



**CITY OF NEWPORT BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION  
FROM: Seimone Jurjis, Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending November 6, 2020.

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**COMMUNITY DEVELOPMENT DIRECTOR  
OR PLANNING DIVISION STAFF ACTIONS**  
(Non-Hearing Items)

Item 1: Moriarty Grade Determination Staff Approval No. SA2019-003 (PA2019-120)  
Site Address: 20462 Birch Street

Action: Approved

Council District 3

**APPEAL PERIOD:** An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.



COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915  
949-644-3200  
[www.newportbeachca.gov](http://www.newportbeachca.gov)

**COMMUNITY DEVELOPMENT DIRECTOR**  
**ACTION LETTER**

**Subject:** **Moriarty Grade Determination (PA2019-120)**  
▪ Staff Approval No. SA2019-003

**Site Location** **20462 Birch Street**

**Applicant** **Brandon Architects Inc.**

**Legal Description** **Portions of Lot 122 in Tract No. 706**

On **November 6, 2020**, the Community Development Director approved the establishment of an alternate grade of 47.68 feet based on the North American Vertical Datum of 1988 (NAVD88) for the purpose of measuring the height of the principal structure for the property at 20462 Birch Street. The alternate grade, as depicted in Attachment No. CD 4, is based on the topography of the subject property, the adjoining properties, and the public right-of-way.

**LAND USE AND ZONING**

- **General Plan Land Use Plan Category:** RS-D (Single Unit Residential Detached)
- **Zoning District:** SP-7 REQ (Santa Ana Heights Specific Plan – Residential Equestrian)

***Newport Beach Municipal Code (NBMC) Section 20.30.050 Establishment of Grade by Director***

*If the Director finds that the existing grade on the subject lot has been previously altered (e.g., contains retaining structures, property line walls, planters, or excavation/fill), or other conditions are present to the degree that the existing grade is not representative of the prevailing grades on adjoining lots and/or the general area and, therefore, is not appropriate for the purpose of establishing the grade of the subject lot, the Director may establish the grade that is reasonable and comparable with the grades of adjoining lots and that will not be detrimental or injurious to property and improvements on adjoining lots.*

The Community Development Director's Staff Approval is based on the following findings and conditions.

**Finding:**

- A. The existing grade on the subject lot has been previously altered (e.g., contains retaining structures, property line walls, planters, or excavation/fill), or other conditions

are present to the degree that the existing grade is not representative of the prevailing grades on adjoining lots and/or the general area and, therefore, is not appropriate for the purpose of establishing the grade of the subject lot.

Facts in Support of Finding:

1. According to County of Orange Assessor's records, the subject property was originally developed in 1949. City records are limited since the property was annexed from the County in the early 2000s. The current topographic boundary survey shows a significant slope where the driveway and garage were constructed, as well as a slope upward towards the neighboring property at 2141 Mesa Drive. This appears to indicate that excavation was likely completed to both level the pad for the residential structure and to accommodate vehicular access from the adjacent street (see photos in Attachment No. CD 3). The grade differential in the area of the garage is between five and seven feet.
2. Based on NBMC Section 20.30.050 (Grade Establishment), the footprint area of the proposed structure will have a slope of less than five percent. As such, the grade would be established by using the four-point method identified in Subsection 20.30.050(B)(2). One of the four points falls on the driveway thus unfairly lowering the overall grade and resulting in an established grade of 46.50 feet NAVD88. The current lower grade elevations are not representative of the prevailing grade elevations on the two adjoining properties. The neighboring property to the north has an approximate average elevation of 49 feet NAVD88 while the driveway elevation on the subject property is between 42.62 feet NAVD88 and 44.09 feet NAVD88. The neighboring property to the east at 2141 Mesa Drive has a lowest elevation of 49.43 feet NAVD88 and a highest elevation of 59.93 feet NAVD88 at its rearmost portion. This grade differential creates design constraints and unfairly restricts the height of both the principal and accessory structures below those of neighboring properties.

Finding:

- B. The grade is reasonable and comparable with the grades of adjoining lots and will not be detrimental or injurious to property and improvements on adjoining lots.

Facts in Support of Finding:

1. The revised contour elevations depicted in Attachment No. CD 4 allow for the establishment of a more appropriate grade elevation of 47.68 feet NAVD88, which better represents the natural topography of the site prior to its excavation. This revised grade elevation would provide the property with grade elevations that are compatible with those of the neighboring properties and equitable for the purposes of measuring heights of the principal and accessory structures on the property.
2. The requested grade determination maintains the topographical pattern of properties and residential pads stepping down, as Mesa Drive slopes downward

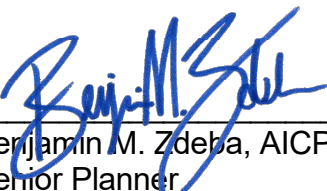
toward Birch Street. The alternative grade of 47.68 feet NAVD88 is approximately 6 feet lower than the building pad of the neighboring property at 2141 Mesa Drive. Any development on the property should not appear out of character with existing and allowed development in this area.

