**CITY OF NEWPORT BEACH**
**COMMUNITY DEVELOPMENT DEPARTMENT**
**100 CIVIC CENTER DRIVE**
**NEWPORT BEACH, CA 92660**
**(949) 644- 3209**

# Memorandum

**To:** Planning Division Staff

**From:** Jaime Murillo, Senior Planner

**Date:** December 18, 2013

**Re:** Allowable height of freestanding fireplaces and barbeques when located within Planned Community Districts

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For Planned Community Development Plans that do not include provisions related to the encroachment of freestanding fireplaces and barbeques into setback areas, it has been determined that such improvements may be permitted in setback areas, consistent with the provisions of Section 20.30.110.D.8 of the Zoning Code. However, consistent with the intent of the Zoning Code Section, the height of such structures may be increased consistent with the allowed height of fences and walls permissible under the applicable Planned Community Development Plan.

For example, if a Planned Community Development Plan allows for 8-foot-high fences and walls located within side and rear setbacks, a freestanding fireplace may also be constructed at a height of 8 feet.

# CITY OF NEWPORT BEACH

## COMMUNITY DEVELOPMENT DEPARTMENT

## MEMORANDUM

**DATE:** March 21, 2011

**TO:** Planning Division

**FROM:** Jaime Murillo, Associate Planner

**SUBJECT:** Broadmoor Pacific View PC Text- Setback Determination **(PA2011-013)**

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On March 17, 2011, the Planning Commission made a determination regarding the application of setbacks within the Broadmoor Pacific View Planned Community Text (PC-18). The intent of this memorandum is to supplement the PC-18 text by: 1) clarifying which setback map should be referenced when determining the minimum street and view setbacks for lots within the community; and 2) establishing a minimum 5-foot side setback requirement for non-zero lot line configurations.

### SETBACK MAP DETERMINATION

#### *Issue*

Instead of establishing traditional front and rear yard setbacks, the Broadmoor Pacific View Planned Community text (PC text) establishes specific "street setbacks" and "view setbacks" for each of the lots in the community and refers to a setback map/plan that establishes specific street and view setbacks for each of the lots.

#### *Determination*

The community was developed as three separate tracts: Final Tract Map No. 9047, Final Tract Map No. 9260, and Final Tract Map No. 9261. Depending on which final tract the lot is located within determines which setback map shall be referenced for determining street and view setbacks:

| Final Tract | Correct Setback Map |
|---|---|
| Tract 9047 | Tentative Tract 9047 Setback Map |
| Tract 9260 (includes house and garage setbacks) | Final Setback Map for Tract 9260 |
| Tract 9261 | Tentative Tract 9047 Setback Map |

## SIDE SETBACK DETERMINATION

### *Issue*

Section IV.E (Side Yard) of the PC text regulates side setbacks as follows:

> *A zero side yard setback between the structure and the lot line shall be permitted on one side provided there are no openings on the zero side yard wall and that a total of ten (10) feet shall be provided between structures.*

The above standard is intended to regulate a zero-lot line development configuration; however, the community was not developed with zero-lot lines. In most cases, the developer designed the homes in a manner that provides a minimum 4-foot setback on one side of the property and a minimum 6-foot setback on the other side. In this configuration, two houses side-by-side would comply with the minimum required separation of 10 feet between houses (see exhibit below). In order to implement the zero-side setback concept, the use of easements within the CC&Rs and not separately recorded on lots was established giving use of the 4-foot side area to the adjacent property for landscaping purposes. For the purpose of this discussion, this configuration is referred to as the "assumed zero-lot line configuration". In some cases, lots located near the end of cul-de-sacs were not provided with landscaping easements because larger side setbacks were provided due to non-rectangular shape of the lots.

