

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 October 8, 2020 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:

 CITY OF <i>Yuma</i>	Agenda Hearing Officer Public Hearing City Hall Council Chambers <i>One City Plaza</i> Thursday, October 8, 2020, 9:30 a.m.
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Consistent with the March 13, 2020 Arizona Attorney General informal opinion Relating to Arizona's Open Meeting Law and COVID-19, in order to protect the public and reduce the chance of COVID-19 transmission, the meetings of the City of Yuma Hearing Officer will be conducted with limited public, in-person access, consistent with social distancing requirements.

City Hall Council Chambers will be open with limited public access.

Public comment regarding any **agenda** item can be provided in written format to the Hearing Officer secretary at email address planning@yumaaz.gov no later than 15 minutes prior to the start of the scheduled meeting. Comments received timely will be read into the record when the referenced agenda item is discussed.

CALL TO ORDER

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

APPROVAL OF MINUTES

- August 27, 2020

APPLICATIONS TO BE CONSIDERED

1. **VAR-31857-2020**: This is a request by Rodolfo Alvarado, on behalf of Consuelo Ramos, for a Variance to reduce the rear yard setback from 10' to 3' for a patio in the Medium Density Residential/Planned Unit Development (R-2/PUD) District, for the property located at 3976 S. Brianna Drive, Lot 49, Yuma, Arizona.

ADJOURN

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

**Hearing Officer Meeting Minutes
August 27, 2020**

A meeting of the City of Yuma's Hearing Officer was held on Thursday, August 27, 2020, in City Council Chambers, One City Plaza, Yuma, AZ.

HEARING OFFICER in attendance was Pamela Walsma.

CITY OF YUMA STAFF MEMBERS present included Scott McCoy, Assistant City Attorney; Alyssa Linville, Assistant Director/Zoning Administrator; Erika Peterson, Assistant Planner and Chad Brown, Associate Planner.

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

CONSENT CALENDAR

Walsma approved the minutes of June 11, 2020.

PUBLIC HEARINGS

VAR-30904-2020: *This is a request by Sign Masters, LLC, on behalf of Seventh Day Adventist/Church School, for a variance to increase the maximum allowable height of a sign from 6' to 12' in the Low Density Residential (R-1-6) District, for the property located at 1681 S. 6th Avenue, Yuma, Arizona.*

Erika Peterson, Assistant Planner, summarized the staff report, recommending **APPROVAL**.

QUESTIONS FOR STAFF

Walsma asked if other churches and schools in the area had similar sign heights. **Peterson** stated yes.

APPLICANT/APPLICANTS REPRESENTATIVE

Angelita Benitez, Principal of Seventh Day Adventist, 1681 S. 6th Avenue, Yuma, AZ, said the new sign would attract the public's attention to the school.

Greg Villalpando, 1165 S. 4th Avenue, Yuma, AZ, Sign Masters LLC., thanked staff for their professionalism.

OPEN PUBLIC COMMENT

None

DECISION

Walsma granted the variance, subject to the Conditions of Approval in Attachment A, finding the four criteria have been met.

VAR-31151-2020: *This is a request by the Robert Bentley, for a variance to reduce the street side setback from 3' to 0' to accommodate the placement of a carport, in the Recreational Vehicle Subdivision (RVS) District, 5707 E. 32nd St., unit 864, Yuma, AZ.*

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

QUESTIONS FOR STAFF

Walsma asked if the applicant agreed to the conditions in Attachment A. **Brown** stated yes. **Walsma** then reviewed the yellow sheet comments, all of which expressed concerns about eliminating all carport setbacks in the neighborhood. **Brown** said this application and design would only affect this property.

APPLICANT/APPLICANTS REPRESENTATIVE

Robert Bentley, 5707 E. 32Nd Street Unit864, Yuma, AZ, thanked the city. **Bentley** said after considering multiple options to avoid interference with the intersection, he believed this proposal would work best.

Walsma asked if he agrees with the conditions provided by the City. **Bentley** stated yes.

OPEN PUBLIC COMMENT

Rex Bails, representing ACC committee, said he is in favor of the proposal.

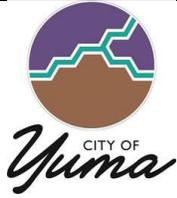
DECISION

Walsma granted the variance, subject to the Conditions of Approval in Attachment A, finding the four criteria have been met.

Walsma adjourned the meeting at 9:50 a.m.

Minutes approved and signed this _____ day of _____, 2020.

