

P97-094 FLYNN GARAGE

- REQUEST:
- A. Special Permit to construct a second residential unit in the R-1 zone.
  - B. Variance to reduce the rearyard setback from 15 feet to 3 feet.
  - C. Variance to reduce the sideyard setback from 5 feet to 0 feet.
  - D. Variance to allow tandem parking.

LOCATION: 1350 42nd Street  
APN: 008-0262-001  
Council District 3  
East Sacramento Community

APPLICANT:	Dale Flynn, 916-752-1962 1350 42nd Street, Sacramento, CA 95819
OWNER:	Dale Flynn, 916-752-1962 1350 42nd Street, Sacramento, CA 95819
APPLICATION FILED:	August 19, 1997
STAFF CONTACT:	Mark Kraft, 264-8116

**SUMMARY:** The applicant is requesting the necessary entitlements to construct a second residential unit in the Single Family Residential (R-1) zone. The proposed project requires a Special Permit to establish this use in the R-1 zone. The proposed project also requires side and rear setback variances to construct the unit above the garage on the existing garage pad. Due to site constraints, the applicant is also requesting a Variance to provide tandem parking.

**RECOMMENDATION:** Staff recommends approval of the project, subject to conditions. This recommendation is based upon the suitability of the site for the proposed use, the compatibility of the proposed use with surrounding land uses, the minimal impact upon

the surrounding residential neighborhood and consistency with General Plan land use designation and General Plan policy encouraging the development of affordable infill housing.

PROJECT INFORMATION:

General Plan Designation:	Low Density Residential (4-15 du/na)
Proposed Density:	12.6 du/na
Existing Zoning:	Standard Single Family-R-1
Proposed Zoning:	Same
Existing Land Use:	Residential

Surrounding Land Use and Zoning:

North:	Residential; R-1
South:	Residential; R-1
East:	Residential; R-1
West:	Residential; R-1

Property Dimensions:	50' x 139' (.16 acres)
Existing Lot Coverage:	2325 square feet (33%)
Allowed Lot Coverage:	40%
Height of Existing Building: (Garage):	10 feet
Proposed Height of Res. Unit over garage:	18
Height Limit R-1 zone:	35 feet
Total Required Parking:	2 spaces
Total Proposed Parking:	2 spaces (Tandem)
Street Improvements:	Existing

OTHER APPROVALS REQUIRED: In addition to the above land use entitlements, the project will be required to obtain building permits.

BACKGROUND: The applicant is proposing to rebuild an existing garage on its present site, and to construct a one bedroom studio apartment above this garage. The garage and the residential unit would be 400 square feet each for a total building size of 800 square feet. The applicant is constructing the unit for their mentally retarded adult son, so that he may live as independently as possible.

STAFF EVALUATION: Staff has the following comments:

A. Policy Considerations

The proposed project is consistent with the General Plan designation of Low Density Residential (4-15 du/na) in that the proposed density is 12.6 du/na and in that construction of second residential units is allowed, by Special Permit, in the R-1 zone, the zone compatible with this General Plan designation.

The project is also consistent with General Plan policy encouraging the addition of residential units to the housing stock as well as policy encouraging the development of infill housing. General Plan policy (Sec 2-15, Policy 5) also specifically supports efforts to provide varied housing opportunities by allowing secondary units on single family lots.

B. Zoning Considerations

1. Special Permit for a Second Residential Unit in the R-1 zone

The City's Zoning Ordinance allows construction of second residential units in the R-1 zone subject to granting of a Special Permit. In order to approve a Special Permit for a second residential unit, the Planning Commission must make a finding that 1) The architecture is compatible with that of the main building, and 2) The area of the second residential unit will not exceed 850 square feet.

The proposed project, at 400 square feet, is well below the maximum allowed for second residential units. The architecture, of brick and stucco construction with tile accent, is compatible with the existing house, particularly given that the main house has a stucco, tile accented, flat roofed second story addition.

