

## 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 February 13, 2020 at 9:30 a.m. in City Hall Room 190, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:

 CITY OF <i>Yuma</i>	<b>Agenda</b> <b>Hearing Officer Public Hearing</b> <i>City Hall Room 190</i> <i>One City Plaza</i>  <b>Thursday, February 13, 2020, 9:30 a.m.</b>
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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

- January 23, 2020

### APPLICATIONS TO BE CONSIDERED

1. **VAR-28996-2019**: This is a request by Mayra Cobian, on behalf of Park West Yuma Development, LLC, for a variance to reduce the rear yard setback from 10' to 6' 6", in the Low Density Residential (R-1-6) District, for the property located at 2784 S. 44<sup>th</sup> Trail, 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  
January 23, 2020**

A meeting of the City of Yuma's Hearing Officer was held on Thursday, January 23, 2020, at City Hall Room 190, One City Plaza, Yuma, AZ.

**HEARING OFFICER** in attendance was Pamela Walsma.

**CITY OF YUMA STAFF MEMBERS** present included Kenneth McCoy, Assistant City Attorney; Alan Kircher, Deputy Building Official; Alyssa Linville, Assistant Director/Zoning Administrator; Chad Brown, Associate Planner; Cheri Skinner, Associate Planner; Amelia Griffin, Assistant Planner; Charysse Casillas, Administrative Assistant; and Jessenia Juarez, Administrative Assistant.

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

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**CONSENT CALENDAR**

**Walsma** approved the minutes of October 10, 2019.

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**PUBLIC HEARINGS**

**VAR-28796-2019:** This is a request by Suntech Awning, on behalf of Helen Edgin, for a variance to reduce the side yard setback from 3' to 2', for the construction of a carport, in the Recreational Vehicle Subdivision (RVS) District. The property is located at 5707 E. 32nd Street, Unit 159, Yuma AZ.

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

**QUESTION FOR STAFF**

**Walsma** asked if it was possible for a carport to be only 8' wide. **Brown** stated the primary issue was the support structure being too close to the property line, which would then restrict the required parking width of 9'. **Brown** added that there have been other options for other properties. **Walsma** asked if the structure being too close to the property line was a safety issue. **Brown** advised that Community Planning's concern was the setback issue, and then deferred to Building Safety to address safety concerns.

**Alan Kircher, Deputy Building Official**, advised the City adopted the 2018 International Residential Code, which required 5' separation between the property line and structure. **Kircher** added that the City amended the code and allowed 3' separation in the manufactured home and RV zoning districts. **Kircher** said if the variance was approved, the Building Code would not permit the structure to be built with only a 2' separation. **Walsma** questioned if that was a standard based on safety issues. **Kircher** advised it was based on fire separation and fire safety.

**Walsma** inquired about a comment within the staff report which stated other variances of this type had been granted in this subdivision. **Brown** replied that most of those variances were for properties on corner lots where no actual building or buildable area was adjacent.

**APPLICANT/APPLICANTS REPRESENTATIVE**

**Dennis Turgeon, 3561 East Cuervo Lane, Yuma, AZ** said the adjacent property shares a common area with a swimming pool and advised no structure would be built there unless the pool was demolished.

**Brown** referenced page six of the Staff Report where the site plan shows the pool location being to the left of the proposed carport.

**Walsma** asked about the differences between previously granted variances and this one. **Brown** replied there were no special circumstances cited by this applicant, and there were other alternatives to construct without the need for a variance.

**Turgeon** said the other alternative would be more expensive for the customer. **Brown** noted there were no restrictions in place that would restrict the neighboring property from having the pool demolished and replaced with a structure in the future.

**Walsma** asked if Staff had received any other comments on this project. **Brown** said he had received comments from the neighbors that were supportive of the request.

**OPEN PUBLIC COMMENT**

None

**DECISION**

**Walsma** granted the variance, subject to the Conditions of Approval in Attachment A, finding that the four criteria had been met. **Walsma** specifically found that Criteria # 1 had been met because the pool area on the adjoining property made it unlikely that another structure would be built within that 30' area.

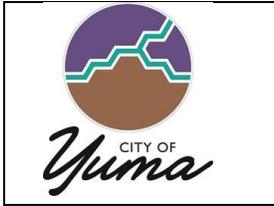
**Kenneth (Scott) McCoy, Assistant City Attorney**, asked for clarification from **Walsma**, in that she had approved variance relief of the Zoning Code, but the Building Code requirement of a 3' separation would still apply, and was still an issue to overcome. **Walsma** said that was correct.

