

**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 September 8, 2022 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:

 <p>CITY OF <i>Yuma</i></p>	<p>Agenda Hearing Officer Public Hearing City Hall Council Chambers One City Plaza</p> <p>Thursday, September 8, 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

- August 11, 2022

APPLICATIONS TO BE CONSIDERED

1. **VAR-40336-2022:** This is a request by Juan Gamez, on behalf of Richard Barragan, for a variance to allow an accessory dwelling unit to surpass the maximum building area of 600 square feet to 1,200 square feet, in the High Density Residential/Infill Overlay (R-3/IO) District. The property is located at 912 South 1st Avenue, Yuma, AZ.

ADJOURN

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

**Hearing Officer Meeting Minutes
August 11, 2022**

A meeting of the City of Yuma's Hearing Officer was held on August 11, 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; Chad Brown, Associate Planner, and Alejandro Marquez, Administrative Specialist.

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

CONSENT CALENDAR

APPROVAL OF MINUTES

July 28, 2022

Rodriguez approved the minutes of July 28, 2022.

PUBLIC HEARINGS

VAR-40196-2022: *This is a request by Dahl, Robins & Associates, on behalf of Verdant Yuma LLC, for a variance to reduce the parking for a new hotel development from one and one-tenth parking spaces for each guest room, to one space for each guest room and to reduce the number of loading spaces required from three loading spaces, to one loading space, in the General Commercial (B-2) District. The property is located near the northwest corner of Sunridge Drive and 17th Street, Yuma, AZ.*

Chad Brown, Associate Planner, summarized the staff report and recommended **Approval**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

Christopher Robins, 1560 S. 6th Avenue, Yuma AZ, stated due to the location of the easements and the grade changes of the proposed project, it would be very difficult to meet the City's parking requirements. **Rodriguez** asked if there would be two hotels built on the property. **Robins** replied yes.

Adam Corral, 11021 Twin Pond Terrace, San Diego CA, was present and available for questions.

OPEN PUBLIC COMMENT

None

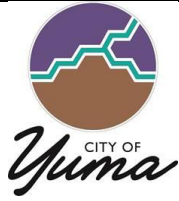
DECISION

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.

Rodriguez adjourned the meeting at 9:37 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: Chad Brown**

