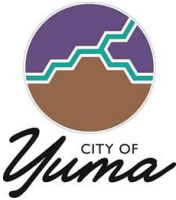


**Notice of Public Hearing of the  
Hearing Officer of the City of Yuma**

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, September 28, 2023 at 9:30 a.m. in City Hall Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:

	<p><b>Agenda</b> <b>Hearing Officer Public Hearing</b> City Hall Council Chambers One City Plaza</p> <p><b>Thursday, September 28, 2023 9:30 a.m.</b></p>
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Public comment regarding any **agenda** item can be provided in written format to the Hearing Officer Secretary at email address [planning@yumaaz.gov](mailto:planning@yumaaz.gov) no later than 15 minutes prior to the start of the scheduled meeting. Comments received timely will be read into the record when the referenced agenda item is discussed.

CALL TO ORDER

CONSENT CALENDAR – All items listed under the consent calendar will be approved by one motion. There will be no separate discussion of these items unless the Hearing Officer or a member of the audience wishes to speak about an item.

APPROVAL OF MINUTES

- September 14, 2023

APPLICATIONS TO BE CONSIDERED

1. **VAR-41729-2023:** *This is a request by Cesar Lopez for a variance to increase the lot coverage from 15% to 21% to allow construction of a new home in the Suburban Ranch (SR-1) District, for the property located at 2020 W. Country Lane, Yuma, AZ.*
2. **VAR-41741-2023:** *This is a request by Melissa Schlamann, for a Variance to increase the allowable Accessory Dwelling Unit height from 15 feet to 17 feet and reduce the minimum rear yard setback from 10 feet to 5 feet for the construction of a new Accessory Dwelling Unit in the Low Density Residential/Infill Overlay (R-1-6/IO) District. The property is located at 1305 S. 8<sup>th</sup> 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) 373-5149.

**Hearing Officer Meeting Minutes  
September 14, 2023**

A meeting of the City of Yuma Hearing Officer was held on Thursday, September 14, 2023, at City Hall Council Chambers, One City Plaza, Yuma, Arizona.

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

**CITY OF YUMA STAFF MEMBERS** present included Jennifer Albers, Assistant Director of Planning; Robert Blevins, Principal Planner; Amelia Domby, Senior Planner; Zenia Fiveash, Assistant Planner; Guillermo Moreno-nunez, Assistant Planner; Rodney Short, Deputy City Attorney and Alejandro Marquez, Administrative Specialist.

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

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**CONSENT CALENDAR**

**Hearing Officer Araceli Rodriguez** approved the minutes of August 24, 2023.

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**PUBLIC HEARINGS**

**TIMEX-41652-2023:** *This is a request by Jill Kaiser, on behalf of Circle K Stores, Inc., for a two year time extension to a previously approved conditional use permit, CUP-40457-2022, to demolish and rebuild a convenience store and motor fuel sales with an exception to reduce the landscape and building setback from 20' to 3', and to reduce parking spaces required from 21 to 17 spaces. The property is in the Limited Commercial (B-1) District, at 2398 S. Avenue B, Yuma, AZ.*

**Robert Blevins, Principal Planner**, summarized the staff report and recommended **Approval**.

**QUESTIONS FOR STAFF**

None

**APPLICANT/APPLICANTS REPRESENTATIVE**

None

**PUBLIC COMMENT**

None

**DECISION**

**Hearing Officer Sonia Ramirez** granted the time extension for the previously approved Conditional Use Permit, subject to the Conditions of Approval in Attachment A.

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**VAR-41649-2023:** *This is a request by Core Engineering, on behalf of Elvira Hidalgo-Avalos, for a variance to reduce the front yard setback from 20 feet to zero feet to allow the required parking to be located within the front yard setback and for the increase in lot coverage from 35% to 43% in the Low Density Residential (R-1-6) District. The property is located at 905 W. Solana Drive, Yuma, AZ.*

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

**QUESTIONS FOR STAFF**

**Hearing Officer Sonia Ramirez** referred to question D of the four criteria, then asked for clarification on staff's response that stated, "The granting of this variance will lead to some detrimental effects on the neighbors and general public traveling near this property without the required clear vision of traffic". **Fiveash** stated for safety reasons there is to be clear vision of oncoming traffic and pedestrians beyond the buildings parking setback requirement. **Fiveash** then stated if there were vehicles parked under the shade structure it could potentially block that clear vision. **Hearing Officer Sonia Ramirez** asked if shade structure was not in place would the homeowner still be able to park in the area in question. **Fiveash** replied yes.

**Hearing Officer Sonia Ramirez** then asked that the issue is the parking requirement not the shade structure. **Fiveash** replied yes, because the buildings original parking requirement had already been converted into a living space, so the request is to be able to reduce the front yard setback to be able use the area as the parking requirement.

**Hearing Officer Sonia Ramirez** asked if the photos in Attachment J were of neighboring homes that had a similar style of carport. **Fiveash** replied yes. **Hearing Officer Sonia Ramirez** asked if the carport had met all the safety requirements. **Fiveash** stated if the variance was granted the structure would still have to be reviewed and approved by the Building Safety Department.

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

**Johnathan Klein, on behalf of Core Engineering Group**, stated the applicant had purchased the home and was not aware that there was no covered parking. **Klein** went on to say that the structure was built to provide shade for the home and vehicles and that the neighbors were in support of the proposed project, also the owner had agreed to resolve the right-of-way encroachment issues by applying for all the building permits should the variance be granted. **Klein** then noted that the structure is set back far from the street and should not cause a visibility issue.

**Hearing Officer Sonia Ramirez** asked how long had the owners been living in the home.

**Elvira Hidalgo-Avalos, 905 W. Solana Drive, Yuma, AZ**, replied she had been living in the home since October 2021. **Hearing Officer Sonia Ramirez** then asked how long had the structure been built. **Hidalgo-Avalos** replied construction of the structure started in November 2022, then stated the structure had been built to provide safety from the heat.

**Arturo Avalos, 905 W. Solana Drive, Yuma, AZ**, stated that he had worked in the construction industry by his standards the structure was well built.

