

**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 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 Thursday August 10, 2023 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:



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 27, 2023

APPLICATIONS TO BE CONSIDERED

1. **VAR-41468-2023**: *This is a request by Antonio Alcocer II for a variance to reduce the side yard setback from 6 feet to 3 feet 9 inches and the rear yard setback from 6 feet to 4 feet to legalize the placement of an accessory structure 11 feet in height within the Low Density Residential (R-1-6) District. The property is located at 1819 W. 17th Place, Yuma, AZ.*
2. **VAR-41582-2023**: *This is a request by Wilson C. Okwuobu, for a Variance to reduce the required distance between Residential Care Facilities from 1,320 feet to approximately 67 feet in the Low Density Residential (R-1-6) District, for the property located at 2475 S. 43rd Trail, Yuma, AZ.*
3. **VAR-41566-2023**: *This is a request by Heather King, for a Variance to increase the allowable fence height in the front yard setback from 3' to 6', in the Low Density Residential (R-1-8) District. The property is located at 4638 S. Marlin Dr., Yuma, AZ.*

ADJOURN

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

**Hearing Officer Meeting Minutes
July 27, 2023**

A meeting of the City of Yuma Hearing Officer was held on Thursday, July 27, 2023, at City Hall Council Chambers, One City Plaza, Yuma, Arizona.

HEARING OFFICER in attendance was Araceli Rodriguez.

CITY OF YUMA STAFF MEMBERS present included Jennifer Albers, Assistant Director of Planning; Amelia Domby, Senior Planner; Zenia Fiveash, Assistant Planner; Guillermo Moreno-nunez, Assistant Planner; John LeSueur, Assistant City Attorney and Alejandro Marquez, Administrative Specialist.

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

CONSENT CALENDAR

Hearing Officer Araceli Rodriguez approved the minutes of June 8, 2023.

PUBLIC HEARINGS

VAR-41462-2023: *This is a request by Carol Courreges for a variance to reduce the street side yard setback from 3 feet to 1 foot 6 inches for the placement of a 9 foot by 32 foot awning within the street side yard setback in the Recreation Vehicle Subdivision (RVS) District. The property is located at 5707 E. 32nd Street, Lot #1133, Yuma, AZ.*

Zenia Fiveash, Assistant Planner, summarized the staff report and recommended **Approval**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

Carol Courreges, 5707 E. 32nd St. Lot #1133, Yuma AZ, was present and available for questions.

OPEN PUBLIC COMMENT

None

DECISION

Hearing Officer Araceli 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-41468-2023: *This is a request by Antonio Alcocer II for a variance to reduce the side yard setback from 6 feet to 3 feet 9 inches to legalize the placement an accessory structure 11 feet in height within in the Low Density Residential (R-1-6) District. The property is located at 1819 W. 17th Place, Yuma, AZ.*

Jennifer Albers, Assistant Director of Planning asked if the case could be moved to the end of the agenda to give the applicant time to appear at the hearing. **Hearing Officer Araceli Rodriguez** answered yes, and then continued to the next case.

VAR-41495-2023: *This is a request by Dahl, Robins & Associates, Inc., on behalf of United Cerebral Palsy, for a Variance to reduce the street side yard setback along Orange Avenue from 15 feet to 0 feet for the construction of a new building and reduce the street side yard setback along Orange Avenue from 15 feet to 7 feet for the construction of a new parking lot, in the General Commercial/Infill Overlay (B-2/IO) District. The property is located at the southwest corner of 8th Street and Orange Avenue, Yuma, AZ.*

Guillermo Moreno-nunez, Assistant Planner, summarized the staff report and recommended **Approval**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

Christopher Robins, on behalf of Dahl, Robins & Associates, stated that he was in agreement with Conditions of Approval in Attachment A, and then made himself available for questions.

OPEN PUBLIC COMMENT

None

DECISION

Hearing Officer Araceli 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.

Hearing Officer Araceli Rodriguez then returned to case VAR-41468-2023.

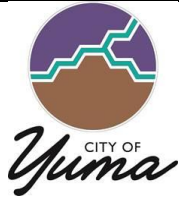
Jennifer Albers, Assistant Director of Planning asked if the case could be continued to the next Hearing Officer meeting of August 10, 2023, due to the applicant not appearing at the hearing.

Hearing Officer Araceli Rodriguez continued case VAR-41468-2023 to the next Hearing Officer meeting of August 10, 2023.

Hearing Officer Araceli Rodriguez adjourned the meeting at 9:42 a.m.

Minutes approved and signed this _____ day of _____, 2023.

Hearing Officer



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

Hearing Date: August 10, 2023

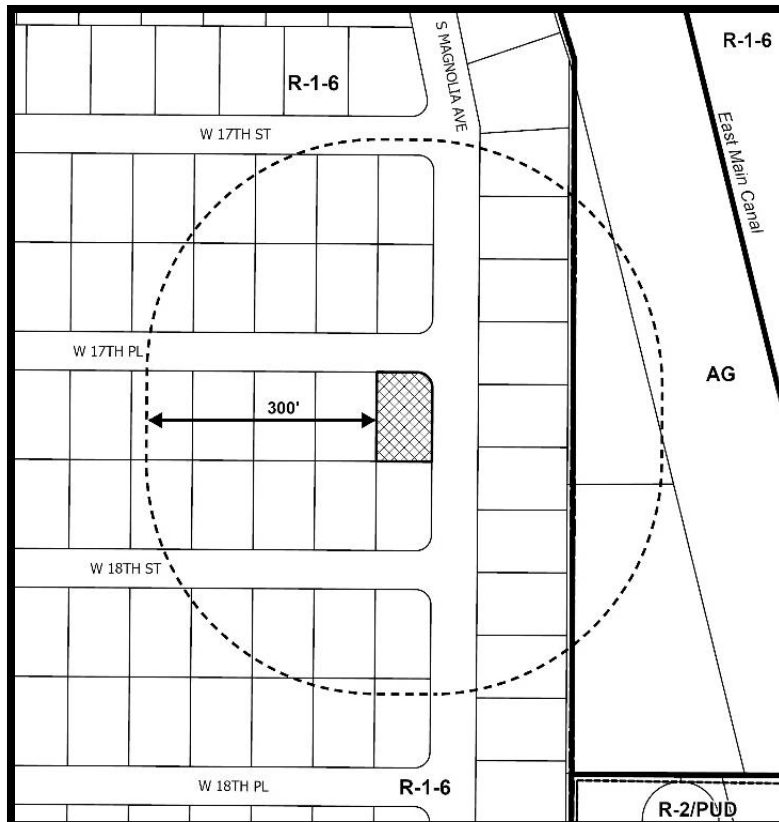
Case Number: VAR-41468-2023

Project Description
Location:

This is a request by Antonio Alcocer II for a variance to reduce the side yard accessory structure setback from 6 feet to 3 feet 9 inches to legalize the placement of an accessory structure 11 feet in height within in the Low Density Residential (R-1-6) District. The property is located at 1819 W. 17th Place, Yuma, AZ.

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

Location Map:



Prior site actions: Code Enforcement Case Code-BS008117-2023; Annexation: (December 28, 1979); Subdivision: El Pueblcito (December 30, 1954)

Staff recommendation: Staff recommends **DENIAL** of the request to reduce the side yard accessory structure setback from 6 feet to 3 feet 9 inches to legalize the placement of an accessory structure 11 feet in height within the Low Density Residential (R-1-6) District. Although Staff is not recommending approval of the request, if a variance is granted Staff recommends that the variance be conditioned to include those conditions listed in Attachment A.

Have there been any other variance requests of a similar nature in the vicinity and zoning district? See Attachment J			Yes
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
BA97-003	Reduce front yard setback	Denial	Approval
BA99-021	Reduce side yard setback	Denial	Approval
BA99-025	Reduce front yard setback	Approval	Approval
BA87-009	Reduce front yard & side yard setback	Denial	Denial front yard Approval side yard

Staff Analysis: The subject property is located at 1819 W. 17th Place, within the El Pueblcito Subdivision. The property features a single-family residence on a parcel which measures approximately 9,200 square feet, in the Low Density Residential (R-1-6) District. The said property is subject to the following building setback requirements: front yard setback of 20 feet, side yard setback of 7 feet, side street yard setback of 10 feet and rear yard setback of 10 feet.

The applicant is requesting to reduce the accessory structure setback from 6 feet to 3 foot 9 inches to legalize the placement of an accessory structure 11 feet in height. As indicated on the Site Plan (Attachment B), the accessory structure has been constructed 3 foot 9 inches from the west property line. In addition, the accessory structure is approximately 198 square feet in size.

After researching the request and the property, it has been determined that there are no special circumstances that apply to the property in regard to the size, shape or layout. The request to reduce the west side accessory structure setback would not be uncommon within the surrounding area and the permitting of this variance will not be detrimental to the surrounding property owners or those in nearby proximity.

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 reason me building the storage close to the block wall due to me having a gate that has access to the alley and I’m able to open without any issues. Also I built it in that corner due to in the future I have plans to build a pool on the other side where there is enough space. The storage shed doesn’t have electricity or plumbing it is only utilize for storage.”*

Staff Analysis: There is no special circumstance or condition that applies to the property that does not apply to most other properties in this district. After researching the property, staff was unable to identify a special circumstance that relates to the size, shape nor layout of the property which satisfies the need to recommend approval for this variance request.

