



**YUMA COUNTY BOARD OF ADJUSTMENT MEETING
PUBLIC NOTICE & AGENDA**

DATE: January 21, 2020
TIME: 1:00 P.M.
PLACE: Aldrich Auditorium, 2351 West 26th Street, Yuma, Arizona

MEMBERS: Neil Tucker, Chairman, Dist. 3
Eric Saltzer, Vice-Chairman, Dist. 1
Joe Harper, Dist. 4
Rosalie Lines, Dist. 2
Tim Eisenmann, Dist. 5

STAFF: Maggie Castro, AICP, Planning Director
Tricia Ramdass, Associate Planner
Amber Jardine, PZ Commission Admin Specialist

ADVISORS: Ed Feheley, Deputy County Attorney
Diana Gomez, Director, Yuma County Public Health Services District

1. **Call to Order and Roll Call.**
2. **Pledge of Allegiance.**
3. **Approval of the Board of Adjustment meeting minutes from December 17, 2019.**
4. **Elect a Chairman for the Yuma County Board of Adjustment for Calendar Year 2020.**
5. **Elect a Vice-Chairman for the Yuma County Board of Adjustment for Calendar Year 2020.**
6. **Variance Case No. 19-16: House of Contractors LLC requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2.0 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor's Parcel Number 754-18-004, located in the vicinity of Avenue B $\frac{1}{2}$ and County 16 $\frac{1}{2}$ Street, Somerton, Arizona; located in the 65-69 dB noise zone.**

7. **Variance Case No. 19-17: Tim Kaiser requests a variance from the Yuma County Zoning Ordinance, Section 609.05—Minimum Lot Width and Principal Buildings Setback Requirements, to allow a side yard setback of three feet and a rear yard setback of four feet on a parcel 6,662 square feet in size zoned Recreational Vehicle Subdivision (RVS), Assessor's Parcel Number 728-48-233, located at 13871 East 50th Drive, Yuma, Arizona.**
8. **Variance Case No. 19-18: Bruce Schmidt, agent for L & R Corporation, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2.0 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor's Parcel Number 747-35-010, located in the vicinity of County 15th Street and Avenue 2½ E, Yuma, Arizona; located in the 65-69 dB noise zone.**
9. **Variance Case No. 19-19: Freda White, agent for Dane and Danelle Palmer, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a 2.5 acre portion of a parcel 5 acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), a portion of Assessor's Parcel Number 724-18-004, located in the vicinity of Avenue 4½ E and County 12¾ Street, Yuma, Arizona; located in the 65-69 dB noise zone.**
10. **Variance Case No. 19-20: Fowler Malone, agent for Patrick and Sherry Lawrence, requests a variance from the Yuma County Zoning Ordinance, Section 1104.01(A)(2)—Setbacks from Section Line Roads, to allow a setback of 33 feet on a parcel 1.06 gross acres in size zoned Suburban Ranch-1 acre minimum, Assessor's Parcel Number 702-02-076, located at 14323 Maria de Fortuna Road, Yuma, Arizona.**
11. **Discussion by the Board members and Planning Director of events attended, current events, and the schedule for future Board of Adjustment meetings.**
12. **Adjourn.**

The Committee may vote to hold an Executive Session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda, pursuant to Arizona Revised Statute §38-431.03(A)(3).

Persons with disabilities may request reasonable accommodations by contacting Shannon Gunderman, ADA Coordinator at 928.373.1137 or by email at shannon.gunderman@yumacountyaz.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

Yuma County Board of Adjustment

Item No. 3

The Yuma County Board of Adjustment met in a regular session on December 17, 2019. The meeting was held in Aldrich Auditorium at 2351 West 26th Street, Yuma, Arizona.

CALL TO ORDER: At 1:00 p.m., Chairman Tucker convened the Board of Adjustment meeting. Board Members present: Tim Eisenmann, Eric Saltzer and Neil Tucker. Board Members Rosalie Lines and Joe Harper were absent. Others present: Planning Director Maggie Castro, AICP; Associate Planner Tricia Ramdass; County Attorney Ed Feheley; and PZ Commission Admin Specialist Amber Jardine.

PLEDGE OF ALLEGIANCE: Vice Chairman Saltzer led the Pledge of Allegiance.

ITEM No. 3: Approval of the Board of Adjustment regular meeting minutes of November 19, 2019.

MOTION (EISENMANN/SALTZER): Approve as presented.

ROLL CALL VOTE: Tucker – AYE; Eisenmann – AYE; Saltzer – AYE.
The motion carried 3-0.

ITEM No. 4: Request for extension of time for Variance Case No. 18-15: In accordance with the Yuma County Zoning Ordinance, Section 403.07(B), Maria Garibay requests an extension of time for Variance Case No. 18-15 for a parcel 2.5 gross acres in size zoned Suburban Ranch-2 acre minimum (SR-2), Assessor's Parcel Number 754-51-009, located at 3403 West County 17½ Street, Somerton, Arizona.

Associate Planner Tricia Ramdass presented the staff report recommending to grant an extension of time of one year for Variance Case No. 18-15.

Chairman Tucker opened the public hearing.

Marco Arrina, 11467 East 25th Place, Yuma, Arizona 85367, stated he was present to translate for the applicant if the Board had any questions.

There being no one else to come forward, Chairman Tucker closed public meeting.

Board Member Eisenmann inquired about what Variance Case 18-15 was for.

Associate Planner Tricia Ramdass reiterated the variance was to allow the placement of a 1971 mobile home on the property. A condition of the variance was that the applicant obtain a mobile home rehabilitation permit and certificate from the Arizona Department of Housing (ADOH) Manufactured Home Division. The mobile home is still undergoing inspection and corrective work required from ADOH. An extension of time would allow the applicant to obtain the certificate and then apply for an installation permit from Yuma County.

MOTION (SALTZER/EISENMANN): Approve the request for extension of time for Variance Case No. 18-15 subject to staff recommendations.

ROLL CALL VOTE: Tucker – AYE; Eisenmann – AYE; Saltzer – AYE.
The motion carried 3-0.

ITEM No. 5: Request for extension of time for Variance Case No. 18-16: In accordance with the Yuma County Zoning Ordinance, Section 403.07(B), Tim Samuelson requests an extension of time for Variance Case No. 18-16 for two parcels 7,178 square feet in size each, zoned Low Density Residential-6,000 square feet minimum (R-1-6), Assessor's Parcel Numbers 664-01-156 and 664-01-157, located in the vicinity of 8th Street and Eleanor Avenue, Yuma, Arizona.

Associate Planner Tricia Ramdass presented the staff report recommending to grant an extension of time of Variance Case No. 18-16.

Chairman Tucker opened the public hearing.

There being no one to come forward, Chairman Tucker closed public meeting.

MOTION (EISENMANN/SALTZER): Approve to grant an extension of time for one year for Variance Case No. 18-16.

ROLL CALL VOTE: Tucker – AYE; Eisenmann – AYE; Saltzer – AYE.
The motion carried 3-0.

ITEM No. 6: Discussion by the Board members and Planning Director of events attended, current events, and the schedule for future Board of Adjustment meetings.

There being no further business to come before the Board, the Chairman adjourned the meeting at 1:07 p.m.

Approved and accepted on this 21st day of January, 2020.

Neil Tucker, Chairman

ATTEST:

Maggie Castro, AICP, Planning Director

Yuma County Board of Adjustment

Item No. 4

AIR-9557

4.

BOA Agenda

Meeting Date: 01/21/2020

Submitted For: Maggie Castro

Submitted By: Amber Jardine

Department: Planning & Zoning Division - DDS

Information

1. REQUESTED ACTION:

Elect a Chairman for the Yuma County Board of Adjustment for Calendar Year 2020.

2. INTENT:

3. For detailed analysis see attached staff report

4. STAFF'S RECOMMENDATION:

Attachments

History of Chairs

HISTORY OF PLANNING & ZONING CHAIRS

YEAR	MONTHS	CHAIR	VICE CHAIR
2006		Marco Nixen	Charles Saltzer
2007		Marco Nixen	Charles Saltzer
2008		Dolores Johnson	Marco Nixen
2009		Dolores Johnson	Charles Saltzer
2010		Charles Saltzer	Dolores Johnson
2011		Charles Saltzer	Joe Harper
2012		Charles Saltzer	Joe Harper
2013		Charles Saltzer	Joe Harper
2014		Charles Saltzer	Joe Harper
2015		Joe Harper	Neil Tucker
2016		Joe Harper	Ron Rice
2017		Joe Harper	Neil Tucker
2018		Joe Harper	Neil Tucker
2019		Neil Tucker	Eric Saltzer

Yuma County Board of Adjustment

Item No. 5

AIR-9558

5.

BOA Agenda

Meeting Date: 01/21/2020

Submitted For: Maggie Castro

Submitted By: Amber Jardine

Department: Planning & Zoning Division - DDS

Information

1. REQUESTED ACTION:

Elect a Vice-Chairman for the Yuma County Board of Adjustment for Calendar Year 2020.

2. INTENT:

3. For detailed analysis see attached staff report

4. STAFF'S RECOMMENDATION:

Attachments

History of Chairs

HISTORY OF PLANNING & ZONING CHAIRS

YEAR	MONTHS	CHAIR	VICE CHAIR
2006		Marco Nixen	Charles Saltzer
2007		Marco Nixen	Charles Saltzer
2008		Dolores Johnson	Marco Nixen
2009		Dolores Johnson	Charles Saltzer
2010		Charles Saltzer	Dolores Johnson
2011		Charles Saltzer	Joe Harper
2012		Charles Saltzer	Joe Harper
2013		Charles Saltzer	Joe Harper
2014		Charles Saltzer	Joe Harper
2015		Joe Harper	Neil Tucker
2016		Joe Harper	Ron Rice
2017		Joe Harper	Neil Tucker
2018		Joe Harper	Neil Tucker
2019		Neil Tucker	Eric Saltzer

Yuma County Board of Adjustment

Item No. 6

AIR-9514

6.

BOA Agenda

Meeting Date: 01/21/2020

Submitted For: Maggie Castro

Submitted By: Tricia Ramdass

Department: Planning & Zoning Division - DDS

Information

1. REQUESTED ACTION:

Variance Case No. 19-16: House of Contractors LLC requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2.0 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor's Parcel Number 754-18-004, located in the vicinity of Avenue B½ and County 16½ Street, Somerton, Arizona; located in the 65-69 dB noise zone.

2. INTENT:

To construct a single family residence in the 65-69 dB noise zone.

3. For detailed analysis see attached staff report

4. STAFF'S RECOMMENDATION:

Staff recommends approval of Variance Case No. 19-16 based on:

1. Granting this request would not be contrary to the public interest.
 2. Granting this request would be in accordance with the spirit of the regulations and the Airport District.
-

Attachments

Staff Report

Vicininty Map

Site Plan

Building Safety Comments

MCAS-Yuma Comments

MCAS-Yuma Response Letter

YCAA Comments

STAFF REPORT
Yuma County Planning and Zoning Division

Prepared for the Hearing of
January 21, 2020
Yuma County Airport Board of Adjustment

CASE NUMBER: Variance Case No. 19-16

OWNER: House of Contractors, LLC

CASE PLANNER: Tricia Ramdass, Associate Planner

DATE PREPARED: December 12, 2019

DESCRIPTION OF REQUEST: House of Contractors, LLC requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2.0 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 754-18-004, located in the vicinity of Avenue B½ and County 16½ Street, Somerton, Arizona; located in the 65-69 dB noise zone.

THE APPLICANT’S REASON FOR REQUESTING THIS VARIANCE: To construct a single family residence in the 65-69 dB noise zone.

APPROVAL OF THIS REQUEST WOULD ALLOW:

The construction of a single family residence in the 65-69 dB noise zone.

BACKGROUND

The subject property is zoned SSB-2. The zoning was approved February 22, 2006 and became effective on March 24, 2006. The intent is to construct a site built single family residence on the parcel. The Airport District of the Yuma County Zoning Ordinance does not allow new residential development in 65-69 dB noise zone unless it was the subject of zoning approved on or before December 31, 2000 that permits one dwelling unit per acre or less. Since the rezoning occurred after December 31, 2000, construction of a single family residence requires approval of a variance by the Board of Adjustment.

Arizona Revised Statutes (ARS) § 28-8471(A) states: A person who wants to erect or increase the height of a structure, permit the growth of a tree or otherwise use the person's property in violation of an airport zoning regulation adopted under this article may apply to the board of adjustment for a variance from the airport zoning regulation in question. Additionally, pursuant to ARS § 28-8473(C)(2), the concurring vote of a majority of the members of the board of adjustment is sufficient to approve this variance request.

Arizona Revised Statutes § 28-8481 requires that Yuma County and Marine Corps Station-Yuma (MCAS-Yuma) mutually agree that the proposed use is compatible and consistent with the high noise and accident potential zones of the military airport. The property was rezoned from RA-10 to SSB-2 through Rezoning Case No. 05-92, wherein a determination of compliance was made by Marine Corps Air Station-Yuma Community Planner T. A. Manfredi stating that MCAS does not object to the rezoning with the conditions that construction is subject to noise reduction standards and that an aviation disclosure statement is recorded.

STAFF ANALYSIS

Section 710.03 of the Zoning Ordinance:

- A. *"A person who wants to erect or increase the height of a structure, permit the growth of a tree or otherwise use the person's property in violation of an airport zoning regulation adopted under this article may apply to the Board of Adjustment for a variance from the airport zoning regulation in question."*

The Airport District does not allow residential development other than single family residential development that was the subject of zoning approved on or before December 31, 2000 that permits one dwelling unit per acre or less and single family residential development that is the primary residence for persons engaging in agricultural use. Although the SSB-2 zoning falls within the established residential density requirements of no more than one dwelling unit per acre, the zoning was approved after December 31, 2000. The SSB-2 zoning for this parcel was approved February 22, 2006, therefore a variance is required for the construction of a single family residence.

- B. *A variance shall be allowed if a literal application or enforcement of the regulation would result in a practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, would do substantial justice and would be in accordance with the spirit of the regulation and this article."*

Staff finds approval of this variance would not be contrary to the public interest, would be justified, and would be in accordance with the spirit of the regulation and the Airport District. The purpose of the Airport District is the encouragement of compatible land uses in the vicinity of airports and the promotion of the general public health, safety and welfare of airport users. The subject property is located in the Yuma Mesa Planning Area of the 2020 Comprehensive Plan. The land use designation is Rural Density Residential which allows a maximum density of one dwelling unit per two acres. Approval of this variance is in compliance with the range of identified uses, densities and intensities of the Yuma County 2020 Comprehensive Plan. The proposed single family residence is consistent and compatible with the high noise zone of the military airport.