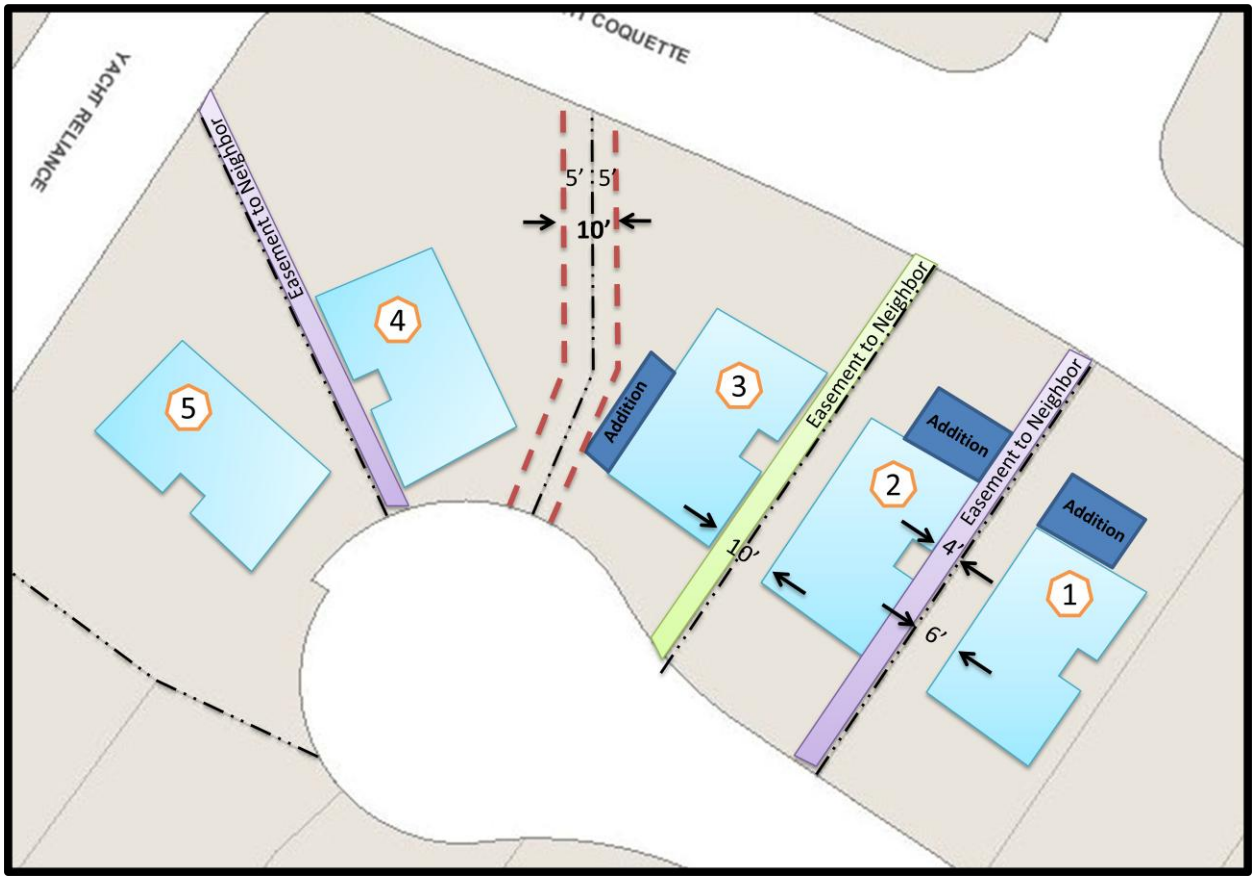
The PC text is silent on what the minimum side setback should be in instances where a zero-lot line is not proposed. The PC text is unclear as to whether or not the minimum 10-foot separation requirement only applies in a zero-side circumstance, or if the 10-foot separation is a stand alone requirement. This question becomes even more important when abutting lots have an assumed zero-lot line configuration on opposite sides of a common lot line.

### *Determination*

The PC text is silent on the application of side setbacks in non-zero lot line configurations, and therefore by default, the minimum side setbacks of the Zoning Code would apply. The most appropriate zoning designation in the Zoning Code applicable to the Broadmoor Pacific View community would be the Single-Unit Residential (R-1) District, in which case a minimum side setback of 4 feet would be required. However, in order to achieve a fair and equitable setback while achieving the 10-foot minimum separation requirement, <u>a minimum side setback of 5 feet shall be provided</u>.

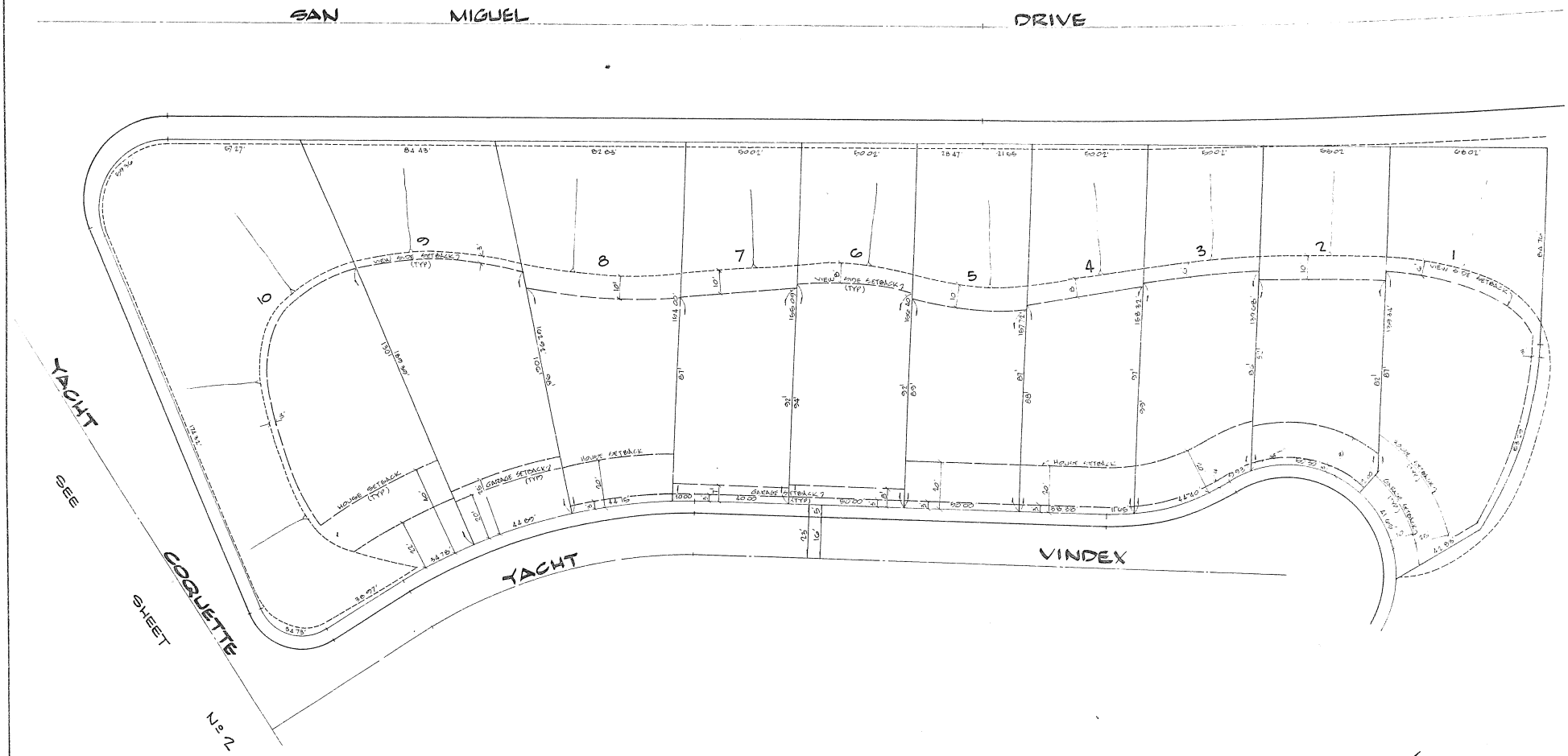
Exception: For those properties that maintain an “assumed zero-lot line configuration” and that currently provide a 4-foot minimum side setback, additions to the building shall be allowed to be constructed to the side setback in effect at the time the building was constructed. Also, for properties that currently provide a setback greater than 5 feet, additions shall also maintain the 10-foot separation requirement between houses.

