

ATTACHMENT A

ORDINANCE NO. 2021-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING ZONING CODE AMENDMENT NO. CA2020-001 TO AMEND TITLE 20 (PLANNING AND ZONING) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE CORRECTING SETBACK MAP ERRORS (PA2020-006)

WHEREAS, Section 200 of the Charter of the City of Newport Beach ("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, both Title 20 (Planning and Zoning) ("Title 20") and Title 21 (Local Coastal Program Implementation Plan) ("Title 21") of the Newport Beach Municipal Code ("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 as a way 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 (Planning and Zoning);

WHEREAS, in 2017, the California Coastal Commission certified Title 21 (Local Coastal Program Implementation Plan), which incorporated the same setback maps 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 20 (Planning and Zoning) is necessary to correct identified errors to various setback maps ("Zoning Code Amendment");

WHEREAS, the Zoning Code Amendment serves to clarify the correct location these setbacks are measured from, such as a vacated right-of-way line or bulkhead line, to maintain the existing pattern of development on a block, to correct identified errors in the setback maps and re-establish setbacks consistent with the original districting maps and existing pattern of development;

WHEREAS, on April 23, 2019, the City Council initiated the Zoning Code Amendment under Resolution No. 2019-41;

WHEREAS, the Planning Commission held a public hearing on July 22, 2021, 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 given in accordance with the California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (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 conclusion of the hearing, the Planning Commission adopted Resolution No. PC2021-020 by a unanimous vote (4 ayes, 0 nays) recommending to the City Council approval of Zoning Code Amendment No. CA2020-001; and

WHEREAS, the City Council held a public hearing on October 12, 2021, 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 given in accordance with the Ralph M. Brown Act and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: The City Council does hereby approve Zoning Code Amendment No. CA2020-001 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-5A – Newport Heights, S-6 – Cliff Haven / 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 20.80.040 (Setback Maps) as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

Section 2: An amendment to Title 21 (Local Coastal Program Implementation Plan) is also underway pursuant to Resolution 2021-____ to approve LCP Amendment No. LC2020-001. Zoning Code Amendment No. CA2020-001 shall not apply to projects located in the coastal zone for which Title 21 is applicable until approval of the LCP Amendment No. LC2020-001 by the California Coastal Commission and adoption, including any modification suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council.

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: City Council finds the introduction and adoption of this ordinance 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. The Zoning Code Amendment 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. The Zoning Code Amendment 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 Newport Beach Municipal Code 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 12th day of October, 2021, and adopted on the 26th day of October, 2021, by the following vote, to-wit:

AYES, COUNCILMEMBERS _____

NOES, COUNCILMEMBERS _____

ABSENT COUNCILMEMBERS _____

BRAD AVERY, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Attachment(s): Exhibit A- Revised Title 20 Setback Maps