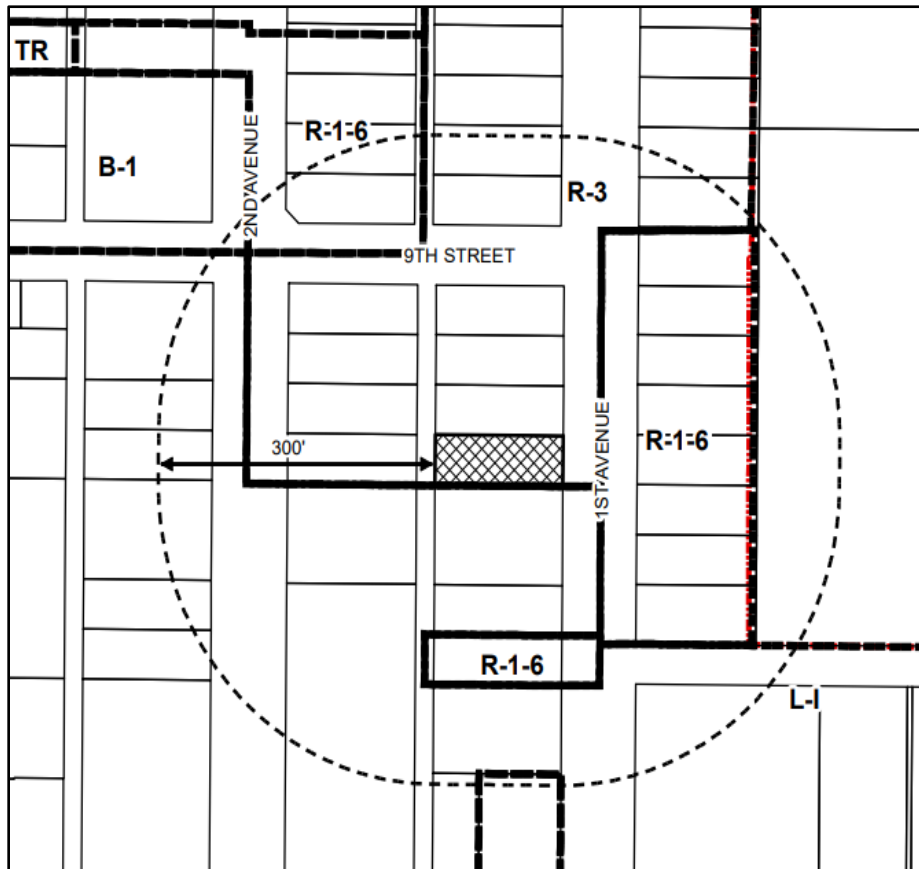
Hearing Date: September 8, 2022

Case Number: Chad Brown

Project Description/Location: This is a request by Juan Gamez, on behalf of Richard Barragan, for a variance to allow an accessory dwelling unit to surpass the maximum building area of 600 square feet to 1,200 square feet, in the High Density Residential/Infill Overlay (R-3/IO) District. The property is located at 912 South 1st Avenue, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	High Density Residential (R-3)	Duplex	Mixed Use
North	High Density Residential (R-3)	Multi-Family Residential	Mixed Use
South	Light Industrial (L-I)	Vacant Parcel	Mixed Use
East	Low Density Residential (R-1-6)	Single-Family Residential	Mixed Use
West	High Density Residential (R-3)	Single-Family Residential	Mixed Use

Location Map:



Prior site actions: Annexation: Ordinance No. 945 (September 16, 1964); Subdivision: Speese Addition (January 20, 1925).

Staff recommendation: Staff recommends **APPROVAL** of the request to allow an accessory dwelling unit to surpass the maximum building area of 600 square feet to 1,200 square feet, in the High Density Residential/Infill Overlay (R-3/IO) District, subject to the conditions outlined in Attachment A, because it meets the criteria of §154-.03.04 of the Yuma City Code.

Have there been any other variance requests of a similar nature in the vicinity and zoning district?	No.
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Staff Analysis: The subject property is approximately 158 feet northwest of the intersection of Wellington Street and 1st Avenue. The property was subdivided in Yuma County in 1925 prior to annexation into the City of Yuma on September 16, 1964. The subject property is zoned High Density Residential (R-3) District, and is located within the Infill Overlay (IO). This district does allow for the construction of an accessory dwelling unit (ADU). The permitted square footage of an ADU is based on the size of the subject lot.

The applicant is requesting to create an ADU larger than what would be permitted, in order to construct new livable space. The site currently features a duplex. The intent of the customer is to redesign the existing duplex into a single-family residence, as the Yuma City Code only permits an ADU as an accessory use to a single-family residence. Once the duplex is converted into a single-family residence, then the customer would have the right to build an ADU. The request to create a larger ADU is so that the livable space can meet the needs of a family.

While the proposal is not permitted by right in the Yuma City Code, the proposal does meet the intent and goals of the City of Yuma. These goals are met by increasing density within the Infill Overlay. Furthermore, the site's topography is unique, featuring a change in height in the middle of the property as the result a large existing retaining wall. The location of the existing retaining wall creates the illusion of two distinctly separate buildable areas.

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: "This property sits on a hill side west of 1st Ave, which does not make it unique on this district. However, what does create a distinction and special circumstance is a retaining wall that runs straight from north to south straight through the property with no steps, or driveway access. The back/west side of the property is essentially only accessible through the back alley."

Staff Analysis: The subject property is physically split into two pieces with a significant rise in topography to the back. The back half of the lot is at least 14' higher than the front of the lot. The neighborhood block is built on hilly terrain. This creates a special circumstance that applies to the property that does not apply to most other properties in 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 previous owner built this retaining wall to keep any excessive dirt off the back of his house caused by wind, water and settling of the hill mount. The previous owner am sure had good intentions with this retaining wall but stead essentially divided the property with no real access form the front to the back (east to west_ due to the approximately 14-foot height difference on the ground levels his retaining wall created.”*

Staff Analysis: The special circumstance was not created or caused by the property owner as the applicant did not create the steep changes in topography on the subject 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: *“The current property owner wishes to make his forever home on this property, originally, he assumed that the existing house could be that forever home. However, after moving in with his family, he realized this house needs too many remodels and upgrades. At the price it would cost him to bring the current house to better standard he could essentially built a new home, on in which he could enjoy his substantial property rights. Not to mention the fact that a newer home I safer to reside along with a more energy efficient utility cost.”*

Staff Analysis: The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity. The majority of lots in the zoning district and surrounding area have more even and flat buildable areas, meaning other property owners can more easily enjoy the use of their property rights.

