

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 27, 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>	Agenda Hearing Officer Public Hearing <i>City Hall Room 190</i> <i>One City Plaza</i> Thursday, February 27, 2020, 9:30 a.m.
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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

- February 13, 2020

APPLICATIONS TO BE CONSIDERED

1. **CUP-29099-2020:** This is a request by Terranext, LLC, on behalf of Yuma County, for a Conditional Use Permit to allow soil remediation, in the Old Town/Bed and Breakfast/Infill Overlay/Public Overlay (OT/BB/IO/P) District. The property is located at 141 S. 3rd 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
February 13, 2020**

A meeting of the City of Yuma's Hearing Officer was held on Thursday, February 13, 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; Alyssa Linville, Assistant Director/Zoning Administrator; Amelia Griffin, Assistant Planner; Jessenia Juarez, Administrative Assistant.

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

CONSENT CALENDAR

Walsma approved the minutes of January 23, 2020.

PUBLIC HEARINGS

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. 44th Trail, Yuma, AZ.

Amelia Griffin, Assistant Planner, summarized the staff report, recommending **DENIAL**.

QUESTION FOR STAFF

Walsma asked if the residence had already been built. **Griffin** replied yes.

Walsma then asked if there were safety concerns associated with the requested variance. **Griffin** stated no.

Walsma questioned if the recommendation for denial was based on the request not meeting the four criteria, and Staff's finding that the special circumstance was created by the property owner. **Griffin** stated yes, and added it also did not meet the criteria for the preservation of substantial property rights.

Kenneth (Scott) McCoy, Assistant City Attorney, mentioned the property is subject, to a municipal improvement district that was formed for the Park West subdivision. **McCoy** stated that the is improvement district was responsible for perimeter landscaping around the subdivision. This property was located on the perimeter, and while the perimeter may look barren now, in the future the municipal improvement district intends to fund landscaping improvements.

Walsma asked if the variance affected the appearance of the planned perimeter landscaping. **McCoy** stated no. **Walsma** asked if in the past other new developments received setback variances for odd shaped lots. **McCoy** deferred to Planning Staff.

Alyssa Linville, Assistant Director Community Development, stating this new subdivision had not received any variances, adding that the granting of this variance would set precedent. **Linville** went on to say that other lots within subdivisions under different zoning designations have received variances for setbacks. **Linville** added there are alternatives for the patio that could be built without the need for a variance.

Walsma asking if that would be a redesign of the patio. **Linville** stated yes.

APPLICANT/APPLICANTS REPRESENTATIVE

Mayra Cobian, representing Halls General Contractor, 3064 S. Ave B, Yuma, AZ said she had no questions.

OPEN PUBLIC COMMENT

None

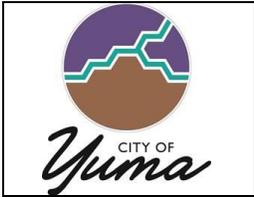
DECISION

Walsma denied the variance, finding that the Special Circumstance was created by the Property Owner or applicant, and that it was not necessary to preserve substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations and there is no special circumstance that applies to the property. She added there are other options for the design of the patio that would then meet requirements.

Walsma adjourned the meeting at 9:40 a.m.

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

Pamela Walsma, Hearing Officer



**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING
CASE TYPE – CONDITIONAL USE PERMIT
CASE PLANNER: CHERI SKINNER**