**CONDITIONS**

1. The grade for the purposes of measuring height of the principal structure authorized by this determination shall be based on the alternate grade of 47.68 feet (NAVD88).
2. The grade of any accessory structures within the front setback along Mesa Drive shall be measured from existing grade prior to construction.
3. A copy of this action letter, including the findings and conditions, shall be copied onto the building plans.
4. 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 the Moriarty Grade Determination including, but not limited to, the Staff Approval No. SA2019-003 (PA2019-120). 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.

**APPEAL PERIOD:** An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

By:

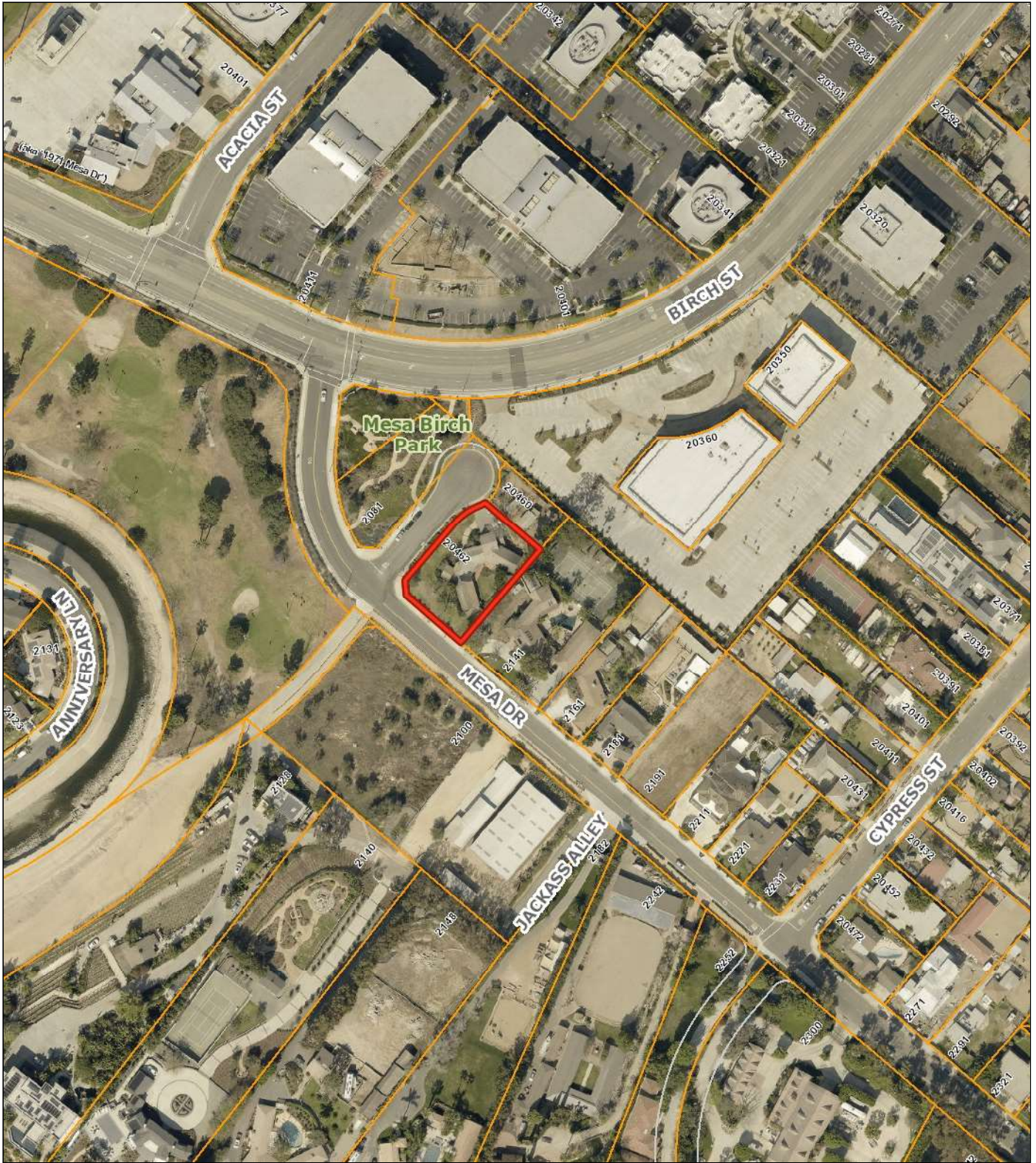
  
\_\_\_\_\_  
Benjamin M. Zdeba, AICP  
Senior Planner

  
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Seimone Jurjis, PE, CBO  
Community Development Director

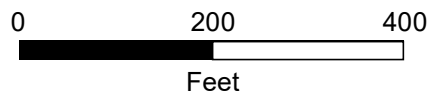
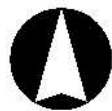
Attachments: CD 1 Vicinity Map  
CD 2 Applicant's Request  
CD 3 Site Photos  
CD 4 Alternate Grade Exhibit