# Side Setback Exhibit



# Setback Map
# TRACT 9047

167 RESIDENTIAL LOTS 22 COMMON LOTS 2 OPEN SPACE LOTS
50.00 ACRES
IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA

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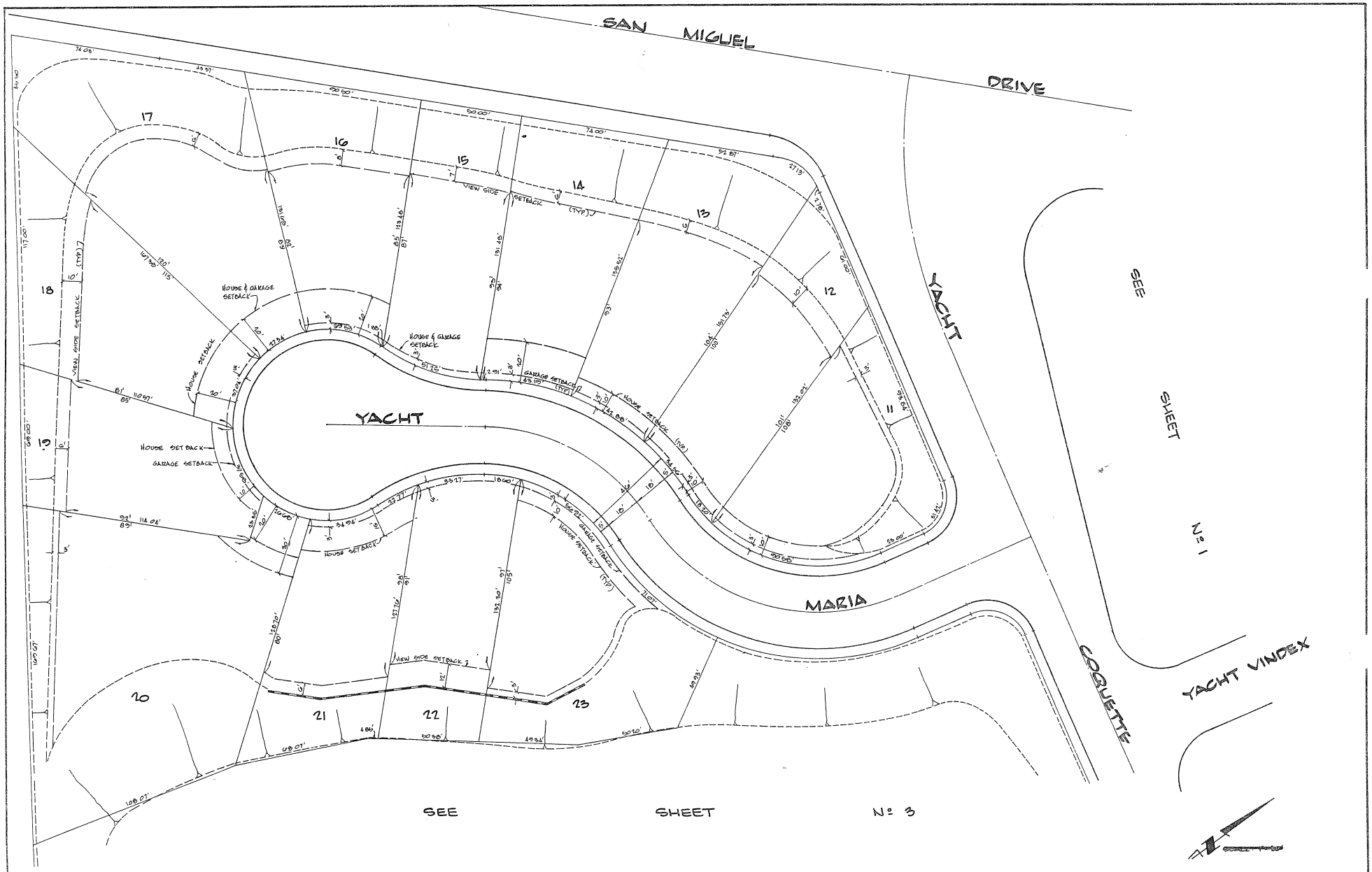
# FINAL SETBACK MAP FOR TRACT 9160 BROADMOOR SEAVIEW

