

Attachment H

Director's Determination No. DD2021-002



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

100 Civic Center Drive
Newport Beach, California 92660

949 644-3200
newportbeachca.gov/communitydevelopment

Director's Determination

To: Planning Division

From: Seimone Jurjis, Community Development Director

Date: May 21, 2021

Re: Director's Determination No. DD2021-002 Regarding Setbacks within the Bayshores Community (PA2021-115)

Summary

Setback Maps adopted as part of the Comprehensive Zoning Code Update in 2010 were intended to carry over the same setbacks indicated on the Districting Maps of the previous Zoning Code. Unfortunately, a number of errors resulting from the update were identified on Setback Map S6 applicable to the Bayshores Community.

Amendments to the Zoning Code (Title 20) and Local Coastal Program Implementation Plan (Title 21) of the Newport Beach Municipal Code (NBMC) to correct and clarify various Setback Maps, including Setback Map S6, are underway. However, the amendment process may take up to two years. In the interim, the Community Development Department Director has determined that it is appropriate to utilize Districting Map 23 (Attachment A) for the application of setbacks in the Bayshores Community.

Background

- The area of the City commonly referred to as "Bayshores" was first annexed to the City in 1947.
- Districting Map 23, first adopted in 1951 as part of Ordinance No. 646, created the R-1 zoning for the Bayshores Community (Attachment B), and was amended over time to reflect changes in zoning to other properties on the map.
- The Zoning Code in effect at the time, and up until the 2010 Zoning Code Update, referred to Districting Maps for the purposes of establishing front yard setbacks only (Attachment C).
- Front, side, and rear setbacks are defined terms in the Zoning Code. Districting Maps did not define setback areas but rather they established the depth of front yard setbacks.

- Districting Map 23 identifies either 0 or 10-foot front yard setbacks along frontages where lots would have a front yard facing a street or waterfront. Unfortunately, Districting Map 23 does not illustrate each individual lot, which resulted in confusion and an inconsistent application of setbacks over time for some corner lots where side yards were treated like front yards.
- Setback Maps as part of the 2010 Zoning Code update were intended to carry over the same setbacks indicated on the earlier Districting Maps they replaced. The Setback Maps provide more specific information by illustrating individual lots and thereby how setbacks would be applied to them. The Bayshores Community is depicted on Setback Map S6 (Attachment D).
- The 2010 Zoning Code Update also changed how Setback Maps were to be used. Instead of only establishing setbacks for front yards only as with the previous Districting Maps, the Update, which standards remains in effect today, refers to Setback Maps for the purposes of establishing different setbacks for any yard area (i.e., front, side, or rear) (Attachment E).

Setback Map S6 Errors

- The block of lots between 2691 through 2821 Bay Shore Drive (west side of street) should be subject to a 10-foot front yard setback facing the street as illustrated on Districting Map 23 and as each of these homes were originally constructed. Setback Map S6 inadvertently did not include the 10-foot front setback label and line, resulting in that block now being subject to a 20-foot front yard setback and the block of homes being considered nonconforming (Attachment F). A nonconforming status would subject these homes to additional development regulations affecting additions and remodels and a loss of buildable area. There was no intent to make these homes subject to a different setback standard from the standard established by Districting Map 23 or to make these homes nonconforming.
- Setback Map S6 inadvertently identified 18 corner lots within the community as having 10-foot setbacks on both the front and side yards facing the two street frontages. Districting Map 23 did not identify setbacks on a lot specific level and the 10-foot setback was only intended to apply to the front yard setback, not side yard setbacks. Research of the 18 affected corner lots confirms that 14 of the said lots were originally constructed with homes in compliance with a standard 4-foot side setback, not a 10-foot setback as suggested by the current Setback Map S6. Application of a 10-foot side setback per Setback Map S6 would result in several homes being considered nonconforming. A nonconforming status would subject these homes to additional development regulations affecting additions and remodels and a loss of buildable area (Attachment G). Again, there was no intent to make these homes nonconforming to setback standards.

Authority

Sections 20.12.020 and 21.12.020 (Rules of Interpretation) of the NBMC authorize the Community Development Director to interpret the meaning of provisions of the Zoning Code and Local Coastal Program Implementation Plan, including maps, and to apply and/or enforce the codes.

