

**CITY OF DANA POINT  
PLANNING COMMISSION  
AGENDA REPORT**

---

**DATE:** NOVEMBER 27, 2017

**TO:** DANA POINT PLANNING COMMISSION

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT  
URSULA LUNA-REYNOSA, DIRECTOR  
JOHN CIAMPA, SENIOR PLANNER

**SUBJECT:** PRELIMINARY REVIEW (PA17-0075) FOR A GENERAL PLAN AMENDMENT, VARIANCE, CONDITIONAL USE PERMIT, AND TENTATIVE PARCEL MAP TO LEGALIZE THE NONCONFORMITIES OF THE SITE TO ALLOW A CONDOMINIUM CONVERSION FOR THE APARTMENTS AT 33950 AND 33952 COPPER LANTERN STREET AND 33961 MARIANA DRIVE

---

**RECOMMENDATION:** That the Planning Commission assesses the request and provide feedback to the applicant focusing on potential issues which may be raised during consideration of a formal submittal for the project.

**APPLICANT:** Robert Williams, Studio 6 Architects

**PROPERTY OWNERS:** Real Estate Advisors

**REQUEST:** Preliminary review for a General Plan Amendment, Variance, Conditional Use Permit, and a Tentative Parcel Map to legalize the nonconformities associated with the property, increase the density of the site for a fourth unit, and to allow a condominium conversion for the apartments located at 33950 and 33952 Copper Lantern Street and 33961 Mariana Drive.

**LOCATION:** 33950 & 33952 Copper Lantern Street and 33961 Mariana Drive (APN: 682-123-18)

**NOTICE:** No noticing is required.

**ENVIRONMENTAL:** Not applicable at this time.

**ISSUES:**

- Project consistency with the Dana Point General Plan and the Dana Point Zoning Code (DPZC).

**ITEM #4**

- Project land use compatibility and community values.
- Findings for Variances.

**BACKGROUND:**

The subject site is a triangular lot located on the corner of Copper Lantern and Mariana Drive, bordered by single and multiple-family structures. The subject site is located in the Residential Multiple Family 14 (RMF-14) Zoning District and is designated Residential 14 - 22 D.U./AC in the City's General Plan. The property is improved with three detached residential structures that were developed over the course of approximately 10 years during the 1950s and 1960s.

Over the years as the property was being developed there were a number of permits and entitlements that were issued, the most significant permits and entitlements include the following:

- 1) in 1962, a Variance was issued to Unit B (33952 Copper Lantern) for a reduction in the front yard setback to 7.3 feet and five feet from the northerly property line; and
- 2) in 1968, one of the garage spaces for Unit A-1 was converted to a "Rumpus Room" for additional living area and a carport was added with a Variance for a reduced setback from the north property line to 4.5 feet. The permit for the "Rumpus Room" which is technically part of unit A-1, but did not allow for the legalization of a fourth unit (Unit A-2); and
- 3) the County of Orange approved a Lot Line Adjustment (LLA) for Unit B (33952 Copper Lantern) because the structure was incorrectly located over the property line along Mariana Drive; and
- 4) in 1968, a Variance issued to Unit-B (33952 Copper Lantern) to allow a reduced setback of 7.5 feet along Copper Lantern.

In 2006, the property owner submitted an application to convert the apartments on the subject property to condominiums. In the review of the application, City staff identified a number of non-conforming issues associated with the property that would require Variances to permit the condominium conversion. Staff notified the applicant that because of the amount of Variances required for the project, staff would not recommend approval to the Planning Commission. As a result of staff's communication, the applicant withdrew the project.

Recently the property owner hired a new architect to see if the past issues on the proposed project had changed and if the City would be more inclined to allow a condominium conversion for the property. The applicant requested a preliminary application review by City staff and the Planning Commission to obtain direction and input for the project.

The request for a condominium conversion for the subject property will require a Tentative Parcel Map (TPM) pursuant to Section 7.05.060 of the City's Subdivision Ordinance and Conditional Use Permit to allow condominium units. Variances must be approved to legalize the nonconformities associated with the site since condominium conversions are required to comply with all applicable development standards, per Section 7.05.055 of the Dana Point Municipal Code.

**Preliminary Review:**

Pursuant to Section 9.61.100(a)(2), a preliminary review by the Planning Commission is a more formal option made available to the applicant to provide feedback on a potential project. This process includes a brief evaluation of the project provided to the Planning Commission under the "New Business" section of the meeting. The applicant will have the opportunity to present the proposal directly to the Planning Commission and discuss the issues associated with the project. The objective of the review is to identify issues and possible solutions pertinent to the proposed project; however, the Planning Commission is legally limited in the type and amount of input they can provide during the preliminary review. Commissioner comments and feedback should be focused on the identification of potential issues which may be raised during consideration of a formal submittal.

**DISCUSSION:**

Staff conducted the preliminary review of the proposal and confirmed that the site still has a number of nonconformities associated with the property that would require Variances to allow the condominium conversion and permit a fourth unit. Upon staff's completed review the applicant was notified that if the project were formally submitted, it would not be supported to Planning Commission. To further vet the project, the applicant requested the Planning Commission conduct a preliminary review to obtain additional input to determine if they should move forward with the project. The applicant is requesting Planning Commission feedback on the necessary Variances for the parking, setbacks, open space, and density requirements to legalize the nonconformities and permit the condominium conversion.

