



CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

November 14, 2019
Agenda Item No. 12

SUBJECT: 315 East Bay Avenue Residential Demolition (PA2019-219)
Coastal Development Permit No. CD2019-052

SITE LOCATION: 315 East Bay Avenue, Units A, B, C and D

APPLICANT: East Newport, LLC

OWNER: East Newport, LLC

PLANNER: Liane Schuller, Planning Consultant
949-644-3200, lschuller@newportbeachca.gov

LAND USE AND ZONING

- **General Plan:** RT (Two-Unit Residential)
- **Zoning District:** R-2 (Two-Unit Residential)
- **Coastal Land Use Category:** RT-E (Two-Unit Residential) (30-39.9 DU/AC)
- **Coastal Zoning District:** R-2 (Two-Unit Residential)

PROJECT SUMMARY

A request for a coastal development permit to demolish an existing nonconforming residential fourplex. No new structures are proposed at this time.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) 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 Coastal Development Permit No. CD2019-052 (Attachment No. ZA 1).

DISCUSSION

- The subject site is an inland property located along the south side of East Bay Avenue between Fernando and Cypress Street. The site is currently developed with a single structure containing four residential units.
- The existing fourplex is built across two underlying lots, effectively merging the property into a single building site. As the R-2 zone limits a single building site to a maximum density of two residential units, the existing fourplex is a nonconforming development. Once the existing fourplex is removed, the property will revert to two separate building sites, each of which may be developed with a maximum of two residential units.
- Any future development on the subject site will be required to comply with all current development standards, including minimum required onsite parking standards.
- This coastal development permit does not include the construction of any new structures. Any future development on the subject site will require the approval of separate entitlements in compliance with all applicable City standards, including the City's Local Coastal Program.
- All demolition activities will occur within the project site, and conditions of approval are included to ensure demolition materials and equipment are stored within the confines of the private property. Public access along the public right-of-way will not be impacted by the project.
- The project addresses water quality with a demolition plan that includes erosion control measures designed to retain dry weather run-off and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
- The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies.
- The project site is located between the nearest public road and the sea or shoreline. Newport Beach Municipal Code (NBMC) Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project involves demolition of an existing residential fourplex. No new development is proposed at this time. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Demolition activities will be contained within the confines of private property so as not to block or impede existing public access opportunities.

- The proposed demolition is exempt from the provisions of NBMC Chapters 20.34 and 21.34 (Conversion or Demolition of Affordable Housing) which implement the Mello Act. In October 2019, the City completed a land use inventory and it was determined that 17.36 acres (aggregate) of potentially vacant land were available for residential development which is less than the 50-acre (aggregate) applicability threshold established by the Mello Act and the NBMC.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) 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.

Class 1 (Existing Facilities) exempts the demolition of up to six dwelling units, whereas the project includes the demolition of four units.

PUBLIC NOTICE

Notice of this public hearing was published in the Daily Pilot, mailed to all owners and residential occupants 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:

This action shall become final and effective 14 days following the date the Resolution is 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 21 (Local Coastal Implementation Plan) of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:


Liane Schuller
Planning Consultant

Attachments: ZA 1 Draft Resolution
 ZA 2 Vicinity Map
 ZA 3 Project Plans

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2019-###

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-052 TO DEMOLISH A NONCONFORMING RESIDENTIAL FOURPLEX LOCATED AT 315 EAST BAY AVENUE, UNITS A, B, C AND D (PA2019-219)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by East Newport, LLC, with respect to property located at 315 East Bay Avenue, Units A, B, C and D, requesting approval of a coastal development permit.
2. The property at 315 East Bay Avenue is legally described as Lots 10 and 11 of Tract 510.
3. The applicant requests a coastal development permit to demolish an existing nonconforming residential fourplex. No new structures are proposed at this time.
4. 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.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is R-2 (Two-Unit Residential) (30.0-39.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
6. The proposed demolition is exempt from the provisions of Newport Beach Municipal Code (NBMC) Chapters 20.34 and 21.34 (Conversion or Demolition of Affordable Housing) which implement the Mello Act. In October 2019, the City completed a land use inventory and it was determined that 17.36 acres (aggregate) of potentially vacant land were available for residential development which is less than the 50-acre (aggregate) applicability threshold established by the Mello Act and the NBMC.
7. A public hearing was held on November 14, 2019, 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 categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 under Class 1 (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. Class 1 (Existing Facilities) exempts the demolition of up to six dwelling units, whereas the project includes the demolition of four dwelling units.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

Facts in Support of Finding:

1. The subject site is an inland property not located adjacent to the water or beach. The project design addresses water quality with a demolition plan that includes erosion control measures designed to retain dry weather run-off and minor rain event run-off on-site. Any water not retained on site is directed to the City's storm drain system.
2. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies.
3. This coastal development permit does not include the construction of any new structures. Any future development on the subject site will require the approval of separate entitlements in compliance with all applicable City standards, including the City's Local Coastal Program.

