

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA OFFICE
200 OCEANGATE, SUITE 1000
LONG BEACH, CA 90802-4302
VOICE (562) 590-5071



F9a

A-5-NPB-19-0003 (CITY OF NEWPORT BEACH)

MARCH 8, 2019

EXHIBITS

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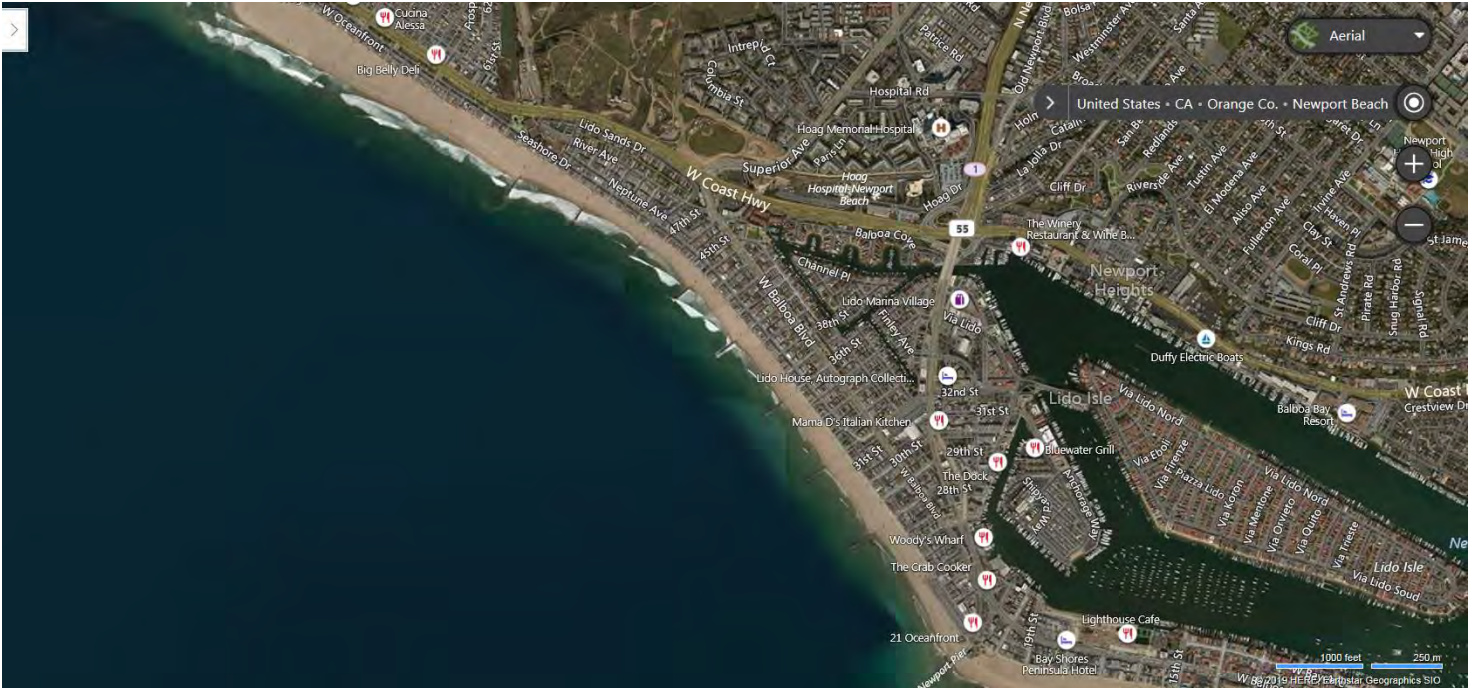
Exhibit 1 – Project Location