**Parking Variances**

Pursuant to Section 9.35.080(e)(8), Minimum Number of Required Parking Stalls, the project's multi-family use requires a total of seven parking spaces (4 covered and 3 uncovered). The site is nonconforming because it provides a total of five covered parking spaces, of which four are substandard in size because they do not comply with the 10'x20' dimension requirement. The driveway areas behind the garages (tandem spaces) cannot count towards legal parking spaces because tandem parking is only allowed for duplexes, with the approval of a Minor Conditional Use Permit, per Section 9.35.080(e)(5). A breakdown of the parking required and provided for the site is detailed

in Table-1 below.

**Table-1 Parking Standards**

Unit #	Required Parking	Provided Parking	Compliance w/ Required Dimensions
<b>Unit A-1 (1- bedroom)</b>	1.7	1	No
<b>Unit A-2 (1- bedroom) (proposed unit)</b>	1.7	1	Yes
<b>Unit B (1- bedroom)</b>	1.7	2	No
<b>Unit C (2-bedroom)</b>	2.2	1	No
<b>Totals</b>	<b>7*</b>	<b>5</b>	

*\*The total 7.3 parking spaces is rounded down to seven per Section 9.35.080(a) because the total was a fractional number less than 0.5.*

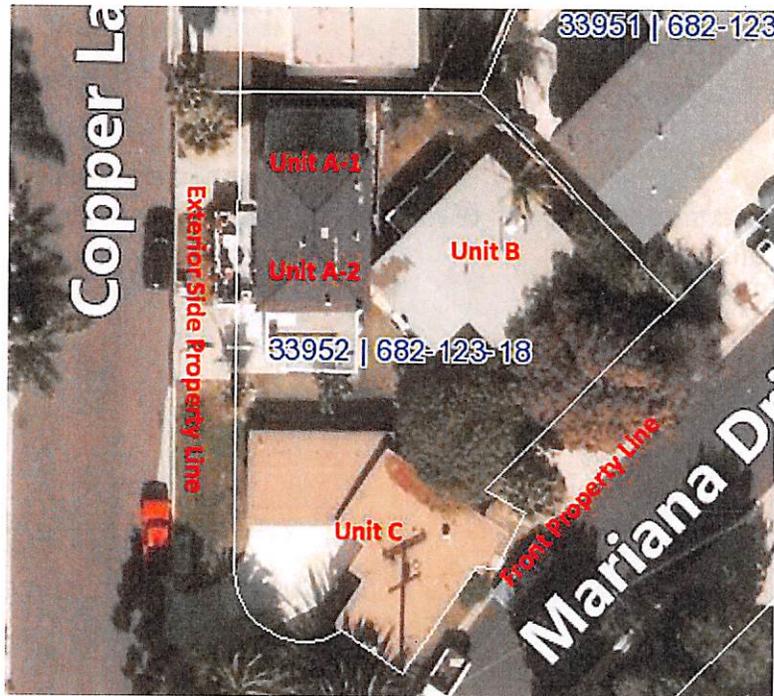
**Setback Variances**

The three structures are all legal nonconforming because they do not comply with one or more of the setback requirements identified under Section 9.09 of the DPZC. Due to the property's unique configuration the front lot line is along Mariana and the exterior side property line is along Copper Lantern. Per Section 9.05.190(a) of the DPZC, the substandard size of the lot allows for a reduction in the required front yard setback from 20 feet to 10 feet. The number of nonconformities associated with the structures' setbacks are related to the change in the development standards over the years and/or the incorrect placement of the structure on the lot.

Unit-B (33952 Copper Lantern) is nonconforming because it was incorrectly located over the property line and in the City Right-of-Way along Mariana Drive. To address the nonconforming encroachment, the County approved a LLA to reposition the property line around the exterior of the structure; however, the new property line did not provide adequate setbacks from the structure to comply with the City's setback requirements. The property line relocation resulted in the structure being setback 1.7 and 2 feet from Marina Drive when 10 feet is required. The structure is also nonconforming because a Variance was issued in 1968 to allow a setback of 7.5 feet from Copper Lantern when 10 feet is required; however, the structure only provides a 5.2 setback.

Pursuant to Sections 9.09.030 and 9.35.050(b)(5)(2) of the DPZC, the structures must comply with the required 10 foot exterior side and front yard setback for the primary structure and 20 feet for the garages, respectively. Unit A-1 (33950 Copper Lantern) is a nonconforming structure because it only provides a 7.2 foot exterior side yard and garage setback. The structure is also nonconforming because the deck along Copper Lantern is located over the property line and would need to be relocated behind the front property line and setback in accordance with the provisions identified in Maximum Projection Section 9.05.080 of the DPZC.

The image below and Supporting Document 4 (Plans) illustrates the structures' nonconformities with the RMF-14 development standards.



*Aerial Photo of Project Site and Property Lines*

Pursuant to Section 9.09.030(l) of the DPZC, a minimum separation of 10 feet is required between buildings on the same lot. The applicant is requesting relief from the required 10-foot building separation to three feet between Unit A-1 (33950 Copper Lantern) and Unit C (33961 Marina Drive). A reduction from the required 10-foot minimum building separation would be necessary in order avoid portions of the structures from being demolished to provide the required building separation. The reduction in the separation between buildings may also impact the 200 square foot private open space requirement per unit (DPZC Section 9.09.030.j); however, compliance with this provision would need to be evaluated during the formal application review process.