- C. *"A variance may be allowed subject to any reasonable conditions the board of adjustment deems necessary to fulfill the purposes of this article."*

Staff is recommending that, if approved, this variance include the attached conditions as a means of addressing any concerns on public health, safety and welfare.

ADDITIONAL COMMENTS:

The following comments were received from the United States Marine Corps-Yuma in a letter dated December 10, 2019: MCAS-Yuma is not in favor of this request however will not request denial due to previous official responses and referenced an attached letter dated 10 Dec 2019 for details.

The following comments were received from the Yuma County Airport Authority in a letter dated December 11, 2019: YCAA is not in favor of this request but recommends sound attenuation be required. YCAA also cautions that measures to achieve noise level reduction (NLR) normally assume mechanical ventilation and closed windows year round and the NLR will not eliminate outdoor noise problems.

The following comments were received from Yuma County Chief Building/Fire Code Official Pat Headington in a letter dated December 5, 2019: All requirements of the 2018 International Residential Code and the Yuma County Board of Supervisors Ordinance 02-01—Sound Attenuation Standards for Yuma County and the Yuma County Comprehensive Building and Safety Code shall be met.

STAFF RECOMMENDATION

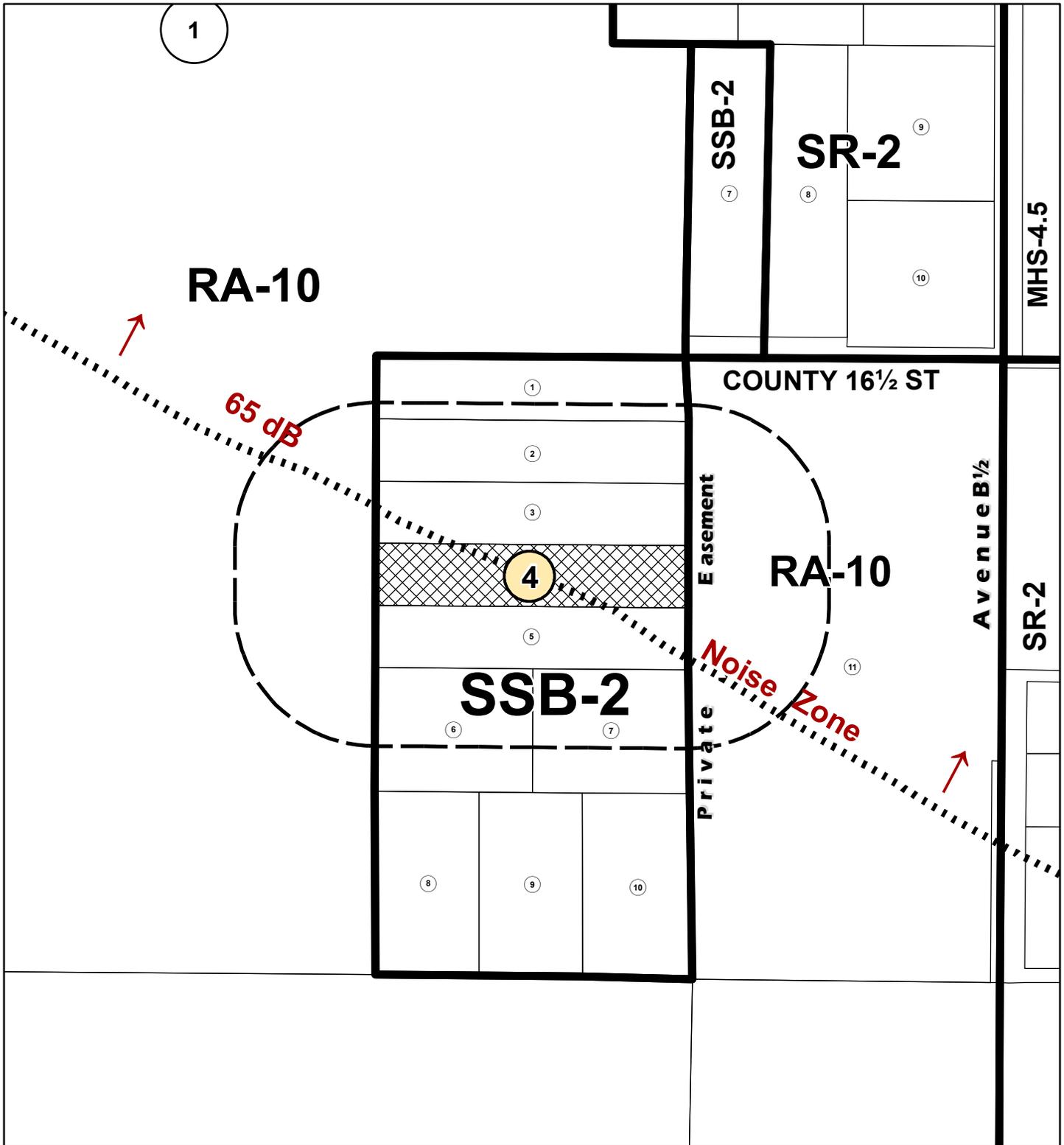
Staff recommends approval of Variance Case No. 19-16 based on:

1. Granting this request would not be contrary to the public interest.
2. Granting this request would be in accordance with the spirit of the regulations and the Airport District.

If the Board of Adjustment approves this Variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 710.08 of the zoning ordinance.
2. An Avigation Disclosure Statement shall be recorded by the owner/agent within 60 days of approval by the Board of Adjustment.
3. Measures to achieve an outdoor to indoor noise reduction of 25 decibels must be incorporated into the design and construction of the residence, per Yuma County Board of Supervisors Ordinance 02-01—Sound Attenuation Standards for Yuma County and the Yuma County Comprehensive Building and Safety Code.

Findings: The Yuma County Airport Board of Adjustment hereby makes a specific finding that the purpose of military airport compatibility is preserved in accordance with ARS § 28-8481(C).




DEPARTMENT OF DEVELOPMENT SERVICES
PLANNING & ZONING DIVISION
 2351 W. 26TH STREET
 YUMA, AZ 85364

FOR INFORMATION ONLY - NO LIABILITY ASSUMED

CASE NO: V19-16
LOCATION: Avenue B½ and County 16½ Street
APN(s): 754-18-004

CASE PLANNER: TRICIA RAMDASS
DATE DRAWN: 11-22-2019
REVIEWED BY: JAVIER BARRAZA

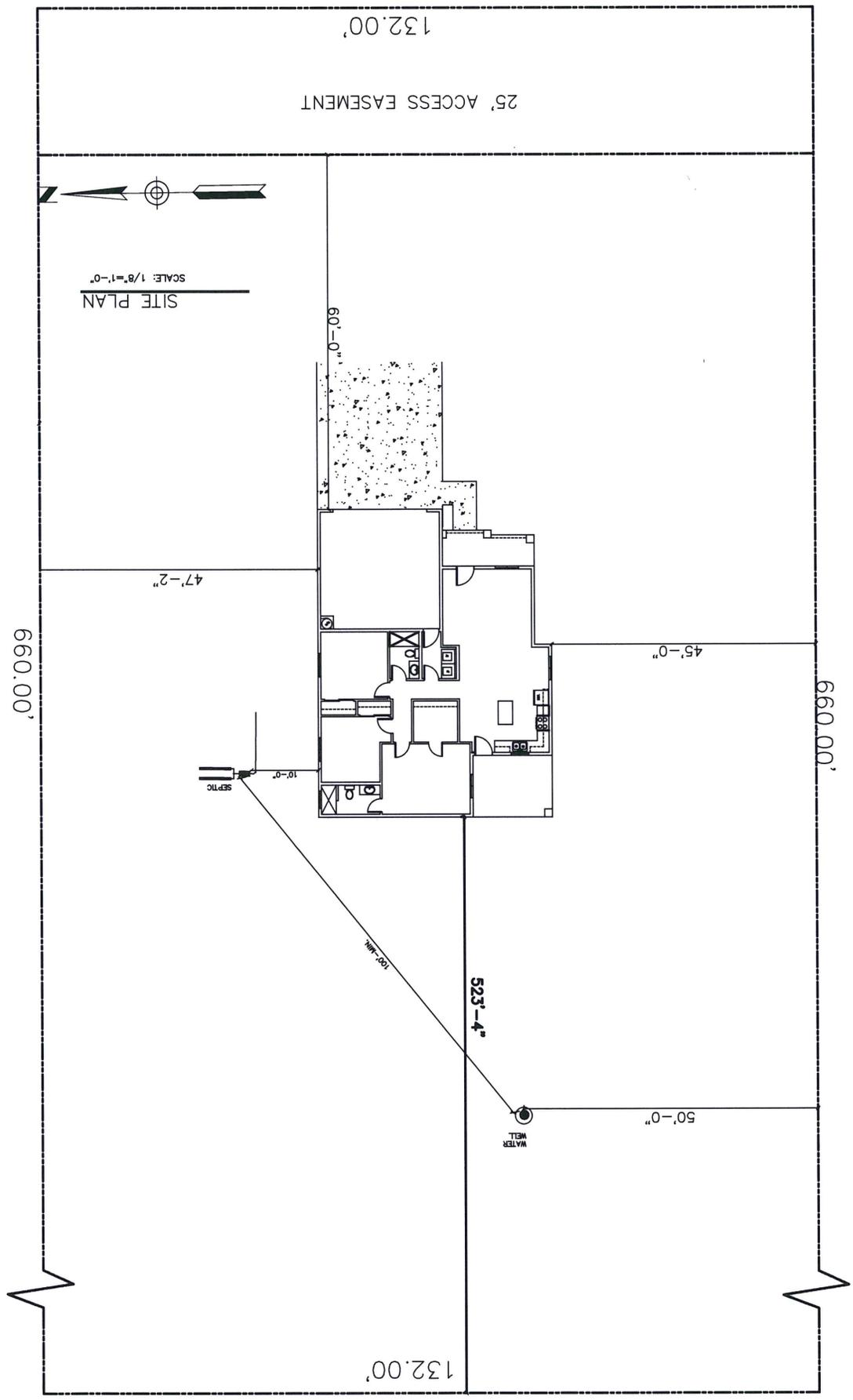
SCALE: 1" = 300'



Legend

-  300' BUFFER
-  SUBJECT PROPERTY
-  Zoning Boundary

APN 754-18-004



SITE PLAN
SCALE: 1/8"=1'-0"

660.00'

660.00'

132.00'

132.00'

25' ACCESS EASEMENT

47'-2"

45'-0"

10'-0"

101'-0"

523'-4"

50'-0"

WATER

SEPTIC



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 4, 2019

CASE NUMBER: VARIANCE CASE NO. 19-16

CASE SUMMARY: House of Contractors LLC requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2.0 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 754-18-0004, located in the vicinity of Avenue B½ and County 16½ Street, Yuma, Arizona; located in the 65-69 dB noise zone.

Intent: To allow the construction of a single family residence in the 65-69 dB noise zone.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 11, 2019

[checked box] COMMENT

[empty box] NO COMMENT

all requirements of the 2018 International Residential Code and sound attenuation standards adopted by the YCBOS shall be met

Multiple horizontal lines for handwritten comments.

DATE: 12/05/2019

PRINTED NAME: Pat Headington

Patrick Headington [Digital Signature]

AGENCY/DIVISION: Building Safety

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 4, 2019

CASE NUMBER: VARIANCE CASE NO. 19-16

CASE SUMMARY: House of Contractors LLC requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2.0 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 754-18-0004, located in the vicinity of Avenue B½ and County 16½ Street, Somerton, Arizona; located in the 65-69 dB noise zone.

Intent: To allow the construction of a single family residence in the 65-69 dB noise zone.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 11, 2019

[checked box] COMMENT

[empty box] NO COMMENT

MCAS Yuma is not in favor of this request however will not request denial due to previous official responses. See attached letter dated 10Dec2019 for details.

DATE: 12/10/2019

PRINTED NAME: Mary Ellen Finch

FINCH.MARY.ELLEN.1157009008
Digitally signed by FINCH.MARY.ELLEN.1157009008
Date: 2019.12.10 14:20:22 -0700

AGENCY/DIVISION: MCAS Yuma

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION YUMA
BOX 99100
YUMA AZ 85369-9100

5726
CP&L
VAR & DOC19-16
December 10, 2019

Ms. Tricia Ramdass
Yuma County Development Services
2351 W. 26th Street
Yuma, AZ 85364-6902

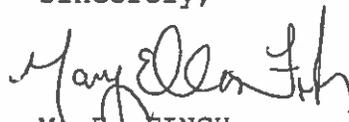
Dear Ms. Ramdass:

We have received the Request for Comments and Determination of Compliance for Variance Case No. 19-16. This is a request by House of Contractors LLC, to build a single family residence on a 2.0 gross acre parcel zoned Suburban Site Built 2 acre (SSB-2) minimum, Assessor parcel number 754-18-004 located at in the vicinity of Avenue B ½ and County 16 ½ St, Somerton, AZ.

The subject parcel lies partially within in the 65dB Noise Contour. This parcel was rezoned from Rural Area - 10 Acre minimum to SSB 2 through Rezoning case 05-92 in 2005. Arizona Revised Statute 28-8481 and the Yuma County Zoning Ordinance do not allow new residential development within the noise zones. At the time MCAS Yuma staff did not object and cited the Joint Land Use Plan which allows for residential development no greater than SSB-2 if the Military and the political subdivision agree. MCAS Yuma staff required the noise level reduction standards be followed as set forth in the Yuma County Zoning ordinance along with requesting an Avigation Disclosure Statement be recorded for the parcels. After further review, we offer the following: It is still our intent to object to any new residential development within the High Noise Accident Potential Zones and the associated Noise Contours designed to protect public health/safety and reduce incompatible development that may be a hindrance to military operations. However, we will not change our official responses on previous land development cases. The landowner has the expectation of constructing incompatible development due to MCAS Yuma's previous response. Therefore, Marine Corps Air Station Yuma while not in favor of this variance request will not object and will continue to request the same conditions as set forth in RC05-92. We will continue to request denial on new rezoning and variance requests, which violate the State Statues, Yuma County Zoning Ordinances and Marine Corps regulations.

If you have any questions or concerns please contact me at (928) 269-2047 or MCASYUMA_CPLO@usmc.mil. Thank you for the opportunity to comment.

