

# **Attachment C**

February 11, 2020 Staff Report



**CITY OF**

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# **NEWPORT BEACH**

## **City Council Staff Report**

February 11, 2020  
Agenda Item No. 19

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** Seimone Jurjis, Community Development Director - 949-644-3232, sjurjis@newportbeachca.gov

**PREPARED BY:** David S. Lee, Associate Planner  
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**TITLE:** Ordinance No. 2020-7: Amending the Newport Beach Municipal Code for Lido Isle Hedge Heights (PA2019-132)

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**ABSTRACT:**

For City Council's consideration is an amendment to Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zoning) and NBMC Title 21 (Local Coastal Program Implementation Plan) to increase allowable hedge height limitations in front setbacks abutting stradas on Lido Isle from 42 inches to 60 inches. Due to inconsistent hedge height regulations between the City of Newport Beach and Lido Isle Community Association (LICA), the Board of Directors for LICA has made a formal request that the City amend its regulations to be consistent with LICA's Covenants, Conditions, and Restrictions (CC&Rs). The amendments were initiated by the City Council on September 10, 2019, and were approved by the Planning Commission on December 5, 2019.

**RECOMMENDATION:**

- a) Conduct a public hearing;
- b) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
- c) Waive reading, read by title only, introduce Ordinance No. 2020-7, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 20 Entitled "Planning and Zoning" of the City of Newport Beach Municipal Code Related to Hedge Heights in Front Setbacks Abutting Stradas Within Lido Isle (PA2019-132)*, and pass to second reading on February 25, 2020; and
- d) Adopt Resolution No. 2020-19, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of Local Coastal Program Amendment No. LC2019-002 to the California Coastal Commission to Amend Title 21 Entitled "Local Coastal Program Implementation Plan" of the City of Newport Beach Municipal Code Related to Hedge Heights in Front Setbacks Abutting Stradas Within Lido Isle (PA2019-132)*.

## **FUNDING REQUIREMENTS:**

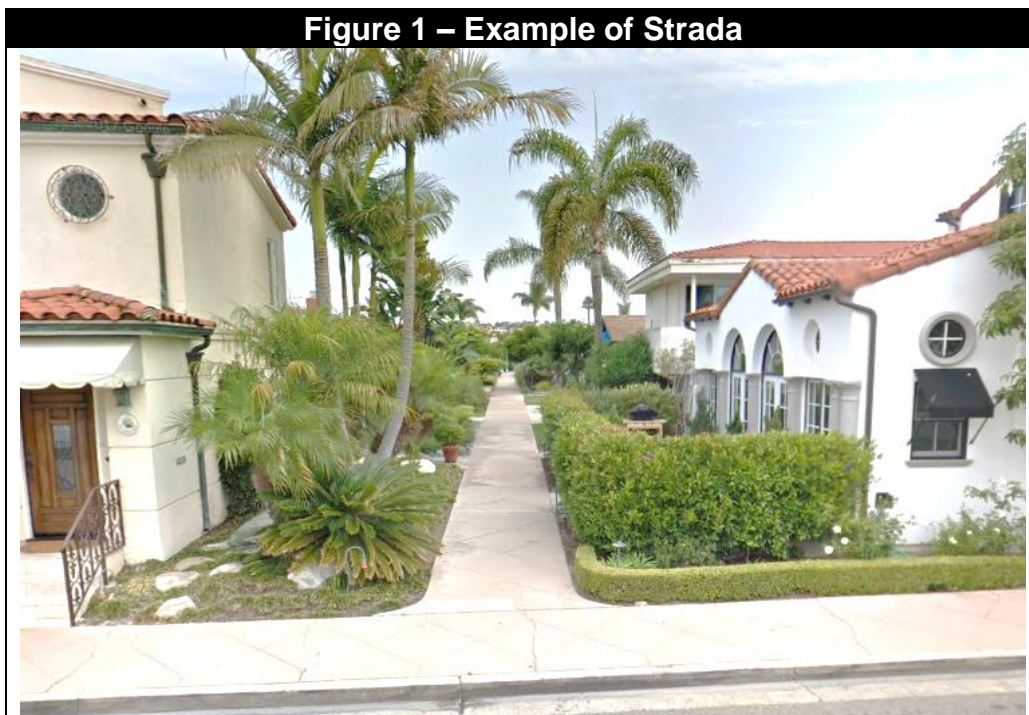
There is no fiscal impact related to this item.