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

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Minutes approved and signed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Pamela Walsma, Hearing Officer



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

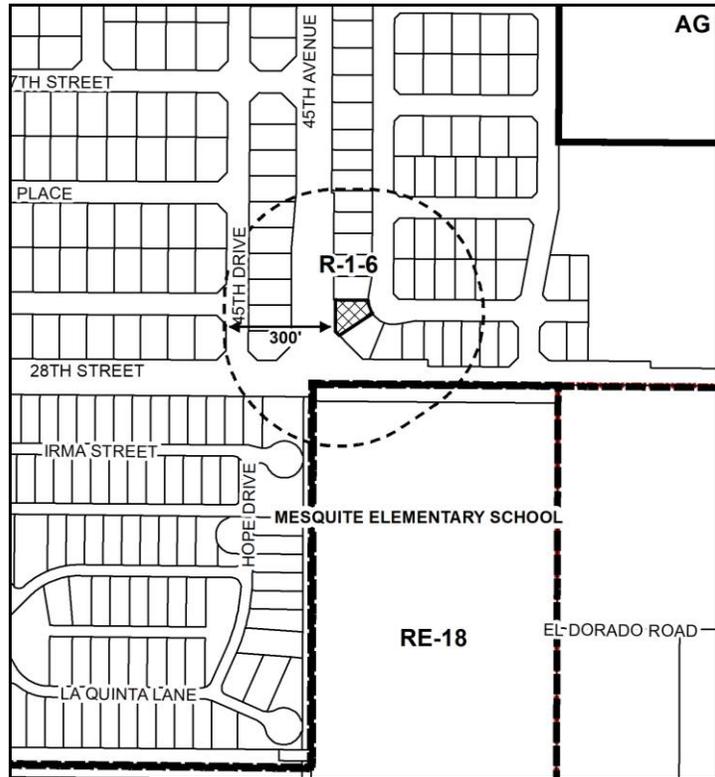
**Hearing Date:** February 13, 2020

**Case Number:** VAR-28996-2019

**Project Description/Location:** This is a request by Mayra Cobian, on behalf of Park West Yuma Development, LLC, for a variance to reduce the rear yard setback from 10' to 6' 6", in the Low Density Residential (R-1-6) District, for the property located at 2784 S. 44<sup>th</sup> Trail, Yuma, AZ.

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

**Location Map:**



**Prior site actions:** Pre-Annexation Agreement: R2012-30 (March 22, 2013); Annexation: Ord. #O2013-30 (June 14, 2013); General Plan Amendment: R2013-18 (March 11, 2013) Rezone: Ord. #2013-30 (June 14, 2013); Subdivision: Park West Unit No. 4 Final Plat (October 31, 2018)

**Staff recommendation:**

Staff recommends **DENIAL** of the request to reduce the rear yard setback from 10' to 6' 6" in the Low Density Residential (R-1-6) District, for the property located at 2784 S. 44<sup>th</sup> Trail, Yuma, AZ, because it does not meet the criteria of §154-.03.04 of the Yuma City Code. Although Staff is not recommending a variance for the aforementioned items, if a variance is granted Staff recommends that the variance be conditioned to include conditions listed in Attachment A.

**Staff Analysis:**

The subject property is located in the Park West Unit No. 4 and is zoned Low Density Residential (R-1-6). The minimum lot size for this zoning district is 6,000 square feet. The required setbacks are as follows: front yard is 20 feet, side yard is 7 feet, and 10 feet in the rear.

This property is one of the few irregularly shaped lots in this subdivision and per the developer, the placement of the patio of the smallest model home would not meet the required setbacks. The provided site plan shows that in order to fit the patio on this irregularly shaped lot, a variance would be required.

The applicant is requesting to reduce the rear yard setback from 10' to 6' 6'. After further review of the property, staff has determined that the special circumstance was created by the property owner and therefore should meet the setback requirements for the Low Density Residential Single Family Residential (R-1-6) District. The subject property is 6,637 square feet which exceeds the 6,000 square foot minimum lot size for this zoning district. The developer could propose an alternative patio option that would meet setback requirements.

**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:** "Lot 298 is an irregular shaped lot on a curve in Parkwest subdivision. The irregularities are caused by the lots position on the curve, the large angle on the west side of the lot and the overall reduction of 5 feet of lot depth for the improvements for the corner of 45th Avenue and 28th Street. Due to all of these special circumstances none of the models offered in Parkwest will fit this specific lot. A variance for the rear yard setback from 10 feet to 6.5 feet will be required to build model 1405 on this lot."

