

CALIFORNIA COASTAL COMMISSION

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DATE: June 25, 2025

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
Amrita Spencer, Coastal Program Manager
Mandy Revell, District Supervisor
Chloe Seifert, Staff Analyst

SUBJECT: Major Amendment Request No. LCP-5-NPB-23-0039-3, Part B (Beachfront Setback Encroachments), to the City of Newport Beach LCP for Commission Action at the July 10, 2025 meeting.

SUMMARY OF LCP AMENDMENT REQUEST

The City of Newport Beach requests that the Commission certify an amendment to the City's certified Local Coastal Program (LCP). LCP Amendment Request No. LCP-5-NPB-23-0039-3 includes two parts: Part A was acted on by the Commission at the June 12, 2025 hearing and Part B is scheduled for the current Commission hearing. Part B would amend solely the certified IP. The standard of review is whether the proposed IP revisions conform with, and are adequate to carry out the provisions of, the certified LUP.

Part B of the subject request was submitted for Commission certification by City Council Resolution No. 2023-37 on September 11, 2023 and pertains to setback encroachments within flood hazard zones ([Exhibit 1](#)). The Federal Emergency Management Agency (FEMA) intermittently publishes Flood Insurance Rate Maps ('Flood Maps') to establish areas with a 1% chance of flooding in any given year as "Special Flood Hazard Areas". Within these areas, FEMA further categorizes properties into unique risk zones. FEMA's "VE Zones" reflect the potential for direct wave action, while the varying numbers following this title (e.g. "VE 13" and "VE 15") reflect baseline flood elevations projected during a 100-year storm event. The City's uncertified Municipal Code requires higher minimum elevations for all habitable development located in "VE 13" and "VE 15" zones. In Newport Beach, the subject FEMA zones apply to 166 residential parcels located between 48th Street and 24th Street in West Newport, Newport Beach, Orange County.

As a result, property-owners in the subject FEMA zones must build stairs between their newly elevated beachfront homes and the surrounding grade. Stairs must be sited outside of certified LCP setbacks, leading to smaller ground floors in multi-story homes.

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Additionally, property-owners in the subject FEMA zones can no longer walk directly between their living room and beachfront patio. Instead, they must choose between: A) building stairs between their elevated home and at-grade patio, or B) building stairs between their elevated patio and the beach. The City states that Option A deprives property-owners of the seamless transition between indoor and outdoor space and contends that this should be “a fundamental feature of an ocean front home.” The City also states that Option B significantly reduces the maximum buildable ground floor area to accommodate both a deck and stairway outside of the 10-ft. front setback from the western property line.

To address this, Part B of the subject amendment request would establish a new “Special Flood Hazard Area (VE)” overlay encompassing all parcels designated as “VE 13” or “VE 15” by current and future FEMA Flood Maps ([Exhibit 2](#)). As proposed by the City, properties located in the proposed overlay could build access encroachments (including stairs, steps, and landings) out to all private property lines; and recreational encroachments (including decks, terraces, and platforms) within three feet of beach-facing front setbacks. The latter allowance would effectively reduce front setbacks along the boardwalk and beach from five feet to two feet. Commission staff recommends **Suggested Modification 1** to specify the boundaries of the proposed overlay, **Suggested Modification 2** to reduce the scope and degree of allowable front setback encroachments, and **Suggested Modification 3** to eliminate potential conflicts between certified LUP definitions and the IP amendment request’s terminology.

Therefore, staff recommends that the Commission, after public hearing, **certify Part B of the amendment request with suggested modifications**. Further information on the City of Newport Beach’s LCP Amendment Request No. LCP-5-NPB-24-0039-3 Part B may be obtained from Chloe Seifert, Coastal Program Analyst, at (562) 590-5071. If you wish to comment on the proposed amendment, please contact either southcoast@coastal.ca.gov via email or hard-copy mail by 5pm on July 4, 2025.

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Exhibits

[Exhibit 1 – Resolution No. 2023-37](#)

[Exhibit 2 – Part B Redline Changes](#)

[Exhibit 3 – Proposed Overlay Maps](#)

[Exhibit 4 – Site Visit Photographs](#)

[Exhibit 5 – Proposed IP Map Exhibit](#)

I. PROCEDURAL REQUIREMENTS

A. STANDARD OF REVIEW

Pursuant to Coastal Act sections 30513 and 30514(b), the standard of review is whether the certified IP—as amended—conforms with, and is adequate to carry out, the provisions of the certified LUP. Part B of the subject LCP amendment request would amend the IP. Thus, Part B must be reviewed for conformance and consistency with provisions of the certified LUP.

B. PUBLIC PARTICIPATION

Coastal Act Section 30503 requires local governments to provide adequate opportunities for public participation during the LCP amendment process. Below is a summary of each public hearing held on Part B of the subject amendment request.

On March 26, 2019, the City Planning Commission held a working session on Part B of the subject amendment request. The City had not drafted the proposed IP revisions at this point; discussion included potential revisions and community outreach. The City received comment from two members of the public. Denys Oberman raised concerns with encroaching structures in their neighbor's property. Jim Mosher questioned the City's overall strategy for FEMA compliance and encroachment eligibility. The Planning Commission modified the motion to incorporate further collaboration with FEMA regarding height requirements and passed the motion to initiate drafting the subject amendment request.

On July 26, 2022, the City Council held a working session on Part B of the subject amendment request. No resolution or ordinance was before the City Council, although City Planning staff presented on the draft revisions and the public was able to comment. The City received comment from three members of the public. Brion Jeanette expressed support of the revisions. Jim Mosher questioned FEMA requirements and encroachment eligibility. Grant Dietz raised potential private view, light, air, and privacy obstructions for himself and neighbors of properties eligible for encroachment. The City Council conducted a straw poll (i.e. an unofficial opinion poll) and obtained a majority vote in favor of the City Planning Department's draft revisions.

On May 4, 2023, the City Planning Commission held a public hearing on Part B of the subject amendment request. The City received comments from five members of the public. Concerns raised in the public comments generally included the contentions listed above. The Planning Commission approved the item as recommended by City Planning staff.

On June 13, 2023, the City Council held another public hearing on Part B of the subject amendment request and received comments from two members of the public. Janet Brown raised the need to preserve a uniform setback from the public boardwalk. Jim

Mosher thanked the City for incorporating his prior language recommendations and raised new suggestions for clearer phrasing. The City Council passed a motion to approve the item and adopted Resolution No. 2023-37 authorizing submittal of the subject LCP amendment request to the Coastal Commission.