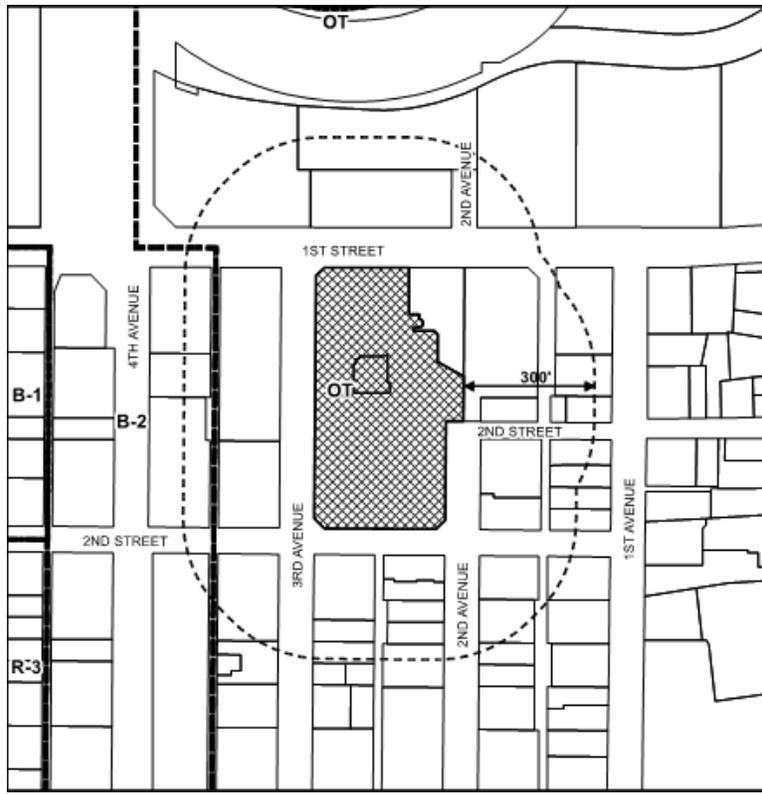
Hearing Date: February 27, 2020

Case Number: CUP-29099-2020

Project Description/Location: This is a request by Terranext, LLC, on behalf of Yuma County, for a Conditional Use Permit to allow soil remediation by soil vapor extraction system, in the Old Town (OT) District. The property is located at 141 S. 3rd Avenue, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Old Town/Bed and Breakfast Overlay/Infill Overlay/Public Overlay (OT/BB/IO/P)	Yuma County Detention Center	Public/Quasi Public
North	Old Town/Bed and Breakfast Overlay/Infill Overlay/Historic Overlay (OT/BB/IO/H)	Yuma County Hall	Public/Quasi Public
South	Old Town/Bed and Breakfast Overlay/Infill Overlay (OT/BB/IO)	Child and Family Resources	Mixed Use
East	Old Town/Bed and Breakfast Overlay/Infill Overlay/Public Overlay (OT/BB/IO/P)	Yuma County Superior Court	Public/Quasi Public
West	Old Town/Bed and Breakfast Overlay/Infill Overlay (OT/BB/IO)	Yuma County Sheriff's Department	Mixed Use

Location Map:



Prior site actions: City Charter (January 12, 1915)

Staff Recommendation: Staff recommends **APPROVAL** of the Conditional Use Permit to allow soil remediation within the Old Town/Bed and Breakfast Overlay/Infill Overlay/Public Overlay (OT/BB/IO/P) District, subject to the conditions outlined in Attachment A.

Suggested Motion: Move to **APPROVE** Conditional Use Permit CUP-29099-2020 as presented, subject to the staff report, information provided during this hearing, and the conditions in Attachment A.

Staff Analysis: This 166,399 square foot (3.82 acre) lot is located on the southeast corner of 1st Street and 3rd Avenue. It is currently the site of Yuma County Detention Center. The applicant, Terranext, intends to construct a soil vapor extraction (SVE) system to remediate a release of gasoline from a former underground storage tank that was located at the subject site.

Terranext proposes to place the remediation equipment on the unused loading dock north of the existing detention center building. The system will occupy an area of about 72 square feet and will be setback 50 feet from the City of Yuma right-of-way.

The SVE unit will include a Rotron Model EN404 1.3-Hp regenerative vacuum blower. The blower is relatively quiet and will be contained in an enclosure called a dog house. Soil vapors will enter the blower via a manifold that includes a dilution air valve. After passing through a condensate trap and particulate filter, soil vapors will be treated using a series of two 2,000-pound and two 200-pound granular activated carbon vessels prior to exhausting to the atmosphere.

Subject to permit approval, construction may begin late February or early March 2020, followed within one week by system start-up and less than one year of operation. After completion and meeting Arizona Department of Environmental Quality (ADEQ) requirements, the SVE system will be decommissioned and the remediation and monitoring wells abandoned in accordance with Arizona Department of Water Resources (ADWR) requirements.

The subject parcel is located within the Old Town (OT) zoning district and would require a review by the Design & Historic Review Commission (DHRC). The application for the administrative review for the DHRC would be completed in-house and case closed upon the completion of the project.

1. What are the impacts of the proposed conditional use on neighboring properties and what conditions are being proposed to resolve those impacts?