In granting the Special Permit, the Commission must also make the findings that the project is based upon sound principles of land use, must not create a nuisance, and must be consistent with general or specific plans for the area. Staff is of the position that these findings can be made for the following reasons:

- 1) The proposed structure will not overwhelm the surrounding neighborhood in that the structure, at 18 feet, is well below the 35 foot height limit for the R-1 zone and the proposal does not increase lot coverage, which is currently well below that allowed in the R-1 zone. The project is compatible in height with the other homes in the neighborhood, the majority of which are two story. Additionally, the structure would have limited visibility from the street, and would be screened by existing landscaping from properties to the north and west. The proposed structure would be ancillary to the main

house in terms of height and mass.

- 2) The project does not include windows which would invade the privacy of surrounding neighbors.
- 3) The project will be conditioned so that at least one unit on the property will be owner occupied.
- 4) There is a precedent for second units over garages in the neighborhood, with two existing in close proximity to the project site, at 1361 42nd Street and 1337 41st Street.

Given the preceding findings, staff supports the requested Special Permit.

## 2. Height and Area Regulations (Setback Variances)

The applicant proposes to construct the project on the existing garage pad which is located on the north (side) property line, and 3 feet from the rear (west) property line. The Zoning Ordinance requires a 15 foot rearyard setback and a 5 foot sideyard setback. The configuration of the lot including the location of the existing main house, makes compliance with the rearyard setback impossible. Additionally, movement of the structure to the south would negatively impact vehicle maneuvering and result in an awkward aesthetic appearance from the street. The requested variance, therefore, does not constitute a special privilege, and would be granted to any property owner facing similar circumstances. Staff therefore supports the requested variances.

## 3. Variance for Tandem Parking

The Zoning Ordinance requires that a second unit be provided with off-street parking which is independently accessible from the street. Although the existing 116 foot driveway provides ample parking space, the driveway wide enough for only one car, and therefore cannot supply independently accessible parking. Therefore, a variance to provide tandem parking is requested. Although it would be technically feasible to provide an additional parking space via a parking pad in the front yard, staff considers this to be an unnecessary and aesthetically undesirable alternative. Staff therefore supports the variance to provide tandem parking.

## PROJECT REVIEW PROCESS:

### A. Environmental Determination

The City Environmental Coordinator has determined that the proposed project is exempt from environmental review pursuant to CEQA, Section 15303.

B. Public/Neighborhood/Business Association Comments

The proposed project application packet was sent to the East Sacramento Improvement Association. Land owners within a 500 foot radius of the project site were also notified of the proposed project. The East Sacramento Improvement Association provided a written response stating opposition to the project unless an owner occupancy condition is included. The applicant has concurred with the imposition of this condition, and it has been included in the Notice of Decision. A similar condition was placed on a second unit project at 1242 33rd Street (Z96-038).

C. Summary of Agency Comments

The proposal was routed to several City departments and other agencies. The following summarizes the comments received:

1. Utilities

The Department of Utilities has an existing 8" sewer line running through the back end of the lot. This line is one foot from the existing garage foundation. The owner should make sure that the ground over the pipe where the trench was located can support the added weight of the addition.

2. Police

The project is visible from the street and not intended for alley access use. It is of minimal potential problem for law enforcement.

3. Building

One hour fire separation between living area and garage. No access allowed from garage to bedroom. Wall on the side where setback is 0', a one hour fire wall is required and no opening allowed.

PROJECT APPROVAL PROCESS:

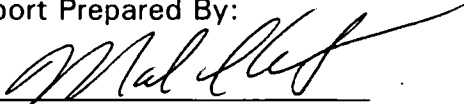
The Planning Commission has the authority to approve or deny the requested Special Permit and Variances. The decision of the Planning Commission may be appealed to the City Council. The appeal must occur within 10 days of the Planning Commission action.

