

February 13, 2020 Agenda Item No. 7

SUBJECT: Hwang Residence (PA2019-175)

Modification Permit No. MD2019-006

SITE LOCATION: 107 32nd Street

APPLICANT: Phil Nielsen

OWNER: Cliff Hwang

PLANNER: Liz Westmoreland, Associate Planner

949-644-3234 or lwestmoreland@newportbeachca.gov

LAND USE AND ZONING

• General Plan Land Use Plan Category: RT (Two Unit Residential)

• **Zoning District:** R-2 (Two-Unit Residential)

• Coastal Land Use Plan Category: RT-E Two Unit Residential - (30.0 - 39.9 DU/AC)

• Coastal Zoning District: R-2 (Two-Unit Residential)

PROJECT SUMMARY

The applicant proposes a modification permit to allow a new two-car garage to deviate from the minimum interior depth of 19 feet. The garage is proposed as part of the demolition and reconstruction of a new single-family residence of approximately 1,745 square feet. The applicant is proposing a garage depth of 18 feet, resulting in a 1-foot deviation from the standard. The modification permit is requested due to the site's orientation to the alley and the width of the lot. The project complies with all other development standards and no additional deviations are requested.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Draft Zoning Administrator Resolution No. _ approving Modification Permit No. MD2019-006 (Attachment No. ZA 1).

DISCUSSION

Local Coastal Program Requirements

- The project is located within the Coastal Zone. However, a coastal development permit is not required for the project. The site is located within the Categorical Exclusion Order (CEO) area, which allows new single-family residences to be excluded if they comply with specific criteria such as providing the minimum number of parking spaces and adhering to the 2.0 floor area limit. There are no requirements related to the size of parking spaces identified in the Special Conditions of Categorical Exclusion Order Amendment CE-5-NPB-16-1-A1.
- A modification to Local Coastal Program Implementation Plan (IP) standards (pursuant to Section 21.52.090 – Relief From Implementation Plan Development Standards) is not required to modify the parking dimension standards because the IP does not include standards related to the size of parking spaces, only the number of spaces. The project will provide the required two parking spaces for single-family development under 4,000 square feet.

Practical Difficulties

- The Zoning Code requires that new single-family residences include a two-car garage that is a minimum of 17 feet 6 inches in width (on a 25-foot wide lot) and 19 feet deep. The side yard of the subject lot abuts the West Ocean Front Alley, which is where access to the site must be taken per Council Policy L-2 (Driveway Approaches). The total depth of the site as measured from the alley property line to the side (interior) property line is only 25 feet. Further, the side setback requirement is 3 feet for each side. Therefore, the buildable depth of the lot is 19 feet (25 feet minus 6 feet of setbacks). Garage walls are typically 6 inches thick, further reducing the interior clear depth to 18 feet. Therefore, because the lot is only 25 feet wide and vehicle access is from the side yard, a 19-foot garage depth is not physically possible.
- The proposed project would replace an existing non-conforming residence with a new residence that meets all required development standards with the exception of the depth of the garage. The existing residence was constructed in the early 1900s, and no off-street parking was provided on the site. Under proposed conditions, vehicles will be able to park in the proposed garage as well as an open parking space, thereby removing vehicles from the street while maintaining existing street parking for visitors and the public.

Alternatives

- The design could be modified to allow access via 32nd Street instead of the alley. However, this would conflict with Council Policy L-2 (Driveway Approaches), which limits the number of curb cuts in order to reduce the points of traffic conflict and prohibits the creation of new curb cuts for residential developments where there is alley access available. Furthermore, a new curb cut and driveway approach along 32nd Street would not be consistent with the pattern of development in the area as there are no driveways along this section of 32nd Street.
- The applicant could construct a two-car carport in lieu of a garage, which would require a modification permit to allow relief to the type of required parking. Relief to IP setback development standards with a coastal development permit would also be required to implement this alternative. Carport walls would still likely obstruct the required 19-foot clear dimensions, without providing the benefit of a garage. Further, because the carports are not included in the gross square footage allowed for the property, the square footage devoted to the garage could be replaced on the second or third floors, which would increase the bulk and mass of the structure.
- Instead of constructing a new residence, the applicant could remodel the existing building and add less than 10 percent to the existing structure without providing additional parking. In order to add more than 10 percent to the existing building, a modification permit would still be required. These alternatives would result in almost complete reconstruction of the home due to the age of structure and not meet the objectives of the applicant. Neither of these solutions provides off-street parking, nor do they provide similar benefits to the applicant. Any other existing legal nonconformities, such as setback encroachments into the side and rear yard, would remain.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of a single-family residence and the construction of a new 1,745-square-foot, single-family residence.