# **Attachment No. CD 1**

Vicinity Map



**NBGiS**  
NEWPORT BEACH



**Disclaimer:**

Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

# **Attachment No. CD 2**

Applicant's Request





**To: Ben Zdeba**  
City of Newport Beach  
Building Division  
100 Civic Center Drive  
Newport Beach, CA 92658  
T: 949.644.3200

**From: Tyler Wilson, AIA**  
CC: Jeff Van Voorhis, AIA  
Brandon Architects, Inc.  
151 Kalmus Dr.  
Suite G-1  
Costa Mesa, CA 92626  
T: 714.754.4040

Date: 11.26.2019

**RE: 20462 SW Birch St. – Grade Determination**

Dear Mr. Zdeba,

Thank you for taking the time to review and respond to our previous submittal.

A substantial portion of the lot was modified to create a pad at roughly 46.50'. In doing this, substantial grading occurred along the east and south property lines to keep the existing garage and backyard at the same or lower elevations relative to the main building pad. The cuts are primarily along the east and southern property lines of Parcel 1.

To account for these alterations, we have developed a “Natural Grade” contour exhibit that reestablishes grade prior to any modification on Parcel 1. Contour lines at the eastern boundary of Parcel 1 and 2 are extended along their natural trajectory rather than abruptly jogging where the grading cuts occurred. The contour lines reconnect at their respective elevations along Mesa Drive. They follow a gentle curve imitating the adjacent context, naturally stepping down toward the corner of Birch Street and Mesa Drive.

Establishing a grade plane with these contours provides a better representation of the natural site characteristics than the existing contours allow for. The maximum height established by these contours will only be 1.3' higher than the maximum height calculated from the existing contours which we feel is within reason.

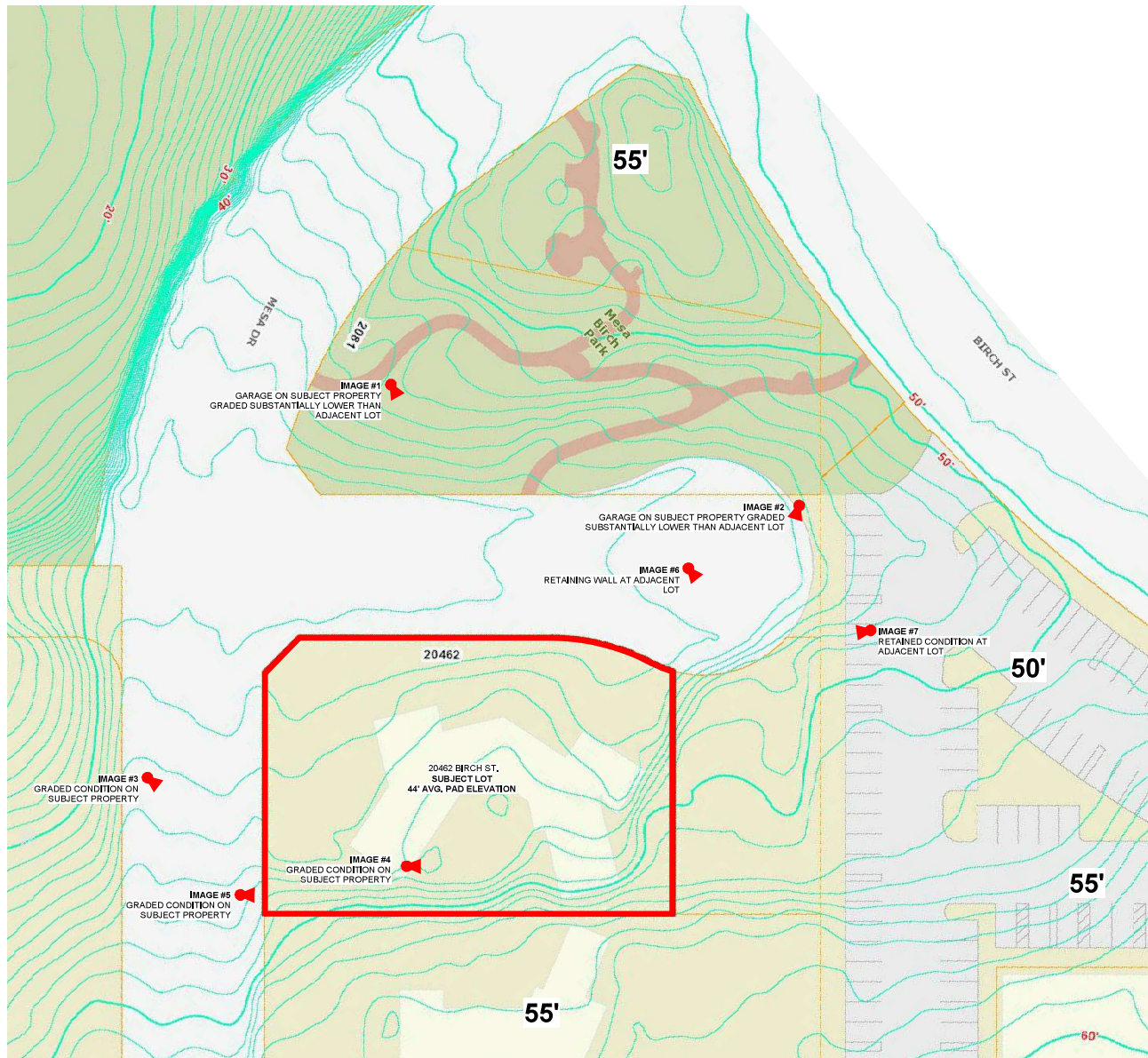
Thank you for your time and please do not hesitate to call if you have any questions.

