



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

December 5, 2019
Agenda Item No. 1

SUBJECT: Lido Isle Hedge Heights Code and LCP Amendments (PA2019-132)
▪ Code Amendment No. CA2019-005
▪ Local Coastal Program Amendment No. LC2019-002

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: David Lee, Assistant Planner
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PROJECT SUMMARY

Amendments to Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zoning) and NBMC Title 21 (Local Coastal Program Implementation Plan) to raise maximum hedge height limitations in front setbacks abutting stradas on Lido Isle from 42 inches to 60 inches.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt pursuant to State CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment;
- 3) Adopt Resolution No. PC2019-035 (Attachment No. PC 1) recommending the City Council approve Code Amendment No. CA2019-005; and
- 4) Adopt Resolution No. PC2019-036 (Attachment No. PC 2) recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-002 to the California Coastal Commission.

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INTRODUCTION

Background

There is an existing inconsistency in hedge height regulations between the City of Newport Beach and Lido Isle Community Association (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 Association Covenants, Conditions, and Restrictions (CC&Rs) to change the hedge height limit abutting stradas (public walkways) from 30 inches to 60 inches. This change has created confusion for Lido Isle residents and puts homeowners at risk of receiving notices of violation from the City. As a result, the Board of Directors for LICA has made a formal request (Attachment No. PC 3) 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. 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

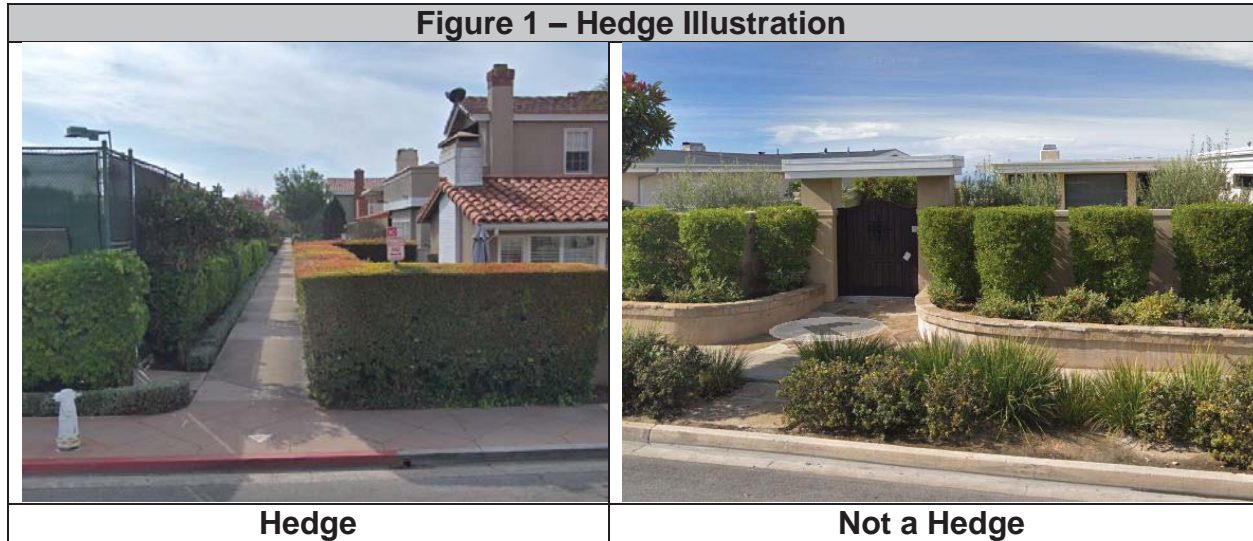
Pursuant to City Council Policy K-1 (General Plan and Local Coastal Program) and NBMC Section 20.66.020, the City Council initiated the amendments on September 10, 2019 (Attachment No. PC 4) with the adoption of City Council Resolution No. 2019-78.

DISCUSSION

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 1).



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 2). 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 3). A strada is a pedestrian walkway located between residential lots (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.

Proposed Amendment

The amendment would simply 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 the LICA CC&Rs. The amendment would 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. Staff also feels that the impact to pedestrians walking along the stradas would be minimal.

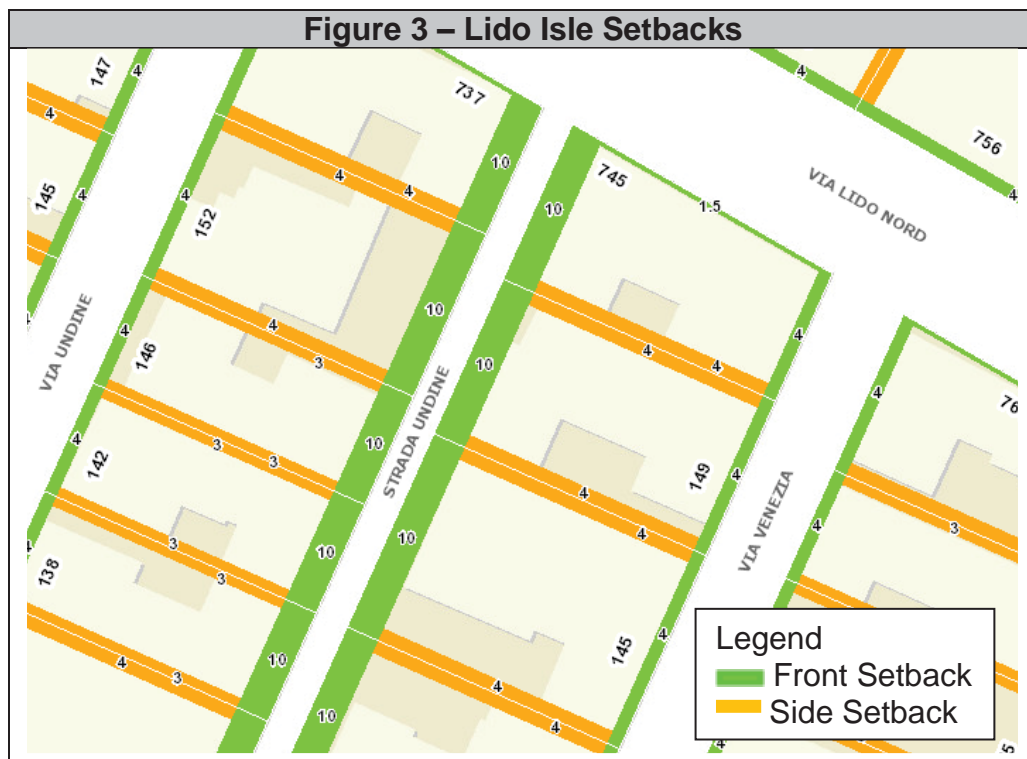
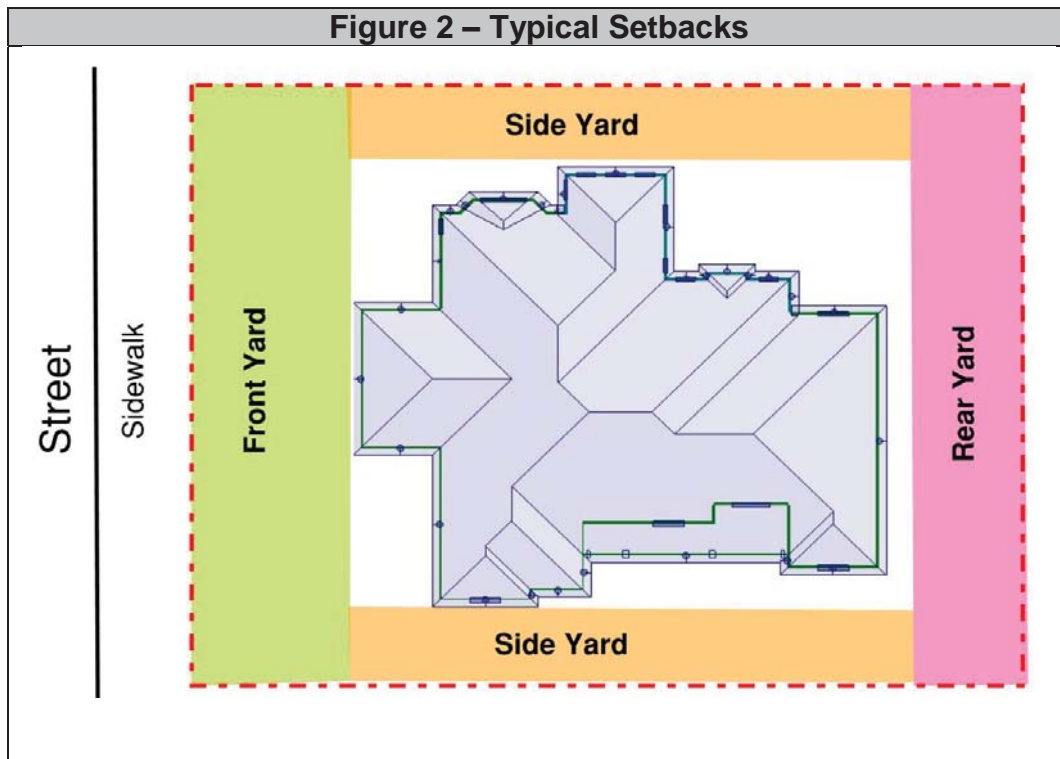


Figure 4 – Example of Strada



Coastal Commission Review

Properties located in the Coastal Zone (Attachment No. PC 7) 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 (“Coastal Commission”) 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 Coastal Commission 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 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

The action proposed herein is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt from the CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, 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. The Amendments do not authorize any development and therefore would not directly result in physical change to the environment.