## **DISCUSSION:**

### *Background*

There is an existing inconsistency in hedge height regulations between the City of Newport Beach and LICA. City regulations contained within NBMC Title 20 and Title 21 establish a maximum height of 42 inches for hedges within a required front setback area. In 2001, LICA homeowners voted to amend the CC&Rs to change the hedge height limit abutting stradas (public walkways) from 30 inches to 60 inches. The inconsistency between the City's code and LICA has created confusion for Lido Isle residents. Homeowners have received notices of violation from the City's Code Enforcement Division. As a result, the Board of Directors for LICA has made a formal request (Attachment C) that the City amend its regulations to raise hedge height maximums along the stradas on Lido Isle from 42 inches to 60 inches thereby making the Municipal Code consistent with their CC&Rs. A strada is a pedestrian walkway located between residential lots (Figure 1). After a review of Title 20 and Title 21, staff is proposing to amend the following sections:

- 20.30.040 and 21.30.040 (Fences, Hedges, Walls and Retaining Walls)
- 20.80.010 Area Maps (to add a map to identify Lido Isle)



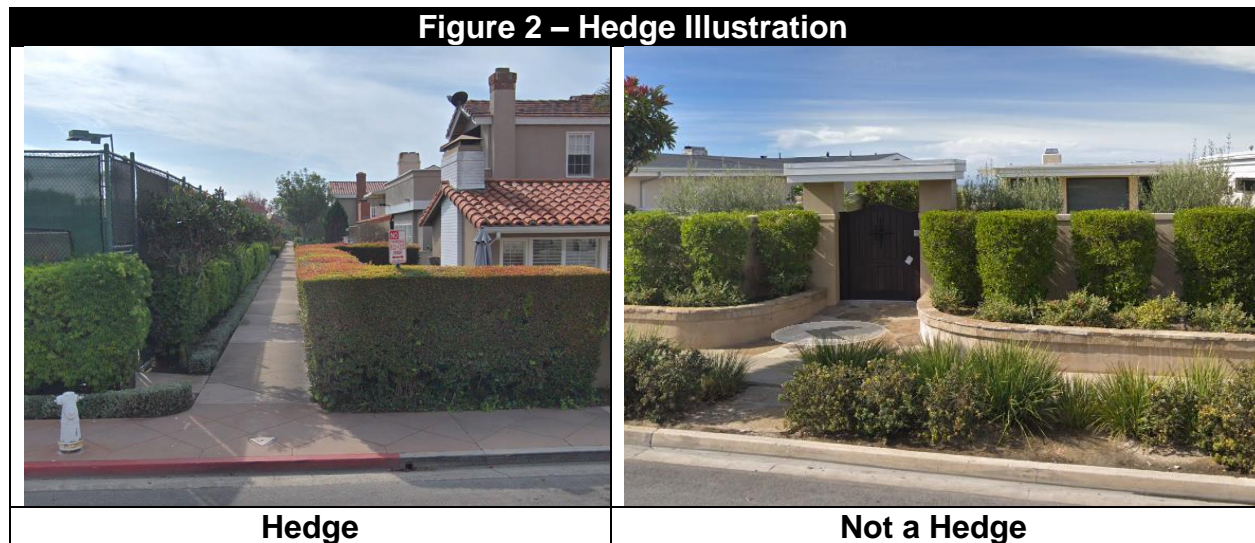
### *Code Amendment Initiation*

Pursuant to City Council Policy K-1 (General Plan and Local Coastal Program) and NBMC Section 20.66.020, the City Council initiated the amendments on September 10, 2019 (Attachment D) with the adoption of City Council Resolution No. 2019-78.

### *Current Regulations for Hedge Heights*

The maximum height for hedges, fences, and walls in front setback areas is 42 inches, as regulated by NBMC Title 20 and Title 21. Generally, the intent of restricting heights in front setbacks is to allow increased light and visibility to front yards, resulting in a more inviting and secure street frontage. Within rear and side setbacks, hedges, fences, and walls are allowed to a maximum height of 6 feet to allow for increased privacy.