1 OF 4

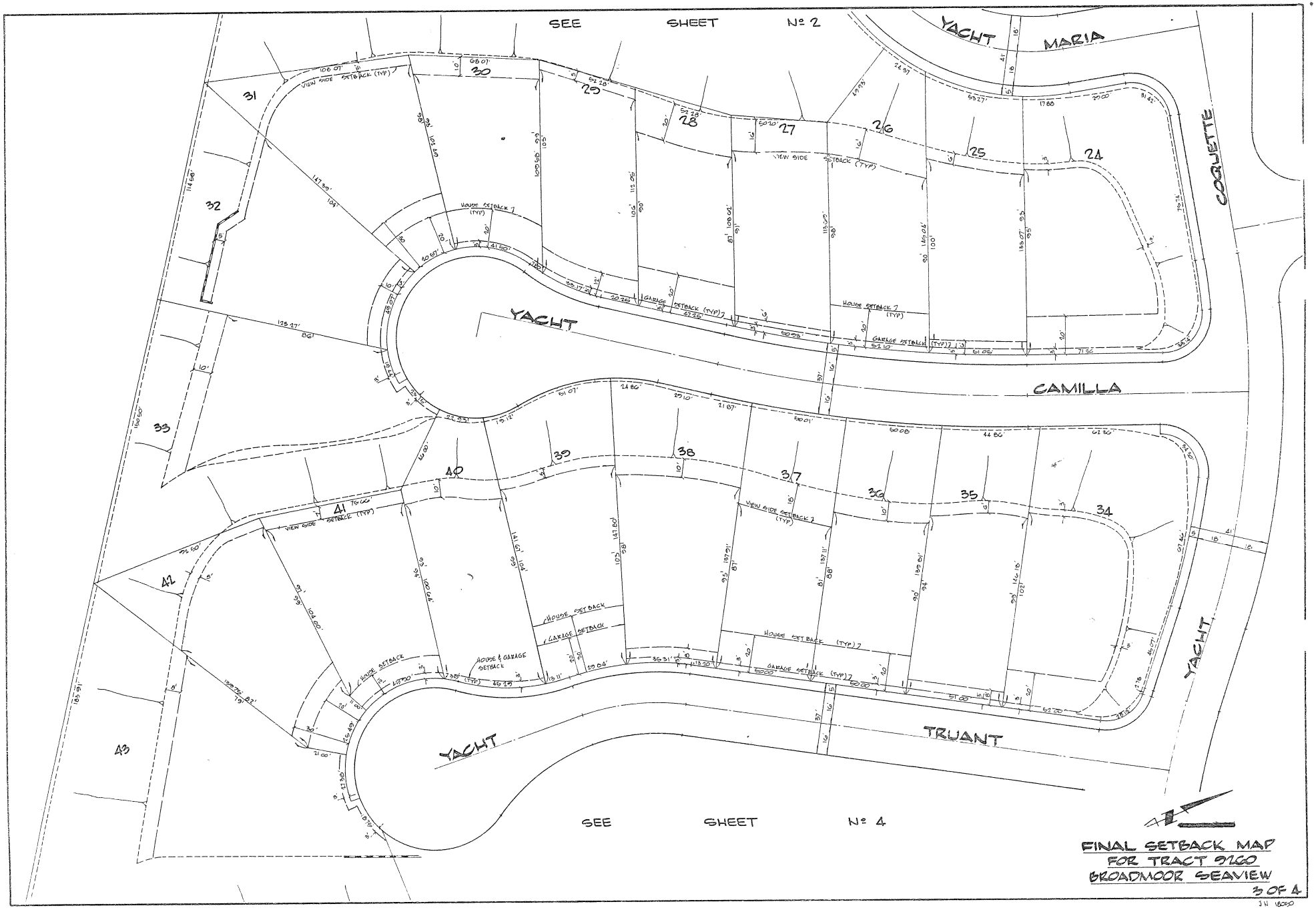
J.N. 18050




FINAL SETBACK MAP
FOR TRACT 9260
BROADMOOR SEAVIEW

1 OF 4

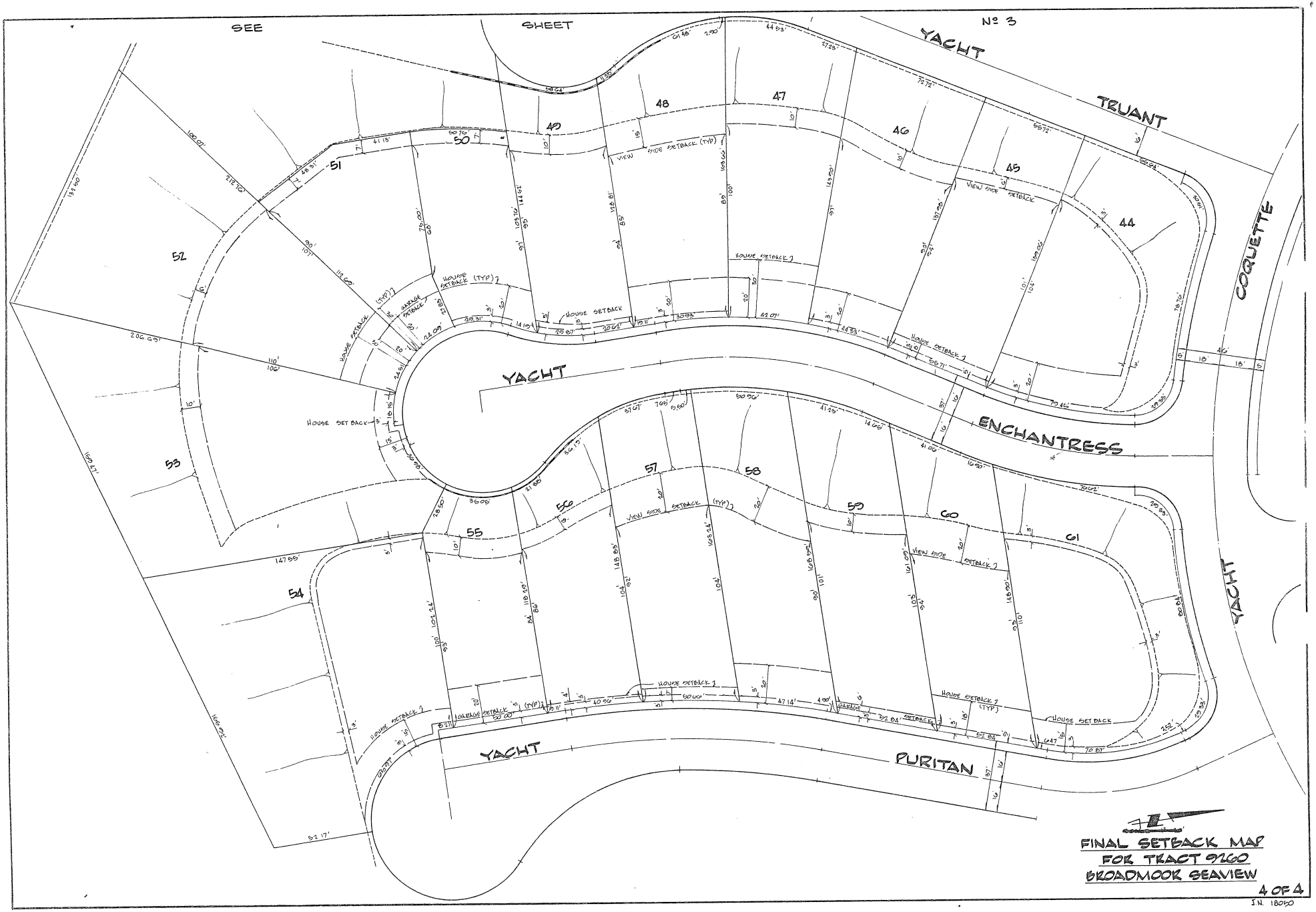
J.N. 18060




FINAL SETBACK MAP