#### **PUBLIC COMMENT**

None

#### **DECISION**

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

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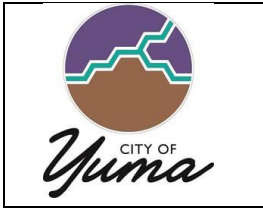
**Hearing Officer Sonia Ramirez** adjourned the meeting at 9:45 a.m.

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Minutes approved and signed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Hearing Officer



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

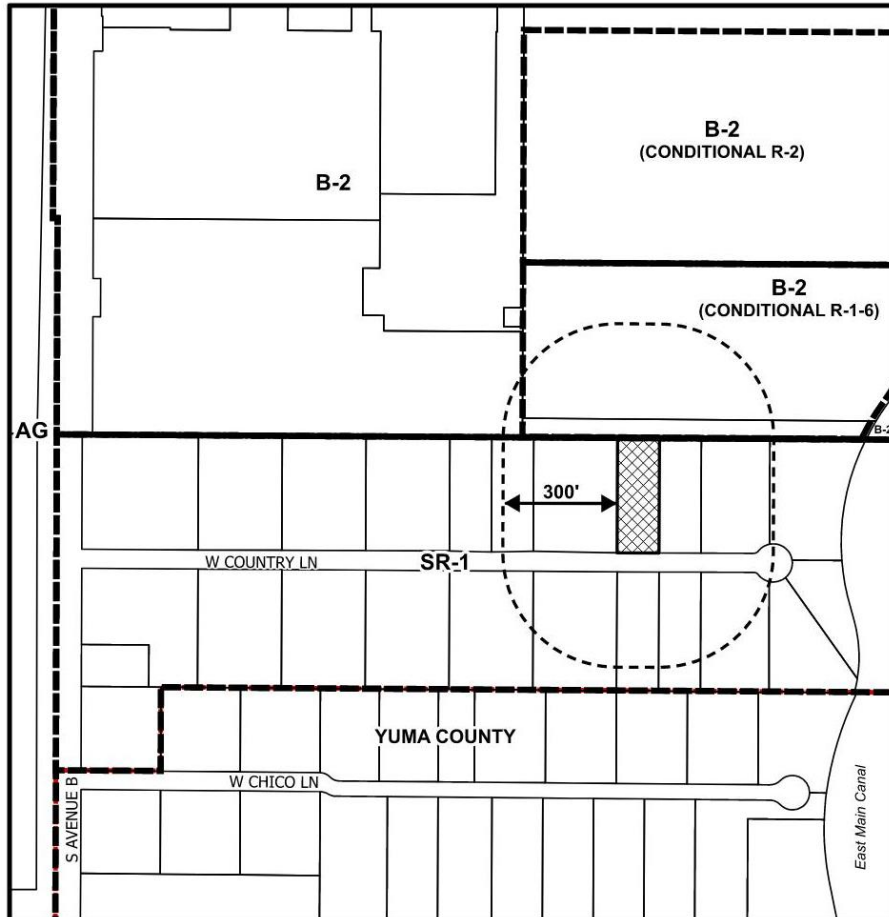
**Hearing Date:** September 28, 2023

**Case Number:** VAR-41729-2023

**Project Description/Location:** This is a request by Cesar Lopez for a variance to the increase in lot coverage from 15% to 21% to allow construction of a new home in the Suburban Ranch (SR-1) District, for the property located at 2020 W. Country Lane, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
<b>Site</b>	Suburban Ranch (SR-1)	Single Family Residence	Low Density Residential
<b>North</b>	General Commercial (B-2)/ (Conditional R-1-6)	Agriculture	Low Density Residential
<b>South</b>	Suburban Ranch (SR-1)	Single Family Residence	Low Density Residential
<b>East</b>	Suburban Ranch (SR-1)	Single Family Residence	Low Density Residential
<b>West</b>	Suburban Ranch (SR-1)	Single Family Residence	Low Density Residential

**Location Map:**



**Prior site actions:** Annexation: Ordinance 2005-105 (January 7, 2006)

**Staff recommendation:** Staff recommends **DENIAL** of the variance request to increase the maximum lot coverage from 15% to 21% in the Suburban Ranch (SR-1) District, because it does not meet the criteria of §154-03.04 of 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.

**Staff Analysis:** The subject property, located approximately 1,405 feet east of the northeast corner of Country Lane and Avenue B. This property was annexed into the City of Yuma on January 7, 2006. Developed in the County, the property contains a single family residence with an accessory building in the rear. The parcel is approximately 0.77 acres. The subject property is zoned Suburban Ranch (SR-1) District and is subject to the following standards: minimum front yard setback of 25 feet, side yard setback of 10 feet, rear yard setback of 25 feet, and 15% maximum lot coverage. The minimum lot size in the Suburban Ranch -1 acre (SR-1) is one acre. The subject property at .77 acres does not meet the minimum lot size for the district.

The applicant is requesting a variance to increase the maximum lot coverage to 21% in order to construct a new single-family residence on this property. The applicant is proposing to construct a new 6,233 square foot residence and to keep an existing 800 square foot accessory building. The proposal being presented exceeds the allowable area for the property, with a total of 7,033 square feet.

After researching the request and the property, it has been determined that there is a special circumstance that applies to the property.

**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 subject property is an existing nonconforming lot zoned Suburban Ranch 1-acre minimum (SR-1). The subject property is an existing nonconforming lot because the parcel is less than one (1) acre in size and the lot width is less than 120 feet as required by the City of Yuma development standards.*

*According to Section 154-05.02 (F)(3) of the City of Yuma zoning ordinance, the development standards allow a maximum of 15% lot coverage for all the parcel with SR-1 zoning. However, the first 600 square feet of covered parking shall not count against the maximum lot coverage.*

*Since the parcel is .77 acres in size, the allowed lot coverage (15%) is no more than 5,031.18 square feet + 600 square feet. The maximum square footage allowed is 5,631.18 square feet.*

*The owner is proposing to demolish the existing residence to build a new 4,095 square feet*

residence. However, the garage and patios increase the size of the residence to 6,833.2 square feet. Also, an existing 800 square feet accessory building in the rear needs to remain. The applicant is requesting a lot coverage increase of 1,202.02 square feet for the main residence and an additional 800 square feet for the accessory building to remain on the property.”

