

Attachment E

Planning Commission Resolution No. PC2021-021
(Title 21)

RESOLUTION NO. PC2021-021

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING THE CITY COUNCIL AUTHORIZE SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2020-001 TO THE CALIFORNIA COASTAL COMMISSION TO AMEND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE CORRECTING SETBACK MAP ERRORS (PA2020-006)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. 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.
2. In 2005, the City of Newport Beach (“City”) adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan as amended from time to time including most recently on February 12, 2019, via City Council Resolution No. 2019-16.
3. The California Coastal Commission effectively certified the City’s Local Coastal Program Implementation Plan on January 13, 2017, and the City added 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 on January 30, 2017.
4. Both Title 20 (Planning and Zoning Code) (“Title 20”) and Title 21 of the NBMC have a series of maps that provide minimum setbacks for various, but not all, blocks throughout the City (“setback maps”). 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.
5. 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 should be corrected. These errors occurred when the districting maps were converted into the current setback maps as part of the 2010 comprehensive update to Title 20. In 2017, the California Coastal Commission certified Title 21, which incorporated the same setback maps for properties located within the coastal zone.
6. An amendment to Title 21 is necessary to correct identified errors to various setback maps (“LCP Amendment”).
7. On April 23, 2019, the City Council initiated the LCP Amendment under City Council Resolution No. 2019-41 authorizing staff to make corrections to the setback maps.

8. 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 at least six (6) weeks prior to the City Council public hearing.
9. A public hearing was held 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"), Chapter 21.62 (Public Hearings) of the NBMC, and Section 13515 of the California Code of Regulations. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This LCP Amendment is exempt pursuant to California Environmental Quality Act ("CEQA") Section 15061(b)(3), of Title 14, 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. This 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 LCP Amendment does not authorize any new development that would directly result in physical change to the environment. Additionally, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program.

SECTION 3. REQUIRED FINDINGS.

1. Application of the incorrect setbacks results in development standards that are inconsistent with the existing pattern of development and 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. There was no intent to make these homes nonconforming to setback standards. In some cases, the amendments serve 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. This LCP Amendment is needed to correct the identified errors in the setback maps and re-establish setbacks consistent with the original districting maps and existing pattern of development.
2. This LCP Amendment shall not become effective until approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.

3. The LCP, including this LCP Amendment, will be carried out fully in conformity with the California Coastal Act.
4. The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission finds the proposed LCP Amendment is exempt pursuant to Section 15061(b)(3), and Section 15265(a)(1), of the CEQA Guidelines because it has no potential to have a significant effect on the environment and local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program.
2. The Planning Commission of the City of Newport Beach hereby recommends the City Council approve LCP Amendment No. LC2020-001 to amend 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.

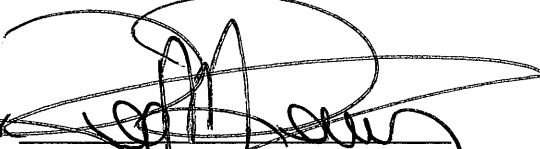
PASSED, APPROVED, AND ADOPTED THIS 22ND DAY OF JULY, 2021.


AYES: Koetting, Lowrey, Rosene, and Weigand

NOES:

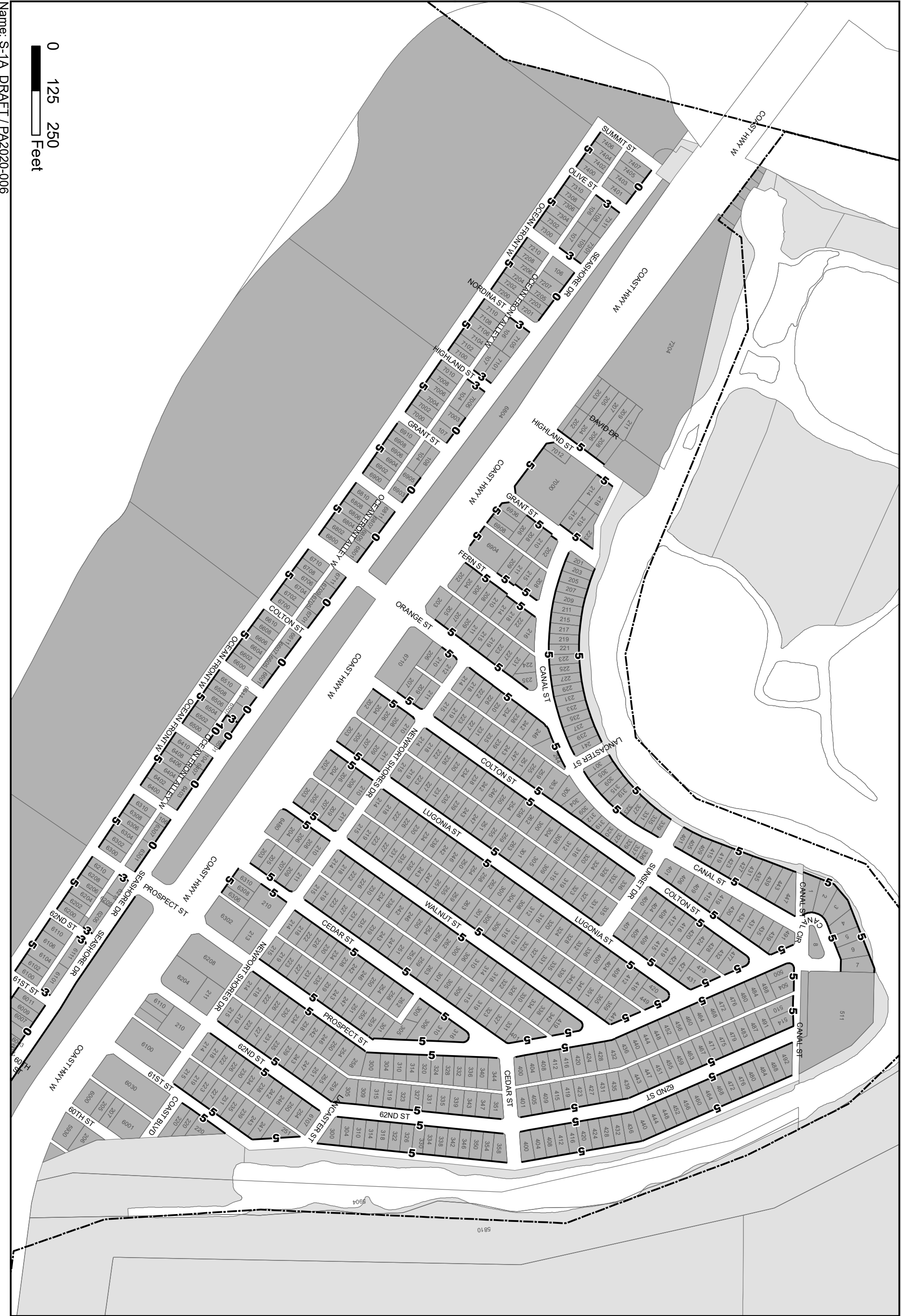
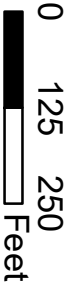
ABSTAIN: Ellmore