In summary, the City complied with Coastal Act Section 30503 through provision of multiple public hearings and assessment of the comments received. Notice of the Coastal Commission hearing held for the subject amendment request has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

If the Commission certifies the LCP amendment request as submitted, no further City Council action will be necessary, and the amendment takes effect. Should the Commission deny the LCP amendment request as submitted and without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective, pursuant to Section 13542(f) of Title 14 of the California Code of Regulations (CCR). Should the Commission deny the LCP Amendment, as submitted, but approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action.¹ In that scenario, pursuant to Title 14, CCR Section 13544(c), the modified LCP Amendment will become final at a subsequent Commission meeting if the Executive Director reports a determination that the City's action in accepting suggested modifications approved by the Commission for the LCP Amendment is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.²

D. DEADLINES FOR COMMISSION ACTION

On September 11, 2023, the City submitted LCP Amendment Request No. LCP-5-NPB-23-0039-3 (Parts A and B) On September 25, 2023, staff determined that additional materials and information remained necessary to file Part A and B of the subject amendment request as complete. On December 21, 2023, the City submitted a response. On January 5, 2024, staff determined information remained necessary for complete application review. On April 1, 2024, the City submitted a subsequent response. On April 15, 2024, upon review, Part A and B of the subject amendment request were determined to be in proper order and legally adequate to comply with the

¹ The City's submittal resolution indicates that the future ordinance reflecting the resolution will only become final after effective certification by the Commission. Pursuant to CCR [Section 13544\(c\)\(3\)](#), no further formal Commission action is required if the Executive Director reports having determined the City's action accepting the Commission's suggested modifications and the City's notification procedures are legally adequate.

² See 14 CCR § [13537\(b\)](#) and [13542\(b\)](#).

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submittal requirements of Section 30510 of the Coastal Act and Section 13553 of the California Code of Regulations (Title 14).

Pursuant to Section 30513 of the Coastal Act, the Commission must act on LCP amendment requests that propose changes to solely the Implementation Plan within 60 working days of filing. Based on the above-cited actions, Part A and B of the subject amendment request would have required scheduling for Commission action by July 10, 2024 (i.e. the June 12-14, 2024 hearing) at the latest. However, on June 14, 2024, the Commission extended the deadline by one year to allow further review of the LCP amendment, as permitted by Coastal Act Section 30517 and CCR Section 13535(c). This extended the deadlines for the Commission to act on each LCP amendment request portion from July 10, 2024 to July 10, 2025.

Pursuant to the above actions, the latest feasible scheduling of the subject amendment is the July 9-11, 2025 hearing for Parts A and B. Part A was scheduled for hearing and certified as submitted by the Commission at the June 12, 2025 hearing. This staff recommendation discusses Part B of the subject amendment request.

II. MOTIONS AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings.

Motion I: I move that the Commission reject Part B of Implementation Plan Amendment No. LCP-5-NPB-23-0039-3 for the City of Newport Beach as submitted.

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Plan Amendment Part B and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Deny Certification of IP Amendment Part B As Submitted:

The Commission hereby denies certification of Part B of Implementation Plan Amendment No. LCP-5-NPB-23-0039-3 submitted for the City of Newport Beach and adopts the findings set forth below on grounds that Part B of the Implementation Plan Amendment, as submitted, does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of Part B of the Implementation Plan Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

Motion II: I move that the Commission certify Part B of Implementation Plan Amendment No. LCP-5-NPB-23-0039-3 for the City of Newport Beach if modified per the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Certify IP Amendment Part B with Suggested Modifications

The Commission hereby certifies Part B of Implementation Plan Amendment No. LCP-5-NPB-23-0039-3 submitted for the City of Newport Beach if modified as suggested and adopts the findings set forth below on grounds that Part B of Implementation Plan Amendment, with the suggested modifications, conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS

The City's proposed new text is shown in underlined text.

The City's proposed deleted text is shown in ~~single strike-through~~.

The Commission's proposed new text is shown in **bold underline**.

The Commission's proposed deleted text is shown in ~~**bold strike-through**~~.

Suggested Modification 1: Specify the properties included in the proposed overlay and incorporate a new overlay map.

Section 21.28.070, Special Flood Hazard Area (VE) Overlay District.

- A. Applicability. This section applies to encroachments for residential properties **located in the coastal high hazard area as defined in Chapter 15.50 (Floodplain Management) and identified as VE 13 or VE 15 on the adopted FEMA FIS and FIRM pursuant to Section 15.50.070 (Basis for Establishing the Areas of Special Flood Hazard) identified as VE 13 or VE 15 on the Federal Emergency Management Agency's "Flood Insurance Study (FIS) for Orange County, California and Incorporated Area" dated revised March 21, 2019. ...**

Chapter 21.80, Maps.

Section 21.80.070, Special Flood Hazard Area (VE) Overlay.

VE-1 –Special Flood Hazard Area (VE) Overlay (PDF)

Suggested Modification 2: Prohibit accessory structure encroachments within front setbacks.

C. Allowed Encroachments in Front Setbacks. Encroachments may be located within a required front setback area subject to the following restrictions:

1. The design of the encroachment shall comply with the building standards set forth in Section 15.05.100 (Amendment to Section R301.2.4) and either of the following:

a. Chapter 15.50 (Flood Plain Management); or

b. The Flood Resistant Design and Construction publication by the American Society of Civil Engineers (ASCE 24).

2. For interior lots, excluding the required guardrails or handrails, the finished surface of the encroachment shall not exceed six (6) inches above the finished floor of the dwelling unit(s). A deck, balcony, patio, or terrace encroachment shall not exceed three (3) feet into the front setback. Stairs, steps, or landing encroachments required for access may extend to front property line.

3. For corner lots, excluding the required guardrails or handrails, the finished surface of the encroachment shall not exceed six (6) inches above the finished floor of the dwelling unit(s) and may extend into the front setback adjacent to the beach, permitted Ocean Front Encroachment areas (Appendix C Ocean Front Encroachment Policy Guidelines of Title 21), or Ocean Front Boardwalk. A deck, balcony, patio, or terrace encroachment shall not exceed three (3) feet into the front setback. Encroachments are subject to compliance with all other development standards of the underlying zoning district including Section 21.30.130 (Traffic Safety Visibility Area).

1. For interior lots and corner lots, one set of access stairs from the grade level to the first elevated floor is allowed to encroach up to three (3) feet into the front setback. Excluding the required guardrails or handrails, the finished surface of the encroachment shall not exceed six (6) inches above the finished floor of the dwelling unit(s). Encroachments are subject to compliance with all other development standards of the underlying zoning district including Section 21.30.130 (Traffic Safety Visibility Area).