**Staff Analysis:** According to the applicant the special circumstance that applies to this property is that the non-conforming lot size restricts the lot coverage of this property within the City of Yuma Suburban Ranch (SR-1) Zoning District. The applicant is proposing construction of a new 6,233 square feet residence and to include an 800 square feet existing accessory building for a total of 7,233 square feet. In researching similar .77 acre lots on Country Lane, the average home size is approximately 2,105 square feet which the newest home being built in 2021. There is a special circumstance that apply to the property in regard to the previous Yuma County Zoning classification (R-1-40) which allows 50% lot coverage, that the southern adjoining properties are allowed.

**B) “The special circumstance was not created or caused by the property owner or applicant.”**

Is this statement correct for this application?

Yes

No

**Applicant Response:** “The special circumstances above were not created, or caused by the property owner since the property was developed under Yuma County Standards before the property was annexed to the City of Yuma. In addition, the Suburban Ranch zoning district in the Yuma County Zoning Ordinance does not have maximum lot coverage. The properties to the south, in the Yuma County Jurisdiction, are zoned Low Density Residential-40,000 square feet lots minimum (R-1-40) and the maximum lot coverage is 50%.”

**Staff Analysis:** The principal purpose of this district is to enable semi-rural residential and agricultural uses to be maintained without impairment from industrial, commercial, or higher density residential development. The primary purpose of requiring large minimum lots is to assure adequate area for residents to keep a limited number of farm animals or horses or to engage in agriculture without adversely affecting the use and enjoyment of nearby residential properties. Thus, allowing maximum lot coverage to be required at 15%. The adjoining southern properties are in the Yuma County Zoning (R-1-40) District which allows for 50% lot coverage.

**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 subject property is not part of a subdivision. However, Country Lane is a Cul-de-sac road with 22 lots. 15 lots on both sides of Country Lane are more than one (1) acre in size. These 15 lots can have larger homes and larger accessory buildings. Only seven (7) lots less than one (1) acre are not able to enjoy larger homes and larger accessory buildings. For this reason, granting the variance is necessary to allow those parcels created before the annexation to enjoy the same development as the other neighbors.”

**Staff Analysis:** With similar .77 acre lots (5) on Country Lane, the average home size was approximately 2,105 square feet which does not exceed the maximum allowable lot coverage of 15%. The applicant is requesting a new 6,233 square feet home and 800 square feet existing accessory building. This is 3,312 square feet more than the average home in a similar size and shape lot in this neighborhood. In conclusion, the granting of this variance is not necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.

**D) “The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.”**

Is this statement correct for this application?

Yes       No

**Applicant Response:** “The granting of the variance will allow the owner of an existing nonconforming lot to enjoy the same development that the rest of the neighbors already enjoy. The demolition of an existing 1962 home will be an improvement to the adjacent property owners or the neighborhood and it will not be detrimental to the public health, safety, and general welfare.”

**Staff Analysis:** The granting of this variance will not be materially detrimental effects on the neighbors and general public traveling near this property. The principal purpose of this district is to enable semi-rural residential and agricultural use to be enjoyed. Since the 1962 creation of this residence, several property owners have constructed homes from 1958-2021 along Country Lane meeting the standards of this district.

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

**External Agency Comments:**      See Attachment D

**Neighborhood Meeting Comments:**      See Attachment E

**Proposed conditions delivered to applicant on:**      August 31, 2023

**Final staff report delivered to applicant on:**      September 13, 2023

- Applicant agreed with all of the conditions of approval on: August 31, 2023
- Applicant did not agree with the following conditions of approval: (list #'s)
- (If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.)

