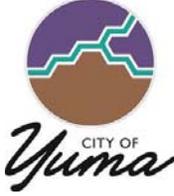


## Notice of Public Hearing of the Hearing Officer of The City of Yuma

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Hearing Officer of the City of Yuma and to the general public that the Hearing Officer will hold a hearing open to the public on January 25, 2018 at 9:30 a.m. in City Hall Room 190, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:

	<p><b>Agenda</b> <b>Hearing Officer Public Hearing</b> <i>City Hall Room 190</i> <i>One City Plaza</i></p> <p><b>Thursday, January 25, 2018, 9:30 a.m.</b></p>
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### 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

- December 14, 2017

### APPLICATIONS TO BE CONSIDERED

1. **TIMEX-20401-2017**: This is a request by Dahl, Robins, & Associates, Inc., on behalf of Jimmie Dee Smith, for a one year time extension to a previously approved variance (VAR-15786-2016) to reduce the setbacks along W. 16th Street and S. 6th Avenue from 15 feet to 5 feet to accommodate parking and a proposed office building in the General Commercial / Infill Overlay (B-2/IO) District, located at 1581 S. 6th 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  
December 14, 2017**

A meeting of the City of Yuma's Hearing Officer was held on Thursday, December 14, 2017, at City Hall Room 190, One City Plaza, Yuma, AZ.

**HEARING OFFICER** in attendance was Ray Urias.

**CITY OF YUMA STAFF MEMBERS** present included Rodney Short, Deputy City Attorney; Alyssa Linville, Principal Planner; Alyssa Linville, Principal Planner; Chad Brown, Assistant Planner; and Stephanie Guzman, Administrative Assistant.

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

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**CONSENT CALENDAR**

**Urias** approved the minutes of September 28, 2017.

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**PUBLIC HEARINGS**

**VAR-20101-2017:** *This is a request by Andrew Gianaros for a variance to reduce the required side yard setback from 7 feet to 3 feet and the rear yard setback from 10 feet to 0 feet in order to accommodate the conversion of a non-conforming garage into a guesthouse, in the Low Density Residential (R-1-6) District. The property is located at 2107 South 8<sup>th</sup> Avenue, Yuma, AZ.*

**Chad Brown, Assistant Planner**, summarized the staff report, recommending **APPROVAL**.

**QUESTIONS FOR STAFF**

**Urias** clarified that there was a special circumstance or condition that applied to the property that did not apply to most other properties.

**Urias** asked if there had been any other variance requests of a similar nature in the vicinity. **Brown** said yes.

**APPLICANT/APPLICANTS REPRESENTATIVE**

**Andrew Gianaros, 2107 S. 8<sup>th</sup> Avenue, Yuma, AZ**, thanked city staff.

**OPEN PUBLIC COMMENT**

None

**DECISION:**

**Urias** granted the requested variance to reduce the required side yard setback from 7 feet to 3 feet and the rear yard setback from 10 feet to 0 feet in order to accommodate the conversion of a non-conforming garage into a guesthouse, in the Low Density Residential (R-1-6) District, finding that it is considered a special circumstance and the case does meet all of the four (4) criteria of the City of Yuma Zoning Ordinance, subject to the Conditions of Approval in Attachment A.

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**Urias** adjourned the meeting at 9:41 a.m.

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Minutes approved and signed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Ray Urias, Hearing Officer



**Prior site actions:** Annexation: Ordinance #449 (May 29, 1946); Subdivision: S89-14 (December 6, 1989); Rezone: Z89-14 (March 23, 1990); Subdivision: S95-33 (March 12, 1996); Rezone: Z95-59 (March 21, 1996); Rezone: Z2011-009 (March 16, 2012); Lot Tie: LOTS-1847-2012 (January 11, 2013); General Plan Amendment: GP-6521-2014 (November 5, 2014); Rezone: ZONE-7624-2014 (February 18, 2015); Variance: VAR-15786-2016 (December 8, 2016)

**Staff recommendation:**

Staff recommends **APPROVAL** of the one year time extension for the previously approved Variance (VAR-15786-2016) to reduce the setbacks along W. 16th Street and S. 6th Avenue from 15 feet to 5 feet to accommodate parking and a proposed office building, subject to the conditions outlined in Attachment A, because the four findings of fact, required by §154-03.04 of the Yuma City Code, can be answered affirmatively.