SPECIFIC IMPACT AREA		ISSUE	CONDITION #
A.	Traffic	None	N/A
B.	Parking	None	N/A
C.	Lighting	None	N/A
D.	Hours of Operation	None	N/A
E.	Indoor/Outdoor Activities	None	N/A
F.	Noise	None	N/A
G.	Air Quality	None	N/A
H.	Hazardous Materials	None	N/A
I.	Crime Prevention (CPTED)	None	N/A
J.	Screening	None	N/A

2. Does the site plan comply with the requirements of the zoning code?

Yes.

3. Does the proposed use and site plan comply with Transportation Element requirements?

TRANSPORTATION ELEMENT	PLANNED	EXISTING	DIFFERENCE	REQUESTED
1 st Street-Collector	40' FT H/W ROW	45' FT H/W ROW	+5 FT	0 FT

4. Does the proposed conditional use conform to all prior City Council actions for this site?

Yes.

5. Can the Hearing Officer answer the following questions affirmatively?

(1) Is the Hearing Officer, or the City Council, authorized under the zoning code to grant the conditional use permit described in the application?

Yes. The Hearing Officer has the authority to review and approve this request per Section 154-02.02, which specifically lists conditional use permits for soil remediation.

(2) Will the establishment, maintenance, and/or operation of the requested conditional use, under the circumstances of the particular case, not be detrimental to the health, safety; peace, morals, comfort, or general welfare of persons residing, or working, in the vicinity or such proposed use, or be detrimental, or injurious, to the value of property in the vicinity, or to the general welfare of the city?

Yes. The proposed soil remediation site, as described by the applicant, will not be detrimental to the health and safety, or the general welfare of persons residing or working in the vicinity. In the long term, the requested conditional use will improve the health and safety for the City of Yuma. All equipment will be removed upon completion of the project.

(3) Are the provisions for ingress, egress, and traffic circulation, and adjacent public streets adequate to meet the needs of the requested conditional use?

Yes. The existing parking lot is paved and has a driveway for ingress and egress onto 3rd Avenue. The provisions for ingress, egress and traffic circulation will not be impacted by the requested conditional use.

(4) Are the provisions for building(s) and parking facility setbacks adequate to provide a transition from, and protection to, existing and contemplated residential development?

Yes. The setbacks are in accordance with the Old Town (OT) District of the City of Yuma Zoning Code. Terranext, LLC. intends to place the remediation equipment on the unused loading dock north of the existing detention center building. The system will be setback 50 feet from the City of Yuma tight-of-way. No residential uses exist in the immediate area.

(5) Are the height and bulk of the proposed buildings, and structures, compatible with the general character of development in the vicinity of the requested conditional use?

Yes. The height and bulk of the proposed equipment is compatible with the general character of the development. The enclosure surrounding the equipment will be painted like the existing building so that it may appear to be a part of the existing structures.

(6) Have provisions been made to attenuate noise levels and provide for adequate site, and security lighting?

Yes. The remediation system will be in an enclosure to help attenuate the noise levels and the equipment itself is relatively quiet. Security lighting currently exists on the property.

(7) Has the site plan for the proposed conditional use, including, but not limited to landscaping, fencing, and screen walls and/or planting, CPTED strategies (Crime Prevention Through Environmental Design), and anti-graffiti strategies been adequately provided to achieve compatibility with adjoining areas?

Yes. The design of the site incorporates landscaping, security lighting, and the soil vapor extraction equipment will be located within the secured perimeter of the Yuma County Sheriff's Office Detention Center.

Public Comments Received: None.

External Agency Comments: None Received.

Neighborhood Meeting Comments: N/A.

Discussions with Applicant/Agent:

Proposed conditions delivered to applicant on: February 18, 2020

Final staff report delivered to applicant on: February 18, 2020

- Applicant agreed with all of the conditions of approval on: February 18, 2020
- Applicant did not agree with the following conditions of approval:
- 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	Site Photo(s)	Aerial Photo	Staff Research

Prepared By: *Cheri Skinner*
 Cheri Skinner, Associate Planner cheri.skinner@yumaaz.gov

Date: 2-18-20

Approved By: *Alyssa Linville*
 Alyssa Linville, Assistant Director
 Community Development

Date: 02/18/20

ATTACHMENT A
CONDITIONS OF APPROVAL

The following conditions of approval are roughly proportionate to the impacts associated with the conditional use and expected development on the property.

