

Attachment A

Ordinance No. 2022-11

ORDINANCE NO. 2022-11

**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 AND ADOPTING LOCAL COASTAL
PROGRAM AMENDMENT NO. LC2020-001
CORRECTING SETBACK MAP ERRORS (PA2020-006)**

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 for that portion of the coastal zone within its jurisdiction;

WHEREAS, in 2005, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("LCP") as amended from time to time;

WHEREAS, the California 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 City of Newport Beach Municipal Code ("NBMC"), whereby the City assumed coastal development permit-issuing authority;

WHEREAS, both Title 20 (Planning and Zoning Code) ("Title 20") and Title 21 of the NBMC incorporate a series of maps that provide minimum setbacks for various, but not all, blocks throughout the City;

WHEREAS, the practice began in 1943 to recognize existing and varying conditions that did not match the citywide default front yard setback standard of 20 feet;

WHEREAS, the current setback maps are the descendants of the original 1943 maps (previously called districting maps), and several of them contain errors and omissions that occurred when the districting maps were converted into the current setback maps as part of the 2010 comprehensive update to Title 20;

WHEREAS, the same setback maps are incorporated into Title 21 for properties located within the coastal zone;

WHEREAS, application of the incorrect setbacks results in development standards that are inconsistent with the existing pattern of development and several homes being considered nonconforming which subjects these homes to additional development regulations affecting additions and remodels and a loss of buildable area;

WHEREAS, an amendment to Title 21 is necessary to clarify the correct location these setbacks are measured from, maintain the existing pattern of development on a block, correct the identified errors in the setback maps and re-establish setbacks consistent with the original districting maps and existing pattern of development ("LCP Amendment No. LC2020-001");

WHEREAS, on April 23, 2019, the City Council initiated LCP Amendment No. LC2020-001 pursuant to City Council Resolution No. 2019-41;

WHEREAS, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5 ("Public Participation"), drafts of LCP Amendment No. LC2020-001 were made available and a Notice of Availability was distributed a minimum of six weeks prior to the City Council public hearing;

WHEREAS, a public hearing was held by the Planning Commission on July 22, 2021, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the 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 public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2021-021 by a unanimous vote (4 ayes, 0 nays, 1 abstain) recommending to the City Council approval of Zoning Code Amendment No. CA2020-001 and LCP Amendment No. LC2020-001;

WHEREAS, a public hearing was held by the City Council on October 12, 2021, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Chapters 20.62 and 21.62 (Public Hearings) of the NBMC, and 14 CCR Section 13515. 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 introduced Ordinance No. 2021-22 adopting Zoning Code Amendment No. CA2020-001 and Resolution No. 2021-97 authorizing submittal of LCP Amendment No. LC2020-001 to the California Coastal Commission by a unanimous vote (7 ayes, 0 nays); and

WHEREAS, on March 9, 2022, the California Coastal Commission approved LCP Amendment No. LC2020-001 (LCP-5-NPB-21-0084-3 Part A) as a minor amendment with no modifications, as a result, is deemed approved and became a certified part of Title 21.

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

Section 1: The City Council does hereby approve LCP Amendment No. LC2020-001, amending Setback Map Nos. S-1A – West Newport, S-2A – Balboa Peninsula, S-2E – Balboa Peninsula, S-2F – Balboa Peninsula, S-2G – Balboa Peninsula, S-6 – Bay Shores, S-8 – Harbor Island, S-10A – Corona del Mar, S-10B – Corona del Mar, and S-10D – Corona del Mar contained within NBMC Section 21.80.040 (Setback Maps) as set forth in Exhibit “A,” which is attached hereto and incorporated herein by reference.

Section 2: The LCP and Title 21, including LCP Amendment No. LC2020-001, 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 LCP Amendment No. LC2020-001 is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3), of Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines") the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. LCP Amendment No. LC2020-001 corrects errors in setback maps that are inconsistent with historically established setbacks and generally reflects setbacks that are consistent with existing development on the affected lots. LCP Amendment No. LC2020-001 does not authorize any new development that would directly result in physical change to the environment.