**Staff Analysis:**

The subject property is located at 1581 S. 6<sup>th</sup> Avenue and is located in the General Commercial (B-2) Zoning District. The property is 17,857 square feet (.4 acres). It was annexed under Ordinance #449 on May 29, 1946. Two buildings exist on site with the westernmost building measuring 1,010 square feet and the smaller building to the east being 471 square feet.

In 2016, the owner, Jimmie Dee Smith, filed for a Variance (VAR-15786-2016) to reduce the setbacks along W. 16<sup>th</sup> Street and S. 6<sup>th</sup> Avenue from 15 feet to 5 feet to accommodate parking and a proposed office building. In response to the four findings of fact needed for Variance approval, the owner indicated that right-of-way dedications had left the parcel with an irregular shape which would limit the useable buildable area based on typical General Commercial (B-2) property development standards. Staff agreed with this reasoning and recommended approval of the request. A neighborhood meeting was held on November 16, 2016. No members of the public were in attendance and no public comments were submitted to staff. On December 8, 2016, the Variance request was granted by Hearing Officer Ray Urias, who cited that, in his view, the case met the required criteria for a Variance.

A time extension for the Variance was requested by Dahl, Robins, & Associates, Inc., on behalf of Jimmie Dee Smith, on November 28, 2017, prior to the expiration date of December 8<sup>th</sup>. The reason for the extension was cited as The circumstances affecting the property's irregular shape have not changed. The only change of use on neighboring parcels was the addition of a Sprouts Farmers Market (Sprouts) to the east of the subject parcel. As the requested changes to setbacks would be applied to the west and south sides of the subject property, there should be no impact to its new eastern neighbor, Sprouts. There have been no new uses established to the north, west, or south of the subject parcel, the requested Variance should continue to pose no negative impact to these existing uses.

**1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?**

**A) "There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district."**

Is this statement correct for this application?

Yes

No

Applicant Response: *“Yes, this statement is correct. There is a unique circumstance related to the proposed project because this is essentially redevelopment of what was previously a City of Yuma remnant parcel of land. Right-of-way dedications, necessary for the ongoing City of Yuma 16<sup>th</sup> Street and 4<sup>th</sup> Avenue intersection improvement project, were substantial enough and had such an impact on the property, that the remaining width and geometry of portions of the property were extremely limited for development.*

*With respect to the Northwest corner of the intersection of 16<sup>th</sup> Street and 5<sup>th</sup> Avenue, a portion of the right-of-way that was dedicated to the City of Yuma in 2013 is based on the old City standard which, near the corner of the building, is approximately 5 additional feet than what would otherwise be required by the intersection project. This equates to a 5 foot difference in setback requirement.*

*The existing right-of-way width for 6<sup>th</sup> Avenue is greater than the current right-of-way standard which also has an impact on the setback requirement.”*

Staff Analysis: As a result of the right-of-way dedications needed for the improvements to the W. 16<sup>th</sup> Street and S. 4<sup>th</sup> Avenue intersection, the subject property has taken on an irregular shape. An irregular shape which has limited the useable buildable area once typical property development standards are accounted for; including, minimum setback requirements, adequately sized parking stalls and ample drive aisle widths. The proposed setback reductions from 15 feet to 5 feet along W. 16<sup>th</sup> Street and S. 6<sup>th</sup> Avenue will allow the property owner to develop the site in a similar nature as to those property owners that have a regularly shaped parcel with the same zoning district classification.

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

Is this statement correct for this application?

Yes  No

Applicant Response: *“Yes, this statement is correct. It is our opinion that the right-of-way dedications, necessary for the ongoing City of Yuma 16<sup>th</sup> and 4<sup>th</sup> Avenue intersection improvement project, created the circumstance.”*

Staff Analysis: The special circumstance was not created or caused by the property owner. The special circumstance was a product of necessary roadway dedications, which resulted in an irregularly shaped parcel.