**Attachments**

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

**Reviewed By:** *Zenia Fiveash*

Zenia Fiveash  
Assistant Planner

*Zenia.Fiveash@yumaaz.gov*

**Date:** September 20, 2023

(928)373-5000, x3040

**Approved By:** *Jennifer L. Albers*

Jennifer L. Albers  
Assistant Director of Planning

**Date:** 9/20/23



**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:**

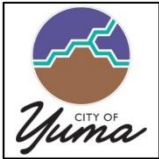
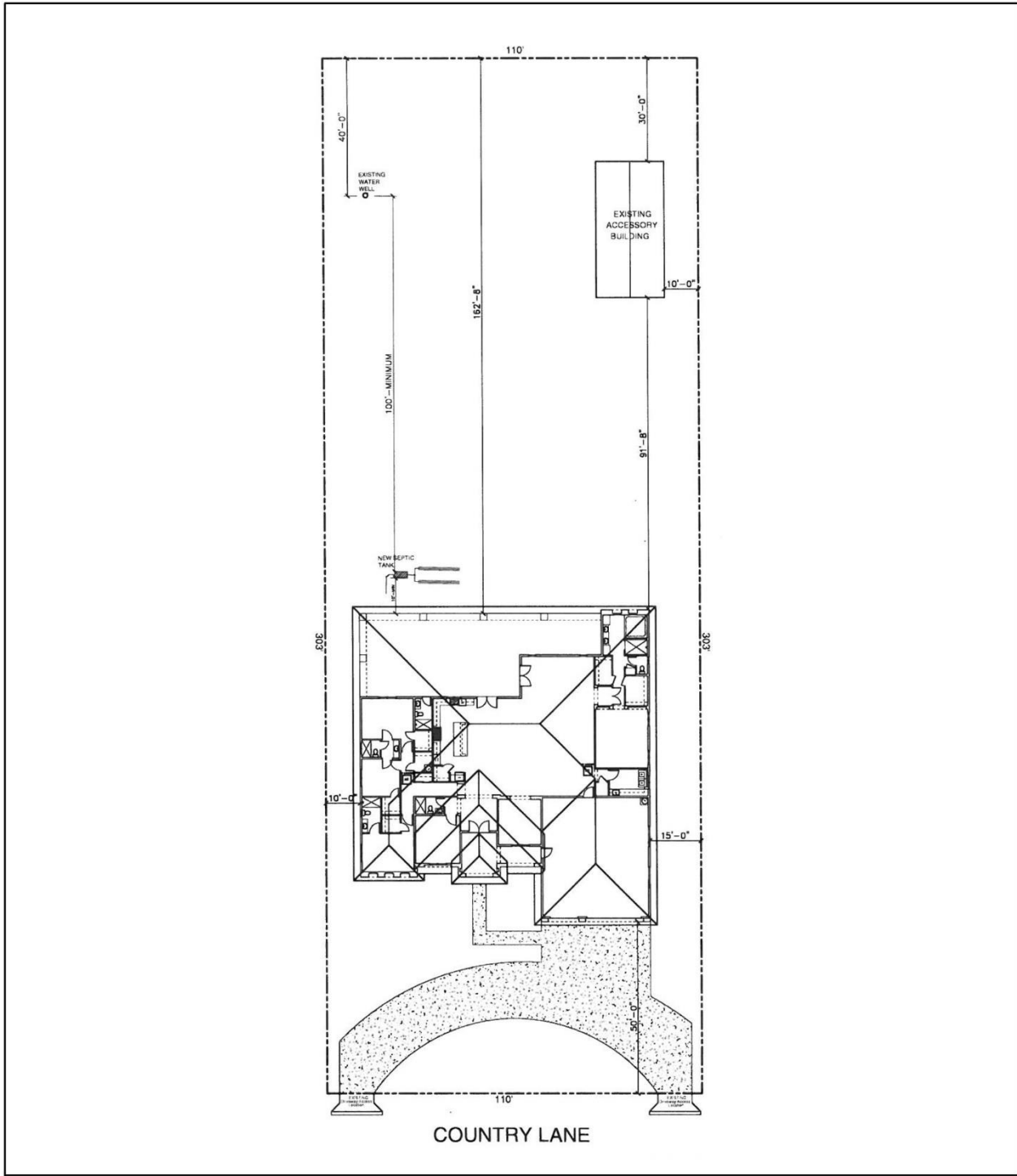
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

**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:  
8/10/2023

VAR-41729-2023  
Site Plan

Plan/Case:  
**41729**



**ATTACHMENT C  
AGENCY NOTIFICATIONS**

- o **Legal Ad Published: The Sun** 9/8/23
- o **300' Vicinity Mailing:** 8/25/23
- o **Site Posted on:** (08/29/23)
- o **34 Commenting/Reviewing Agencies Noticed:** (09/11/23)
- o **Neighborhood Meeting Date:** (09/07/23)
- o **Hearing Date:** (09/28/23)
- o **Comments Due:** (09/11/23)

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	8/28/23		X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	8/28/23		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	8/28/23		X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	8/29/23		X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	8/30/23				X
Utilities	NR				
Public Works	NR				
Streets	NR				


**ATTACHMENT D  
AGENCY COMMENTS**

Condition(s)

No Condition(s)

Comment

Enter conditions here: Subject parcel (APN 694-46-002) is fully located within Runway 8 Accident Potential Zone (APZ) 2. Rwy8 APZ-2 has not been adopted by the City of Yuma, only by MCAS Yuma per the 2019 Air Installations Compatible Use Zones (AICUZ) Study. Residential is a compatible use with the following comment: The suggested maximum density for detached single-family housing is two dwelling units per acre to encourage retention of farming and open space. If not already in place, it is requested an Avigation Disclosure statement be recorded to recognize the noise, interference, or vibrations due to aviation operations that may occur at the nearby Marine Corps Air Station Yuma, Yuma International Airport Aviation Complex, and its associated flight paths. Please send a copy of the recorded easement to MCASYUMA\_CPLO@usmc.mil. Thank you for the opportunity to review and comment.

DATE:	29 Aug 2023	NAME:	Antonio Martinez	TITLE:	Community Liaison Specialist
CITY DEPT:	MCAS Yuma				
PHONE:	928-269-2103				
RETURN TO:	Zenia Fiveash				
	Zenia.Fiveash@YumaAZ.gov				

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

**Attendees:**

Neighbor: Chad Hill, Natalie Schelly, Robert Schelly, Jackie Ruby, Jason House

Applicant: Cesar Lopez & Placido Lopez

Staff: Guillermo Moreno-Nunez

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

- Cesar Lopez – Wants to complete project by May.
- Natalie Schelly – She wanted to know the timeframe to construction.
- Jason House – He is in support of variance.
- Chad Hill – He has no opposition as long as it doesn't encroach into side setbacks.

**ATTACHMENT F  
SITE PHOTOS**



**ATTACHMENT G**  
**NEIGHBOR NOTIFICATION LIST**

<b>Property Owner</b>	<b>Mailing Address</b>	<b>City/State/Zip Code</b>		
ANDERSON DONALD RAYMOND	2085 W COUNTRY LN	YUMA	AZ	85365
COCOPAH INDIAN TRIBE	14515 S VETERANS DR	SOMERTON	AZ	85350
HILL CHAD	2000 W COUNTRY LN	YUMA	AZ	85364
HOUSE JASON W & KILEE M	1985 W COUNTRY LN	YUMA	AZ	85365
LOPEZ FAMILY TRUST 9-16-2019	2009 W COUNTRY LN	YUMA	AZ	85364
LOPEZ TRUST 9-16-2019	2020 W COUNTRY LN	YUMA	AZ	85365
MUNOZ EDUARDO & MARIA	2086 W COUNTRY LN	YUMA	AZ	85365
PASQUE PARTNERS LLP AZ	2144 W 24TH ST STE 1	YUMA	AZ	85364
PASQUE PARTNERS LLP AZ	2144 W 24TH ST STE 1	YUMA	AZ	85364
SANCHEZ RESIDENTIAL PROPERTIES AZ LLC	2196 W 12TH ST	YUMA	AZ	85364
SCHELLY FAMILY TRUST 3-30-2021	2025 W COUNTRY LN	YUMA	AZ	85364
TORRES MARIO M & SUSAN	1947 W COUNTRY LN	YUMA	AZ	85365
VALENZUELA HENRY	1970 W COUNTRY LN	YUMA	AZ	85365
WINEBARGER LISA	3266 S PINTO WAY	YUMA	AZ	85365