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: *“Before I started to build a storage shed, I went to the city department planning and zoning to ask if there were any restrictions to build it. The ladies that attended me and gave me information said there were no restrictions in height or size if it’s not more than 200ft specifically if it’s going to be utilize for storage shed purposes.*

The storage shed was built because the property does not have a garage or storage unit to store all of my tools and things that need to be kept inside and not get damage by the sun/weather outside.”

Staff Analysis: According to staff’s analysis, the special circumstance is being created by the property owner. The property owner is seeking to reduce the side yard setback to legalize an existing accessory structure.

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: *“No.”*

Staff Analysis: The purpose of a side yard accessory structure setback is to ensure reasonable open space between the property line and any building or structure on the lot and adjacent lots. The applicant has the option of modifying the structure to legalize the accessory structure.

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: "No."

Staff Analysis: The granting of this variance will not lead to detrimental effects on the neighbors and general public traveling near this property. Since the 1954 creation of this subdivision, a number of property owners have added accessory structures to their rear yard area.

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

External Agency Comments: None

Neighborhood Meeting Comments: See Attachment E

Proposed conditions delivered to applicant on: 06/21/23

Final staff report delivered to applicant on:

<input checked="" type="checkbox"/>	Applicant agreed with all of the conditions of approval on: 06/21/23
<input type="checkbox"/>	Applicant did not agree with the following conditions of approval: (list #'s)
<input type="checkbox"/>	(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	H	I	J
Conditions of Approval	Site Plan	Agency Notifications	Neighborhood Meeting Comments	Site Photos	Neighbor Notification List	Neighbor Postcard	Aerial Photo	Neighboring Property Photos	Neighbor Variance Cases

Prepared By: Zenia Fiveash **Date:** 6/30/23
Zenias Fiveash
Assistant Planner Zenia.Fiveash@yumaaz.gov (928)373-5000, x3040

Approved By: *Jennifer L. Albers* **Date:** 7/3/23
Jennifer L. Albers
Assistant Director of 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, Director
(928) 373-5000, x 3037:**

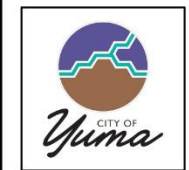
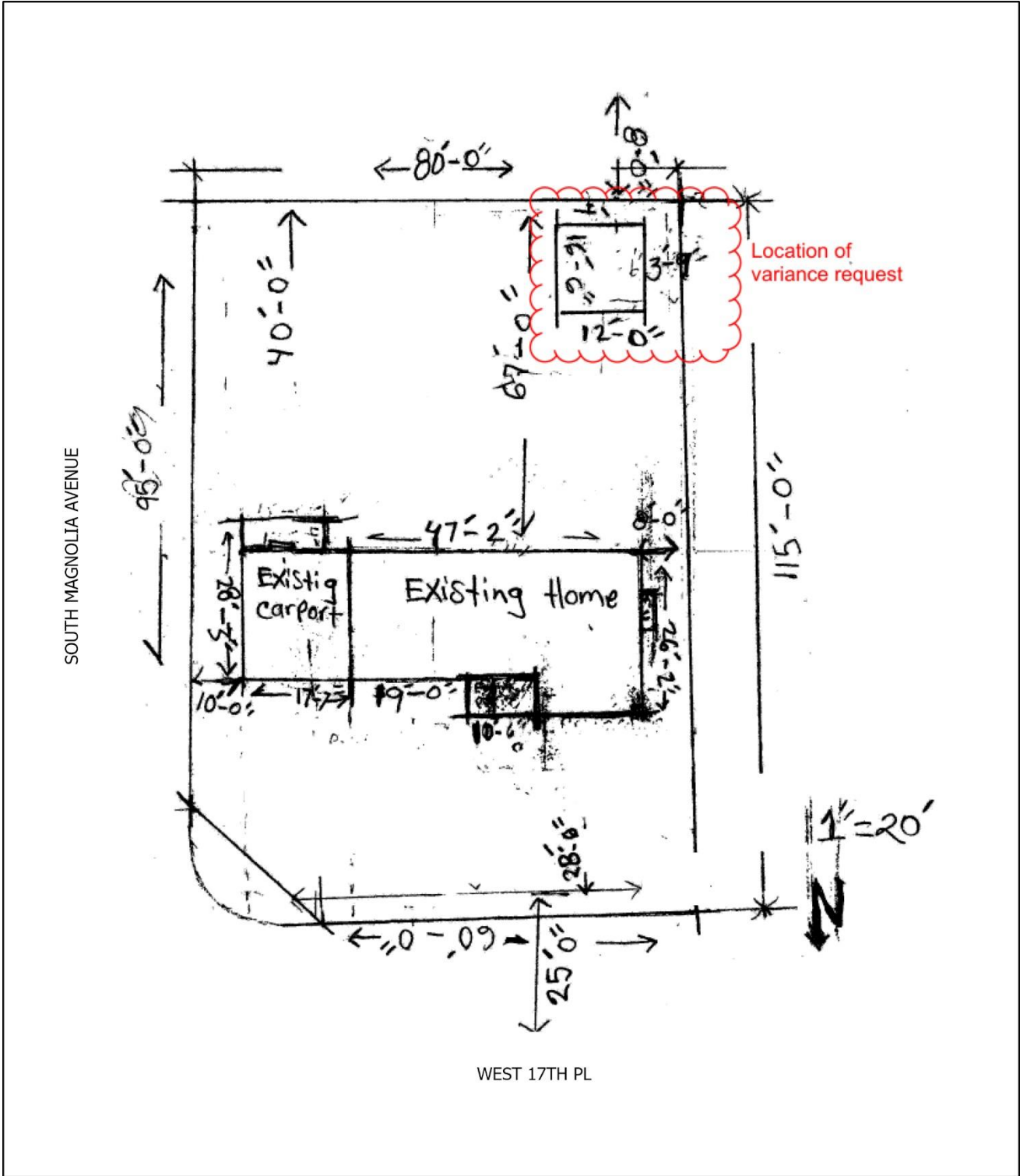
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

Community Planning: Zenia Fiveash, Assistant Planner, (928) 373-5000 x3040

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**



Prepared by:
DG
Date:
6/2/2023

VAR-41468-2023
Site Plan

Plan/Case:
41468



**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (06/19/23)
- 300' Vicinity Mailing: (06/14/23)
- Site Posted on: (06/13/23)
- 34 Commenting/Reviewing Agencies Noticed: (06/26/23)
- Neighborhood Meeting Date: (06/20/23)
- Hearing Date: (07/13/23)
- Comments Due: (06/26/23)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	6-14-23	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	NR				
Yuma County Planning & Zoning	YES	6-15-23	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.	NR				
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	6-14-23	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	6-20-23	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	6-27-23	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
NEIGHBORHOOD MEETING COMMENTS
June 26, 2023

Attendees:

Neighbor: Thomas McIntire

Applicant: Antonio Alcocer III

Staff: Zenia Fiveash

Summary of Attendee(s') Comments Related to the Project:

- Antonio Alcocer III – He stated that went to the Planning Department & was told by someone that it didn't matter how big or tall his shed was & that he could put it wherever he wanted. .
- Thomas McIntire – He was not sure what notice was for & then said he did not notice the shed from the road. Asked for information about a shade structure for his RV.