Director's Determination

The Community Development Director of the City of Newport Beach hereby determines that Districting Map 23 (Attachment A) shall be utilized for the identification of required front yard of setbacks in the Bayshores Community until such time that Setback Map S6 is corrected. Setbacks depicted on Districting Map 23 shall only apply to front yards whether they face the street, or the water and they shall not establish side yard setbacks or be construed to define a side yard as a front yard.

All decisions of the Community Development Director may be appealed to, or called for review by, the Planning Commission pursuant to NBMC Chapters 20.64 and 21.64 (Appeals and Calls for Review) and within fourteen (14) days following the date of this decision.

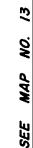

Seimone Jurjis, PE/CBO
Community Development Director

Attachments:

- A Most Recent Districting Map 23
- B Original Districting Map 23
- C Pre-2010 Zoning Code Provisions Addressing Use of Districting Maps
- D Setback Map S6
- E 2010 Zoning Code Provisions Addressing Use of Setback Maps
- F Error Affecting 2691 through 2821 Bay Shore Drive
- G Error Affecting 18 Corner Lots

ATTACHMENT A

Districting Map 23



ADOPTED BY....
ORD. NO. 635 -- 12-26-50

C-N	NEIGHBORHOOD COMMERCIAL DISTRICT
C-O	LIMITED COMMERCIAL - MULTIPLE RESIDENTIAL DISTRICT
C-1	LIGHT COMMERCIAL DISTRICT
C-2	GENERAL COMMERCIAL DISTRICT
R-3	REST'D MULTIPLE FAMILY RESIDENTIAL
U	UNCLASSIFIED DISTRICT

REVISONS		
AUTHORITY	LOCATIONS	DATE
ORD. NO. 646	BAYSHORES TRAILER PARK - U TO R3 & G1 LINDSEY DR 10104-102-H40 U TO R1	
ORD. NO. 701	LINDSA ISLE ANNEXATION	
ORD. NO. 722	TR. 3298 LOTS 10 TO 18 U TO R1	
ORD. NO. 849	TR. 3277 FROM U TO R1	
ORD. NO. 857	TR. 3283 FROM U TO R1	
ORD. NO. 969	POR. LOT 1 BLK 5A IVINE SUB. U TO R3	AUG. 14
ORD. NO. 969	POR. BLK. 5A IVINE'S SUB. U TO G1H	AUG. 14
ORD. NO. 1003	TR 4003 LOTS 14-19 U TO R-1	OCT. 14
ORD. NO. 1003	TR. 3256 LOTS 14-19 U TO R-1	OCT. 14
ORD. NO. 1003	FROM U TO R-1	OCT. 14
ORD. NO. 1003	LOT 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 72	