Exhibit 2 – Appeals

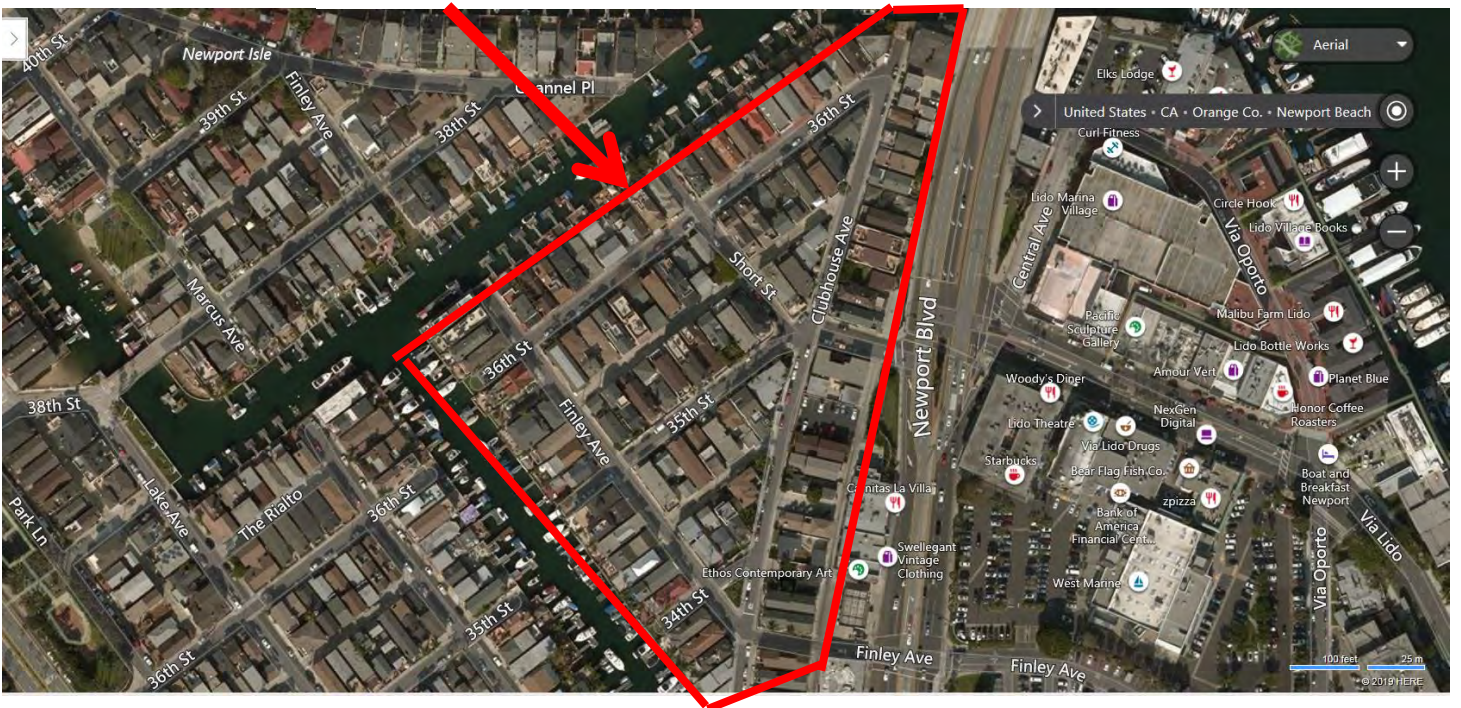
Exhibit 3 – Local CDP No. CD2018-102 Zoning Administrator Staff Report and Exhibits

Exhibit 4 – City Zoning Administrator Resolution No. ZA2018-136

PROJECT VICINITY MAP



PROJECT SITE



CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

VOICE (562) 590-5071 FAX (562) 590-5084

JAN 22 2019

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: James M. Mosher

Mailing Address: 2210 Private Road

City:

Newport Beach

Zip Code:

92660

Phone:

949-548-6229

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Newport Beach

2. Brief description of development being appealed:

CCC Post-Cert No. 5-NPB-19-0062: City approval of CDP for a residents-only parking permit program

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Program applies to the Finley Tract, a residential area bounded by Clubhouse Ave. on the east, and the Rialto and Rivo Alto canals of Newport Bay on the west.

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
- ☒ Approval with special conditions:
- ☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-5-NPB-19-0003

DATE FILED:

1/23/19

DISTRICT:

South Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☒ ~~Planning Director~~/Zoning Administrator
☐ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: 12/13/2018 (Zoning Administrator)

7. Local government's file number (if any): CD2018-102

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Newport Beach
100 Civic Center Drive
Newport Beach, California 92660

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) James Campbell (planner providing city staff's recommendation)
Deputy Community Development Director, City of Newport Beach
100 Civic Center Drive
Newport Beach, California 92660

(2) See attachment for names of persons testifying per the official minutes of the Dec. 13, 2018, hearing.

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

As described in Newport Beach CLUP Section 3.1.6, the City currently has just one Preferential Parking District in its Coastal Zone: the Newport Island Preferential Parking Zone. It was established by City Ordinance No. 1883 in 1981, apparently without benefit of a Coastal Development Permit and (despite what the text of Section 3.1.6 says) without any consideration by the City in the enabling ordinance of its impacts on coastal access.

CLUP Policy 3.1.6-2 acknowledges the need for CDP's to establish new PPZ's. However, a program allowing the City to grant such CDP's has not yet been certified. When the Commission was considering the certification of the City's overall Implementation Program in 2016, it rejected as inadequate in its entirety the City's proposed implementation of Policy 3.1.6-2 (the City's proposed IP Section 21.40.145; see page 110 of the CCC's revised findings, W22a-12-2016). At the same time, the Commission strengthened the City's proposed IP Section 21.30A.050(E)(2), prohibiting the imposition of new restrictions on public parking unless "there is substantial documented evidence of a public safety problem" (see W22a-12-2016-a2.pdf). Three months later, in considering the post-certification jurisdictions map, the understanding that Newport Beach could not establish new PPZ's without a CCC-approved amendment to its LCP was integral to the Commission's agreement to the City's request to remove the interiors of Lido and Balboa Islands from the appeal area (see page 12 of the CCC's W21a-3-2017 for an extended discussion of this matter).

