

**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 July 28, 2022 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:

	<p>Agenda Hearing Officer Public Hearing City Hall Council Chambers One City Plaza</p> <p>Thursday, July 28, 2022 9:30 a.m.</p>
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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

- July 14, 2022

APPLICATIONS TO BE CONSIDERED

1. **VAR-39987-2022:** This is a request by Andrea Plaza, on behalf of Miguel & Maria Gastelum, for a Variance to eliminate the requirement for on-site parking for a clothing retail store, Vlanco Boutique, in the General Commercial/Historic Overlay/Bed and Breakfast Overlay/Infill Overlay (B-2/H/BBO/IO) District, for the property located at 206 S. Orange Avenue, 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

**Hearing Officer Meeting Minutes
July 14, 2022**

A meeting of the City of Yuma's Hearing Officer was held on July 14, 2022, at City Hall Council Chambers, One City Plaza, Yuma, AZ.

HEARING OFFICER in attendance was Araceli Rodriguez.

CITY OF YUMA STAFF MEMBERS present included Scott McCoy, Assistant City Attorney; Alyssa Linville, Assistant Director of Planning; Amelia Griffin, Associate Planner; Erika Peterson, Associate Planner, and Alejandro Marquez, Administrative Specialist.

Rodriguez called the meeting to order at 9:32 a.m.

CONSENT CALENDAR

APPROVAL OF MINUTES

June 23, 2022

Rodriguez noted the minutes of June 23, 2022 needed to be corrected to reflect that Hearing Officer **Sonia Ramirez** adjourned the meeting.

CONTINUANCES

VAR-39987-2022: *This is a request by Andrea Plaza, on behalf of Miguel & Maria Gastelum, for a Variance to eliminate the requirement for on-site parking for a clothing retail store, Vlanco Boutique, in the General Commercial/Historic Overlay/Bed and Breakfast Overlay/Infill Overlay (B-2/H/BBO/IO) District, for the property located at 206 S. Orange Avenue, Yuma, Arizona. (Continued to July 28, 2022).*

Rodriguez approved the consent calendar of June 23, 2022, including the correction as stated.

PUBLIC HEARINGS

VAR-39872-2022: *This is a request by Kerley Homes of Yuma, LLC on behalf of KDC of Yuma, LLC, for a Variance to reduce the front yard setback from 20' to 13' 2", to allow the construction of a single-family dwelling in the Low Density Residential (R-1-8) District, for the property located at 5842 E. 47th Street Yuma, Arizona.*

Amelia Griffin, Associate Planner, summarized the staff report and recommended **Approval**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

Jim Kerley, 6720 E Mission Street, Yuma AZ, was present and available for questions.

OPEN PUBLIC COMMENT

None

DECISION

Rodriguez 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-39977-2022: *This is a request by Cesar Durazo for a variance to reduce the side and rear yard setbacks from 5.5 feet (setback based on height of accessory structure) to a setback of 34.5 inches, in the Low Density Residential (R-1-8) District. The property is located at 3953 West 18th Street, Yuma, AZ.*

Alyssa Linville, Assistant Director of Planning, summarized the staff report and recommended **Denial**.

QUESTIONS FOR STAFF

Rodriguez asked if the request was for a 0 foot setback. **Linville** replied the request initially was for a different setback, but after further review of the placement of the structure it called for a 0 foot setback. **Rodriguez** then asked if the applicant was not supposed to measure from the base of the structure. **Linville** answered the measurement was to be taken from the overhang. **Rodriguez** asked if there were already setback requirements in place for the structure. **Linville** replied yes, then noted the applicant's proposed structure would require a 5.5 foot setback.

Scott McCoy, Assistant City Attorney, stated after his review of the staff report the variance does not meet any of the criteria for approval.

Rodriguez referred to the picture on attachment F of the staff report then asked if the left side of the structure was facing south, and if the picture was of the back yard. **Linville** replied no, stating that the left side of the structure was facing east. **Rodriguez** asked if the normal setback requirement for the side yard was 10 feet. **Linville** replied for the home yes, but an accessory structure of this size could be reduced from 10 feet to 5.5 feet on the side and the rear yards.