**C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations?”**

Is this statement correct for this application?

Yes  No

Applicant Response: *“Yes, this statement is correct. The granting of this request is consistent with the approvals given to nearby property owners in the same zoning district.”*

Staff Analysis: The granting of this variance is necessary for the preservation of substantial property rights enjoyed by others. Typically, commercially zoned properties are regular in

both size and shape; leaving no need for a deviation from typical development standards, including setbacks. However, the subject parcel was left irregularly shaped following right-of-way dedications needed for roadway improvements at the intersection of S. 4<sup>th</sup> Avenue and W. 16<sup>th</sup> Street. The potential buildable area of the parcel has been greatly impacted based on the resulting configuration of the parcel and typical setback requirements. Therefore, in order for the parcel to be developed to its fullest potential, similar to those commercial properties within the area, a setback reduction is needed.

**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: *"Yes, this statement is correct. Adjacent properties should benefit by this development which will eliminate an otherwise vacant property with abandoned structures. The aesthetics of the development of this property will enhance the area and the placement of the access driveway that is proposed has been reviewed and approved by City staff."*

Staff Analysis: The granting of this 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. The granting of this variance will allow the property owner to develop the parcel in a manner similar to those adjacent, commercially zoned parcels. While the granting of the variance may reduce the setbacks needed along the public rights-of-way, all other development standards will be required; including, lighting, paved parking, and landscaping.

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

No.

**Public Comments Received:** None received.

**External Agency Comments:** None Received.

**Neighborhood Meeting Comments:** See Attachment C

**Proposed conditions delivered to applicant on:** January 3, 2018

**Final staff report delivered to applicant on:** January 16, 2018

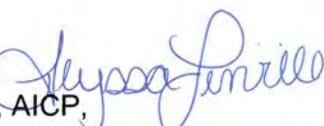
- Applicant agreed with all of the conditions of approval on: January 3, 2018  
 Applicant did not agree with the following conditions of approval: (list #'s)  
 (If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.)

**Attachments**

A	B	C	D	E
Conditions of Approval	Site Plan	Neighborhood Meeting Comments	Photos	Staff Research

**Prepared By:**   
Aubrey Trebilcock  
Associate Planner

**Date:** 1/8/18  
Aubrey.Trebilcock@YumaAZ.gov (928)373-5000, x3040

**Reviewed By:**   
Alyssa Linville, AICP,  
Principle Planner

**Date:** 01/08/18

**Approved By:**   
Dan Symer, AICP,  
Assistant Director Community Development

**Date:** 1/8/18

**ATTACHMENT A**  
**CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Laurie Lineberry, Community Development Director (928) 373-5175:**