Sincerely,


M. E. FINCH



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 4, 2019

CASE NUMBER: VARIANCE CASE NO. 19-16

CASE SUMMARY: House of Contractors LLC requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2.0 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 754-18-0004, located in the vicinity of Avenue B½ and County 16½ Street, Somerton, Arizona; located in the 65-69 dB noise zone.

Intent: To allow the construction of a single family residence in the 65-69 dB noise zone.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 11, 2019

COMMENT

NO COMMENT

~~The subject property is within the 65-69 dB noise contour. The Yuma County Airport Authority is not in favor of this rezoning request. Should the Yuma County Planning and Zoning Commission and Board of Supervisors approve to proceed, the YCAA recommends measures to achieve outdoor to indoor Noise Level Reduction (NLR of at least 25 dB and 30 dB be incorporated into building codes and considered in individual approvals. Normal residential construction can be expected to provide a NLR of 20 dB thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation and closed windows year round. However, the use of NLR criteria will not eliminate outdoor noise problems. Thank you for the opportunity to comment.~~

DATE: 12/11/2019 PRINTED NAME: Gen Grosse

AGENCY/DIVISION: Yuma County Airport Authority

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan

Yuma County Board of Adjustment

Item No. 7

AIR-9515

7.

BOA Agenda

Meeting Date: 01/21/2020

Submitted For: Maggie Castro

Submitted By: Tricia Ramdass

Department: Planning & Zoning Division - DDS

Information

1. REQUESTED ACTION:

Variance Case No. 19-17: Tim Kaiser requests a variance from the Yuma County Zoning Ordinance, Section 609.05—Minimum Lot Width and Principal Buildings Setback Requirements, to allow a side yard setback of three feet and a rear yard setback of four feet on a parcel 6,662 square feet in size zoned Recreational Vehicle Subdivision (RVS), Assessor's Parcel Number 728-48-233, located at 13871 East 50th Drive, Yuma, Arizona.

2. INTENT:

To allow a side yard setback of three feet and a rear yard setback of four feet to enable a change of occupancy permit to convert an existing garage to a dwelling.

3. For detailed analysis see attached staff report

4. STAFF'S RECOMMENDATION:

Staff recommends approval Variance Case No. 19-17 based on:

1. Staff finds there are peculiar conditions applicable to the property such that strict application of the zoning ordinance may deprive the property of a privilege enjoyed by other property owners in the zoning district.
 2. Staff finds there is a hardship arising from conditions or circumstances unique to the development of this property.
 3. Staff finds there are specific peculiar conditions applicable to this property to warrant granting of a variance.
 4. Staff finds approval of this variance may not have an adverse effect on public health, safety, and welfare.
 5. Staff finds granting this variance will not confer a special privilege not enjoyed by others in the RVS zoning district and may not have a negative impact on the neighborhood.
-

Attachments

Staff Report

Vicinity Map

Site Plan

Building Safety Comments

MCAS-Yuma Comments

STAFF REPORT
Yuma County Planning and Zoning Division

Prepared for the Hearing of
January 21, 2020
Yuma County Board of Adjustment

CASE NUMBER: Variance Case No. 19-17
OWNER: Tim Kaiser
CASE PLANNER: Tricia Ramdass, Associate Planner
DATE PREPARED: December 13, 2019

DESCRIPTION OF REQUEST: Tim Kaiser requests a variance from the Yuma County Zoning Ordinance, Section 609.05—Minimum Lot Width and Principal Buildings Setback Requirements, to allow a side yard setback of three feet and a rear yard setback of four feet on a parcel 6,662 square feet in size zoned Recreational Vehicle Subdivision (RVS), Assessor's Parcel Number 728-48-233, located at 13871 East 50th Drive, Yuma, Arizona.

THE APPLICANT'S REASON FOR REQUESTING THIS VARIANCE: The current property owners purchased the property believing that the garage could be utilized as a dwelling. The structure had had been used as habitable space by the prior owners and advertised in the realtor listing as a casita. The property owners intend to obtain a change of occupancy permit to convert the existing garage into a dwelling.

APPROVAL OF THIS REQUEST WOULD ALLOW:

The following deviations from the Zoning Ordinance:

1. A rear yard setback of four feet where ten feet is required.
2. A side yard setback of three feet where ten feet is required.

BACKGROUND

The subject property is located within Foothills Mobile Estates No. 15 subdivision in the Foothills Planning Area of the 2020 Comprehensive Plan. The subdivision was recorded on November 9, 1994 and is zoned Recreational Vehicle Subdivision (RVS). The parcel is the location of a garage, one storage structure and one RV cover.

The following permits are on file for the subject property: Permits No. P95-0332 and E95-0322 were issued on March 16, 1995 for new plumbing and electrical for the lot. Permit numbers B96-1608, P96-1130, E96-1218 and M96-0686 were issued on December 9, 1996 for a garage 576 square feet in size which noted that the structure was “not to be used for habitable purposes.” Finally, permit number B04-2197 was issued on November 15, 2004 for a recreational vehicle carport 14 feet by 45 feet in size on the east half of the lot. Staff was unable to verify if a permit was obtained for the storage structure 13 feet by 17 feet in size located in the southeast corner of the parcel, however, the structure was constructed by a previous owner. Additionally, a site visit and conversation with the current property owner revealed the water heater was relocated without a permit to the outer west side of the garage structure by a previous owner. The water heater was also encased, reducing the side yard setback to three feet. The property owner would like to leave the water heater in its current location but intends to have the plumbing and electrical work brought up to code.

A Quit Claim Deed for the subject property conveying the property to the current property owners, Recorder’s Fee No. 2019-10731, was recorded on April 29, 2019. The applicant believed that the structure had all the necessary permits and was a dwelling when he purchased the property. The property owners purchased the property believing that the advertised pictures were evidence that the structure was used as a dwelling and was habitable. The structure was permitted as a garage with a bathroom and laundry facilities and met the required setbacks at the time of construction. However, a previous owner began using the garage as habitable space sometime after the permit (B96-1608) was finalized.

This variance came about because the applicant inquired about permits to install a gas line and cooking facilities in order to fully utilize the structure as a dwelling. The applicant was advised by staff that a change of occupancy was needed to allow the use and ensure the structure meets applicable building and fire code requirements for habitable space. The applicant was also informed that the structure did not meet the minimum required rear and side yard setback for dwellings in the RVS zoning district so a variance would be required.

A dwelling unit is defined in Section 202.00 of the Yuma County Zoning Ordinance as:

One or more rooms within a building arranged, designed or used for residential purposes for one family and containing independent sanitary and cooking facilities. The presence of cooking facilities conclusively establishes the intent to use for residential purposes.

The structure was originally permitted in 1996 as a garage with a bathroom and laundry facilities prior to the definition and regulation of Recreational Vehicle Support Structures. The zoning ordinance in effect in 1996 allowed garages with plumbing to be constructed with rear and side yard setbacks of three feet. The Yuma County Board of Supervisors approved an amendment to the Zoning Ordinance on December 4, 2000, effective January 3, 2001, that established a definition for Recreational Vehicle Support Structure as follows:

A single, detached structure in an RVS Zoning District, which is constructed with a minimum floor area of 120 square feet and has either of the following:

A. bath facilities including lavatory, toilet, shower or any combination thereof or;

B. laundry facilities including washing, drying, water heater or any combination thereof.

RV support structures must meet the setback requirements as set forth in Section 609.05 of the Yuma County Zoning Ordinance.

The structure does not meet the principal building minimum rear yard setback requirement of ten feet or the minimum side yard setback requirement of seven feet. The structure could continue to be utilized as an RV support structure with nonconforming setbacks. However, because the intent is to use the structure as a dwelling, the change of occupancy is needed and a variance is required.

STAFF ANALYSIS

Section 403.03 of the Zoning Ordinance:

- A. *Variations under section 403.02 shall be granted only when, because of peculiar conditions applicable to the property, the strict application of the Zoning Ordinance deprives such property of privilege enjoyed by other property owners in the zoning district.*

Staff finds there are peculiar conditions applicable to the property. The lot measures 65 feet wide by 102.5 feet deep. The parcel is 6,662 square feet in size and meets the minimum parcel size for the RVS zoning district. The subdivision plat indicates the grade of lot in the subdivision would be three inches above the street centerline, however the grade of this lot and adjacent lots is higher. The first 25-30 feet of the lot is not level and limits where larger recreational vehicles can be parked on level ground. Additionally, the property owners would like to develop the property in a way that does not prevent them from having the occupation of one additional RV that is allowed on properties in the RVS district with lot sizes of at least 6,000 square feet. Alternative construction of a dwelling forward of the existing garage structure would limit available parking and create difficulties achieving the minimum required setback between dwellings. Strict application of the zoning ordinance may deprive the property of a privilege enjoyed by other property owners in the zoning district.

- B. *Variations are available only in cases where there is a hardship arising from conditions or circumstances unique to the development of a particular piece of land, not from personal considerations, personal convenience or financial hardships.*

Staff finds there is hardship arising from conditions or circumstances unique to the development of this property. The property owners purchased the property believing that the advertised pictures showed the structure was used as a dwelling and was habitable. However, the applicant became aware that the garage was not permitted for use as habitable space when they inquired about installing a gas line. The applicant would like to utilize the structure as a dwelling and intends to install cooking facilities. There is room on the lot for the property owners to construct a dwelling that meets principal building setbacks but alternative construction of a dwelling forward of the existing garage structure would limit the parking available for recreational vehicles.

- C. *Any motion to grant a Variance by the Board of Adjustment shall include specific peculiar conditions applicable to the property, which exist to cause granting of a Variance.*

Staff finds there are specific peculiar conditions applicable to this property to warrant granting of a variance. The property is not of unusual shape or topography and there is sufficient space to construct a dwelling that meets the principal building setback requirements of the zoning district, however the existing slope of the front yard limits the ability to park the recreational vehicles on a level surface. If the structure is converted to a dwelling, the size of the lot allows for one additional recreational vehicle to be occupied on the lot. Alternative construction of a dwelling could limit the level ground available to park the recreational vehicle and the ability to achieve the minimum setback between dwellings.

- D. *A variance shall not be granted which will have an adverse effect on public health, safety and welfare.*

Staff finds approval of this variance may not have an adverse effect on public health, safety, and welfare. Chief Building/Fire Code Official, Pat Headington, stated that structures in residential districts that are closer than five feet to property lines must be constructed to provide 1-hour minimum firewall protection. The existing structure was constructed four feet from the rear and east side yard property line. The structure will need to meet building and fire code requirements that will be addressed during the change of occupancy process.

- E. *A variance shall not be granted if, in granting the variances a special privilege not commonly enjoyed by others in the zoning district will be conferred, or have a negative impact on the neighborhood.*

Staff finds granting this variance will not confer a special privilege not enjoyed by others in the RVS zoning district. The project does not appear to have a negative impact on the neighborhood. Other variances for a reduction in rear yard and side yard setbacks have been granted for similar circumstances in this zoning district. Three of four similar variance requests have been approved for reduction of principal building setback requirements for structures that were converted to dwellings since the amendment to the Zoning Ordinance effective January 3, 2001:

- Variance Case No. 19-02 was approved by the BOA on 03/19/2019 for APN 668-25-087 allowing a rear yard setback of six feet on a parcel 6,662 square feet in size.
- Variance Case No. 15-01 was approved by the BOA on 03/17/2013 for APN 728-55-200 allowing a rear yard setback of seven feet on a parcel 6,930 square feet in size.
- Variance Case No. 13-03 was denied by the BOA on 05/21/2013 for APN 728-61-392 requested a rear yard setback of seven feet nine inches on a parcel 7,363 square feet in size.
- Variance Case No. 07-26 was approved by the BOA on 01/15/2008 for APN 728-30-062 allowing a rear yard setback of six feet on a parcel 6,099 square feet in size.

- F. *The Board of Adjustment may require appropriate conditions or safeguards on any granted variances so that public health, safety and welfare are not compromised.*

Staff is recommending that if approved, this variance include the attached conditions as a means of

addressing concerns of public health, safety, and welfare.

G. Variances shall not be granted if the condition is self-imposed or if a reasonable use of the land can be made in an alternative development scheme without the variance.

Staff finds the condition is self-imposed. The structure was permitted as garage with a bathroom and washer/dryer facilities. The permit for the structure specifically states “not to be used for habitable purposes,” however, the applicant purchased the property believing that structure was a casita and that the pictures confirmed use of the structure as dwelling. A change of occupancy to a dwelling would trigger that the building meet principal building setbacks so a variance is required. There is sufficient room on the property to construct a dwelling that meets the principal building setback requirements of the zoning ordinance, however alternative placement of a dwelling limits the available space to park recreational vehicles on level ground and the ability to meet the minimum required setback between dwellings.

H. The fact that there are non-conforming uses of neighborhood lands, structures or buildings, in the same zoning district shall not be considered grounds for issuance of a variance.

Staff’s recommendation is not based on non-conforming uses of neighborhood lands, structures or buildings in the same zoning district.

ADDITIONAL COMMENTS:

Mary Ellen Finch, MCAS-Yuma requested that an avigation disclosure statement and range disclosure statement be recorded.

Chief Building Code/Fire Code Official Pat Headington stated that the requirements of the 2018 International Residential Code shall be met including 1-hour rated construction where exterior walls are less than 5 feet from a property line.