FOR TRACT 9160
BROADMOOR SEAVIEW

3 OF 4

JN 18050



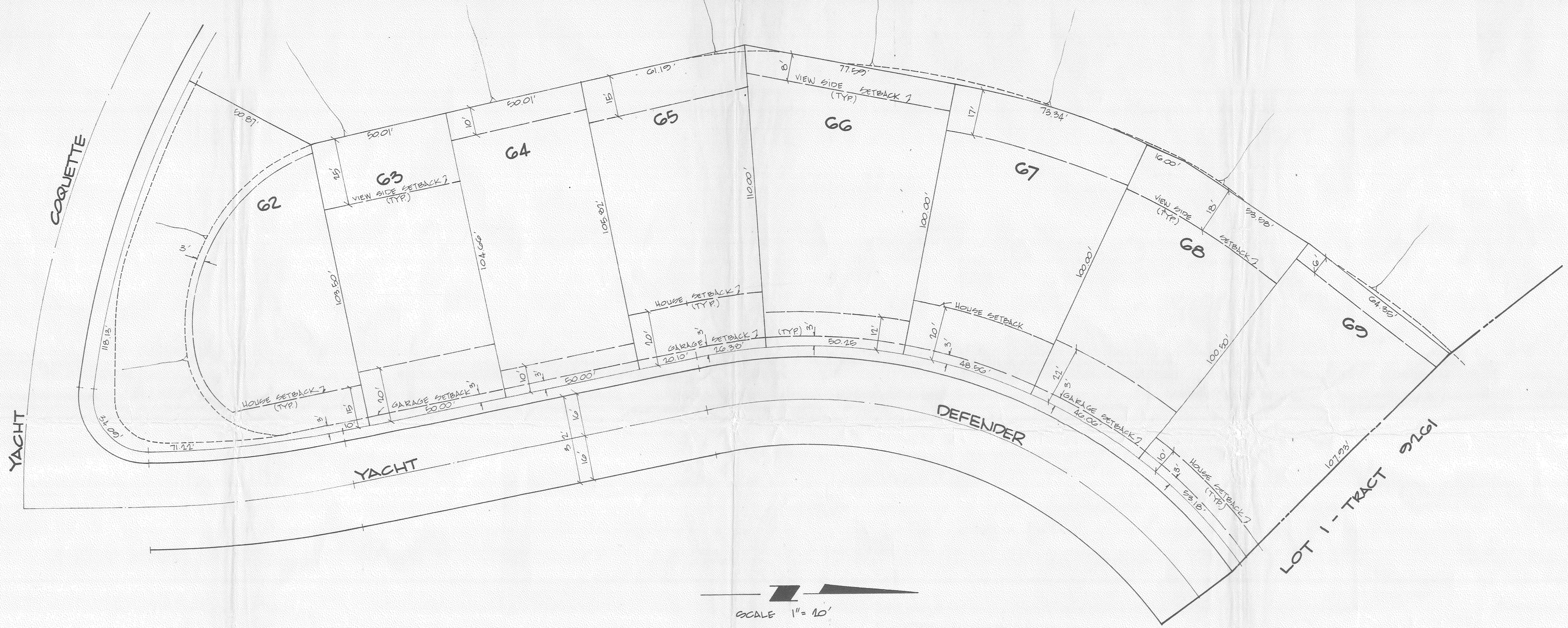

FINAL SETBACK MAP
FOR TRACT 9260
BROADMOOR SEAVIEW

4 OF 4

I.N. 18050

TT 9047
8 of 16