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

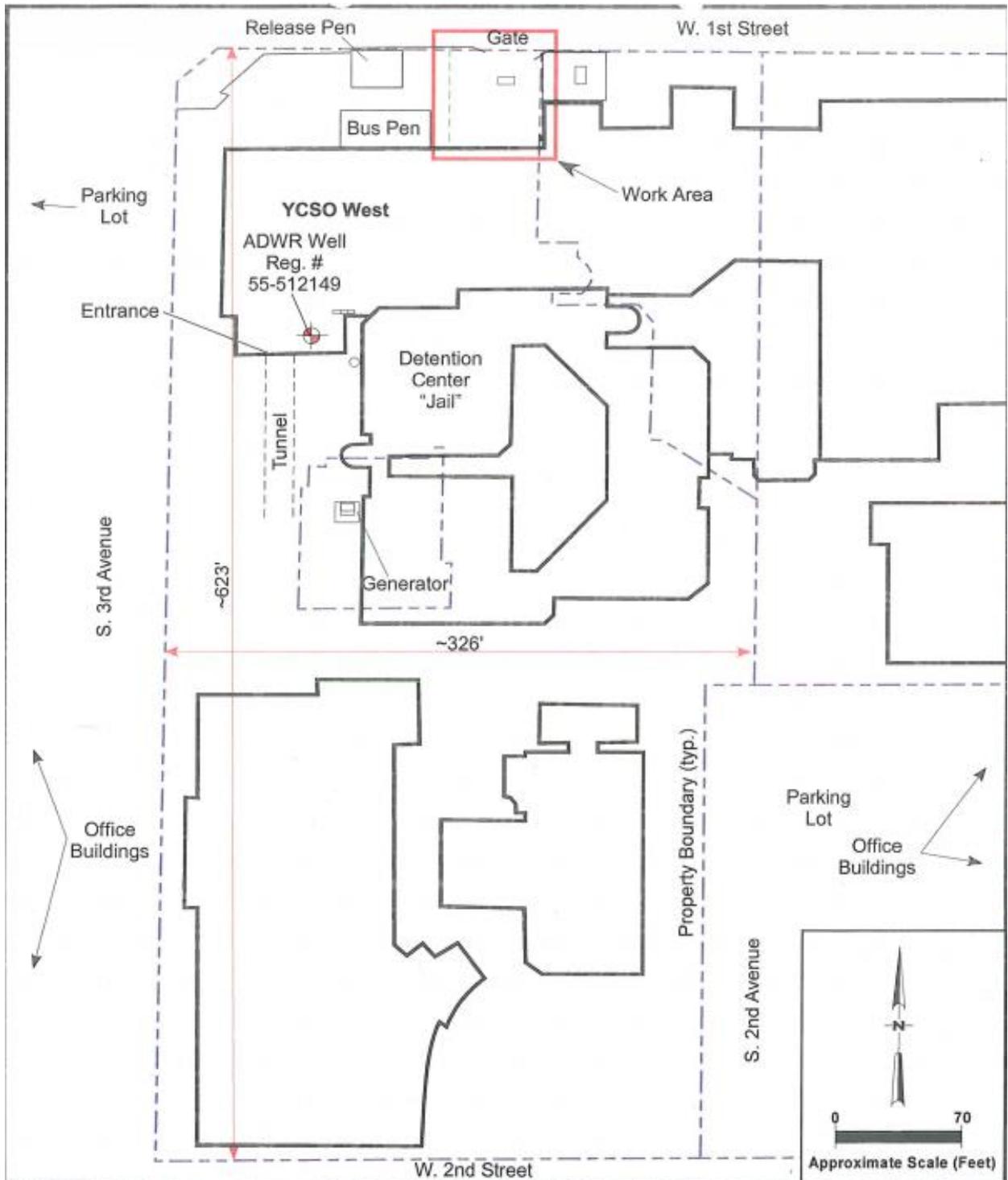
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.
3. The Owner shall submit to the City of Yuma, for recordation, a signed notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.