STAFF RECOMMENDATION

Staff recommends approval Variance Case No. 19-17 based on:

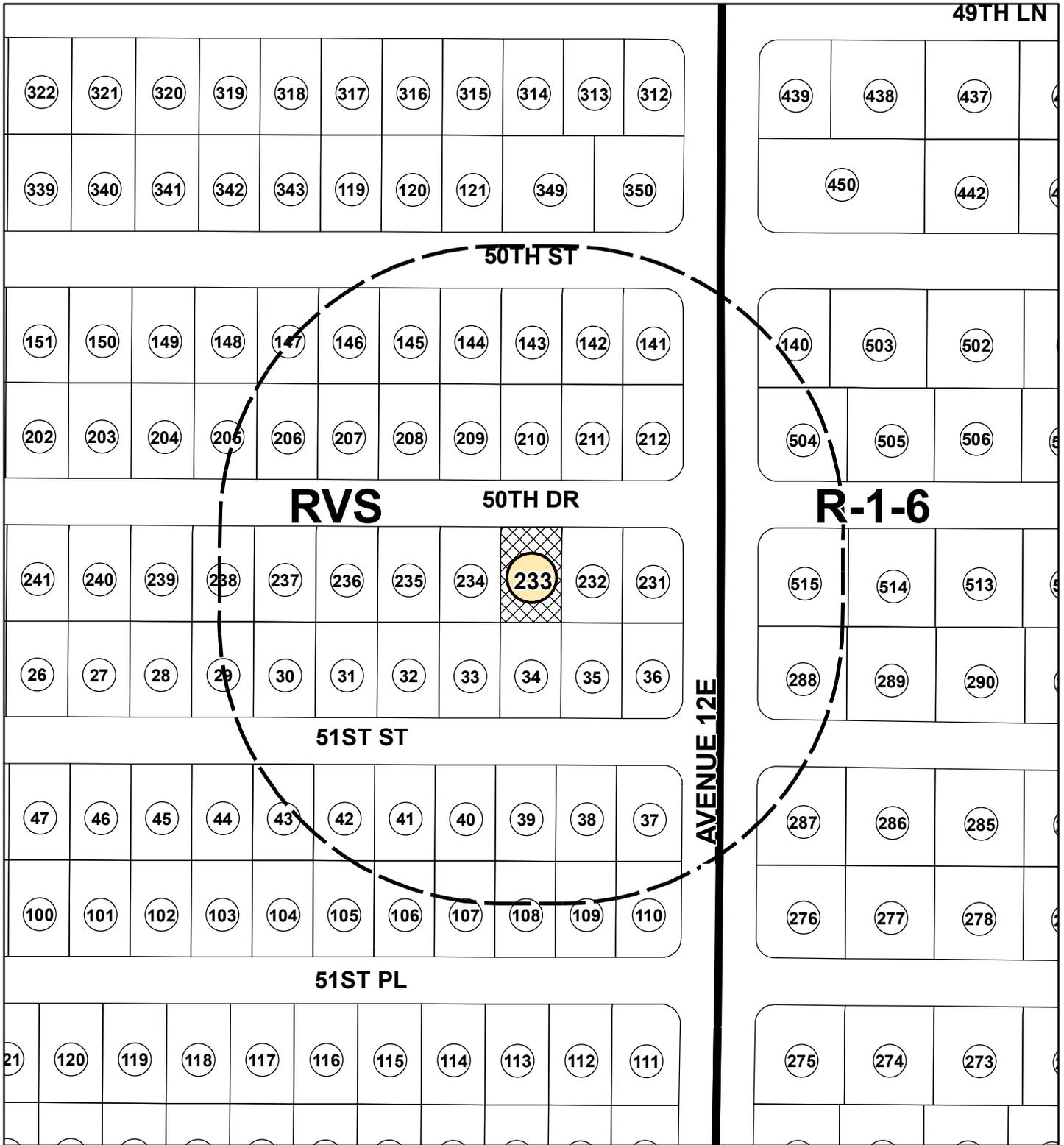
1. Staff finds there are peculiar conditions applicable to the property such that strict application of the zoning ordinance may deprive the property of a privilege enjoyed by other property owners in the zoning district.
2. Staff finds there is a hardship arising from conditions or circumstances unique to the development of this property.
3. Staff finds there are specific peculiar conditions applicable to this property to warrant granting of a variance.
4. Staff finds approval of this variance may not have an adverse effect on public health, safety, and

welfare.

5. Staff finds granting this variance will not confer a special privilege not enjoyed by others in the RVS zoning district and may not have a negative impact on the neighborhood.

If the Board of Adjustment approves this Variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 403.07 of the Zoning Ordinance.
2. The applicant/owner shall obtain a change of occupancy permit within 60 days of approval by the Board of Adjustment.
3. The applicant will record an Avigation Disclosure Statement and a Range Disclosure Statement within 60 days of approval by the Board of Adjustment.
4. The structure must meet the requirements of the 2018 International Residential Building and Fire Codes.



**DEPARTMENT OF
DEVELOPMENT
SERVICES**
PLANNING & ZONING DIVISION
2351 W. 26TH STREET
YUMA, AZ 85364

FOR INFORMATION ONLY - NO LIABILITY ASSUMED

CASE NO:
LOCATION:
APN(s):

V19-17
13871 E 50th Drive
728-48-233

CASE PLANNER: TRICIA RAMDASS
DATE DRAWN: 11-25-2019
REVIEWED BY: FERNANDO VILLEGAS

SCALE: 1"= 150'

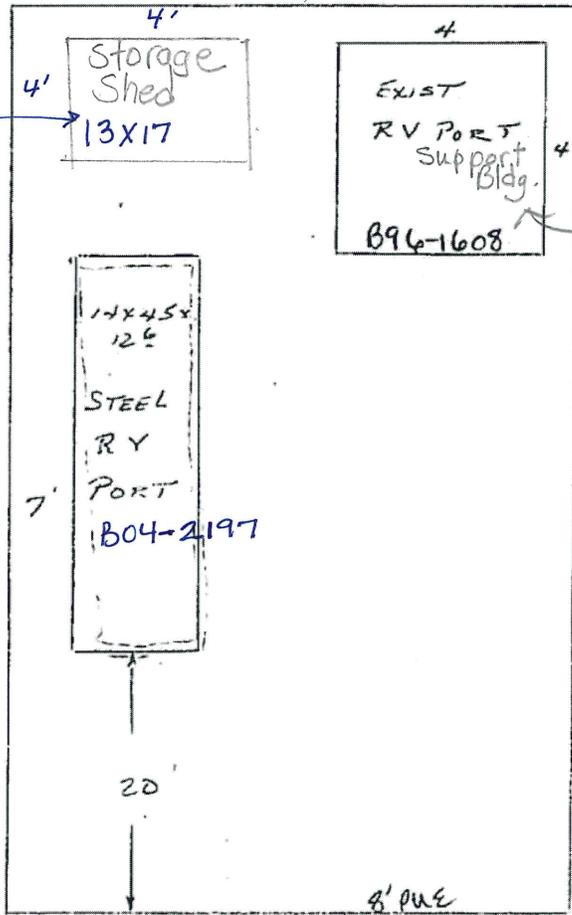


Legend

- 300' BUFFER
- SUBJECT PROPERTY
- Zoning Boundary

65. ✓

No Permit Found
Aerial Imagery indicates shed placed b/n 8/2005 and 6/2006



PROPOSED DWELLING (CHANGE OF OCCUPANCY) GARAGE TO DWELLING

102.50 ✓

APN 72848233

13871 5072



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 4, 2019

CASE NUMBER: VARIANCE CASE NO. 19-17

CASE SUMMARY: Tim Kaiser requests a variance from the Yuma County Zoning Ordinance, Section 609.05—Minimum Lot Width and Principal Buildings Setback Requirements, to allow a side yard setback of four feet and a rear yard setback of four feet on a parcel 6,662 square feet in size zoned Recreational Vehicle Subdivision (RVS), Assessor's Parcel Number 728-48-233, located at 13871 East 50th Drive, Yuma, Arizona.

Intent: To allow a side yard setback of four feet and a rear yard setback of four feet to enable a change of occupancy for an existing garage to a dwelling.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 11, 2019

COMMENT

NO COMMENT

The subject parcel APN 728-48-233 lies approximately .65 miles from the northern boundary of the Barry M. Goldwater Range-West and thus is subject to significant sound events. Since this request is to increase density in a parcel we request that both Avigation and Range Disclosure statements be recorded that recognizes 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 comment

DATE: 12/6/19

PRINTED NAME: Mary Ellen Finch

FINCH.MARY.ELLEN Digitally signed by
FINCH.MARY.ELLEN.1157009008
.1157009008 Date: 2019.12.06 07:46:37 -07'00'

AGENCY/DIVISION: MCAS Yuma Community Planning

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 4, 2019

CASE NUMBER: VARIANCE CASE NO. 19-17

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.1157009008 Date: 2019.12.06 07:46:37 -07'00'

AGENCY/DIVISION: MCAS Yuma Community Planning

RETURN TO: Tricia Ramdass, Associate Planner
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Attachments: Case Map, Site Plan

Yuma County Board of Adjustment

Item No. 8

AIR-9516

8.

BOA Agenda

Meeting Date: 01/21/2020

Submitted For: Maggie Castro

Submitted By: Tricia Ramdass

Department: Planning & Zoning Division - DDS

Information

1. REQUESTED ACTION:

Variance Case No. 19-18: Bruce Schmidt, agent for L & R Corporation, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2.0 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor's Parcel Number 747-35-010, located in the vicinity of County 15th Street and Avenue 2½ E, Yuma, Arizona; located in the 65-69 dB noise zone.

2. INTENT:

To construct a single family residence in the 65-69 dB noise zone.

3. For detailed analysis see attached staff report

4. STAFF'S RECOMMENDATION:

Staff recommends approval of Variance Case No. 19-18 based on:

1. Granting this request would not be contrary to the public interest.
 2. Granting this request would be in accordance with the spirit of the regulations and the Airport District.
-

Attachments

Staff Report

Vicinity Map

Site Plan

Building Safety Comments

MCAS-Yuma Comments

MCAS-Yuma Response Letter

YCAA Comments

STAFF REPORT
Yuma County Planning and Zoning Division

Prepared for the Hearing of
January 21, 2020
Yuma County Airport Board of Adjustment

CASE NUMBER: Variance Case No. 19-18

OWNER: L & R Corporation

CASE PLANNER: Tricia Ramdass, Associate Planner

DATE PREPARED: December 12, 2019

DESCRIPTION OF REQUEST: Bruce Schmidt, agent for L & R Corporation, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2.0 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 747-35-010, located in the vicinity of County 15th Street and Avenue 2½ E, Yuma, Arizona; located in the 65-69 dB noise zone.

THE APPLICANT’S REASON FOR REQUESTING THIS VARIANCE: To construct a single family residence in the 65-69 dB noise zone.

APPROVAL OF THIS REQUEST WOULD ALLOW:

The construction of a single family residence in the 65-69 dB noise zone.

BACKGROUND

The subject property is zoned SSB-2. The zoning was approved September 19, 2005 and became effective on October 19, 2005. The intent is to construct a site built single family residence on the parcel. The Airport District of the Yuma County Zoning Ordinance does not allow new residential development in 65-69 dB noise zone unless it was the subject of zoning approved on or before December 31, 2000 that permits one dwelling unit per acre or less. Since the rezoning occurred after December 31, 2000, construction of a single family residence requires approval of a variance by the Board of Adjustment.

Arizona Revised Statutes (ARS) § 28-8471(A) states: A person who wants to erect or increase the height of a structure, permit the growth of a tree or otherwise use the person's property in violation of an airport zoning regulation adopted under this article may apply to the board of adjustment for a variance from the airport zoning regulation in question. Additionally, pursuant to ARS § 28-8473(C)(2), the concurring vote of a majority of the members of the board of adjustment is sufficient to approve this variance request.

Arizona Revised Statutes § 28-8481 requires that Yuma County and Marine Corps Station-Yuma (MCAS-Yuma) mutually agree that the proposed use is compatible and consistent with the high noise and accident potential zones of the military airport. The property was rezoned from RA-10 to SSB-2 through Rezoning Case No. 05-55, wherein a determination of compliance was made by Marine Corps Air Station-Yuma Community Planner T. A. Manfredi stating that MCAS does not object to the rezoning with the conditions that construction is subject to noise reduction standards and that an aviation disclosure statement is recorded.

STAFF ANALYSIS

Section 710.03 of the Zoning Ordinance:

- A. *"A person who wants to erect or increase the height of a structure, permit the growth of a tree or otherwise use the person's property in violation of an airport zoning regulation adopted under this article may apply to the Board of Adjustment for a variance from the airport zoning regulation in question."*

The Airport District does not allow residential development other than single family residential development that was the subject of zoning approved on or before December 31, 2000 that permits one dwelling unit per acre or less and single family residential development that is the primary residence for persons engaging in agricultural use. Although the SSB-2 zoning falls within the established residential density requirements of no more than one dwelling unit per acre, the zoning was approved after December 31, 2000. The SSB-2 zoning for this parcel was approved September 19, 2005, therefore a variance is required for the construction of a single family residence.

- B. *A variance shall be allowed if a literal application or enforcement of the regulation would result in a practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, would do substantial justice and would be in accordance with the spirit of the regulation and this article."*

Staff finds approval of this variance would not be contrary to the public interest, would be justified, and would be in accordance with the spirit of the regulation and the Airport District. The purpose of the Airport District is the encouragement of compatible land uses in the vicinity of airports and the promotion of the general public health, safety and welfare of airport users. The subject property is located in the Yuma Mesa Planning Area of the 2020 Comprehensive Plan. The land use designation is Rural Density Residential which allows a maximum density of one dwelling unit per two acres. Approval of this variance is in compliance with the range of identified uses, densities and intensities of the Yuma County 2020 Comprehensive Plan. The proposed single family residence is consistent and compatible with the high noise zone of the military airport.

- C. *"A variance may be allowed subject to any reasonable conditions the board of adjustment deems necessary to fulfill the purposes of this article."*

Staff is recommending that, if approved, this variance include the attached conditions as a means of addressing any concerns on public health, safety and welfare.

ADDITIONAL COMMENTS:

The following comments were received from the United States Marine Corps-Yuma in a letter dated December 10, 2019: MCAS-Yuma is not in favor of this request however will not request denial due to previous official responses. See attached letter dated 10 Dec 2019 for details.

The following comments were received from the Yuma County Airport Authority in a letter dated December 11, 2019: YCAA is not in favor of this request but recommends sound attenuation if approved. YCAA also cautions that measures to achieve noise level reduction normally assume mechanical ventilation and closed windows year round and will not eliminate outdoor noise problems.

The following comments were received from Yuma County Chief Building/Fire Code Official Pat Headington in a letter dated December 11, 2019: All requirements of the 2018 International Residential Code and the Yuma County Board of Supervisors Ordinance 02-01—Sound Attenuation Standards for Yuma County and the Yuma County Comprehensive Building and Safety Code shall be met.