- a. Corner lots shall be developed in a manner that ensures visibility across the corners of the intersecting streets, alleys, sidewalks, private driveways, and the Ocean Front Boardwalk. Notwithstanding the requirements of this subsection (C), no encroachment over thirty (30) inches in height from existing grade shall be located within the traffic visibility triangle (i.e. the triangular-shaped area on a corner lot formed by measuring the five (5) feet from the intersection of the front and street side property lines adjacent to the Ocean Front Boardwalk).
- b. Improvements or structures that exceed the allowable height limit for visibility in the traffic safety visibility area may be approved by the City Traffic Engineer if he/she determines that the location and/or height of the existing or proposed improvement or structure allows for the unobstructed view of oncoming traffic including bicyclists, and pedestrians by a driver, bicyclist, or pedestrian approaching an intersection.

4.2. Guardrails and handrails in the front setback shall be constructed of either transparent material (except for supports) or opaque material (e.g. decorative grillwork, wrought iron, latticework, or similar materials) so that at least forty percent (40%) of the guardrail or handrail is open. Handrails and guardrails shall not exceed the minimum height requirements set forth in the California Building Code for safety purposes.

Suggested Modification 3: Narrow references to uncertified development standards.

Section 21.28.070, Special Flood Hazard Area (VE) Overlay District.

- A. Applicability. ...For purposes of this section, "encroachments" are limited to balconies, decks, landings, patios, platforms, porches, steps, raised walkways, or terraces required for access. With the exception of the encroachments authorized herein, all development shall comply with the applicable residential development standards (e.g., floor area limit, setbacks, parking) of the underlying zoning district set forth in the NBMC. In situations where an inconsistency occurs between the development standards of the underlying zoning district and the standards in this section related to encroachments, the standards related to encroachments in this section shall apply. The encroachments allowed by this section shall only apply ~~to new construction, substantial damage, or substantial improvements to the structure pursuant to when the project is required to comply with Section 15.50 (Floodplain Management)~~ for residential properties where the structure is required to raise the foundation above the design flood elevation. **Nothing in this section shall be construed to constitute a waiver of, or exclusion from, the building standards set forth in Section 15.50 (Floodplain Management).**

B. Allowed Encroachments in Side and Rear Setbacks. An encroachment may be located within a required side or rear setback area other than those abutting an alley subject to the following restrictions:

~~1. The design of the encroachment shall comply with the building standards set forth in Section 15.05.100 (Amendment to Section R301.2.4) and either of the following:~~

~~a. Chapter 15.50 (Flood Plain Management); or~~

~~b. The Flood Resistant Design and Construction publication by the American Society of Civil Engineers (ASCE 24).~~

~~2.1. For interior lots, the encroachment may be located in one (1) or more side or rear setback and may extend to the property line abutting the side or rear setback. Encroachments in an interior side or rear setback may only be permitted to the minimum extent necessary to provide access to the dwelling from both the front and the rear of the property.~~

~~3.2. For corner lots, the encroachment may be located in the interior side or rear setback. Encroachments in a side or rear setback facing a street may only be permitted to the minimum extent necessary to provide access to the dwelling from both the front and the rear of the property. The encroachment shall comply with all other development standards of the underlying zoning district including Section 21.30.130 (Traffic Safety Visibility Area).~~

~~4.3. Excluding required guardrails or handrails, the finished surface of the encroachment shall not exceed six (6) inches above the finished floor of the dwelling unit(s).~~

~~5.4. Guardrails and handrails in the side and rear setback shall be constructed of either transparent material (except for supports) or opaque material (e.g. decorative grillwork, wrought iron, latticework, or similar materials) so that at least forty percent (40%) of the guardrail or handrail is open. Handrails and guardrails shall not exceed the minimum height requirements set forth in the California Building Code for safety purposes.~~

IV. FINDINGS

The Commission hereby finds and declares:

A. DESCRIPTION (BEACHFRONT SETBACK ENCROACHMENTS)

Part B of the subject request was submitted for Commission certification by City Council Resolution No. 2023-37 on September 11, 2023. The City requests revision of two certified IP policies: Section 21.28.010 outlining each overlay zoning district and Section

21.30.110 specifying allowable encroachments. Additionally, the City would incorporate a new Section 21.28.070 establishing allowable encroachments within the proposed “Special Flood Hazard Area (VE)” Overlay District.

Background on City’s Floodplain Management

The certified IP generally uses overlay zoning districts to address areas of the coastal zone that require unique development standards. Examples include the Bluff and Canyon Overlays’ setbacks, or the Height Overlay’s uniquely tall height limitations. Overlays are a straightforward way to categorize properties via maps; and codify the relevant development standards in one place. No such overlay exists for flood hazard areas. Instead, the certified IP outlines development standards for “waterfront development” and “shoreline hazardous areas” (including minimum slab elevations and flood-proofing requirements) among the broader development standards of IP Chapter 21.30.³

The omission of an overlay and maps for “shoreline hazardous areas” may be due, in part, to the sheer number of Newport Beach properties facing future flooding. Nearly every island in the Newport Harbor is projected to flood with 4.9 ft. of sea level rise and an annual storm on the Our Coast, Our Future’s Coastal Storm Modeling System (CoSMoS). IP Appendix A acknowledges the significant risks facing the City, including “severe social and economic hardships” associated with the loss of beaches and coastal-dependent land uses. In IP Appendix A, the City pledges to prepare a vulnerability assessment “to help develop a long-term adaptation strategy”. Commission staff have requested updates on the City’s vulnerability assessment since the certification of IP Appendix A in 2016—but no assessment has been prepared thus far.

In the absence of certified LCP maps for flood-prone areas, the City relies in part on FEMA Flood Maps, published every four to ten years on an intermittent basis. The maps use current and historical data to establish “Special Flood Hazard Areas”, or areas with a 1% chance of flooding in any given year. Within these areas, FEMA further differentiates between varying degrees of risk by establishing hazard zones. “VE Zones” are subject to unique flood hazards from direct wave action. The varying numbers following this title (e.g. “VE 13” or “VE 15”) reflect baseline flood elevations projected during a 100-year storm event (although FEMA Flood Maps do not account for sea level rise). The baseline flood elevations are estimated in National Vertical Datum of 1988 (NAVD88), such as +15 ft. NAVD88 baseline flood elevation.

To remain eligible for federal flood insurance, the City must enforce FEMA’s design standards per the FEMA Flood Map published for Orange County in 2019. As referenced above, certified IP Chapter 21.30 requires compliance with FEMA’s top-of-slab elevation requirements and requires a minimum +9.00 ft. NAVD88 elevation for all

³ See subsections D and E of certified IP [Section 21.30.015](#).