**Staff Analysis:** The subject property, located in the Park West Unit No. 4 Subdivision is situated near the intersection of S. 44<sup>th</sup> Trail and W. 27<sup>th</sup> Lane. The property was developed within the City and was therefore subject to all City Standards. The required setbacks for the Low Density Residential District (R-1-6) are as follows: 20' front yard setback, 7' side yard setback, 10' street side setback, and a 10' rear yard setback. The position of the lot along a cul-de-sac resulted in an irregularly shaped property. Overall, the majority of properties located within the subdivision are rectangular in shape.

**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:** *"This request for a variance was not caused by the property owner. Instead due to the circumstances of the irregularities; position, angle and depth reduction, as outlined above. A variance from 10 feet to 6.5 feet to build on lot 298."*

**Staff Analysis:** The special circumstance was created by the property owner. The subject property, located within Park West Unit. No. 4 was subdivided in October 2018 by the current property owner. The minimum lot size for the Low Density Residential (R-1-6) District is 6,000 square feet and the subject property is 6,637 square feet and therefore exceeds the minimum size requirement for this zoning district.

**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:** *"A variance on the rear yard setback from 10 feet to 6.5 feet will not interfere or disturb neighborhood properties. In addition, public health, safety and general welfare will remain up kept in granting this variance. A rear yard setback from 10 feet to 6.5 feet will not be materially detrimental."*

**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. There are alternative patio options that could meet setback requirements.

**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 keep consistency throughout the neighborhood and preserve the value and appearance throughout the subdivision."*

**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.

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

**Public Comments Received:** None received.

**External Agency Comments:** No comments received.

**Neighborhood Meeting**

No Meeting Required.

**Proposed conditions delivered to applicant on:** January 29, 2020

**Final staff report delivered to applicant on:** February 6, 2020

- Applicant agreed with all of the conditions of approval on: January 29, 2020
- 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
Conditions of Approval	Site Plan	Staff Research

Prepared By: *Amelia Griffin* Date: *02/05/20*  
Amelia Griffin  
Assistant Planner Amelia.Griffin@yumaaz.gov (928)373-5000, ext. 3034

Approved By: *Alyssa Linville* Date: *02/05/20*  
Alyssa Linville,  
Assistant Director Community Development

**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, Community Development Assistant 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 land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.

**Community Planning: Amelia Griffin, Assistant Planner, (928) 373-5000 ext. 3034**

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.**

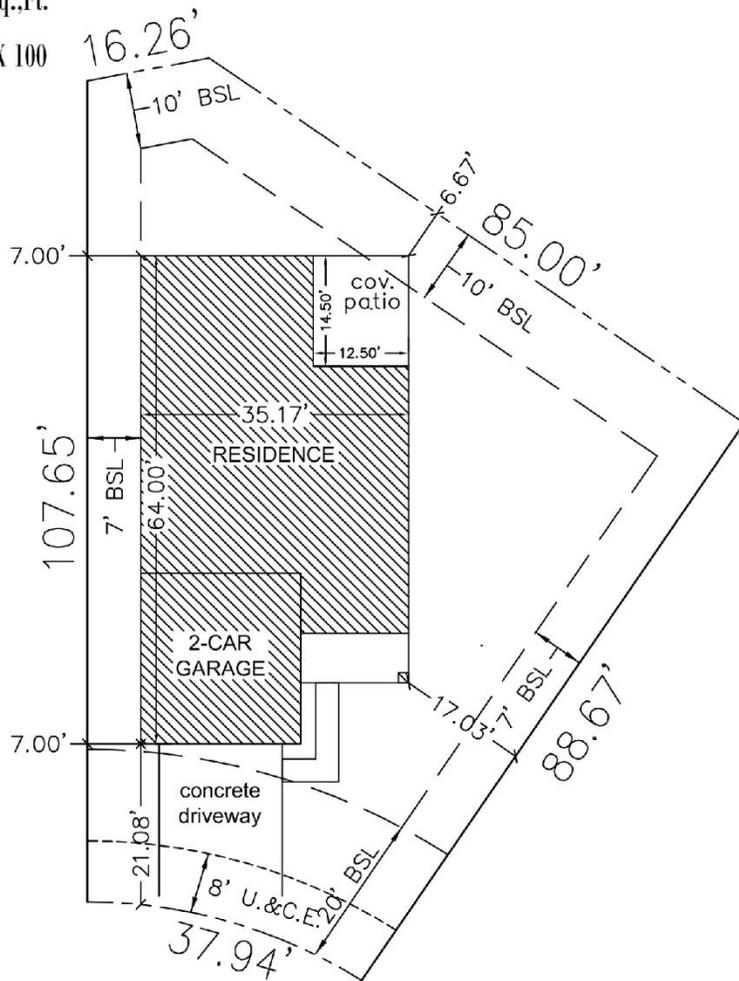
**ATTACHMENT B  
SITE PLAN**

IT IS NOT A REPRESENTATION TO PURCHASER. IT IS A COURTESY OF THE CITY OF YUMA. IT IS ADVISED THAT THIS IS THE RIGHT OF FIRST NOTICE TO BUYER.