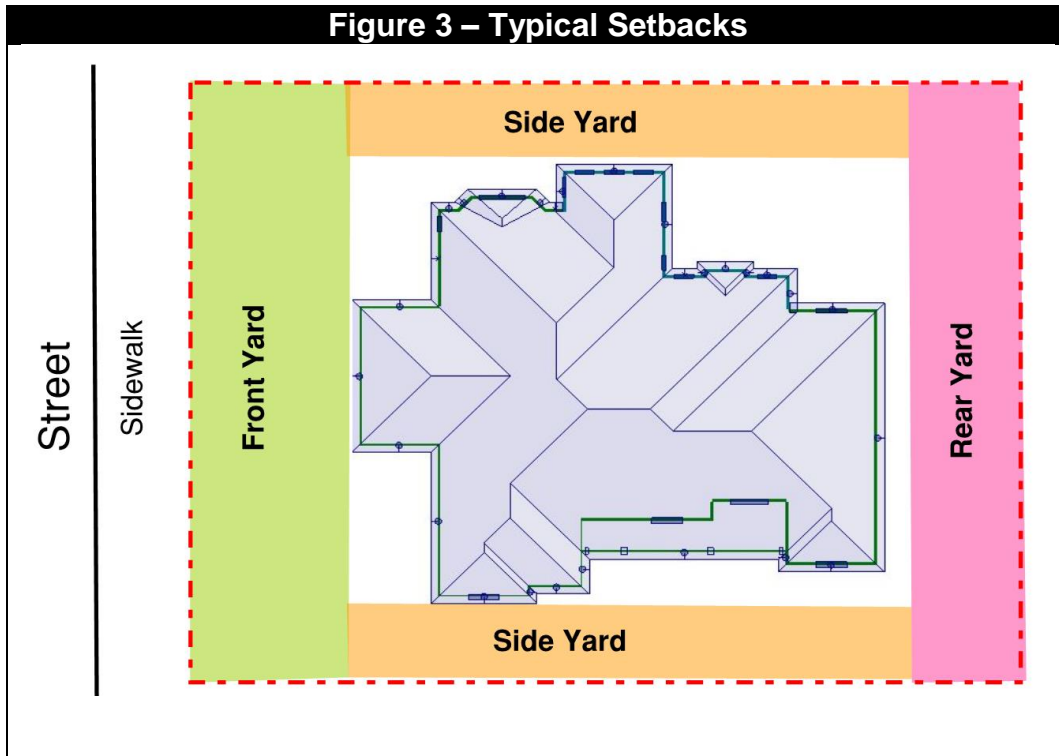
A hedge is defined as: “a group of shrubs or trees planted in a line or in groups forming a compact, dense barrier that protects, shields, separates, or demarcates an area from view. For purposes of this definition, a shrub is a perennial woody plant smaller than a tree, having multiple permanent stems branching from or near the base and lacking a single trunk; a bush.” Groups of shrubs that have visible gaps in between are not considered hedges and not regulated in height (Figure 2).