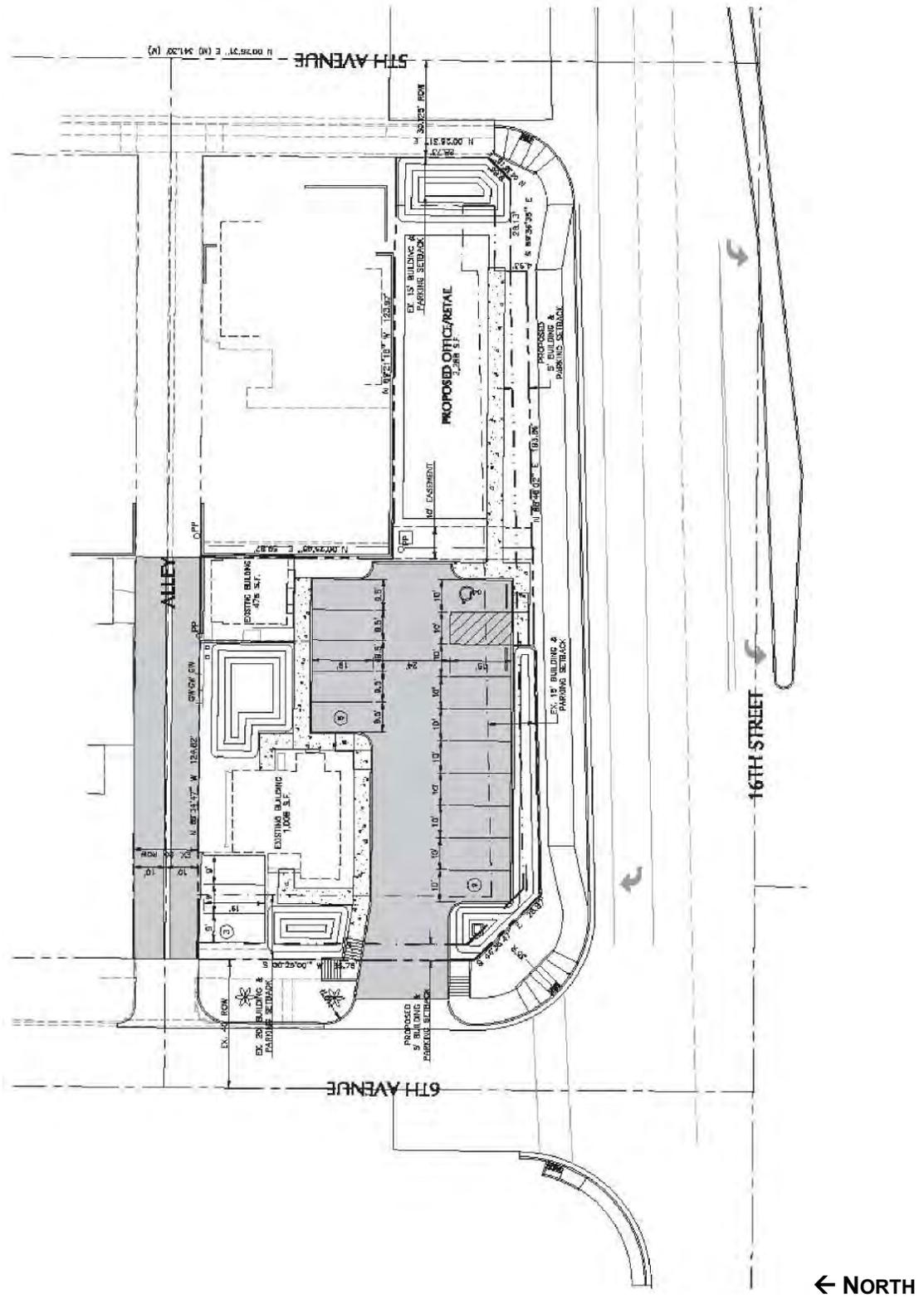
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this action shall take the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.

**Community Planning: Aubrey Trebilcock, Associate 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.

**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**  
**NEIGHBORHOOD MEETING COMMENTS**

**Date Held:** November 16, 2016

**Location:** 1581 S. 6th Avenue

**Attendees: City of Yuma Staff:** Aubrey Trebilcock, Associate Planner; **Property Owners:** Jack Smith, Jim Smith; **Agent:** Christopher Robins

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

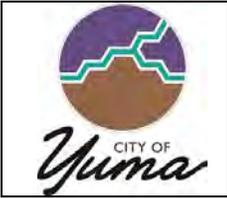
- **NO PUBLIC COMMENTS MADE**

**ATTACHMENT D  
PHOTOS**



*Western façade of 1581 S. 6<sup>th</sup> Avenue*

**ATTACHMENT E**  
**STAFF RESEARCH**



**STAFF RESEARCH – VARIANCE  
CASE #: TIMEX-20401-2017  
CASE PLANNER: AUBREY TREBILCOCK**

**I. PROJECT DATA**

General Location	Northeast corner of W. 16 <sup>th</sup> Street and S. 6 <sup>th</sup> Avenue												
Parcel Number(s)	665-26-352												
Parcel Size(s)	17,857 sq. ft.												
Total Acreage	.4099												
Proposed Dwelling Units	0												
Address	1581 S. 6 <sup>th</sup> Avenue												
Applicant	Jimmie Dee Smith												
Applicant's Agent	Dahl, Robins, & Associates, Inc.												
Land Use Conformity Matrix:	Conforms:			Yes	X	No							
Zoning Overlay:	Public		AO	Auto		B&B		Historic		Infill	X	Airport	
Noise Contours	65-70		70-75		75+		APZ1		APZ2		Clear Zone		