ORD. NO. 94-36 REZONE BALBOA BAY CLUB 8/24/94
ORD. NO. 92-45 REZONE PROPERTIES TO RSC-H
12-9-92

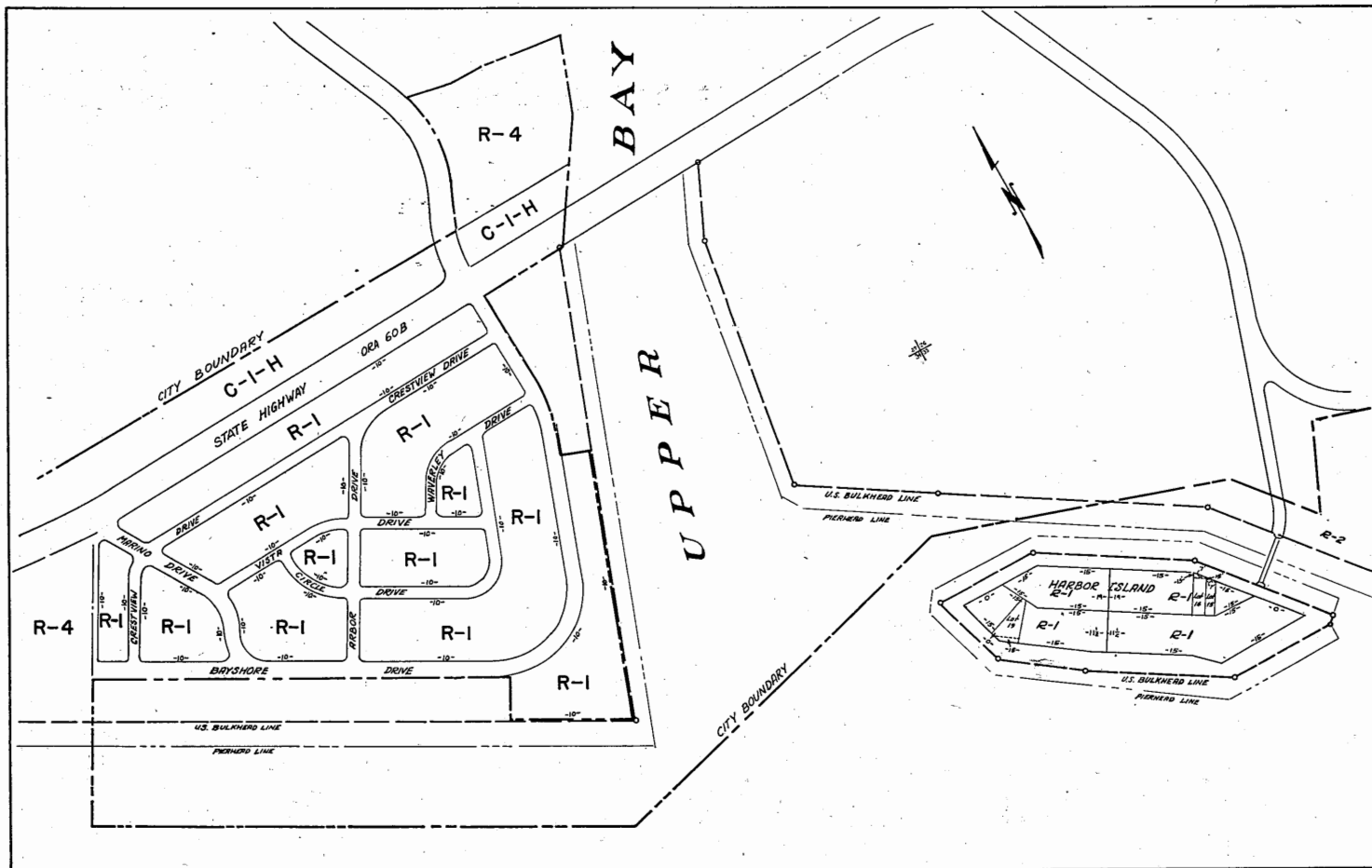


MAP NO.

23

ATTACHMENT B

Original Districting Map 23



DISTRICTING MAP NEWPORT BEACH — CALIFORNIA

PREPARED UNDER THE DIRECTION
OF

J. B. WEBB CITY ENGINEER
HARRY BLODGETT ATTORNEY
HANN, CAMPBELL & ASSOC. CONSULTANTS

SCALE 0 200 400 600 800 IN FEET

R-4	AGRICULTURAL RESIDENTIAL
R-1	SINGLE FAMILY RESIDENTIAL
R-2	DUPLEX RESIDENTIAL
R-3	REST'D. MULTIPLE FAMILY RESIDENTIAL
-B, -H	COMBINING DISTRICTS

R-4	MULTIPLE RESIDENTIAL
C-1	LIGHT COMMERCIAL
C-2	GENERAL COMMERCIAL
M-1	MANUFACTURING
U	UNCLASSIFIED

PLANNING COMMISSION
WALTER LONGMOOR CHAIRMAN
RAY COPELIN SECRETARY

ORD. NO. 635
DEC. 26, 1950

SHEET NO. 24
OF 24 SHEETS

23

ATTACHMENT C

Pre-2010 Zoning Code Provisions
Addressing Use of Districting Maps

Excerpt from 1950 Zoning Code

Section 9103.15. Yards Required:

- (a) **Front yards:** Minimum required twenty (20) feet and maximum permitted thirty-five feet, except as may be otherwise indicated on the Districting Maps. Distances shown on Districting Maps are to be measured from front line.
- (b) **Side yards:** Each side yard shall not be less than three (3) feet wide on building sites forty (40) feet wide or less, or four (4) feet on lots wider than forty (40) feet, provided that the side yard on the rear twenty feet of the street side of a corner lot, where there is reversed frontage, shall not be less than the front yard required or existing on the adjacent reversed frontage.
- (c) **Rear yards:** Minimum requirement of ten (10) feet. (Where alleys exist, see Section 9105.4 (d).

