

# **Attachment A**

Ordinance No. 2024-26

## **ORDINANCE NO. 2024-26**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE TO CHANGE THE ZONING DISTRICT FROM COMMERCIAL NEIGHBORHOOD (CN) TO TWO-UNIT RESIDENTIAL (R-2) AND TO AMEND SETBACK MAP S-2B - BALBOA PENINSULA TO REMOVE A FRONT SETBACK DESIGNATION ABUTTING THE SIDE PROPERTY LINE FOR THE PROPERTY LOCATED AT 3014 BALBOA BOULEVARD (PA2020-060)**

**WHEREAS**, Section 200 of the City of Newport Beach (“City”) Charter vests the City Council with the authority to make and enforce all laws, rules, and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers and privileges, or procedures granted or prescribed by any law of the State of California;

**WHEREAS**, Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program (“LCP”) for that portion of the coastal zone within its jurisdiction;

**WHEREAS**, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan (“CLUP”) in 2005, which has been amended from time to time;

**WHEREAS**, the California Coastal Commission (“Coastal Commission”) effectively certified the City’s Local Coastal Program Implementation Plan on January 13, 2017, which the City added as Title 21 (Local Coastal Program Implementation Plan) (“Title 21”) to the Newport Beach Municipal Code (“NBMC”), whereby the City assumed coastal development permit-issuing authority as of January 30, 2017;

**WHEREAS**, an application was filed by Gallo of Corona Del Mar, Inc. (“Applicant”), with respect to property located at 3014 Balboa Boulevard, and legally described in Exhibit “A,” which is attached hereto and incorporated herein by reference (“Property”);

**WHEREAS**, the Applicant requests to demolish an existing eating and drinking establishment (i.e., a “restaurant”) and construct a new residential structure with two condominiums totaling approximately 3,564 square feet, including a two-car garage and two-car carport (“Project”);

**WHEREAS**, the following approvals were required from the City to implement the Project:

- General Plan Amendment (“GPA”) – An amendment to the General Plan Land Use Element to change the land use category from Neighborhood Commercial (CN) to Two Unit Residential (RT);
- Code Amendment (“CA”) – An amendment to Title 20 (Planning and Zoning) (“Title 20”) of the NBMC to change the zoning district from Commercial Neighborhood (CN) to Two-Unit Residential (R-2) and to remove a front setback designation abutting the side property line on Setback Map S-2B - Balboa Peninsula; and
- Local Coastal Program Amendment (“LCPA”) – An amendment to the CLUP to change the coastal land use category from Neighborhood Commercial – (0.0 to 0.30 FAR) (CN) to Two Unit Residential - (30.0 - 39.9 DU/AC) (RT-E), and an amendment to Title 21 of the NBMC to change the coastal zoning district from Commercial Neighborhood (CN) to Two-Unit Residential (R-2), as well as an amendment to Setback Map S-2B - Balboa Peninsula to remove a front setback designation abutting the side property line;

**WHEREAS**, the Property is categorized Neighborhood Commercial (CN) by the General Plan Land Use Element and located within the Neighborhood Commercial (CN) Zoning District;

**WHEREAS**, the Property is located within the coastal zone with a CLUP category of Neighborhood Commercial – (0.0 to 0.30 FAR) (CN) and coastal zoning district designation of Commercial Neighborhood (CN);

**WHEREAS**, the amendment to Title 21 would change the zoning designation from Commercial Neighborhood (CN) to Two-Unit Residential (R-2), which is intended to provide for areas appropriate for a maximum of two residential dwelling units located on a single legal lot;

**WHEREAS**, the amendment to Setback Map S-2B of Title 21 removes a front setback along the side property line, which would result in a three-foot side setback that is typical for residential development in the surrounding residential lots; thereby allowing fences, walls, or other accessory structures to a maximum height of six feet in the side setback area;

**WHEREAS**, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations Title 14, Division 5.5, Chapter 8 (“Section 13515”), a draft of the LCPA was made available and a Notice of Availability was distributed on November 17, 2022, at least six weeks prior to the anticipated final action date;

**WHEREAS**, the Planning Commission held a public hearing on January 5, 2023, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California, at which time the Planning Commission considered the Project. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”), and Chapters 20.62 and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

**WHEREAS**, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2023-003 by a unanimous vote (5 ayes, 0 noes) recommending that the City Council approve the Project and land use entitlements referenced above, to the City Council;