**RECOMMENDATION:**

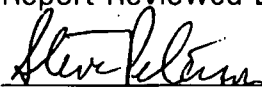
Staff recommends the Planning Commission take the following actions:

- A. Adopt the Notice of Decision and Findings of Fact approving the Special Permit to construct a second residential unit in the R-1 zone.
- B. Variance to reduce the rearyard setback from 15 feet to 3 feet.
- C. Variance to reduce the sideyard setback from 5 feet to 0 feet.
- D. Variance to allow tandem parking.

Report Prepared By:

  
Mark Kraft, Associate Planner

Report Reviewed By:

  
Steve Peterson, Senior Planner

**ATTACHMENTS**

Attachment A

Exhibit A-1

Attachment B

Attachment C

Attachment D

Notice of Decision and Findings of Fact

Site Plan\Floor Plan\Elevations

Vicinity Map

Land Use and Zoning Map

Letter from ESIA

**ATTACHMENT A:**  
**NOTICE OF DECISION AND FINDINGS OF FACT FOR**

**FLYNN GARAGE,**  
located at 1350 42nd Street  
**SACRAMENTO, CALIFORNIA**  
APN: 008-0262-001 (P97-094)

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At the regular meeting of January 22, 1998, the City Planning Commission heard and considered evidence in the above entitled matter. Based on verbal and documentary evidence at said hearing, the Planning Commission took the following actions for the location listed above:

- A. Approved a Special Permit to construct a second residential unit in the R-1 zone.
- B. Approved a Variance to reduce the rearyard setback from 15 feet to 3 feet.
- C. Approved a Variance to reduce the sideyard setback from 5 feet to 0 feet.
- D. Approved a Variance to allow tandem parking.

These actions were made based upon the following findings of fact and subject to the following conditions:

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**FINDINGS OF FACT:**

- A. The Special Permit to construct a second residential unit in the R-1 zone is approved subject to the following findings of fact.
  - 1. The Special Permit, as conditioned, is granted upon sound principles of land use in that the proposed second unit would be compatible with the surrounding commercial land uses.
  - 2. The Special Permit will not be detrimental to the public's health, safety, or welfare, or result in the creation of a nuisance in that the proposed project is compatible in scale with surrounding development, and adequately screened so as not to invade the privacy of surrounding properties.
  - 3. The Special Permit is in conformity with the General Plan and Central City Community Plan policies in that the project will provide an additional unit to the

City's housing stock.

- B. The Variance to reduce the rearyard setback from 15 feet to 3 feet is **approved** subject to the following finding of fact:
1. The Variance does not constitute a special privilege extended to an individual property owner in that the variance would be granted to other property owners facing similar circumstances.
  2. The Variance does not constitute a "use variance" in that the proposed project is allowable, by Special Permit, in the R-1 zone.
  3. The Variance will not be injurious to the public welfare, nor to property in the vicinity of the project.
  4. The Variance is consistent with goals and policies of the General Plan and Central City Community Plan.
- C. The Variance to reduce the sideyard setback from 5 feet to 0 feet is **approved** subject to the following findings of fact:
1. The Variance does not constitute a special privilege extended to an individual property owner in that the variance would be granted to other property owners facing similar circumstances.
  2. The Variance does not constitute a "use variance" in that the proposed project is allowable, by Special Permit, in the R-1 zone.
  3. The Variance will not be injurious to the public welfare, nor to property in the vicinity of the project.
  4. The Variance is consistent with goals and policies of the General Plan and Central City Community Plan.
- D. The Variance to allow tandem parking is hereby approved subject to the following findings of fact.
1. The Variance does not constitute a special privilege extended to an individual property owner in that the variance would be granted to other property owners facing similar circumstances.



2. The Variance does not constitute a "use variance" in that the proposed project is allowable, by Special Permit, in the R-1 zone.
3. The Variance will not be injurious to the public welfare, nor to property in the vicinity of the project.
4. The Variance is consistent with goals and policies of the General Plan and Central City Community Plan.