S-1A - West Newport

Setback Map

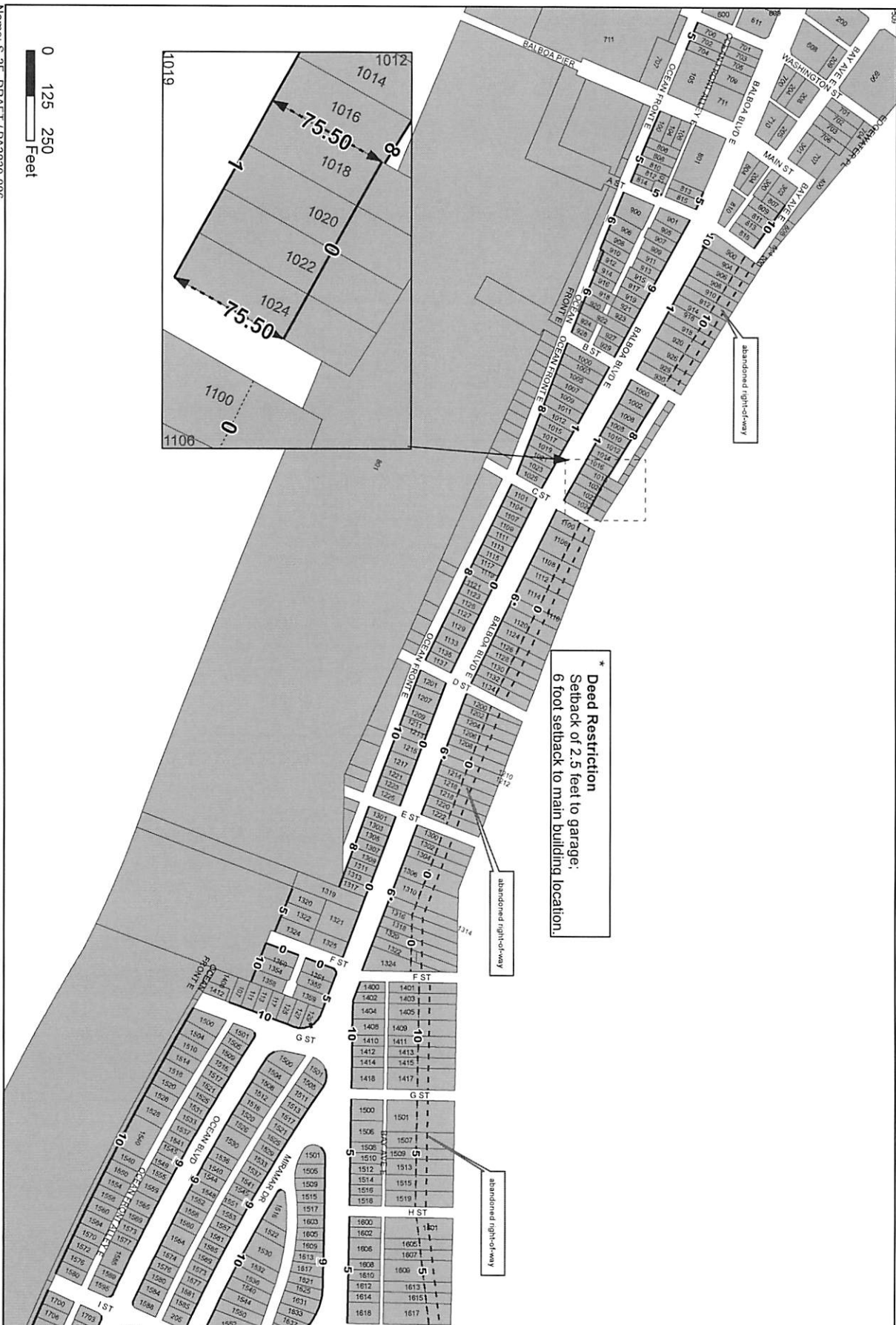


S-2A - Balboa Peninsula

Setback Map