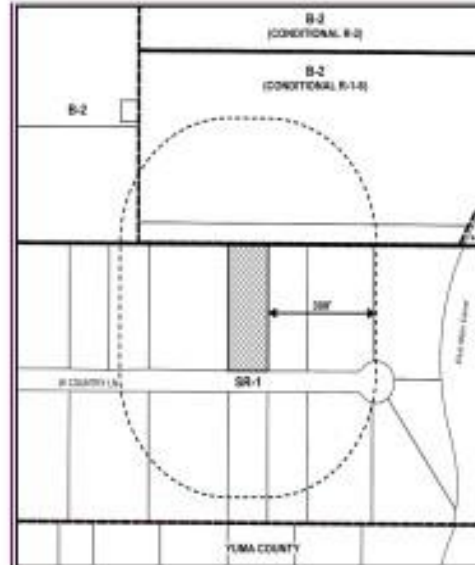
**ATTACHMENT H  
NEIGHBOR MAILING**

This is a request by Cesar Lopez for a variance to increase the lot coverage from 15% to 21% to allow construction of a new home in the Suburban Ranch (SR-1) District, for the property located at 2020 W. Country Lane, Yuma, AZ.

**MEETING DATE,  
TIME & LOCATION  
FOR CASE #  
VAR-41729-2023**

**NEIGHBORHOOD MEETING  
9/7/2023 @ 5:00PM  
ON-SITE**

**PUBLIC HEARING  
9/28/2023 @ 9:30AM  
City of Yuma Council Chambers  
One City Plaza, Yuma, AZ**



Because you are a neighbor within 300' of 2020 W. Country Lane, 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](mailto:Zenia.Fiveash@YumaAz.gov)



**ATTACHMENT I  
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**

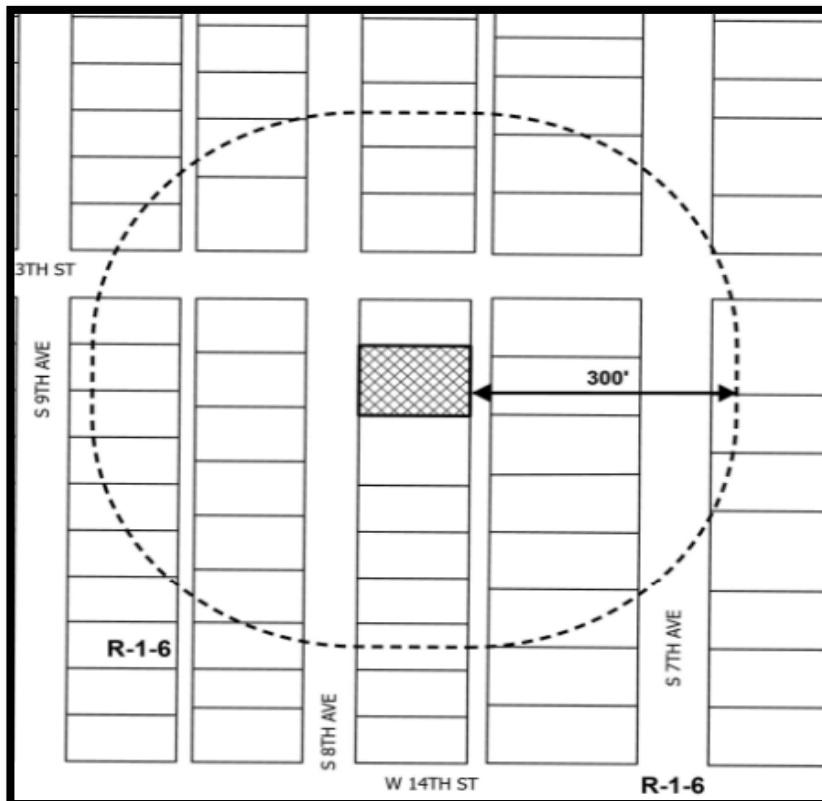
**Hearing Date:** September 28, 2023

**Case Number:** VAR-41741-2023

**Project Description/Location:** This is a request by Melissa Schlamann for a variance to increase the allowable Accessory Dwelling Unit height from 15 feet to 17 feet tall and reduce the minimum rear side yard setback from 10 feet to 5 feet for the construction of a new ADU, in the Low Density Residential/Infill Overlay (R-1-6/IO) District. The property is located at 1305 S. 8<sup>th</sup> Avenue, Yuma, AZ.

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

**Location Map:**



**Prior site actions:** Annexation: Ord. 449 (May 29, 1946); Variance: MV2002-004 to reduce side yard setback from 7 feet to 5.5 feet (June 7, 2002); Pre-development meeting: PDM-41517 (June 6, 2023)

**Staff recommendation:** Staff recommends **DENIAL** of the request for a variance to increase the maximum allowable Accessory Dwelling Unit height from 15 feet to 17 feet and reduce the minimum rear side yard setback from 10 feet to 5 feet in the Residential/Infill Overlay (R-1-6/IO) District, because it does not meet the criteria of §154-03.04 of 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? See attachment H			Yes
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
MV2004-005	Reduce side yard setback from 7 feet to 5.5 feet.	Approval	Approval
BA89-6	Reduce rear yard setback from 10 feet to 7 feet.	Denial	Approval

**Staff Analysis:** The subject property is located at 1305 S. 8<sup>th</sup> Avenue, in the Low Density Residential/Infill Overlay (R-1-6/IO) District. The property is approximately 11,425 square feet with an occupied 1,455 square foot single-family home. The property is subject to the following setback regulations: Front yard setback 20 feet, side yard setback 7 feet (reduced to 5 feet in the Infill Overlay District) and rear side yard setback of 10 feet. If the accessory dwelling is being accessed from an alley the rear yard setback may be reduced to 5 feet.