Best Regards,

Tyler Wilson, AIA

# **Attachment No. CD 3**

Site Photos



EXISTING SITE CONTOURS PER NEWPORT BEACH GIS  
 20462 SOUTHWEST BIRCH STREET, NEWPORT BEACH, CA 92660



IMAGE 1  
GARAGE ON SUBJECT PROPERTY GRADED  
SUBSTANTIALLY LOWER THAN ADJACENT LOT



IMAGE 2  
GARAGE ON SUBJECT PROPERTY GRADED  
SUBSTANTIALLY LOWER THAN ADJACENT LOT

IMAGE 3  
GRADED CONDITION ON  
SUBJECT PROPERTY

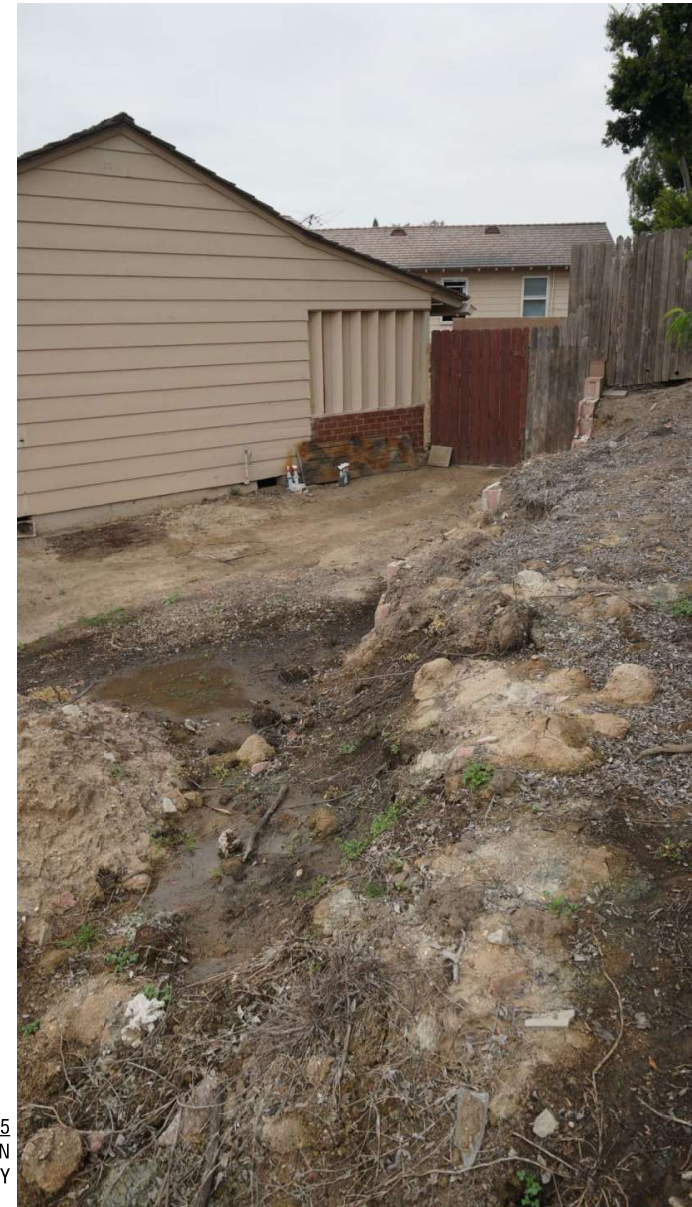


IMAGE 4  
GRADED CONDITION ON  
SUBJECT PROPERTY



IMAGE 5  
GRADED CONDITION ON  
SUBJECT PROPERTY



IMAGE 6  
RETAINING WALL AT ADJACENT  
LOT

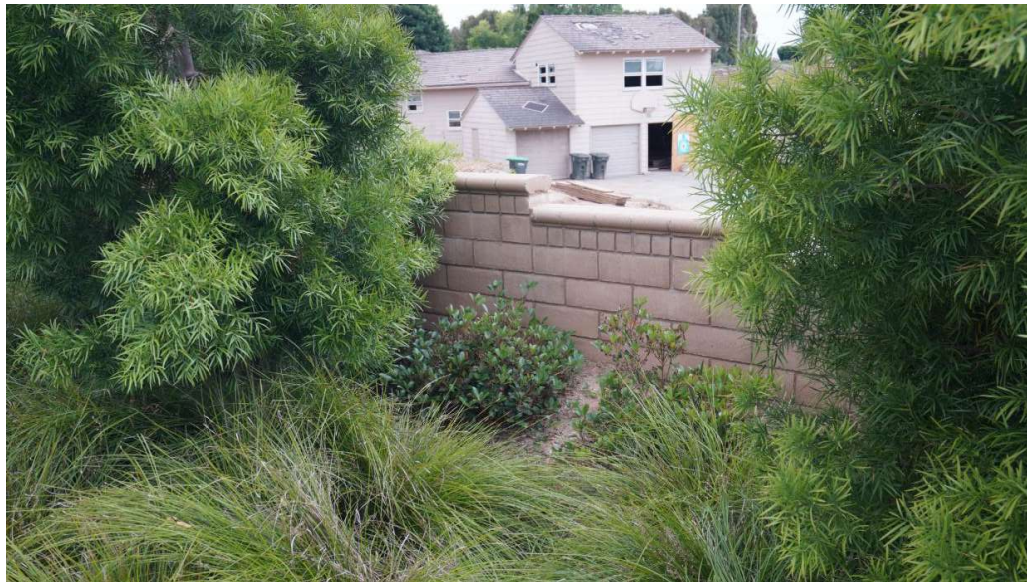
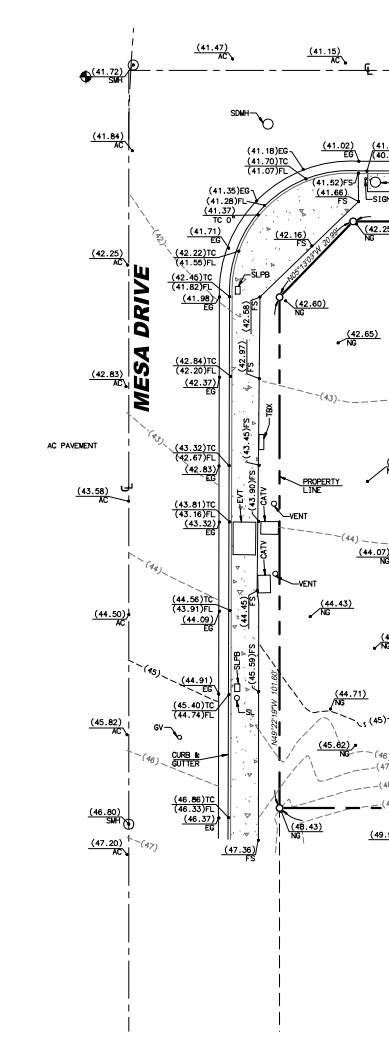


IMAGE 7  
RETAINED CONDITION AT  
ADJACENT LOT

- LEGEND**
- BLOCK WALL
  - CHAIN LINK FENCE (CLF)
  - WOODEN FENCE (WPF)
  - ASPHALT PAVEMENT
  - AIR CONDITIONING UNIT
  - BACKFLOW PREVENTER
  - CENTERLINE
  - CABLE TV BOX
  - EDGE OF CURB
  - ELECTRICAL MANHOLE
  - ELECTRICAL VAULT
  - FINISH FLOOR
  - FLOWLINE
  - FINISHED SURFACE
  - GAS METER
  - GAS VALVE