STAFF RECOMMENDATION

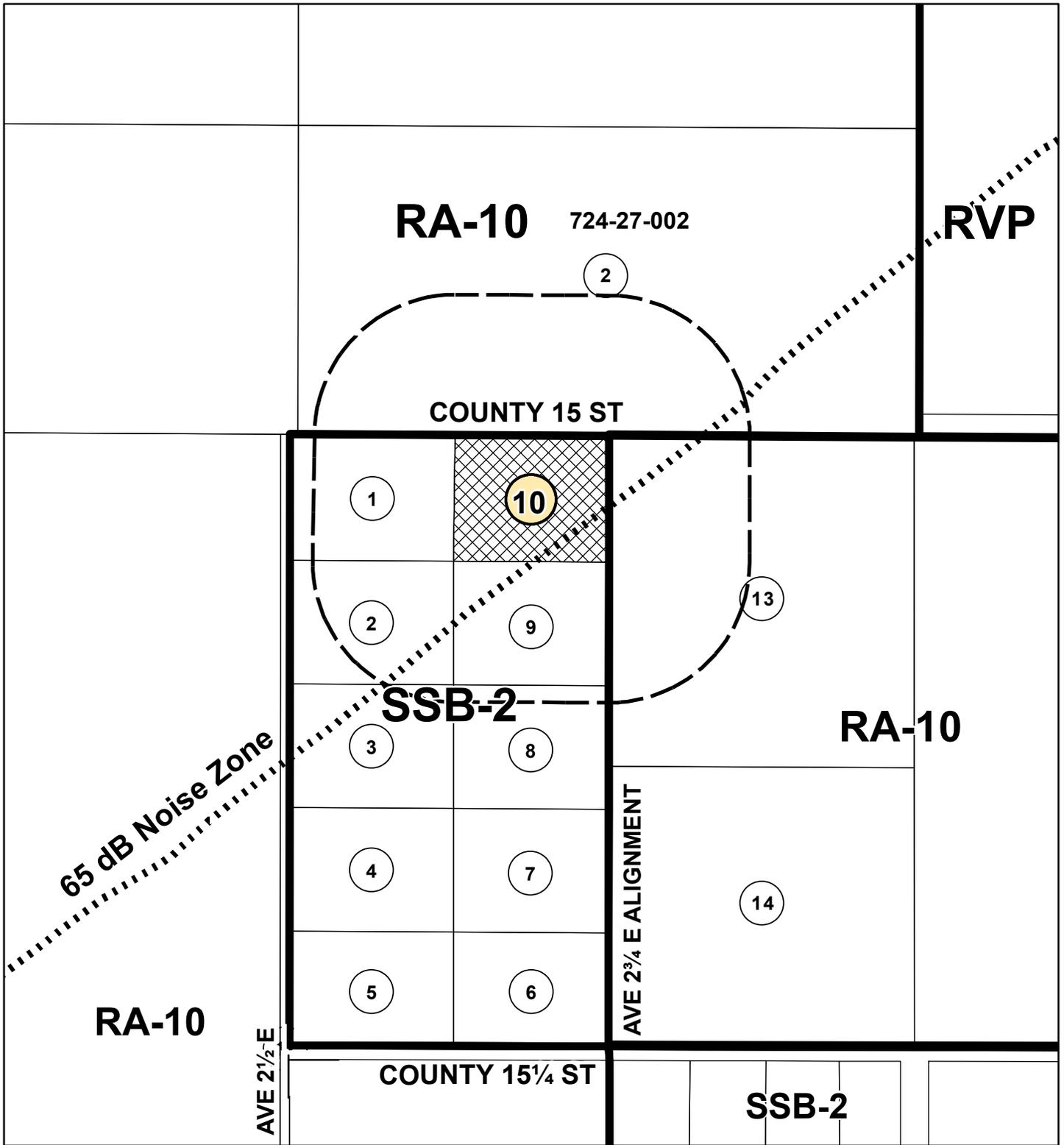
Staff recommends approval of Variance Case No. 19-18 based on:

1. Granting this request would not be contrary to the public interest.
2. Granting this request would be in accordance with the spirit of the regulations and the Airport District.

If the Board of Adjustment approves this Variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 710.08 of the zoning ordinance.
2. An Avigation Disclosure Statement shall be recorded by the owner/agent within 60 days of approval by the Board of Adjustment.
3. Measures to achieve an outdoor to indoor noise reduction of 25 decibels must be incorporated into the design and construction of the residence, per Yuma County Board of Supervisors Ordinance 02-01—Sound Attenuation Standards for Yuma County and the Yuma County Comprehensive Building and Safety Code.

Findings: The Yuma County Airport Board of Adjustment hereby makes a specific finding that the purpose of military airport compatibility is preserved in accordance with ARS § 28-8481(C).




DEPARTMENT OF DEVELOPMENT SERVICES
PLANNING & ZONING DIVISION
 2351 W. 26TH STREET
 YUMA, AZ 85364

FOR INFORMATION ONLY - NO LIABILITY ASSUMED

CASE NO: V19-18
LOCATION: Vicinity of County 15th Street and Avenue 2 1/2 E
APN(s): 747-35-010

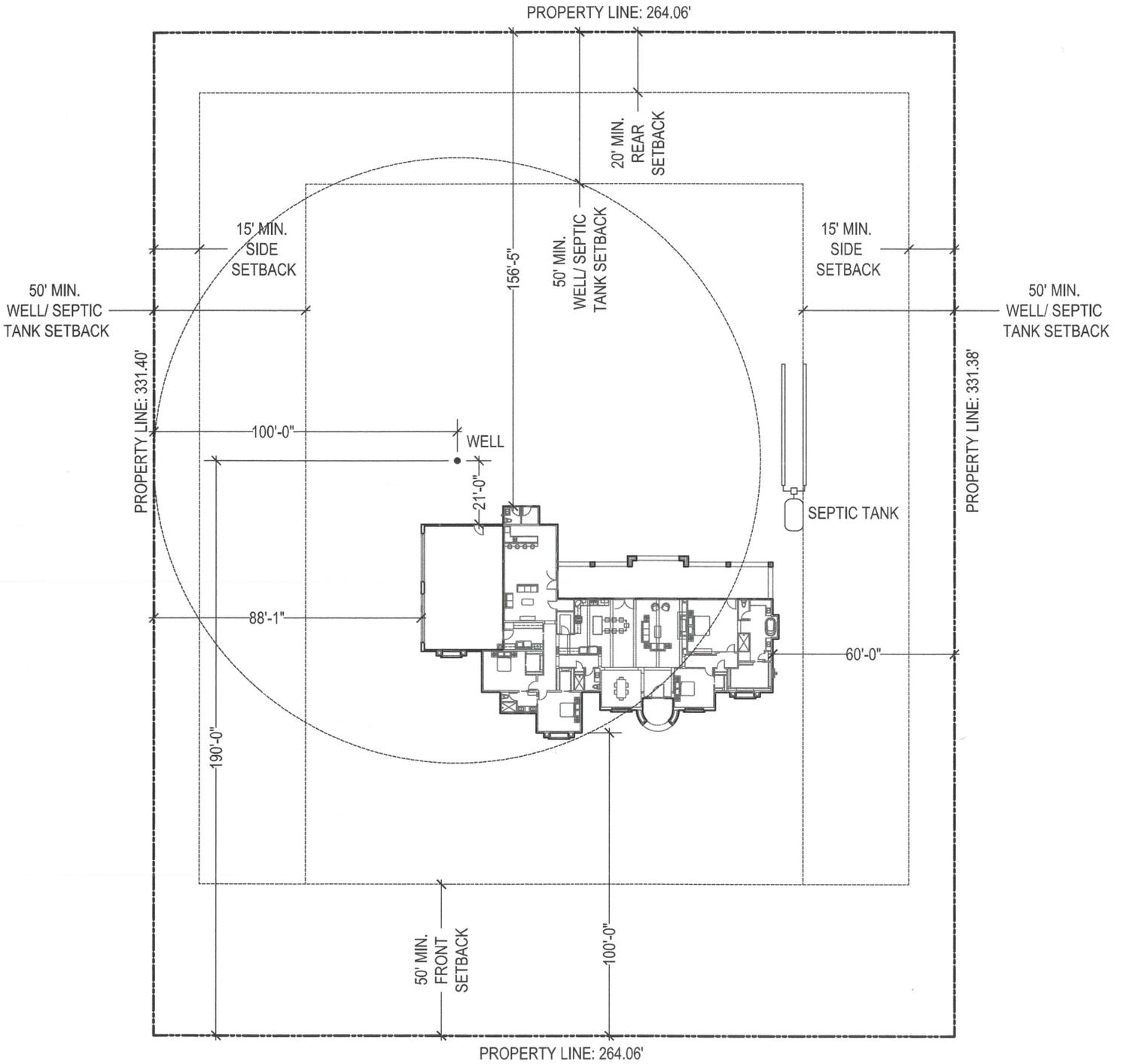
CASE PLANNER: TRICIA RAMDASS
DATE DRAWN: 12-06-2019
REVIEWED BY: JUAN LEAL RUBIO

SCALE: 1" = 300'



Legend

-  300' BUFFER
-  SUBJECT PROPERTY
-  Zoning Boundary





YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 9, 2019

CASE NUMBER: VARIANCE CASE NO. 19-18

CASE SUMMARY: Bruce Schmidt, agent for L & R Corporation, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 747-35-010, located in the vicinity of County 15th Street and Avenue 2½ E, Yuma, Arizona; located in the 65-69 dB noise zone.

Intent: To allow the construction of a single family residence in the 65-69 dB noise zone.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 16, 2019

COMMENT

NO COMMENT

Sound attenuation requirements of Ordinance 02-01 and 02-89 shall be incorporated into the construction of the buildings

DATE: 12/11/2019

PRINTED NAME: Pat Headington

Patrick Headington

DocuSign signed by Patrick Headington
DN: cn=Pat Headington@yumacountyaz.gov, ou=Yuma County,
ou=Building Safety, cn=Patrick Headington
Reason: I have received this document
Date: 2019.12.11 09:15:42 PST

AGENCY/DIVISION: Building Safety

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 9, 2019

CASE NUMBER: VARIANCE CASE NO. 19-18

CASE SUMMARY: Bruce Schmidt, agent for L & R Corporation, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 747-35-010, located in the vicinity of County 15th Street and Avenue 2½ E, Yuma, Arizona; located in the 65-69 dB noise zone.

Intent: To allow the construction of a single family residence in the 65-69 dB noise zone.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 16, 2019

COMMENT

NO COMMENT

MCAS Yuma is not in favor of this request however will not request denial due to previous official responses. See attached letter dated 10Dec2019 for details.

DATE: 12/10/2019

PRINTED NAME: Mary Ellen Finch

FINCH.MARY.ELLEN.11570090
08
Digitally signed by
FINCH.MARY.ELLEN.1157009008
Date: 2019.12.10 14:37:48 -0700

AGENCY/DIVISION: MCAS Yuma

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION YUMA
BOX 99100
YUMA AZ 85369-9100

5726
CP&L
VAR & DOC19-18
December 10, 2019

Ms. Tricia Ramdass
Yuma County Development Services
2351 W. 26th Street
Yuma, AZ 85364-6902

Dear Ms. Ramdass:

We have received the Request for Comments and Determination of Compliance for Variance Case No. 19-18. This is a request by Bruce Schmidt, agent for L&R Corporation, to build a single family residence on a 2.0 gross acre parcel zoned Suburban Site Built-2 acre (SSB-2) minimum, Assessor parcel number 747-35-010 located at in the vicinity of County 15th St and Avenue 2 ½ E, Yuma, AZ.

The subject parcel lies partially within in the 65dB Noise Contour and under the overhead racetrack flight pattern. This parcel was rezoned from Rural Area-10 Acre minimum to SSB 2 through Rezoning case 05-55 in 2005. Arizona Revised Statute 28-8481 and the Yuma County Zoning Ordinance do not allow new residential development within the noise zones. At the time MCAS Yuma staff did not object and cited the Joint Land Use Plan which allows for residential development no greater than SSB-2 if the Military and the political subdivision agree. MCAS Yuma staff required the noise level reduction standards be followed as set forth in the Yuma County Zoning ordinance along with requesting an Avigation Disclosure Statement be recorded for the parcels. After further review, we offer the following: It is still our intent to object to any new residential development within the High Noise Accident Potential Zones and the associated Noise Contours designed to protect public health/safety and reduce incompatible development that may be a hindrance to military operations. However, we will not change our official responses on previous land development cases. The landowner has the expectation of constructing incompatible development due to MCAS Yuma's previous response. Therefore, Marine Corps Air Station Yuma while not in favor of this variance request will not object and will continue to request the same conditions as set forth in RC05-55. We will continue to request denial on new rezoning and variance requests, which violate the State Statues, Yuma County Zoning Ordinances and Marine Corps regulations.

If you have any questions or concerns please contact me at (928) 269-2047 or MCASYUMA_CPLO@usmc.mil. Thank you for the opportunity to comment.

Sincerely,


M. E. FINCH



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 9, 2019

CASE NUMBER: VARIANCE CASE NO. 19-18

CASE SUMMARY: Bruce Schmidt, agent for L & R Corporation, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a parcel 2 gross acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 747-35-010, located in the vicinity of County 15th Street and Avenue 2½ E, Yuma, Arizona; located in the 65-69 dB noise zone.

Intent: To allow the construction of a single family residence in the 65-69 dB noise zone.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 16, 2019

COMMENT

NO COMMENT

~~The subject property is within the 65-69 dB noise contour. The Yuma County Airport Authority is not in favor of this rezoning request. Should the Yuma County Planning and Zoning Commission and Board of Supervisors approve to proceed, the YCAA recommends measures to achieve outdoor to indoor noise level reduction (NLR of at least 25 dB and 30 dB be incorporated into building codes and considered in individual approvals. Normal residential construction can be expected to provide a NLR of 20 dB thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation and closed windows year round. However, the use of NLR criteria will not eliminate outdoor noise problems. Thank you for the opportunity to comment.~~

DATE: 12/11/2019 PRINTED NAME: Gen Grosse

AGENCY/DIVISION: Yuma County Airport Authority

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan

Yuma County Board of Adjustment

Item No. 9

AIR-9517

9.

BOA Agenda

Meeting Date: 01/21/2020

Submitted For: Maggie Castro

Submitted By: Tricia Ramdass

Department: Planning & Zoning Division - DDS

Information

1. REQUESTED ACTION:

Variance Case No. 19-19: Freda White, agent for Dane and Danelle Palmer, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a 2.5 acre portion of a parcel 5 acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), a portion of Assessor's Parcel Number 724-18-004, located in the vicinity of Avenue 4½ E and County 12¾ Street, Yuma, Arizona; located in the 65-69 dB noise zone.

2. INTENT:

To construct a single family residence in the 65-69 dB noise zone.