**CONDITIONS:**

- A. The Special Permit to construct a second residential unit in the R-1 zone is approved subject to the following conditions:
  - A1. The Department of Utilities has an existing 8" sewer line running through the back end of the lot. This line is one foot from the existing garage foundation. The owner shall ensure that the ground over the pipe where the trench was located can support and added weight of the addition.
  - A2. Prior to issuance of a certificate of occupancy for the project, the existing structure shall comply with applicable building codes, to the satisfaction of the Building Division.
  - A3. To maintain use of the second residential dwelling unit, the owner of the subject property shall be the occupant of the primary residence or the second residential dwelling unit at all times that the second residential unit is occupied. Upon sale of the property, the subsequent owner shall file an affidavit with the City, acknowledging the forgoing condition, and stating that the owner will be an occupant of either the primary residence or the second residential unit if and when the second residential unit is occupied. Failure to satisfy the foregoing condition shall be grounds for revocation of the Special Permit in addition to any remedies sanctions or relief that may be available under the Zoning Ordinance or any other statute, law or regulation.

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CHAIRPERSON

ATTEST:

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SECRETARY TO THE PLANNING COMMISSION

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DATE  
(P97-094)

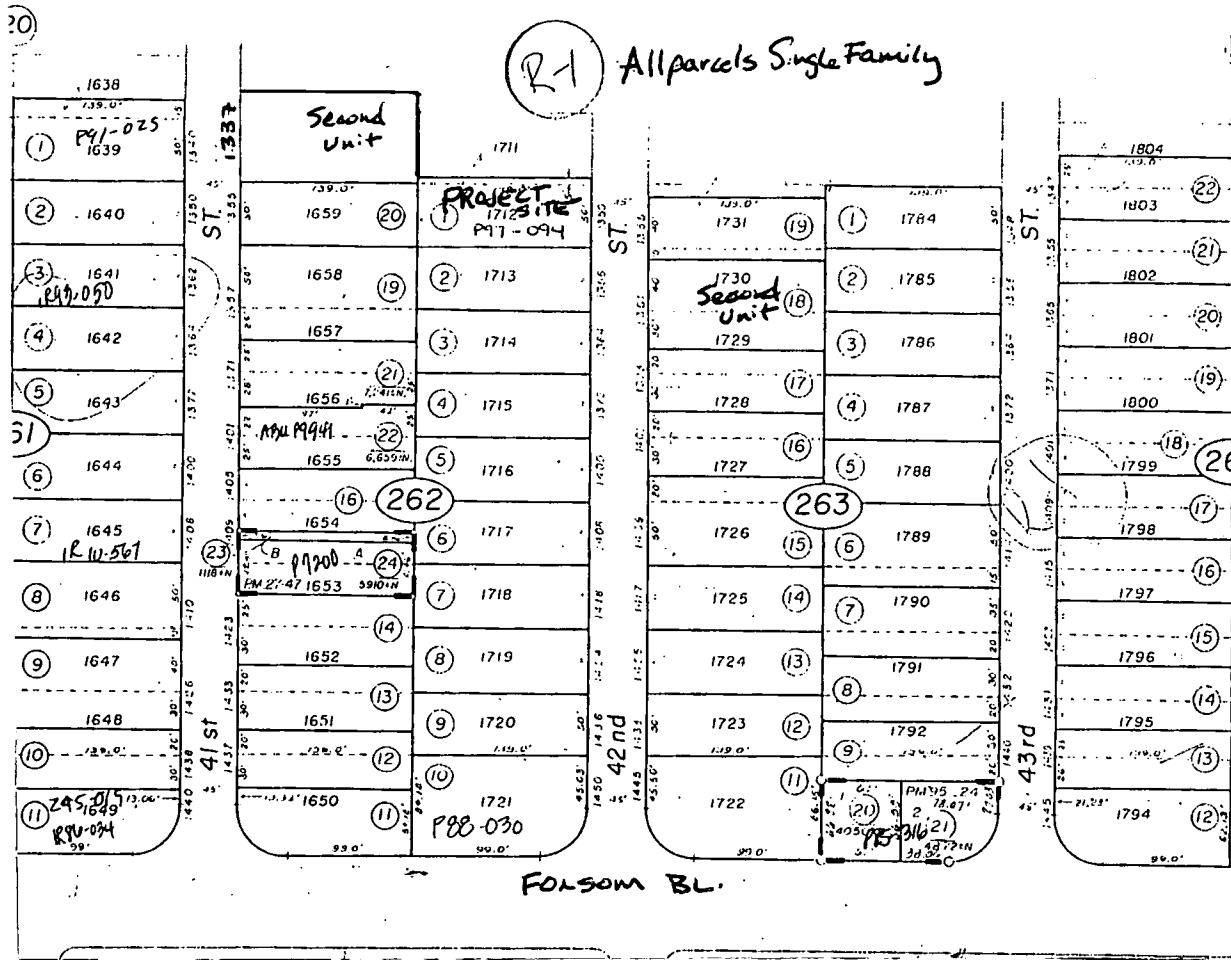
Attachments

Exhibit A-1 Site Plan\Floor Plan\Elevations

Attachment B  
Vicinity Map



Attachment C  
Land Use and Zoning Map





# EAST SACRAMENTO IMPROVEMENT ASSOCIATION

*Neighbors helping neighbors since 1958*

November 12, 1997

RECEIVED

NOV 17 1997

CITY OF SACRAMENTO  
CITY PLANNING DIVISION

Re: Project #97-109, Application for Special Permit for second residential unit at 1350 42nd Street.

Dear Mark Kraft:

East Sacramento Improvement Association, ESIA, is opposed to granny units in the East Sacramento Area because of the impact to our residential neighborhoods. ESIA would ask City Planning Commission to deny the Special Permit to build a second residential unit above a new detached garage at 1350 42nd Street, unless an owner-occupancy condition is included.