	Existing Zoning	Use(s) on-site	General Plan Designation
<b>Site</b>	General Commercial / Infill Overlay (B-2/IO)	Vacant	Commercial
<b>North</b>	Low Density Residential / Transitional / Infill Overlay (R-1-6/TR/IO)	Single-Family Home / Dahl, Robins, & Associates	Low Density Residential Mixed Use
<b>South</b>	General Commercial / Infill Overlay (B-2/IO)	Undeveloped	Commercial
<b>East</b>	Transitional / General Commercial / Infill Overlay (TR/B-2/IO)	Dahl, Robins, & Associates / Sprouts	Mixed Use Commercial
<b>West</b>	Low Density Residential / Transitional / Infill Overlay (R-1-6/TR/IO)	Single-Family Home / Multi-family Home	Low Density Residential

Prior Cases or Related Actions:

Type	Conforms			Cases, Actions or Agreements
Pre-Annexation Agreement	Yes		No	N/A
Annexation	Yes	X	No	Ordinance #449 (May 29, 1946)
General Plan Amendment	Yes	X	No	GP-6521-2014 (November 5, 2014)
Development Agreement	Yes		No	N/A
Rezone	Yes	X	No	Z89-13 (March 23, 1990); Z95-59 (March 21, 1996); Z2011-009 (March 16, 2012); ZONE-7624-2014 (February 18, 2015)
Subdivision	Yes	X	No	S89-14 (December 6, 1989); S95-33 (March 12, 1996); LOTS-1847-2012
Conditional Use Permit	Yes		No	N/A
Pre-Development Meeting	Yes	X	No	Date: June 14, 2016, 11 a.m.
Design Review Commission	Yes		No	N/A
Enforcement Actions	Yes		No	N/A
Avigation Easement Recorded	Yes	X	No	Fee # 2015-03035

Have there been any other variance requests of a similar nature in the vicinity and zoning district?			YES
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
BA94-015	Reduce northern side setback to 2'	Denial	Approved with condition that firewall be installed
BA84-003	Reduce street side setback along 16 <sup>th</sup> Street to 15' from 20'; Reduce setback from residential zoning district from 20' to 10'	Approval with condition of visual screen (e.g. tree planting) between proposed commercial building and residence to the south	Approved with Planning's recommended screening condition required
Does the proposed variance meet the criteria of §154-03.04(D) of the Yuma City Code?			Yes

**Background:**

On December 8, 2016, the property owner was granted a variance (VAR-15786-2016) reducing the required setbacks along W. 16<sup>th</sup> Street and S. 6<sup>th</sup> Avenue from 15 feet to 5 feet. Unfortunately, the property owner has yet to obtain financing for the proposed project and, therefore, was unable to utilize the approved variance prior to its expiration on December 8, 2017. With this request, the applicant is seeking a one year time extension for the previously approved variance.

According to the City of Yuma Zoning Code, the Hearing Officer has the authority to grant a time extension of no more than one additional year in accordance with 154-03.04(F)(2). The requested time extensions proposes no changes from the previously approved variance.

**Findings of Fact:**

**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:** *“Yes, this statement is correct. There is a unique circumstance related to the proposed project because this is essentially redevelopment of what was previously a City of Yuma remnant parcel of land. Right-of-way dedications, necessary for the ongoing City of Yuma 16<sup>th</sup> Street and 4<sup>th</sup> Avenue intersection improvement project, were substantial enough and had such an impact on the property, that the remaining width and geometry of portions of the property were extremely limited for development.*

*With respect to the Northwest corner of the intersection of 16<sup>th</sup> Street and 5<sup>th</sup> Avenue, a portion of the right-of-way that was dedicated to the City of Yuma in 2013 is based on the old City standard which, near the corner of the building, is approximately 5 additional feet than what would otherwise be required by the intersection project. This equates to a 5 foot difference in setback requirement.*