APPLICANT/APPLICANTS REPRESENTATIVE

Cesar Durazo, 3953 W. 18th Street, Yuma AZ, stated he was not aware the overhang of the structure would affect the setback, and he thought a 3 foot setback would meet the City's requirements. **Rodriguez** asked if staff had informed him that a 3 foot setback would meet the City's code requirement. **Durazo** replied no. **Durazo** then stated the contractor informed him the structure would meet the City's requirements because it was not attached to the home and no permit would be required. **Durazo** went on to say there are other shade structures in the neighborhood that have smaller setbacks. **Rodriguez** then asked if he was aware if the neighbors had obtained variances for those structures. **Durazo** said no. **Linville** stated the Accessory Structure Code allows smaller setbacks depending on the size of the proposed project.

OPEN PUBLIC COMMENT

Tony Steen, 1853 S. 39th Drive, Yuma AZ, participating telephonically, stated the he was in favor of the denial of the variance because of the safety hazards and how it could affect his property value. **Steen** then commented that the structure was already built without permits, in violation of the City code. **Rodriguez** commented there have been variance approvals of existing structures in the past.

Durazo asked if the height of the structure was lowered to meet the setback requirements would another variance be needed. **McCoy** stated Building Safety would have to answer that question. **Rodriguez** stated in order to come into compliance with City code **Durazo** would need to meet with the Staff to determine the correct setbacks.

DECISION

Rodriguez denied the variance to reduce the side and rear yard setbacks from 5.5 feet (setback based on height of accessory structure) to a setback of 34.5 inches, in the Low Density Residential (R-1-8) District, stating that there was no special circumstance that applied to the property or building. **Rodriguez** also stated that there was no special circumstance as the property owner built the structure without obtaining necessary approvals from the City. **Rodriguez** went on to state that the variance was necessary for the preservation of substantial property rights enjoyed by the neighboring properties, and that the approval of

the variance would be detrimental to any persons residing, or working in the vicinity because of the structures close proximity to the neighboring home.

VAR-39981-2022: *This is a request by Sternco Engineers, Inc., on behalf of Nextgen Properties, LLC, for a variance to increase the maximum allowable density to allow the construction of a fourplex on a lot measuring 7,500 square feet in the High Density Residential/Infill Overlay (R-3/IO) District, for the property located on the southeast corner of W. Colorado Street and N. 17th Avenue, Yuma, Arizona.*

Erika Peterson, Associate Planner, summarized the staff report and recommended **Denial**.

QUESTIONS FOR STAFF

Rodriguez asked for clarification on the requirement that was not met. **Peterson** replied that the zoning code for the property requires each dwelling to have 2,000 square feet of lot area, and the proposed project did not meet that requirement. **Rodriguez** asked if the project was short by 500 square feet. **Peterson** answered yes.

APPLICANT/APPLICANTS REPRESENTATIVE

Jose Salazar, 3378 W. 17th Place, Yuma AZ, stated he was not aware of the denial. **Rodriguez** asked **Salazar** if he was the applicant or the owner. **Salazar** stated he was the property owner. **Salazar** went on to say he knew the project was not to City code, but in order to maximize his investment a fourplex of this size would be a better option. **Rodriguez** asked if the proposed project was a 2 story design. **Salazar** replied yes.

OPEN PUBLIC COMMENT

None

DECISION

Rodriguez 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-39983-2022: *This is a request by Alberto Urias, on behalf of Sergio Castro, for a variance to reduce the rear yard setback from 20 feet to 3 feet to accommodate the expansion of a workshop, in the Low Density Residential (R-1-8) District. The property is located at 3929 West 18th Street, Yuma, AZ.*

Alyssa Linville, Assistant Director of Planning, summarized the staff report and recommended **Denial**.

QUESTIONS FOR STAFF

Rodriguez asked if the structure was already built. **Linville** replied no. **Rodriguez** then asked if the request was only for the rear yard setback not the side yard setback. **Linville** answered yes. **Rodriguez** asked if the current structure met the required setback. **Linville** replied yes.