**WHEREAS**, the City Council held a duly noticed public hearing on February 14, 2023, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the public hearing was provided in accordance with the Ralph M. Brown Act, Section 13515, and Chapter 21.62 (Public Hearings) of the NBMC. Evidence both written and oral, was presented to, and considered by, the City Council at this public hearing;

**WHEREAS**, at the hearing, the City Council adopted Resolution No. 2023-11 by a unanimous vote (7 ayes, 0 nays), authorizing the submittal of the LCPA to the Coastal Commission;

**WHEREAS**, the City Council also adopted by unanimous vote (7 ayes, 0 nays) Resolution No. 2023-12 to approve an amendment to the General Plan to change the Property’s land use category, and introduced Ordinance No. 2023-3 to approve an amendment to Title 20 of the NBMC; and

**WHEREAS**, the Coastal Commission approved the LCPA (LCP-5-NPB-23-0019-1 Part C) on July 11, 2024, as submitted, and as a result, it is deemed approved and became a certified part of the LCP.

**NOW THEREFORE**, the City Council of the City of Newport Beach ordains as follows:

**Section 1:** The City Council hereby adopts the LCPA (PA2020-060), amending Section 21.14.010 (Coastal Zoning Map) and Setback Map S-2B of Section 21.80.040 (Setback Maps) of the NBMC, as set forth in Exhibits “B” and “C,” which are attached hereto and incorporated herein by reference.

**Section 2:** The LCP and Title 21, including this LCPA, shall be carried out in full conformance with the California Coastal Act.

**Section 3:** The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

**Section 4:** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 5:** The City Council finds the introduction and adoption of this ordinance is exempt from environmental review under 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, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

**Section 6:** The exceptions to this categorical exemption under Section 15300.2 of the CEQA Guidelines 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 7:** Except as expressly modified in this ordinance, all other sections, Subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

**Section 8:** The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 22<sup>nd</sup> day of October, 2024, and adopted on the 12<sup>th</sup> day of November, 2024, by the following vote, to-wit:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

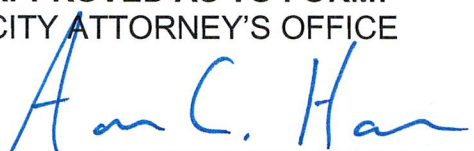
ABSENT: \_\_\_\_\_

\_\_\_\_\_  
WILL O'NEILL, MAYOR

**ATTEST:**

\_\_\_\_\_  
LEILANI I. BROWN, CITY CLERK

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
AARON C. HARP, CITY ATTORNEY

- Attachments:      Exhibit A – Legal Description  
                          Exhibit B – Title 21 Amendment Map  
                          Exhibit C – Amended Setback Map S-2B