Community Planning: Cheri Skinner, Associate Planner, (928) 373-5000 X3040

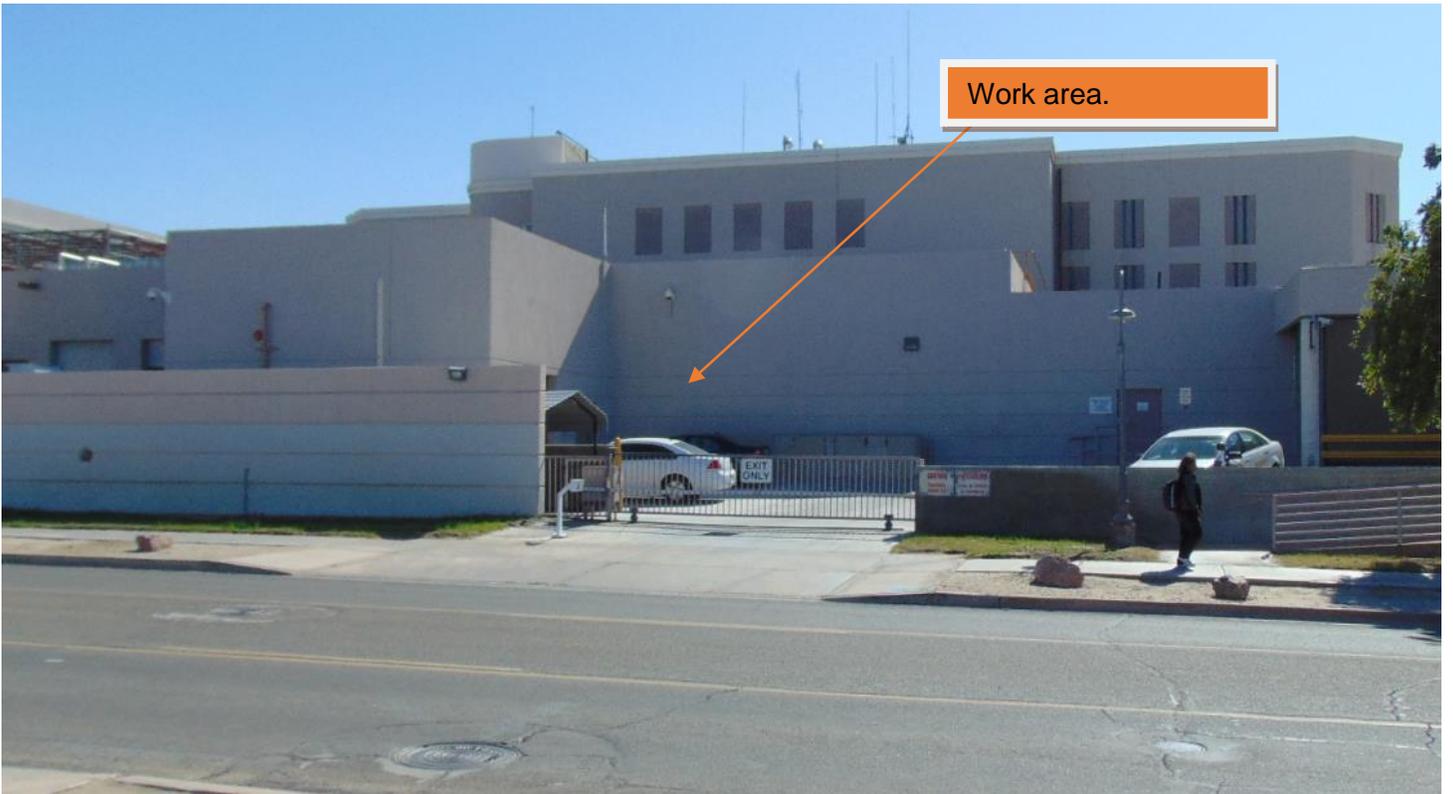
4. Any substantial modification to the overall site design as represented on the site plan will require a public hearing and be subject to the approval of the Planning and Zoning Commission. A substantial modification to the site plan would include, but not necessarily be limited to, the relocation of vehicular access, the modification of storm water retention or the relocation of a building or structure.
5. Prior to the expiration date of the Conditional Use Permit, the applicant has the option to file for a one-year time extension.
6. In any case where a Conditional Use Permit has not been used within one year after the granting thereof, it shall be null and void.
7. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Conditional Use Permit or prior to the issuance of any Building Permit, Certificate of Occupancy or City of Yuma Business License for this property. In the event that the conditions are not completed within this time frame, the Conditional Use Permit 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.