**% Lot Coverage**  
 Lot Area: 6637 Sq..ft.  

$$= \frac{1736 \text{ Sq..ft.}}{6637 \text{ Sq..ft.}} \times 100$$

$$= 26.2 \%$$



Plan: 1405  
 Elevation: B

**LOT #298**  
**Park West 4**  
**2784 South 44th Trail**

44TH TRAIL

**298**

**H B C**  
  
**HOMES**  
 3064 S. AVE B YUMA, ARIZONA  
 TELEPHONE (928) 782-3072

**ATTACHMENT C**  
**STAFF RESEARCH**



**STAFF RESEARCH – VARIANCE  
CASE #: VAR-28996-2019  
CASE PLANNER: AMELIA GRIFFIN**

**I. PROJECT DATA**

General Location		Located near the intersection of S. 44 <sup>th</sup> Trail and W. 27 <sup>th</sup> Lane												
Parcel Number(s)		693-15-298												
Parcel Size(s)		6,637 square feet												
Total Acreage		.15 acres												
Proposed Dwelling Units		1 proposed												
Address		2784 S. 44 <sup>th</sup> Trail												
Applicant		Park West Yuma Development, LLC												
Applicant's Agent		Mayra Cobian												
Land Use Conformity Matrix:		Conforms:		Yes	X	No								
Zoning Overlay:	Public		AO		Auto		B&B		Historic		Infill		None	X
	Airport		Noise Contours	65-70		70-75		75+		APZ1		APZ2		CLEAR ZONE
	<b>Existing Zoning</b>				<b>Use(s) on-site</b>				<b>General Plan Designation</b>					
<b>Site</b>	Low Density Residential (R-1-6)				Single Family Residence				Low Density Residential					
<b>North</b>	Low Density Residential (R-1-6)				Single Family Residence				Low Density Residential					
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<b>West</b>	Low Density Residential (R-1-6)				Single Family Residence				Low Density Residential					
Prior Cases or Related Actions:														
<u>Type</u>		<u>Conforms</u>					<u>Cases, Actions or Agreements</u>							
Pre-Annexation Agreement		Yes	X	No		R2012-30 (March 22, 2013)								
Annexation		Yes	X	No		Ord. #O2013-30 (June 14, 2013)								
General Plan Amendment		Yes	X	No		R2013-18 (March 11, 2013)								
Development Agreement		Yes		No		N/A								
Rezone		Yes		No		Ord. #O2013-30 (June 14, 2013)								
Subdivision		Yes	X	No		Park West Unit No. 4 (October 31, 2018)								
Conditional Use Permit		Yes		No		N/A								
Pre-Development Meeting		Yes		No		N/A								
Design Review Commission		Yes		No		N/A								
Enforcement Actions		Yes		No		N/A								
Avigation Easement Recorded		Yes	X	No		Fee # 2013-12945								
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	
Does the proposed variance meet the criteria of §154-03.04(D) of the Yuma City Code?													No	

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Yes       No

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## NOTIFICATION

- **Legal Ad Published: The Sun** (01/24/20)
- **300' Vicinity Mailing:** (01/15/20)
- **Site Posted on:** (02/06/20)
- **34 Commenting/Reviewing Agencies Noticed:** (01/15/20)
- **Neighborhood Meeting Date:** (N/A)
- **Hearing Date:** (02/13/20)
- **Comments Due:** (02/27/20)

<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	1/16/20	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	1/15/20	X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	YES	1/15/20	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	1/16/20	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	1/22/20	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>
Rod Hamilton, Police	NR				
Ron Ramirez, Parks	YES	1/15/20	X		
Damon Chango, Parks	NR				
Andrew McGarvie, Engineering	NR				
Kayla Holiman, Fire	YES	1/21/20	X		
Alan Kircher, Building Safety	YES	1/16/20	X		
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	1/23/20	X		
Jay Simonton, Utilities	NR				
Joel Olea, Public Works	NR				
Joel Olea, Streets	NR				

<b>Neighborhood Meeting</b>	<b>Comments Available</b>
None Required	N/A
<b>Prop. 207 Waiver</b>	
Received by Owner's signature on the application for this land use action request.	