**ATTACHMENT E
SITE PHOTOS**



ATTACHMENT F
NEIGHBOR NOTIFICATION LIST

Property Owner	Mailing Address	City/State/Zip Code		
O'NEILL-GULLEY BRANDI S	1713 S MAGNOLIA AVE	YUMA	AZ	85364
MC INTIRE THOMAS O & DIANA A JT	1903 W 18TH ST	YUMA	AZ	85364
KONKLER DEVIN C	1827 W 18TH ST	YUMA	AZ	85364
FIVE SYCAMORE TREES NV CORP LLC	2232 S NELLIS BLVD SUITE G3-306	LAS VEGAS	NV	89104
JOHNSON LINDA	1819 W 18TH ST	YUMA	AZ	85364
CARAVANTES JAVIER	1815 W 18TH ST	YUMA	AZ	85364
BENNETT DONNIE R & SHAROL L TR 5-18-06	1470 W HILLSIDE PL	YUMA	AZ	85364
LANDAZORI ENRIQUE RIVAS	1829 W 17TH PL	YUMA	AZ	85364
BURDEN RUTH F	1827 W 17TH PL	YUMA	AZ	85364
CASTRO ESTEBAN	1823 W 17TH PL	YUMA	AZ	85364
VARGAS ANTONIO ALCOCER	1819 W 17TH PL	YUMA	AZ	85364
DENISE WILLIAM & BETTY TRUST 12-2-09	1800 W 17TH ST	YUMA	AZ	85364
SANCHEZ VICTOR A JR	323 HONEY AVE	YUMA	AZ	85364
RIVERA SYLVIA C	1901 W 17TH ST	YUMA	AZ	85364
FRAIJO DORA	1829 W 17TH ST	YUMA	AZ	85364
PSOLKA BRIAN	1825 W 17TH ST	YUMA	AZ	85364
MORGAN CARLOS	3110 52ND ST	SAN DIEGO	CA	92105
CALZADA MARIO F	1817 W 17TH ST	YUMA	AZ	85364
MORALES ADRIAN & ALEJANDRA JT	1705 S MAGNOLIA	YUMA	AZ	85364
BOOTH HELGA H TRUST 12-2-2016	1906 W 17TH PL	YUMA	AZ	85364
WILKINS THOMAS E & JENNIFER L JT	1830 W 17TH PL	YUMA	AZ	85364
GRAHAM JASON G & JENNIFER B JT	1826 W 17TH PL	YUMA	AZ	85364
PEREZ DANIEL	1822 W 17TH PL	YUMA	AZ	85364
DANIEL EARL H & BEA N JT	1818 W 17TH PL	YUMA	AZ	85364
STURDIVANT CARLY L	1709 S MAGNOLIA AVE	YUMA	AZ	85364
DESERT HOLDINGS OF YUMA AZ LLC	1800 W 17TH ST	YUMA	AZ	85364
RODRIGUEZ JAYNE	975 RONALD ST	BRAWLEY	CA	92227
MCKIVERGAN MICHAEL & MARIA JT	1358 S HETTEMA ST	YUMA	AZ	85364
BERROTERAN SILVIA	1826 W 18TH ST	YUMA	AZ	85364
DE LA BARRA MICHELLE	1822 W 18TH ST	YUMA	AZ	85364
CUEVAS JAIME SALOMON & SANDRA L	1818 W 18TH ST	YUMA	AZ	85364
ORTEGA GLORIA E	1814 W 18TH ST	YUMA	AZ	85364
MCCALL MICHELLE S	1725 S MAGNOLIA AVE	YUMA	AZ	85364
ARCHULETA VANESSA M	1801 S MAGNOLIA AVE	YUMA	AZ	85364
VIRGEN VICTOR GONZALEZ	1805 S MAGNOLIA AVE	YUMA	AZ	85364
BALDERAS HUMBERTO & JOAKINA B JT	8128 E LORENZO LN	YUMA	AZ	85365
WILSON ISIAH & HENRIETTA	PO BOX 7145	YUMA	AZ	85366
SAINZ RAY J JR & CINDY L JT	1812 S MAGNOLIA AVE	YUMA	AZ	85364
YUMA CITY OF	ONE CITY PLAZA	YUMA	AZ	85364

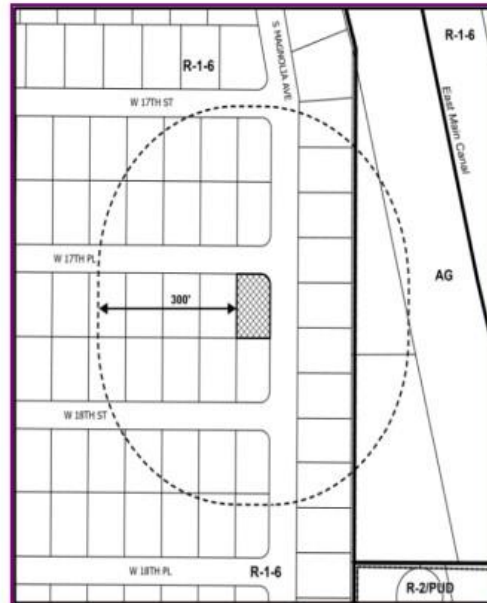
**ATTACHMENT G
NEIGHBOR MAILING**

This is a request by Antonio Alcocer II for a variance to reduce the side yard setback from 6 feet to 3 feet 9 inches to legalize the placement an accessory structure 11 feet in height within the Low Density Residential (R-1-6) District. The property is located at 1819 W. 17th Place, Yuma , AZ.

**MEETING DATE,
TIME & LOCATION
FOR CASE #
VAR-41468-2023**

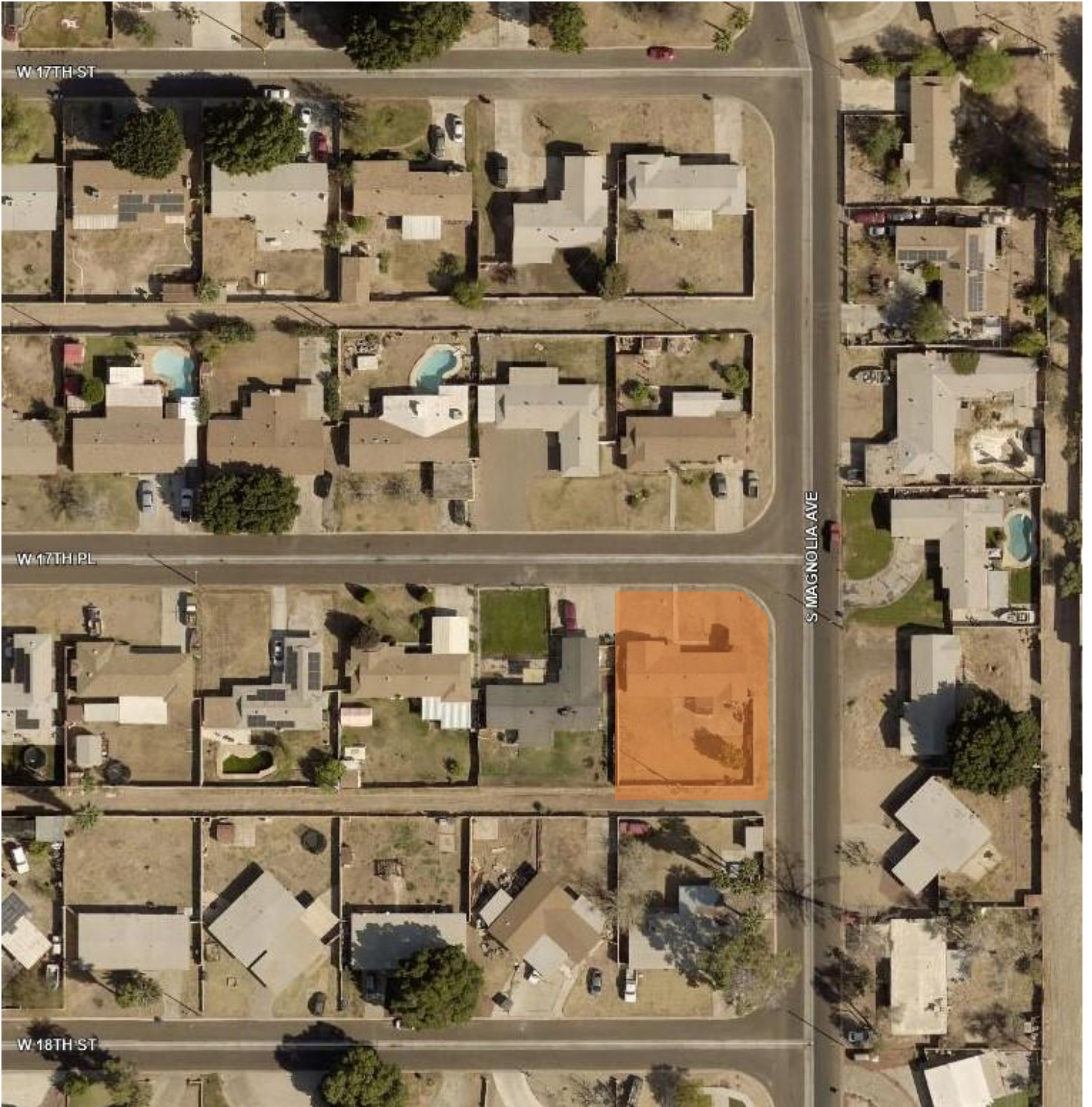
**NEIGHBORHOOD MEETING
06/20/2023 @ 5:00PM
ON-SITE**

**PUBLIC HEARING
7/13/2023 @ 9:30AM
City of Yuma Council Chambers
One City Plaza, Yuma, AZ**



Because you are a neighbor within 300' of 1819 W. 17th Place, 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 Zenia Fiveash by phone at (928)373-5000 ext. 3040 or by email at Zenia.Fiveash@YumaAz.gov

ATTACHMENT H
AERIAL PHOTO



ATTACHMENT I
Neighboring Property Photos

1814 W. 18th Street



1815 W. 18th Street



1813 W. 18th Place

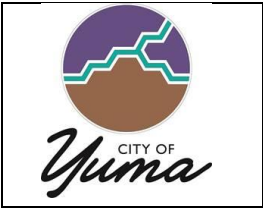


1822 W. 19th Place



**ATTACHMENT J
NEIGHBOR VARIANCE CASES**





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

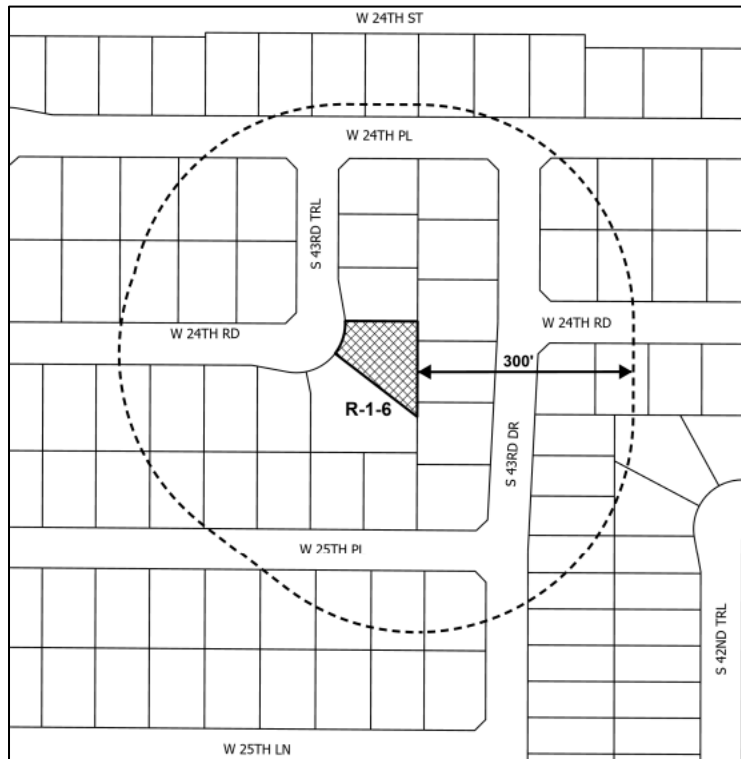
Hearing Date: August 10, 2023

Case Number: VAR-41582-2023

Project Description/Location: This is a request by Wilson C. Okwuobu, for a Variance to reduce the required distance between Residential Care Facilities from 1,320 feet to approximately 67 feet in the Low Density Residential (R-1-6) District, for the property located at 2475 S. 43rd Trail, Yuma, AZ.