APPLICANT/APPLICANTS REPRESENTATIVE

Sergio Castro, 3929 W. 18th Street, Yuma AZ, stated the reason for building towards the back was to not affect the landscape on the west side of the current structure. **Castro** then stated he would be willing to reduce the size of the workshop, and work with neighbors to resolve any issues with proposed project. **Rodriguez** asked if the applicant was not willing to build on the west side of the current structure. **Castro** replied he would prefer not to because it would damage the landscaping.

Linville stated there were alternative options on the property to construct the proposed project, that it would not damage the landscape and would meet the City's code requirements.

OPEN PUBLIC COMMENT

Tony Steen, 1853 S. 39th Drive, Yuma AZ, participating telephonically, stated the he was in favor of the denial of the variance, because of the safety hazards and how it could affect his property value.

DECISION

Rodriguez denied the variance to reduce the rear yard setback from 20 feet to 3 feet to accommodate the expansion of a workshop, in the Low Density Residential (R-1-8) District, because there was no special circumstance that applied to the property, stating that there were alternative locations that the structure could be constructed. **Rodriguez** went on to state that the variance was not necessary for the preservation of substantial property rights enjoyed by the neighboring properties, and that approval of the variance would be materially detrimental to any persons residing in the vicinity, based on the structures close proximity to adjacent property lines.

Rodriguez adjourned the meeting at 10:22 a.m.

Minutes approved and signed this _____ day of _____, 2022.

Hearing Officer



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

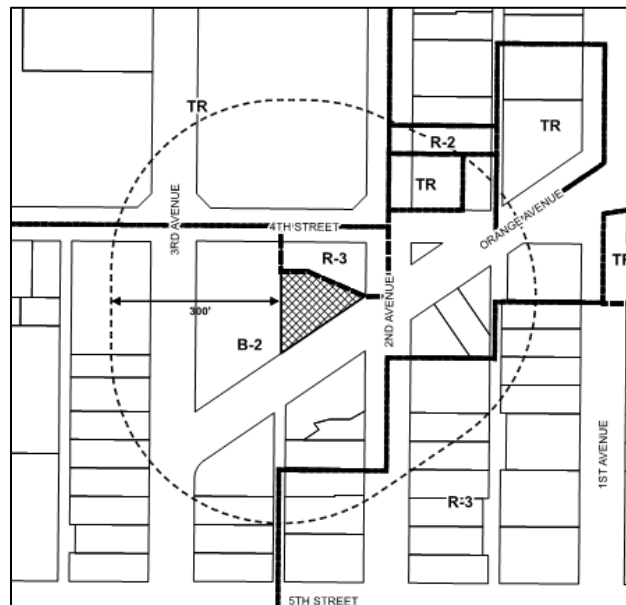
Hearing Date: July 28, 2022

Case Number: VAR-039987-2022

Project Description/Location: This is a request by Andrea Plaza, on behalf of Miguel & Maria Gastelum, for a Variance to eliminate the requirement for on-site parking for a clothing retail store, Vlanco Boutique, in the General Commercial/Historic Overlay/Bed and Breakfast Overlay/Infill Overlay (B-2/H/BBO/IO) District, for the property located at 206 S. Orange Avenue, Yuma, Arizona.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	General Commercial/Bed and Breakfast/Historic/Infill Overlay (B-2/BB/H/IO)	Auto Body Shop/ Clothing Boutique	Mixed Use
North	High Density Residential/Bed and Breakfast/Historic/Infill Overlay(R-3/BB/H/IO)	Vacant	Mixed Use
South	General Commercial/Bed and Breakfast/Historic/Infill Overlay(B-2/BB/H/IO)	Individually-Listed Historic Home/ Commercial Building	Mixed Use
East	General Commercial/Bed and Breakfast/Historic/Infill Overlay(B-2/BB/H/IO)	Residences	Mixed Use
West	General Commercial/Bed and Breakfast/Historic/Infill Overlay(B-2/BB/H/IO)	Welding and Fabrication	Mixed Use

Location Map:



Prior site actions: Original City Charter: January 12, 1915; Design and Historic Review: DHRC-7812-2014 (December 10, 2014); Variance: VAR-7813-2014 (December 11, 2014)

Staff recommendation: Staff recommends **APPROVAL** of the request to eliminate the requirement for on-site parking for a clothing retail store, Vlanco Boutique, in the General Commercial/Historic Overlay/Bed and Breakfast Overlay/Infill Overlay (B-2/H/BBO/IO) District, subject to the conditions outlined in Attachment A, because it meets the criteria of §154-.03.04 of the Yuma City Code.