3. For detailed analysis see attached staff report

4. STAFF'S RECOMMENDATION:

Staff recommends approval of Variance Case No. 19-19 based on:

1. Granting this request would not be contrary to the public interest.
 2. Granting this request would be in accordance with the spirit of the regulations and the Airport District.
-

Attachments

Staff Report

Vicinity Map

Site Plan

Building Safety Comments

MCAS-Yuma Comments

MCAS-Yuma Response Letter

YCAA Comments

STAFF REPORT
Yuma County Planning and Zoning Division

Prepared for the Hearing of
January 21, 2020
Yuma County Airport Board of Adjustment

CASE NUMBER: Variance Case No. 19-19

OWNER: Dane & Danelle Palmer

CASE PLANNER: Tricia Ramdass, Associate Planner

DATE PREPARED: December 18, 2019

DESCRIPTION OF REQUEST: Freda White, agent for Dane and Danelle Palmer, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a 2.5 acre portion of a parcel 5 acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), a portion of Assessor’s Parcel Number 724-18-004, located in the vicinity of Avenue 4½ E and County 12¾ Street, Yuma, Arizona; located in the 65-69 dB noise zone.

THE APPLICANT’S REASON FOR REQUESTING THIS VARIANCE: To construct a single family residence in the 65-69 dB noise zone.

APPROVAL OF THIS REQUEST WOULD ALLOW:

The construction of a single family residence in the 65-69 dB noise zone.

BACKGROUND

The subject property is zoned SSB-2. The zoning was approved October 7, 2019 and became effective on November 6, 2019. The property is currently one parcel which the applicant intends to split into north and south parcels. The south half of the parcel is the subject of this variance. The intent is to construct a site built single family residence on the future south parcel.

The Airport District of the Yuma County Zoning Ordinance does not allow new residential development in 65-69 dB noise zone unless it was the subject of zoning approved on or before December 31, 2000 that permits one dwelling unit per acre or less. Since the rezoning occurred after December 31, 2000, construction of a single family residence requires approval of a variance by the Board of Adjustment.

Arizona Revised Statutes (ARS) § 28-8471(A) states: A person who wants to erect or increase the height of a structure, permit the growth of a tree or otherwise use the person's property in violation of an airport zoning regulation adopted under this article may apply to the board of adjustment for a variance from the

airport zoning regulation in question. Additionally, pursuant to ARS § 28-8473(C)(2), the concurring vote of a majority of the members of the board of adjustment is sufficient to approve this variance request.

Arizona Revised Statutes § 28-8481 requires that Yuma County and Marine Corps Station-Yuma (MCAS-Yuma) mutually agree that the proposed use is compatible and consistent with the high noise and accident potential zones of the military airport. The property was rezoned from SSB-5 to SSB-2 with Rezoning Case No. 19-06, wherein Mary Ellen Finch with Marine Corps Air Station requested denial of the rezoning.

Pursuant to Yuma County Zoning Ordinance Section 603.02(A)—Permitted Uses, the SSB-2 zoning district allows one single-family site-built residence per parcel so a land division splitting the subject parcel into two parcels must be recorded prior to the issuance of any permits. Pursuant to YCZO Section 507.01—Procedures for Review of Land Division Proposals, the land division along with any deficiencies shall be recorded by the owner/agent prior to the issuance of any permits.

STAFF ANALYSIS

Section 710.03 of the Zoning Ordinance:

- A. *"A person who wants to erect or increase the height of a structure, permit the growth of a tree or otherwise use the person's property in violation of an airport zoning regulation adopted under this article may apply to the Board of Adjustment for a variance from the airport zoning regulation in question."*

The Airport District does not allow residential development other than single family residential development that was the subject of zoning approved on or before December 31, 2000 that permits one dwelling unit per acre or less and single family residential development that is the primary residence for persons engaging in agricultural use. Although the SSB-2 zoning falls within the established residential density requirements of no more than one dwelling unit per acre, the zoning was approved after December 31, 2000. The SSB-2 zoning for this parcel was approved October 7, 2019, therefore a variance is required for the construction of a single family residence.

- B. *A variance shall be allowed if a literal application or enforcement of the regulation would result in a practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, would do substantial justice and would be in accordance with the spirit of the regulation and this article."*

Staff finds approval of this variance would not be contrary to the public interest, would be justified, and would be in accordance with the spirit of the regulation and the Airport District. The purpose of the Airport District is the encouragement of compatible land uses in the vicinity of airports and the promotion of the general public health, safety and welfare of airport users. The subject property is located in the Yuma Mesa Planning Area of the 2020 Comprehensive Plan. The land use designation is Rural Density Residential which allows a maximum density of one dwelling unit per two acres. Approval of this variance is in compliance with the range of identified uses, densities and intensities of the Yuma County 2020 Comprehensive Plan. The proposed single family residence is consistent and compatible with the high noise zone of the military airport.

- C. *"A variance may be allowed subject to any reasonable conditions the board of adjustment deems necessary to fulfill the purposes of this article."*

Staff is recommending that, if approved, this variance include the attached conditions as a means of addressing any concerns on public health, safety and welfare.

ADDITIONAL COMMENTS:

The following comments were received from the United States Marine Corps-Yuma in a letter dated December 16, 2019: MCAS Yuma is not in favor of this variance request and requests denial of the petition. This parcel lies within the 65+ noise contour of the Marine Corps Air Station and Yuma International Airport and new residential use is not a compatible use in this noise zone. We also objected to the rezoning case for this parcel RZ19-06. Please see the attached letter requesting denial from Colonel Suggs.

The following comments were received from the Yuma County Airport Authority in a letter dated December 11, 2019: YCAA is not in favor of this request but recommends sound attenuation if approved. YCAA also cautions that measures to achieve noise level reduction normally assume mechanical ventilation and closed windows year round and will not eliminate outdoor noise problems.

The following comments were received from Yuma County Chief Building/Fire Code Official Pat Headington in a letter dated December 11, 2019: All requirements of the 2018 International Residential Code and the Yuma County Board of Supervisors Ordinance 02-01—Sound Attenuation Standards for Yuma County and the Yuma County Comprehensive Building and Safety Code shall be met.

STAFF RECOMMENDATION

Staff recommends approval of Variance Case No. 19-19 based on:

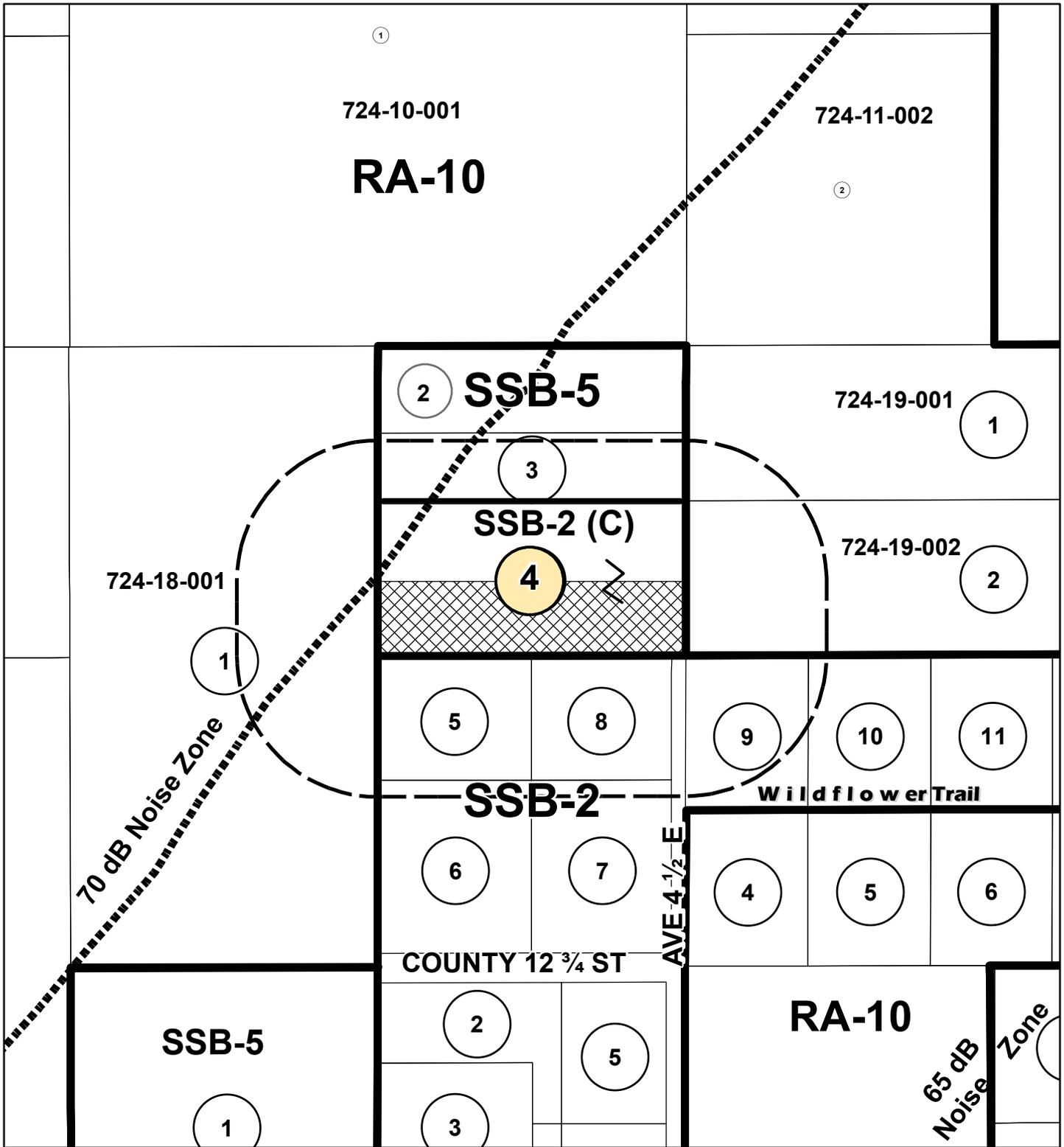
1. Granting this request would not be contrary to the public interest.
2. Granting this request would be in accordance with the spirit of the regulations and the Airport District.

If the Board of Adjustment approves this Variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 710.08 of the zoning ordinance.
2. The Land Division along with any deficiencies shall be recorded by the owner/agent prior to the issuance of any permits pursuant to Section 507.01(D) of the zoning ordinance.
3. An Avigation Disclosure Statement shall be recorded by the owner/agent within 60 days of approval by the Board of Adjustment.

4. Measures to achieve an outdoor to indoor noise reduction of 25 decibels must be incorporated into the design and construction of the residence, per Yuma County Board of Supervisors Ordinance 02-01—Sound Attenuation Standards for Yuma County and the Yuma County Comprehensive Building and Safety Code.

Findings: The Yuma County Airport Board of Adjustment hereby makes a specific finding that the purpose of military airport compatibility is preserved in accordance with ARS § 28-8481(C).




DEPARTMENT OF DEVELOPMENT SERVICES
PLANNING & ZONING DIVISION
 2351 W. 26TH STREET
 YUMA, AZ 85364

FOR INFORMATION ONLY - NO LIABILITY ASSUMED

CASE NO: V19-19
LOCATION: Vicinity of Ave. 4 1/2 E and County 12 3/4 Street
APN(s): Part of 724-18-004

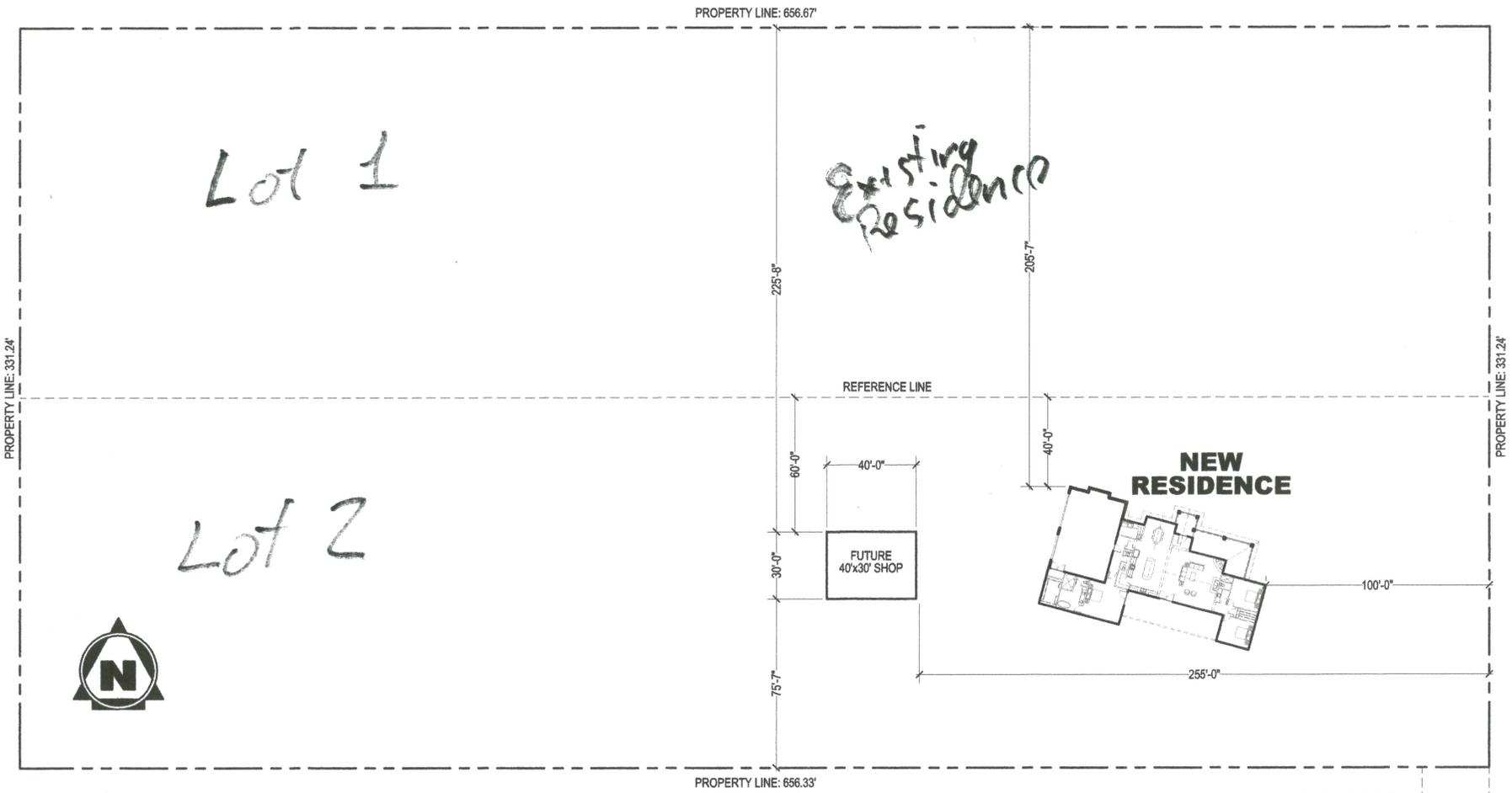
CASE PLANNER: TRICIA RAMDASS
DATE DRAWN: 12-05-2019
REVIEWED BY: JAVIER BARRAZA

SCALE: 1" = 300'



Legend

-  300' BUFFER
-  SUBJECT PROPERTY
-  Zoning Boundary



ACCESS EASEMENT
(AVENUE 4 1/2 E)

SITE PLAN

SCALE: 1"=70'-0"



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YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 9, 2019

CASE NUMBER: VARIANCE CASE NO. 19-19

CASE SUMMARY: Freda White, agent for Dane and Danelle Palmer, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a 2.5 acre portion of a parcel 5 acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 724-18-004, located in the vicinity of County 12¾ Street and Avenue 4½ E, Yuma, Arizona; located in the 65-69 dB noise zone.