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

Location Map:



Prior site actions: Annexation: Ordinance O2013-30 (June 14, 2013); Subdivision: Park West Unit No. 3 (February 2, 2017); Pre-development Meeting: June 13, 2023

Staff recommendation: Staff recommends **DISAPPROVAL** of the request to reduce the required distance between Residential Care Facilities from 1,320 feet to approximately 67 feet in the Low Density Residential (R-1-6) District, for the property located at 2475 S. 43rd Trail, Yuma, AZ, because it does not meet the criteria of §154-03.04 in the Yuma City Code. Although Staff is not recommending approval of the request, if a variance is granted Staff recommends that the variance be conditioned to include those conditions listed in Attachment A.

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

Staff Analysis: The subject property, located within the Park West Unit No. 3 Subdivision, is located along 43rd Trail. The Park West Unit No. 3 Subdivision was subdivided on February 2, 2017. Currently, the property features an approximately 2,278 square foot single-family residence, which was constructed in 2017. The parcel is approximately 9,680 square feet in size. In addition, the subject property is zoned Low Density Residential (R-1-6) District.

The applicant is requesting a variance to reduce the minimum distance requirement between residential care facilities from 1,320 feet to approximately 67 feet. This facility is intended to provide care for up to ten (10) residents. The City Code allows Residential Care Facilities (small) within the Low Density Residential (R-1-6) District; however, the City Code requires a 1,320 linear foot separation between facilities. This minimum distance requirement is measured from lot line to lot line. The purpose of this distance requirement is to avoid a concentration of such facilities in a residential neighborhood and to maintain the residential character of neighborhoods.

From §154-01.07: Residential Care Facility, Small:

Establishments primarily engaged in the provision of residential social and personal care for ten or fewer persons with some limits on ability for self-care, such as children, the elderly, but where medical care is not a major element. Included are establishments providing 24-hour year-round care for children. These facilities shall not include any persons whose occupancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. Establishments of this type located within any residential districts shall not be located within 1,320 feet of a child day care services (large), a nursing care facility, large or small, or a residential care facility, large or small that are also located within any residential district.

A neighborhood meeting was held on July 19, 2023, in which four neighbors were in attendance. The main concerns associated with this request were the potential impacts to the residential neighborhood, security, and privacy concerns. In addition, staff received several emails in opposition to this request.

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 property possesses special circumstances due to its strategic placement, and existing infrastructure, and situated in a quiet neighborhood with low traffic volume, this property offers a serene and therapeutic atmosphere, crucial for the treatment and recovery of individuals with behavioral health needs. Moreover, the property's remarkable attributes include its substantial lot size of 9,681 sqft and its positioning as a corner lot. This generous space allows for the establishment of a 10-bed facility, promoting enhanced privacy and providing residents with a spacious environment.”

Staff Analysis: After analyzing the subject property, it has been determined that a special circumstance does not apply to the property that does not apply to most other properties within the district and surrounding residential development. The City of Yuma zoning code allows residential care facilities within residential neighborhoods, however, there is a minimum 1,320 foot separation requirement between facilities. The intent of this distance requirement is to maintain a residential character of neighborhoods and to avoid a concentration of such facilities in a residential neighborhood. This proposal is located within 67 feet of another facility within the same residential neighborhood. According to the applicant, this property has the space for a 10-bed facility; however, the applicant can relocate the proposed facility to a property that meets the separation requirement of the City of Yuma zoning code.

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: “Importantly, it is crucial to note that these special circumstances were not brought about by the current property owner or the applicant. The property's large lot size and corner location are inherent features predating the involvement of the applicant, demonstrating that the need for a variance is unrelated to any actions taken by them. Rather, the demand for a Behavioral Health Residential Facility stems from recognized societal needs and the scarcity of suitable facilities within the community.”

Staff Analysis: After analyzing the subject property, it has been determined that a special circumstance does not apply to the property that does not apply to most other properties within the district and surrounding residential development. According to the Yuma County Assessor records, this property was purchased on April 17, 2023. At the time of the purchase, there was an existing facility located approximately 67 feet from 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: *“Granting the requested variance is essential to preserve the rights enjoyed by other property owners in the vicinity who share identical zoning designations. Simultaneously, it will benefit the community as a whole by addressing mental health needs and contributing to the overall well-being of residents. Furthermore, significant improvements are planned for the property, including the upgrading of the backyard, which will increase its value and positively impact comparable neighboring properties. By introducing a purpose-built facility, we will enhance the desirability of the neighborhood while preserving and appreciating property values.”*

Staff Analysis: The granting of the variance is not necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations. Property owners located within the vicinity and the same residential district are required to comply with the 1,320 foot separation between residential care facilities.

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: *“It is crucial to emphasize that granting the variance will not result in any material detriment to individuals residing or working in the vicinity, adjacent properties, the neighborhood, or the public health, safety, and general welfare. The proposed Behavioral Health Residential Facility will diligently implement various measures to ensure seamless integration within the neighborhood dynamics. This includes the installation of 24/7 surveillance cameras that will not only enhance the safety of the facility but also monitor and provide additional security for neighboring properties within the camera’s range. This commitment to security and community welfare ensures that the facility will be a responsible and valued addition to the neighborhood.”*

Staff Analysis: The granting of the variance will not be materially detrimental to any person(s) residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public heal, safety, and general welfare. The granting of this variance will allow a residential care facility within an established residential neighborhood.

2. Are any of the adjacent property owners opposed to this request? Yes.

Public Comments Received: See Attachment E

External Agency Comments: None Received.

Neighborhood Meeting Comments: See Attachment D

Proposed conditions delivered to applicant on: 7/27/2023

Final staff report delivered to applicant on: August 3, 2023

- Applicant agreed with all of the conditions of approval on:
- 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.) Emailed applicant conditions of approval. Waiting for response.

Attachments

A	B	C	D	E
Conditions of Approval	Site Plan	Agency Notifications	Neighborhood Meeting Comments	Public Comments
F	G	H	I	J
Site Photo	Distance to Existing Facility	Neighbor Notification List	Neighbor Postcard	Aerial Photo

Prepared By: Amelia Domby **Date:** August 1, 2023
 Amelia Domby
 Senior Planner Amelia.Domby@yumaaz.gov (928) 373-5000, x1234

Approved By: *Jennifer L. Albers* **Date:** 8/2/23
 Jennifer L. Albers
 Assistant Director of Planning

ATTACHMENT A
CONDITIONS OF APPROVAL

Department of Planning and Neighborhood Services Comments: Alyssa Linville, Assistant Director (928) 373-5000, x 3037:

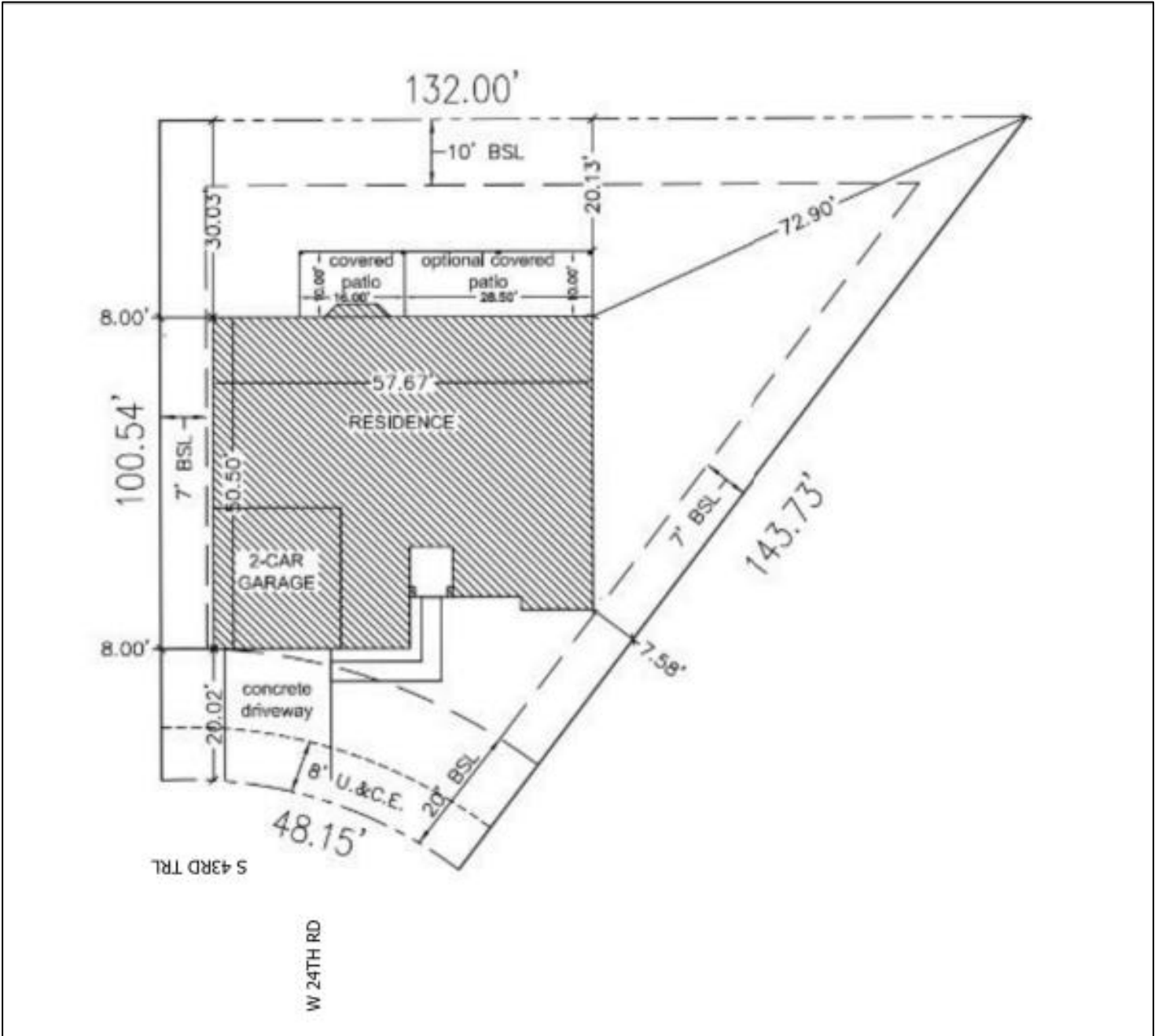
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

Community Planning: Amelia Domby, Senior Planner, (928) 373-5000 x3034

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

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

ATTACHMENT B
SITE PLAN



**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (07/21/23)
- 300' Vicinity Mailing: (07/12/23)
- Site Posted on: (07/12/23)
- 34 Commenting/Reviewing Agencies Noticed: (07/12/23)
- Neighborhood Meeting Date: (07/19/23)
- Hearing Date: (08/10/23)
- Comments Due: (07/24/23)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	7/11/23	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	7/20/23	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	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	7/10/32	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	7/11/23	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	7/21/23	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
NEIGHBORHOOD MEETING COMMENTS

Date Held: July 19, 2023

Location: On-site, 5pm

Attendees: Applicant: Katie Sass, Staff: Amelia Domy; and four neighbors in attendance: Ernesto Silva, Miguel Santiago, Brisa Santiago, Elba Silva

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

- THE APPLICANT PROVIDED AN INTRODUCTION AND EXPLAINED THAT THIS FACILITY WILL PROVIDE RESIDENTIAL CARE FOR UP TO 10 (TEN) RESIDENTS. THERE WILL BE ONE STAFF MEMBER IN THE RESIDENCE THAT CHECKS THE MAIL REGULARLY. VEHICLES WILL BE PARKED INSIDE THE GARAGE. IN ADDITION, THERE WILL BE QUIET SPACE FOR COUNSELING. THE RESIDENTS PARTICIPATE IN ACTIVITIES SUCH AS EXERCISE, YOGA, AND ATTEND CHURCH ON SUNDAY'S. RESIDENTS AT THIS PROPERTY STAY FOR APPROXIMATELY 6 MONTHS. THERE IS A 8 P.M. CURFEW FOR THE RESIDENTS AND LIGHTS ARE OFF BY 10 P.M.
- NEIGHBORS EXPRESSED PRIVACY CONCERNS DUE TO THEIR JOB SUCH AS WORKING FOR BORDER PATROL OR CUSTOMS AND BORDER PROTECTION.
- NEIGHBORS WERE ALSO CONCERNED WITH THE CLOSE PROXIMITY TO THE EXISTING RESIDENCE. THE NEIGHBORS NOTED THAT IF THIS ONE IS APPROVED, MORE RESIDENTIAL CARE FACILITIES WILL HAVE THE ABILITY TO LOCATE ANYWHERE WITHIN THE SAME RESIDENTIAL NEIGHBORHOOD. NEIGHBORS ADDED THAT THEY DID NOT WANT TO BE SURROUNDED BY RESIDENTIAL CARE FACILITIES.
- THE APPLICANT EXPLAINED THAT THEY HAVE EXISTING RESIDENCES IN PHOENIX AND NORTH SCOTTSDALE AND THEY HAVE NOT RECEIVED ANY COMPLAINTS. THE COMPANY WILL MAINTAIN THE PROPERTY AND MAKE IT LOOK NICE. IN ADDITION, SECURITY CAMERAS ARE INSTALLED TO MONITOR THE RESIDENCE. SECURITY CAMERAS ARE NOT DIRECTED TOWARDS THE NEIGHBORS.
- THE APPLICANT ALSO ADDED THAT THEY WILL KEEP THE RESIDENTIAL CHARACTERISTIC OF THE RESIDENCE BY DECORATING FOR THE HOLIDAYS. THE FACILITY HAS STRICT AND HIGH STANDARDS. CLIENTS ARE REQUIRED TO GO THROUGH A BACKGROUND CHECK.
- NEIGHBORS QUESTIONED THE OWNERSHIP OF THE RESIDENCE.
- THE APPLICANT EXPLAINED THAT THE OWNER OF THE RESIDENCE IS THE CEO OF THE COMPANY.

**ATTACHMENT E
PUBLIC COMMENTS**

Name:	Erika Lemus			Contact Information: (928) 446-8269						
Method of Contact:	Phone	<input checked="" type="checkbox"/>	FAX	<input type="checkbox"/>	Email	<input type="checkbox"/>	Letter	<input type="checkbox"/>	Other	<input type="checkbox"/>
July 18, 2023 - Is not in support of this request – there are three large trees on their property and previous neighbors did not have any issues. Never had issues with the neighbors and would not like to have issues with the new neighbors.										
Name:	Miguel Santiago			Contact Information: miguelsantiagopr@yahoo.com						
Method of Contact:	Phone	<input type="checkbox"/>	FAX	<input type="checkbox"/>	Email	<input checked="" type="checkbox"/>	Letter	<input type="checkbox"/>	Other	<input type="checkbox"/>
<p>July 15, 2023 Good afternoon, This are my comments about the case # VAR-41582-2023, I oppose to this request. My concern is about safety and value of the properties on the Park West Subdivision. From 1320' to 67' still a bit g number in a low density Residential area (R-1-6). If we let this person do the facility with only 67' from the other, I'm afraid that another property owner in the neighborhood request the same in the future. The occupancy is a maximum of 10 people and that is not including personnel and/or visitor/guest, increasing the traffic of vehicle in this area. The area where the property is located has low traffic, where children play outdoor most of the time and is a very family oriented community. Thank you for your time and consideration. Respectfully Miguel Santiago</p>										
Name:	Sergio Flores			Contact Information: sergio123flores456@gmail.com						
Method of Contact:	Phone	<input type="checkbox"/>	FAX	<input type="checkbox"/>	Email	<input type="checkbox"/>	Letter	<input type="checkbox"/>	Other	<input type="checkbox"/>
<p>July 27, 2023 Hello, I am a resident in Park West Yuma, AZ and I am emailing you in regards to the Legacy Healthcare Addiction Program. I don't understand how a company can buy houses and shelter addicts especially in Park West. This is outrageous and shouldn't be allowed here in our neighborhood. I along with many neighbors plan to protest this. As our representative I hope you can do something about this. Thank you</p>										

From: Amelia Domby
Sent: Wednesday, July 26, 2023 2:50 PM
To: 'Ron Pendleton'
Subject: RE: Case # VAR-41582-2023

Good afternoon Ron,

The property owner is requesting a Variance to reduce the minimum distance between two residential care facilities. The zoning code requires a minimum of 1,320 feet between facilities and there is currently another facility located approximately 67' from this property. A Variance request goes through the public hearing process and public comments are encouraged. There is one public hearing with a Hearing Officer. Any input provided by the neighbors and/or other residents will be included in the staff report that is provided to the Hearing Officer.

The public hearing for this request is scheduled for August 10, 2023 at the City Hall Council Chambers at 9:30am.

Please let me know if you have any additional questions.

Thank you,



Amelia Domby
Senior Planner | Planning and Neighborhood Services
Office: (928) 373-5000 ext. 3034
Amelia.Domby@YumaAz.Gov | www.YumaAZ.gov




PROFESSIONALISM
INTEGRITY
ACCOUNTABILITY
RESPONSIVENESS

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. This document may be subject to the Public Records Act per Arizona Statute (A.R.S. 39-121). It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please destroy all copies of the communication including any attachments, and contact the sender by e-mail or telephone.