The applicant is requesting to increase the maximum allowable Accessory Dwelling Unit height from 15 feet to 17 feet, to include a loft in the ADU, and reduce the minimum rear side yard setback from 10 feet to 5 feet for the placement at the rear of the property. The alley access to the property would be removed by the placement of the ADU.

After review, staff has determined that there is no special circumstance involving the property. The proposed Accessory Dwelling Unit should meet current zoning regulations for Low Density Residential/Infill Overlay (R-1-6/IO) district. The subject property is slightly bigger than adjacent properties in the neighborhood giving the homeowner more options to develop the proposed structure without exceeding the zoning regulations. Homeowner could relocate the proposed ADU on the lot, this would allow more area to expand the square footage instead of building a taller structure and avoid being too close to the rear property line.

In the event of granting approval, 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.

**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:** *“My neighborhood is unique, you might say eclectic. There are two story homes, one story homes, two story apartment buildings, homes built in the 1940’s to the 2000’s, flat roofs and pitch roofs.”*

**Staff Analysis:** There is no special circumstance or condition that applies to the property. The property, just as all others around the neighborhood, is a common square/rectangular shape lot. Property is located in the Infill Overlay District which allows homeowner more lot coverage to build throughout lot.

**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:** *“Having an ADU that is 17 ft in height would not look odd.”*

**Staff Analysis:** According to staff’s analysis, staff has determined there is no special circumstance tied to this property. There are a few homes around the subject property with tall roof pitches however, none of these apply to the same code regulations since these structures are the primary homes not ADU’s on site. ADU’s are accessory to the primary dwelling.

**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 loft in the ADU will give me additional room when I move out of my main home. It allows me the same rights as other homeowners with 2 story homes or apartments. It will not impact my neighbors since it is on the alley side of my property. The 5 foot setback I am requesting is usually allowed for those that have parking in the back. My small car would fit there but this is my house and even when my son and his family move into the main house, my car will always park in my garage. Allow the 5 feet instead of 10 gives me the same rights as other property owners.”*

**Staff Analysis:** Granting approval of height request will allow customer to have the same rights as other properties with a two story primary homes however this is an ADU not a primary home. ADU’s are accessory to the primary use and should be supplemental to the primary structure. Additionally, reduced rear yard setbacks for ADU’s without having property access through the alley is a privilege not many neighbors around the area have.

**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:** "When my home was built, the owner purchased a lot and a half, thus a building of the size I am requesting will not overwhelm the surroundings."

**Staff Analysis:** The granting of this variance will not lead to detrimental effects on the neighbors and general public traveling near this property. There is an alley behind home which allows enough separation between properties for emergency access and the height will not cause any visibility issues.

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:** 9-19-2023

**Proposed conditions delivered to applicant on:** 09-12-2023

- 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	H
Conditions of Approval	Site Plan	Agency Notifications	Site Photos	Neighborhood Notification List	Neighbor Postcard	Aerial Photo	Variance Map

**Prepared By:** *Guillermo Moreno-nunez* **Date:** 9-19-2023  
Guillermo Moreno-nunez,  
Assistant Planner [Guillermo.Moreno-nunez@yumaaz.gov](mailto:Guillermo.Moreno-nunez@yumaaz.gov) (928)373-5000, Ext. 3038

**Approved By:** *Jennifer L. Albers* **Date:** 9/19/23  
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:**

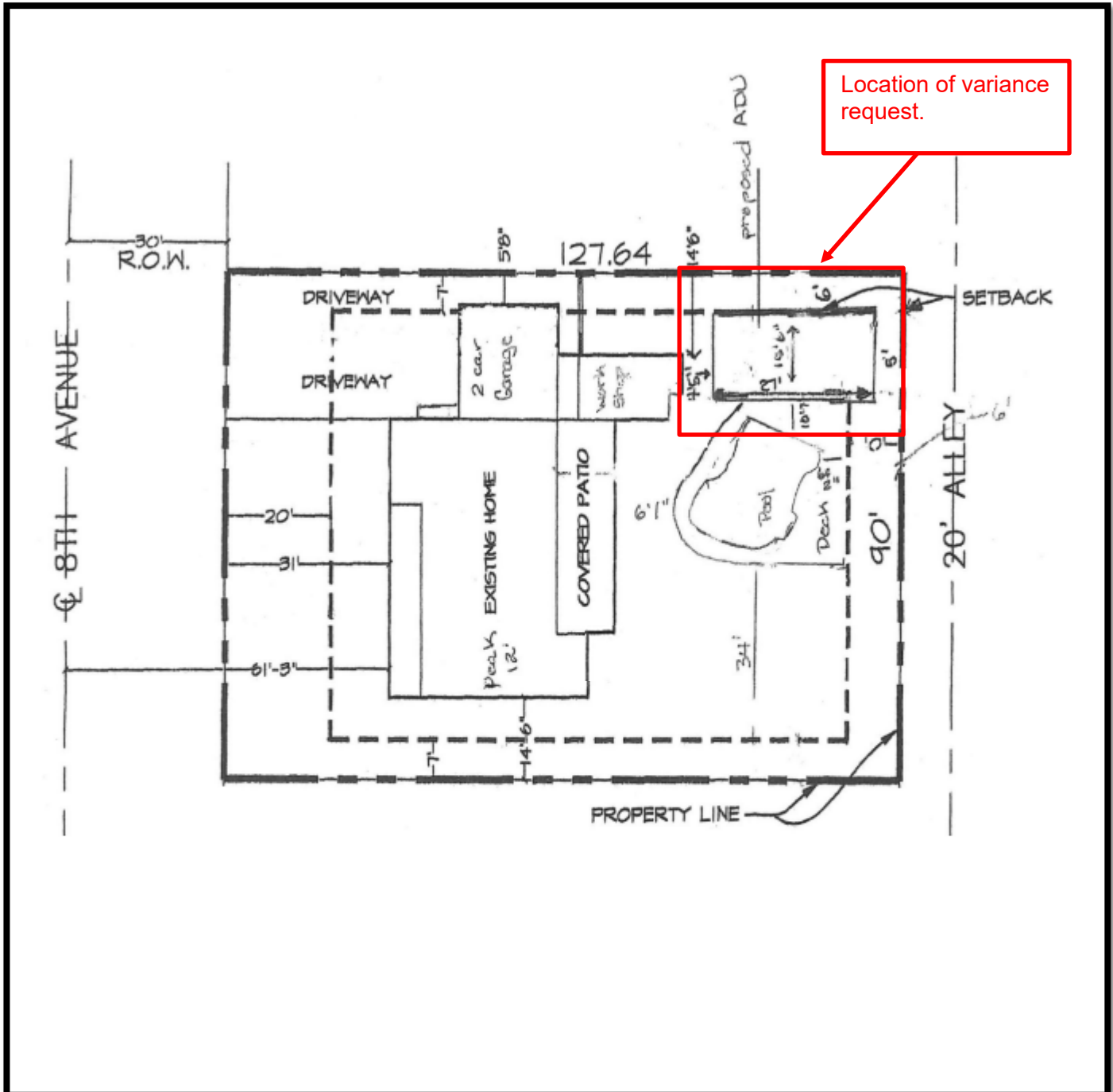
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