Hearing Officer



**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: ERIKA PETERSON**

Hearing Date:

October 8, 2020

Case Number:

VAR-31857-2020

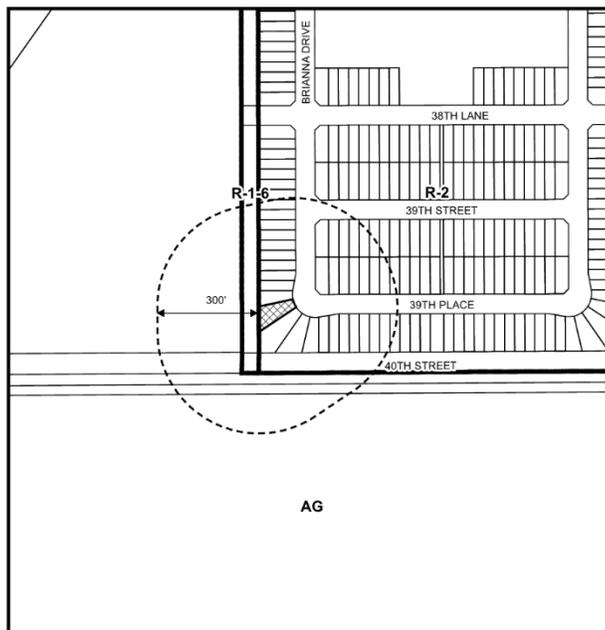
Project

Description/Location:

This is a request by Rodolfo Alvarado, on behalf of Consuelo Ramos, for a Variance to reduce the rear yard setback from 10' to 3' for a patio in the Medium Density Residential/Planned Unit Development (R-2/PUD) District, for the property located at 3976 S. Brianna Drive, Lot 49, Yuma, Arizona.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Medium Density Residential (R-2/PUD) District/Planned Unit Development	Residential	Medium Density Residential
North	Medium Density Residential (R-2/PUD) District/Planned Unit Development	Residential	Medium Density Residential
South	Medium Density Residential (R-2/PUD) District/Planned Unit Development	Residential	Medium Density Residential
East	Medium Density Residential (R-2/PUD) District/Planned Unit Development	Residential	Medium Density Residential
West	Low Density Residential (R-1-6) District	Undeveloped	Medium Density Residential

Location Map:



Prior site actions: Annexation : O97-81 (01/21/98); Dev. Agree.: R99-40 (7/21/99), amended by R2001-42 (06/06/01), repealed by R2001-76 (11/07/01, & R2016-027; Rezone Upon Annexation: Z9726 (expired); O2001-10 (01/17/01- expired); Z2005-007 (withdrawn); and ZONE-3919-2013 (with 02/01/17 City Council Statutory Compliance); Subdivision: SUBD-5311-2014 (expired); LOTS-15850-2016; SUBD-16781-2017 (prelim. Plat); Avigation Easement: Fee # 2014-01694.

Staff recommendation: Staff recommends DENIAL of the request to reduce the rear yard setback from 10' to 3' for a patio in the Medium Density Residential/Planned Unit Development (R-2/PUD) 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? (If "YES", attach vicinity map showing locations of those variances)	No
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Staff Analysis: The subject property, located in the Desert Sky Unit No. 1 Subdivision, is located on the southwest corner of S. Brianna Drive and E. 39th Place. The subject property is zoned Medium Density Residential/Planned Unit Development (R-2/PUD) District and is subject to the following setback requirements: front yard setback of 15-20 feet, side yard setback of zero feet, street side yard setback of 10 feet, and rear yard setback of 10 feet. This particular property measures 5,506 square feet in size.

This subdivision is unique because of the different development standards permitted by the Planned Development Unit Overlay. This overlay grants greater flexibility and a more creative design for the development of residential areas promoting more economical and efficient use of the land. Some of the benefits and permitted variations in this subdivision allow for reduced side yard setbacks, smaller lot sizes, and greater lot coverage.

The property owner has constructed an attached patio to the rear of the residence and has encroached 7' into the current 10' rear yard setback. After further review, staff has determined that the special circumstance was created by the property owner and therefore should meet the setback requirements for the Medium Density Residential/Planned Unit Development (R-2/PUD) District. The subject property is significantly larger than most of the other properties in the subdivision and has more buildable area to the south and southeast of the property. Alternative patio options, such as reducing the size of the patio to meet the rear yard setback and extending the patio to the south and southeast of the home, would allow the applicant to continue to utilize the patio while also meeting the existing development standards.