Public Notice

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.

Prepared by:



David S. Lee, Assistant Planner

Submitted by:



Jim Campbell, Deputy Director

ATTACHMENTS

- PC 1 Draft Resolution- Title 20 Code Amendment
- PC 2 Draft Resolution- Title 21 Code Amendment
- PC 3 Letter of Request from LICA
- PC 4 City Council Resolution No. 2019-78
- PC 5 Redline Version of Amendments
- PC 6 Map of Lido Isle
- PC 7 Map of Coastal Zone

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Attachment No. PC 1

Draft Resolution
Title 20 Code Amendment

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RESOLUTION NO. PC2019-035

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING CITY COUNCIL ADOPTION OF CODE AMENDMENT NO. CA2019-005 TO AMEND TITLE 20 ENTITLED “PLANNING AND ZONING” OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO HEDGE HEIGHTS IN FRONT SETBACKS ABUTTING STRADAS IN LIDO ISLE (PA2019-132)

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

SECTION 1. STATEMENT OF FACTS.

1. An amendment to Title 20 (Planning and Zoning) of the City of Newport Beach Municipal Code (“NBMC”) in relation to hedge heights in front setbacks abutting stradas in Lido Isle is necessary due to the differing regulations between the City of Newport Beach (“City”) and Lido Isle Community Association (“LICA”) (“Amendment”).
2. A public hearing was held by the Planning Commission on December 5, 2019, 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.* the (“Ralph M. Brown Act”) and Chapters 20.62 and 21.62 of the NBMC. 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.

The Amendment is not a project subject to the California Environmental Quality Act (“CEQA”) in accordance with Section 21065 of the California Public Resources Code and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 (“CEQA Guidelines”). The Amendment is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Amendment itself does not authorize development that would directly result in physical change to the environment.

SECTION 3. FINDINGS.

1. Authorizing the amendment to Title 20 (Planning and Zoning) of the NBMC would correct an existing inconsistency in hedge height regulations between the City of Newport Beach and LICA. City regulations contained within NBMC Title 20 establish a maximum of 42 inches for hedges within front setback areas. In 2001, LICA homeowners voted to amend the Association Covenants, Conditions, and Restrictions (“CC&Rs”) to change the hedge height limit abutting stradas (public walkways) from 30 inches to 60 inches. The Amendment to Title 20 increases maximum hedge heights in front setback areas abutting stradas on Lido Isle from 42 inches to 60 inches, consistent with LICA CC&Rs.

2. An amendment to the Local Coastal Program (“LCP”) is also underway, as all Lido Isle properties are part of the coastal zone. The subject Code Amendment shall not become effective until approval of the subject LCP amendment 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.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission finds the Amendment exempt from CEQA pursuant to Section 21065 of CEQA and CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378, California Code of Regulations, Title 14, Division 6, Chapter 3. The Amendment is also exempt pursuant to CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment.
2. The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2019-005 as set forth in Exhibit “A,” which is attached hereto and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED THIS 5TH DAY OF DECEMBER, 2019.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chairman

BY: _____
Lee Lowrey, Secretary

EXHIBIT “A”**Proposed Code Amendment related to Hedge Heights in Front Setbacks Abutting Stradas In Lido Isle (CA2019-005)**

Section 1: Amending Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to read as follows:

20.30.040 Fences, Hedges, Walls, and Retaining Walls.

This section provides standards for the provision of fences, hedges, walls, and retaining walls.

A. Maximum Height Allowed.

1. Fences, Hedges, and Walls. Maximum heights of fences, hedges, and walls are shown in Table 3-1.

TABLE 3-1 MAXIMUM HEIGHT OF FENCES, HEDGES, AND WALLS	
Location	Maximum Height
Front setback areas.	42 inches. See subsection (B) of this section.
Rear and interior side setback areas.	6 feet in residential and commercial zoning districts. 8 feet in industrial zoning districts adjacent to residential uses.
Setback areas abutting or adjacent to the waterfront of Newport Bay, the shoreline of the Pacific Ocean, the Old Channel of the Santa Ana River (the Oxbow Loop), or the channels in West Newport.	42 inches from existing grade prior to construction. Setback areas on Balboa Island and Little Balboa Island that are abutting or adjacent to Newport Bay are regulated by subsection (B) of this section.
At intersections of streets, alleys and driveways within traffic sight areas.	See Section 20.30.130 (Traffic Safety Visibility Area).

2. Retaining Walls. The maximum height of a retaining wall shall be eight feet measured from finish grade at the base of the wall, not including any required guardrails. A minimum horizontal separation equal to the height of the tallest retaining wall shall be provided between retaining walls, except that the required separation shall not be more than six feet. The above requirements shall not apply to

retaining walls that are an integral part of principal structures. An increase in the height of a retaining wall may be requested in compliance with Section [20.52.050](#) (Modification Permits).

B. Special Area Regulations. In front setback areas in Balboa Peninsula, Balboa Island, Corona del Mar, West Newport, East Bay Front on Little Balboa Island, and North Bay Front and South Bay Front on Balboa Island fences and walls shall be allowed to extend to a height of five feet; provided, that any portion of the fence or wall above two feet shall be constructed of open grillwork, wrought iron, latticework, pickets, Plexiglas, or similar materials so that at least forty (40) percent of the portion of the fence or wall above two feet is open. See Figure 3-1.

C. Exceptions to Maximum Height.

1. Grade Differential. Where the existing or proposed grade of a lot adjacent to the front setback area is more than twenty-four (24) inches above the adjacent sidewalk (or curb elevation where no sidewalk exists), a maximum twenty-four (24) inch high retaining wall shall be allowed to be located at the front property line. Additional retaining walls shall be allowed to a maximum height of thirty-six (36) inches each, provided they are set back a minimum distance of twenty-four (24) inches from the inward face of the previous retaining wall. Additional retaining walls shall be subject to the same limitation. A maximum forty-two (42) inch guardrail shall be allowed atop the uppermost retaining wall for safety purposes, provided the guardrail is constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence is open. See Figure 3-1.

2. Decorative Fence/Wall Details and Lights.

a. Finials, light fixtures, pilaster caps, pots, and similar decorative items may be placed on fence or wall vertical support elements (e.g., pilasters, pillars, posts, etc.), provided they are secure and do not extend more than twelve (12) inches above the maximum allowed height.

b. The number of decorative items (e.g., finials, pilaster caps, pots, and similar items) and light fixtures shall be limited to not more than one item or fixture for every six lineal feet of fence or wall.

3. Fencing for Pools and Spas.

a. Swimming pools, spas, and other similar features shall be fenced in compliance with Title [15](#).

b. Fencing and guardrails for ponds, spas, and swimming pools located in a front setback area or in the rear and side setback areas regulated as front setback areas on lots with forty-two (42)

inch height limitations may be allowed to exceed the height limit in compliance with the following standards:

- i. Fences shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence or wall is open. In lieu of the above, glass or Plexiglas may be allowed; and
- ii. Fence height shall be limited to the minimum required by Title [15](#).