The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern,

does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways), including the applicant, and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

APPEAL PERIOD:

An appeal or call for review may be filed with the Director of Community Development within 14 days following the date of action. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:

Liz Westmoreland, Associate Planner

GBR/law

Attachments: ZA 1 Draft Resolution

ZA 2 Vicinity Map ZA 3 Project Plans

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2020-###

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING MODIFICATION PERMIT NO. MD2019-006 TO ALLOW A NEW RESIDENTIAL GARAGE TO DEVIATE ONE FOOT FROM MINIMUM REQUIRED DEPTH OF 19 FEET LOCATED AT 107 32nd STREET (PA2019-175)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Phil Nielsen with respect to property located at 107 32nd Street, and described as APN 423 343 08 requesting approval of a Modification Permit.
- 2. The applicant proposes a Modification Permit to allow a new two-car garage to deviate from the minimum interior depth of 19 feet. The garage is proposed as part of the demolition and reconstruction of a new single-family residence of approximately 1,745 square feet. The applicant is proposing a garage depth of 18 feet, resulting in a 1-foot deviation from the standard. The Modification Permit is requested due to the site's orientation to the alley and the width of the lot. The project complies with all other development standards and no additional deviations are requested.
- 3. The subject property is designated RT (Two Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
- 4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two-Unit Residential 30.0-39.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
- 5. A Coastal Development Permit is not required for the project. The site is located within the Categorical Exclusion Order (CEO) area, which allows new single-family residences to be excluded if they comply with specific criteria such as the minimum number of parking spaces. There are no requirements related to the size of parking spaces identified in the Special Conditions of Categorical Exclusion Order Amendment CE-5-NPB-16-1-A1. Additionally, a modification to Local Coastal Program Implementation Plan (IP) standards (pursuant to Section 21.52.090 Relief From Implementation Plan Development Standards) is not required to modify the parking dimension standards because the IP does not include standards related to the size of parking spaces, only the number of spaces. The project will provide the required two parking spaces for single-family development under 4,000 square feet.
- 6. A public hearing was held on February 13, 2020 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal

Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

- 1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
 - 2. Class 3 exempts the demolition and construction of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of a single-family residence and construction of a new 1,745-square-foot, single-family residence with two-car garage.
- 3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050.E (Modification Permits – Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. The requested modification will be compatible with existing development in the neighborhood.

Facts in Support of Finding:

- 1. The existing development on the property is a single-family residence. Therefore, there is no change to the density as a result of the proposed demolition and construction of a new single-family residence.
- 2. The majority of single-family and two-unit developments in the vicinity provide access to their garage or carport via the alley, consistent with the proposed project.
- 3. The proposed project would replace an existing non-conforming residence with a new residence that meets all required development standards with the exception of the required 19-foot depth for garages. The existing residence was constructed in the early 1900s, and no off-street parking was provided on the site. Under proposed conditions, vehicles will be able to park in the proposed garage as well as the new open parking

space, thereby removing vehicles from the street while maintaining existing street parking for visitors and the public.