  - NATURAL GROUND
  - PARKING LOT
  - STONE/GRANITE MANHOLE
  - STREET LIGHT PULL BOX
  - SEWER MANHOLE
  - TELEPHONE PULL BOX
  - TOP OF CURB
  - WROUGHT IRON FENCE
  - WATER METER
  - WATER VALVE
  - FINISHING ELEVATION
  - SEARCHED/ FOUND/ NOTHING/ SET/ NOTHING
  - TEMPERATURE BENCHMARK
  - SET ON A SEWER MANHOLE (SMH)
  - ELEVATION +11.72 FEET



**TITLE REPORT/EASEMENT NOTES**

EASEMENTS PLOTTED HEREON ARE PER A TITLE REPORT PREPARED BY ORANGE COAST TITLE COMPANY, ORDER NO. 300-100827-11, DATED MARCH 28, 2018.

ITEM 4: AN EASEMENT FOR WATER PIPES, DITCHES, CONDUITS AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED JANUARY 31, 1907 IN BOOK 8, PAGE 35 OF OFFICIAL RECORDS, EASEMENT UNPLOTTABLE DUE TO INSUFFICIENT DOCUMENTATION.

ITEM 5: AN EASEMENT AND RIGHT OF WAY FOR STREETS, ALLEYS, PIPE LINES, ELECTRIC POWER, LIGHT AND TELEPHONE LINES AND ELECTRIC PAULANS AND INCIDENTAL PURPOSES IN THE DOCUMENT RECORDED AS BOOK 1229, PAGE 538 OF OFFICIAL RECORDS, EASEMENT UNPLOTTABLE DUE TO INSUFFICIENT DOCUMENTATION.