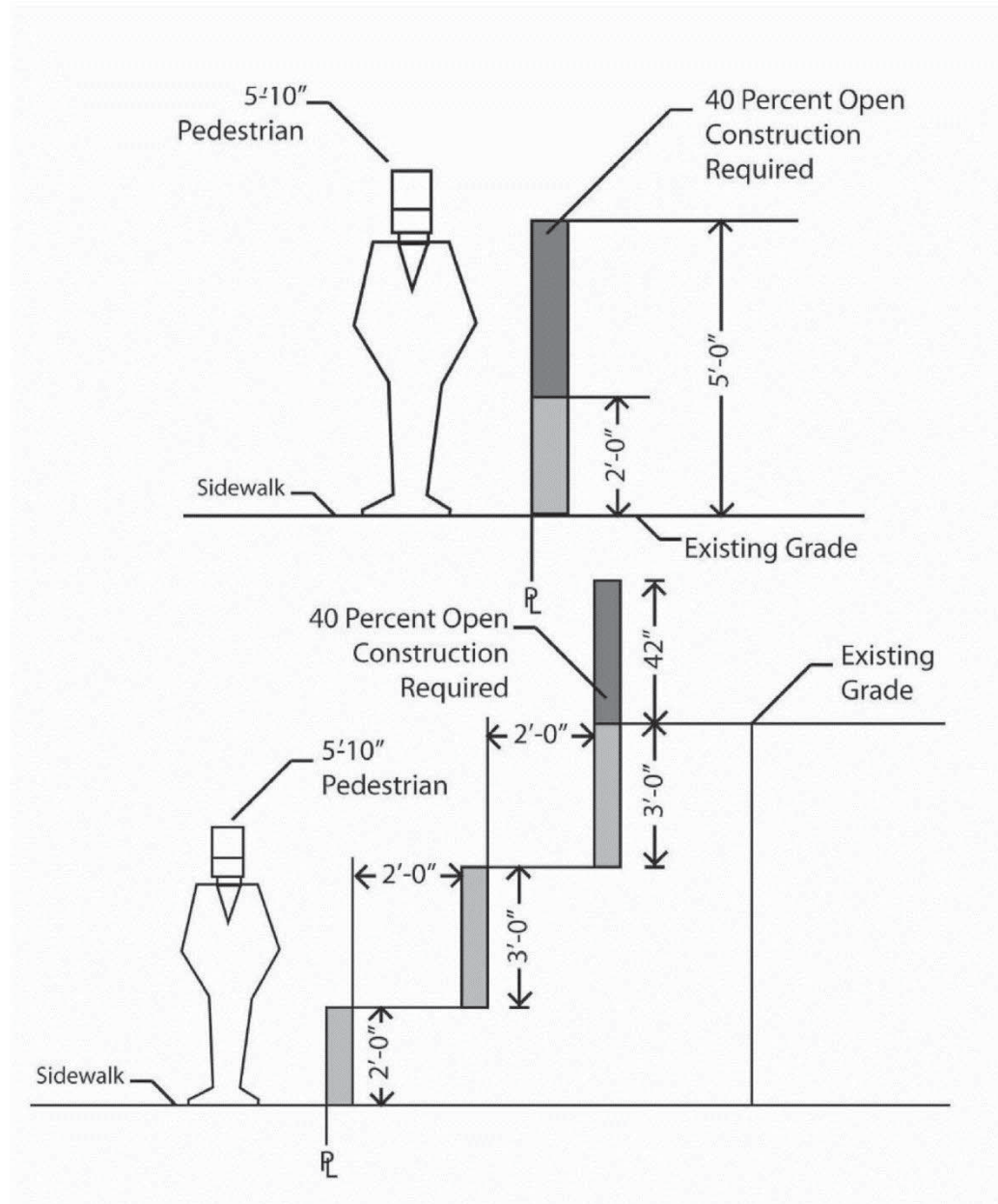


Figure 3-1

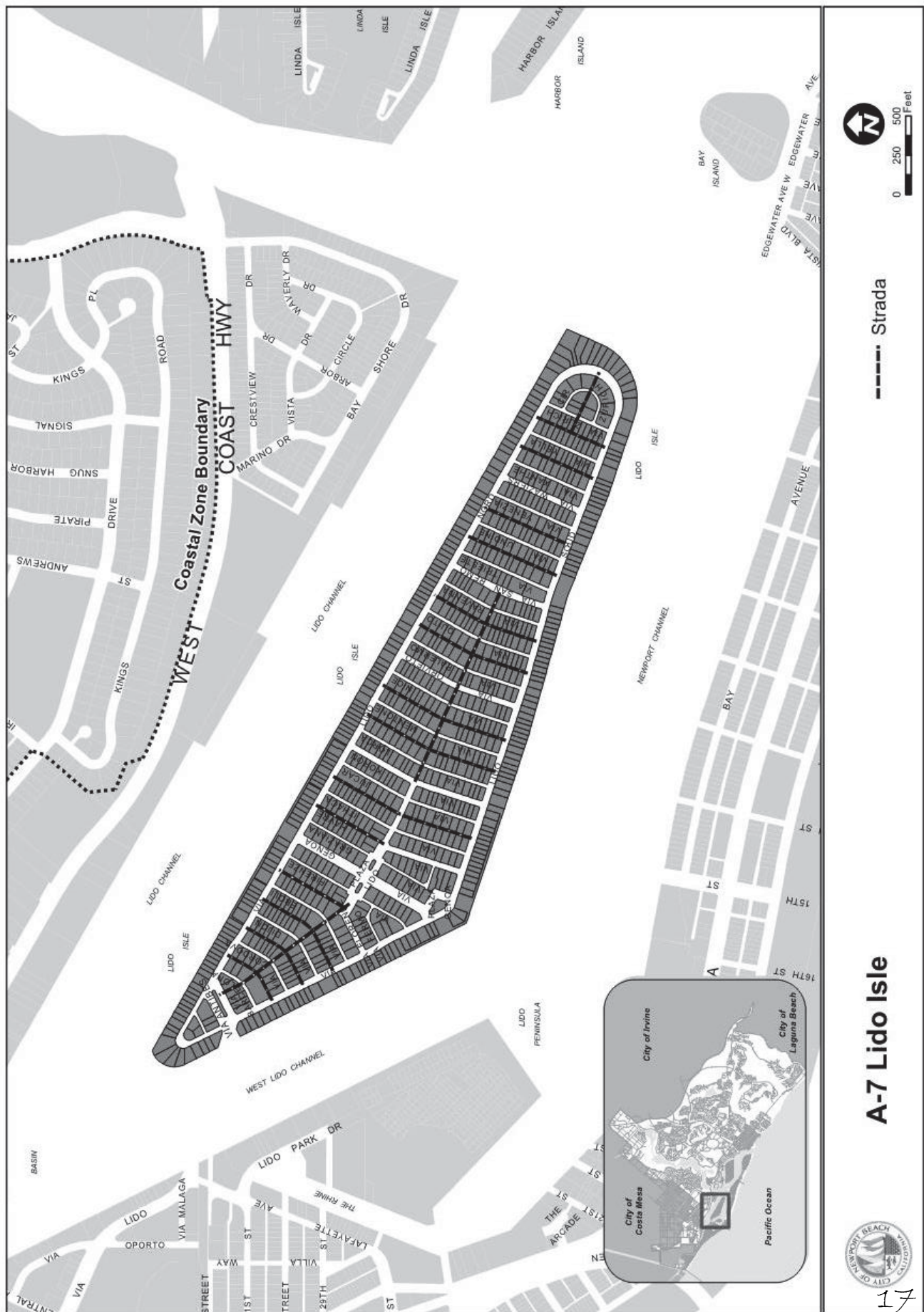
Grade Differential at Front Property Line

4. Residential Uses Adjacent to Commercial Uses or Alleys. For residential lots adjacent to nonresidential zoning districts or commercial alleys, fences, walls, or hedges may be up to eight feet in height in required residential side yards for buffering and/or sound attenuation.
5. Residential Lots Where the Top of Slab Is Required to Be Raised to 9.0 NAVD88 and Where the Grade of the Lot Is Proposed to Be Increased. The height of fences and walls within required side and rear yard setback areas may be increased provided the height does not exceed six feet as measured from the proposed finished grade and nine feet as measured from the existing grade prior to construction. Additionally, the height of fences or walls shall not exceed nine feet as measured from the existing grade of an abutting lot. The portion of the fence or wall above six feet in height from the existing grade prior to construction shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least sixty (60) percent of the fence or wall is open or is constructed of a transparent material.
6. Hedges on Lido Isle. In front setback areas abutting stradas in Lido Isle, the maximum hedge height shall be five feet.

D. Measurement of Fence or Wall Height. The height of a fence, hedge, or wall shall be measured from the existing grade prior to construction at the location where the fence, hedge, or wall is located.

E. Prohibited Fence Materials. Barbed wire, electrical fences, razor wire, and other similar materials shall not be allowed in residential zoning districts. (Ord. 2012-11 § 1 (Exh. A), 2012: Ord. 2010-21 § 1 (Exh. A)(part), 2010)

Section 2: Amending Section 20.80.010 (Area Maps) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to include Area Map A-7 – Lido Isle as follows:



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Attachment No. PC 2

Draft Resolution
Title 21 Code Amendment

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RESOLUTION NO. PC2019-036

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING CITY COUNCIL AUTHORIZE 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)

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

SECTION 1. STATEMENT OF FACTS.