In order to preserve the integrity of the family neighborhood environment, ESIA is opposed to all Special Permits to erect extension units that may be considered rental property. ESIA believes that rental units promote neighborhood instability, see *Sonnheim v. City of San Dimas*, (1996) 47 Cal. app.4th 1181.

In the case of the applicant at 1350 42nd Street, we understand the special circumstances and the needs to accommodate a mentally retarded adult family member.

East Sacramento Improvement Association requests that owner-occupancy be a condition for Special Permit applicants in the East Sacramento community; thus requiring the owner to occupy one of the residences on the property at 1350 42nd Street. ESIA believes that an owner-occupancy condition is essential for the following reasons:

1. It better promotes neighborhood stability.
2. It preserves the character of the existing single family neighborhood.
3. It discourages both speculation and absentee ownership.
4. It provides legal and reasonable ownership to property.



# EAST SACRAMENTO IMPROVEMENT ASSOCIATION

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*Neighbors helping neighbors since 1958*

The City of Sacramento recently imposed the owner-occupancy provision in the judgement for a Special Permit at 1242 33rd Street. I have attached a sample condition for owner-occupancy.

East Sacramento Improvement Association asks the City Planning Commission to deny the Special Permit for 1350 42nd Street, unless there is a strict condition for owner-occupancy at this property.

Linda Cook, Board Member  
East Sacramento Improvement Association  
1371 43rd Street  
Sacramento, CA 95819  
(916) 453-8996

PROPOSED OWNER OCCUPANCY CONDITION

To maintain use of the second residential dwelling unit, the owner of the subject property shall be the occupant of the primary residence or the second residential dwelling unit at all times that the second residential unit is occupied. Upon sale of the property, the subsequent owner shall file an affidavit with the City acknowledging the foregoing condition, and stating either the owner is an owner occupant, or that the owner will be an occupant of either the primary residence or the second residential unit if and when the second residential dwelling unit is occupied.

Failure to satisfy the foregoing condition shall be grounds for revocation of the special permit, in addition to any remedies, sanctions or relief that may be available under the Zoning Ordinance or any other statute, law or regulation.