LOT 70 - RECREATION CENTER




# FINAL SETBACK MAP
FOR
TRACT 9260 (MODEL AREA)
BROADMOOR SEAVIEW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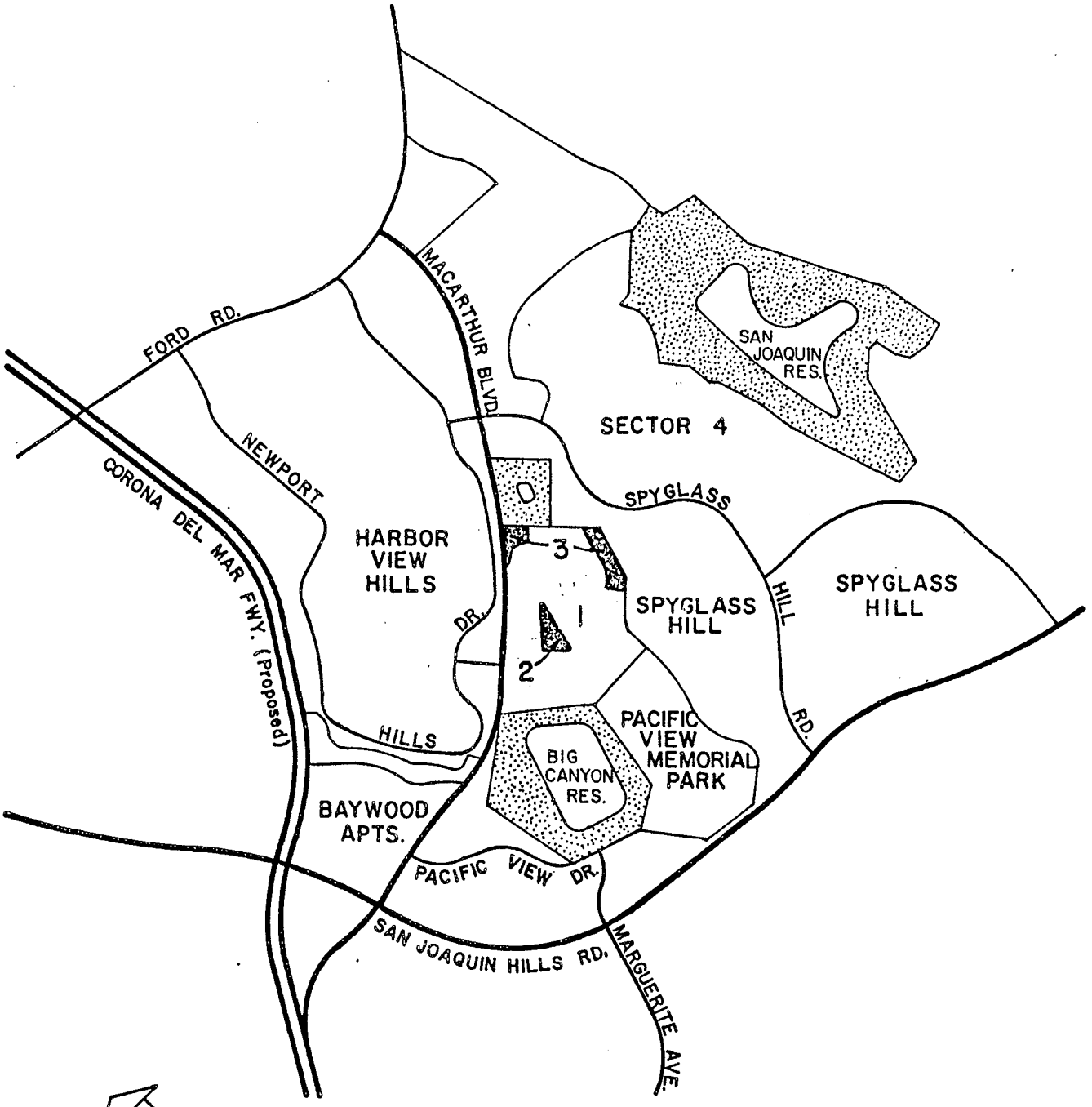
J.N. 18046 MAY 20 1976