1. As set forth in Section 30500 of the California Public Resources Code, the California Coastal Act requires each county and city to prepare a local coastal program (“LCP”) for that portion of the coastal zone within its jurisdiction.
2. The California Coastal Commission effectively certified the City’s Local Coastal Program Implementation Plan on January 13, 2017, and the City of Newport Beach (“City”) added Title 21 (Local Coastal Program Implementation Plan) (“Title 21”) to the Newport Beach Municipal Code (“NBMC”) whereby the City assumed coastal development permit-issuing authority as of January 30, 2017.
3. An amendment to Title 21 is necessary to allow a maximum hedge height of five (5) feet in front setback areas abutting stradas in Lido Isle (“Amendment”), consistent with Lido Isle Community Association (“LICA”) standards.
4. Pursuant to Section 13515 of the California Code of Regulations Title 14, Division 5.5, Chapter 8, drafts of the LCP Amendments were made available and a Notice of Availability was distributed on November 22, 2019 at least six (6) weeks prior to the anticipated final action date.
5. A public hearing was held by the Planning Commission on December 5, 2019, 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 21.62 of the NBMC. 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.

The Amendment is not a project subject to the California Environmental Quality Act (“CEQA”) in accordance with Section 21065 of the California Public Resources Code and Sections 15060

(c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). The proposed action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are statutorily exempt from the requirements of CEQA in connection with the adoption of a local coastal program. The LCP Amendment itself does not authorize development that would directly result in physical change to the environment.

SECTION 3. FINDINGS.

1. Authorizing the Amendment would correct an existing inconsistency in hedge height regulations between the City and LICA. City regulations contained within Title 20 (Planning & Zoning) of the NBMC establish a maximum of 42 inches for hedges within front setback areas. In 2001, LICA homeowners voted to amend the Association Covenants, Conditions, and Restrictions ("CC&Rs") to change the hedge height limit abutting stradas (public walkways) from 30 inches to 60 inches. The proposed amendment to Title 21 is to increase maximum hedge heights in front setback areas abutting stradas on Lido Isle from 42 inches to 60 inches, consistent with LICA CC&Rs.
2. The Amendment to raise hedge heights will not have an impact on public views or access to the bay front. Stradas serve as pedestrian walkways for internal lots on Lido Isle and generally do not have public views of bay. Additionally, the bay is not directly accessed from the stradas, as access is found off various access points from Via Lido Nord and Via Lido Soud around Lido Isle.
3. The Amendment to Title 21 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.
4. Title 21, including the proposed amendment, will be carried out fully in conformity with the California Coastal Act.
5. 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 Amendment is not a project subject to CEQA pursuant to Section 21065 of CEQA and CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378, California Code of Regulations, Title 14, Division 6, Chapter 3. The Amendment is also exempt pursuant to CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment. Finally, the adoption of local coastal programs are statutorily exempt according to Section 15265(a)(1) of the CEQA Guidelines.

2. The Planning Commission of the City of Newport Beach hereby recommends submittal of Local Coastal Program Amendment No. LC2019-002 related to hedge heights in front setbacks abutting stradas within Lido Isle, amending Section 21.38.060 (Nonconforming Parking) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference, to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 5TH DAY OF DECEMBER, 2019.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chairman

BY: _____
Lee Lowrey, Secretary

EXHIBIT “A”**Proposed Amendment to the City of Newport Beach Local Coastal Program Implementation Plan Related to Hedge Heights in Front Setbacks In Lido Isle (LC2019-002)**

Section 1: Amend Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

21.30.040 Fences, Hedges, Walls, and Retaining Walls.

This section provides standards for the provision of fences, hedges, walls, and retaining walls for development in all coastal zoning districts.

A. Maximum Height Allowed.

1. Fences, Hedges, and Walls. Maximum heights of fences, hedges, and walls are shown in Table 21.30-1. Fences, hedges, and walls shall not be allowed or allowed with a reduced height when necessary to protect coastal resources such as public coastal view, public access, and sensitive habitat.

TABLE 21.30-1 MAXIMUM HEIGHT OF FENCES, HEDGES, AND WALLS	
Location	Maximum Height
Front setback areas.	42 inches. See subsection (B) of this section.
Rear and interior side setback areas.	6 feet in residential and commercial coastal zoning districts. 8 feet in industrial coastal zoning districts adjacent to residential uses.
Setback areas abutting or adjacent to the waterfront of Newport Bay, the shoreline of the Pacific Ocean, the Old Channel of the Santa Ana River (the Oxbow Loop), or the channels in West Newport.	42 inches from existing grade prior to construction. Setback areas on Balboa Island and Little Balboa Island that are abutting or adjacent to Newport Bay are regulated by subsection (B) of this section.

TABLE 21.30-1**MAXIMUM HEIGHT OF FENCES, HEDGES, AND WALLS**

Location	Maximum Height
At intersections of streets, alleys and driveways within traffic sight areas.	See Section 21.30.130 (Traffic Safety Visibility Area).

2. Retaining Walls. The maximum height of a retaining wall shall be eight feet measured from finished grade at the base of the wall, not including any required guardrails. A minimum horizontal separation equal to the height of the tallest retaining wall shall be provided between retaining walls, except that the required separation shall not be more than six feet. The above requirements shall not apply to retaining walls that are an integral part of principal structures. An increase in the height of a retaining wall may be requested in compliance with Chapter [21.52](#) (Coastal Development Review Procedures).

B. Special Area Regulations. In front setback areas in Balboa Peninsula, Balboa Island, Corona del Mar, West Newport, East Bay Front on Little Balboa Island, and North Bay Front and South Bay Front on Balboa Island fences and walls shall be allowed to extend to a height of five feet; provided, that any portion of the fence or wall above two feet shall be constructed of open grillwork, wrought iron, latticework, pickets, Plexiglas, or similar materials so that at least forty (40) percent of the portion of the fence or wall above two feet is open. See Figure 3-1.

C. Exceptions to Maximum Height.

1. Grade Differential. Where the existing or proposed grade of a lot adjacent to the front setback area is more than twenty-four (24) inches above the adjacent sidewalk (or curb elevation where no sidewalk exists), a maximum twenty-four (24) inch high retaining wall shall be allowed to be located at the front property line. Additional retaining walls shall be allowed to a maximum height of thirty-six (36) inches each, provided they are set back a minimum distance of twenty-four (24) inches from the inward face of the previous retaining wall. Additional retaining walls shall be subject to the same limitation. A maximum forty-two (42) inch guardrail shall be allowed atop the uppermost retaining wall for safety purposes, provided the guardrail is constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence is open. See Figure 3-1.

2. Decorative Fence/Wall Details and Lights.

- a. Finials, light fixtures, pilaster caps, pots, and similar decorative items may be placed on fence or wall vertical support elements (e.g., pilasters, pillars, posts, etc.), provided they are secure and do not extend more than twelve (12) inches above the maximum allowed height.
 - b. The number of decorative items (e.g., finials, pilaster caps, pots, and similar items) and light fixtures shall be limited to not more than one item or fixture for every six lineal feet of fence or wall.
- 3. Fencing for Pools and Spas.
 - a. Swimming pools, spas, and other similar features shall provide safety fencing.
 - b. Fencing and guardrails for ponds, spas, and swimming pools located in a front setback area or in the rear and side setback areas regulated as front setback areas on lots with forty-two (42) inch height limitations may be allowed to exceed the height limit in compliance with the following standards:
 - i. Fences shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence or wall is open. In lieu of the above, glass or Plexiglas may be allowed; and
 - ii. Fence height shall be limited to the minimum required for safety.

