

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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**DATE:** January 30, 2003

**TO:** Orange County Zoning Administrator

**FROM:** Current Planning Services Division

**SUBJECT:** Public Hearing on Planning Application PA02-0130 for Use Permit

**PROPOSAL:** The applicant requests approval of a Use Permit per Orange County Zoning Code Sec. 7-9-146.5 to allow the existing residential unit to be recognized as a “second unit” and to then construct a larger single family residence at the side of his 9063 square foot lot within the R1 “Single Family Residential” zoning district in the Midway City unincorporated area.

**LOCATION:** 14752 Riata Street. Midway City area. First Supervisorial District

**APPLICANT:** Phuong Bich Dzuong, property owner

**STAFF CONTACT:** J. Alfred Swanek, Project Manager E-mail: [Jim.Swanek@pdsd.ocgov.com](mailto:Jim.Swanek@pdsd.ocgov.com)  
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**SYNOPSIS:** The project as proposed may be found consistent with Zoning Code Section 7-9-146.5 and the site development standards of the R1 District, as a “shallow building site” as that term is defined in Zoning Code Sec. 7-9-128.2. The Current Planning Services Division recommends Zoning Administrator approval of PA02-0130 subject to the attached Findings and Conditions of Approval.

**BACKGROUND:**

The subject site is a corner lot, a little more than 9000 square feet in area and developed with a 1,290 square foot, one-story single family dwelling and an attached-by-breezeway-only garage. Part of the proposal is to reduce the size of the existing single family unit to 1160 square feet, remove the small breezeway, and to replace the existing garage with a new 2-car garage itself attached to a new single family dwelling. An additional 46’ long driveway would be constructed off the Madison side of the lot, with enough practical room for 2 cars parked out in the open in tandem. Please see the “Discussion & Analysis” Section below for additional information.

The site is level, and nearly rectangular in shape. It was determined to be a “shallow building site” as that term is defined in Zoning Code Sec. 7-9-128.2, facing off Riata, with front and rear setbacks (except for entrances to garages or carports) calculated as 9.6’ (average lot depth of 64’); although the placement of the existing dwelling unit and existing semi-detached garage would also allow this lot to be viewed as a conventional lot with the front off Madison. A number of other corner lots in Midway City with the original smaller homes are in the same situation. The site is zoned R1 “Single Family Residential”, which permits a second residential unit subject to review and approval of a use permit by the Zoning Administrator.

The proposed “existing-to-become-second-residential-unit” structure would become 1,160 square feet in area and include three-bedrooms, two-bathrooms, a combined living room/dining room, and kitchen. The posts of the covered front porch are located the minimum 9.6’ from Riata, the house is 20’ from the rear opposite Riata, and 35.5’ from the side off Madison. It is and would remain a one-story structure.

The new “main” structure would be a 2-story 2,247 sq. ft. single family dwelling of conventional design, with a front (covered porch) setback off Riata of 11’6” (9.6’ minimum permitted), and a side setback of 12’ (5’ minimum permitted). The new garage entrance would be a minimum of 18’ off the Riata sidewalk.

Both the existing and proposed units are stucco-faced, and will be painted matching or complementary colors. Thus, the second’s unit overall design, architecture and finish will be consistent with the existing structure, and with the neighborhood.

**CEQA COMPLIANCE:**

The proposed project is Categorical Exempt (Class 3, construction of limited numbers of new small structures or facilities) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

**SURROUNDING LAND USE:**

<b>Direction</b>	<b>Land Use Designation</b>	<b>Existing Land Use</b>
Project Site	R1 “Single Family Residential”	Single family dwelling
North	R1 “Single Family Residential”	Single family dwelling
South	R1 “Single Family Residential”	Single family dwelling
East	R1 “Single Family Residential”	Single family dwelling
West	R1 “Single Family Residential”	Single family dwelling

**REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to appropriate County Divisions, and the Chamber of Commerce and Homeowners Association of Midway City.

As of the writing of this staff report, no comments raising issues with the project have been received.

## **DISCUSSION/ANALYSIS:**

Current regulations addressing second residential units are reflected in the Zoning Code under Section 7-9-146.5. Under this section, request for a second residential unit may be permitted subject to the approval of a Use Permit. To be approved, a second residential must meet the following criteria: That it...

1. is located on a site zoned for a single family dwelling;
2. is accessory to a existing single family dwelling;
3. contains no more that 1,200 square feet of living area as a detached structure; and that,
4. it meets the same setbacks as required for the principal dwelling.

In fact, the unit proposed as “the second unit” already exists as the only dwelling on the site and is larger than 1,200 square feet. It is proposed to be reduced in size and formally recognized by this use permit as said “second unit”, after which a new principal dwelling of a larger size may be constructed. This new dwelling is then shown to reflect how parking (covered and non-covered) will be managed for the two units together, as well as how the “development” as a whole appears in the context of the neighborhood.

The County has previously accepted this approach on PA01-0113 for 19151 Lomita in east Orange, in which an existing living unit was also reduced in size to less than 1200 square feet so that it could be recognized as “the second unit”, with the newer single family dwelling then to be recognized as the principal dwelling with no restriction on unit size.

The most serious potential consequence of this approach would be allowing the existing garage attached by breezeway and serving the existing single family dwelling to be demolished because it occupies the same area as the proposed “new main house”. Should the existing garage be demolished and the construction of the new dwelling with garage not be completed for whatever reason, the property would then be in zoning non-compliance through the lack of any covered parking for one dwelling unit.

One other issue is the possible appearance to passersby that two independent “properties” approved by the County exist, one fronting on Riata and another fronting on Madison. The impression may be given to the community that corner lots can be “divided” in such as fashion. In fact, the two dwelling units must be maintained under the same ownership, and there is no possibility of a “lot split”, creating two “condominiums”, financing or selling each independently.

To address this, staff recommends recordation of a “declaration of restrictions” (the abbreviated version of what are commonly known as “CC&Rs”) that will describe for all future parties the unique, inherently interrelated nature of this development project, sharing both land and parking.

## **RECOMMENDED ACTION:**

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA02-0139 for a Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad Brown, Chief  
CPSD/Site Planning Section

**APPENDICES:**

- A. Recommended Findings
- B. Recommended Conditions of Approval

**EXHIBITS:**

- 1. Applicant's Letter of Explanation
- 2. Proposed Site Plans
- 3. Site Photos

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.