

RDMD/Planning and Development Services

DATE: December 14, 2006

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Land Use Services

SUBJECT: Public Hearing on Planning Application PA06-0018 for Variance

PROPOSAL: The applicant proposes a single story addition to an existing single-family residence (on a corner lot) that would encroach 10 feet into the required rear yard setback of 20 feet, requiring a Variance.

LOCATION: 12881 Charloma Drive, East Tustin unincorporated community, at the intersection of Charloma and Wass Avenue, Third Supervisorial District.

APPLICANT: Ramon Diaz, property owner

STAFF CONTACT: J. Alfred Swanek, Project Manager
Phone: (714) 796-0140 FAX: (714) 834-4772

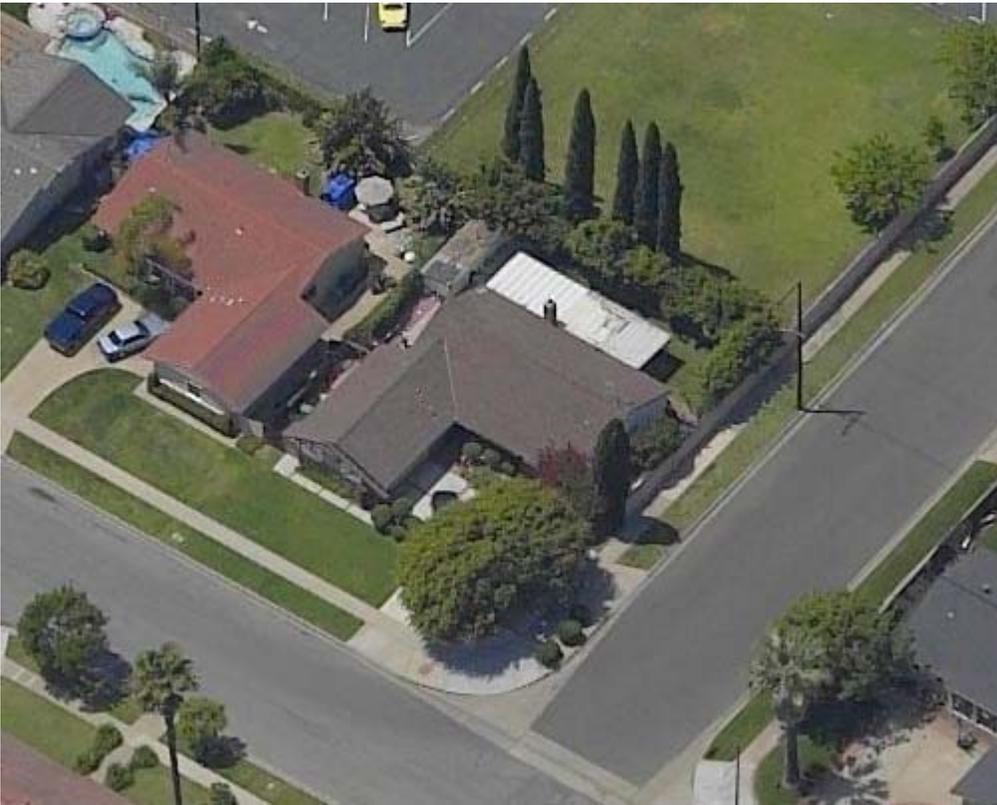
SYNOPSIS: PDS/Land Use Services recommends Zoning Administrator approval of PA06-0018 subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject site is located in the unincorporated community of “East Tustin”. The subject site is a corner lot measuring 74 feet wide by 100 feet deep (with a corner cut-off) and developed with a one-story single-family dwelling with 1530 sq. ft. of living area built in 1960.

SURROUNDING LAND USE:

Direction	Zoning	Existing Land Use
Project Site	R1 “Single-family Residence”	Single-family Residence
Northwest	City of Tustin Zoning	Church
Southwest	R1 “Single-family Residence”	Single-family Residence
Southeast	R1 “Single-family Residence”	Single-family Residence
Northeast	R1 “Single-family Residence”	Single-family Residence



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site, and to the North Tustin Specific Plan Advisory Committee. Additionally, 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 County Divisions, the City of Tustin, and NTAC. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The City of Tustin had no comment, and NTAC recommended approval of the application on November 15, 2006.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The property abuts the City of Tustin, where single family residential zoning allows a residence to be as close as 5 feet to the rear of the lot, for either a one-story or multi-story structure. Thus, the applicant in the County unincorporated area, even with a shallow building site as is the case here, could not approach closer to the rear property line than 20 feet with even a single story structure, while an identical home behind him could be two or even three stories tall and only 5 feet from their shared rear property line.

However, since the justification for granting a variance lies in the nature of the property in question more than neighboring (even adjoining) properties, staff recommends the decision-maker consider rather the difficulty of adding to an existing residence with a corner lot configuration, as well as the considerable barrier of landscaping at the rear of this property, which should obviate any concerns with reduced privacy in the reduced setback. The variance requested is only for a single story addition, and the request only covers some 40% of the width of the lot.

Before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion the Zoning Administrator can make these two special variance findings. The special circumstances would be the difficulty of adding to an existing residence with a corner lot configuration, plus the substantial barrier of existing screening landscaping in the immediate area of the requested setback variance.

RECOMMENDED ACTION:

PDS/Land Use Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and
- b. Approve Planning Application PA06-0018 for Variance, subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Ron Tippets, Chief
LUSD/Site Planning Section

APPENDICES:

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

EXHIBITS:

1. Applicant's Letter of Explanation
2. Minutes of NTAC Meeting of 11/15/06
3. Excerpt from City of Tustin Zoning Code
3. Site Photos
4. Site Plans

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. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the RDMD/Planning and Development Services.



Appendix A Findings PA060018

1	GENERAL PLAN	PA060018
That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.		
2	ZONING	PA060018
That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.		
3	COMPATIBILITY	PA060018
That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.		
4	GENERAL WELFARE	PA060018
That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.		
5	PUBLIC FACILITIES	PA060018
That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).		
6	CATEGORICALLY EXEMPT	PA060018 (Custom)
That the proposed project is Categorically Exempt (Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA.		
7	FISH & GAME - EXEMPT	PA060018
That pursuant to Section 711.4 of the California Fish and Game Code, this project is exempt from the required fees as it has been determined that no adverse impacts to wildlife resources will result from the project.		
8	NCCP NOT SIGNIFICANT	PA060018
That the proposed project will not have a significant unmitigated impact upon Coastal Sage Scrub habitat and therefore, will not preclude the ability to prepare an effective subregional Natural Communities Conservation Planning (NCCP) Program.		
9	VARIANCE 1	PA060018 (Custom)
That there are special circumstances applicable to the subject building site, being the practical difficulty of adding to an existing residence with a corner lot configuration, as well as the considerable barrier of landscaping at the rear of this property, which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.		
10	VARIANCE 2	PA060018
That approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.		



Appendix B Conditions of Approval PA060018

1 CP CP NA BASIC/ZONING REG PA060018

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

2 CP CP NA BASIC/TIME LIMIT PA060018

This approval is valid for a period of 36 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

3 CP CP NA BASIC/PRECISE PLAN PA060018

Except as otherwise provided herein, this permit is approved as a precise plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

4 CP CP NA BASIC/COMPLIANCE PA060018

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

5 CP CP NA BASIC/OBLIGATIONS PA060018

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant shall reimburse the County for any court costs and attorneys fees that the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

6 CP CP NA BASIC/APPEAL EXACTIONS PA060018

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.