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 current property owner hopes to build this new home essentially on the only place that his property allows, which is the back/west side. Having over 2,000 square feet on the topsoil elevation he wishes to build a reasonable modest home up there. Although classified as an accessory building Limited to the only 600 livable square feet that he is currently allowed seems unfair, he will use this home for his own personal use and his main house while leaving the existing house to be used for additional income. 600 square foot is not enough for the current property owner’s family so with this variance we ask for 1,200 livable square feet to build a modest home. I, Juan Gamez the Agent/applicant of this form am also Richard Barragan’s (the current property owner) architectural designer and consultant, I believe and advised Richard that his*

only financially conscious option is to build a new home. That is, to depending and waiting on the mercy of the response of this variance. As I personally do not believe, as I hope anyone reading will, that asking for more livable square footage on the accessory building (that will essentially be used as the main home on the property) is too much as it does not affect anybody on the vicinity of this property and might even bring more valuable and appeal to this district.”

Staff Analysis: The granting of this variance will have no detrimental effect to the area. The property to the north also has a detached living space oriented towards the alley at the higher topographic standpoint than the front home. Infill development also helps increase the value and use of the core of the built environment within the Yuma community.

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

External Agency Comments: None Received.

Neighborhood Meeting Comments: See Attachment D.

Proposed conditions delivered to applicant on: September 6, 2022.

Final staff report delivered to applicant on: September 6, 2022.

Applicant agreed with all of the conditions of approval on: September 6, 2022

Attachments

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

Prepared By: *Chad Brown*

Date: **September 6, 2022**

Chad Brown
Associate Planner

Chad.Brown@yumaaz.gov (928)373-5000, x 3038

Approved By: *Alyssa Linville*

Date: **September 6, 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:

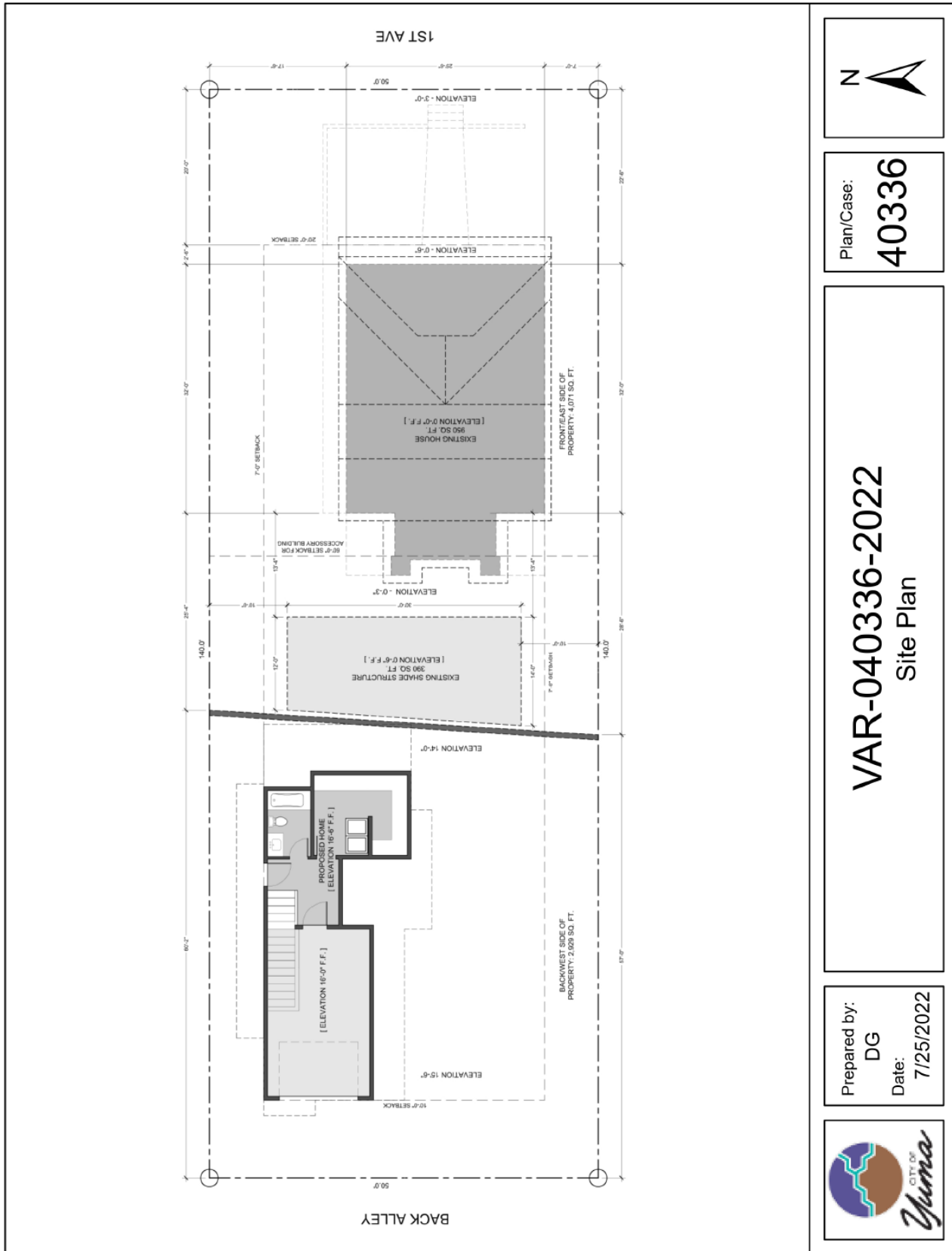
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.
3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.