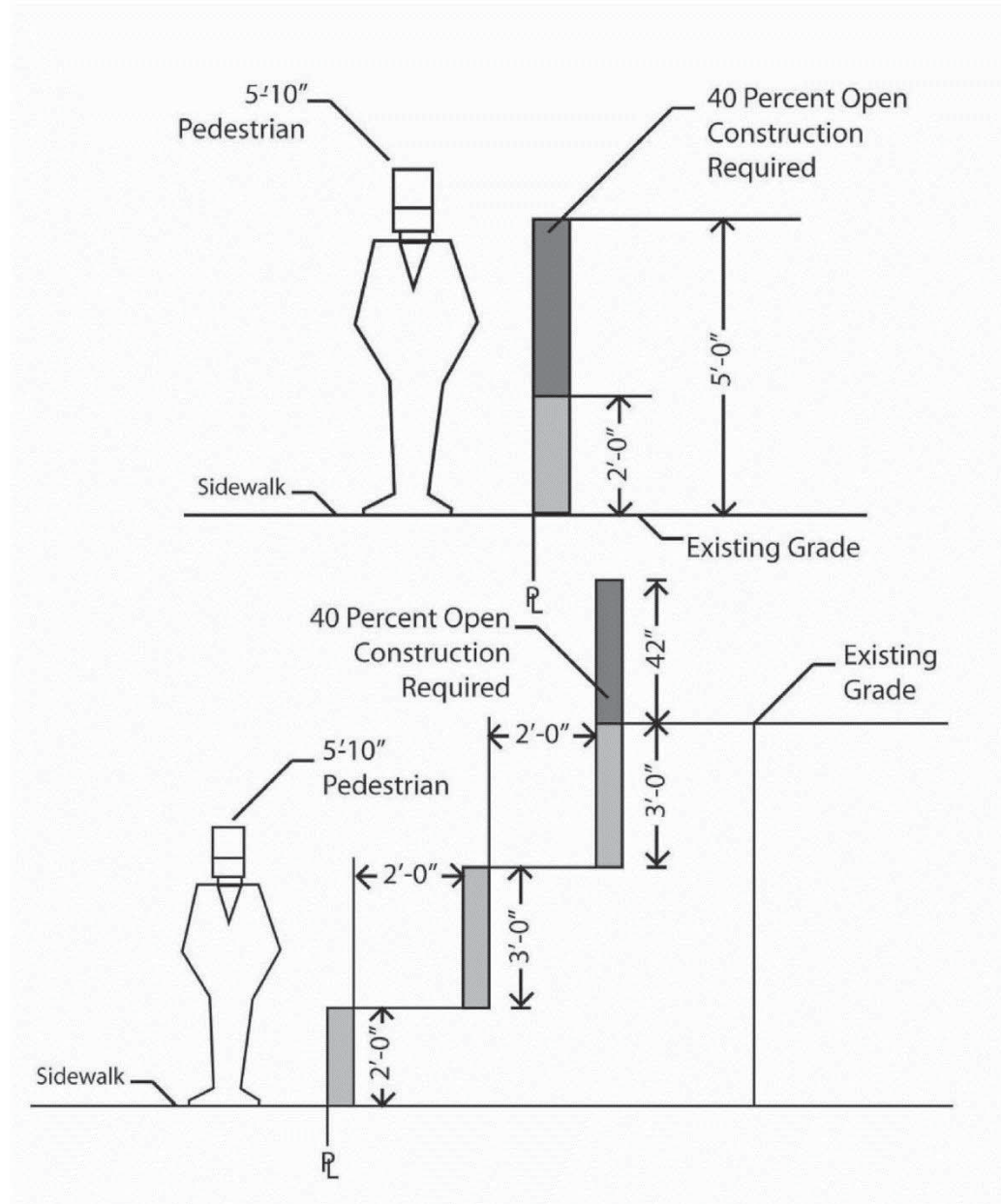


Figure 3-1

Grade Differential at Front Property Line

4. Residential Uses Adjacent to Commercial Uses or Alleys. For residential lots adjacent to nonresidential coastal zoning districts or commercial alleys, fences, walls, or hedges may be up to eight feet in height in required residential side yards for buffering and/or sound attenuation.
5. Residential Lots Where the Top of Slab Is Required to Be Raised to 9.0 NAVD 88 and Where the Grade of the Lot Is Proposed to Be Increased. The height of fences and walls within required side and

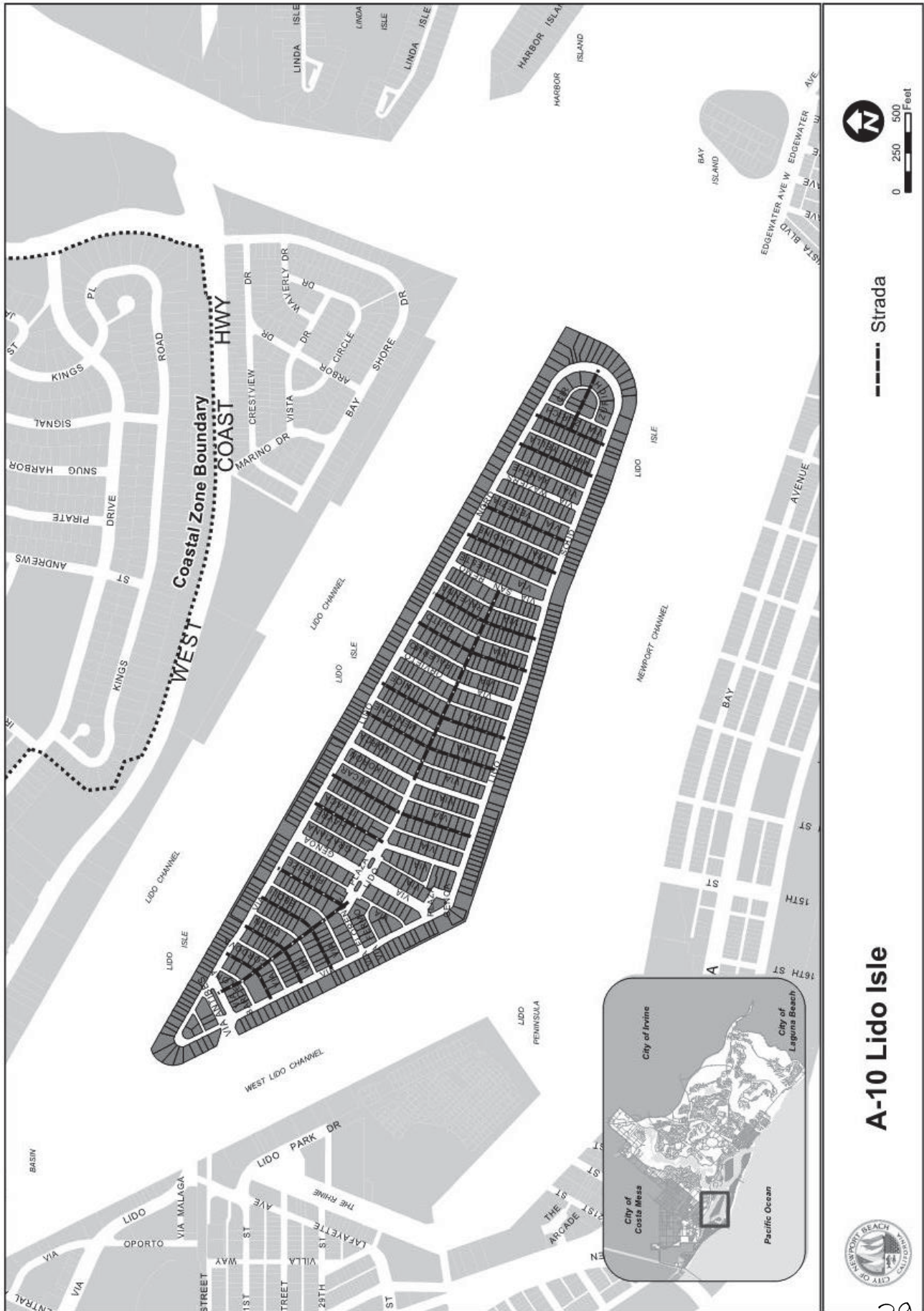
rear yard setback areas may be increased provided the height does not exceed six feet as measured from the proposed finished grade and nine feet as measured from the existing grade prior to construction. Additionally, the height of fences or walls shall not exceed nine feet as measured from the existing grade of an abutting lot. The portion of the fence or wall above six feet in height from the existing grade prior to construction shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least sixty (60) percent of the fence or wall is open or is constructed of a transparent material.

6. Hedges on Lido Isle. In front setback areas abutting stradas in Lido Isle, the maximum hedge height shall be five feet.

D. Measurement of Fence or Wall Height. The height of a fence, hedge, or wall shall be measured from the existing grade prior to construction at the location where the fence, hedge, or wall is located.