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: *“To maximize the area of my subject residence by adding a covered patio that would allow myself and family enjoy the outdoor area, which would only apply to my property and would not extend to adjacent properties within the district.”*

Staff Analysis: The subject property, located in the Desert Sky Subdivision Unit No. 1 is situated near the intersection of S. Brianna Drive and E. 39th Place. The property was developed within the City with a Planned Unit Development Overlay and was therefore granted greater flexibility during the design and development of the subdivision. Some of the permitted variations for the Desert Sky Subdivision include type of dwelling unit, yard, setback, lot coverage, and lot size. The required setbacks for the Medium Density Residential (R-2/PUD) District/Planned Unit Development are as follow: 15’-20’ front yard setback, 0’ side yard setback, 10’ street side yard setback, and 10’ rear yard setback. The lot is positioned in a cul-de-sac resulting in an irregularly shaped property; however, this lot does have a reduced front yard setback of 16’6”, providing for a larger rear yard than most other lots in the development.

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

Is this statement correct for this application?

Yes

No

Applicant Response: *“There are special circumstance that were created by the property owner, on or about May 2020, when I, Ms. Ramos, had friends pour a cement slab and later with help from friends build a covered patio, which was attached to the eve of the roof. The dimensions the Patio are 15 by 29 feet. As per the Site Plan Drawn the property is on a corner lot, which sets on an acute angle to the left of the property line, thus when the patio was built the right corner of the roof sets at 3.00, feet from the block wall and the left corner sets at 8.0 feet from the block wall. There are 5 post (4”x6”), which are 13 feet from the eve of the house plus a 2 foot overhang (15).”*

Staff Analysis: The special circumstance was created by the property owner. The property owner constructed a non-permitted patio on the property, setting the closest post on the northwest side of the property 3’ from the wall, approximately 1’6” from the overhang of the roof to the wall. As built, the structure does not meet the City of Yuma’s current adopted building codes, requiring footings, proper attachment to existing structure, and fire separation to property lines. The approved rear yard setback for the residence was 16.69’. This allows for an extension of the original patio of 6’ in order to meet the minimum 10’ rear yard setback.

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: *“Currently, other side of the back-clock wall is an unused canal that runs parallel to my property and continues towards a dirt road and then open agriculture fields. Therefore, I’m requesting the granting of variance to allow for the preservation of my property rights enjoyed by other property owners in the vicinity under identical zoning designations.”*

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. This property is larger than most properties within the subdivision and has more buildable space area to the south and southeast. There are alternative patio options that could meet the setback requirements without the need of a variance.

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: “By granting of the variance it will not be detrimental to any persons residing to the adjacent property or to the neighborhood nor to the public health, safety and general welfare within the district.”

Staff Analysis: The granting of this variance will not be materially detrimental to any persons residing to the adjacent property or to the neighborhood nor to the public health, safety and general welfare within the district. However, approval of this application could set a precedent for future variance requests.

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

Public Comments Received:

Name:	Susan			Contact Information:	(928)323-4602					
Method of Contact:	Phone	<input checked="" type="checkbox"/>	FAX		Email		Letter		Other	
The customer states she received a notification about the variance and wanted to know what exactly it was. She wanted to make sure the neighbor was not trying to extend into her property. I explained to her that the applicant was requesting to reduce their own rear yard setbacks from 10' to 3'. The customer did not have any further questions.										

External Agency Comments: None Received.

Neighborhood Meeting Comments: No Meeting Required.

Proposed conditions delivered to applicant on: September 24, 2020

Final staff report delivered to applicant on: September 29, 2020

- 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 were e-mailed to the agent and applicant on 9/23/2020 but I have not received a response from either of them.

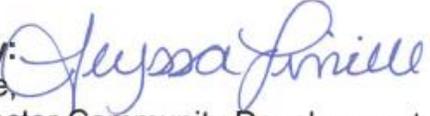
Attachments

A	B	C	D	E
Conditions of Approval	Site Plan	Agency Notifications	Agency Comments	Site Photos

Prepared By: 
Erika Peterson
Assistant Planner

Date: 09/23/2020

Erika.Peterson@YumaAZ.Gov (928)373-5000, x1234

Approved By: 
Alyssa Linville,
Assistant Director Community Development

Date: 09/23/2020

**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: Alyssa Linville, Assistant Director
Community Development, (928) 373-5000 x 3037:**