Finding:

- B. *Conforms to the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. NBMC Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project involves demolition of a nonconforming residential fourplex. No new development is proposed at this time. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Demolition activities will be contained within the confines of private property so as not to block or impede existing public access opportunities.

2. All demolition activities will occur within the project site, and conditions of approval are included to ensure demolition materials and equipment are stored within the confines of the private property. Public access along the public right-of-way will not be impacted by the project.
3. The existing development is nonconforming. Any future development on the subject site will be required to comply with all current development standards.

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 ("CEQA") pursuant to Section 15301 under Class 1 (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 Coastal Development Permit No. CD2019-052, 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 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 14TH DAY OF NOVEMBER, 2019.

James Campbell, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

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. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
3. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
4. This Coastal Development Permit does not authorize any development.
5. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
6. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Demolition Plan.
7. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

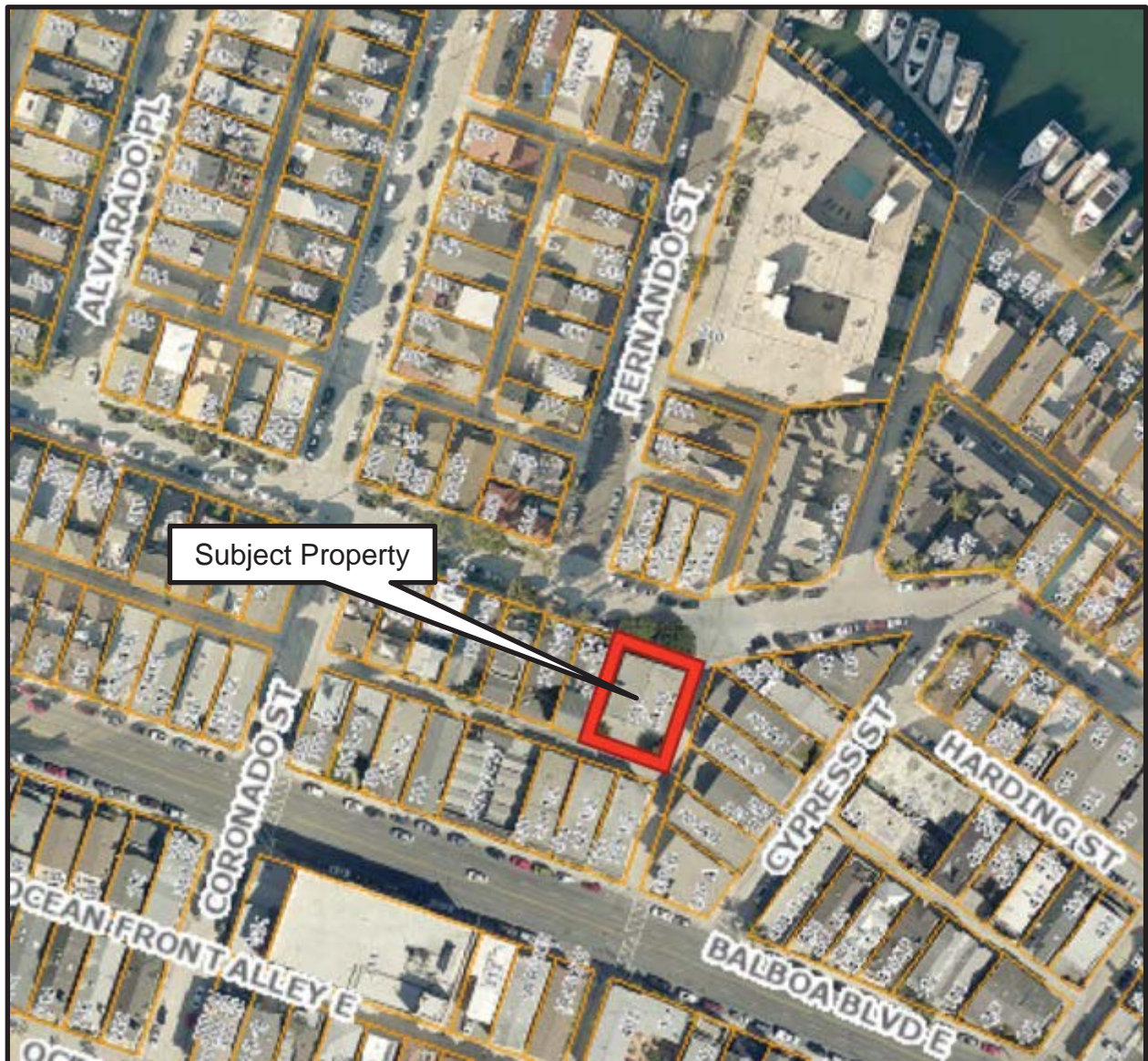
8. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sides, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
9. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
10. Revisions to the approved plans may require an amendment to this coastal development permit or the processing of a new coastal development permit.
11. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
12. 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 Coastal Development Permit.
13. This Coastal Development 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.
14. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
15. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
16. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
17. 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 the current property owner or agent.
18. This Coastal Development Permit No. CD2019-052 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
19. 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 315 East Bay Avenue Residential Demolition including, but not limited to, Coastal Development Permit No. CD2019-052 (PA2019-219). 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