Excerpt from Pre-2010 Zoning Code

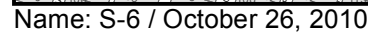
Residential Districts: Property Development Regulations

	R-A	R-1	R-1.5	R-2	MFR	RMD	Additional Regulations
Minimum Site Area per Unit (sq.ft.)	---	---	1,000	1,000	1,200	3,000	(A), (B)
Minimum Lot Area (sq. ft.)	87,120	5,000	5,000	5,000	5,000	5,000	(A)
-Corner Lots (sq. ft.)	87,120	6,000	5,000	6,000	6,000	6,000	(A)
Minimum Lot Width (ft.)	125	50	---	50	50	---	(A)
-Corner Lots (ft.)	125	60	---	60	60	---	(A)
Minimum Yards:							
Front (ft.)	20	20	20	20	20	20	(C), (D), (E), (F), (H), (K)
Side (ft.)	5	3;4	3;4	3;4	3;4	5	(C), (D), (E), (G), (H)
Corner Side (ft.)	5	3;4	3;4	3;4	3;4	5	(C), (D), (E), (G), (H)
Rear (ft.)	5;25	10	10	10	10	25	(C), (D), (E), (H), (Q)
-Abutting an alley (ft.)							(I)

- (F) R-1, R-1.5, R-2, and MFR Districts. The minimum depth required for front yards shall be 20 feet, except as may be otherwise indicated on the Districting Maps. Distances shown on the Districting Maps are to be measured from the front property line, unless a different line is shown on the Districting Map.

ATTACHMENT D

Setback Map S6



ATTACHMENT E

2010 Zoning Code Provisions Addressing Use of Setback Maps

20.18.030 Residential Zoning Districts General Development Standards.

New land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Tables 2-2 and 2-3, in addition to the development standards in Part 3 of this title (Site Planning and Development Standards).

TABLE 2-2

**DEVELOPMENT STANDARDS FOR SINGLE-UNIT RESIDENTIAL ZONING
DISTRICTS**

Development Feature	R-A	R-1	R-1-6,000	R-1-7,200	R-1-10,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.					
Lot Area (1) (2)						
Corner lot	87,120 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Interior lot	87,120 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Lot Width						
Corner lot	125 ft.	60 ft.	60 ft.	70 ft.	90 ft.	
Interior lot	125 ft.	50 ft.	60 ft.	70 ft.	90 ft.	
Lot Depth	N/A	N/A	80 ft.	90 ft.	100 ft.	
Density/Intensity	Each legal lot shall be allowed one single-unit detached dwelling. Accessory dwelling units and junior accessory dwelling units may be allowed pursuant to Section 20.48.200.					
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. <u>The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control.</u> (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).					
Front:	20 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20.30.110

						20.48.180
Side (interior, each):						
Lots 40 ft. wide or less	5 ft.	3 ft. (4)	6 ft.	5 ft.	10 ft.	20.30.110 20.48.180
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Side (street side):						
Lots 40 ft. wide or less	5 ft.	3 ft.	6 ft.	5 ft.	10 ft.	20.30.110 20.48.180
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Rear:	25 ft.	10 ft.	6 ft.	20 ft.	10 ft.	Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting an alley shall provide a setback for the first floor of at least 10 ft. from the alley.
Abutting Alley:						
10 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15'1" to 19'11"	N/A	3'9"	N/A	N/A	N/A	
20 ft. wide or more	N/A	0	N/A	N/A	N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).					
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.					
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.					
Lots 40 ft. wide or less	N/A	N/A	60%	60%	60%	
Lots wider than 40 ft.	40%	N/A	60%	60%	60%	

ATTACHMENT F

Error Affecting 2691 Through 2821 Bay
Shore Drive

ATTACHMENT G

Error Affecting 18 Corner Lots



Highlighted side property lines of the 18 affected lots should be subject to standard side setback, not a larger 10-foot setback as indicated Map S6.

Standard Side Setbacks
Lots measuring 40 feet wide or less subject to 3-foot side setbacks

Lots measuring greater than 40 feet in width require 4-foot side setbacks