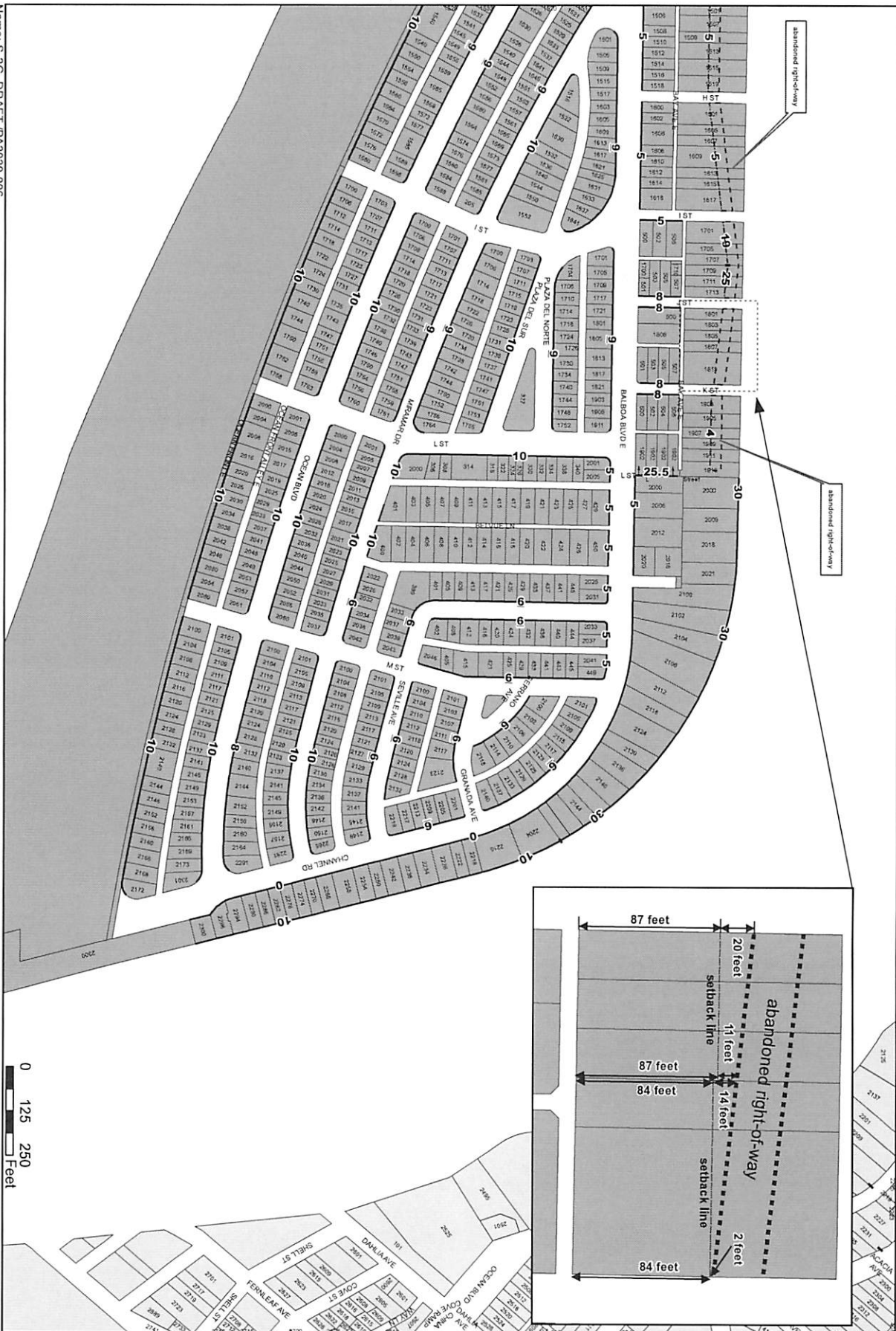


Setback Map



S-2F - Balboa Peninsula

Setback Map



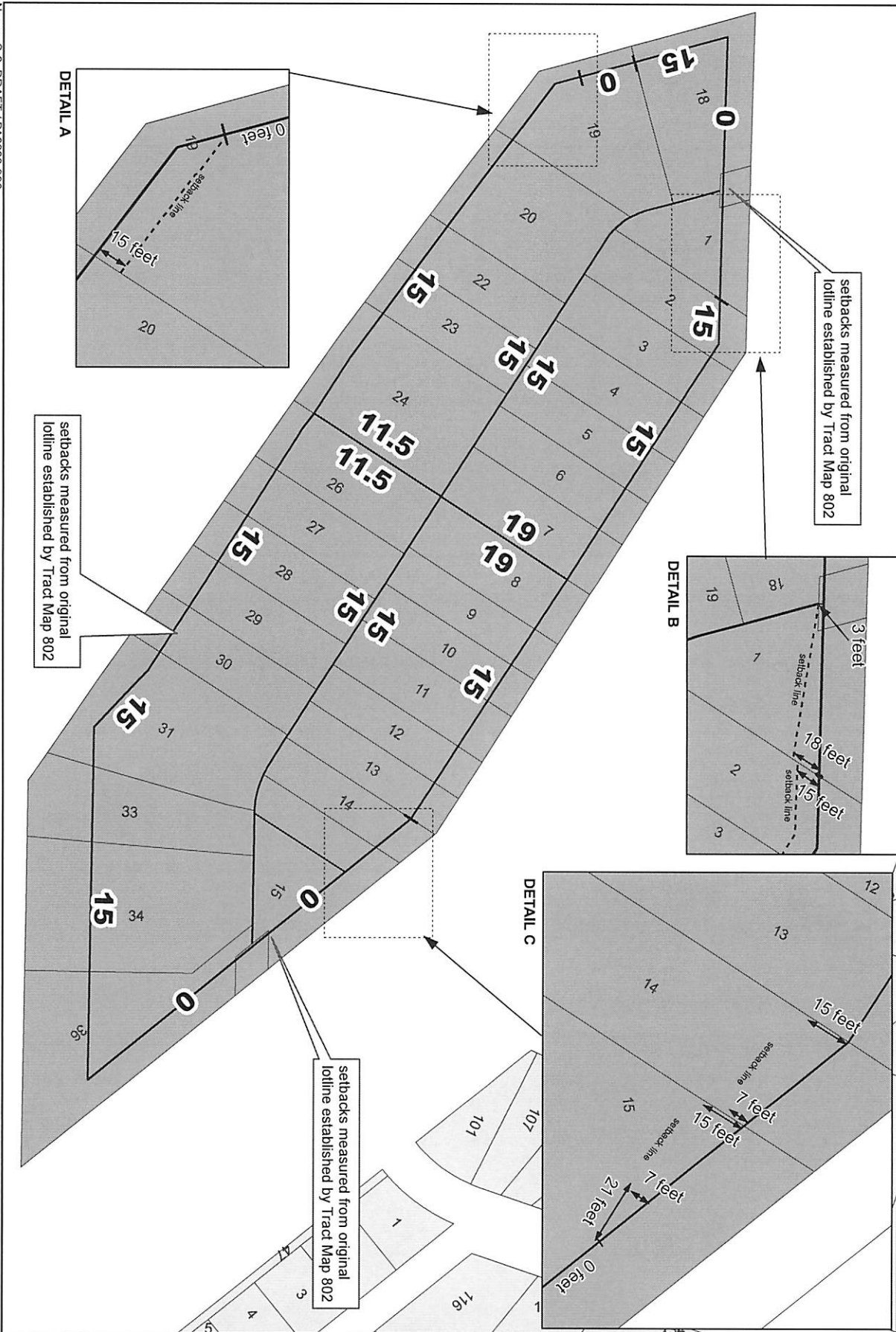