Finding:

B. The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.

Facts in Support of Finding:

- 1. The Zoning Code requires that new single-family residences include a two-car garage that is a minimum of 17 feet 6 inches in width (on a 25-foot wide lot) and 19 feet deep. The side yard of the subject lot abuts the West Ocean Front Alley, which is where access to the site must be taken per Council Policy L-2 (Driveway Approaches). The total depth of the site as measured from the alley property line to the side (interior) property line is only 25 feet. Further, the side setback requirement is 3 feet for each side. Therefore, the buildable depth of the lot is only 19 feet (25 feet minus 6 feet of setbacks). Garage walls are typically 6 inches thick, further reducing the interior clear depth to 18 feet. Therefore, because the lot is only 25 feet wide and vehicle access is from the side yard, a 19-foot garage depth is not physically possible.
- 2. The granting of the Modification Permit is necessary to allow the construction of a new single-family residence that meets all other development standards. Additionally, the reduction in depth is negligible in that it would still allow two vehicles to park inside. The design also includes a voluntary third car space that is uncovered in the rear, which meets the minimum depth and width requirements of 19 feet by 10 feet.

Finding:

C. The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

Fact in Support of Finding:

1. The proposed single-family residence could not be legally constructed without the requested modification permit to reduce the depth, or a variance to allow the required garage to encroach into the side setbacks. Thus, strict application of the Zoning Code would prohibit a new residence from being constructed. The purpose and intent of Zoning Code Chapter 20.40 (Off-Street Parking) is to provide sufficient off-street parking to serve on-site land uses, which in this case is the new single-family residence. The proposed project provides three off-street parking spaces to serve the residential use whereas the existing structure provides none.

Finding:

D. There are no alternatives to the modification permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.

Facts in Support of Finding:

- 1. Increasing the depth of the garage to 19 feet would require the building to encroach 6 inches into the required side setback of 3 feet. Review and approval of a variance would be required to allow this deviation. Furthermore, relief from the IP setback development standards would also be required to implement this alternative. The deviation to the setback requirement may impact the privacy of surrounding residents or reduce maneuverability of the alley.
- 2. The design could be modified to allow access via 32nd Street instead of the alley. However, this would conflict with Council Policy L-2 (Driveway Approaches), which limits the number of curb cuts in order to reduce the points of traffic conflict and prohibits the creation of new curb cuts for residential developments where there is alley access available. Furthermore, a new curb cut and driveway approach along 32nd Street would not be consistent with the pattern of development in the area as there are no driveways located along this section of 32nd Street.
- 3. The applicant could construct a two-car carport in lieu of a garage, which would require a modification permit to allow relief to the type of required parking. Relief to IP development standards with a coastal development permit would also be required to implement this alternative. Carport walls would still likely obstruct the required 19-foot clear dimensions, without providing the benefit of a garage. Further, because the carports are not included in the gross square footage allowed for the property, the square footage devoted to the garage could be replaced on the second or third floors, which would increase the bulk and mass of the structure.
- 4. Instead of constructing a new residence, the applicant could remodel the existing building and add less than 10 percent to the existing structure without providing additional parking. In order to add more than 10 percent to the existing building, a Modification Permit would still be required. These alternatives would result in almost complete reconstruction of the home due to the age of structure and not meet the objectives of the applicant. Neither of these solutions provides off-street parking, nor do they provide similar benefits to the applicant. Any other existing legal nonconformities, such as setback encroachments into the side and rear yard, would remain.

Finding:

E. The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.

Facts in Support of Finding:

- 1. The proposed deviation for the two-car garage, would not impact light, air, and privacy of surrounding neighbors. The new single-family residence will be consistent in scale with other dwellings in the neighborhood.
- 2. The proposed project would comply with all other development standards such as height, setbacks, and maximum floor area.
- 3. The proposed project maintains the minimum 3-foot side yard for fire access in accordance with Zoning Code Section 20.30.110 (Setbacks Regulations and Exceptions), Subsection A(1)(c).
- 4. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes. The Building Division has reviewed the proposed project and included a condition of approval for demonstration of project compliance with Building Codes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
- 2. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2019-006 subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
- 3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED T	HIS 13th DAY OF FEBRUARY 2020.
Jaime Murillo, Zoning Administrator	