*The existing right-of-way width for 6<sup>th</sup> Avenue is greater than the current right-of-way standard which also has an impact on the setback requirement.”*

**Staff Analysis:** As a result of the right-of-way dedications needed for the improvements to the 16<sup>th</sup> Street and 4<sup>th</sup> Avenue intersection, the subject property has taken on an irregular shape. An irregular shape which has limited the useable buildable area once typical development standards are accounted for; including, minimum setback requirements, adequately sized parking stalls and ample drive aisle widths. The proposed setback reductions from 15 feet to 5 feet along W. 16<sup>th</sup> Street and S. 6<sup>th</sup> Avenue will allow the

property owner to develop the site in a similar nature as to those property owners that have a regularly shaped parcel with the same zoning district classification.

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

Is this statement correct for this application?

Yes  No

**Applicant Response:** *“Yes, this statement is correct. It is our opinion that the right-of-way dedications, necessary for the ongoing City of Yuma 16<sup>th</sup> and 4<sup>th</sup> Avenue intersection improvement project, created the circumstance.”*

**Staff Analysis:** The special circumstance was not created or caused by the property owner. The special circumstance was a product of necessary roadway dedications, which resulted in an irregularly shaped parcel.

**C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations?”**

Is this statement correct for this application?

Yes  No

**Applicant Response:** *“Yes, this statement is correct. The granting of this request is consistent with the approvals given to nearby property owners in the same zoning district.”*

**Staff Analysis:** The granting of this variance is necessary for the preservation of substantial property rights enjoyed by others. Typically, commercially zoned properties are regular in both size and shape; leaving no need for a deviation from typical development standards, including setbacks. However, the subject parcel was left irregularly shaped following right-of-way dedications needed for roadway improvements at the intersection of 4<sup>th</sup> Avenue and 16<sup>th</sup> Street. The potential buildable area of the parcel has been greatly impacted based on the resulting configuration of the parcel and typical setback requirements. Therefore, in order for the parcel to be developed to its fullest potential, similar to those commercial properties within the area, a setback reduction is needed.

**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:** *“Yes, this statement is correct. Adjacent properties should benefit by this development which will eliminate an otherwise vacant property with abandoned structures. The aesthetics of the development of this property will enhance the area and the placement of the access driveway that is proposed has been reviewed and approved by City staff.”*

**Staff Analysis:** The granting of this 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. The granting of this variance will allow the property owner to develop the parcel in a manner similar to those adjacent, commercially zoned parcels. While the granting of the variance may reduce the setbacks needed along the public rights-of-way, all other development standards will be required; including, lighting, paved parking, and landscaping.

## NOTIFICATION

- **Legal Ad Published: The Sun** (01/05/18)
- **Site Posted on:** (01/04/18)
- **34 Commenting/Reviewing Agencies Noticed:** (12/27/17)
- **300' Vicinity Mailing:** (12/27/17)
- **Hearing Date:** (01/25/18)
- **Comments Due:** (01/08/17)

<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	12/28/17	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users	NR				
Yuma County Planning & Zoning	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	Yes	12/28/17	X		
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	Yes	12/28/17	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	NR				
USDA – NRCS	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	NR				
<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>
Rod Hamilton, Police	NR				
Ron Ramirez, Parks	NR				
Damon Chango, Parks	NR				
Andrew McGarvie, Engineering	NR				
Kayla Holiman, Fire	Yes	12/28/17	X		
Randy Crist, Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	Yes	12/28/17	X		
Jay Simonton, Utilities	NR				
Joel Olea, Public Works	NR				
Joel Olea, Streets	NR				

<b>Neighborhood Meeting</b>	<b>Neighborhood Meeting Comments Available</b>
MEETING FOR ORIGINAL CASE HELD 11/16/2016	See Staff Report Attachment
<b>Prop. 207 Waiver Given to Applicant on:</b>	<b>Delivery Method:</b>
October 31, 2017	U.S. Mail

**PUBLIC COMMENTS RECEIVED:**

VARIANCES IN THE VICINITY

