



CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

August 9, 2018
Agenda Item No. 5

SUBJECT: Birch Street Lot Merger (PA2018-113)
▪ Lot Merger No. LM2018-003

SITE LOCATION: 4301 and 4321 Birch Street

APPLICANT/OWNER: 4321 Birch Partners Ltd.

PLANNER: Benjamin M. Zdeba, AICP, Associate Planner
949-644-3253, bzdeba@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

- **General Plan:** Airport Office and Supporting Uses (AO)
- **Zoning District :** Office Airport (OA)

PROJECT SUMMARY

A lot merger application and request to waive the parcel map requirement for two contiguous properties under common ownership. The merger would combine two legal lots into a single parcel.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) 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. ZA2018-___ approving Lot Merger No. LM2018-003 (Attachment No. ZA 1).

DISCUSSION

- The two abutting lots are located at 4301 Birch Street and 4321 Birch Street in the Office Airport (OA) Zoning District. The General Plan Land Use Element category is Airport Office and Supporting Uses (AO) for both lots.

- Both lots are developed with a multi-tenant office building. A common parking lot surrounds the buildings with shared access between the lots. The Applicant intends to renovate the existing office buildings.
- The proposed parcel complies with Table 2-6 (Development Standards for Commercial Office Zoning Districts) found in Newport Beach Municipal Code (NBMC) Section 20.20.030 (Commercial Zoning Districts General Development Standards) relating to lot area. Each lot to be merged is 100 feet in width by 290 feet in depth and 29,000 square feet in area. The combined lots will total 58,000 square feet in area and the minimum lot area required is 25,000 square feet. The combined total width will be 200 feet, which complies with the minimum requirement of 100 feet.
- On this side of the Campus Tract, which fronts Birch Street, most parcels are rectangular and range from 29,000 square feet to 138,747 square feet. The proposed lot merger will create a large parcel; however, it will not create an excessively large parcel in comparison to other lots or parcels in the area. The proposed lot merger will not change the pattern of development as seen from Birch Street.
- Currently there is a building permit review in process for alterations to the buildings and enhancements to the site. All future building alterations and improvements are required to comply with all applicable NBMC regulations and City policies.
- As demonstrated in the attached draft resolution, the proposed Lot Merger meets the requirements of NBMC Title 19 (Subdivisions).

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class Class 15 (Minor Land Divisions) 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.

The Class 15 exemption includes the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcel to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger, not resulting in the creation of any new parcel, that complies with the conditions specified above.

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 may be filed with the Director of Community Development within 10 days following the date of action. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:


Benjamin M. Zdeba, AICP
Associate Planner

GBR/bmz

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Lot Merger Exhibits

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2018-###

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2018-003, WAIVING THE PARCEL MAP REQUIREMENT, AND COMBINING TWO LOTS INTO A SINGLE PARCEL LOCATED AT 4301 AND 4321 BIRCH STREET (PA2018-113)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 4321 Birch Street Partners Ltd. ("Applicant"), with respect to properties located at 4301 Birch Street and 4321 Birch Street ("Properties"), and legally described as Lot 4 of Tract No. 5169 and Lot 5 of Tract No. 5169, respectively, requesting approval of a lot merger and a waiver of the parcel map requirement.
2. The Applicant proposes to merge two contiguous properties under common ownership. The Lot Merger would combine two legal lots into a single parcel ("Project").
3. The Properties are designated Airport Office and Supporting Uses ("AO") by the General Plan Land Use Element and are located within the Office Airport ("OA") Zoning District.
4. The Properties are not located within the coastal zone.
5. A public hearing was held on August 9, 2018, 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 ("NBMC"). 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 15315 under Class 15 (Minor Land Divisions) 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. The Class 15 exemption includes the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcel to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.

SECTION 3. REQUIRED FINDINGS.

In accordance with NBMC Section 19.12.070(A) (Required Findings for Approval), the following findings and facts in support of such findings are set forth:

Finding:

A. Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of Title 19.

Facts in Support of Finding:

1. The Properties are developed as a single site with a single-story, multi-tenant commercial office building constructed on 4301 Birch Street and a two-story, multi-tenant commercial office building constructed on 4321 Birch Street. Currently there is a building permit review in process for alterations to the buildings and enhancements to the site.
2. The commercial office buildings are within the OA Zoning District, which is intended to provide areas appropriate for office-type uses. There is no indication that continuing use of the property consistent with the Zoning Code will be detrimental.
3. The Project is consistent with the purpose and intent of Title 19 (Subdivisions) inasmuch as it will help to protect landowners and surrounding residents, and will preserve the public health, safety, and general welfare of the City. It will also be consistent with the policies and provisions of the General Plan, as discussed under Finding C below.
4. All building alterations and improvements are required to comply with applicable NBMC regulations and City policies.