*General Plan Amendment and Zone Change/Conversion of Illegal Unit*

The subject property is a 7,908 square foot lot in the Residential Multiple Family 14 (RMF-14) Zoning District and Residential 14 - 22 D.U./AC land use designation in the City's General Plan. The land use designation for the property allows for one unit per 2,600 square feet of lot area which only permits three units for the property. The request to legalize unit A-2 as a fourth unit would require a General Plan Amendment (GPA) and Zone Change to exceed the allowed density for the site which would be considered spot zoning. Per Section 9.61.080(b) of the DPZC, the General Plan Amendment must be initiated by the City Council.

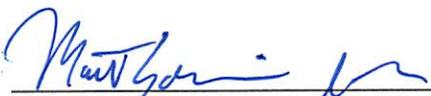
**CORRESPONDENCE:**

None.

**CONCLUSION:**

Staff requests that the Planning Commission review the subject proposal and provide the applicant with comments and feedback in moving forward with a formal discretionary application submittal.

  
\_\_\_\_\_  
John Ciampa  
Senior Planner

  
\_\_\_\_\_  
Ursula Luna-Reynosa, Director  
Community Development Department

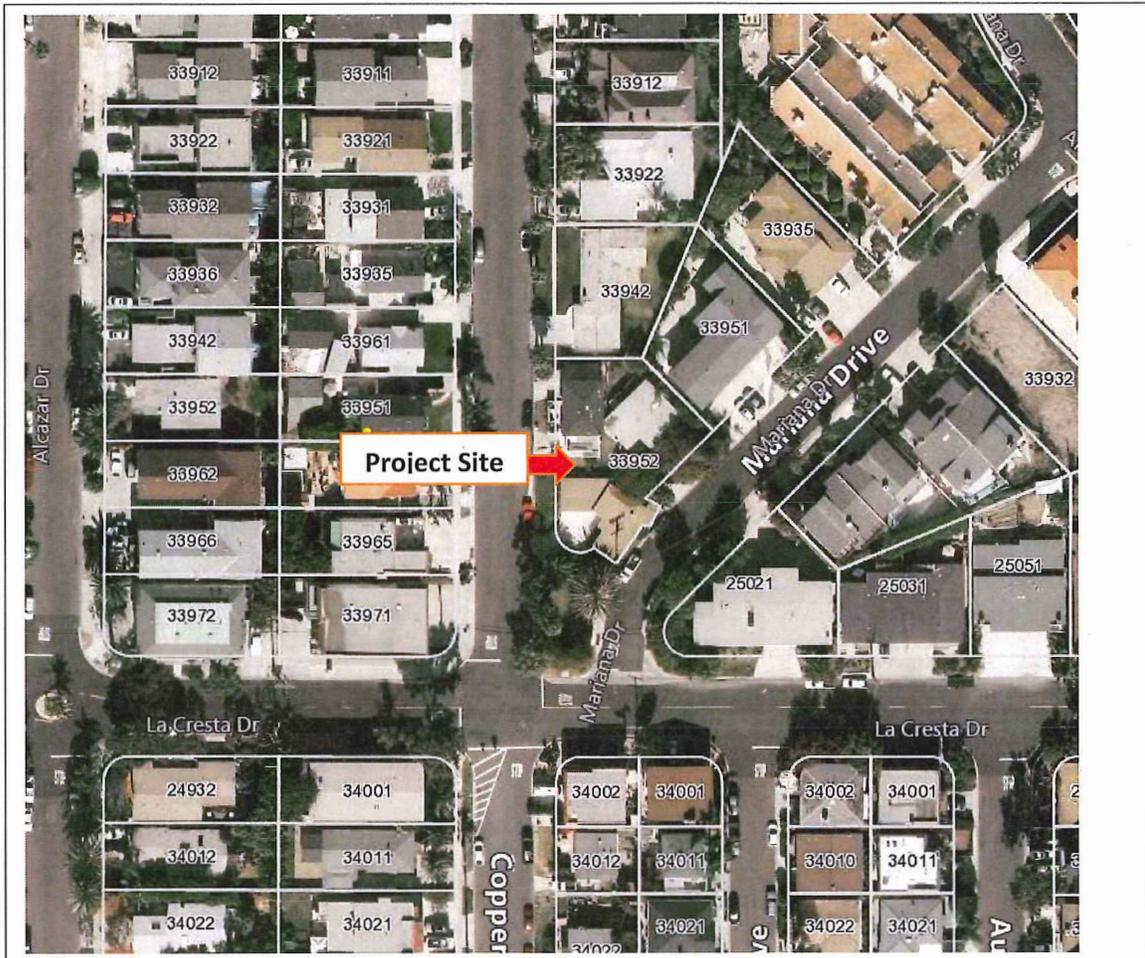
**ATTACHMENTS:**

1. Vicinity Map
2. Variance Findings (Section 9.67.050 of the DPZC)
3. Site Photos
4. Project Plans



# Vicinity Map

33952 Copper Lantern, Pre Application PA17-0075







## Dana Point Municipal Code

[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Title 9 ZONING](#)[Chapter 9.67 VARIANCES](#)**9.67.050 Basis for Approval, Conditional Approval, or Denial of a Variance.**

(a) The Planning Commission may grant a Variance, with such conditions as are found necessary to protect the public health, safety, and general welfare and assure compliance with the provisions and standards included in this Code, provided the following findings can be made:

- (1) That the strict or literal interpretation and enforcement of the specified regulation(s) would result in practical difficulty or unnecessary physical hardships inconsistent with the objectives of this Chapter; and
- (2) That there are exceptional or extraordinary circumstances or conditions applicable to the subject property or to the intended use of the property which do not apply generally to other properties in the same zoning district; and
- (3) That the strict or literal interpretation and enforcement of the specified regulation(s) would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district with similar constraints; and
- (4) That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the same zoning district with similar constraints; and
- (5) That the Variance request is made on the basis of a hardship condition and not as a matter of convenience; and
- (6) That the granting of the Variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity;
- (7) That the Variance approval places suitable conditions on the property to protect surrounding properties and does not permit uses which are not otherwise allowed in the zone;
- (8) For a Variance to regulations for off-street parking facilities or off-street loading facilities, the following additional findings shall be made:
  - (A) That neither the present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require the strict or literal interpretation and enforcement of the specified regulation(s).
  - (B) That the granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.
  - (C) That the granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this Chapter.
- (9) That granting of the Variance would not result in adverse impacts, either individually or cumulatively, to coastal access, public recreation opportunities, or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan.

(b) Conditions imposed by the Planning Commission for a Variance may involve any pertinent factors affecting the establishment, operation, or maintenance of the requested use, including, but not limited to:

- (1) Open spaces and buffer areas.
- (2) Fences and walls.

**Supporting Document #2**

- (3) Parking facilities, including vehicular ingress and egress, and the surfacing of parking areas and driveways.
- (4) Public facilities, dedications, and improvements.
- (5) Landscaping maintenance.
- (6) A specified time period within which the variance must be utilized or implemented.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

---

View the [mobile version](#).



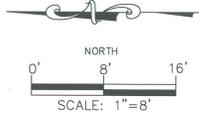
Supporting Document #3





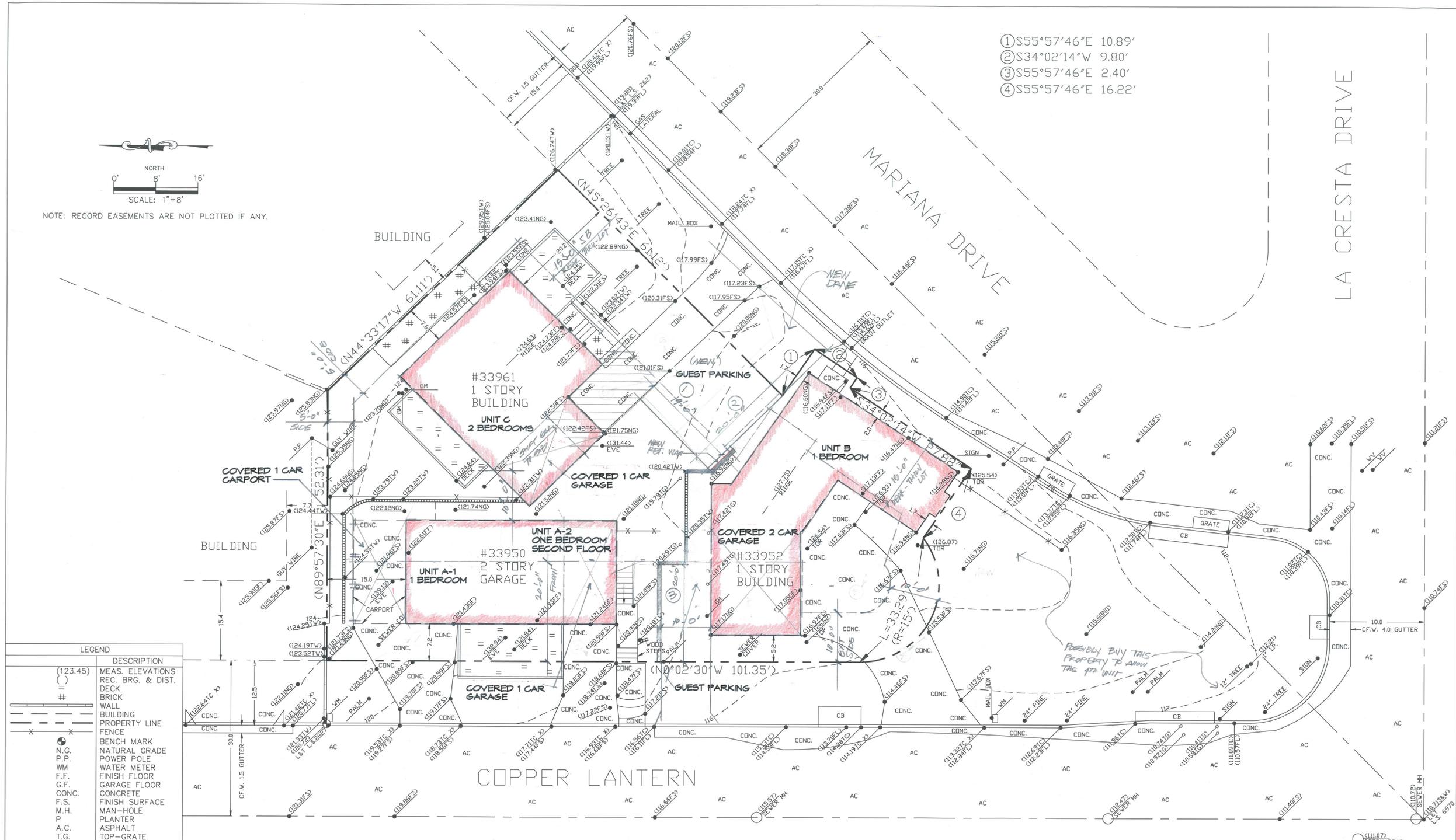






NOTE: RECORD EASEMENTS ARE NOT PLOTTED IF ANY.

