Approved By: 
 Alyssa Linville,
 Assistant Director Community Development
 Date: 08/16/2021

**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:**

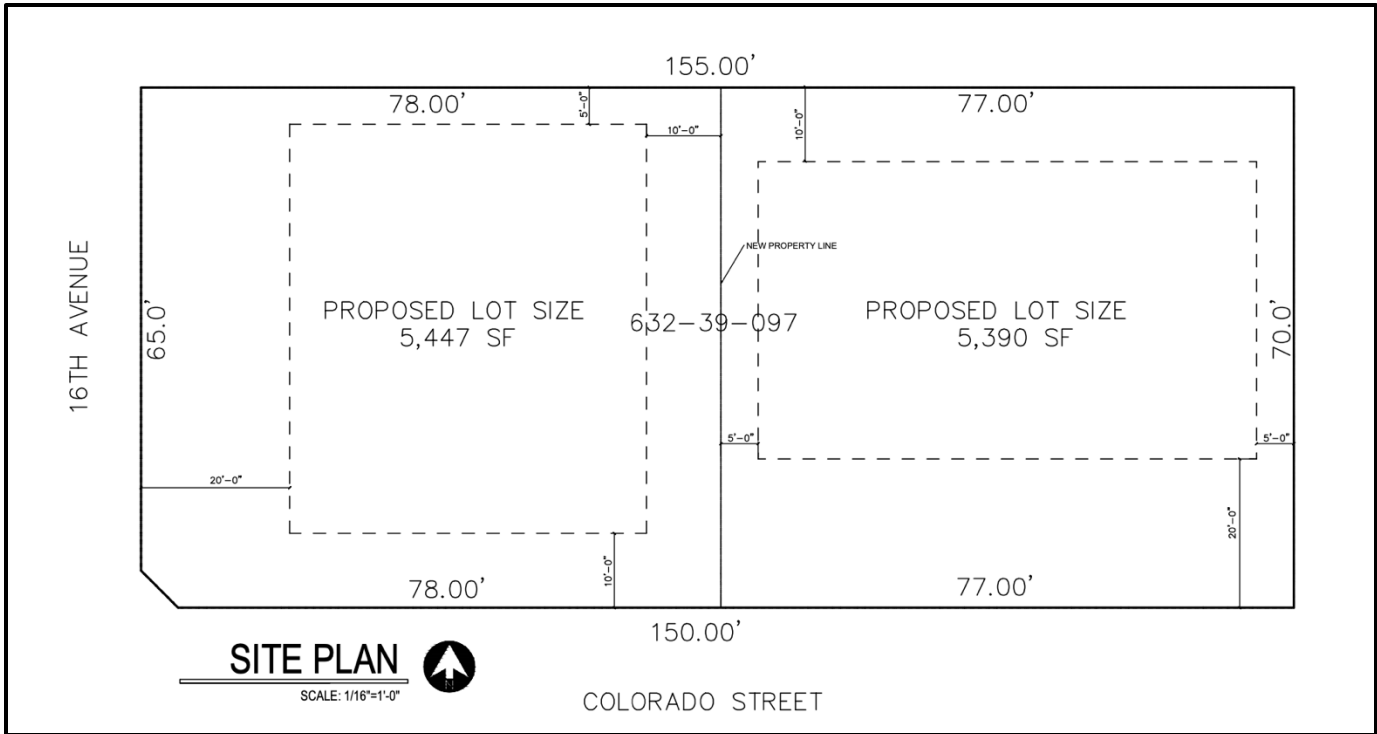
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.
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: Alexis Garcia, Assistant Planner, (928) 373-5000 x3040

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 08/06/21
- 300' Vicinity Mailing: 07/28/21
- Site Posted on: 08/18/21
- 34 Commenting/Reviewing Agencies Noticed: 07/28/21
- Neighborhood Meeting Date: NA
- Hearing Date: 08/26/21
- Comments Due: 08/09/21

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	08/02/21	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	07/29/21	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.	NR				
Yuma Irrigation District	NR				
Arizona Game and Fish	YES	08/02/21	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	07/28/21	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	07/30/21	X		
Building Safety	NR				
City Engineer	YES	07/28/21	X		
Traffic Engineer	NR				
MCAS / C P & L Office	YES	08/04/21	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT D
SITE PHOTOS**



ATTACHMENT E
AERIAL PHOTO