E. Prohibited Fence Materials. Barbed wire, electrical fences, razor wire, and other similar materials shall not be allowed in residential coastal zoning districts. (Ord. 2016-19 § 9 (Exh. A)(part), 2016)

Section 2: Amending Section 21.80.010 (Area Maps) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to include Area Map A-10 – Lido Isle as follows:



A-10 Lido Isle



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Attachment No. PC 3

Letter of Request from LICA

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lido isle community association

701 VIA LIDO SOUND, LIDO ISLE • NEWPORT BEACH, CA 92663
TELEPHONE: (949) 673-6170 • FAX: (949) 673-6827

February 6, 2019

Jaime Murillo, Diane Dixon and Seimone Jurjis,

This letter is sent in follow-up to the meeting the Lido Isle Board of Directors had with members from the City regarding the City's front yard hedge height limit on Lido Isle. At the May 2018 meeting, the City requested Lido Isle's Board to advise whether Lido Isle would be requesting the City to increase the City's front yard hedge height limit on Lido from forty two inches to sixty inches. The City provided Lido Isle's Board with a timeframe of July 1st, 2018 to inform the City of the Board's decision whether the Board would like to move forward with the request. The Board responded to the City by requesting an extension of time to respond, which the City granted through August 1st, 2018. Owing to other matters, the Board postponed further discussion on the issue, but as you know, the 42" versus 60" distinction has caused some issues lately between residents. In 2001, the homeowners voted to amend the Association's CC&Rs to change the hedge height limit on the stradas from thirty inches to sixty inches. The 60" standard has proven to be successful for the community for over 15 years, and given that most homeowners presently have shrubs well in excess of 42", a proposal to now change the CC&Rs to reduce the strada hedge height limit is unlikely to garner sufficient homeowner approval for passage. Therefore, the Board of Directors recently decided that it would be in the best interest of the Association and its membership to formally request the City of Newport Beach to raise the City's front yard hedge height limit on Lido from forty two inches to sixty inches, as a means of effectively controlling the front yard hedge height limits without confusion. We are asking the City to please advise the Board as to their position at this time pertaining to Lido Isle's request to change the City's front yard hedge height limit on Lido to sixty inches. The Board does appreciate the City's offer to move forward at no cost to the Lido Isle Community Association per the information provided at the May 2018 meeting.

Thank you for your time and your consideration in this very important matter. We look forward to your response.


-Justin Langenberg

LICA General Manager

jlangerberg@lidoisle.org

(949) 673-6170

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Attachment No. PC 4

City Council Resolution No. 2019-78

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RESOLUTION NO. 2019-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, INITIATING AMENDMENTS TO TITLE 20 ENTITLED "PLANNING AND ZONING" AND TITLE 21 ENTITLED "LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN" OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO HEDGE HEIGHTS IN FRONT YARD SETBACKS WITHIN LIDO ISLE (PA2019-132)

WHEREAS, Newport Beach Municipal Code ("NBMC") Section 20.66.020 provides that the City Council of the City of Newport Beach ("City Council") may initiate an amendment to the Zoning Code with or without a recommendation from the Planning Commission;

WHEREAS, City Council Policy K-1 entitled "General Plan and Local Coastal Program" requires amendments to the City of Newport Beach certified Local Coastal Program codified in NBMC Title 21 to be initiated by the City Council; and

WHEREAS, the City Council desires to amend NBMC Title 20 and Title 21 to modify regulations related to hedge heights in front yard setbacks within Lido Isle at the request of the Lido Isle Community Association ("LICA").

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

Section 1: The City Council hereby initiates amendments to NBMC Title 20 "Planning and Zoning" and Title 21 "Local Coastal Program Implementation Plan" to modify regulations relating to hedge heights in front yard setbacks within Lido Isle.

Section 2: If any section, subsection, sentence, clause or phrase of this resolution 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 resolution. The City Council hereby declares that it would have passed this resolution 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 3: The recitals provided in this resolution are true and correct and are incorporated into the substantive portion of this resolution.

Section 4: The City Council finds the adoption of this resolution is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 15262 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because Section 15262 exempts projects involving feasibility or planning studies for possible future actions which the agency, board, or commission has not approved or adopted.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

ADOPTED this 10TH day of September, 2019.



Will O'Neill
Mayor Pro Tem

ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2019-78, was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 10th day of September, 2019; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Pro Tem Will O'Neill, Council Member Brad Avery, Council Member Joy Brenner, Council Member Duffy Duffield, Council Member Jeff Herdman, Council Member Kevin Muldoon

NAYS: None

RECUSED: Mayor Diane Dixon

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 11th day of September, 2019.



Leilani I. Brown
City Clerk
Newport Beach, California



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Attachment No. PC 5

Redline Version of Amendments

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EXHIBIT “A”

Proposed Code Amendment related to Hedge Heights in Front Setbacks Abutting Stradas In Lido Isle (CA2019-005)

Section 1: Amending Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to read as follows:

20.30.040 Fences, Hedges, Walls, and Retaining Walls.

This section provides standards for the provision of fences, hedges, walls, and retaining walls.

A. Maximum Height Allowed.

1. Fences, Hedges, and Walls. Maximum heights of fences, hedges, and walls are shown in Table 3-1.

TABLE 3-1 MAXIMUM HEIGHT OF FENCES, HEDGES, AND WALLS	
Location	Maximum Height
Front setback areas.	42 inches. See subsection (B) of this section.
Rear and interior side setback areas.	6 feet in residential and commercial zoning districts. 8 feet in industrial zoning districts adjacent to residential uses.
Setback areas abutting or adjacent to the waterfront of Newport Bay, the shoreline of the Pacific Ocean, the Old Channel of the Santa Ana River (the Oxbow Loop), or the channels in West Newport.	42 inches from existing grade prior to construction. Setback areas on Balboa Island and Little Balboa Island that are abutting or adjacent to Newport Bay are regulated by subsection (B) of this section.
At intersections of streets, alleys and driveways within traffic sight areas.	See Section 20.30.130 (Traffic Safety Visibility Area).

2. Retaining Walls. The maximum height of a retaining wall shall be eight feet measured from finish grade at the base of the wall, not including any required guardrails. A minimum horizontal separation equal to the height of the tallest retaining wall shall be provided between retaining walls, except that the required separation shall not be more than six feet. The above requirements shall not apply to

retaining walls that are an integral part of principal structures. An increase in the height of a retaining wall may be requested in compliance with Section [20.52.050](#) (Modification Permits).

B. Special Area Regulations. In front setback areas in Balboa Peninsula, Balboa Island, Corona del Mar, West Newport, East Bay Front on Little Balboa Island, and North Bay Front and South Bay Front on Balboa Island fences and walls shall be allowed to extend to a height of five feet; provided, that any portion of the fence or wall above two feet shall be constructed of open grillwork, wrought iron, latticework, pickets, Plexiglas, or similar materials so that at least forty (40) percent of the portion of the fence or wall above two feet is open. See Figure 3-1.

C. Exceptions to Maximum Height.

1. Grade Differential. Where the existing or proposed grade of a lot adjacent to the front setback area is more than twenty-four (24) inches above the adjacent sidewalk (or curb elevation where no sidewalk exists), a maximum twenty-four (24) inch high retaining wall shall be allowed to be located at the front property line. Additional retaining walls shall be allowed to a maximum height of thirty-six (36) inches each, provided they are set back a minimum distance of twenty-four (24) inches from the inward face of the previous retaining wall. Additional retaining walls shall be subject to the same limitation. A maximum forty-two (42) inch guardrail shall be allowed atop the uppermost retaining wall for safety purposes, provided the guardrail is constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence is open. See Figure 3-1.

2. Decorative Fence/Wall Details and Lights.

a. Finials, light fixtures, pilaster caps, pots, and similar decorative items may be placed on fence or wall vertical support elements (e.g., pilasters, pillars, posts, etc.), provided they are secure and do not extend more than twelve (12) inches above the maximum allowed height.

b. The number of decorative items (e.g., finials, pilaster caps, pots, and similar items) and light fixtures shall be limited to not more than one item or fixture for every six lineal feet of fence or wall.

3. Fencing for Pools and Spas.

a. Swimming pools, spas, and other similar features shall be fenced in compliance with Title [15](#).

b. Fencing and guardrails for ponds, spas, and swimming pools located in a front setback area or in the rear and side setback areas regulated as front setback areas on lots with forty-two (42)

inch height limitations may be allowed to exceed the height limit in compliance with the following standards:

- i. Fences shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence or wall is open. In lieu of the above, glass or Plexiglas may be allowed; and
- ii. Fence height shall be limited to the minimum required by Title [15](#).