ABSENT: Klaustermeier and Kleiman

BY: 
Lee Lowrey, Chairman

BY: 
Curtis Ellmore, Secretary

Attachment: Exhibit A – Title 21 Setback Maps



Name: S-1A_DRAFT / PA2020-006

S-1A - West Newport

Setback Map



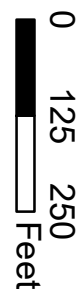


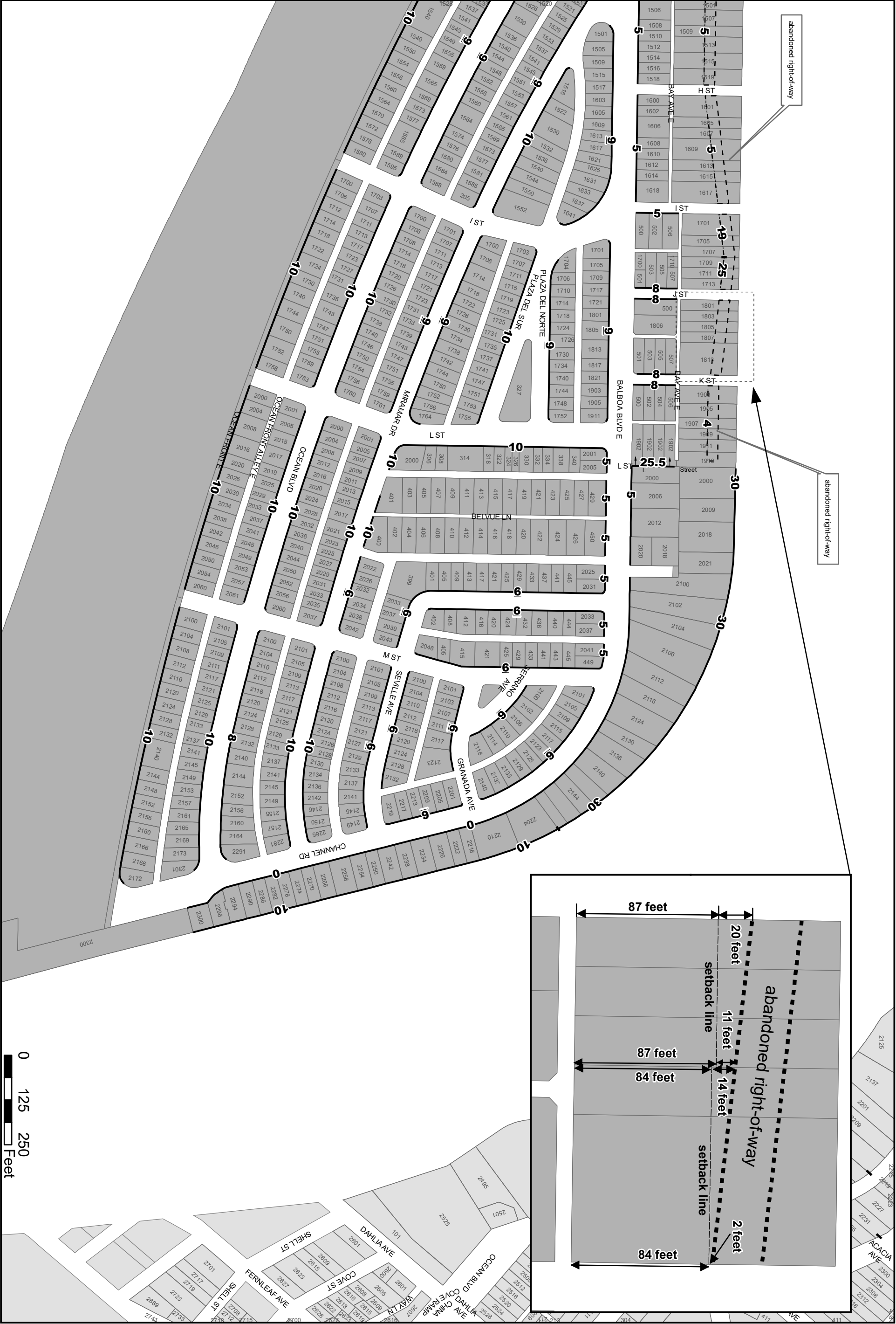
Name: S-2E_DRAFT / PA2020-006

0 125 250
Feet

S-2E - Balboa Peninsula

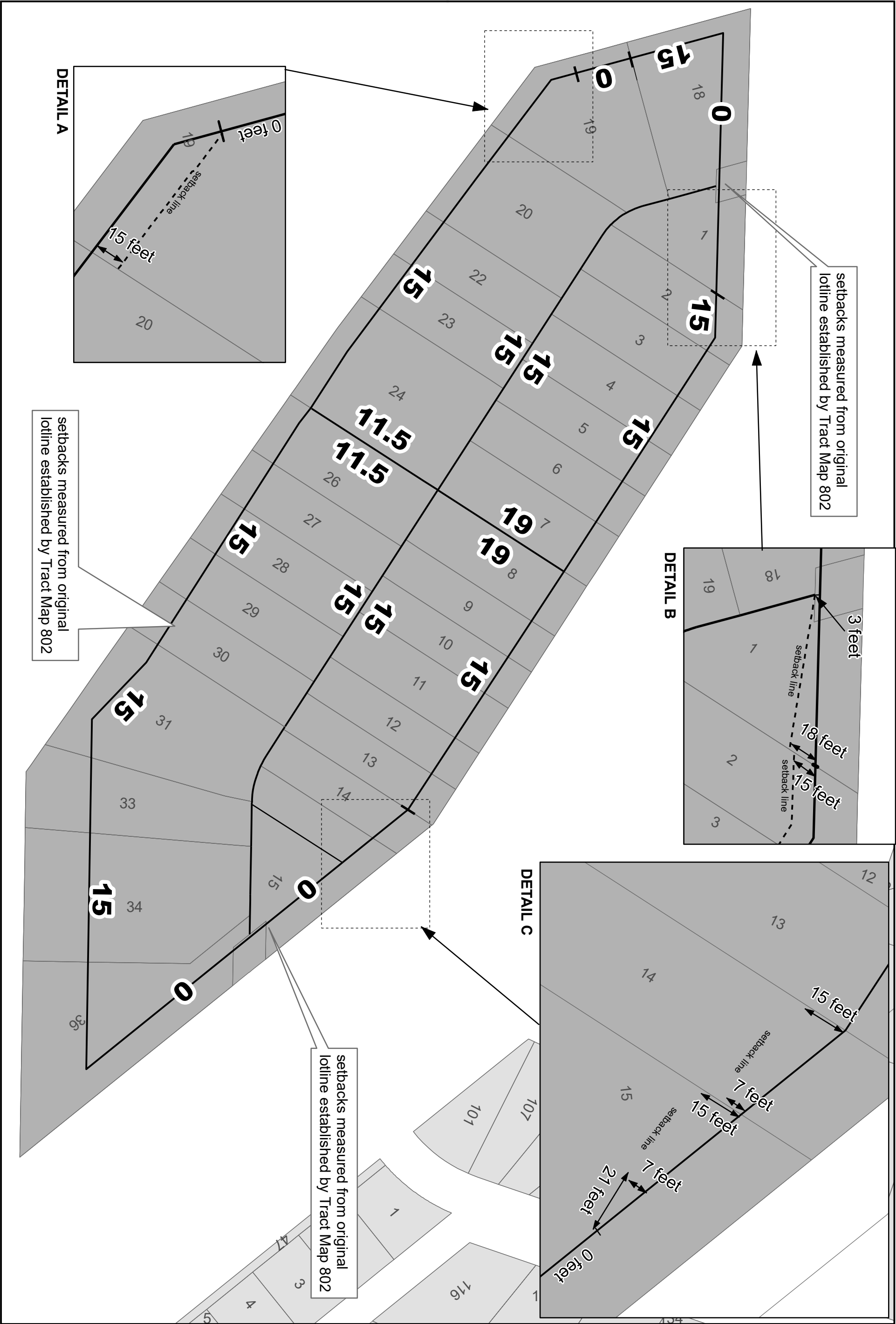
Setback Map



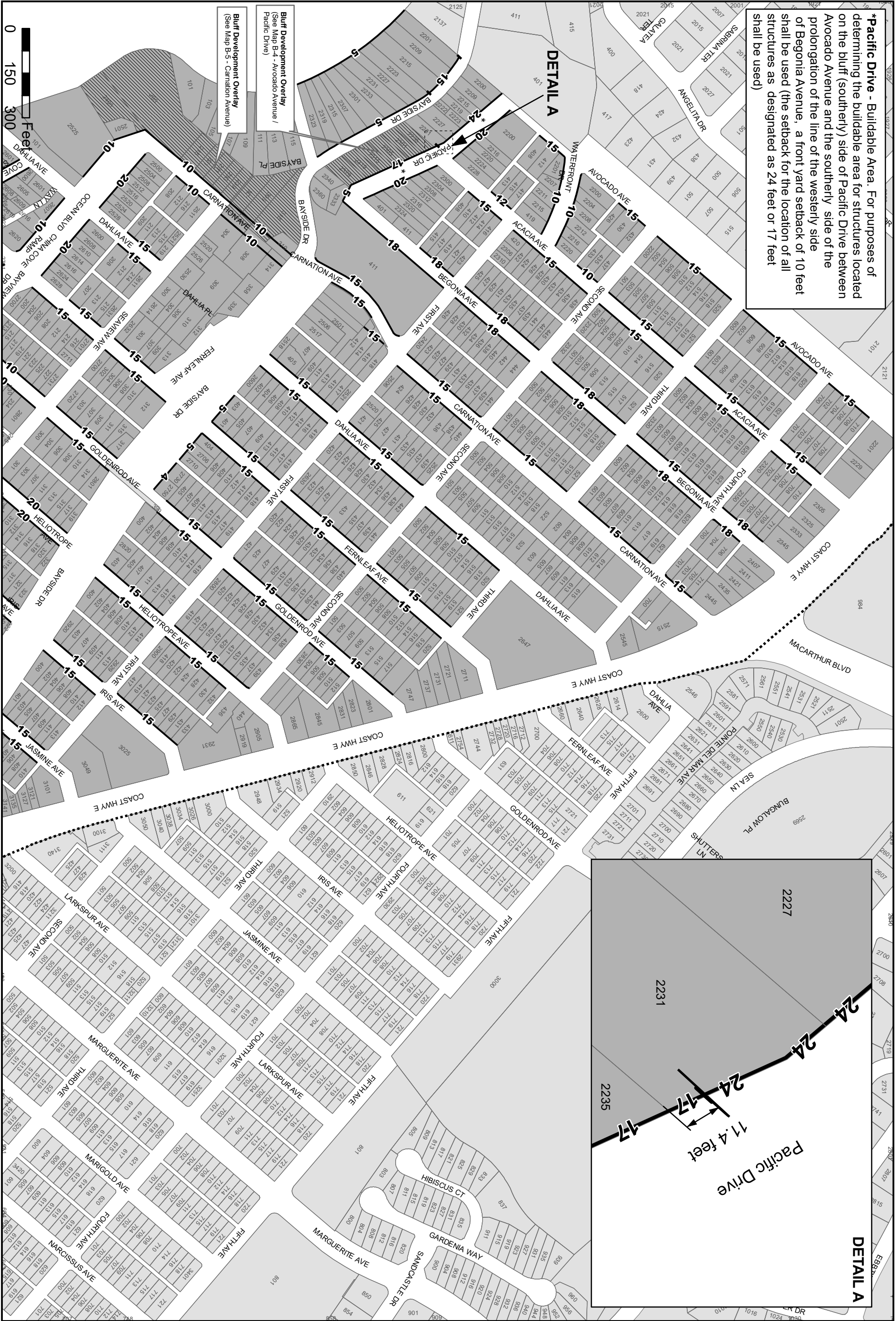


S-2G - Balboa Peninsula

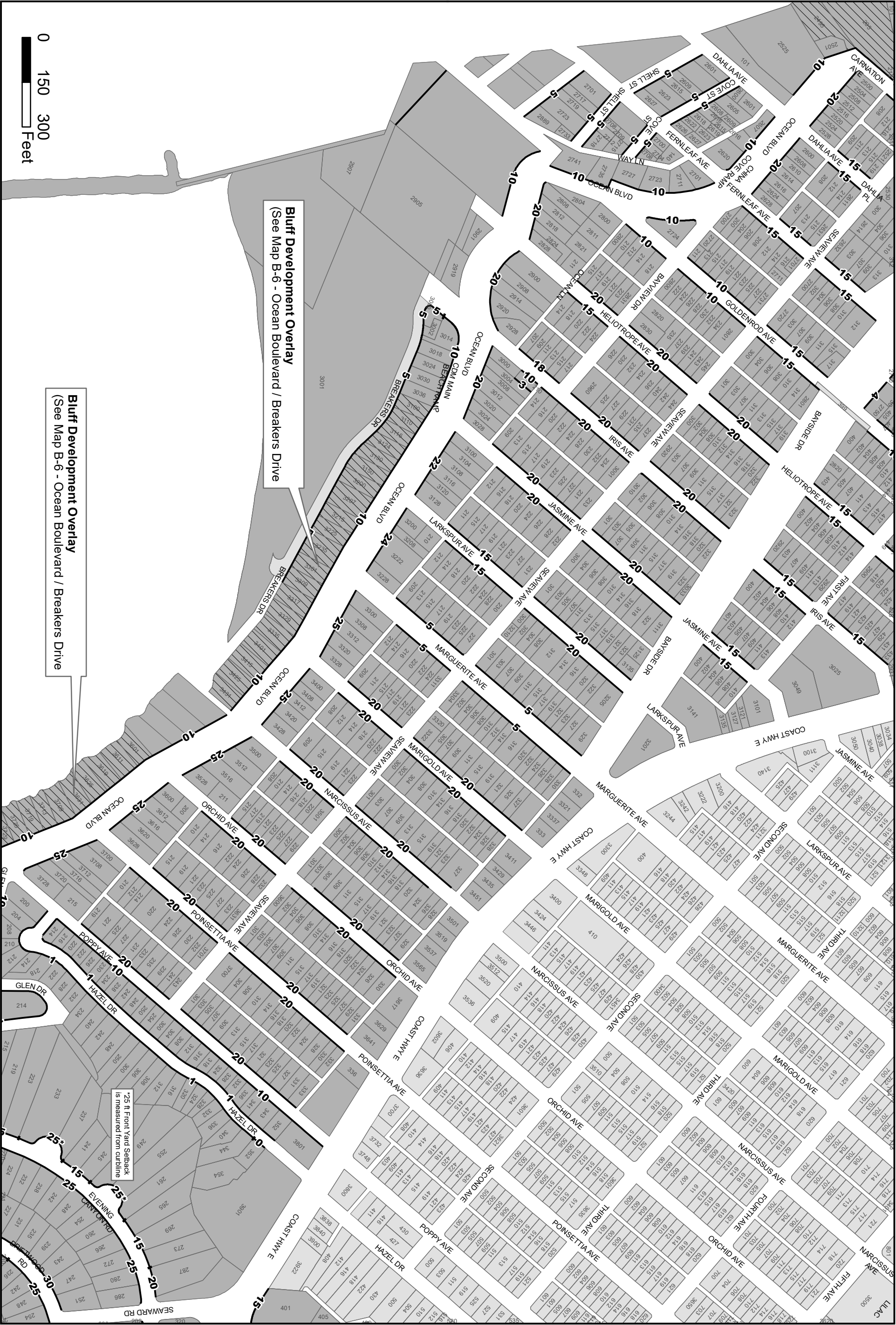
Setback Map



***Pacific Drive - Buildable Area.** For purposes of determining the buildable area for structures located on the bluff (southerly) side of Pacific Drive between Avocado Avenue and the southerly side of the prolongation of the line of the westerly side of Begonia Avenue, a front yard setback of 10 feet shall be used (the setback for the location of all structures as designated as 24 feet or 17 feet shall be used)



Name: S-10A_IP_DRAFT / PA2020-006



S-10B - Corona del Mar

Setback Map



Name: S-10D_DRAFT / PA2020-006