From: Ron Pendleton <rpendleton616@gmail.com>
Sent: Tuesday, July 25, 2023 8:36 PM
To: Amelia Domby <Amelia.Domby@yumaaz.gov>
Subject: Case # VAR-41582-2023

You don't often get email from rpendleton616@gmail.com. [Learn why this is important](#)

 **CAUTION:** External Email

Hello!

I live in the neighborhood with a house, 2475 S 43rd Trl, Yuma, AZ 85364, that appears to be bought by a company, Legacy Behavioral Health Services, who are seeking to reduce the minimum distance requirement for two facilities.

I'm hoping to understand more about this change, if it's already going to happen and this is all pure information or if there's any input being taken and considered by residential owners before this change is approved.

Any and all information you can provide would be greatly appreciated!

From: Amelia Domby
Sent: Wednesday, July 26, 2023 3:13 PM
To: 'Marilyn Pendleton'
Subject: RE: Case # VAR-41582-2023

Good afternoon Marilyn,

This is a Variance request to reduce the minimum distance requirement between residential care facilities. The Variance request goes through the Public Hearing Process and public comments are encouraged. Any comments provided prior to the hearing will be included in the staff report that goes to the Hearing Officer. The hearing officer reviews the staff analysis, public comments received, and approves or denies the request. The Hearing Officer will make the decision on August 10 at 9:30am. This meeting will be held at the City Hall Council Chambers. During this meeting, public comments can also be heard.

In regard to staffing, I will forward your email to the applicant to answer specific questions about the proposed use on-site.

Please let me know if you have any further questions.

Thank you,



Amelia Domby
Senior Planner | Planning and Neighborhood Services
Office: (928) 373-5000 ext. 3034
Amelia.Domby@YumaAZ.Gov | www.YumaAZ.gov



PROFESSIONALISM
INTEGRITY
ACCOUNTABILITY
RESPONSIVENESS

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. This document may be subject to the Public Records Act per Arizona Statute (A.R.S. 39-121). It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please destroy all copies of the communication including any attachments, and contact the sender by e-mail or telephone.

From: Marilyn Pendleton <marilyn.pendleton24@gmail.com>
Sent: Wednesday, July 26, 2023 8:00 AM
To: Amelia Domby <Amelia.Domby@yumaaz.gov>
Subject: Case # VAR-41582-2023

You don't often get email from marilyn.pendleton24@gmail.com. [Learn why this is important](#)

⚠ CAUTION: External Email

Good morning,

I live on S 43rd TRL. I was told Phoenix company Legacy Behavioral Health Services, who has only been in business for 2 years, has purchased 2475 S. 43rd Trl, Yuma, AZ 85364, but the property is under the CEO's name instead of the company's name.

I understand the property is meant to provide behavioral health for up to 10 people. I'm concerned about increased traffic, and am curious about Legacy Behavioral Health Service's ability to prevent incidents. Do you have any information on how staffing will work at the property? Is staff on site at all times? What other properties the company has purchased? Has this already been approved or is the meeting on 8/10 looking for community input?

Thank you!
Marilyn Pendleton

ATTACHMENT F
SITE PHOTO



ATTACHMENT G
DISTANCE TO EXISTING FACILITY



**ATTACHMENT H
NEIGHBOR NOTIFICATION LIST**

Property Owner	Mailing Address	City	State	Zip Code
ADAME THERESA G TRUST 8-16-2018	2521 S 43RD DR	YUMA	AZ	85364
ARCEO MIGUEL S	PO BOX 13553	SAN LUIS	AZ	85349
ARELLANO LETICIA	2442 S 43RD DR	YUMA	AZ	85364
BARBEAU ROBERT EDMUND	4360 W 25TH PL	YUMA	AZ	85364
BECERRA ALVARO	2485 S 43RD DR	YUMA	AZ	85364
CANEDO CLAUDIO B JR & IMELDA CPWROS	1865 S 9TH AVE	YUMA	AZ	85364
CARDENAS FRANCISCO & EVA JT	4374 W 25TH PL	YUMA	AZ	85364
CASTRO RAYMOND JR	2454 S 43RD DR	YUMA	AZ	85364
CHAPMAN SHANE EDWARD	4388 W 24TH RD	YUMA	AZ	85364
CHURCH KIPP O & JODELL O	4389 W 24TH RD	YUMA	AZ	85364
ELIAS RACHELLE	4340 W 24TH PL	YUMA	AZ	85364
GALAVIZ GONZALO & JENNIFER JT	4373 W 24TH RD	YUMA	AZ	85364
GARCIA MARIA J	2443 S 43RD TRAIL	YUMA	AZ	85364
GOMEZ EDUARDO	4546 W 18TH PL	YUMA	AZ	85364
GONZALEZ MIGUEL & MONICA	PO BOX 5146	YUMA	AZ	85365
GONZALEZ MIGUEL A SANTIAGO	4359 W 24TH RD	YUMA	CA	85364
GONZALEZ TAURINO ARNOLDO & JESSICA	4348 W 25TH PL	YUMA	AZ	85364
GUTIERREZ RAUL ANTONIO	4426 W 25TH PL	YUMA	AZ	85364
HAYES NICOLE	4313 W 24TH PL	YUMA	AZ	85364
HERNANDEZ EMY CECILIA & SALVADOR ALEJANDRO	4346 W 24TH PL	YUMA	AZ	85364
JENSEN ERIC N & CASSANDRA	4370 W 24TH PL	YUMA	AZ	85364
LAVIGNE GENE & ANNA TRUST 5-11-2002	1271 ALPINE HEIGHTS RD	ALPINE	AZ	91901
LOPEZ JOSE ALBERTO	4329 W 24TH PL	YUMA	AZ	85364
MARQUEZ LUIS	4331 W 25TH PL	YUMA	AZ	85364
MARTINEZ JOANNA & JAIME L	4423 W 24TH PL	YUMA	AZ	85364
MELLENDEZ RAMON & REYNA	4349 W 25TH PL	YUMA	AZ	85364
MORENO MAURICE O & FAVIOLA	4302 W 24TH RD	YUMA	AZ	85364
MUELA MAURO & FRANCISCA	2515 S 43RD DR	YUMA	AZ	85364
MUNOZ GONZALO JR & MELINDA	2514 S 42ND TRAIL	YUMA	AZ	85364
MURO ANDRES & KRISTEN JT	4387 W 24TH PL	YUMA	AZ	85364
NUNEZ ERNEST JR	4371 W 24TH PL	YUMA	AZ	85364
OCHOA ORLANDO FELIX & GISELA	4361 W 25TH PL	YUMA	AZ	85364
OKWUOBU WILSON C.	7208 JEMATELL LN	SCOTTSDALE	AZ	85266
ORTON CARMEN & JOEL	2529 S 43RD DR	YUMA	CA	85364
PARK STEPHANIE MARIE	PO BOX 5331	YUMA	AZ	85366

PENDLETON RONALD & MARILYN LEE C CPWROS	2455 S 43RD TRAIL	YUMA	AZ	85364
PETTITT DONNA R	2508 S 42ND TRL	YUMA	AZ	85364
POWERS MICHAEL J	4410 W 25TH PL	YUMA	AZ	85364
RODRIGUEZ ROBERTO & ERENDIRA SALGADO SERGIO ANTONIO FLORES	4390 W 25TH PL 1782 NISSON ROAD #5	YUMA TUSTIN	AZ	85364 92780
SANDOVAL JOSE	235 E 25TH ST	YUMA	AZ	85364
SILVA ALDO LEMUS	2474 S 43RD DR	YUMA	AZ	85364
SILVA ERNESTO JR	4372 W 24TH RD	YUMA	AZ	85364
SLATON HOWARD & CLAUDIA	2462 S 43RD DR	YUMA	AZ	85364
THURBER MATTHEW J	4334 W 24TH PL	YUMA	AZ	85364
ULLRICH MELANIE BELLE	4409 W 24TH RD	YUMA	AZ	85364
UMMI LLC	12424 S AVENUE C	YUMA	AZ	85365
URCIAGA ROMUALDO	2497 S 43RD DR	YUMA	AZ	85364
VELEZ RAMON ORTEGA	2498 S 43RD DR	YUMA	AZ	85364

**ATTACHMENT I
NEIGHBOR MAILING**

This is a request by Wilson C. Okwuobu, for a Variance to reduce the required distance between Residential Care Facilities from 1,320 feet to approximately 67 feet in the Low Density Residential (R-1-6) District, for the property located at 2475 S. 43rd Trail, Yuma, AZ.