- ① S55°57'46"E 10.89'
- ② S34°02'14"W 9.80'
- ③ S55°57'46"E 2.40'
- ④ S55°57'46"E 16.22'



LEGEND	
SYMBOL	DESCRIPTION
(123.45)	MEAS. ELEVATIONS
( )	REC. BRG. & DIST.
#	DECK
---	BRICK WALL
---	BUILDING
---	PROPERTY LINE
---	FENCE
+	BENCH MARK
N.G.	NATURAL GRADE
P.P.	POWER POLE
WM	WATER METER
F.F.	FINISH FLOOR
G.F.	GARAGE FLOOR
CONC.	CONCRETE
F.S.	FINISH SURFACE
M.H.	MAN-HOLE
P	PLANTER
A.C.	ASPHALT
T.G.	TOP-GRADE

<b>RdM SURVEYING INC.</b> RON MIEDEMA L.S. 4653 23016 LAKE FOREST DR. #409 LAGUNA HILLS, CA 92653 (949) 858-2924 OFFICE (949) 858-3438 FAX RDMSURVEYING@COX.NET	<b>TOPOGRAPHIC SURVEY</b>  JOB: (65-27)      DATE: 6/12/17	<b>OWNER:</b> IAN DYER	<b>LEGAL DESCRIPTION:</b> 10 OF TRACT MAP NO. 862	<b>BENCH MARK:</b> LEAD AND TAG ELEVATION= 120.72	<b>ADDRESS OF PROJECT:</b> 33952 COPPER LANTERN DANA POINT, CA
---	--	---------------------------	--	--	--

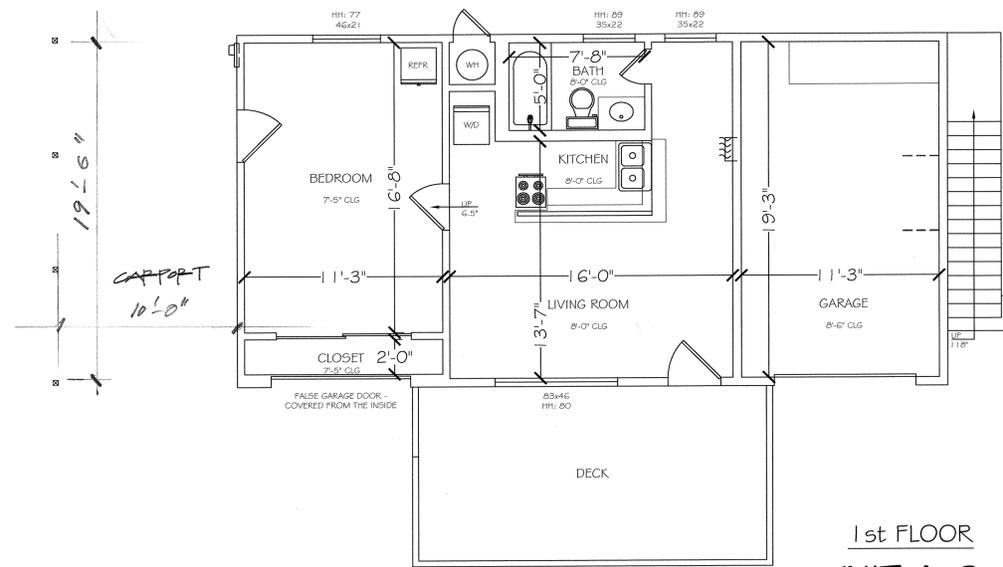
# COPPER LANTERN

DANA POINT, CALIFORNIA

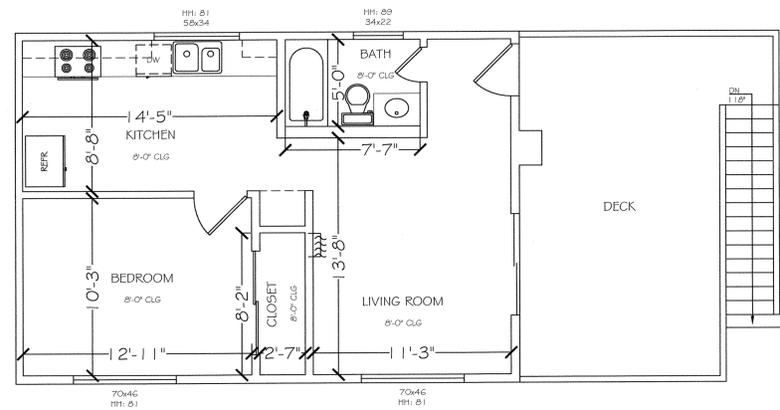


STUDIO 6 ARCHITECTS, INC.  
 ARCHITECTURE + PLANNING  
 2763 CAMINO CAPISTRANO, SUITE A100  
 SAN CLEMENTE, CA 92672  
 (949) 388-4300 PHONE  
 (949) 388-3330 FAX  
 STUDIO6ARCHITECTS.COM