Finding:

B. The lots to be merged are under common fee ownership at the time of the merger.

Fact in Support of Finding:

The Properties, described in Section 1 of this Resolution, are under common fee ownership by 4321 Birch Street Partners Ltd, as evidenced by the Title Report submitted with the application.

Finding:

C. The lots, as merged, will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject

property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. The proposed parcel will continue its General Plan Land Use Element designation of AO and will remain within the OA Zoning District, which is consistent with the surrounding area. This area is intended to provide for areas appropriate for the development of properties adjoining the John Wayne Airport for uses that support or benefit from airport operations.
2. The Project is consistent with the following General Plan Land Use Element Policies:

- a. LU 6.15.25 – Economic Viability. Provide incentives for lot consolidation and the re-use and improvement of properties located in the “Campus Tract,” west of Birch Street.*

The Project will consolidate two lots within the Campus Tract, which is encouraged by this policy.

- b. LU 6.15.27 – Site Planning and Architecture. Encourage and, when property improvements are subject to discretionary review, require property owners within the Campus Tract to upgrade the street frontages of their properties with landscape, well-designed signage, and other amenities that improve the area’s visual quality.*

The Applicant has submitted plans for building permit review and issuance that would renovate the existing buildings and refresh the project site.

3. Both existing lots comply with Zoning Code requirements relating to minimum lot area and minimum lot width. The proposed parcel will be 58,000 square feet in area and will exceed the required minimum lot area of 25,000 square feet. The width of the parcel will be 200 feet, which exceeds the minimum required lot width of 100 feet.

Finding:

- D. Neither the lots, as merged, nor the adjoining parcels, will be deprived of legal access as a result of the merger.*

Fact in Support of Finding:

Neither of the merged parcels, nor the adjoining parcels, will be deprived of legal access as a result of the merger. Access to both properties is provided from Birch Street and will remain unchanged.

Finding:

E. The lots, as merged, will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots.

Facts in Support of Finding:

1. The orientation and access to the merged parcel will remain from Birch Street, a public road.
2. Properties along Birch Street consist of varying shapes and sizes. Although the proposed lot merger will create a larger parcel, it will not create an excessively large parcel in comparison to many existing lots and parcels in the Campus Tract and adjoining airport area. The width of the Birch Street frontage will appear unchanged and consistent with the widths of other properties on Birch Street.

Waiver of Parcel Map

In accordance with NBMC Section 19.08.030(A)(3) (Waiver of Parcel Map Requirement), the Zoning Administrator may approve a waiver of the parcel map requirement in cases where no more than three (3) parcels are eliminated. The following finding and facts in support of such finding are set forth:

Finding:

F. That the proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of Title 19, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. Any future improvements on the site will be required to comply with the development standards of the NBMC and General Plan.
2. The Project combines the Properties into a single parcel of land and does not result in the elimination of more than three (3) parcels.
3. Approval of the Project would remove the existing interior lot line and allow the Properties to be used as a single site. The Lot Merger in and of itself would not change the land use or intensity at the site. The Project complies with all design standards and improvements required for new subdivisions by Title 19 (Subdivisions), Title 20 (Planning and Zoning), and the General Plan.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2018-003, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 (Subdivisions), of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 9TH DAY OF AUGUST, 2018.