**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:  
9/19/2023

VAR-41741-2023  
Site Plan

Plan/Case:  
41741



**ATTACHMENT C**  
**Agency Notifications**

- Legal Ad Published: The Sun 9-08-23
- 300' Vicinity Mailing: 8-25-23
- Site Posted on: 8-28-23
- 34 Commenting/Reviewing Agencies Noticed: 8-25-23
- Neighborhood Meeting Date: 9-5-23
- Hearing Date: 9-28-23
- Comments Due: 9-11-23

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	Yes	8-28-23	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	Yes	8-28-23	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	8-28-23	X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	Yes	8-29-23	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	Yes	8-29-23	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		
AMMONS JAMES BRIAN	1322 S 8TH AVE	YUMA	AZ	85364
ANAYA RUBEN &	1237 S 8TH AVE	YUMA	AZ	85364
ARELLANO SALVADOR & CELIA JT	2896 S 48TH WAY	YUMA	AZ	85364
BENITEZ ESTHER U	1288 S 7TH AVE	YUMA	AZ	85364
CHAVEZ JOSUE JESUS	1246 S 7TH AVE	YUMA	AZ	85364
DAVE LEHDE &	1320 S 8TH AVE	YUMA	AZ	85364
ESTRADA RAUL L & ESMERALDA TRUST 1-29-2013	1224 S 8TH AVE	YUMA	AZ	85364
FARIS PATRICIA A	1300 S 8TH AVE	YUMA	AZ	85364
FLEISHER MARTIN	5750 W 8TH ST	YUMA	AZ	85364
JAKEL CYNTHIA K	1325 S 8TH AVE	YUMA	AZ	85364
JAMES & DONNA TRUST 12-14-2022	1311 S 8TH AVE	YUMA	AZ	85364
LECHUGA JOSEPH G	1240 S 8TH AVENUE	YUMA	AZ	85364
LEIBLY JERRY	1301 S 9TH AVE	YUMA	AZ	85364
LOPEZ HECTOR O & ALMA Y	799 W 13TH ST	YUMA	AZ	85364
MACAZAN EDUARDO A & YOLANDA E JT	1270 S 7TH AVE	YUMA	AZ	85364
MACIAS RAFAEL & LUZ JT	4055 W 17TH STREET	YUMA	AZ	85364
MARQUEZ NESTOR I & VIRGINIA CAROLINE	1320 S 7TH AVE	YUMA	AZ	85364
MCCLARTY IAN K	7441 S HAZELTON LN	TEMPE	AZ	85283
MCDERMOTT MARTHA A	1495 S HETTEMA ST	YUMA	AZ	85364
MEDINA KRISTAL ANNETTE	1300 S 7TH AVE	YUMA	AZ	85364
MERTEN SHARA	1314 S 7TH AVENUE	YUMA	AZ	85364
MILLER DAN	1316 S 8TH AVE	YUMA	AZ	85364
MIRANDA STEPHANIE	1315 S 9TH AVE	YUMA	AZ	85364
NIEL SCOTT L	1319 S 7TH AVE	YUMA	AZ	85364
RAMOS CANDY	1329 S 8TH AVE	YUMA	AZ	85364
RAVENS CRAFT JOHNNY R & JUDY D JT	1311 S 9TH AVE	YUMA	AZ	85364
ROBERTSON MARY JANE & ROBERTSON PATRICK R JT	1372 S 8TH AVE	YUMA	AZ	85364
ROUFF BARBARA	1326 S 8TH AVE	YUMA	AZ	85364
SALGADO ROBERT	790 W 13TH ST	YUMA	AZ	85364
	750 S 15TH AVE APT			
SANCHEZ JUDITH CORPUS DE & RAMON	8F	YUMA	AZ	85364
SANCHEZ MARK C S/S	913 E 26TH ST	YUMA	AZ	85364
SCHLAMANN MELISSA DEANE	1650 W 14TH ST	YUMA	AZ	85364
SCHMIDGALL JOSHUA B & JODI L	1307 S 9TH AVE	YUMA	AZ	85364
SCHUMAN PERRY L & BETTY J TRUST 9-25-86	1229 S 8TH AVE	YUMA	AZ	85364
SOLIMAN M HANI PROFIT SHARING PLAN	6300 E TELEGRAPH ST	YUMA	AZ	85365
SPAIN DOROTHY J	890 W 13TH ST	YUMA	AZ	85364
STEWART MARK H & SHIRLEY A TRUST 2-19-2013	1312 S 7TH AVE	YUMA	AZ	85364
TOSCH CHERYL LYNN	1293 S 7TH AVE	YUMA	AZ	85364
VELASQUEZ SERGIO J	1305 S 7TH AVE	YUMA	AZ	85364
WALLIS JAMES A & DARLENE	1231 S 9TH AVE	YUMA	AZ	85364
WISHERD LESLIE K	1306 S 8TH AVE	YUMA	AZ	85364
WITHERITE EDWARD L	1321 S 8TH AVE	YUMA	AZ	85364
WRIGHT KIMBERLY J	1357 S 7TH AVE	YUMA	AZ	85364