VICINITY MAP

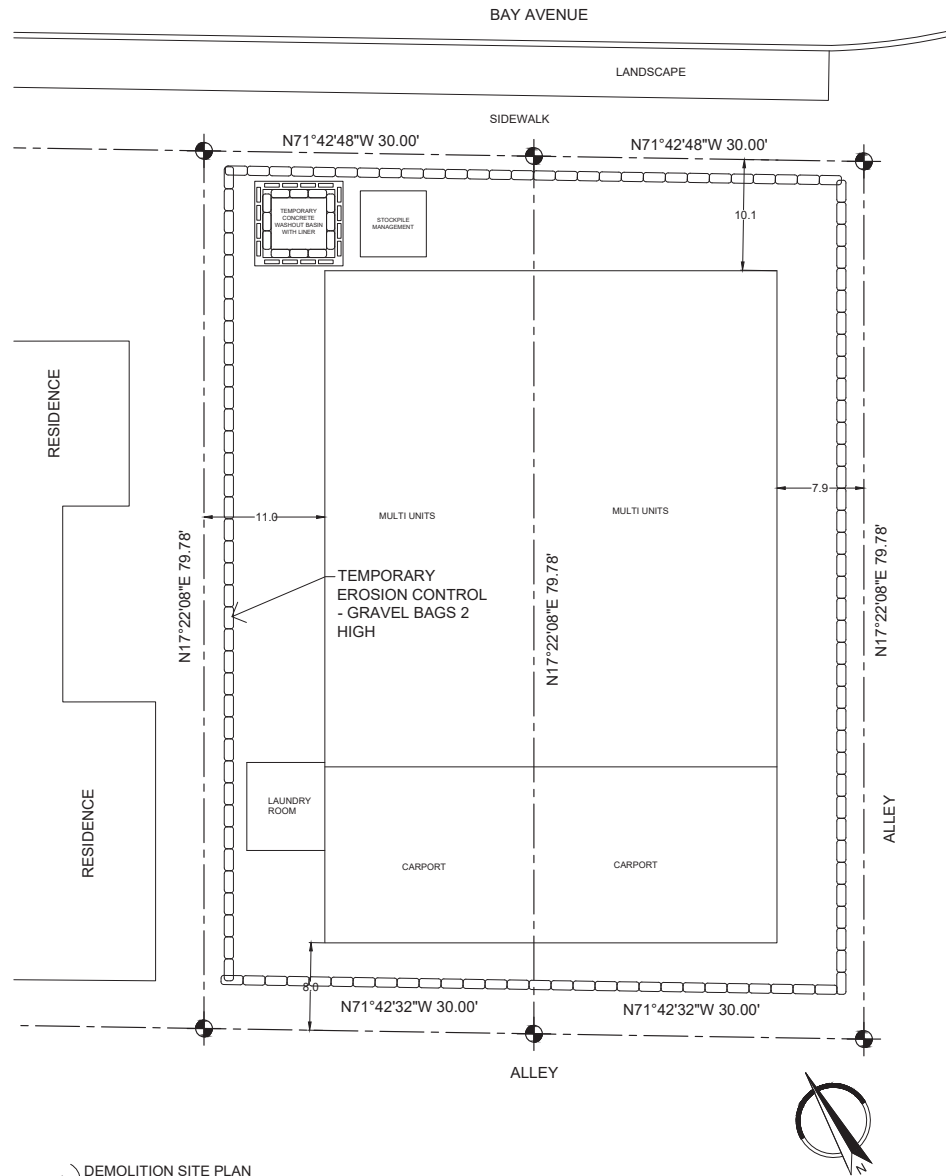


Coastal Development Permit No. CD2019-052
PA2019-219

315 East Bay Avenue, Units A, B, C and D

Attachment No. ZA 3

Project Plans



GENERAL INFORMATION

JOB ADDRESS:	317 CORONADO ST NEWPORT BEACH, CA 92661	LOT SIZE:	4.78250 FT
TOTAL STORIES:	TWO STORY	EXISTING SQ FT	3,746 SQ FT
OCCUPANCY TYPE:	GROUP R2U		
APN:	048-052-08		

PROJECT TEAM

DESIGNER	LAND SURVEY
JJAB DESIGN	R&M SURVEYING INC.
JASON BLACKMORE	RON MIEDEMA
2735 DE SOTO AVE	2307A LAKE FOREST DRIVE #409
COSTA MESA, CA 92626	LAGUNA HILLS, CA 92653
949.274.6585	949.958.2524

SCOPE OF WORK

DEMOLITION OF LOT. TO INCLUDE ALL STRUCTURES, HARDSCAPE AND LANDSCAPE AREAS ETC...

SHEET INDEX

ARCHITECTURAL	SURVEY
AT	DEMOLITION SITE PLAN
	SITE SURVEY

GENERAL NOTES

- SITE TO BE FENCED AT A HEIGHT BETWEEN 72 AND 84 INCHES USING A CHAIN LINK OVERLAP ON THE EXTERIOR WITH AN OPAQUE VINYL FENCE.