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interior living areas.⁴ However, the bulk of the City’s FEMA compliance stems from uncertified Municipal Code Chapter 15.50, “Floodplain Management” (which is not a component of the certified LCP). The subject chapter generally defines FEMA terms, outlines when property-owners are required to comply with FEMA requirements, and requires specific forms of elevating and flood-proofing. Residences located in FEMA’s VE Zone must elevate their homes roughly three to five feet above natural grade.

In the years following FEMA’s updated standards, Newport Beach property-owners in VE Zones have expressed frustration with elevated home designs. The need for stairs to bridge the gap between elevated homes and non-elevated yards means smaller ground floors in multi-story homes. The City states:

The [certified IP and uncertified Municipal Code] amendments are necessary to provide parity between residential properties located in the VE Zone and typical residential properties throughout Coastal Zone... Typical residential properties along the beach and boardwalk can achieve seamless indoor and outdoor living with front patios along the sand or boardwalk. As of the effective date of the new [flood maps], properties in the VE Zone are no longer able to achieve this design, as their finished floors are elevated well above the beach or boardwalk...

[S]taff considered the option of not making any changes to the LCP to accommodate access within setbacks. However, that option requires access to be located within the buildable area, which results in a reduction in the floor area footprint for each point of access to the residence. The additional cut outs in the footprint for stairs also disrupts the floor plan even further. Most VE Zone properties are designed in a split-level configuration since the garage is at the ground level, so the additional disruption is more significant than a typical property. Since 2019 staff has received at least 3 variance requests related to access in the setbacks and this LCPA seeks to reduce the number of variances requested in the future.

Current Amendment Request (Part B)

To accommodate property-owners’ concerns regarding home design, Part B of the subject IP amendment request would establish a new “Special Flood Hazard Area (VE)” Overlay District that:

- Includes all residential properties located in the “VE 13” and “VE 15” zones of the FEMA Flood Map for Orange County dated 2019;

⁴ NAVD88 stands for the North American Vertical Datum of 1988 and offers a uniform measure of elevations across the country.

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- Limits the scope of allowable encroaching structures to “decks, landings, patios, platforms, porches, steps, raised walkways, or terraces required for access”;
- Limits the scope of work eligible for encroachment to “new construction, substantial damage, or substantial improvements” to an elevated structure;
- Requires all encroaching structures to comply with the building standards of uncertified Municipal Code Chapter 15.50 or an uncertified publication by the American Society of Civil Engineers; and
- Allows specific encroachments into side, rear, and front setbacks based on the subject lot’s location within its residential block.

As proposed by the City, both interior and corner lots would be eligible for encroachments within every property line setback. While not defined in the certified LCP, the City has confirmed that interior lots are located between other lots and corner lots are located adjacent to a street-ends. Within rear and side setbacks, all encroachments could extend to the property line. Within front setbacks, non-walkway encroachments (i.e. decks, balconies, patios, or terraces) could extend three feet into the setback; and walkway encroachments (i.e. stairs, steps, or landings) could extend to the property line.

The City’s proposed revisions would allow a maximum six-inch height for encroachments (as measured from the associated residence’s finished floor elevation). The City would also require the use of opaque or transparent materials for encroaching guardrails and handrails. Encroachments facing a street would require design features to preserve a ‘traffic visibility triangle’.

In summary, Part B of the proposed LCP amendment request would allow accessory structures located in hazardous beachfront areas to encroach closer toward adjacent residences and public accessways. Staff would note that the above description was simplified for readability and nuances will be discussed further in the [‘Analysis’](#) subsection below. No revisions to the certified LUP are proposed under Part B.

B. ANALYSIS (BEACHFRONT SETBACK ENCROACHMENTS)

The certified LUP includes the following relevant policies:

- 2.2.2-4** Implement building design and siting regulations to protect coastal resources and public access through height, setback, floor area, lot coverage, building bulk, and other property development standards of the Zoning Code intended to control building placement, height, and bulk.

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- 2.2.5-3.** When proposed development would involve demolition or replacement of 50 percent or more of the exterior walls of an existing structure that is legally non-conforming due to a coastal resource protection standard, the entire structure must be made to conform with all current development standards and applicable policies of the Coastal Land Use Plan.
- 2.7-1.** Continue to maintain appropriate setbacks and density, floor area, and height limits for residential development to protect the character of established neighborhoods and to protect coastal access and coastal resources.
- 3.1.1** Shoreline Access. In terms of implementing the Coastal Act, there are two basic types of public access: vertical access, or access to the shoreline, and lateral access, or access along the shoreline. ...
- 3.1.1-11** Require new development to minimize impacts to public access to and along the shoreline.
- 3.1.1-12.** Implement building design and siting regulations to protect public access through setback and other property development regulations of the Zoning Code that control building placement.
- 3.1.1-18.** Require new development on ocean-fronting, residentially zoned properties located between the Santa Ana River Jetties and the Newport Harbor West Jetty to conform to the setback requirements of the Zoning Code in effect as of October 13, 2005 to prevent impacts to public access.
- 3.1.3-2** Continue to restrict the nature and extent of improvements that may be installed over public rights of way on the oceanside of beachfront residences and to preserve the City's right to utilize oceanfront street easements for public projects.
- 3.1.3-3.** Limit the maximum oceanward extent of encroachments to the following encroachment zones:
- ...
- B. 52nd Street to 36th Street. A maximum of 10 feet oceanward of the rear (ocean facing) property line within the oceanward prolongation of the side property lines.
- C. 36th Street to E Street. Between A Street and a point 250 feet southeast of E Street, up to the inland edge of the Oceanfront

Boardwalk (7 to 8 feet oceanward of the rear property line) and within an oceanward prolongation of the side property lines. ...

3.1.3-6. Require encroachment permits to specify that the property owner waives and gives up any right to contest the validity of the oceanfront street easement, and that the encroachment permit is revocable, without cause, if the City proposes to construct public improvements within that zone.

4.1.1-10. Require buffer areas of sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect. Terrestrial ESHA shall have a minimum buffer width of 50 feet wherever possible. Smaller ESHA buffers may be allowed only where it can be demonstrated that 1) a 50-foot wide buffer is not possible due to site-specific constraints, and 2) the proposed narrower buffer would be amply protective of the biological integrity of the ESHA given the site-specific characteristics of the resource and of the type and intensity of disturbance.