**MEETING DATE,
TIME & LOCATION
FOR CASE #
VAR-41582-2023**

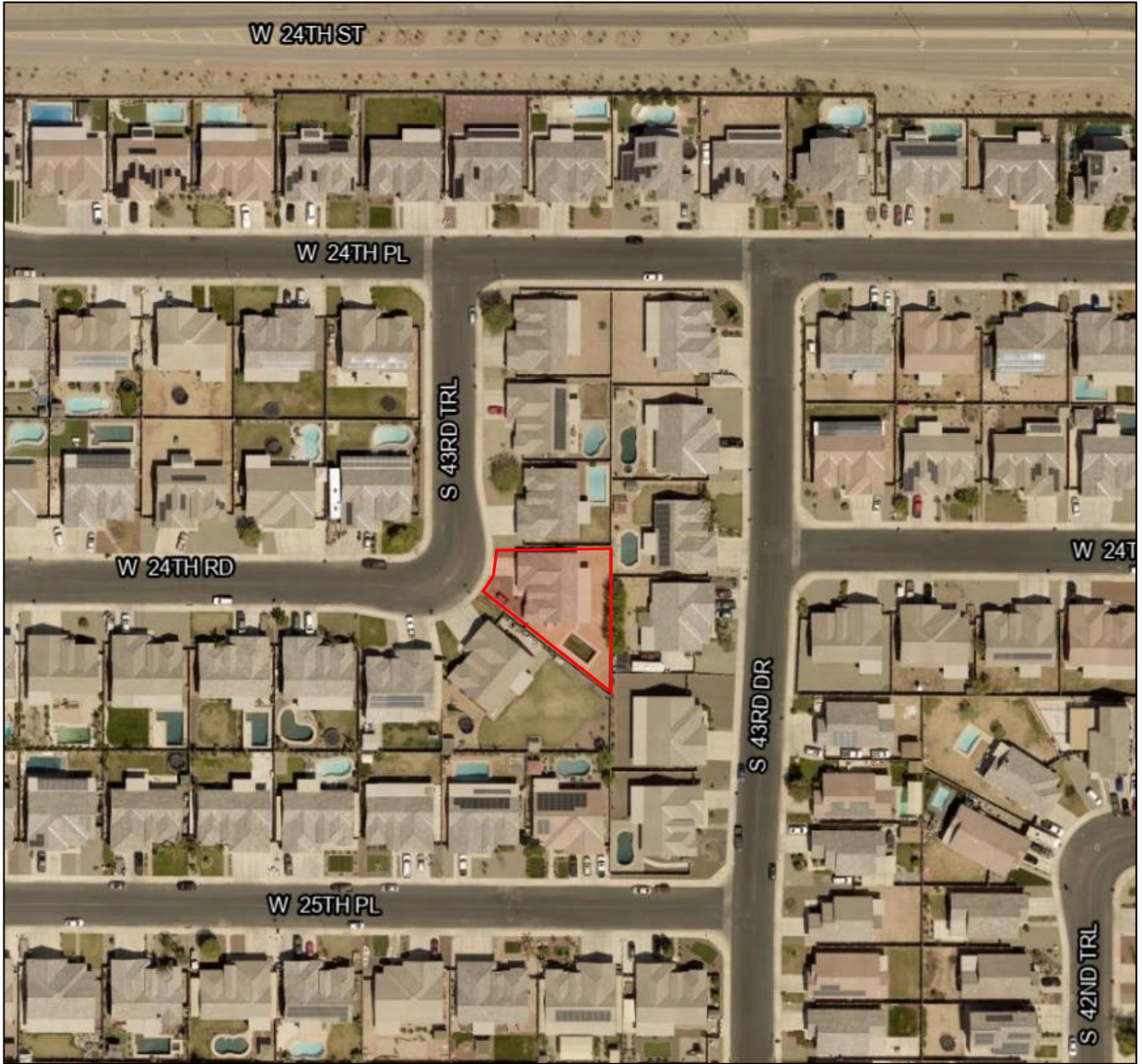
**NEIGHBORHOOD MEETING
07/19/2023 @ 5:00PM
ON-SITE**

**PUBLIC HEARING
8/10/2023 @ 9:30AM
City of Yuma Council Chambers
One City Plaza, Yuma, AZ**



Because you are a neighbor within 300' of 2475 S. 43rd Trail., 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 Amelia Dombay by phone at (928)373-5000 ext. 3034 or by email at Amelia.Dombay@YumaAz.gov

ATTACHMENT J
AERIAL PHOTO





Staff Report to the Hearing Officer
Department of Planning and Neighborhood Services
Community Planning Division
Case Type – Variance
Case Planner: Guillermo Moreno-nunez

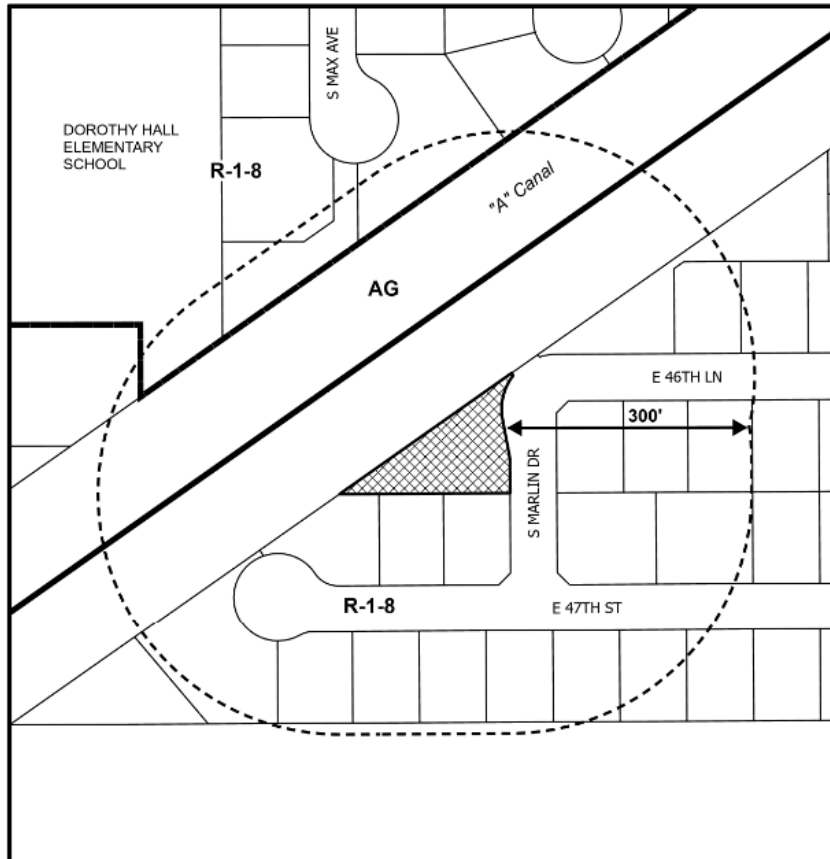
Hearing Date: August 10, 2023

Case Number: VAR-41566-2023

Project Description/Location: This is a request by Heather King for a variance to increase the allowable fence height in the front yard setback from 3 feet to 6 feet tall, in the Low Density Residential (R-1-8) District. The property is located at 4638 S Marlin Dr., Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Residential (R-1-8)	Single Family Home	Low Density Residential
North	Residential (R-1-8)	Undeveloped	Low Density Residential
South	Residential (R-1-8)	Single Family Home	Low Density Residential
East	Residential (R-1-8)	Single Family Home	Low Density Residential
West	Residential (R-1-8)	Undeveloped	Low Density Residential

Location Map:



Prior site actions: Annexation: Ord. O2008-43 (December 19, 2008); Subdivision: Villa Serena Unit No. 1 (March 25, 2019)

Staff recommendation: Staff recommends **APPROVAL** of the request for a variance to increase allowable fence height in the front yard setback from 3 feet to 6 feet in the Residential (R-1-8) District, subject to the conditions outlined in Attachment A, because it meets the criteria of §154-03.04 of the Yuma City Code.

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

Staff Analysis: The subject property is located at 4638 S Marlin Dr., within the Villa Serena Unit 1 Subdivision, in the Low Density Residential (R-1-8) District. The property is approximately 15,049 square feet with an occupied 2,722 square foot single-family home. With this request, the applicant is proposing to raise the maximum allowed wall height of the front yard setback from 3 feet to 6 feet along with a double gate door for vehicle access. The property is subject to the following fence regulations: A wall or fence is allowed along any property line in the Residential zoning district, provided, however, that no wall or fence more than three feet in height is allowed within a required front yard setback area.

The applicant is requesting to increase the allowable fence height along the front yard setback from 3 feet high to 6 feet.

The property has a unique shape, due to the layout of the subdivision where the home is located. The triangular shape makes it more difficult than a normal square shaped lot to make full use of the side yard area, prompting this request to increase wall height in order to increase the side yard space.

1. Does the proposed variance meet the criteria of §154-16.04(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 property is oddly shaped. There is a front and 2 sides to the property, no back wall. This restricts the use of the side/back yard. This is unusual when compared to other properties in the district which are square or rectangular in shape.”

Staff Analysis: There is a special circumstance that applies to the property. The triangular shape of the lot caused by the layout of the subdivision, makes the development on property somewhat more difficult than a regular square shaped lot. Due to the unusual triangular shape of the property, there is no rear property line, reduces the space on the side yard. Allowing a 6 foot wall at the front property line will allow the homeowner to have more private space on the side yard.

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 house is a new development, and the builder required the house placement based on the city guidelines and the shape of the property. As the owner I did not have other options for placement to comply with city regulations.”*

Staff Analysis: According to staff’s analysis, the special circumstance was not created by the property owner. This property was designed in this triangular shape due the outline of the subdivision where the home is located.

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 to allow the property owner to have optimal usage of the property as do the other property owners with normal shaped properties in the area.”*

Staff Analysis: Granting approval of this variance will allow the homeowner to maximize full usage of the side yard on the property as any of the neighbors with common square/rectangular properties.