S-2G - Balboa Peninsula

Setback Map



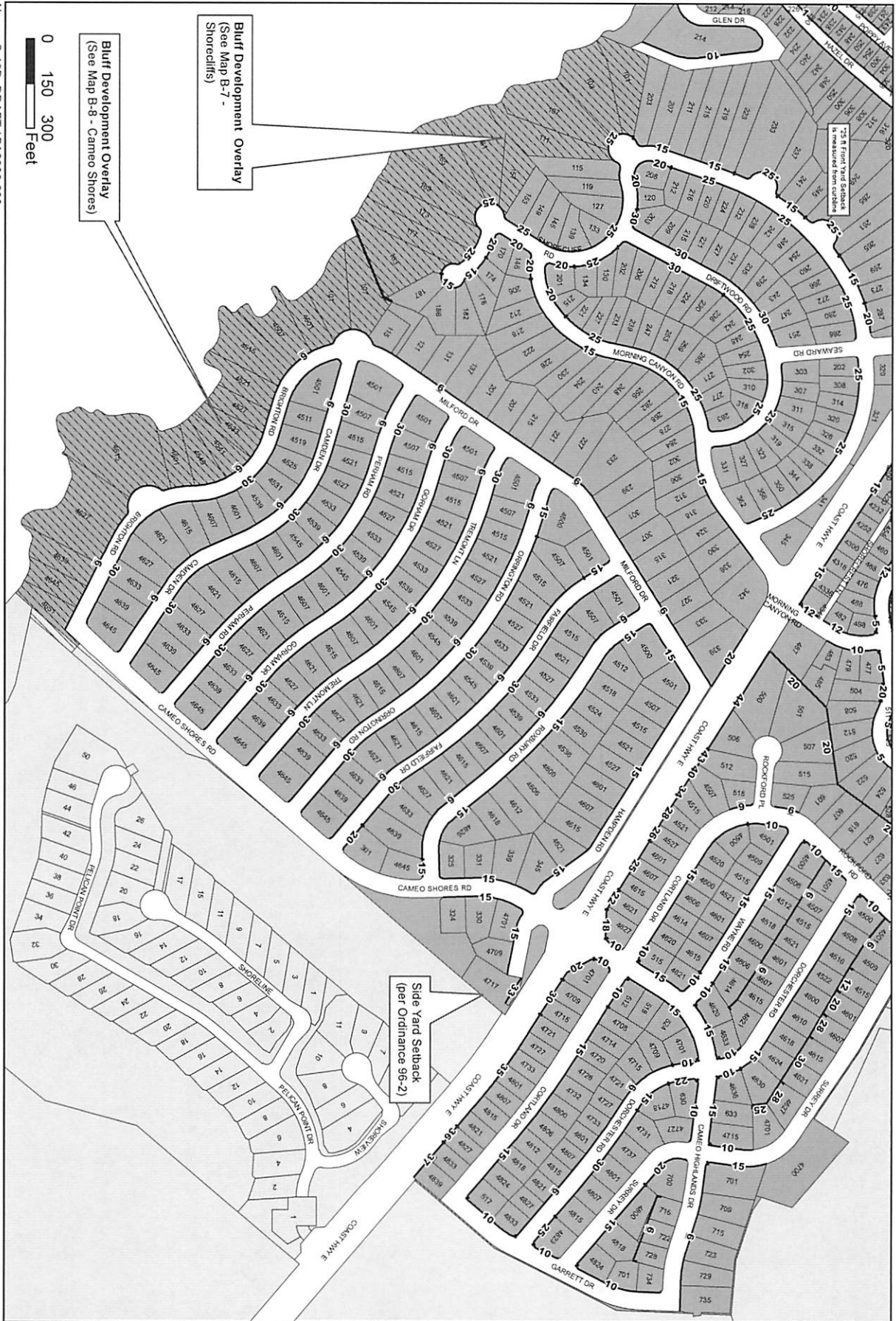
Setback Map







Setback Map



Name: S-10D_DRAFT / PA2020-006