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

4. The applicant will convert the existing duplex into a single-family residence prior to the construction of the accessory dwelling unit.
5. The applicant will sign and record a deed restriction for the accessory dwelling unit.
6. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
7. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
8. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

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

**ATTACHMENT B
SITE PLAN**



Plan/Case:
40336

VAR-040336-2022
Site Plan

Prepared by:
DG
Date:
7/25/2022



**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (08/19/22)
- 300' Vicinity Mailing: (08/10/22)
- Site Posted on: (08/09/22)
- 34 Commenting/Reviewing Agencies Noticed: (08/10/22)
- Neighborhood Meeting Date: (08/16/22)
- Hearing Date: (09/08/22)
- Comments Due: (08/22/22)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	8/11/22	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	8/11/22	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	8/10/22	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	8/11/22	X		
Building Safety	YES	8/11/22	X		
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	8/16/22	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
NEIGHBORHOOD MEETING COMMENTS

Date Held: 08/16/22

Location: Subject property; 912 South 1st Avenue.

Attendees: Chad Brown; City of Yuma, Richard Barragon (property owner); Sergio Barragon (property owner's father).

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

- **STAFF DISCUSSED THE HEARING DATE.**
- **APPLICANT EXPLAINED THAT THE TOPOGRAPHIC ISSUES, AND HOW THE LOT IS SPLIT IN TWO BY BOTH THE TOPOGRAPHY AND RETENTION WALL.**

**ATTACHMENT E
SITE PHOTOS**



Site Photos (top to bottom): southwestern corner of lot, northwestern corner of lot in alley facing south, southwestern corner of lot in alley facing south.