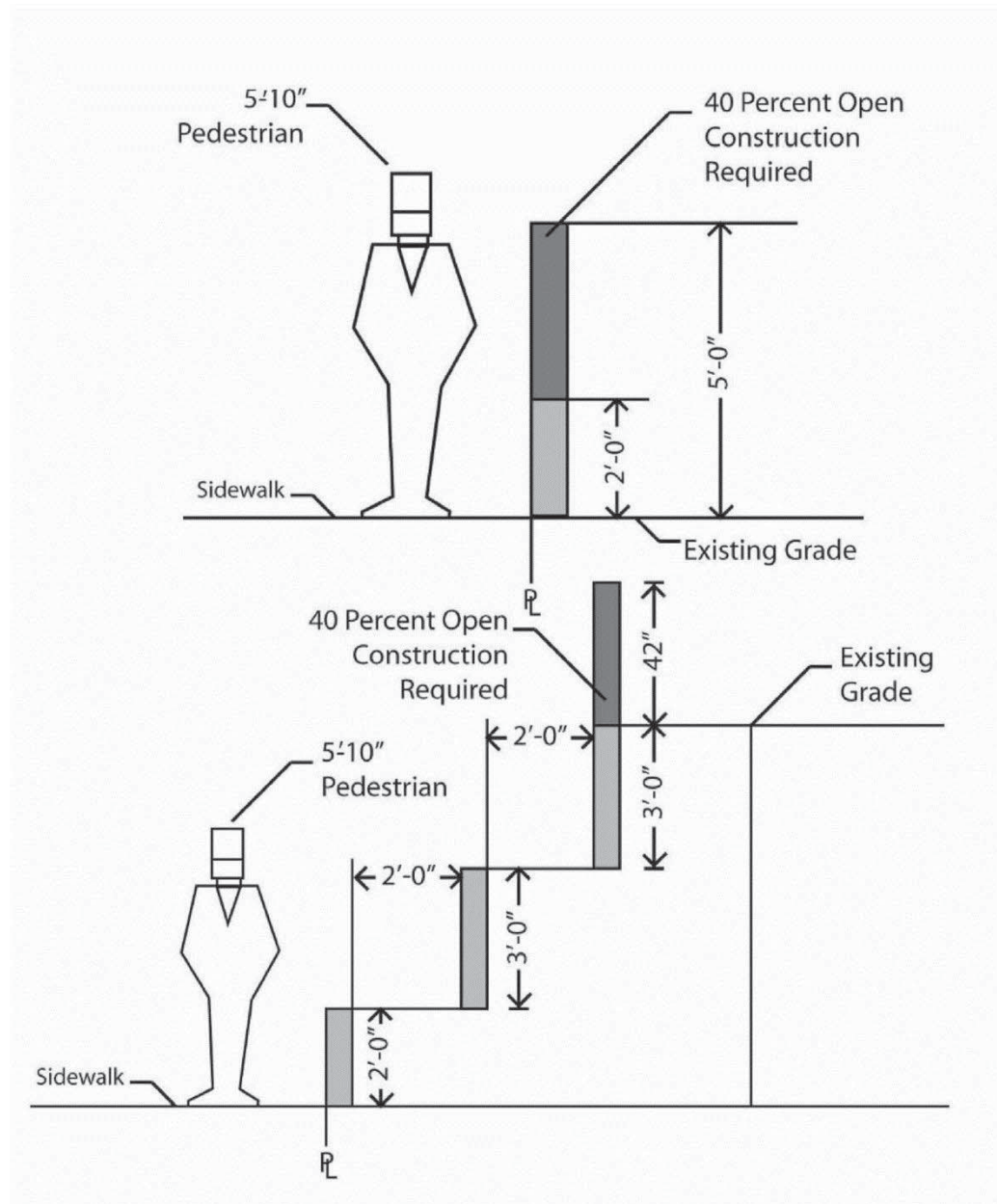


Figure 3-1

Grade Differential at Front Property Line

4. Residential Uses Adjacent to Commercial Uses or Alleys. For residential lots adjacent to nonresidential zoning districts or commercial alleys, fences, walls, or hedges may be up to eight feet in height in required residential side yards for buffering and/or sound attenuation.

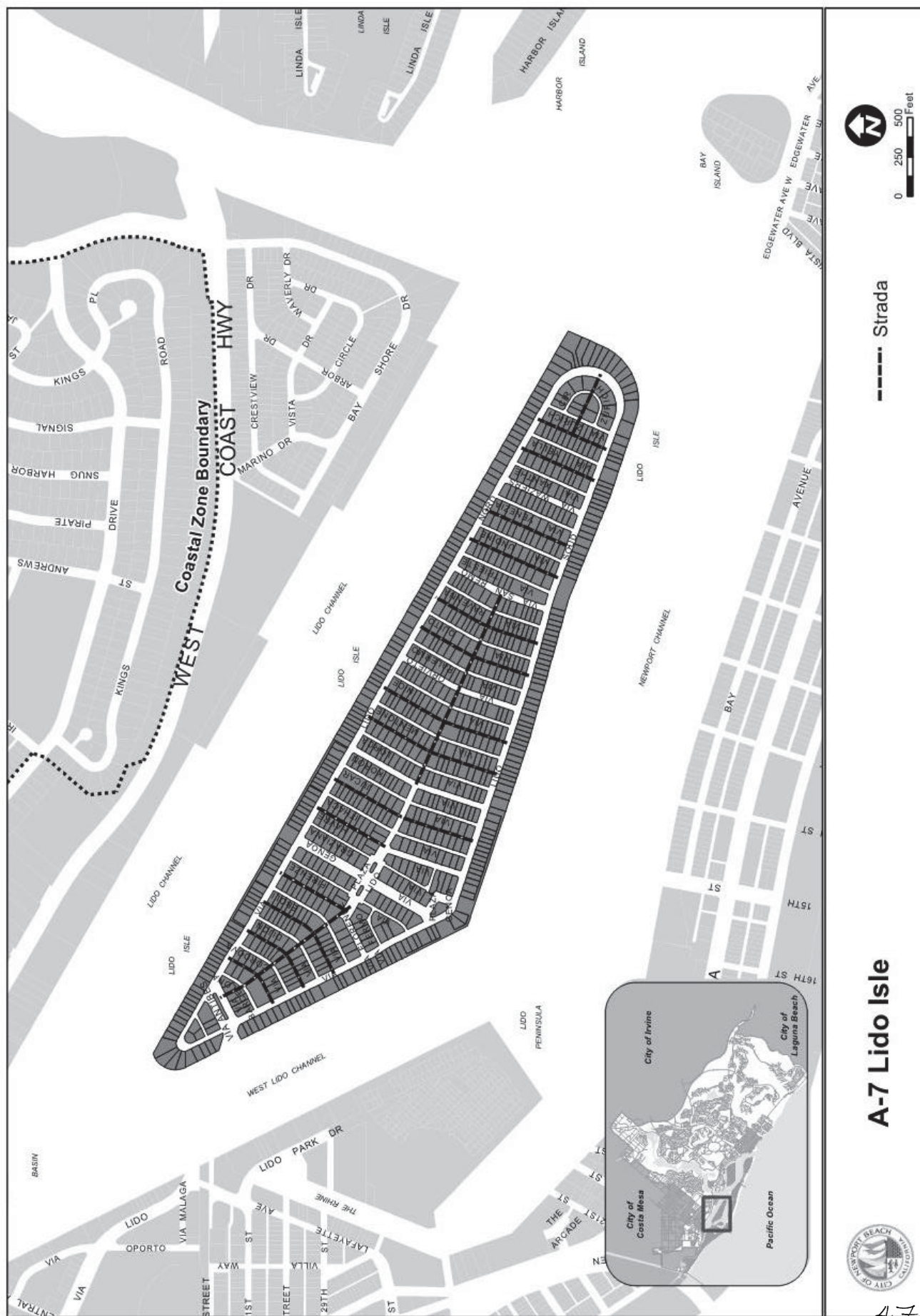
5. Residential Lots Where the Top of Slab Is Required to Be Raised to 9.0 NAVD88 and Where the Grade of the Lot Is Proposed to Be Increased. The height of fences and walls within required side and rear yard setback areas may be increased provided the height does not exceed six feet as measured from the proposed finished grade and nine feet as measured from the existing grade prior to construction. Additionally, the height of fences or walls shall not exceed nine feet as measured from the existing grade of an abutting lot. The portion of the fence or wall above six feet in height from the existing grade prior to construction shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least sixty (60) percent of the fence or wall is open or is constructed of a transparent material.

6. Hedges on Lido Isle. In front setback areas abutting stradas in Lido Isle, the maximum hedge height shall be five feet.

D. Measurement of Fence or Wall Height. The height of a fence, hedge, or wall shall be measured from the existing grade prior to construction at the location where the fence, hedge, or wall is located.

E. Prohibited Fence Materials. Barbed wire, electrical fences, razor wire, and other similar materials shall not be allowed in residential zoning districts. (Ord. 2012-11 § 1 (Exh. A), 2012: Ord. 2010-21 § 1 (Exh. A)(part), 2010)

Section 2: Amending Section 20.80.010 (Area Maps) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to include Area Map A-7 – Lido Isle as follows:



**Proposed Amendment to the City of Newport Beach Local Coastal Program
Implementation Plan Related to Hedge Heights in Front Setbacks within Lido Isle
(LC2019-002)**

Section 1: Amend Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

21.30.040 Fences, Hedges, Walls, and Retaining Walls.

This section provides standards for the provision of fences, hedges, walls, and retaining walls for development in all coastal zoning districts.

A. Maximum Height Allowed.

1. Fences, Hedges, and Walls. Maximum heights of fences, hedges, and walls are shown in Table 21.30-1. Fences, hedges, and walls shall not be allowed or allowed with a reduced height when necessary to protect coastal resources such as public coastal view, public access, and sensitive habitat.