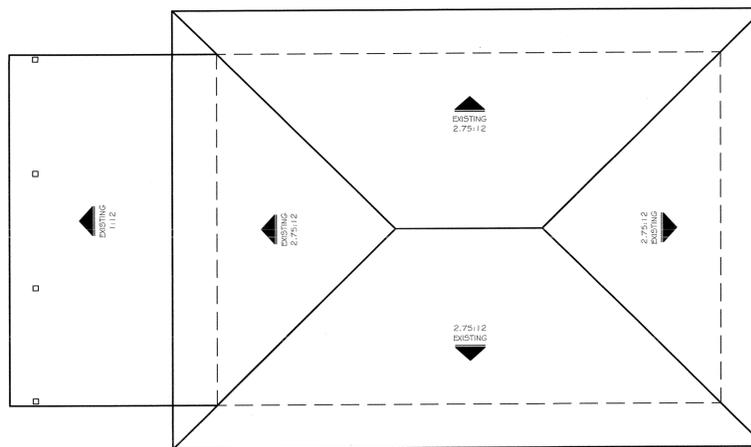


1st FLOOR  
UNIT A-2



UNIT A-1 2nd FLOOR

**COPPER LANTERN**  
DANA POINT, CALIFORNIA



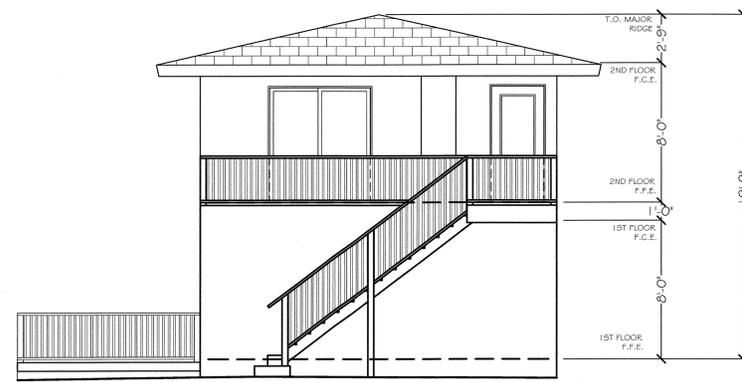
UNIT A-1 & UNIT A-2  
ROOF PLAN

COPPER LANTERN

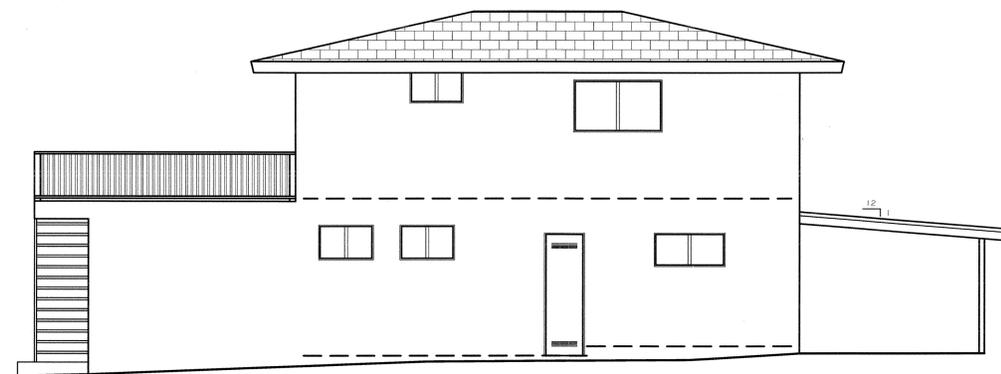
DANA POINT, CALIFORNIA



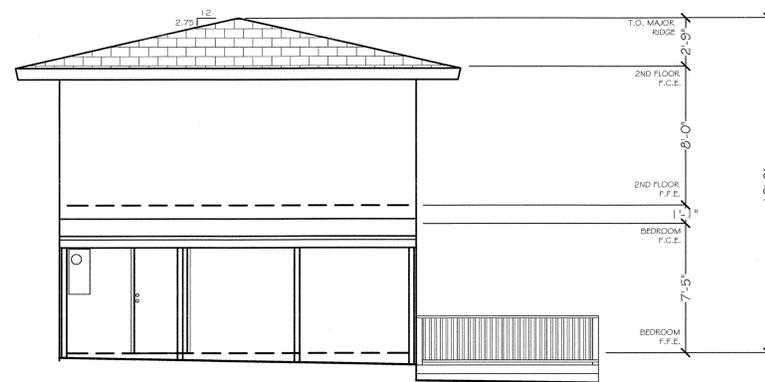
WEST



SOUTH



EAST



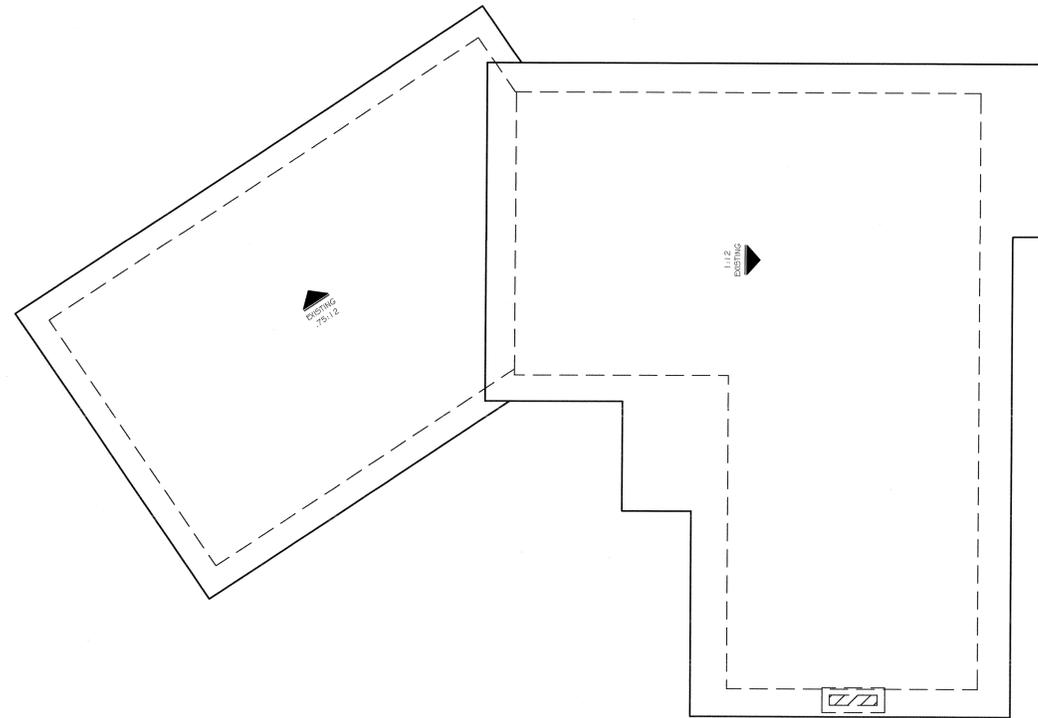
NORTH

UNIT A-1 & UNIT A-2  
