

RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT
REPORT

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DATE: May 19, 2005

TO: Orange County Zoning Administrator

FROM: Resources and Development Management Department/Land Planning Services

SUBJECT: Public Hearing on Planning Application PA05-0012 for Use Permit

PROPOSAL: The applicant is requesting a Use Permit, to legitimize an over-high existing 24 foot tall accessory structure (garage). The Zoning Code standard height for an accessory structure in the setback areas of a property would be no more than 12 feet within 10 feet of the side or rear property line.

LOCATION: In the Cowan Heights area at 12572 Barrett Lane, Santa Ana. Third Supervisorial District.

APPLICANT: Frank and Marla Woodward, property owners

STAFF CONTACT: J. Alfred Swanek, Project Manager E-mail: Jim.Swanek@rdmd.ocgov.com
(714) 796-0140 FAX: (714) 834-4772

SYNOPSIS: Land Planning Services recommends Zoning Administrator approval of PA05-0012 for Use Permit subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The applicant is requesting a Use Permit, to legitimize an existing 24 foot tall accessory structure (garage) for which a building permit was issued to place it no more than 3 feet from the rear property line and 16 feet from the side and to be no more than 12 feet tall at a distance of 10 feet from any property line (flag lot setbacks). Instead, it is approximately 24 feet tall 6 feet 4 inches from the side, and approximately 13.5 feet tall at that 10 foot distance from the rear property line where it should be no more than 12 feet. The Zoning Code standard height for an accessory structure in these setback areas of the property would be no more than 12 feet within 10 feet of the side or rear property line.

SURROUNDING LAND USE:

Direction	Land Use Designation	Existing Land Use
Project Site	100-E4 "Small Estates"	Single family dwelling

North	100-E4 "Small Estates"	Single family dwelling
South	100-E4 "Small Estates"	Single family dwelling
East	100-E4 "Small Estates"	Single family dwelling
West	100-E4 "Small Estates"	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 to the North Tustin Specific Plan Advisory Committee. On April 19, 2005, they met, reviewed the application, noted the support of the most affected neighbor at 12562 Barrett Lane, and recommended approval of the project unanimously (see Exhibit 3, Minutes of their Meeting).

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

CEQA COMPLIANCE:

The proposed project is Categorical Exempt (Class 11, construction or placement of accessory structures) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

As noted above, a building permit was issued for this structure with the express intent that it be set back a sufficient distance from the side and rear setbacks such that no portion of the structure would exceed 12 feet in height at a distance 10 feet from either property line. Reviewing the elevations that were actually constructed, staff estimates this structure should have been located at least 10 feet from the left side property line (the issued permit claims it is 16 feet), and at least 7.6 feet from the rear property line (rather than the 4 foot distance it was actually built at).

In essence, the use and height of this structure were approved in compliance with the Zoning Code, and then the structure was built 3 feet 8 inches too close to both sides of the property it abutted against.

A Use Permit is required under Zoning Code Section 7-9-137(e), with no mention of special findings. Therefore, only the standard finding would be required, concluding that:

“The location, size, design and operating characteristics of the proposed use (and structure) will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.”

In view of the support the applicant has obtained from the North Tustin Specific Plan Advisory Committee, the most affected neighbor, and noting that this very use and structure were approved to be constructed only some 3 feet 8 inches away from where it was actually built, staff concludes the required finding can be made.

RECOMMENDED ACTION:

Land Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA05-0012 for Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Charles Shoemaker, Chief
LPSD/Site Planning Section

APPENDICES:

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

EXHIBITS:

1. Applicant's Letter of Explanation
2. Site Plans and site photos
3. April 19, 2005 Minutes of NTAC

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.