Intent: To allow the construction of a single family residence in the 65-69 dB noise zone.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 16, 2019

COMMENT

NO COMMENT

Sound attenuation requirements of Ordinance 02-01 and 02-89 shall be incorporated into the construction of the buildings.

DATE: 12/11/2019

PRINTED NAME: Pat Headington

Patrick Headington Digital signed by Patrick Headington
DN: cn=Pat Headington@yumacountyaz.gov, ou=Yuma
County, c=United States, cn=Patrick Headington
Reason: I have reviewed this document
Date: 2019.12.11 09:04:39-0700

AGENCY/DIVISION: Building Safety

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 9, 2019

CASE NUMBER: VARIANCE CASE NO. 19-19

CASE SUMMARY: Freda White, agent for Dane and Danelle Palmer, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a 2.5 acre portion of a parcel 5 acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 724-18-004, located in the vicinity of County 12¾ Street and Avenue 4½ E, Yuma, Arizona; located in the 65-69 dB noise zone.

Intent: To allow the construction of a single family residence in the 65-69 dB noise zone.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 16, 2019

COMMENT

NO COMMENT

MCAS Yuma is not in favor of this variance request and requests denial of this petition. This parcel lies within the 65+ Noise Contour of the Marine Corps Air Station and Yuma International Airport and new residential use is not a compatible use in this noise zone. We also objected to the rezoning case for this parcel RZ 19-06. Please see the attached letter requesting denial from Colonel Suggs.

DATE: 12/16/2019

PRINTED NAME: Mary Ellen Finch

FINCH.MARY.ELLEN.1
157009008
Digitally signed by
FINCH.MARY.ELLEN.1157009008
Date: 2019.12.16 10:11:16 -0700

AGENCY/DIVISION: MCAS Yuma 928-269-2047

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION YUMA
BOX 99100
YUMA AZ 85369-9100

5726
CP&L
VAR 19-19
December 12, 2019

Ms. Tricia Ramdass
Yuma County Development Services
2351 W. 26th Street
Yuma, AZ 85364-6902

Dear Ms. Ramdass:

We have received the Request for Comments and a Determination of Compliance for Variance Case No. 19-19. This is a request by Freda White, agent for Dan and Danelle Palmer for Assessor parcel number 724-18-004 located at 12568 South Avenue 4 ½ E. The applicant's intent is to split the property in two and build a new single-family residence on a parcel no less than 2.5 acres in size. We offer the following comments.

MCAS Yuma has not deviated from our requested denial of the rezoning of this parcel in Rezoning Case 19-06 earlier this year. The same conditions and concerns apply. The subject parcel lies fully in the 65dB Noise Contour and partially in the 70dB Noise Contour and as such is part of the High Noise Accident Potential Zone. Any new residential development violates the conditions of A.R.S. §28-8481 paragraph J and the Yuma County Zoning Ordinance Section 706. In addition, Marine Corps Order 11010.16 Air Installations Compatible Use Zones discourages residential development in the 65dB and strongly discourages residential development in the 70 dB Noise Contours. The requested development lies fully within the 65-69dB Noise Contour and thus residential is an incompatible development.

The intent of the High Noise Accident Potential Zones and the associated Noise Contours are to protect public health/safety and reduce incompatible development, which may hinder military operations. Therefore, Marine Corps Air Station (MCAS) Yuma is not in favor of this variance request and accordingly requests denial by the Yuma County Board of Adjustment and Board of Supervisors.

The MCAS Yuma point of contact is Mrs. Mary Ellen Finch at (928) 269-2047 or MCASYUMA_CPLO@usmc.mil. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "D. A. SUGGS".

D. A. SUGGS



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 9, 2019

CASE NUMBER: VARIANCE CASE NO. 19-19

CASE SUMMARY: Freda White, agent for Dane and Danelle Palmer, requests a variance from the Yuma County Zoning Ordinance, Section 706.04—Noise Zones, to allow a single family residence on a 2.5 acre portion of a parcel 5 acres in size zoned Suburban Site Built-2 acre minimum (SSB-2), Assessor’s Parcel Number 724-18-004, located in the vicinity of County 12¾ Street and Avenue 4½ E, Yuma, Arizona; located in the 65-69 dB noise zone.

Intent: To allow the construction of a single family residence in the 65-69 dB noise zone.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 16, 2019

COMMENT

NO COMMENT

~~The subject property is within the 65-69 dB noise contour. The Yuma County Airport Authority is not in favor of this rezoning request. Should the Yuma County Planning and Zoning Commission and Board of Supervisors approve to proceed, the YCAA recommends measures to achieve outdoor to indoor Noise Level Reduction (NLR of at least 25 dB and 30 dB be incorporated into building codes and considered in individual approvals. Norman residential construction can be expected to provide a NLR of 20 dB thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation and closed windows year round. However, the use of NLR criteria will not eliminate outdoor noise problems. Thank you for the opportunity to comment.~~

DATE: 12/11/2019

PRINTED NAME: Gen Grosse

AGENCY/DIVISION: Yuma County Airport Authority

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan

Yuma County Board of Adjustment

Item No. 10

AIR-9518

10.

BOA Agenda

Meeting Date: 01/21/2020

Submitted For: Maggie Castro

Submitted By: Tricia Ramdass

Department: Planning & Zoning Division - DDS

Information

1. REQUESTED ACTION:

Variance Case No. 19-20: Fowler Malone, agent for Patrick and Sherry Lawrence, requests a variance from the Yuma County Zoning Ordinance, Section 1104.01(A)(2)—Setbacks from Section Line Roads, to allow a setback of 33 feet on a parcel 1.06 gross acres in size zoned Suburban Ranch-1 acre minimum, Assessor's Parcel Number 702-02-076, located at 14323 Maria de Fortuna Road, Yuma, Arizona.

2. INTENT:

To allow a setback of 33 feet where 50 feet is required to allow the construction of a single family site built dwelling.

3. For detailed analysis see attached staff report

4. STAFF'S RECOMMENDATION:

Staff recommends approval Variance Case No. 19-20 based on:

1. Staff finds there are peculiar conditions applicable to the property to warrant granting of a variance such that strict application of the zoning ordinance may deprive the property of a privilege enjoyed by other property owners in the zoning district.
2. Staff finds there is a hardship arising from conditions or circumstances unique to the development of this property.
3. Staff finds approval of this variance may not have an adverse effect on public health, safety, and welfare.
4. Staff finds approval of this will confer a special privilege not enjoyed by others in the zoning district, however, the request does not have a negative impact on the neighborhood.
5. The condition is not self-imposed.

Attachments

Staff Report

Vicinity Map

Site Plan

MCAS-Yuma Comments

STAFF REPORT
Yuma County Planning and Zoning Division

Prepared for the Hearing of
January 21, 2019
Yuma County Board of Adjustment

CASE NUMBER: Variance Case No. 19-20
OWNER: Patrick & Sherry Lawrence
CASE PLANNER: Tricia Ramdass, Associate Planner
DATE PREPARED: December 30, 2019

DESCRIPTION OF REQUEST: Fowler Malone, agent for Patrick and Sherry Lawrence, requests a variance from the Yuma County Zoning Ordinance, Section 1104.01(A)(2)—Setbacks from Section Line Roads, to allow a setback of 33 feet on a parcel 1.06 gross acres in size zoned Suburban Ranch-1 acre minimum (SR-1), Assessor's Parcel Number 702-02-076, located at 14323 Maria de Fortuna Road, Yuma, Arizona.

THE APPLICANT'S REASON FOR REQUESTING THIS VARIANCE: The applicants would like to construct a new dwelling using the front yard setback of the prior dwelling which did not meet the additional setback requirement for section line roads.

APPROVAL OF THIS REQUEST WOULD ALLOW:

The following deviation from the Zoning Ordinance:

1. A section line road setback of 33 feet where 50 is required.
-

BACKGROUND

The subject property is located within Fortuna Hills Amend subdivision in the Foothills Planning Area of the 2020 Comprehensive Plan. The subdivision was recorded on March 18, 1970 and is zoned Suburban Ranch-1 acre minimum (SR-1). The subject parcel is 1.06 gross acres in size and is served by an individual sewage disposal system. A residential fire occurred on April 20, 2017. A Warranty Deed conveying the property to the applicants was recorded on May 15, 2019 (Recorder's Fee No. 2019-12323).

Areas to the north and east of the subject property consist of foothills and mountain terrain within one mile of the subdivision. The parcel to the north of the entire subdivision is 8,255.59 acres of federally owned land. There is access to a public trail directly across from the subject property to the portion of

the north parcel used as public lands. The mountainous area approximately half a mile to the east of the subdivision is owned by the State of Arizona. The parcel to the west of the subdivision is 276.62 acres of vacant land consisting of Fortuna Wash and FEMA designated flood zones and floodway.

The following permits are on file for the subject property: Permit B07-0861 was issued on August 20, 2007 for a new residence with a setback of 35 feet. However, that setback was approved in error since it did not meet the additional section line road setback requirements. Permit H07-0176 was issued on February 25, 2008 for a septic system. Permit B10-0287 was issued on April 28, 2010 for an in ground pool. Permit B17-0417 was issued on July 10, 2017 for the demolition of the fire damaged residence. The final inspection for the demolition was on August 10, 2017. Lastly, permit PEM19-0808 was issued on December 16, 2019 for the replacement of the 200 amp pedestal. Permit B19-0782 is under review for the construction of a new residence is pending approval of this variance request. Temporary Use Permit No. 19-04 was approved for one recreational vehicle as a temporary dwelling on the property while the residence is under construction.

This variance came about because the applicants applied for a building permit (B19-0782) to construct a new residence on the subject property. During the review of said permit application, the applicant was advised that the proposed residence did not meet the additional section line setback requirement of 50 feet from the section line. The roadway accounts for 33 feet of that requirement so an additional 17 feet was needed for the section line road setback. The total setback required is 42 feet which includes the front yard setback for the SR-1 zoning district of 25 feet and the 17 feet additional section line road setback. The proposed structure meets the principal building minimum side yard and rear yard setback requirements, but does not meet the front yard setback requirements because of the additional section line setback requirements so a variance is required.

STAFF ANALYSIS

Section 403.03 of the Zoning Ordinance:

- A. *Variiances under section 403.02 shall be granted only when, because of peculiar conditions applicable to the property, the strict application of the Zoning Ordinance deprives such property of privilege enjoyed by other property owners in the zoning district.*

Staff finds there are peculiar conditions applicable to the property due to unusual topography of the hillside terrain. There is a retaining wall approximately 120 feet from the front property line where the land begins to slope into a wash that runs through the rear portion of the lot and eventually feeds into Fortuna Wash. Sixty percent of the lot lies behind the retaining wall with forty-five percent of the lot being in the wash. Additionally, the location of the existing pool and limits where the house can be placed on the property such that portions of the house are constructed on both the east and west sides of the pool. The topography of the property and existing pool significantly reduces the building envelope of the subject property.

- B. *Variiances are available only in cases where there is a hardship arising from conditions or circumstances unique to the development of a particular piece of land, not from personal considerations, personal convenience or financial hardships.*

Staff finds there is hardship arising from conditions or circumstances unique to the development of this property. Although the residence was demolished after fire damage, the pool, spa, driveway and concrete improvements remain on the property. The pool is reported to be in good condition and the property owners intend to continue its use. The topography of the land as well as existing improvements limits the building envelope and hinders an alternative development scheme.

C. Any motion to grant a Variance by the Board of Adjustment shall include specific peculiar conditions applicable to the property, which exist to cause granting of a Variance.

Staff finds there are specific peculiar conditions applicable to this property to warrant granting of a variance. The property has uneven topography. The need for a variance became apparent when the applicant requested permits to construct a new residence using the previous footprint of the old residence. The permit for the original residence with a setback of 35 feet was approved in error since it did not meet the additional section line road setback requirements. Because the house was not reconstructed within 18 months of demolition, the non-conforming setback was considered lost. The applicants purchased the property with the expectation that they could construct a new residence within the same footprint as the previous home without issue.

D. A variance shall not be granted which will have an adverse effect on public health, safety and welfare.

Staff finds approval of this variance may not have an adverse effect on public health, safety, and welfare.

E. A variance shall not be granted if, in granting the variances a special privilege not commonly enjoyed by others in the zoning district will be conferred, or have a negative impact on the neighborhood.

Staff finds granting this variance will confer a special privilege not enjoyed by others in the SR-1 zoning district. There have been no other variances of this nature requested. Staff finds granting this variance will not have a negative impact on the neighborhood. The previous house maintained the requested setback for almost ten years before the home was destroyed in a fire. Staff did not find any complaints regarding the subject property on file in the Department of Development Services prior to the destruction of the residence. Construction of a new residence would be an aesthetic improvement to the lot which currently remains in a demolished and unimproved condition.

F. The Board of Adjustment may require appropriate conditions or safeguards on any granted variances so that public health, safety and welfare are not compromised.

Staff is recommending that if approved, this variance include the attached conditions as a means of addressing concerns of public health, safety, and welfare.

G. Variances shall not be granted if the condition is self-imposed or if a reasonable use of the land can be made in an alternative development scheme without the variance.

Staff finds the condition is not self-imposed. The building envelope is reduced by slope of the lot and the wash that runs through the rear half of the property as well as the existing improvements on the

lot. The existing pool, spa and associated concrete improvements limit the ability to push the residence further away from the front property line without substantially altering the design of the house to avoid construction over the pool and spa. The permit issued for the residence in 2007 was issued in error with regard to approval of the required setbacks. The applicants purchased the property with a reasonable expectation that they could construct a new home where the old home was previously constructed with an approved permit.