## EXHIBIT "A"

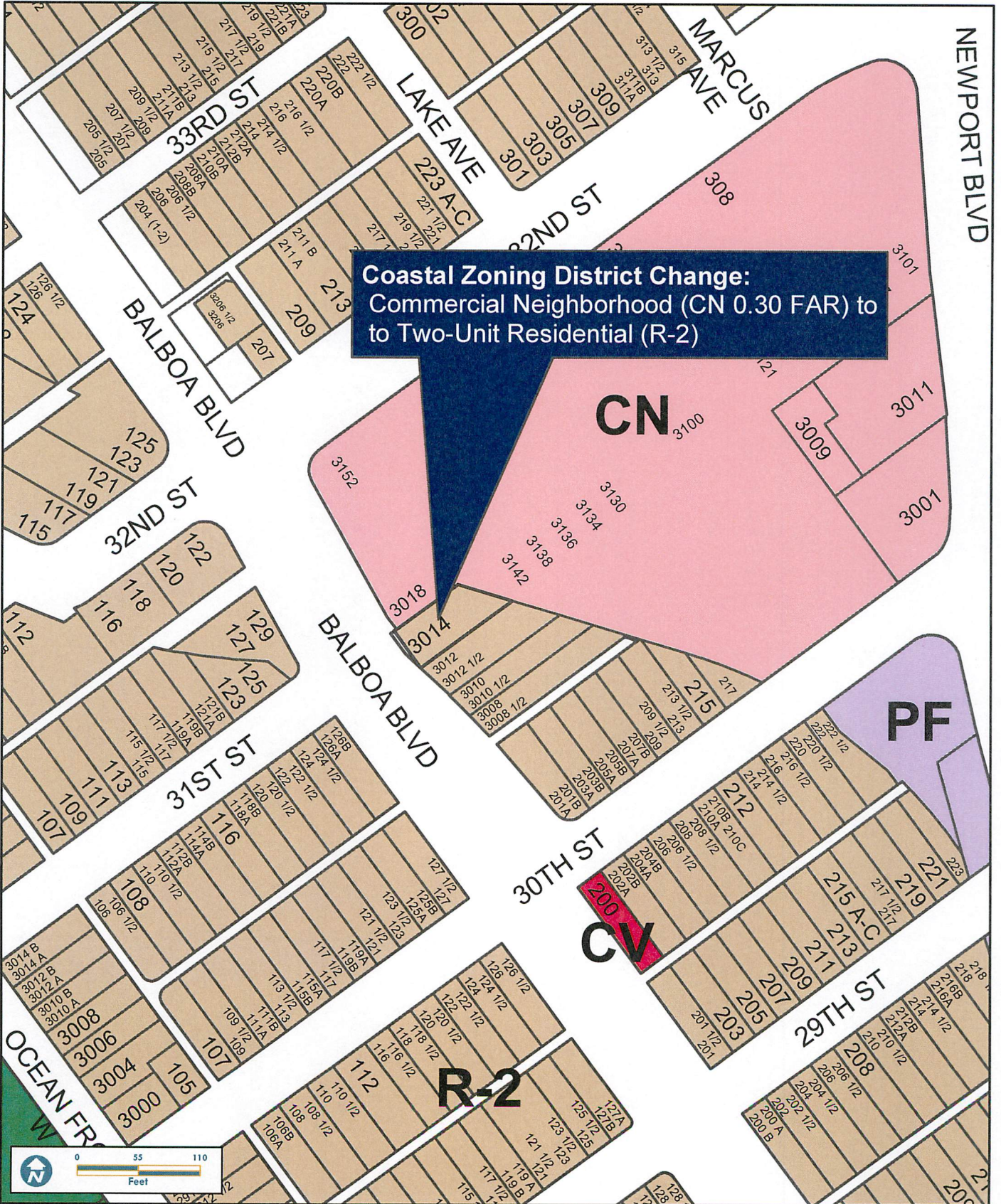
### LEGAL DESCRIPTION

THE SOUTHEASTERLY 40 FEET OF THAT CERTAIN PROPERTY SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, THE NORTHWESTERLY LINE OF SAID SOUTHEASTERLY 40 FEET BEING PARALLEL TO AND 50 FEET FROM THE SOUTHEASTERLY LINE OF LOT 1 IN BLOCK 130 OF THE LAKE TRACT, AS PER MAP RECORDED IN BOOK 4, PAGE 13, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID LOT 1 IN BLOCK 130 OF LAKE TRACT, WITH THE NORTHEASTERLY LINE OF THE SOUTHEASTERLY 25 FEET OF SAID LOT 1, THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID SOUTHWESTERLY 25 FEET TO AN INTERSECTION WITH A LINE NORTHEASTERLY OF, PARALLEL TO, AND 10 FEET DISTANT, MEASURED AT RIGHT ANGLES FROM THE SOUTHEASTERLY LINE OF SAID LOT 1, THENCE NORTHEASTERLY ALONG SAID LINE TO THE NORTHERLY LINE OF SAID LOT 1, THENCE CONTINUING NORTHEASTERLY ALONG THE PROLONGATION OF SAID LINE 58 FEET, MORE OR LESS, TO A POINT 30 FEET DISTANT, MEASURED SOUTHWESTERLY AT RIGHT ANGLES FROM THE CENTER LINE OF THE PRESENT MOST SOUTHERLY WYE TRACK OF THE SOUTHERN PACIFIC RAILROAD, THENCE 75' 07' 30' WEST ALONG THE LINE PARALLEL TO AND 30 FEET DISTANT SOUTHWESTERLY FROM THE CENTER LINE OF SAID WYE TRACT 201.60 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE SOUTHEASTERLY EXTENSION OF THE NORTHEASTERLY LINE OF BAY AVENUE (NOW COAST BOULEVARD), AS SHOWN ON SAID MAP OF LAKE TRACT, THENCE SOUTH 52' 46' 30' WEST 15.35 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF THE PRESENT LOCATED CEMENT SIDEWALK, THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID SIDEWALK 164.80 FEET TO THE POINT OF BEGINNING.