Lack of Established Overlay Boundaries

Part B of the subject amendment request would allow property-owners within the Special Flood Hazard Area (VE) Overlay to build closer to private property lines. Under the most recent 2019 FEMA Flood Map, the proposed overlay would include 166 adjacent parcels located between 24th and 48th Street in West Newport.

However, the boundaries of the City's proposed new overlay would expand or shrink with every FEMA mapping update. The City's proposed language establishes overlay boundaries by referencing uncertified Municipal Code Section 15.50.070, which in turn references the 2019 FEMA Flood Map for Orange County "and all subsequent amendments and/or revisions". This means that the number and location of properties eligible for setback encroachments would ultimately be set by FEMA. Roughly half a mile of West Newport homes are currently located very close to "VE 13" and "VE 15" zones, but limiting analysis to this prospective area is pure speculation. Equally possible is a 'worst-case' scenario in which all of the City's beachfront homes become "VE 13" and "VE 15" zones within the next 75 years. In the absence of any predictive information on (or ability to advise on) future maps, the Commission must analyze the impacts of the 'worst-case' scenario.

The proposed overlay's lack of specified boundaries requires analysis of every beachfront residence in Newport Beach. This is clearly difficult, especially considering the variety of unique coastal resources present across the City's beaches. Some beachfront lots in Corona Del Mar are located within the certified IP's Bluff Overlay,

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which requires highly specific setbacks for accessory structures.⁵ Additionally, many beachfront lots in Peninsula Point abut environmentally sensitive habitat area (ESHA) in the form of dunes, which necessitate a minimum 50-ft. structural setback under certified LUP Policy 4.1.1-10. These property-owners may become eligible to build accessory structures within bluff and ESHA setbacks under future FEMA maps. The City's proposed IP language explicitly states:

In situations where an inconsistency occurs between the development standards of the underlying zoning district and the standards in this section related to encroachments, the standards related to encroachments in this section shall apply.

In response, the City has inquired whether new language excluding bluff overlays and ESHA from the proposed waiver of setbacks would resolve the issue. The City further requested that Commission staff identify any other specific areas of concern so they could offer additional site-specific protections. However, this again requires the Commission to review every oceanfront parcel in Newport Beach for conflicting setbacks or vulnerable resources. It also demonstrates a fundamental misunderstanding of the issue at stake: the cumulative undermining of setbacks from public land across the City. Identifying specific parcels that should have to comply with front setbacks is antithetical to the purpose of setbacks.

Additionally, the City contends that specifying the proposed overlay's location will require repetitive amendments to increase or decrease the overlay scope with every FEMA Flood Map update. This could mean a new LCP amendment every four years. This contention is correct: the City would have to request subsequent LCP amendments to expand or decrease the scope of locations where property-owners can build within setbacks. The City would also have to: 1) provide adequate opportunities for public participation in deciding where setbacks can be waived; and 2) submit information supporting the newly included properties' ability to build into setbacks without adversely impacting coastal resources. While these requirements may be onerous, they are critical when determining which properties may build out to the boundaries between private and public land.

Overall, the City's proposed overlay could expand in size and undermine the certified LUP's resource protection policies (like required bluff and ESHA setbacks). **Suggested Modification 1** revises the proposed IP Section 21.28.070 to apply solely to residential properties identified as "VE 13" and "VE 15" zones on the 2019 FEMA Flood Map for Orange County. The subject modification also requires incorporation of a new overlay map in certified IP Chapter 21.80. These changes are necessary to allow adequate analysis of potential resource impacts.

⁵ See certified IP [Section 21.28.040](#).

Upon request from Commission staff, the City provided [Exhibit 5](#) as the overlay map intended to satisfy the subject suggested modification. Therefore, the following consistency analysis will pertain solely to the 166 parcels included in the proposed overlay as revised by **Suggested Modification 1**, rather than every beachfront parcel in the City's coastal zone.

Public Access

Certified LUP Policy 3.1.1-11 requires new development to minimize impacts to shoreline public access. Certified LUP Section 3.1.1 further differentiates between two primary forms of this resource: vertical access to the shoreline and lateral access along the shoreline. The 166 parcels currently designated as "VE 13" and "VE 15" zones are surrounded by public accessways. Relevant lateral accessways include the Oceanfront Boardwalk—a three-mile long, multi-use concrete path extending from 36th Street to F Street—and the sandy beach itself. Relevant vertical accessways include the street-ends located at 200 to 500-ft. long intervals, which offer valuable breaks in a long expanse of private development ([Exhibit 3](#)).

Encroachments within private property may seem like an oxymoron, but the certified LUP recognizes the importance of building setbacks within private property lines. Certified LUP policies 2.2.2-4, 2.7-1, and 3.1.1-12 all require development setbacks to protect coastal access (among other coastal resources addressed further below.) Certified LUP Policy 3.1.1-18 specifically requires new oceanfront residential development in West Newport and the Balboa Peninsula to "conform to the setback requirements of the Zoning Code in effect as of October 13, 2005 to prevent impacts to public access." These policies are intended to preserve the buffer between private and public areas.

Commission staff conducted site visits to the City's proposed overlay on May 12 and 30, 2025. The site visit photographs in [Exhibit 4](#) illustrates a fundamental issue with the City's proposal: building placement affects how comfortable people feel using adjacent public accessways. A visitor on Oceanfront Boardwalk—especially a visitor from inland locations who is unfamiliar with prescriptive rights in Newport Beach—may feel uneasy walking within arm's reach of residents' decks and entryways. Pedestrians tend to offer a wide berth around residential development, with the intent of avoiding awkward encounters or privacy violations. (Anyone who has drifted to the furthest edges of the sidewalk to offer a polite distance from an adjacent living space can attest to this.) When privacy setbacks are not located on private property, they are often carved out from the adjacent public sidewalks and beaches.

The certified IP already allows most of the encroachments proposed by the City's proposed new overlay. **Table 1** of [Appendix B](#) compares the current certified and proposed revised IP with regard to allowable side and rear setback encroachments. The table shows the only proposed differences for side and rear setback encroachments are: 1) increased maximum heights, and 2) more restrictive guardrail design standards.

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Furthermore, certified IP Table 21.30-1 already allows maximum six-foot tall walls along the perimeter of rear and side setback areas. The photographs in [Exhibit 4](#) show some examples, in which LCP-compliant side and rear walls render it difficult to notice any side and rear setback encroachments. IP Table 21.30-1 does state that reduced wall heights may be required to protect public views and access. However, Commission staff are not aware of cases in which shorter rear and side walls have been required to protect views through beachfront side yards.