H. The fact that there are non-conforming uses of neighborhood lands, structures or buildings, in the same zoning district shall not be considered grounds for issuance of a variance.

Staff's recommendation is not based on non-conforming uses of neighborhood lands, structures or buildings in the same zoning district.

ADDITIONAL COMMENTS:

Mary Ellen Finch, MCAS-Yuma requested that an avigation disclosure statement be recorded.

Staff has not received any comments for or against the variance request from any property owners within the 300 foot radius notification area.

STAFF RECOMMENDATION

Staff recommends approval Variance Case No. 19-20 based on:

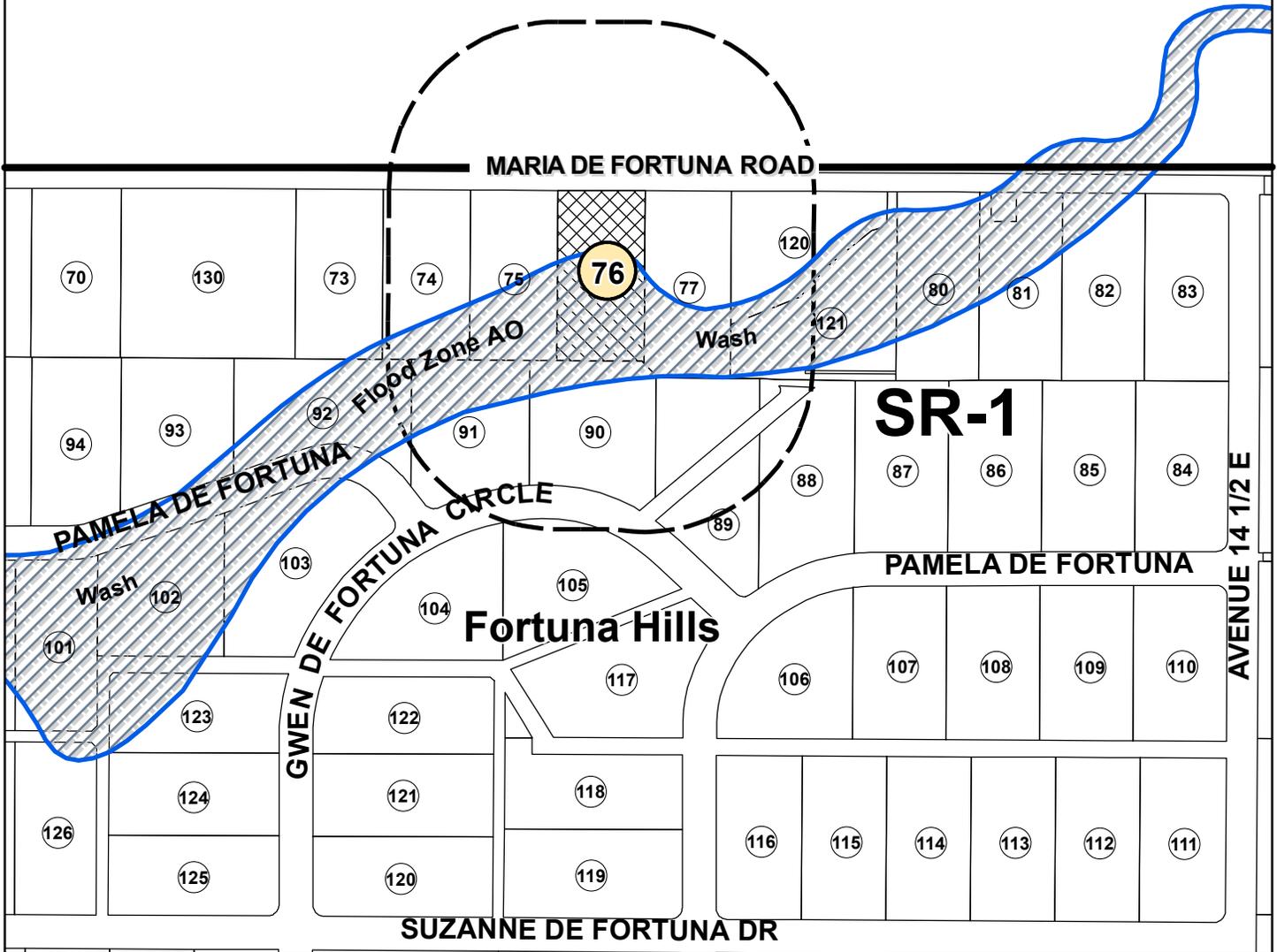
1. Staff finds there are peculiar conditions applicable to the property to warrant granting of a variance such that strict application of the zoning ordinance may deprive the property of a privilege enjoyed by other property owners in the zoning district.
2. Staff finds there is a hardship arising from conditions or circumstances unique to the development of this property.
3. Staff finds approval of this variance may not have an adverse effect on public health, safety, and welfare.
4. Staff finds approval of this will confer a special privilege not enjoyed by others in the zoning district, however, the request does not have a negative impact on the neighborhood.
5. The condition is not self-imposed.

If the Board of Adjustment approves this Variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 403.07 of the Zoning Ordinance.
2. The variance is based on the site plan submitted. Any changes which further reduce the approved front yard setback will require a new variance from the Board of Adjustment.

RA-10

182-00-003
USA



DEPARTMENT OF
DEVELOPMENT
SERVICES
PLANNING & ZONING DIVISION
2351 W. 26TH STREET
YUMA, AZ 85364

FOR INFORMATION ONLY - NO LIABILITY ASSUMED

CASE NO: V19-20
LOCATION: 14323 Maria de Fortuna Road
APN(s): 702-02-076

CASE PLANNER: TRICIA RAMDASS
DATE DRAWN: 01-06-2020
REVIEWED BY: JAVIER BARRAZA

SCALE: 1" = 300'

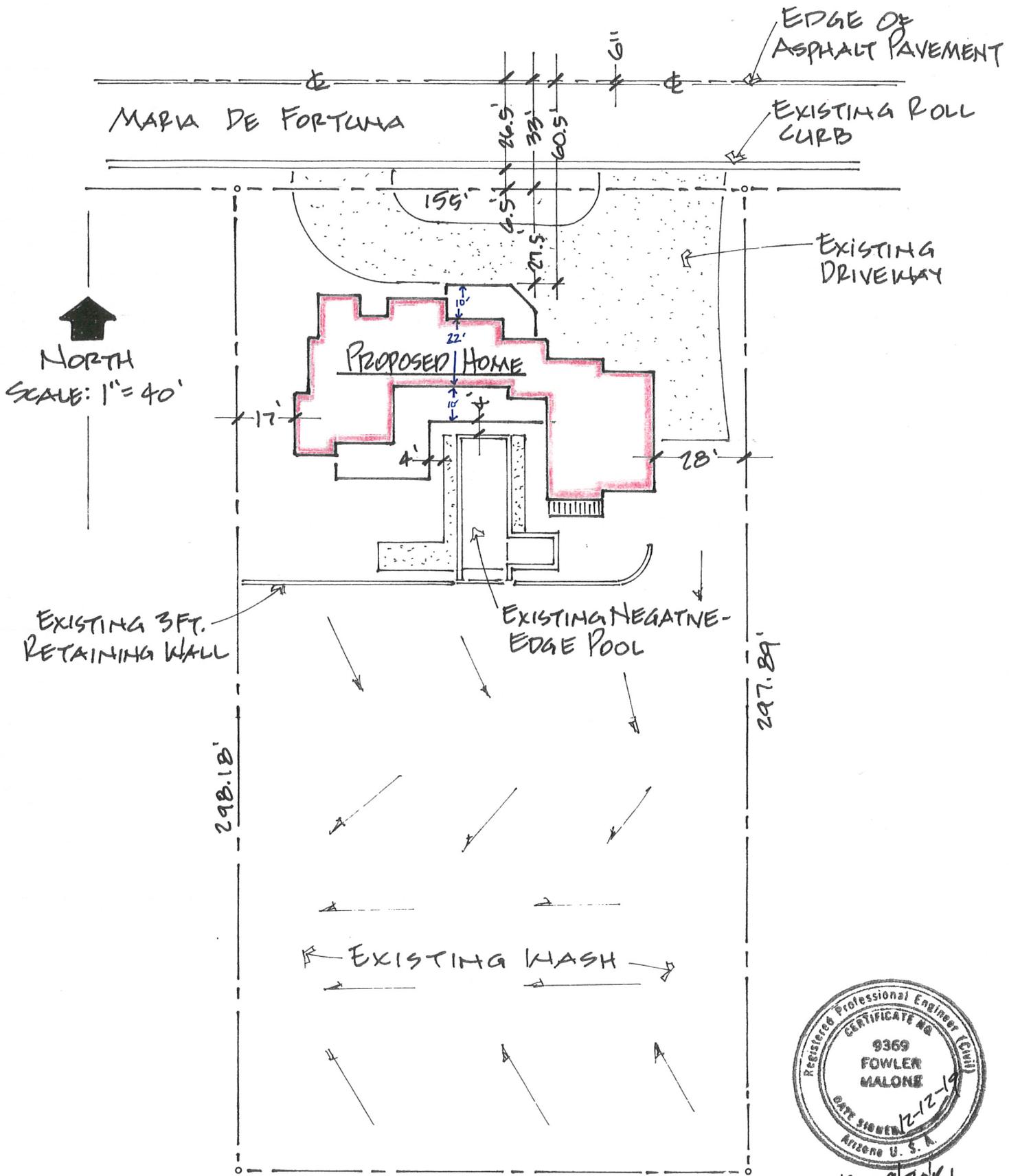


Legend

- 300' BUFFER
- SUBJECT PROPERTY
- Zoning Boundary
- Flood Zone AO

LAWRENCE RESIDENCE
14323 E. MARIA DE FORTUNA

1



155'
SITE PLAN
SCALE: 1" = 40'



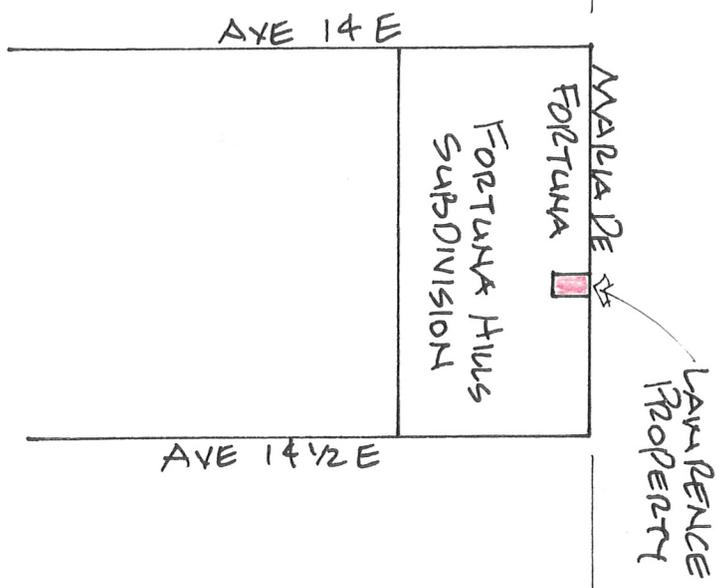
Exp 9/30/21
Fowler Malone

LAWRENCE RESIDENCE

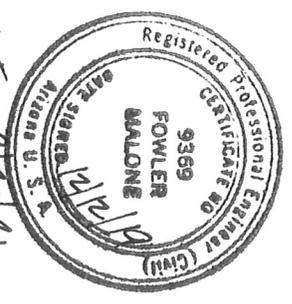
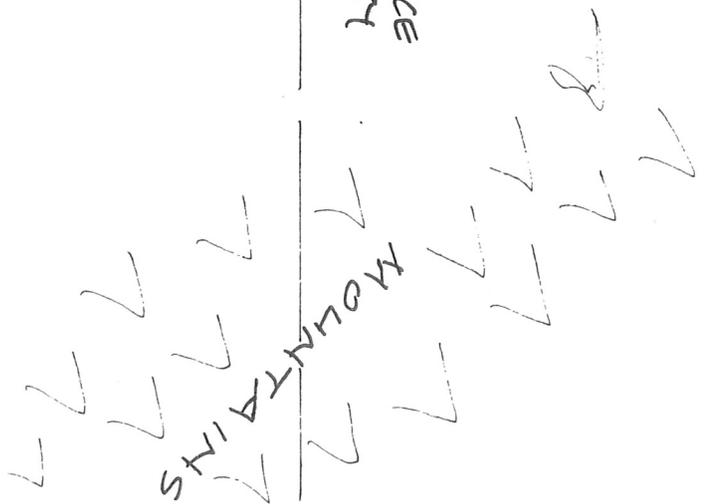
14323 MARIA DE FORTUNA

BLM LAND

STATE LAND



LOCATION PLANT



Exp'd 12/21
 Fowler Malone



YUMA COUNTY
Planning & Zoning Division
REQUEST FOR COMMENTS

December 17, 2019

CASE NUMBER: VARIANCE CASE NO. 19-20

CASE SUMMARY: Fowler Malone, agent for Patrick and Sherry Lawrence, requests a variance from the Yuma County Zoning Ordinance, Section 1104.01(A)(2)—Setbacks from Section Line Roads, to allow a setback of 33 feet on a parcel 1.06 gross acres in size zoned Suburban Ranch-1 acre minimum (SR-1), Assessor's Parcel Number 702-02-076, located at 14323 Maria de Fortuna Road, Yuma, Arizona.

Intent: To allow a section line road setback of 33 feet where 50 feet is the minimum required.

PUBLIC HEARING: Tentatively scheduled for January 21, 2020

COMMENTS DUE: December 23, 2019

COMMENT

NO COMMENT

~~The subject property is located beneath a flight path. It is requested that an avigation easement be recorded that recognizes 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 comment~~

DATE: 12/23/19

PRINTED NAME: Mary Ellen Finch

FINCH.MARY.ELLEN.1157009008 Digitally signed by
FINCH.MARY.ELLEN.1157009008
Date: 2019.12.23 10:51:01 -07'00'

AGENCY/DIVISION: MCAS Yuma 928-269-2047

RETURN TO: Tricia Ramdass, Associate Planner
2351 West 26th Street
Yuma, Arizona 85364
Fax: (928)817-5072
Tricia.Ramdass@yumacountyaz.gov

Attachments: Case Map, Site Plan