APN: 047-071-02

EXHIBIT "B"



Local Coastal Program Amendment  
No. LC2020-005 (Implementation Plan)

3014 Balboa Blvd  
PA2020-060

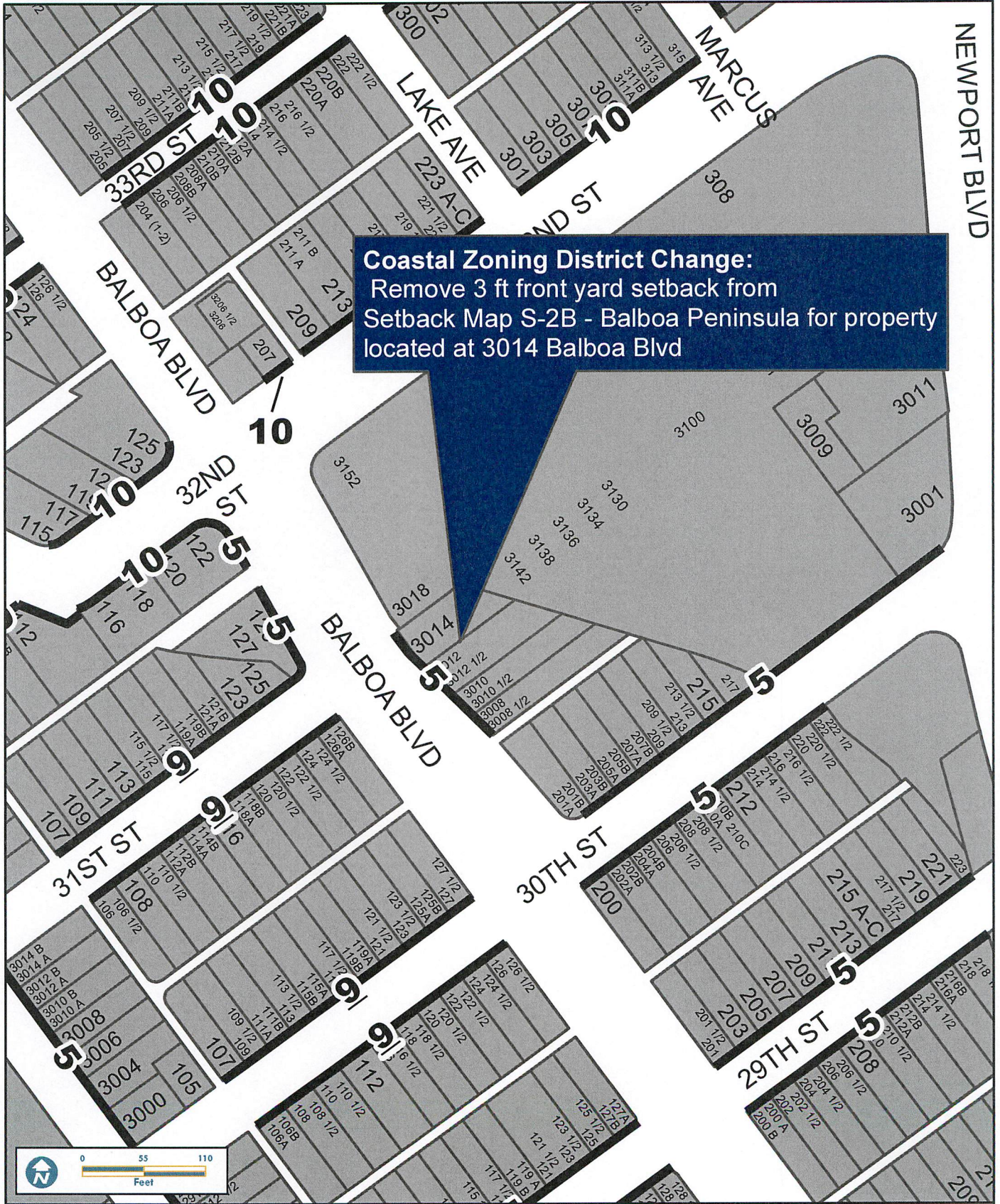


City of Newport Beach  
GIS Division  
September 28, 2022





EXHIBIT "C"



**Coastal Zoning District Change:**  
 Remove 3 ft front yard setback from  
 Setback Map S-2B - Balboa Peninsula for property  
 located at 3014 Balboa Blvd



**Local Coastal Program Amendment  
 No. LC2020-005 (Implementation Plan)  
 3014 Balboa Blvd  
 PA2020-060**

City of Newport Beach  
 GIS Division  
 November 17, 2022

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