ELEVATIONS

COPPER LANTERN

DANA POINT, CALIFORNIA

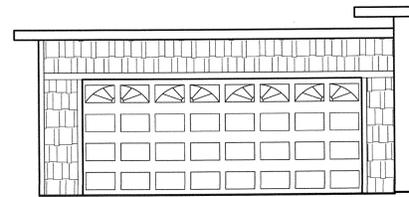




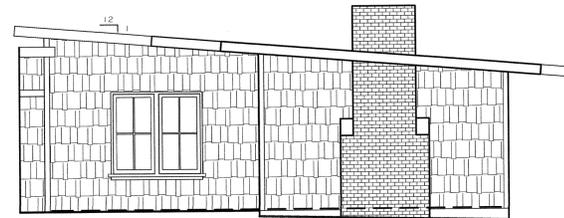
UNIT B ROOF PLAN

**COPPER LANTERN**

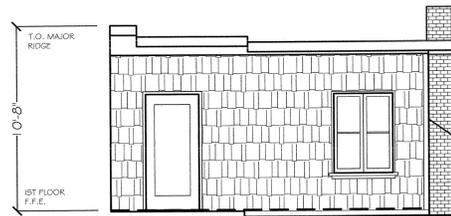
DANA POINT, CALIFORNIA



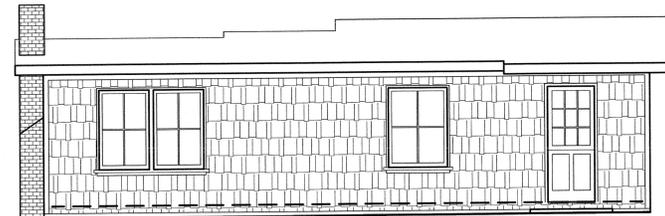
SOUTH



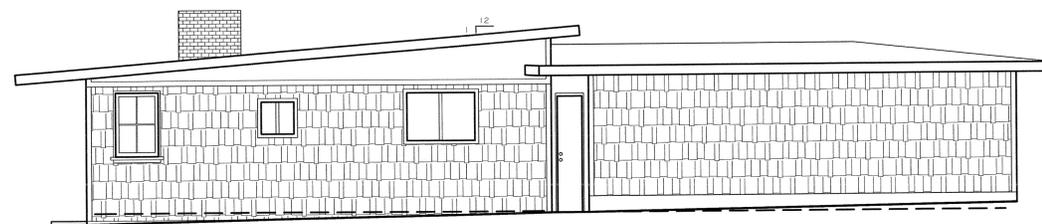
SOUTHWEST



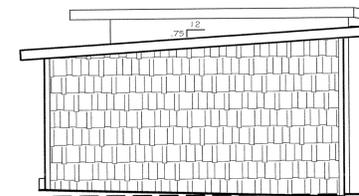
NORTHWEST



SOUTHEAST



NORTH