Patrick J. Alford, Zoning Administrator

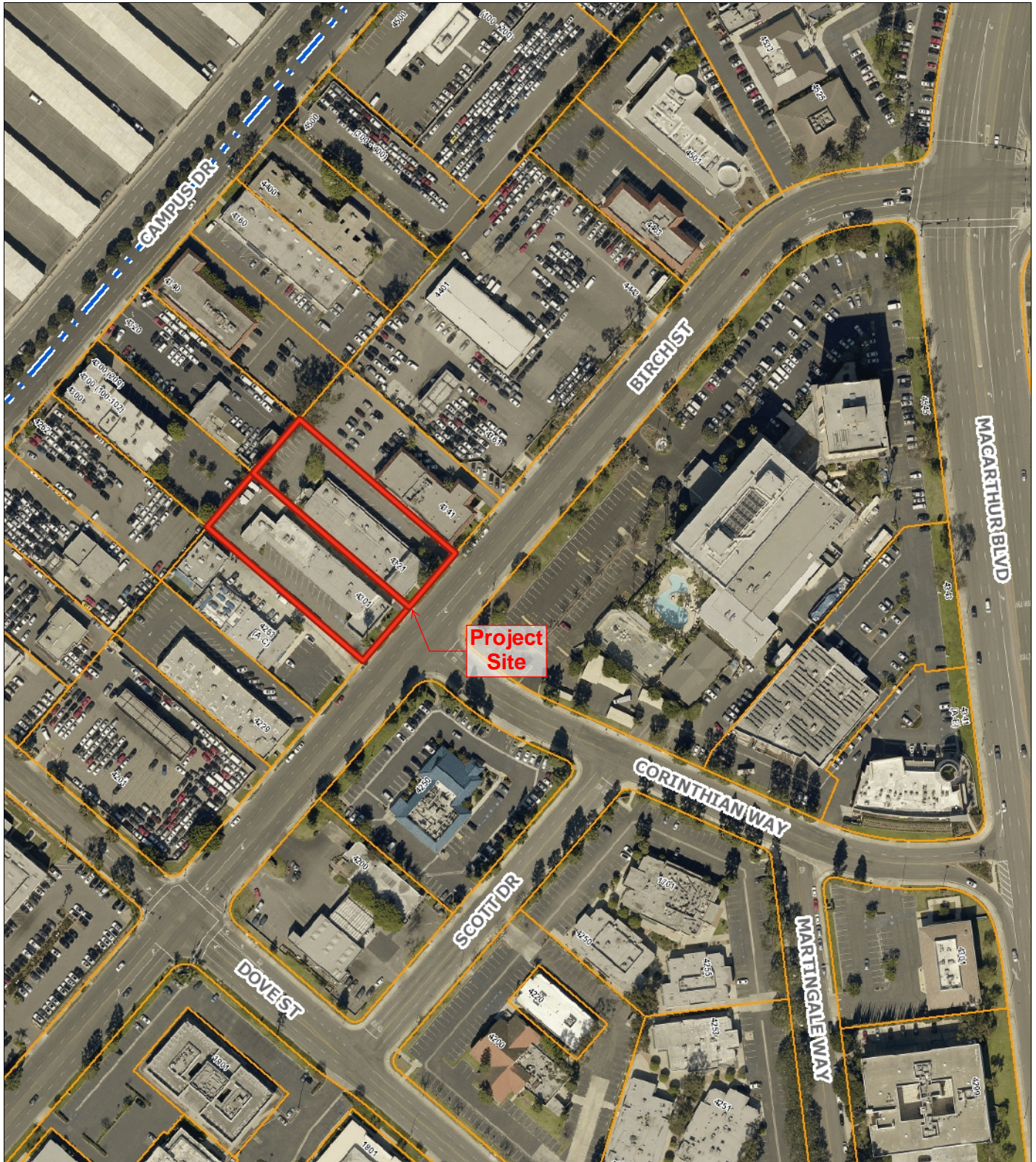
EXHIBIT “A”

CONDITIONS OF APPROVAL

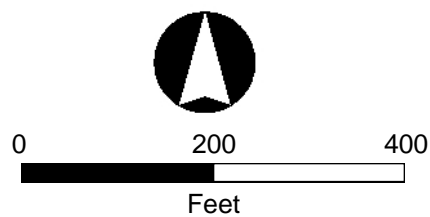
1. Lot Merger No. LM2018-003 shall expire unless exercised within twenty-four (24) months from the date of approval as specified in NBMC Section 20.54.060 (Time Limits and Extensions), unless an extension is otherwise granted.
2. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Lot Merger exhibits shall be submitted to the Public Works Department for final review and approval. All applicable fees shall be paid.
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 Birch Street Lot Merger including, but not limited to, Lot Merger No. LM2018-003 (PA2018-113). 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.

Attachment No. ZA 2

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.

7/31/2018

Attachment No. ZA 3

Lot Merger Exhibits

Exhibit "A"
City of Newport Beach
Lot Merger No. LM 2018-003
(LEGAL DESCRIPTION)

OWNER	EXISTING PARCEL AP NUMBER	PROPOSED PARCELS REFERENCE NUMBERS
4321 BIRCH PARTNERS, LTD., a California limited partnership	427-121-15 & 427-121-16	PARCEL 1

PARCEL 1:

LOTS 4 AND 5 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 190, PAGES 11 THROUGH 13, INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

PREPARED BY:



6/7/18

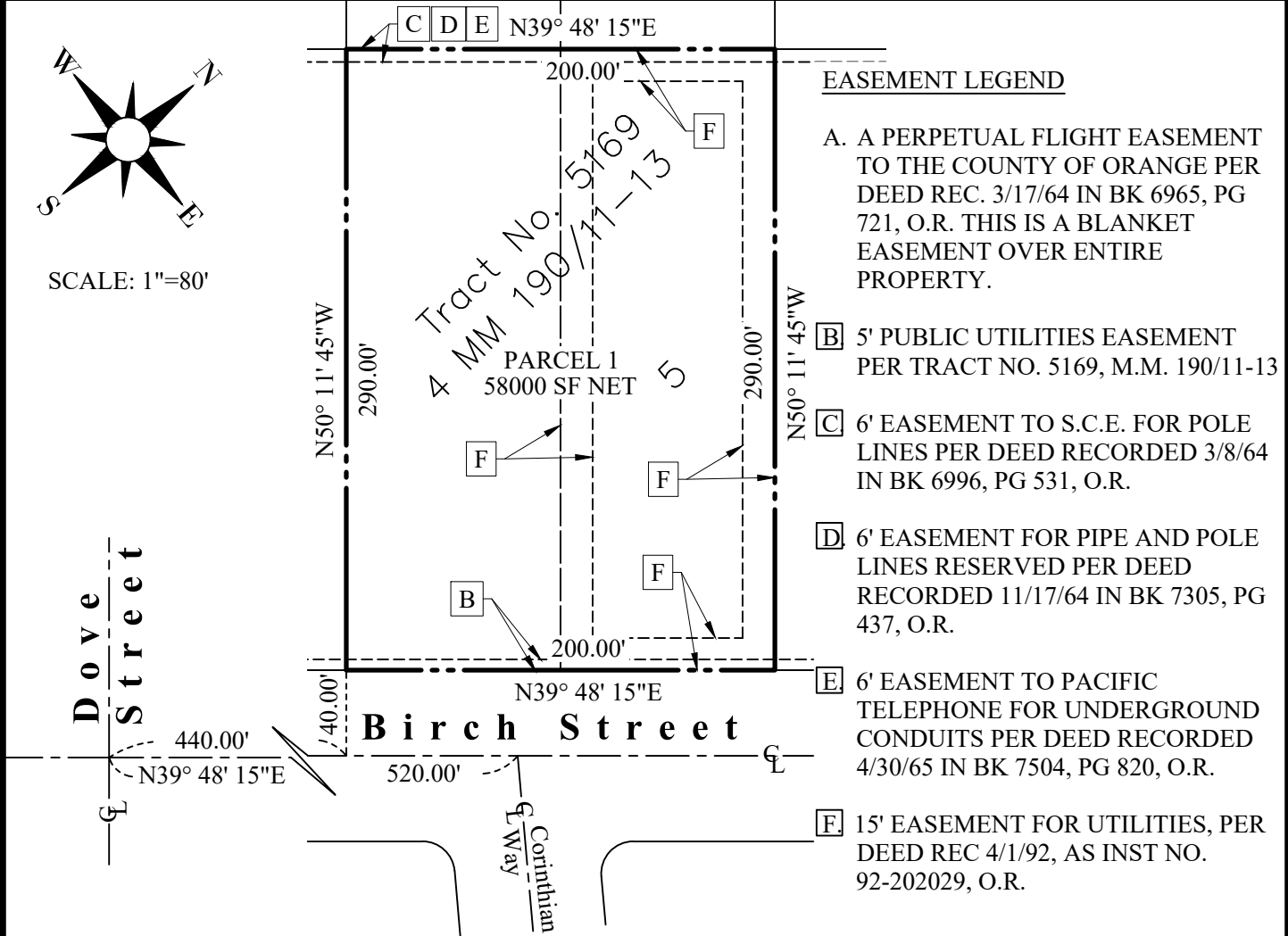
ROBIN B. HAMERS, RCE 31720

DATE



Exhibit "A"
City of Newport Beach
Lot Merger No. LM 2018-003
(MAP)

OWNER	EXISTING PARCEL AP NUMBER	PROPOSED PARCELS REFERENCE NUMBERS
4321 BIRCH PARTNERS, LTD., a California limited partnership	427-121-15 & 427-121-16	PARCEL 1



PREPARED BY:

Handwritten signature of Robin B. Hamers



6/7/18

ROBIN B. HAMERS, RCE 31720

DATE

LEGEND:

EX. LOT LINE TO REMAIN ————

LOT LINE TO BE REMOVED ————

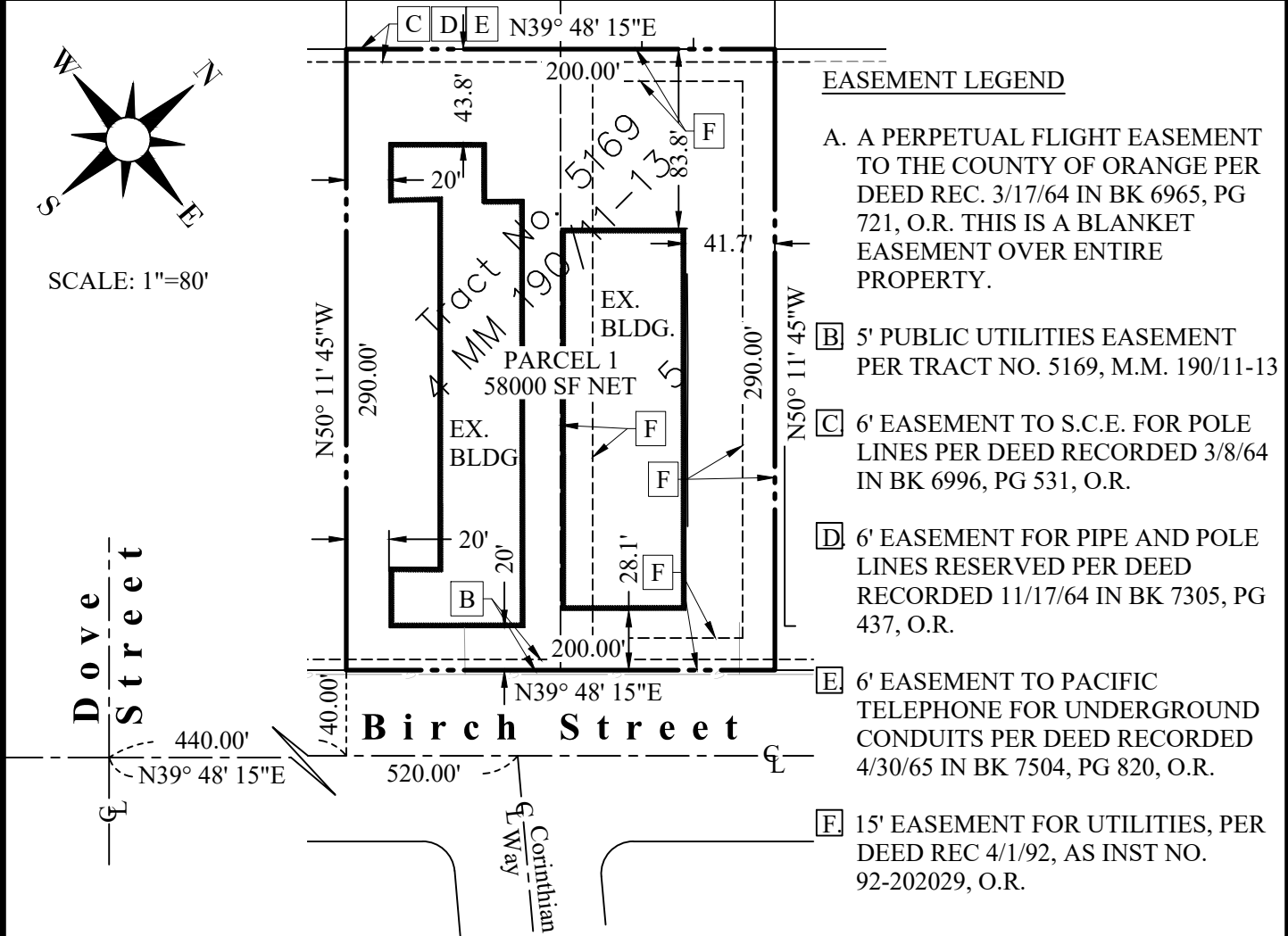
LOT LINE PER MM 8/9 ————

EASEMENT LINE ————

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Exhibit "A"
City of Newport Beach
Lot Merger No. LM 2018-003
(SITE PLAN)

OWNER	EXISTING PARCEL AP NUMBER	PROPOSED PARCELS REFERENCE NUMBERS
4321 BIRCH PARTNERS, LTD., a California limited partnership	427-121-15 & 427-121-16	PARCEL 1



PREPARED BY:

Handwritten signature: RH



6/7/18

ROBIN B. HAMERS, RCE 31720

DATE

LEGEND:

EX. LOT LINE TO REMAIN ————

LOT LINE TO BE REMOVED ————

LOT LINE PER MM 8/9 ————

EASEMENT LINE ————

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