Have there been any other variance requests of a similar nature in the vicinity and zoning district?	No.
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Staff Analysis: The subject property is approximately 11,775 square feet in size and is triangular in shape, with 183 feet of frontage along Orange Avenue. The property contains an approximately 2,600 square foot one-story building with most of the remaining balance of the property being outdoor covered storage for an auto-repair shop. The Assessor’s records indicate that the building construction for this property occurred in 1925. In addition, historic 1963 aerial photos show the structures on the property in the same location and lot coverage as at present.

Historically, the property has been utilized for auto-repair services and upholstery services. The clothing boutique located at the subject property is a change of use, requiring the applicant to meet current code requirements, such as on-site parking. The parking requirement for retail stores is one space for each 400 square feet of gross floor area. Suite A is approximately 2,100 square feet, requiring a total of 5 parking spaces.

The applicant is requesting a Variance to eliminate the off-street parking requirement for the retail use in Suite A. Due to the orientation of the property, and its original development, the applicant is unable to provide the required off-street parking spaces. The applicant is requesting to utilize the adjacent on-street parking located along Orange Avenue for their customers.

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 building is over 70 years old and there was no parking lot made when it was built.”

Staff Analysis: The subject property is located along Orange Avenue and was developed in 1925. The two existing suites located within the enclosed building are approximately 2,600 square feet. The remaining portion of the property is covered with metal shade structures and are utilized for an existing auto-repair shop. Based on the current placement of the existing structures on-site, there is no opportunity to provide adequate paved parking on the subject property for the new retail use.

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: “There is no extra land to create a parking lot.”

Staff Analysis: The special circumstance was not created or caused by the property owner or applicant, but rather by the original development of the property in 1925. The existing layout of the structures on the property limit the applicant’s ability to provide sufficient parking.

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: “Other businesses also use the street parking in front of their building as well.”

Staff Analysis: Eliminating the parking requirement will allow the applicant to operate the new clothing retail store on the subject property and is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations, as several area commercial businesses rely upon on-street parking for their customers.

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: “Allowing people to park on the street parking will not interfere with any building or homes since there is only a few cars ever parked up front.”

Staff Analysis: The granting of this 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 this variance will allow the clothing store to operate in an existing suite on the subject property. Additionally, it can be stated that sufficient on-street parking is available along Orange Avenue, and that the proposed use should have little negative impact on the surrounding area.

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

Public Comments Received: None Received.

External Agency Comments: None Received.

Neighborhood Meeting Comments: No Meeting Required.

Proposed conditions delivered to applicant on: 07/21/22

Final staff report delivered to applicant on: 07/25/22

- Applicant agreed with all of the conditions of approval on: 7/21/22
 Applicant did not agree with the following conditions of approval: (list #'s)

Attachments

A	B	C	D	E	F	G
Conditions of Approval	Site Plan	Agency Notifications	Site Photos	Neighbor Notification List	Neighbor Postcard	Aerial Photo

Prepared By: *Amelia Griffin* **Date:** **July 21, 2022**
Amelia Griffin
Associate Planner Amelia.Griffin@yumaaz.gov (928)373-5000, x3034

Approved By: *Alyssa Linville* **Date:** **July 25, 2022**
Alyssa Linville,
Assistant Director Community Planning

**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 Planning and Neighborhood Services Comments: Alyssa Linville, Assistant Director (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 shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

Fire Administration: Bill Jones, Fire Plans Examiner, (928) 373-4865

3. Change of use from an "S1" occupancy to an "M" occupancy requires a fire sprinkler retrofit, however, due to the property being located in the identified "Infill" area a Fire Alarm with full heat and smoke detection will be permitted in lieu of fire sprinklers.