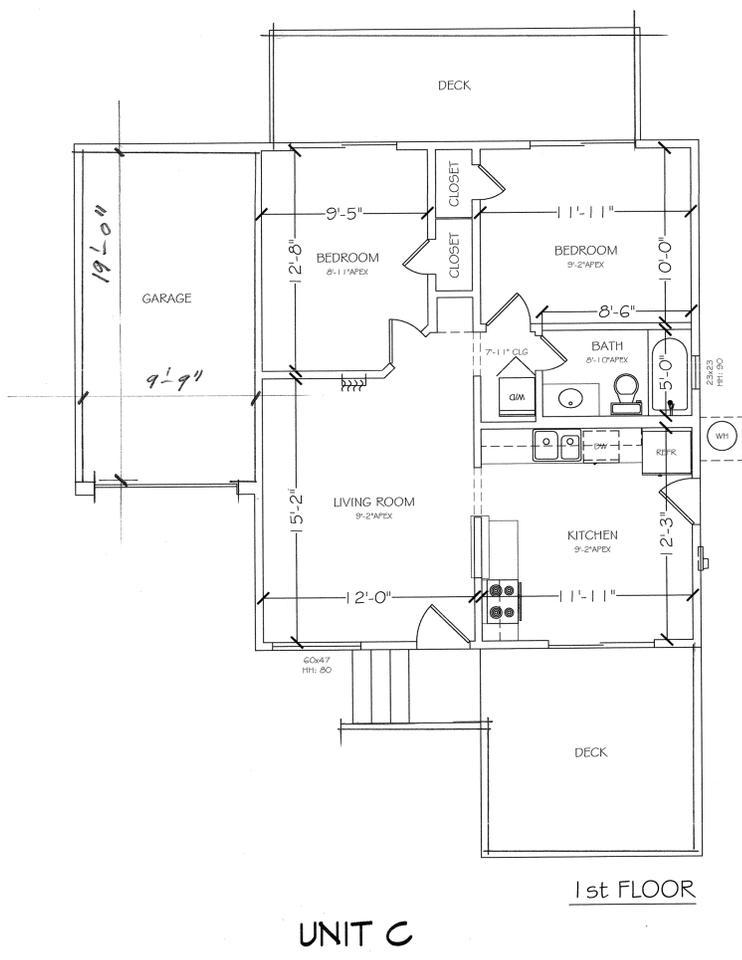


WEST

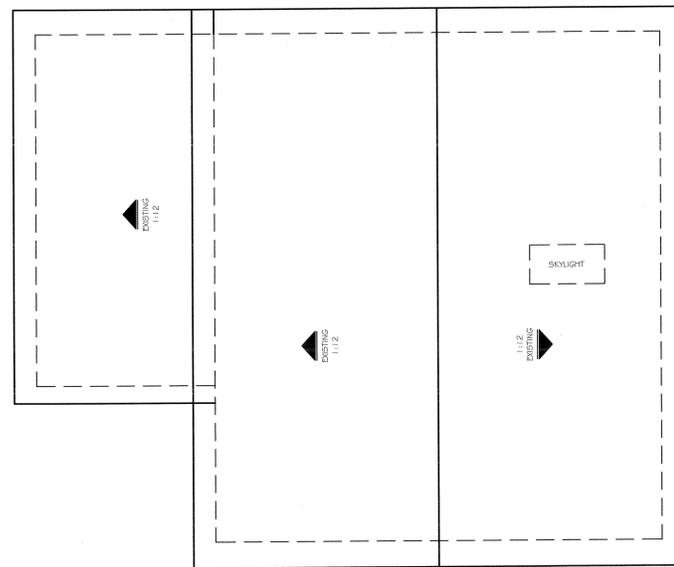
UNIT B ELEVATIONS

COPPER LANTERN

DANA POINT, CALIFORNIA



**COPPER LANTERN**  
 DANA POINT, CALIFORNIA

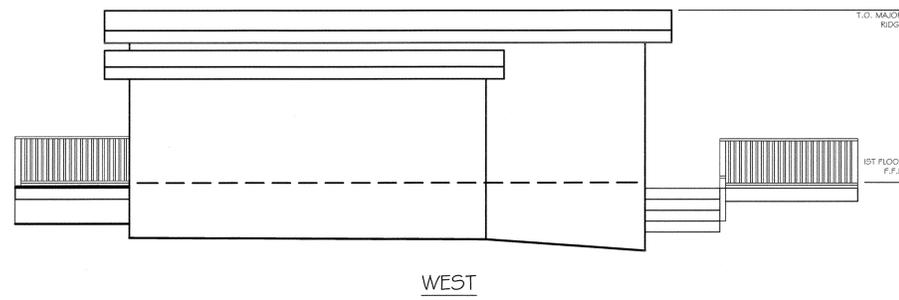
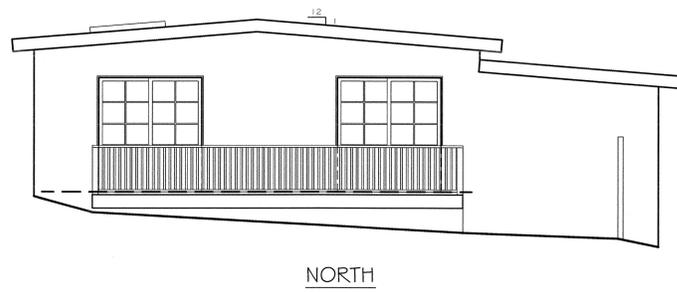
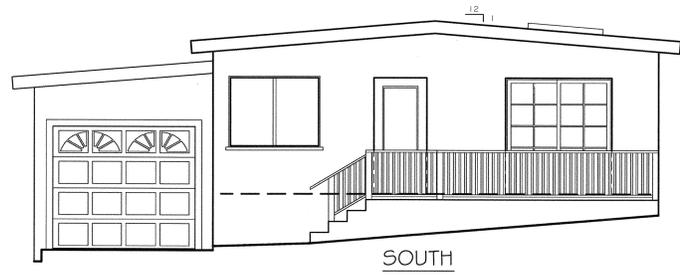


UNIT C ROOF PLAN

COPPER LANTERN

DANA POINT, CALIFORNIA





UNIT C ELEVATIONS

COPPER LANTERN  
DANA POINT, CALIFORNIA