The certified IP is more restrictive with regard to front setback encroachments. A balcony may encroach three feet into front setbacks per certified IP Section 21.30.110.5, while most other permanent accessory structures cannot. The City's proposed revisions would allow the same degree of front setback encroachment for decks, patios, and terraces. Additionally, the City's proposal would allow encroachment out to the front property line for stairs, steps, and landings connecting elevated decks to the lower front yard. (For brevity, the following analysis will simply reference 'decks' as representative of patios and terraces and 'stairs' as representative of steps and landings.)

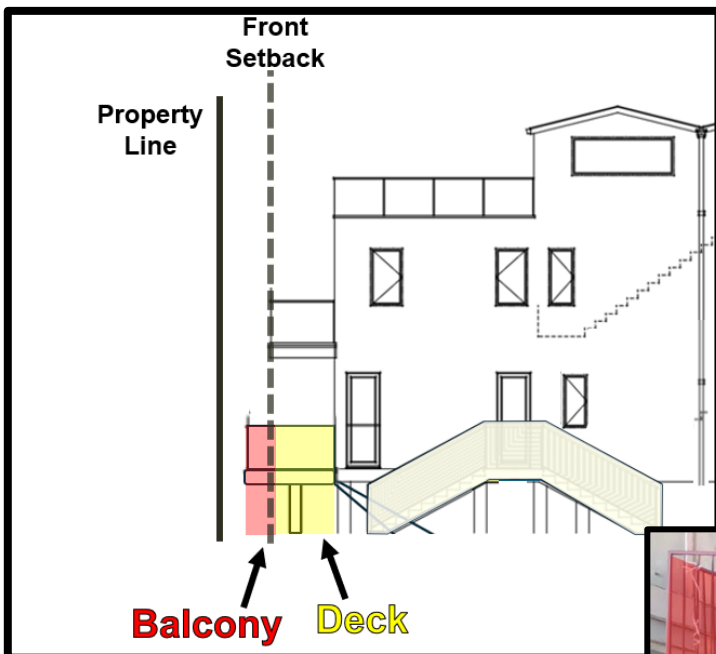
Allowing decks with a two-foot setback—and stairs with no setback—from the public beach would undermine the public access protections of the above cited LUP policies. As sea level rise narrows the sandy beach, members of the public unable to afford beachfront real estate will be pushed closer and closer to public-private land boundaries. The certified LUP clearly establishes the importance of setbacks in protecting public access to the coast. Upon further discussion with Commission staff, the City has agreed to suggested modifications eliminating the proposed deck encroachments and stair encroachments to the property line.

However, the City states that nothing in the certified IP prohibits an encroaching front balcony on the ground floor. Certified IP Section 21.70.020 defines a balcony, (**emphasis** added), as “a platform that projects from the wall of a structure, typically above the first level; **is not** supported by columns or pillars; and is surrounded by a rail or parapet”. In contrast, IP Section 21.70.020 defines a deck, (**emphasis** added), as “a platform, either freestanding or attached to a structure that **is** supported by pillars or posts. The only relevant differences between a deck and a balcony as specified by the certified IP are: 1) the method of support and 2) the inclusion of a railing or parapet. It seems likely that the City and Commission were not picturing ground-floor balconies when drafting the subject IP definitions—but regardless, the City is correct that siting a balcony on upper levels is not technically required. On this basis, a cantilevered ground-floor balcony could extend three feet into a front setback under the current certified IP.

Since publication of the FEMA's 2019 Flood Map for Orange County, the City has approved five variances for accessory structure encroachments within the proposed

overlay footprint.⁶ A variance is a “waiver or modification of certain [IP] standards” to bring parity between properties with varying constraints per IP Section 21.52.090.B.2. Commission staff initially assumed that a single deck structure that encroaches into the front setback would require a variance from front setback requirements.

However, the City has effectively divided a single structure into two different ones: an elevated deck supported by posts within buildable area and a balcony cantilevered off the deck within the front setback. On this basis, none of the five variances included an encroaching deck within the variance findings. Nor did any of the variances’ accompanying project plans distinguish where the deck stops and the balcony starts. Three variance plan sets label the entire structure as a ‘deck’, one variance plan set labels the entire structure as a ‘balcony’, and the fifth variance plan set does not offer a label. **Figure 1 and 2** below shows a photograph and diagram as examples.



Figures 1 and 2. Hypothetical diagram provided by City (left) and photograph from local approved variance (right).



⁶ The local variances correspond to City action Nos. [PA2024-0121](#) (3202 W. Oceanfront), [PA2024-0013](#) (3100 W. Oceanfront), [PA2022-0212](#) (3509 Seashore), [PA2023-0018](#) (3907 Seashore), and [PA2021-234](#) (4607 Seashore).

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In response to request for clarification, the City states:

[These examples] include plans from architects that label their plans using their own terminology and not the City’s codified language. They reference “decks” on the plans, but they are generally balconies per code. This is evidenced through the staff reports and resolutions for all of the variances. The balconies are never included as requested variances, as they are consistent with Title 21 as currently adopted. ...[T]he City has always considered the first floor cantilevered balconies as “balconies” that are subject to Section 21.30.11(D)(5). As such, this is not part of our request. In response to CCC Staff’s stance related to decks and terrace encroachments in the front setback, however, we have agreed to remove that part of our request from the LCPA.

While the City’s interpretation of a single structure as part balcony and part deck is unusual, the certified IP’s relevant definitions are vague enough to allow such an interpretation. The City has clarified that their intent with the subject LCP amendment, in part, was to expand the scope of allowable ground-floor encroachments in front setbacks to allow supports (i.e. decks, terraces, and patios). This is a unique situation that, upon site-specific analysis of the subject 166 properties, does not pose an immediate conflict with the certified LUP’s setback policies. Thus, Commission staff recommends **Suggested Modification 2** to delete the City’s proposed three-ft. front setback encroachments allowed for decks, patios, and terraces, with the understanding that the City will continue approving encroaching ground-floor balconies cantilevered from elevated decks and homes within the proposed overlay.

Additionally, **Suggested Modification 2** narrows and reduces the City’s requested degree of encroachment for stairways. The suggested modification limits each property in the ‘Special Flood Hazard Area (VE)’ overlay to one stairway within the front setback; and reduces the requested degree of encroachment from no-setback to a minimum two-foot setback (i.e. a three-foot encroachment into five-foot setbacks). This would effectively allow a single stairway adjoining an elevated ground-floor balcony to the natural-grade yard below. Balconies do not typically have a set of stairs connecting multiple levels to the balcony itself—but as stated above, this is a unique situation that does not raise inconsistency with the certified LUP. As modified, the allowable stairway will not result in a significantly different encroachment than the certified IP’s allowance for balconies. To ensure the proposed new policy language does not allow multi-level facades for a set of stairs connecting multiple balconies within the front setback, **Suggested Modification 2** further limits the single encroaching front stairway to connect the grade level to the first elevated floor onsite.