Section 6: 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 7: 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 26th day of April, 2022, and adopted on the 10th day of May, 2022, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

KEVIN MULDOON, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Attachment(s): Exhibit A - Amendment to Setback Map Nos. S-1A – West Newport, S-2A – Balboa Peninsula, S-2E – Balboa Peninsula, S-2F – Balboa Peninsula, S-2G - Balboa Peninsula, S-6 – Bay Shores, S-8 – Harbor Island, S-10A – Corona del Mar, S-10B – Corona del Mar, and S-10D – Corona del Mar contained within NBMC Section 21.80.040 (Setback Maps)



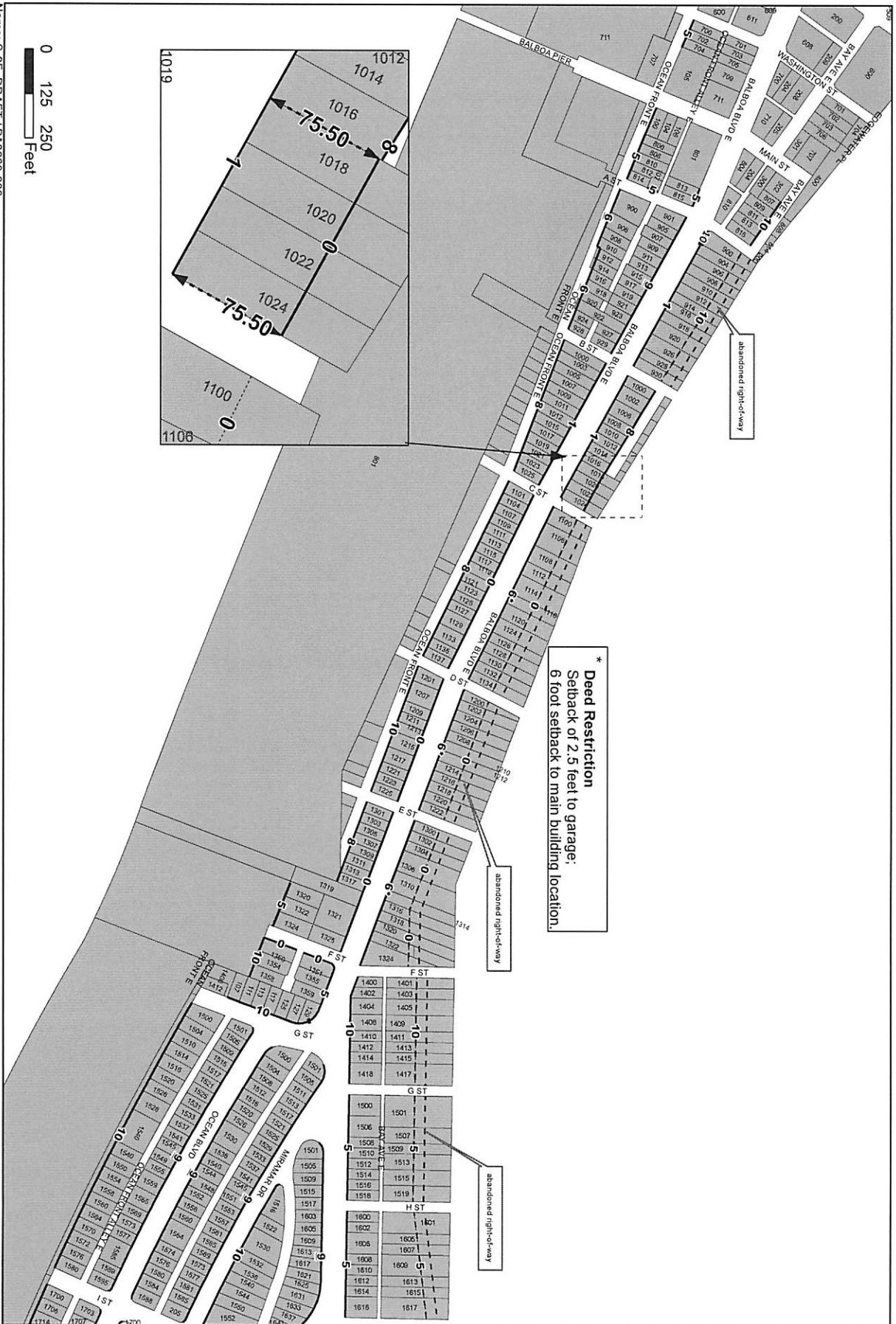
S-1A - West Newport

Setback Map



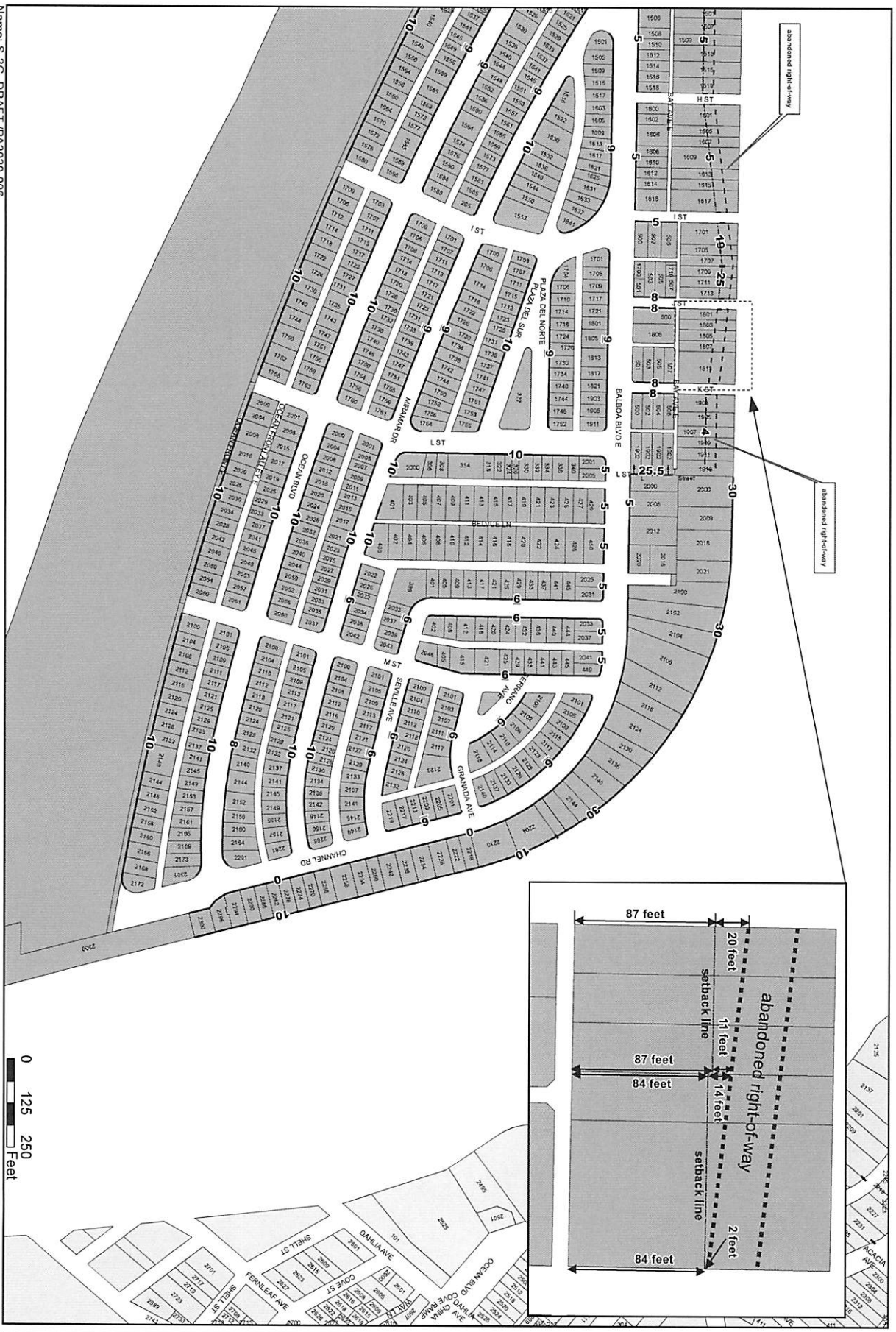
S-2A - Balboa Peninsula

Setback Map



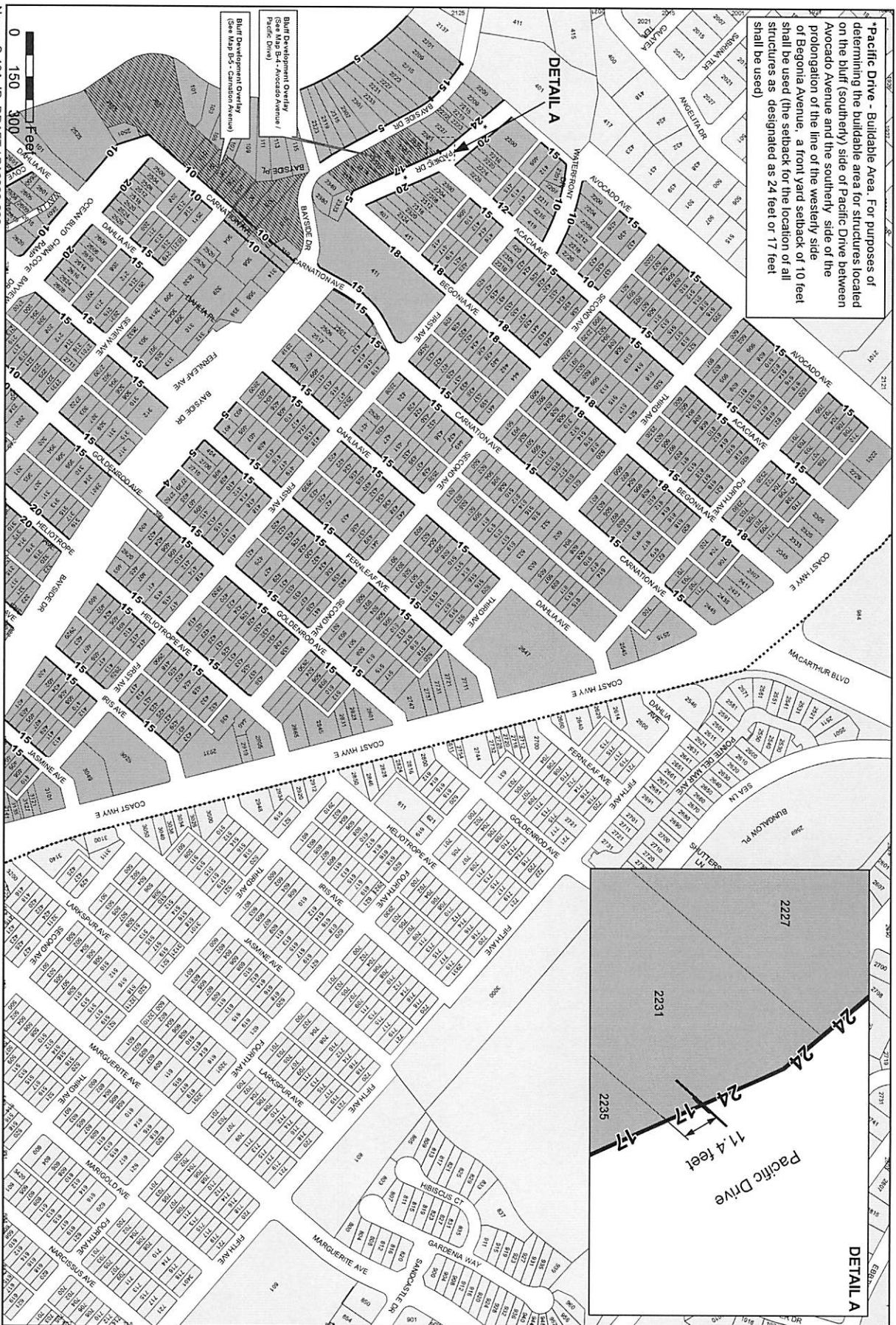
S-2F - Balboa Peninsula

Setback Map



S-2G - Balboa Peninsula

Setback Map





S-10B - Corona del Mar

Setback Map