- ALL DEBRIS SHALL BE WET AT TIME OF HANDLING TO PREVENT DUST.
- SEWERLINE SHALL BE CAPPED.
- ALL BASEMENT FILLS SHALL BE CLEAN AND UNIFORM.
- STREETS AND SIDEWALKS ARE TO REMAIN CLEAN AND FREE OF ANY OBSTRUCTIONS.
- EROSION CONTROL DEVICES SHALL BE AVAILABLE ON-SITE BETWEEN OCTOBER 15 AND MAY 15.
- BETWEEN OCTOBER 15 AND MAY 15, EROSION CONTROL MEASURES SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHENEVER THE FIVE-DAY PROBABILITY OF RAIN EXCEEDS 30 PERCENT DURING THE REMAINDER OF THE YEAR. THEY SHALL BE IN PLACE AT THE END OF THE WORKING DAY WHENEVER THE DAILY RAINFALL PROBABILITY EXCEEDS 50 PERCENT.
- TEMPORARY DESILTING BASINS, WHEN REQUIRED, SHALL BE INSTALLED AND MAINTAINED FOR THE DURATION OF THE PROJECT.
- PEDESTRIAN CANOPY PROTECTION REQUIRED IF DEMOLITION IS WITHIN 10 FEET OF PUBLIC SIDEWALK.