# The Broadmoor Pacific View PC (Planned Community) District Amendment No. 18

Adopted by the City Council on July 28, 1975




LEGEND

- LOW MEDIUM DENSITY RESIDENTIAL
- PARK AND RECREATION AREA
- OPEN SPACE AREA
- RESERVOIR

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# BROADMOOR PACIFIC VIEW

LAND USE PLAN

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# INTRODUCTION

The Broadmoor Pacific View PC (Planned Community) District within the City of Newport Beach has been prepared in accordance with Amendment No. 18 to the City of Newport Beach General Plan, adopted by the City Council on July 28, 1975, to provide low density residential development within a 50-acre parcel being subdivided from the Pacific View Memorial Park.

The purpose of this PC (Planned Community) District is to provide a method whereby this property may be classified and used for residential development while also allowing flexibility of land use and development standards.

Except as expressly stated within the text of this PC (Planned Community) ordinance, all applicable provisions and requirements of the City of Newport Beach Zoning Law shall apply.

**SECTION I.** STATISTICAL ANALYSIS

BROADMOOR PACIFIC VIEW

| Type | Area | Acres | D.U./acre | D.U. | Per/D.U. | Population |
|---|---|---|---|---|---|---|
| Low Density Res. | 1 | 45.9 | | 175 | 3.6 | 630 |
| Park | 2 | 2.5 | | | | |
| Natural Open Space | 3 | 1.6 | | | | |
| TOTAL | | 50.00 | | 175 | 3.6 | 630 |

**SECTION II.** GENERAL

An estimated total population of 630 persons is anticipated for the planning area. This figure has been used in estimating the need for community facilities.

Schools

The community of Pacific View falls within the Newport-Mesa Unified School District. In an effort to anticipate the maximum number of school students to be generated by the total community, the highest student per unit factor was applied.

The following figures represent a projected total student enrollment based upon anticipated numbers of dwelling units to be constructed.

AREA 1
NEWPORT-MESA UNIFIED SCHOOL DISTRICT

| Type | Students/ Dwelling Unit | Dwelling Units | Students |
|---|---|---|---|
| Elementary (k-5) | .55 | 175 | 96 |
| Junior High (6-8) | .30 | 175 | 53 |
| Senior High (9-12) | . 35 | 175 | 61 |
| TOTAL | | | 210 |

Recreation

Private park and open space areas totaling approximately 2.5 acres are proposed to serve the recreational needs of Broadmoor Pacific View. In addition, a natural open space area has been provided in the north portion of the project area.

All private open and recreational areas within the development boundaries will be maintained by a private community association established by and consisting of homeowners within the subject development.

Uniform Building Code

No portion of this text withstanding, all construction within this Planned Community shall comply with the regulations of the Uniform Building Code as adopted by the City of Newport Beach.

**SECTION III.** DEFINITIONS

The following definitions refer to the permitted uses described in the Development Standards contained in this ordinance:

1. Conventional Subdivision on a Planned Community
   A conventional subdivision of detached dwellings and their accessory structures on individual lots where the lot size may be less than the required average for the district, but where the density for the entire subdivision meets the required standards and where open space areas are provided for the enhancement and utilization of the overall development.

**SECTION IV.** LOW DENSITY RESIDENTIAL

A. Permitted Uses

1. Single family detached dwellings.
2. Conventional subdivisions and conventional subdivisions on a Planned Community concept.
3. Parks, playgrounds, recreation or open space and green areas, riding, hiking, and bicycle trails and related facilities or a non-commercial nature.
4. Accessory buildings, structures, and uses where related and incidental to a permitted use.
5. One (1) on-site unlighted sign, not exceeding two (2) square feet in area, to advertise the lease, rental or sale of the property upon which it is located. Such sign may show only the name, address and the phone number of the owner, but shall not show the name, address, telephone number of any other description or identification of any person, firm or corporation other than the owner of said property.
6. Two (2) permanent community identification signs. Such signs may be lighted and may show only the name of the community.
7. One street identification sign at the entrance of each street. Such signs may show the street name, house numbers and owner's name.
8. Community recreational facilities and structures, subject to the development standards contained in Section V, Community Facilities, of this ordinance.

B. Area Per Dwelling

A minimum lot size of 4,500 square feet shall be provided. However, an average area of 8,000 square feet shall be provided for each dwelling unit except as approved by a use permit for cluster development. For the purpose of this section, average area per dwelling shall be defined as the average of all developed areas (to include parks, recreational and permanent open space) exclusive of all areas reserved for vehicular rights-of-way not including private driveways divided by the total number of dwelling units.

C. Maximum Building Height

All buildings shall comply with the restrictions established by the 24/28 foot height limitation district.

D. Setbacks from Streets

The following minimum setbacks shall apply to all dwelling structures (not to include garden walls or fences) adjacent to streets. Said setbacks are to be measured from the curb line.

| Street Designation | Setback from Curb Line |
|---|---|
| Local Access Street | 5' |
| Local Non-Access Collector Street | 10' |

Garages shall conform to the building setback requirements above except that front facing garage setbacks shall be as follows:

1) Where a sidewalk exists, the setback shall be 3 feet or a minimum of 20 feet, measured from the back of walk.
2) Where no sidewalk exists, the setback shall be 5 feet or a minimum of 20 feet, measured from back of curb.