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

- 1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
- 2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
- 3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Modification Permit.
- 4. Modification Permit No. MD2019-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
- 5. This Modification Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
- 6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
- 7. <u>Prior to the issuance of a building permit</u>, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
- 8. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
- 9. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.
- 10. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents

from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Hwang Residence including, but not limited to, Modification Permit No. MD2019-006 (PA2019-175). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

11. The applicant is required to obtain all applicable permits from the City's Building Division. The construction plans must comply with the most recent, City-adopted version of the California Building Code.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



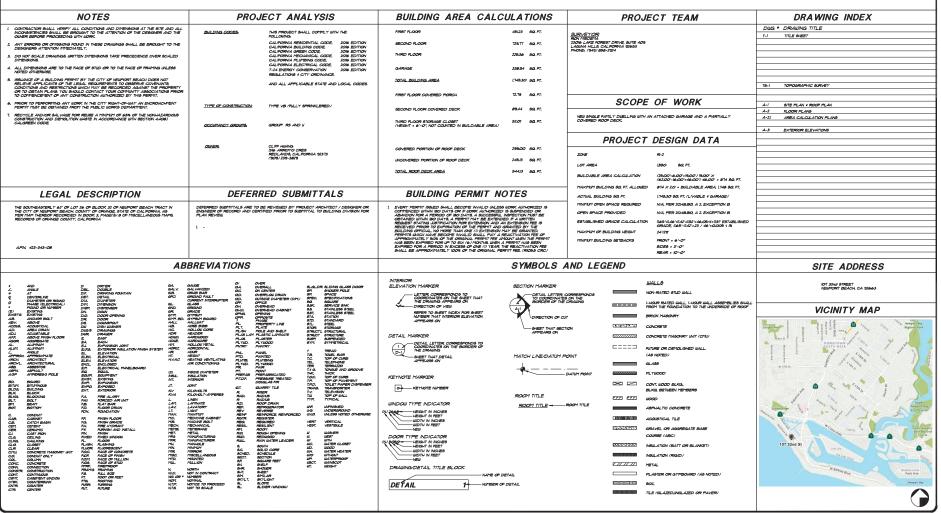
Modification Permit No. MD2019-006 PA2019-175