Development and Community Character

Certified LUP policies 2.2.2-4 and 2.7-1 require setbacks, in part, to control building bulk and prevent adverse cumulative effects to community character. During the local

hearing process, some members of the public raised concerns with the visual impacts of building within side, rear, and front setbacks.

As stated above, the certified IP already allows balconies within front setbacks; and all accessory structures within side and rear setbacks. The only differences proposed by the City (as revised by **Suggested Modifications 1 and 2**) would be a single stairway added to the already-allowed balcony within the front setback; and height increases accompanied by more restrictive guardrail requirements for already-allowed side and rear encroachments. The certified LUP allows six-foot tall perimeter fencing that effectively hides the encroachments. [Exhibit 4](#) shows examples of views from alleys (looking west) and the sandy beach (looking east): the photographs primarily show LUP-consistent gates and fences that render side encroachments nearly invisible. Contentions from the public regarding air flow, natural light, and privacy between neighbors are not based on the standard of review and are thus beyond the scope of Commission review. The City's proposed overlay, as modified by **Suggested Modifications 1 and 2**, would not have an adverse cumulative effect on community character.

However, the City's proposed development standards for the 'Special Flood Hazard Area (VE)' overlay do raise a potential inconsistency with the certified LUP and IP. As proposed, the scope of projects eligible for setback encroachments would include "new construction, substantial damage, or substantial improvements to the structure" as defined by uncertified Municipal Code Section 15.50.200. Each of these categories effectively describes work exceeding minor repair and maintenance, or new development.

The certified LCP includes multiple thresholds for determining whether work would result in new development. Certified LUP Policy 2.2.5-3 requires correction of nonconformities when the proposed work would demolish or replace 50% or more of existing exterior walls. Certified IP Section 21.38.040.H echoes this requirement, but further includes when a project would demolish or replace 50% or more of the existing foundation. IP sections 21.30.015.D.2.h and 21.38.040.A more generally determine work constituting "replacement of more than fifty (50) percent of the existing structure" as a new structure. By comparison, uncertified Municipal Code Section 15.50.050 defines 'new construction' by the start date of construction; and 'substantial damage' and 'substantial improvement' via the cost of work in relation to the structure's monetary value prior to damage.

The City's intention in referencing these terms was to prevent exploitation of the overlay for elective construction of elevated encroachments. Commission staff support this goal, but raised concerns with the potential effect of conflicting definitions for new development. Commission staff analyzed the below alternatives to limit the scope of encroachment eligibility without creating internal conflicts in the IP.

Alternative 1: Add new definitions. The City could revise certified IP Section 21.70.020 to include definitions for “new construction”, “substantial damage”, and “substantial improvement” specific to the City’s proposed overlay (i.e. IP Section 21.28.070). The definitions would mirror those of the City’s uncertified floodplain ordinance and FEMA standards. However, this could undermine the certified IP’s existing definitions and set an adverse precedent of considering monetary value when analyzing remodels, rather than actual structural changes.

Alternative 2: Narrow uncertified references. The City could maintain its reference to uncertified Municipal Code Chapter 15.50, but strike references to the phrases “new construction”, “substantial damage”, and “substantial improvement”. The City could also strike its references to uncertified design standards (i.e. Municipal Code Chapter 15.50 and The Flood Resistant Design and Construction publication by the American Society of Civil Engineers). This would direct property-owners to FEMA elevation requirements and eligibility standards without undermining the certified IP’s definitions of the subject phrases. Retaining references to the uncertified Municipal Code is not ideal, considering that the Commission has no oversight or ability comment on the City ordinances beyond those in the certified IP. However, this would be a minor reference and constitutes a necessary allusion to FEMA requirements.

To implement the second alternative above, **Suggested Modification 3** revises the City’s proposed eligibility criteria for setback encroachments in the ‘Special Flood Hazard Area (VE)’ overlay to reference the relevant uncertified Municipal Code Section 15.50.200 and delete the phrases “new construction”, “substantial damage”, and “substantial improvement”. **Suggested Modification 3** also deletes references to uncertified design standards for setback encroachments, substituting these references with a statement that nothing in the proposed overlay’s policies “shall be construed to constitute a waiver of, or exclusion from, the building standards set forth in Section 15.50 (Floodplain Management)”.

Therefore, as modified, Part B of the subject amendment request conforms with, and is adequate to carry out, the provisions of the certified LUP.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

As set forth in Section 21080.9 of the California Public Resources Code, the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of an LCP. The Commission’s LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. (14 CCR § 15251(f).) Nevertheless, the Commission is required when approving an LCP submittal to find that the LCP does conform with the provisions of CEQA. This includes the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if

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there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

As outlined in the findings above, Part B of the proposed IP amendment will be in conformity with, and adequate to carry out, the policies of the certified LUP with the three suggested modifications. The Commission finds that approval of the subject LCP Amendment request will not result in significant adverse environmental impacts under the meaning of CEQA and will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code. Furthermore, there are no other feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the LCP amendment may have on the environment.

APPENDIX A—SUGGESTED MODIFICATIONS IN TEXT

For ease of reading, the suggested modifications outlined for Part B of the subject amendment request have been incorporated into this appendix. The same suggested modifications are overlain atop the language submitted by the City per City Council Resolution No. 2023-37, resulting in a more fluent format. For the sake of brevity, solely the IP sections with embedded suggested modifications are included below.

Normal Text = Existing, unmodified language

~~Strikethrough Text~~ = City's proposed eliminated language

Underline Text = City's proposed added language

~~**Bold Strikethrough Text**~~ = Commission's proposed eliminated language

Bold Underline Text = Commission's proposed added language

Section 21.28.070, Special Flood Hazard Area (VE) Overlay District.

- A. Applicability. This section applies to encroachments for residential properties located in the coastal high hazard area as defined in Chapter 15.50 (Floodplain Management) and identified as VE 13 or VE 15 on the adopted FEMA FIS and FIRM pursuant to Section 15.50.070 (Basis for Establishing the Areas of Special Flood Hazard) identified as VE 13 or VE 15 on the Federal Emergency Management Agency's "Flood Insurance Study (FIS) for Orange County, California and Incorporated Area" dated revised March 21, 2019. For purposes of this section, "encroachments" are limited to balconies, decks, landings, patios, platforms, porches, steps, raised walkways, or terraces required for access. With the exception of the encroachments authorized herein, all development shall comply with the applicable residential development standards (e.g., floor area limit, setbacks, parking) of the underlying zoning district set forth in the NBMC. In situations where an inconsistency occurs between the development standards of the underlying zoning district and the standards in this section related to encroachments, the standards related to encroachments in this section shall apply.