Prior to the issuance of building permits for each phase of the project, a final setback map shall be submitted to the Community Development Director indicating the setbacks to all building areas proposed in the development. The Community Development Director shall review said map and all future modifications of the setbacks shown on this map in view of setbacks listed in this ordinance and/or sound planning principles and shall either approve, modify, disapprove the setbacks shown, or refer the matter to the Planning Commission for a determination. In the case of modification or disapproval, the applicant may appeal to the Planning Commission for further consideration.

E. Setbacks from Property Lines

All setbacks listed under this subsection refer to all property lines not affected by Subsection D above. Dwellings may orient towards the opposite property line in order to take advantage of view conditions.

Rear or Front Yard

The building setback on the view side shall be a minimum of three (3) feet from the top of the slope. The rear yard setback shall be a minimum of ten (10) feet from the toe of the slope. The street and view side setbacks shall be established on the approved site plan.

Side Yard

A zero side yard setback between the structure and the lot line shall be permitted on one side provided there are no openings on the zero side yard wall and that a total of ten (10) feet shall be provided between structures.

F. Fences, Hedges, and Walls

Fences shall be limited to a maximum height of eight (8) feet and are allowed within all setback areas, except in the street side and view side setback where a maximum height of three (3) feet shall be maintained. The maximum height of fences within the view side setback may be increased to six (6) feet provided they are or wrought iron, clear glass or other open type construction.

G. Trellis

Open trellis and beam construction shall be permitted to extend from the dwelling to within three (3) feet of the property line in the side yard, except that such trellis structures may extend to one (1) foot from the side property line provided they are fire resistant construction in accordance with the requirements of the City of Newport Beach. The maximum height of the trellis shall be eight (8) feet. These areas shall not to be considered in calculating lot area coverage; however, trellis areas shall not exceed 20 percent of the remaining open space of a developed lot. Trellis and beam construction shall be so designed as to provide a minimum of 50 percent of the total trellis area as open space for the penetration of light and area to areas which it covers.

H. Parking

Parking for residential uses shall be in the form of not less than two (2) garage spaces and two (2) uncovered guest spaces per dwelling unit. Guest parking may be located on street or off street. Cluster development guest parking shall be as required by a use permit.

I. Maximum Site Area Coverage

For aggregate building coverage, the maximum shall be 50 percent of any lot. For the purpose of this ordinance, coverage shall include all areas under roof, but shall not include trellis areas.

J. Architectural Features

1. Architectural features, including fireplaces, balconies, bay windows, cornices and eaves, may extend to two and one-half (2-1/2) feet into any front, or rear yard setback. These architectural features may extend to one (1) foot from the side yard property line

except that such architectural features may extend to the side property line provided they are fire protected in accordance with the requirements of the City of Newport Beach, and that a minimum of four (4) feet separation is maintained from similar projections or structures on an adjacent lot.

2. Uncovered balconies, decks, patios, walls or railings to a height of four (4) feet above the pad elevation may project a maximum of eleven (11) feet into the view side setback of a maximum of eight (8) feet beyond the top of slope adjacent to the unit, only on approximately 20% of the lots as indicated on the Setback Map. Each balcony, deck, patio, wall or railing shall be selected from one of three standard designs submitted by the developer and shall in each case be subject to the approval of the Modification Committee.

**SECTION V.** COMMUNITY RECREATIONAL FACILITIES

The following regulations apply to the development of private community recreational facilities. Prior to the issuance of a building permit, plot plans, elevations and any other such documents deemed necessary by the Community Development Developer shall be subject to the review and approval of the Community Development Director.

A. Permitted Uses

The following uses, provided they are in conjunction with private community recreational facilities and not commercial in nature, shall be allowed.

1. Parks, play grounds, tennis courts, pool, recreation or open green areas, riding, hiking and bicycle trails and related facilities.
2. Accessory buildings, structures and uses related and incidental to a permitted use.
3. Signs identifying or giving directions to permitted uses and facilities. No sign shall exceed thirty-five (35) square feet in area.

B. Maximum Building Height

All buildings shall comply with the height restrictions established by the City for the 24/28 foot height limitation district.

C. Setbacks

Twenty-five (25) feet from all residential property lines, and ten (10) feet from any streetside property lines. No structure shall be located closer to a residential structure on an adjacent site than a distance equal to twice the height of the non-residential building. The height of the non-residential structure above the grade elevation of the residential site shall apply. Structures which abut a park, greenbelt or other permanent open space may abut the common property lines.

D. Landscaping

A minimum of ten (10) feet (depth) of continuous landscaping shall be maintained adjacent to all street or highway rights-of-way in the community recreational facilities area, except for perpendicular access driveways and pedestrian walkways. Landscaping shall not exceed thirty (30) inches in height within ten (10) feet of an intersection or access drive.

E. Parking

Parking for twelve (12) vehicles shall be provided within the Community Recreational Facilities area. Location of said parking is subject to review of the Community Development Director. The Community Development Director shall review said facilities and require the amount of off-street parking deemed appropriate, relative to the intended use and activities of such facilities.