107 32nd Street

Attachment No. ZA 3

Project Plans

A New Custom Residence Cliff Hwang By the Office of Phil Nielsen



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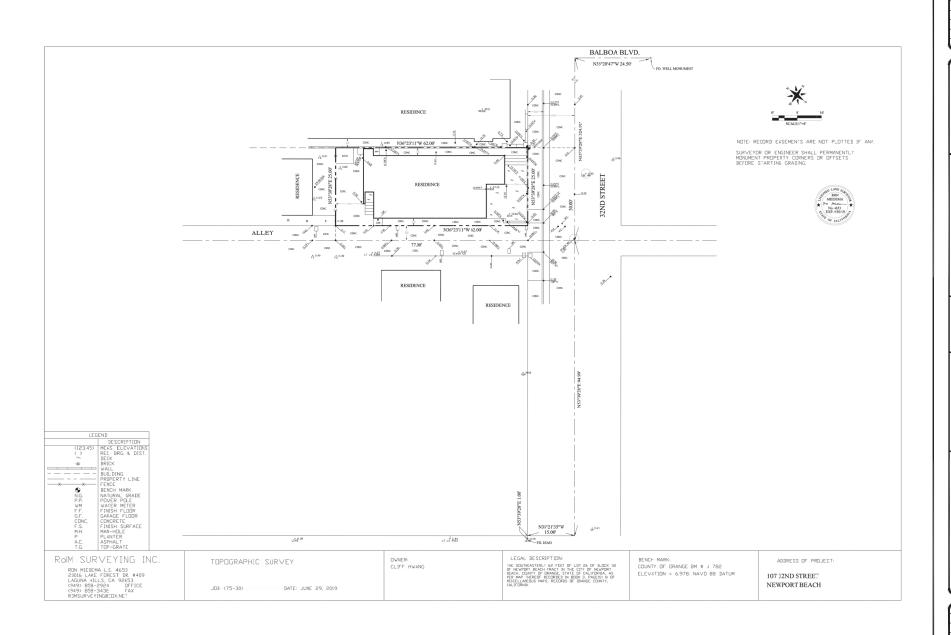
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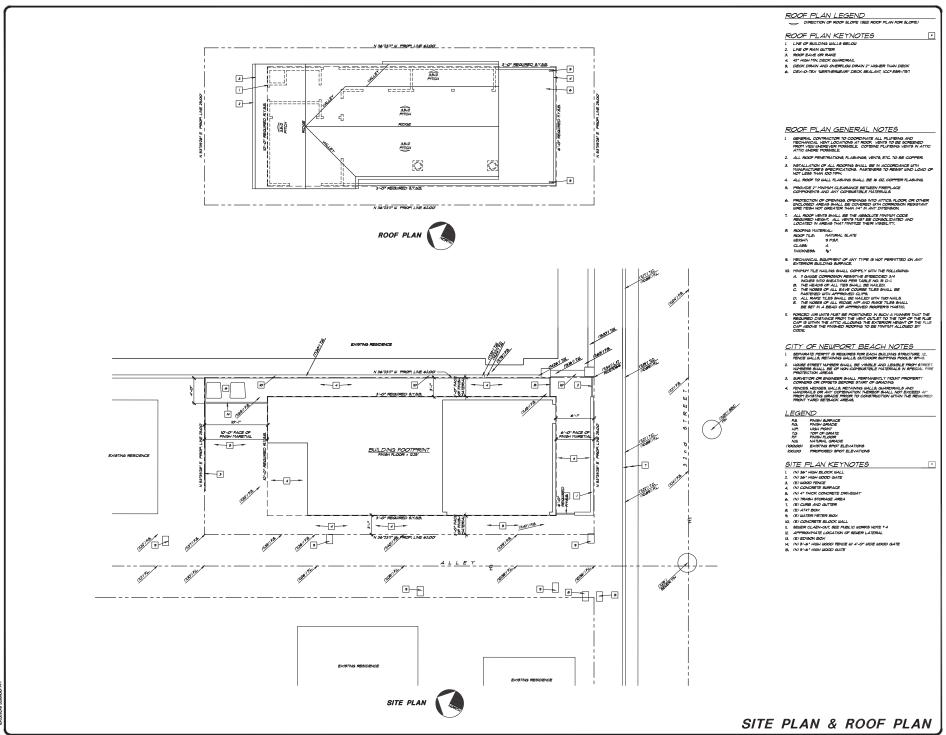


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Project Location: 107 32nd Street Newport Beach California 92663

Cliff Hwang
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Redlands, California 9237