2735 DE SOTO AVE.
COSTA MESA, CA 92626
949.274.6585
JJABDESIGN@GMAIL.COM
JASON BLACKMORE

Jason Blackmore

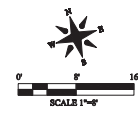
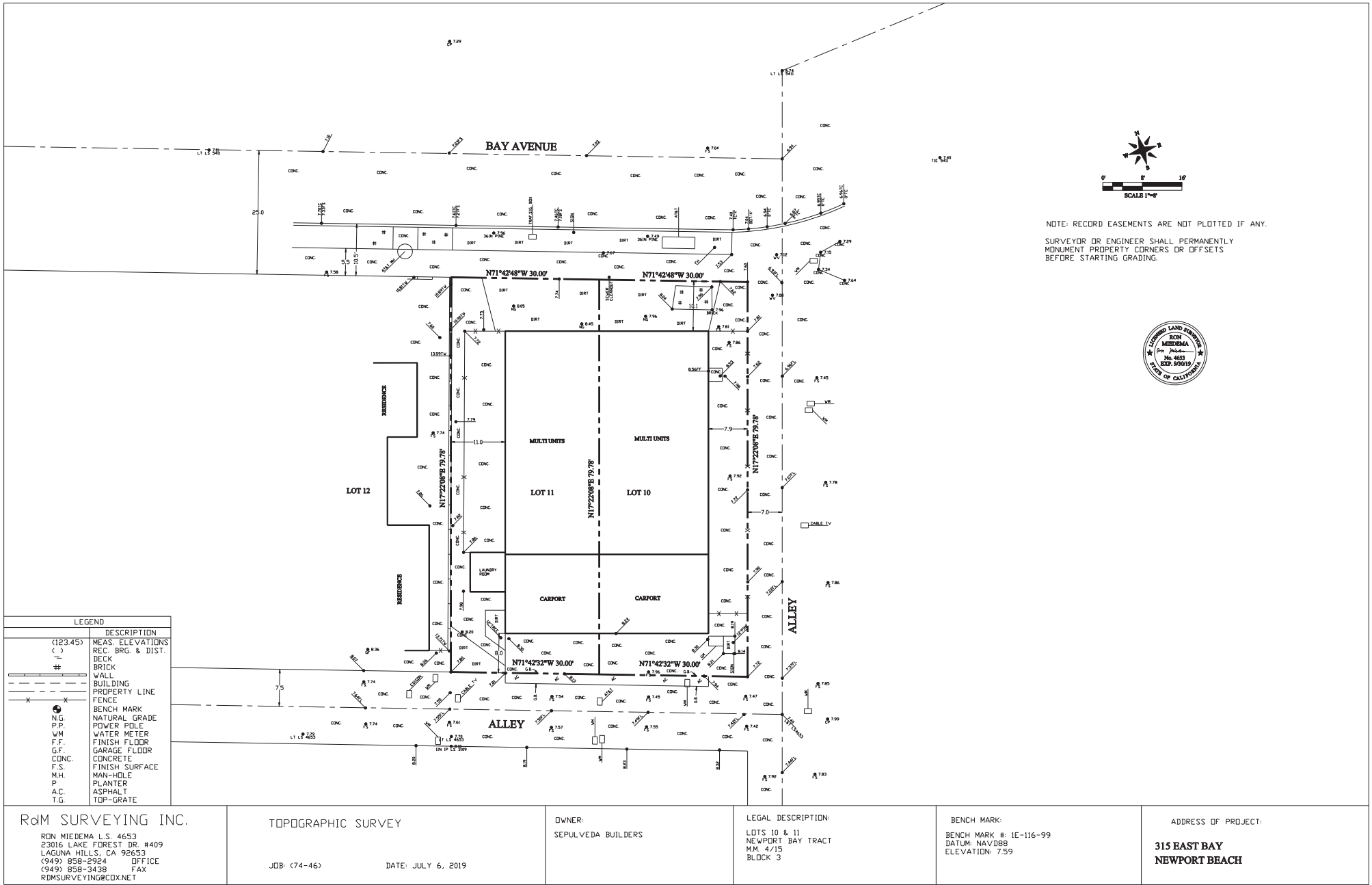
PROJECT
DEMOLITION OF EXISTING
RESIDENCE
315 E BAY ST
NEWPORT BEACH, CA 92661

CLIENT
SEPULVEDA BUILDERS, INC
790 NEWTON WAY
COSTA MESA, CA 92627

CONTENT
DEMOLITION SITE PLAN

PREPARED BY JJAB
PROJECT 190406
DATE 05.01.2019
SHEET

A1



NOTE: RECORD EASEMENTS ARE NOT PLOTTED IF ANY.
 SURVEYOR OR ENGINEER SHALL PERMANENTLY MONUMENT PROPERTY CORNERS OR OFFSETS BEFORE STARTING GRADING.



RdM SURVEYING INC. RON MIEDEMA L.S. 4653 23016 LAKE FOREST DR. #409 LAGUNA HILLS, CA 92653 (949) 858-2924 OFFICE (949) 858-3438 FAX RDMSURVEYING@CDX.NET	TOPOGRAPHIC SURVEY JOB: (74-46) DATE: JULY 6, 2019	OWNER: SEPULVEDA BUILDERS	LEGAL DESCRIPTION: LOTS 10 & 11 NEWPORT BAY TRACT M.M. 4/15 BLOCK 3	BENCH MARK: BENCH MARK #: 1E-116-99 DATUM: NAVD88 ELEVATION: 7.59	ADDRESS OF PROJECT: 315 EAST BAY NEWPORT BEACH
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