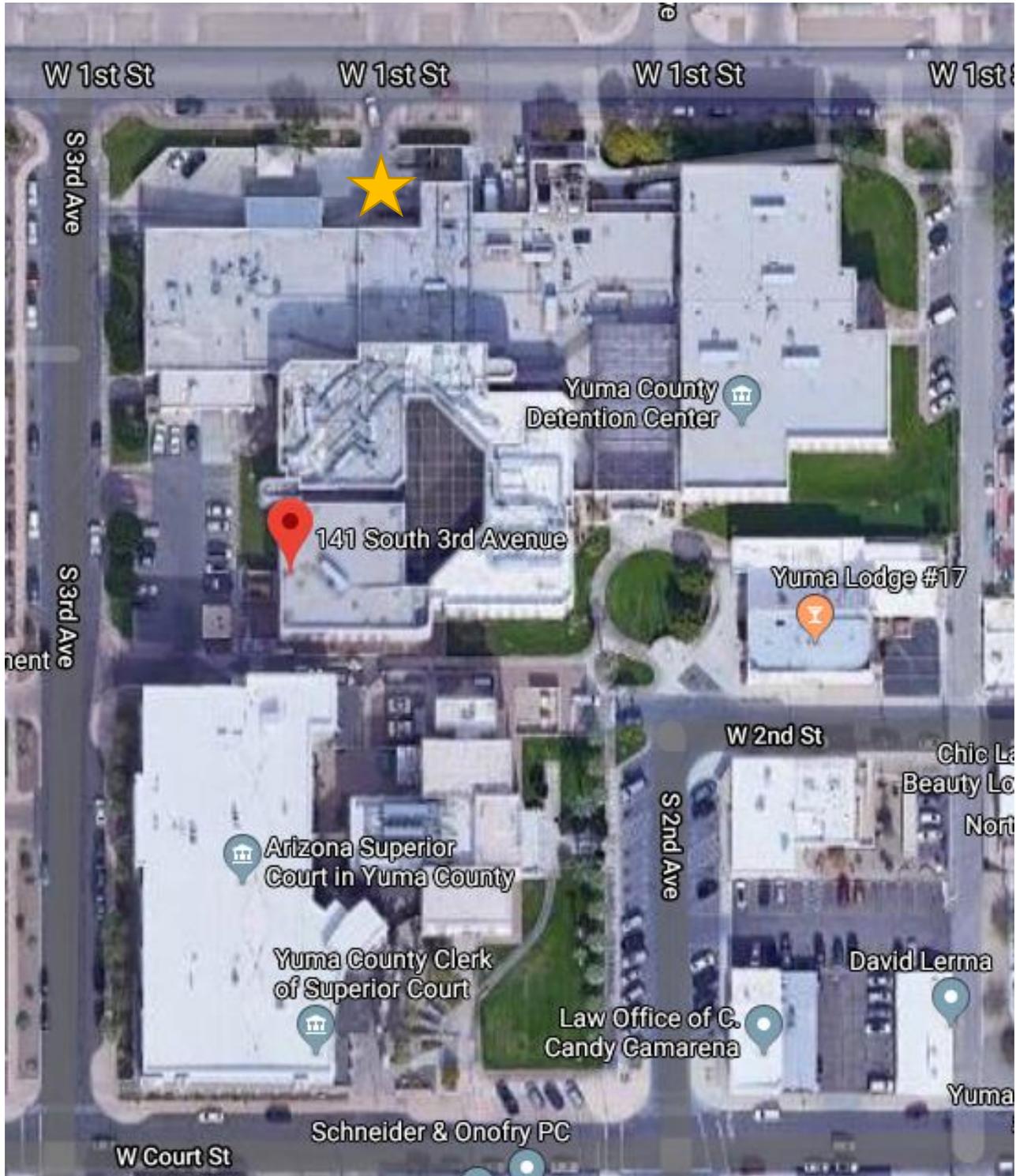
**ATTACHMENT B
SITE PLAN**



ATTACHMENT C
PHOTOS



ATTACHMENT D
AERIAL PHOTO



 Star indicates location of equipment and remediation area.

ATTACHMENT E
STAFF RESEARCH