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 variance will not impact any of the adjacent properties monetarily or loss of land. The variance will not impede traffic of block emergencies vehicles views or access. The variance will not have an effect on the safety of the neighbors or the public.”*

Staff Analysis: The granting of this variance will not lead to detrimental effects on the neighbors and general public traveling near this property. The home is located at the end of a corner street, with no neighbors on the north or west side of the property.

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

Public Comments Received: None

External Agency Comments: None

Neighborhood Meeting Comments: None

Final staff report delivered to applicant on: 7-28-2023

Proposed conditions delivered to applicant on: 7-27-2023

- Applicant agreed with all of the conditions of approval on:
- Applicant did not agree with the following conditions of approval: (list #'s)
- Conditions of approval have been emailed to applicant and no response has been received:

Attachments

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

Prepared By: *Guillermo Moreno-nunez* **Date:** 7-28-2023

Guillermo Moreno-nunez,

Assistant Planner Guillermo.Moreno-nunez@yumaaz.gov (928)373-5000, Ext. 3038

Approved By: *Jennifer L. Albers* **Date:** 7/28/23

Jennifer L. Albers,
Assistant Director of 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, Director (928) 373-5000, x 3037:

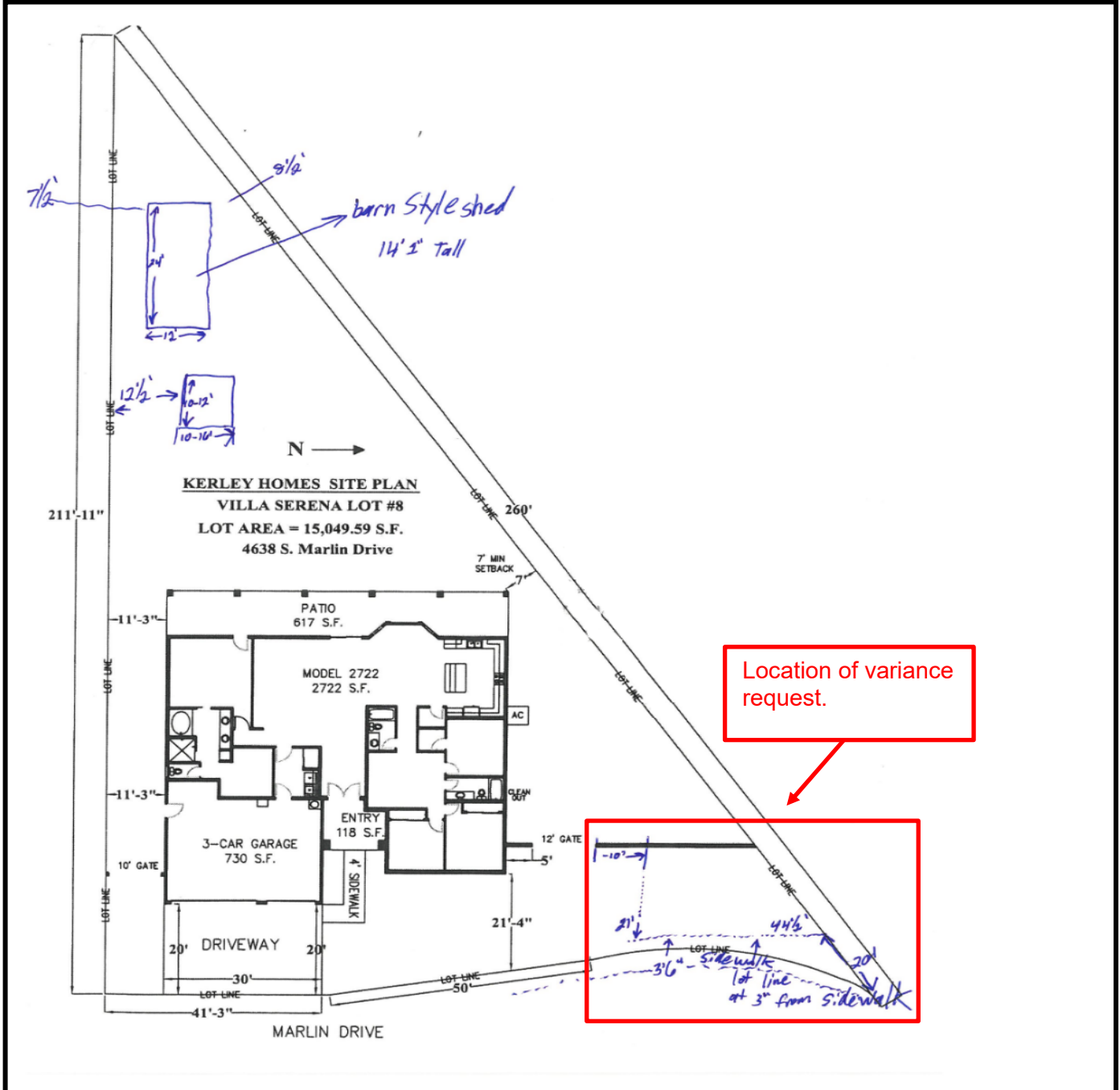
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

Community Planning: Guillermo Moreno-nunez, Assistant Planner, (928) 373-5000 x 3038:

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



Prepared by:
 DG
 Date:
 6/22/2023

VAR-41566-2023
 Site Plan

Plan/Case:
41566



ATTACHMENT C
Agency Notifications

- Legal Ad Published: The Sun 7-24-23
- 300' Vicinity Mailing: 7-11-23
- Site Posted on: 7-10-23
- 34 Commenting/Reviewing Agencies Noticed: 7-11-23
- Neighborhood Meeting Date: 7-20-23
- Hearing Date: 8-10-23
- Comments Due: 7-24-23

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	Yes	7-11-23	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	Yes	7-20-23	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	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	Yes	7-11-23	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	7-11-23	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	Yes	7-21-23	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
Site Photos



ATTACHMENT E
Neighborhood Notification List

Property Owner	Mailing Address	City/State/Zip Code		
AUST ADRIAN & MARIA	5840 E 47TH ST	YUMA	AZ	85365
BOOTH DENNIS P & CATHRYNE ANN LIVING TRUST 11-25-1997	5889 E 46TH LN	YUMA	AZ	85365
CARLOS ALFREDO CORDOVA	4603 S MAX AVE	YUMA	AZ	85365
CRADIC BRANDON R & DAWN J	5856 E 47TH ST	YUMA	AZ	85365
KDC OF YUMA AZ LLC	4595 S VILLA SERENA DR	YUMA	AZ	85365
KETTUNEN LIVING TRUST 7-23-2004	5811 E 47TH ST	YUMA	AZ	85365
KETTUNEN MICHAEL JAY & RANDEY JOY	5825 E 47TH ST	YUMA	AZ	85365
KING HEATHER N	4638 S MARLIN DR	YUMA	AZ	85365
STAINS JONATHAN CLARK	4604 S LORA LEE AVE	YUMA	AZ	85365
WATSON MARY N	3064 S AVE B	YUMA	AZ	85364
YUMA'S DRIFTWOOD DEVELOPMENT LLC	3064 S AVENUE B	YUMA	AZ	85364
YUMA CITY OF	ONE CITY PLAZA	YUMA	AZ	85364
YUMA ELEMENTARY SCHOOL DISTRICT #1	450 W 6TH ST	YUMA	AZ	85364

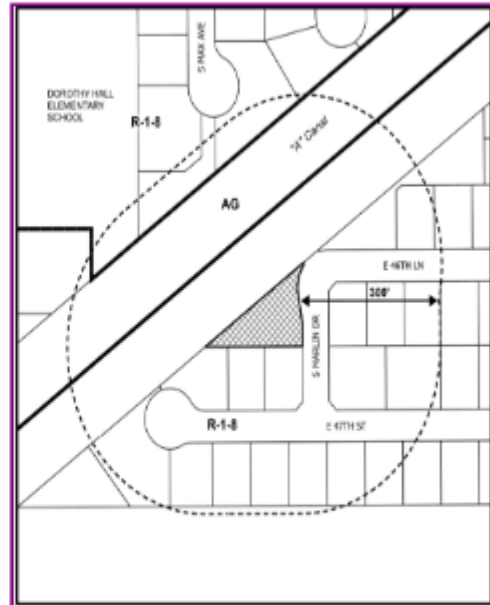
ATTACHMENT F
Neighbor Postcard

This is a request by Heather King, for a Variance to increase the allowable fence height in the front yard setback from 3' to 6', in the Low Density Residential (R-1-8) District. The property is located at 4638 S. Marlin Dr., Yuma, Az.

**MEETING DATE,
TIME & LOCATION**
FOR CASE #
VAR-41566-2023

NEIGHBORHOOD MEETING
07/20/2023 @ 5:00PM
ON-SITE

PUBLIC HEARING
8/10/2023 @ 9:30AM
City of Yuma Council Chambers
One City Plaza, Yuma, AZ



Because you are a neighbor within 300' of 4638 S. Marlin Dr., 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 Guillermo Moreno-nunez by phone at (928)373-5000 ext. 3038 or by email at Guillermo.Moreno-Nunez@YumaAz.gov

ATTACHMENT G
Aerial Photo