ITEM 6: AN EASEMENT FOR AVIGATION RIGHTS IN AND TO THE AIR SPACE ABOVE THOSE PORTIONS OF PAVED HIGHWAYS OR HIGHWAY SURFACES THAT OVERLIE SAID LAND AND OTHER LAND, AS PROVIDED IN THE INSTRUMENT RECORDED 4/23/2003 AS INSTRUMENT NO. 2003-00009 OF OFFICIAL RECORDS, EASEMENT IS BLANKET IN NATURE AND NOT PLOTTED HEREON.

**BASIS OF BEARINGS**

THE BEARINGS SHOWN HEREON ARE BASED ON THE CENTERLINE OF MESA DRIVE BEING N49°21'21"W PER P&M 30044-41, RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.

**BENCHMARK INFORMATION**

BENCHMARK NO. 02A21-71

DESCRIBED BY OCS 2011 - FOUND 3 3/4" OCS ALUMINUM BENCHMARK DISK STAMPED "02A21-71" SET IN THE TOP OF A 4 IN. D. 4 IN. CONCRETE POST, MONUMENT IS LOCATED IN THE SOUTHERLY CORNER OF THE INTERSECTION OF MESA DRIVE AND CYPRESS, 21 FT WESTERLY OF THE CENTERLINE OF MESA DRIVE AND 27 FT. SOUTHERLY OF THE CENTERLINE OF CYPRESS, 3 FT. SOUTHERLY OF POWER POLE #78068 AND 4 IN. LINE WITH 6" W/VS. MONUMENT IS SET 1/2 FT. BELOW TOP OF CURB.

ELEVATION: 95.207 FEET (NAV08), YEAR LEVELLED: 1988

**LEGAL DESCRIPTION**

REAL PROPERTY IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1:

LOT 122 OF TRACT 706, SANTA ANA HEIGHTS HARBOR VIEW ADDITION, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 21, PAGE 23 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE NORTHEASTERLY 42 FEET THEREOF.

ALSO EXCEPTING THAT PORTION OF SAID LOT 122 DESCRIBED AS FOLLOWS:

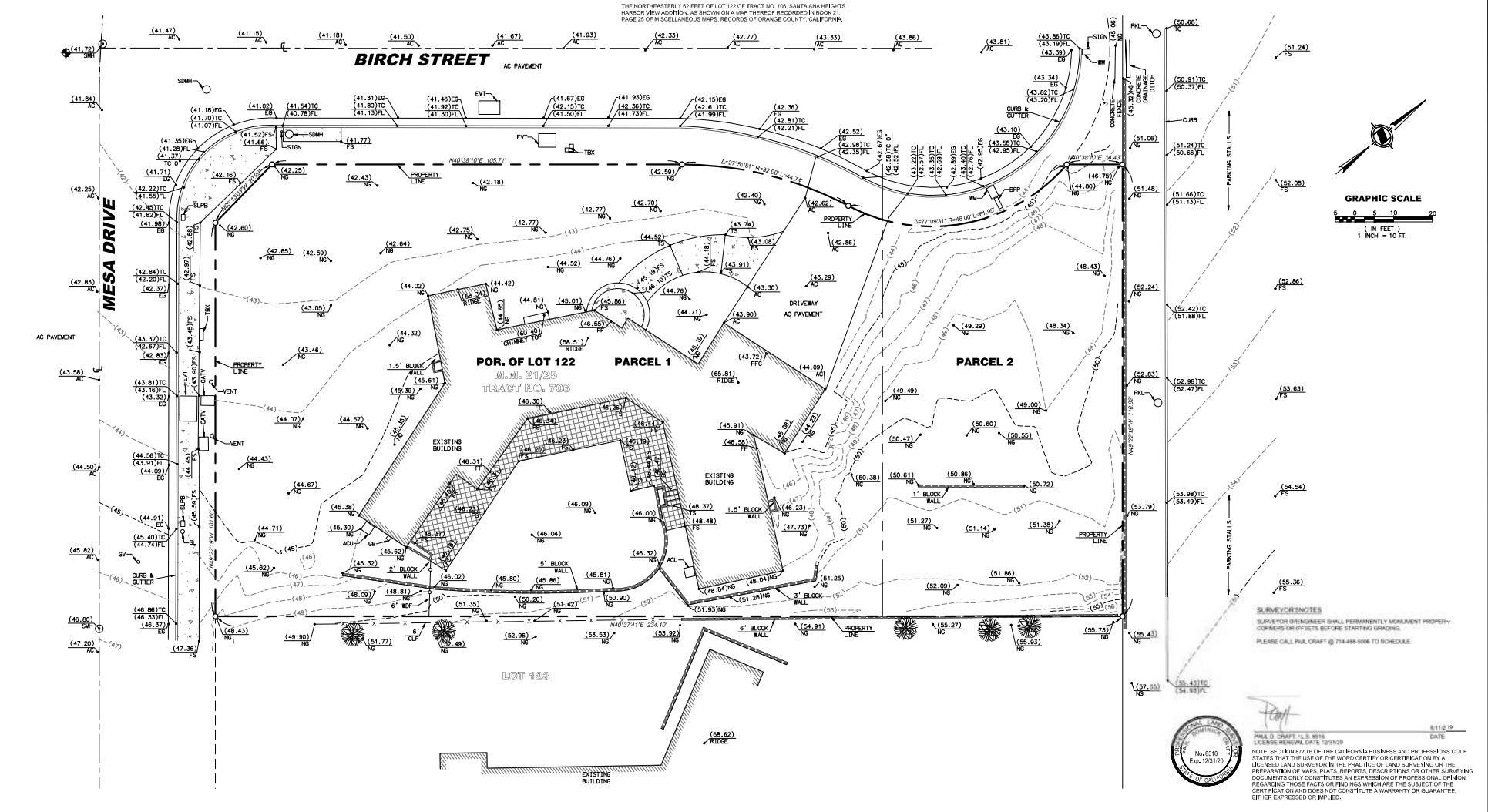
BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF MESA DRIVE WITH THE CENTERLINE OF BIRCH STREET, AS SAID CENTERLINES ARE SHOWN ON RECORD OF SURVEY 82-098 FILED IN BOOK 138 PAGES 28 THROUGH 32 OF RECORDS OF SURVEY IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE NORTH74°17'45.11" FEET ALONG SAID SMD CENTERLINE; THENCE SOUTH22°14'47.80" FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID LOT; SAID POINT BEING THE TRUE POINT OF BEGINNING; SAID POINT ALSO BEING ON A 16.00' RADIUS SAID NORTHWESTERLY LINE; NORTHWESTERLY 144.72' FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°51'51" TO THE BEGINNING OF A 15' RADIUS CURVE; CONCAVE WESTERLY AND HAVING A RADIUS OF 15.00' FEET; THENCE NORTHEASTERLY, NORTHERLY AND NORTHWESTERLY 63.95 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 77°08'57" TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION OF SAID LOT 122, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID LOT 122; THENCE NORTH73°47'45.11" FEET ALONG THE NORTHWESTERLY LINE OF SAID LOT; THENCE SOUTH51°14'47.80" FEET TO THE SOUTHWESTERLY LINE OF SAID LOT; THENCE NORTH52°17'45.11" FEET ALONG SAID SOUTHWESTERLY LINE TO THE POINT OF BEGINNING.

PARCEL 2:

THE NORTHEASTERLY 42 FEET OF LOT 122 OF TRACT NO. 106, SANTA ANA HEIGHTS HARBOR VIEW ADDITION, AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 21, PAGE 23 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.



**SURVEYOR'S NOTES**

SURVEYOR ORIGINATORS SHALL PERMANENTLY MONUMENT PROPERTY CORNERS OR (P'S) BEFORE STARTING GRADING.

PLEASE CALL PAUL CRAFT @ 714-488-9066 TO SCHEDULE.

**PAUL D. CRAFT**, P. E., 8516  
LICENSE RENEWAL DATE 12/31/26

**NOTE:** SECTION 87709 OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE STATES THAT THE USE OF THE WORD 'CERTIFY' OR CONTRIBUTION BY A LICENSED LAND SURVEYOR OR IN THE PRACTICE OF LAND SURVEYING OR THE PREPARATION OF MAPS, PLATS, REPORTS, DESCRIPTIONS OR OTHER SURVEYING DOCUMENTS ONLY CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THOSE FACTS OR FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESSED OR IMPLIED.

8/11/219  
DATE

REVISIONS	DATE	APP'D

NO.	DESCRIPTION	DATE

PROJECT SURVEYOR	DATE	SCALE	SHEET NO.
<b>APEX LAND SURVEYING, INC.</b> HUNTINGTON BEACH, CALIFORNIA 92646 PHONE: 714-949-3344 APEX@APEXLAND.COM	4/5/2019	1" = 10'	1 of 1

PROJECT SURVEYOR	DATE

PROJECT SURVEYOR	DATE

PROJECT SURVEYOR	DATE	SCALE
<b>APEX LAND SURVEYING, INC.</b>	4/5/2019	1" = 10'