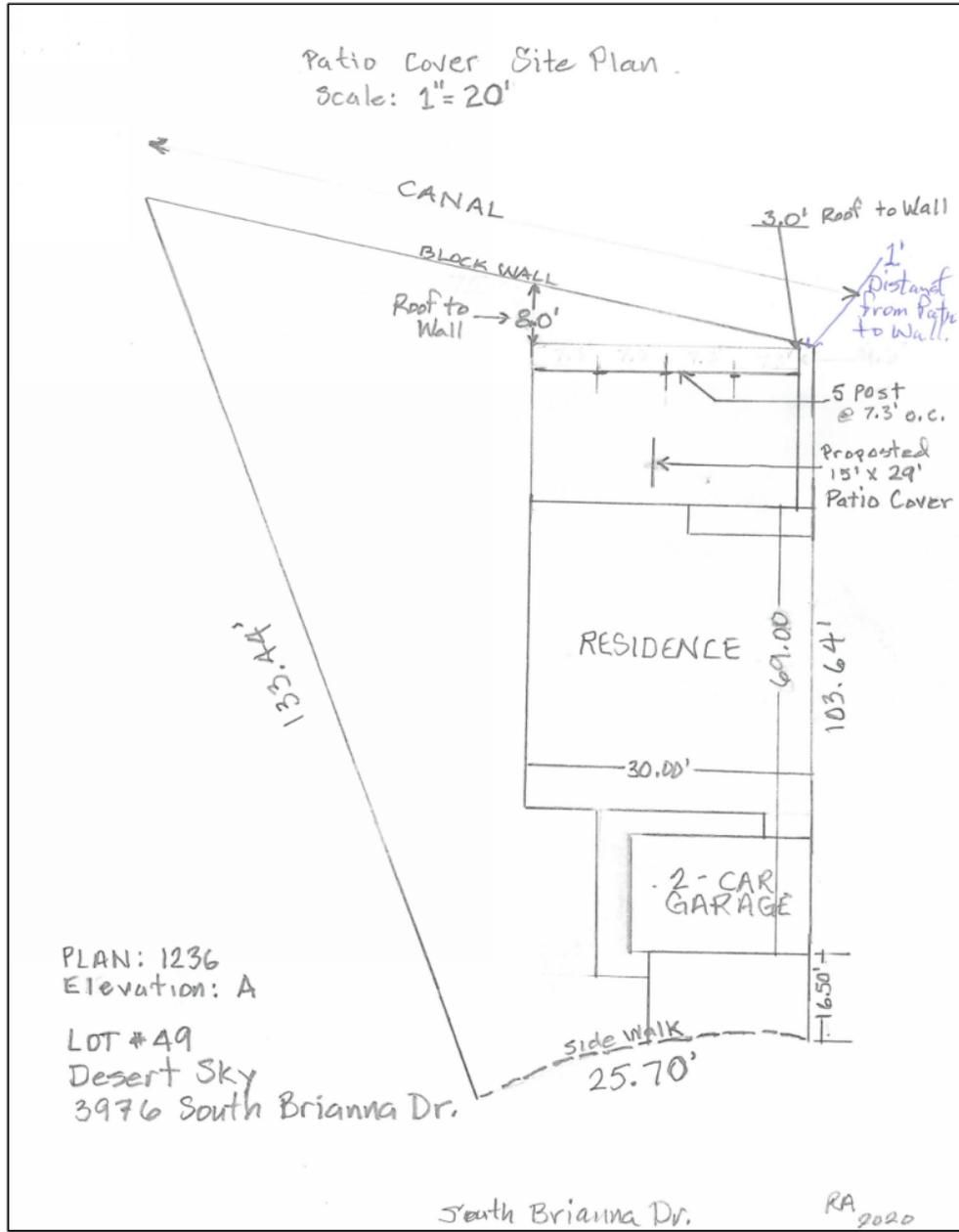
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.

Community Planning: Erika Peterson, Assistant Planner, (928) 373-5000 x 3071:

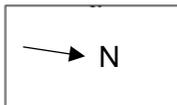
3. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within 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**



SITE PLAN



Prepared by: EP
Checked by:



Date: 09-03-2020
Revised:
Revised:

Project #:
VAR-031857-2020

**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (09/14/20)
- 300' Vicinity Mailing: (09/10/20)
- Site Posted on: (09/22/20)
- 34 Commenting/Reviewing Agencies Noticed: (09/09/20)
- Neighborhood Meeting Date: N/A
- Hearing Date: (10/08/20)
- Comments Due: (09/21/20)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	9/10/2020	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	9/11/2020	X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	YES	9/10/2020	X		
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	YES	9/14/2020	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	YES	9/10/2020	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	9/15/2020	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	9/10/2020	X		
Building Safety	YES	9/11/2020			X
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	9/16/2020	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT D
AGENCY COMMENTS**

Conditions of approval must be written in the form of a formal condition for use in staff's report. Your conditions will be used verbatim. If you also have a comment, please indicate below.

Condition(s)

No Condition(s)

Comment

Enter conditions here: **The subject patio cover will require a building permit and to meet all applicable provisions of the 2018 IRC Code.**

DATE: 9-11-2020 NAME: Alan Kircher TITLE: Deputy Building Official
CITY DEPT: DCD / Building Safety
PHONE: 928-373-5169
RETURN TO: Erika Peterson
Erika.Peterson@YumaAZ.gov

ATTACHMENT E
SITE PHOTOS