**ATTACHMENT F
NEIGHBOR NOTIFICATION LIST**

Property Owner	Mailing Address	City/State/Zip Code		
KOCH EARL	897 S 1ST AVE	YUMA	AZ	85364
BARRAGAN MANUEL & MARIA E JT	899 S 1ST AVE	YUMA	AZ	85364
GONZALEZ PABLO & MARIA DEL ROSARIO JT	901 S 1ST AVE	YUMA	AZ	85364
ARREOLA PEDRO & SYLVIA TRUST 10-2-2020	224 W 22ND PL	YUMA	AZ	85364
RODRIGUEZ DANIEL	PO BOX 2274	SOMERTON	AZ	85350
QUINTERO OLGA M &	1248 W 13TH ST	YUMA	AZ	85364
GONZALEZ DAVID & ALEJANDRA	182 W ROSEMARY DR	CHANDLER	AZ	85248
TOPETE ROGELIO RAMOS &	911 S 1ST AVE	YUMA	AZ	85364
LIMON BERNADA & JOSE LUIZ JT	925 S 1ST AVE	YUMA	AZ	85364
RMR RENTALS	PO BOX 1280	EL CENTRO	CA	92243
SANTINI AMADOR & PETRA H	PO BOX 870	SOMERTON	AZ	85350
ROMERO CARLOS FRANCISCO JR & LUZ ELENA GOMEZ DE	888 S 1ST AVE	YUMA	AZ	85364
GIVENS EVA	902 S 2ND AVE	YUMA	AZ	85364
GARCIA RAMON & SOCORRO C TRUST 8-16-05	10427 S MOUNTAIN DR	YUMA	AZ	85367
940 SECOND LLC	221 S SECOND AVE	YUMA	AZ	85364
RODRIGUEZ ROBERT S & GLORIA A JT	960 S 2ND AVE	YUMA	AZ	85364
MEJIA EDWARD L & WILLIAM L	108 W 23RD PL	YUMA	AZ	85364
GONZALEZ CHRISTOPHER A	19203 N 29TH AVE LOT 323	PHOENIX	AZ	85027
JIMENEZ MAURICIO	1344 CROWFOOT LN	MORGAN HILL	CA	95037
BARRAGAN RICHARD SAENZ	910 S 1ST AVE	YUMA	AZ	85364
ONTIVEROS HERLINDA	908 S 1ST AVE	YUMA	AZ	85364
RYAN OGLESBY CONSTRUCTION INC AZ CORP	PO BOX 4191	YUMA	AZ	85366
ALVARADO JOSE J & MARIA T JT	142 W 10TH STREET	YUMA	AZ	85364
GASCA NOLBERTO & MARIA CHAVEZ JT	144 W 10TH ST	YUMA	AZ	85364
LOZANO FABIAN	PO BOX 2865	SAN LUIS	AZ	85349
JSC PROPERTIES LLC	12222 E PASEO VERANO ST	YUMA	AZ	85367
FLORES JOSE E MOSQUEDA	978 S 1ST AVE	YUMA	AZ	85364
GILMORE FRANK & LINDA TRUST 7-14-03	PO BOX 5595	YUMA	AZ	85366
RODRIGUEZ LILIA BEATRIZ	913 S 2ND AVE	YUMA	AZ	85364
MARTINEZ LYDIA	PO BOX 214	YUMA	AZ	85366
ESTRADA VERONICA A	2724 S MAPLE AVE	YUMA	AZ	85364
RAMOS BENJAMIN & MONICA JT	17727 S 3 1/2 E	YUMA	AZ	85365
MCNEELY BRIANNA K	2868 S AVENUE B	YUMA	AZ	85364
CARAVANTES JUAN M JR	6033 E MORNING LN	YUMA	AZ	85365
AVILA MARIA D	PO BOX 2396	SAN LUIS	AZ	85349

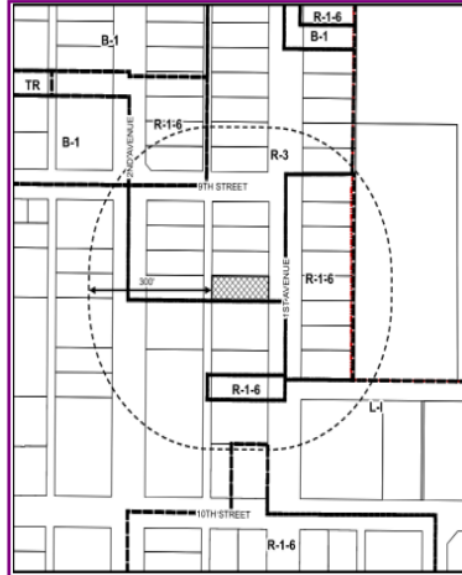
**ATTACHMENT G
NEIGHBOR MAILING**

This is a request by Juan Gamez, on behalf of Richard Barragan, for a variance to allow an accessory dwelling unit to surpass the maximum building area of 600 square feet to 1,200 square feet, in the High Density Residential/Infill Overlay (R-3/IO) District. The property is located at 912 South 1st Avenue, Yuma, AZ.

**MEETING DATE,
TIME & LOCATION**
FOR CASE #
VAR-40336-2022

NEIGHBORHOOD MEETING
08/16/2022 @ 5:00PM
ON-SITE

PUBLIC HEARING
09/08/2022 @ 9:30AM
City of Yuma Council Chambers
One City Plaza, Yuma, AZ



Because you are a neighbor within 300' of 912 South 1st Avenue , Yuma, AZ, you are invited to attend the public hearing to voice your comments. If you have questions or wish to submit written comments, please contact Chad Brown by phone at (928)373-5000 ext. 3038 or by email at Chad.Brown@YumaAz.gov

ATTACHMENT H
AERIAL PHOTO