PROJECT SURVEYOR	DATE	SCALE	SHEET NO.
<b>APEX LAND SURVEYING, INC.</b>	4/5/2019	1" = 10'	1 of 1

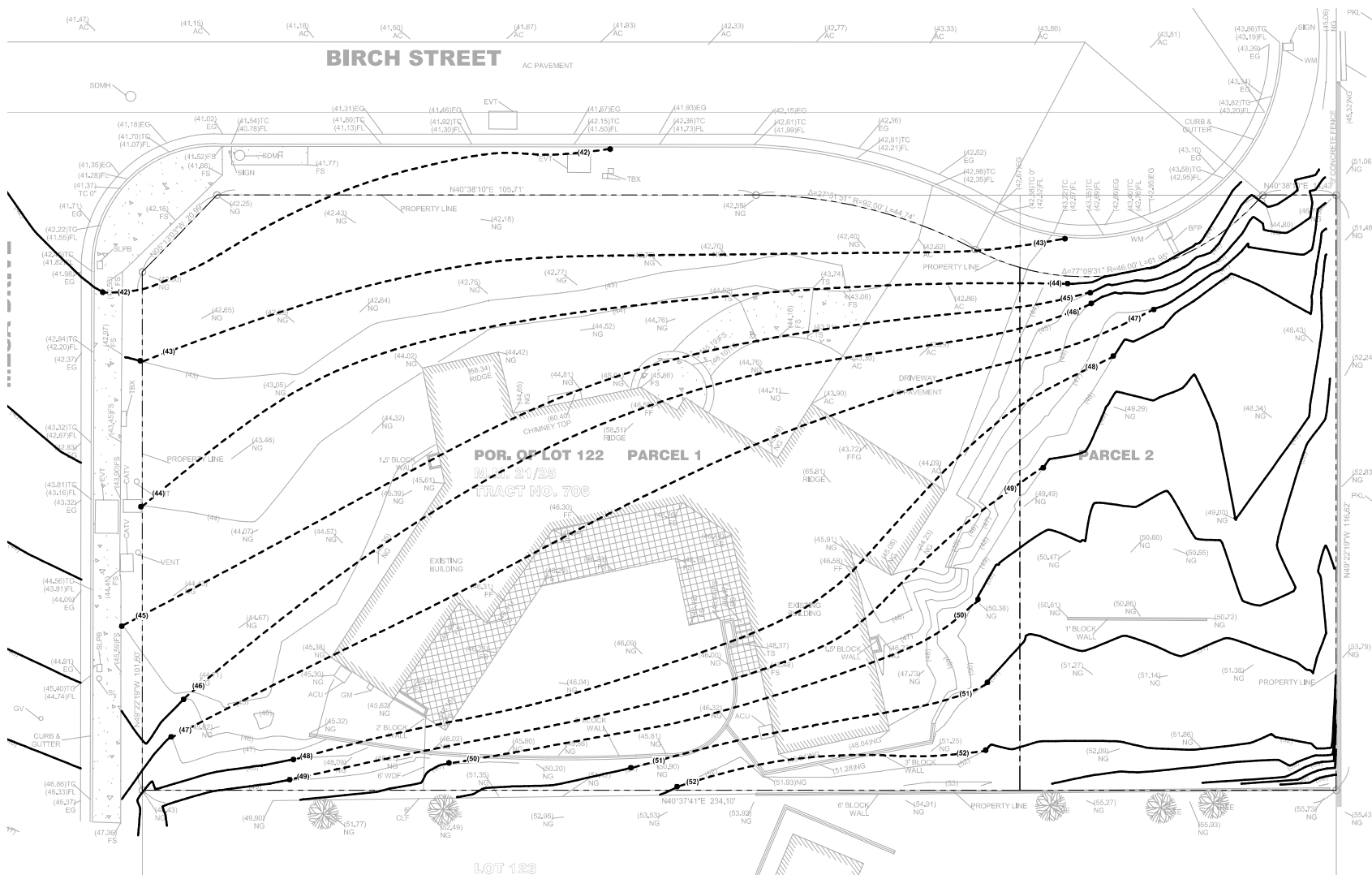
  

PROJECT SURVEYOR	DATE

# **Attachment No. CD 4**

Alternate Grade Exhibit





**BIRCH STREET**  
AC PAVEMENT

**PAR. OF LOT 122 PARCEL 1**  
Map 21/25  
TRACT NO. 706

**PARCEL 2**

**LOT 123**

**1** NATURAL GRADE EXHIBIT  
1/8" = 1'-0"

- EXISTING CONTOUR LINE PER SURVEY
- - - CONTOUR OF TOPOGRAPHY PRIOR TO GRADING

PROJECT NAME MORIARTY RESIDENCE
STATUS GRADE PLANE
<b>BRANDON ARCHITECTS</b> <small>1111 BIRCH STREET, SUITE 101, NEWPORT BEACH, CA 92660 TEL: 949.440.1111 FAX: 949.440.1112</small>
OWNER INFORMATION DEANARD MORIARTY 2128 MESA DRIVE NEWPORT, CA 92660
<b>MORIARTY RESIDENCE</b>
20462 BIRCH STREET, NEWPORT BEACH, CA 92660
PROJECT MANAGER/ARCHITECT TRUEN WILSON
DOCUMENT VALID UPON
ORIGINAL SIGNATURE
REVISIONS
NO.   REVISION   DATE
JOB NO. 201825
DATE 10/14/19
SHEET NO.
<b>A-0.1</b>