TABLE 21.30-1	
MAXIMUM HEIGHT OF FENCES, HEDGES, AND WALLS	
Location	Maximum Height
Front setback areas.	42 inches. See subsection (B) of this section.
Rear and interior side setback areas.	6 feet in residential and commercial coastal zoning districts. 8 feet in industrial coastal zoning districts adjacent to residential uses.
Setback areas abutting or adjacent to the waterfront of Newport Bay, the shoreline of the Pacific Ocean, the Old Channel of the Santa Ana River (the Oxbow Loop), or the channels in West Newport.	42 inches from existing grade prior to construction. Setback areas on Balboa Island and Little Balboa Island that are abutting or adjacent to Newport Bay are regulated by subsection (B) of this section.
At intersections of streets, alleys and driveways within traffic sight areas.	See Section 21.30.130 (Traffic Safety Visibility Area).

2. Retaining Walls. The maximum height of a retaining wall shall be eight feet measured from finished grade at the base of the wall, not including any required guardrails. A minimum horizontal separation equal to the height of the tallest retaining wall shall be provided between retaining walls, except that the required separation shall not be more than six feet. The above requirements shall not apply to retaining walls that are an integral part of principal structures. An increase in the height of a retaining wall may be requested in compliance with Chapter [21.52](#) (Coastal Development Review Procedures).

B. Special Area Regulations. In front setback areas in Balboa Peninsula, Balboa Island, Corona del Mar, West Newport, East Bay Front on Little Balboa Island, and North Bay Front and South Bay Front on Balboa Island fences and walls shall be allowed to extend to a height of five feet; provided, that any portion of the fence or wall above two feet shall be constructed of open grillwork, wrought iron, latticework, pickets, Plexiglas, or similar materials so that at least forty (40) percent of the portion of the fence or wall above two feet is open. See Figure 3-1.

C. Exceptions to Maximum Height.

1. Grade Differential. Where the existing or proposed grade of a lot adjacent to the front setback area is more than twenty-four (24) inches above the adjacent sidewalk (or curb elevation where no sidewalk exists), a maximum twenty-four (24) inch high retaining wall shall be allowed to be located at the front property line. Additional retaining walls shall be allowed to a maximum height of thirty-six (36) inches each, provided they are set back a minimum distance of twenty-four (24) inches from the inward face of the previous retaining wall. Additional retaining walls shall be subject to the same limitation. A maximum forty-two (42) inch guardrail shall be allowed atop the uppermost retaining wall for safety purposes, provided the guardrail is constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence is open. See Figure 3-1.

2. Decorative Fence/Wall Details and Lights.

a. Finials, light fixtures, pilaster caps, pots, and similar decorative items may be placed on fence or wall vertical support elements (e.g., pilasters, pillars, posts,

etc.), provided they are secure and do not extend more than twelve (12) inches above the maximum allowed height.

b. The number of decorative items (e.g., finials, pilaster caps, pots, and similar items) and light fixtures shall be limited to not more than one item or fixture for every six lineal feet of fence or wall.

3. Fencing for Pools and Spas.

a. Swimming pools, spas, and other similar features shall provide safety fencing.

b. Fencing and guardrails for ponds, spas, and swimming pools located in a front setback area or in the rear and side setback areas regulated as front setback areas on lots with forty-two (42) inch height limitations may be allowed to exceed the height limit in compliance with the following standards:

i. Fences shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence or wall is open. In lieu of the above, glass or Plexiglas may be allowed; and

ii. Fence height shall be limited to the minimum required for safety.

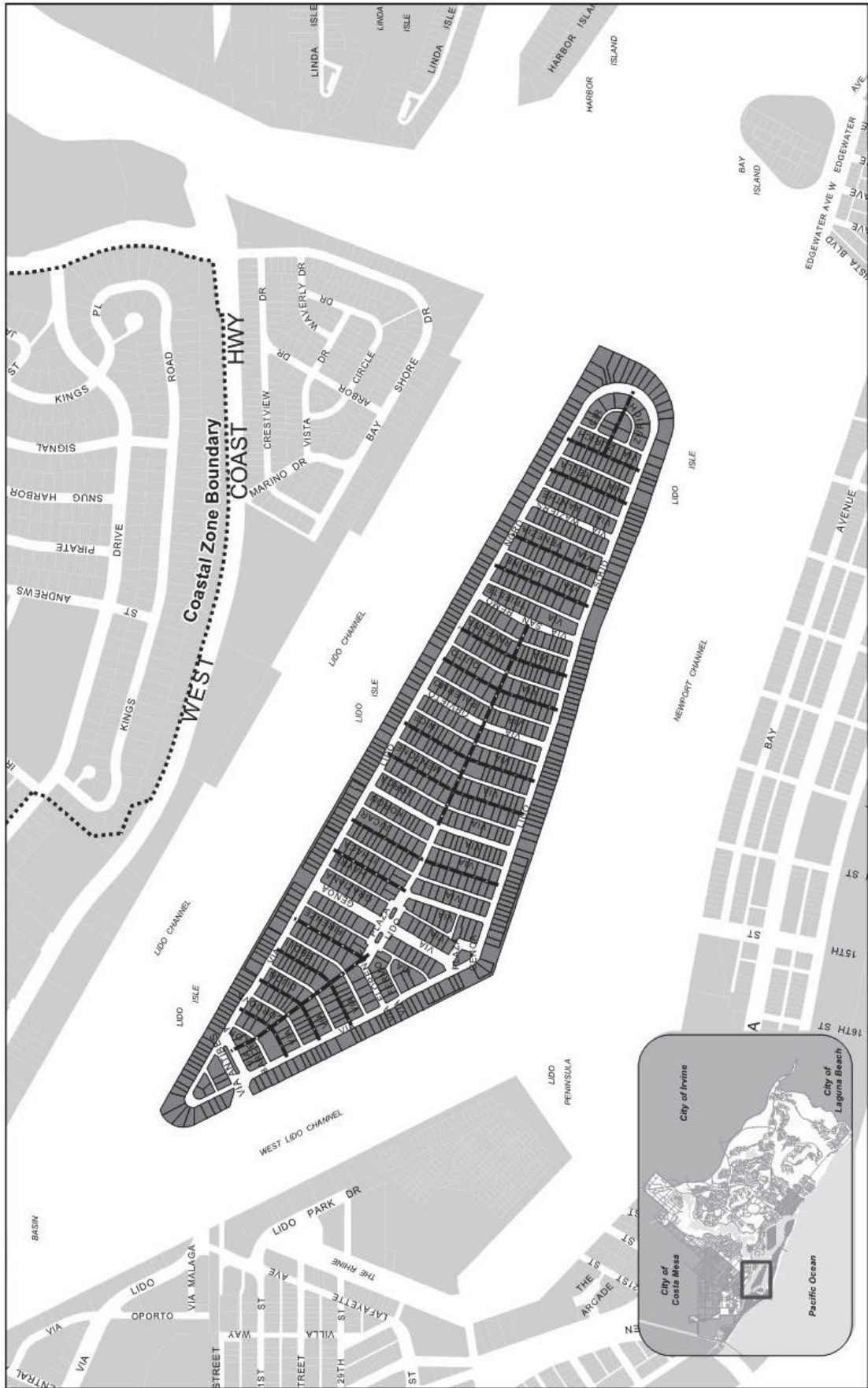
5. Residential Lots Where the Top of Slab Is Required to Be Raised to 9.0 NAVD 88 and Where the Grade of the Lot Is Proposed to Be Increased. The height of fences and walls within required side and rear yard setback areas may be increased provided the height does not exceed six feet as measured from the proposed finished grade and nine feet as measured from the existing grade prior to construction. Additionally, the height of fences or walls shall not exceed nine feet as measured from the existing grade of an abutting lot. The portion of the fence or wall above six feet in height from the existing grade prior to construction shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least sixty (60) percent of the fence or wall is open or is constructed of a transparent material.

6. Hedges on Lido Isle. In front setback areas abutting stradas in Lido Isle, the maximum hedge height shall be five feet.

D. Measurement of Fence or Wall Height. The height of a fence, hedge, or wall shall be measured from the existing grade prior to construction at the location where the fence, hedge, or wall is located.

E. Prohibited Fence Materials. Barbed wire, electrical fences, razor wire, and other similar materials shall not be allowed in residential coastal zoning districts. (Ord. 2016-19 § 9 (Exh. A)(part), 2016)

Section 2: Amending Section 21.80.010 (Area Maps) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to include Area Map A-10 – Lido Isle as follows:



0 250 500 Feet

----- Strada

A-10 Lido Isle



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Attachment No. PC 6

Map of Lido Isle

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Attachment No. PC 7

Map of Coastal Zone

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