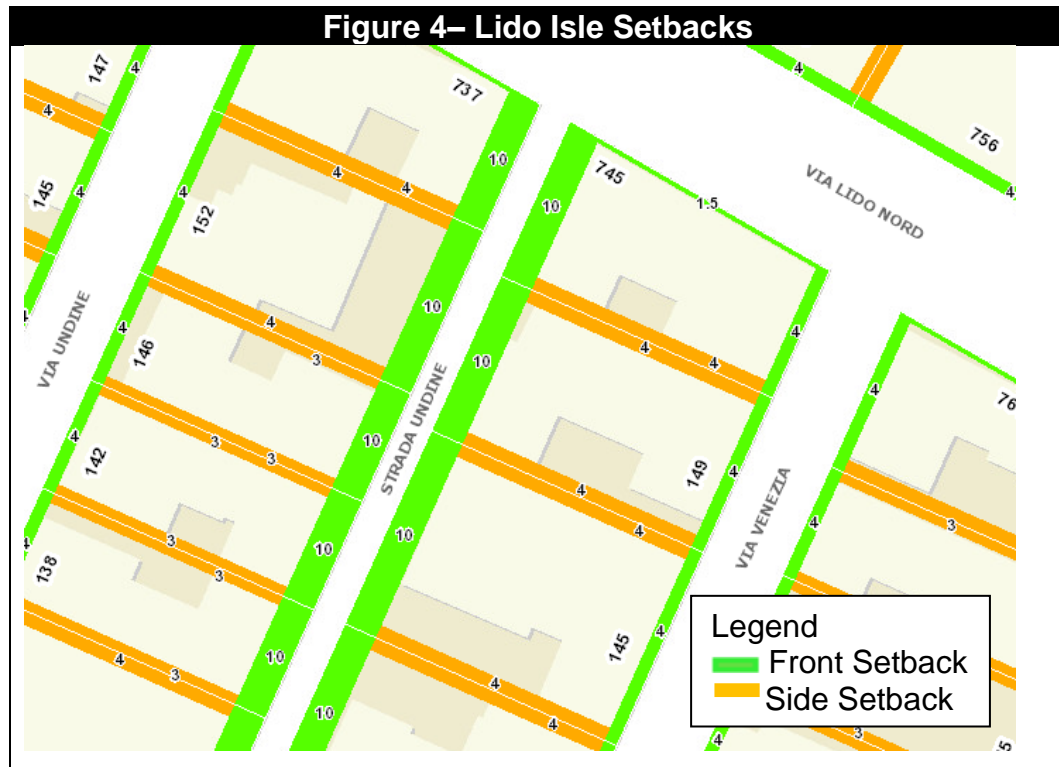
### *Setback Areas on Lido Isle*

Traditional residential lots are subject to a single front setback adjacent to the street frontage, two side setbacks, and a rear setback opposite the front (Figure 3). However, Lido Isle lots that do not abut the bay typically have multiple front setbacks. Interior lots typically have a 10-foot front setback abutting a strada and a 4-foot front setback abutting the street. Corner lots have an additional 1-foot 6-inch front setback abutting a side street (Figure 4). Given the unique orientation of the lots on Lido Isle, the front yards abutting the stradas function as rear yards but do not have the benefit of taller fences or hedges to ensure a measure of privacy.

**Figure 3 – Typical Setbacks**



**Figure 4– Lido Isle Setbacks**



### *Proposed Amendment*

The amendment would change the maximum hedge height from 42 inches to 60 inches in front setback areas abutting stradas only. The amended height limit would be consistent with LICA's CC&Rs. The amendment would not apply to fences or walls. Allowing hedges to grow up to 60 inches would increase the privacy within the front yards that abut the stradas. Front setbacks abutting streets and the bay front would remain limited to the 42-inch maximum to preserve views and vehicle sight distances. Staff does not anticipate that every property owner would allow their hedges to grow to the maximum height and the impact to pedestrians walking along the stradas would be minimal.

### *Planning Commission Approval*

On December 5, 2019, the Planning Commission adopted Resolution Nos. PC2019-035 and PC2019-036 (Attachments E and F) by a unanimous vote (6-0), recommending approval of Code Amendment No. CA2019-005 to the City Council and recommending the City Council to authorize submittal of Local Coastal Program Amendment No. LC2019-002 to the California Coastal Commission.

### *Coastal Commission Review*

Properties located in the Coastal Zone (Attachment I) of the City are regulated by the Local Coastal Program (LCP), which is comprised of the Coastal Land Use Plan (CLUP), a policy document, and the Implementation Plan (IP or Title 21), a regulatory document. Since Lido Isle is located within the Coastal Zone, an amendment to the Title 21 (Implementation Plan of LCP) is required.

On January 13, 2017, the California Coastal Commission (CCC) effectively certified the City's LCP and the City assumed coastal development permit-issuing authority on January 30, 2017. Any amendments to the LCP must be reviewed and approved by the City Council, with a recommendation from the Planning Commission, prior to submitting the amendment request to the Coastal Commission. The CCC is the final decision-making authority on amendments to the certified LCP.

The proposed amendment to raise hedge heights will not have an impact on public access or views to the bay front. Stradas serve as pedestrian walkways for internal lots on Lido Isle and do not provide public views of the bay. Additionally, the bay is not directly accessed from the stradas, as access is found on Via Lido Nord and Via Lido Soud around Lido Isle.



### **ENVIRONMENTAL REVIEW:**

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

### **NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the LCP Amendment was made available and a Notice of Availability was distributed on November 22, 2019, to all persons and agencies on the Notice of Availability mailing list and posted online on the City website.

In addition, notice of these amendments was published in the Daily Pilot as an eighth-page advertisement, consistent with the provisions of the NBMC. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website. Lastly, notice of this amendment was posted at the Lido Isle Association Clubhouse for the residents of Lido Isle.

### **ATTACHMENTS:**

~~Attachment A – Ordinance No. 2020-7~~  
~~Attachment B – Resolution No. 2020-19~~  
~~Attachment C – Letter of Request from LICA~~  
~~Attachment D – Resolution No. 2019-78~~  
~~Attachment E – Planning Commission Resolution No. 2019-035~~  
~~Attachment F – Planning Commission Resolution No. 2019-036~~  
~~Attachment G – December 5, 2019 Planning Commission Hearing Minutes~~  
~~Attachment H – Map of Lido Isle~~  
~~Attachment I – Map of Coastal Zone~~