The encroachments allowed by this section shall only apply to new construction, substantial damage, or substantial improvements to the structure pursuant to when the project is required to comply with Section 15.50 (Floodplain Management) for residential properties where the structure is required to raise the foundation above the design flood elevation. Nothing in this section shall be construed to constitute a waiver of, or exclusion from, the building standards set forth in Section 15.50 (Floodplain Management).

- B. Allowed Encroachments in Side and Rear Setbacks. An encroachment may be located within a required side or rear setback area other than those abutting an alley subject to the following restrictions:

1. The design of the encroachment shall comply with the building standards set forth in Section 15.05.100 (Amendment to Section R301.2.4) and either of the following:

a. Chapter 15.50 (Flood Plain Management); or

b. The Flood Resistant Design and Construction publication by the American Society of Civil Engineers (ASCE 24).

2.1. For interior lots, the encroachment may be located in one (1) or more side or rear setback and may extend to the property line abutting the side or rear setback. Encroachments in an interior side or rear setback may only be permitted to the minimum extent necessary to provide access to the dwelling from both the front and the rear of the property.

3.2. For corner lots, the encroachment may be located in the interior side or rear setback. Encroachments in a side or rear setback facing a street may only be permitted to the minimum extent necessary to provide access to the dwelling from both the front and the rear of the property. The encroachment shall comply with all other development standards of the underlying zoning district including Section 21.30.130 (Traffic Safety Visibility Area).

4.3. Excluding required guardrails or handrails, the finished surface of the encroachment shall not exceed six (6) inches above the finished floor of the dwelling unit(s).

5.4. Guardrails and handrails in the side and rear setback shall be constructed of either transparent material (except for supports) or opaque material (e.g. decorative grillwork, wrought iron, latticework, or similar materials) so that at least forty percent (40%) of the guardrail or handrail is open. Handrails and guardrails shall not exceed the minimum height requirements set forth in the California Building Code for safety purposes

C. **Allowed Encroachments in Front Setbacks. Encroachments may be located within a required front setback area subject to the following restrictions:**

1. The design of the encroachment shall comply with the building standards set forth in Section 15.05.100 (Amendment to Section R301.2.4) and either of the following:

a. Chapter 15.50 (Flood Plain Management); or

b. The Flood Resistant Design and Construction publication by the American Society of Civil Engineers (ASCE 24).

~~**2. For interior lots, excluding the required guardrails or handrails, the finished surface of the encroachment shall not exceed six (6) inches above the finished floor of the dwelling unit(s). A deck, balcony, patio, or terrace encroachment shall not exceed three (3) feet into the front setback. Stairs, steps, or landing encroachments required for access may extend to front property line.**~~

~~**3. For corner lots, excluding the required guardrails or handrails, the finished surface of the encroachment shall not exceed six (6) inches above the finished floor of the dwelling unit(s) and may extend into the front setback adjacent to the beach, permitted Ocean Front Encroachment areas (Appendix C Ocean Front Encroachment Policy Guidelines of Title 21), or Ocean Front Boardwalk. A deck, balcony, patio, or terrace encroachment shall not exceed three (3) feet into the front setback. Encroachments are subject to compliance with all other development standards of the underlying zoning district including Section 21.30.130 (Traffic Safety Visibility Area).**~~

1. For interior lots and corner lots, one set of access stairs from the grade level to the first elevated floor is allowed to encroach up to three (3) feet into the front setback. Excluding the required guardrails or handrails, the finished surface of the encroachment shall not exceed six (6) inches above the finished floor of the dwelling unit(s). Encroachments are subject to compliance with all other development standards of the underlying zoning district including Section 21.30.130 (Traffic Safety Visibility Area).

- a. Corner lots shall be developed in a manner that ensures visibility across the corners of the intersecting streets, alleys, sidewalks, private driveways, and the Ocean Front Boardwalk. Notwithstanding the requirements of this subsection (C), no encroachment over thirty (30) inches in height from existing grade shall be located within the traffic visibility triangle (i.e. the triangular-shaped area on a corner lot formed by measuring the five (5) feet from the intersection of the front and street side property lines adjacent to the Ocean Front Boardwalk).
- b. Improvements or structures that exceed the allowable height limit for visibility in the traffic safety visibility area may be approved by the City Traffic Engineer if he/she determines that the location and/or height of the existing or proposed improvement or structure allows for the unobstructed view of oncoming traffic including bicyclists, and pedestrians by a driver, bicyclist, or pedestrian approaching an intersection.

4.2. Guardrails and handrails in the front setback shall be constructed of either transparent material (except for supports) or opaque material (e.g. decorative grillwork, wrought iron, latticework, or similar materials) so that at least forty

percent (40%) of the guardrail or handrail is open. Handrails and guardrails shall not exceed the minimum height requirements set forth in the California Building Code for safety purposes

Chapter 21.80, Maps.

Section 21.80.070, Special Flood Hazard Area (VE) Overlay.

VE-1 –Special Flood Hazard Area (VE) Overlay (PDF)

APPENDIX B—COMPARISON TABLE

Table 1. Encroachments in Side and Rear Setbacks.		
EXISTING IP	PROPOSED IP	DIFFERENCE
General: All accessory structures may encroach within side or rear setbacks (excluding those abutting alleys)	General: All accessory structures may encroach within side or rear setbacks (excluding those abutting alleys).	None.
Height and size limits: ≤1.5-ft. tall as measured from proposed finished grade and no size limit for decks, patios, steps, landings, and similar structures. ⁷	Height and size limits: None specified, but limited to “minimum extent necessary to provide access to the dwelling” .	Increase in allowable encroachment height.
Quantity limit: None specified.	Quantity limit: None specified, but limited to “minimum extent necessary to provide access to the dwelling”.	None.
Elevation Limits: None specified.	Elevation Limits: ≤6-in. above principal structure’s finished floor elevation.	None.
Extension Limits: None specified.	Extension limits: Encroachments may extend to property line.	None.
Guardrail limits: None specified.	Guardrail limits: Materials required to preserve ≥40% openness	More restrictive.

⁷ Certified IP Section 21.30.110.2.e. requires height measurement from existing grade, but certified IP Section 21.30.060.B.3.C.ii allows height measurement from proposed finished grade for accessory structures sited on a lot proposed for an overall lot grade elevation.