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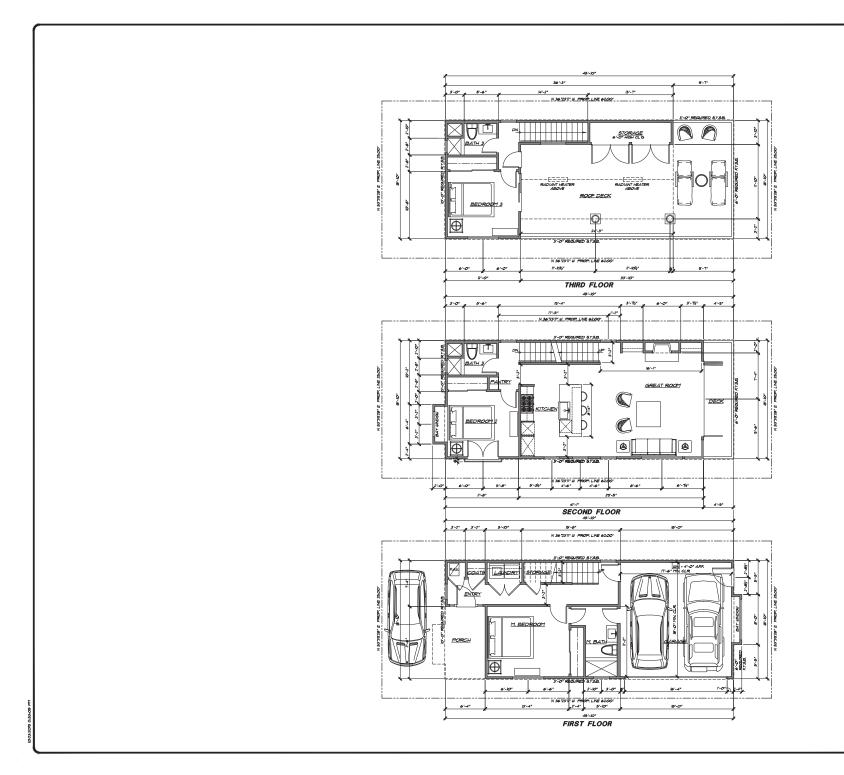
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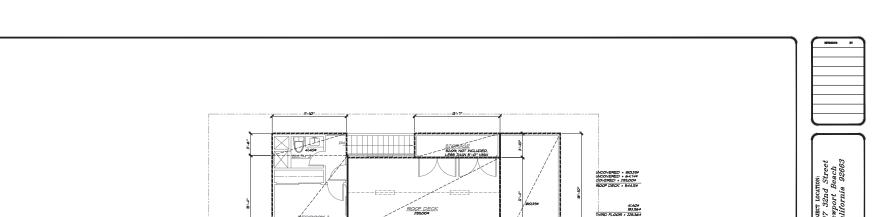
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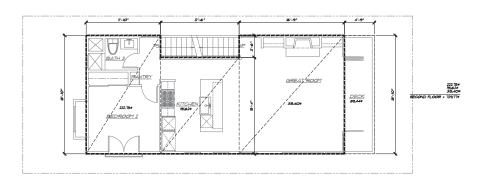


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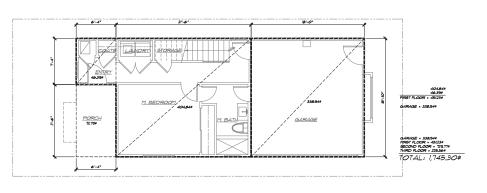




ROOF PLAN



SECOND FLOOR



FIRST FLOOR

AREA CALCULATION PLANS

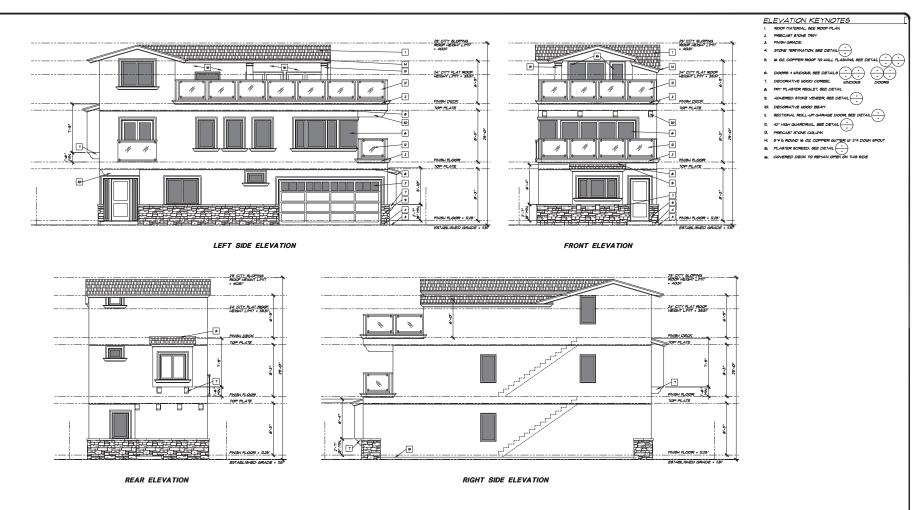




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