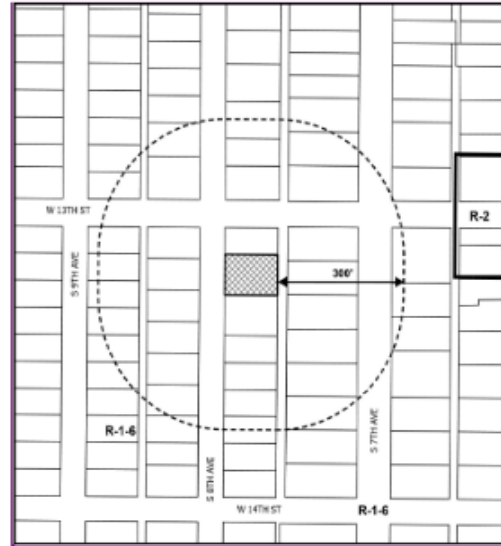
**ATTACHMENT F  
Neighbor Postcard**

This is a request by Melissa Schlamann, for a Variance to increase the allowable Accessory Dwelling Unit height from 15 feet to 17 feet and reduce the minimum rear yard setback from 10 feet to 5 feet for the construction of a new Accessory Dwelling Unit in the Low Density Residential/Infill Overlay (R-1-6/IO) District. The property is located at 1305 S. 8<sup>th</sup> Avenue, Yuma, AZ.

**MEETING DATE,  
TIME & LOCATION  
FOR CASE #  
VAR-41741-2023**

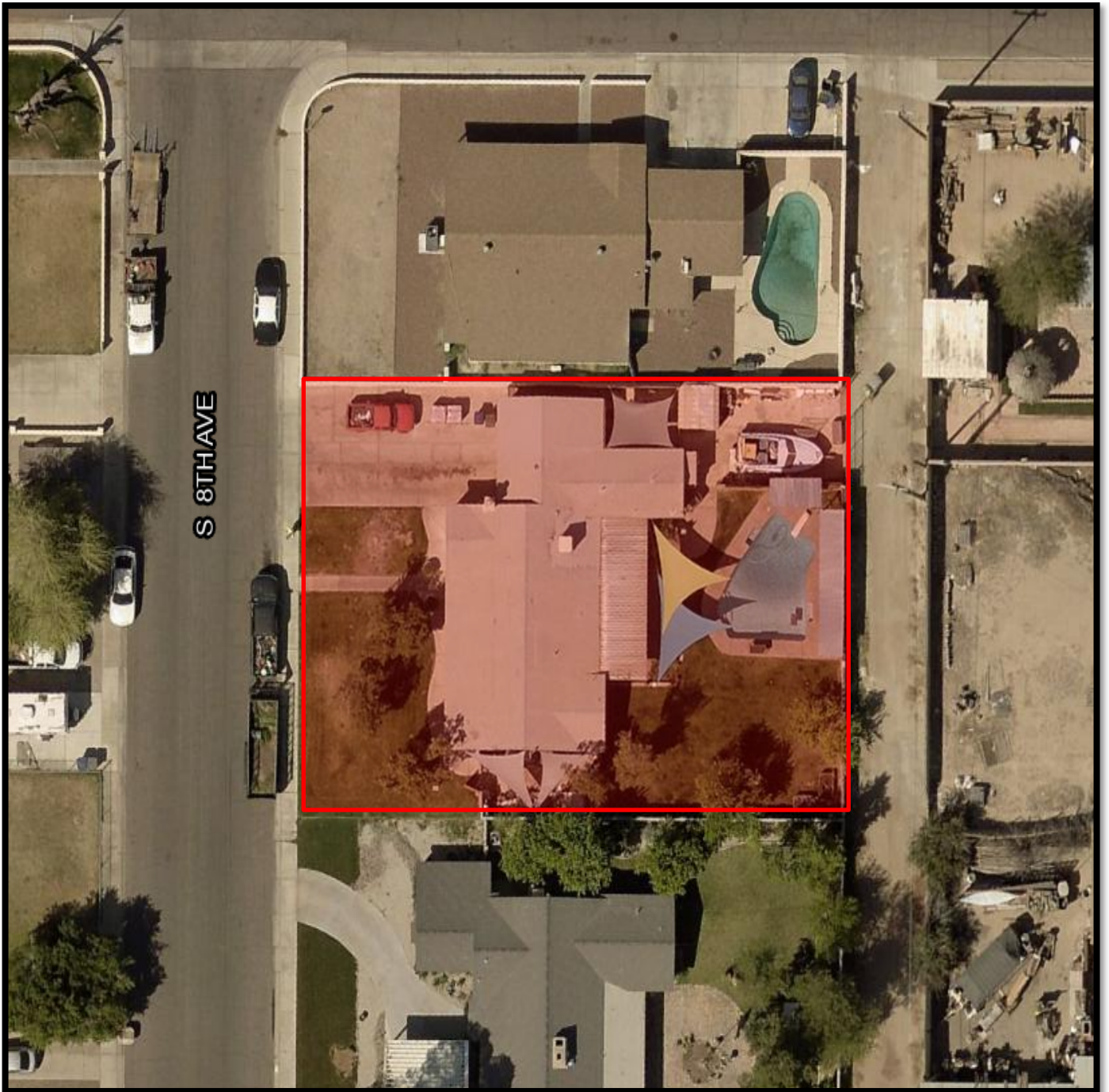
**NEIGHBORHOOD MEETING  
09/05/2023 @ 5:00PM  
ON-SITE**

**PUBLIC HEARING  
9/28/2023 @ 9:30AM  
City of Yuma Council Chambers  
One City Plaza, Yuma, AZ**



Because you are a neighbor within 300' of 1305 S. 8th 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 Guillermo Moreno-nunez by phone at (928)373-5000 ext. 3038 or by email at [Guillermo.Moreno-Nunez@YumaAz.gov](mailto:Guillermo.Moreno-Nunez@YumaAz.gov)

ATTACHMENT G  
Aerial Photo



ATTACHMENT H  
Variance Map