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 B
SITE PLAN



**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (06/24/22)
- 300' Vicinity Mailing: (06/15/22)
- Site Posted on: (07/21/22)
- 34 Commenting/Reviewing Agencies Noticed: (06/15/22)
- Neighborhood Meeting Date: (N/A)
- Hearing Date: (07/28/22)
- Comments Due: (06/27/22)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	6/16/22	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	6/15/22	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	6/22/22	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	NR				
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	6/16/22		X	
Building Safety	YES	6/21/22	X		
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	6/22/22	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
SITE PHOTOS



**ATTACHMENT E
NEIGHBOR NOTIFICATION LIST**

Property Owner	Mailing Address	City/State/Zip Code
A & I BUILDERS LLC	1057 S PAGENT AVE	YUMA AZ
FLORES ADAN JR	440 S 1ST AVE	YUMA AZ
RUSH THEO	8813 S 48TH AVE	YUMA AZ
SUNDANCER LIVING TRUST 6-4-2020	389 S SECOND AVE	YUMA AZ
BREEZE MICHAEL A	PO BOX 5962	YUMA AZ
HORN JOHN PATRICK & MARGARET ALICE TRUST 7-16-2004 & EVANS ANTHONY R & KATHRYN JT	P.O. BOX 214 3427 W COLUMBIA AVE	VISTA CA YUMA AZ
CORNWALL-BRADY M THOMAS TRUST 10-27-09	456 S 1ST AVE	YUMA AZ
PELAYO ROSARIO & ROSA JT	1314 N VENICE AVE	TUCSON AZ
SMITH FRED R III	1449 S 35TH DR	YUMA AZ
MORE HOLDINGS LLC	1107 MISSISSISSIPPI- STE 407	ST LOUIS MO
BARENHOLTZ WILLIAM L TRUST 4-25-03	PO BOX 14767	TUCSON AZ
BWI ANKLAM LLC	1150 W 20TH ST	YUMA AZ
GASTELUM MIGUEL & MARIA JT	1048 S BARDEAUX AVE	YUMA AZ
GILMORE FRANK & LINDA TRUST 7/14/03	464 S 2ND AVE	YUMA AZ
TARWATER JOE A AND BOBBIE JT	5840 E 27TH PL	YUMA AZ
YUMA OFFICE RENTAL LLC	477 S ORANGE AVE	YUMA AZ
HOFFMAN MICHAEL J & JAMIE B	180 W 1ST ST	YUMA AZ
YUMA CROSSING NATIONAL HERITAGE AREA COR	1580 S AVENUE A	YUMA AZ
CB HOLDING LLC	PO BOX 2020	SOMERTON AZ
PRECIADO SOBERANES LUIS A & AMELIA IBETH LUNA DE	444 S 3RD AVE	YUMA AZ
WELTER MARY L	450 S 3RD AVE	YUMA AZ
WILLIAMS STEPHAN A	1026 S TAMARACK AVE	YUMA AZ
DE LA TOBA EVERARDO ET AL	ONE CITY PLAZA	YUMA AZ
YUMA CITY OF	10561 SAND CRAB PL	SAN DIEGO CA
SIEMIENOWSKI FAMILY TRUST 11-19-2008	371 S 2ND AVE	YUMA AZ
HARRIS DENNIS J		

**ATTACHMENT F
NEIGHBOR MAILING**

This is a request by Andrea Plaza, on behalf of Miguel & Maria Gastelum, for a Variance to eliminate the requirement for on-site parking for a clothing retail store, Vlanco Boutique, in the General Commercial/Historic Overlay/Bed and Breakfast Overlay/Infill Overlay (B-2/H/BBO/IO) District, for the property located at 206 S. Orange Avenue, Yuma, Arizona.

**MEETING DATE,
TIME & LOCATION
FOR CASE #
VAR-39987-2022**

PUBLIC HEARING
07/14/2022 @ 9:30AM
City of Yuma Council Chambers
One City Plaza, Yuma, AZ



Because you are a neighbor within 300' of 206 S. Orange Avenue, Yuma, Arizona, you are invited to attend the public hearing to voice your comments. If you have questions or wish to submit written comments, please contact Amelia Griffin by phone at (928)373-5000 ext. 3034 or by email at Amelia.Griffin@YumaAz.gov

**ATTACHMENT G
AERIAL PHOTO**