Given this background, the City's approval of a CDP allowing establishment of a new PPZ across the Rialto channel from the Newport Island PPZ is inconsistent with the LCP and the Coastal Act for at least the following reasons:

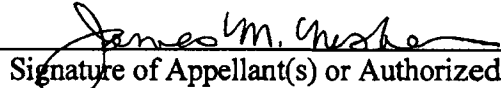
1. It violates the clear understanding by the public and Commission that before establishing or modifying any PPZ's, Newport Beach would have to come back to the Commission for an LCP amendment.

(continued on attached sheets)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: January 20, 2019

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

SECTION III. Identification of Other Interested Persons (continued)

According to the approved minutes of the December 13, 2018, Zoning Administrator hearing, the following people, with the following limited contact information, testified verbally:

Lawrence Leifer, Newport Island
Ingrid Yoncouski, Finley Tract
Sandy Golden, Clubhouse Avenue
Trudy Jackson, 35th Street
Christopher Wren, 35th Street
Joe Grothus, 515 35th Street (in opposition)
Hunter Foster, Clubhouse Avenue
Sara, Clubhouse Avenue
Gerry, Clubhouse Avenue
Helen, 34th Street/Finley Avenue
Jeff Davidson, Finley Tract (?)

The following person testified in writing:

James Mosher (appellant) [I was unable to testify in person because the City scheduled another meeting at the same hour]

SECTION IV. Reasons Supporting This Appeal (continued)

2. Of the regulations that have been certified, **this approval is clearly inconsistent with IP Section 21.30A.050(E)(2)** as described above. The staff report and adopting resolution admit the proposed PPZ does not address a public safety problem, but makes the dubious assertion that Section 21.30A.050(E)(2) can be ignored in this case because adhering to it would negate the City's purported general authority to restrict parking by issuing CDP's approving PPZ's.
 - a. As indicated above, that authority has not yet been implemented, and when and if it is, the two concepts may not be incompatible: the IP might allow a PPZ to be considered only as a solution to a public safety problem.
 - b. Compounding that, the City's fundamental CLUP Policy 3.1.6-3 allowing the creation of PPZ's is self-contradictory and appears to need revision: it allows PPZ's *only* when they don't affect "*the ability to use public parking.*" Yet all PPZ's, including this one, would seem to do exactly that.
3. **The approval is also clearly inconsistent with IP Section 21.30A.050(E)(3):** "*Existing public parking that supports public access shall be protected. Any development that results in a reduction of public parking supporting public access shall provide an equivalent quantity of public parking nearby as mitigation.*" Since the approval includes no provision for new public parking nearby, consistency with this section can be found only if one accepts the City's highly questionable assertions that: (1) the existing public parking in this area does

not support public access, and (2) the restriction of most existing public parking spaces to "residents only" does not reduce the supply of public parking.

- a. The City's belief that the area is not important to coastal access is contradicted by the testimony at the December 13, 2017, Zoning Administrator hearing that *"the tract gets inundated during the Lido Marina Village boat show and annual boat parade."* Those hardly seem activities which the Coastal Act was intended to discourage enjoyment of.
 - b. The City asserts that "as conditioned" there will be no impact to coastal visitors because the PPZ area will be closely monitored for impacts and any impacts that are observed will be mitigated. However, the approval fails to define how impacts will be determined. It also does not fund a monitoring program, let alone any mitigation measures (including providing replacement parking nearby) that might be taken as a result of an impact. Instead, in contradiction of CLUP Policy 3.1.6-3, the \$17 permit fee is said to cover only the cost of issuing the permits. Who is going to decide if visitors are being inconvenienced and how? And what will be done if they are?
 - c. The City's belief that there will be no need to provide replacement parking seems to be based on a theory that Finley Tract residents are currently using public parking spaces outside the tract, and that forcing non-residents out of the tract will not result in a net reduction for non-residents because a redistribution of the parking will occur. Each space lost, the theory goes, will result in the opening of a new space elsewhere (the one vacated by the Finley Tract resident moving back into the PPZ). However, and especially in view of the staff report's observation that there is a trend toward more drivers per household, it seems equally probable to me that the easier availability of on-street parking for residents means the Finley Tract residents and their guests will fully occupy the PPZ while continuing to use areas outside the tract, indeed resulting in a net loss of spaces available to non-residents.
4. **It is also possible that noticing of this proposal was inconsistent with LCP requirements of IP Section 21.50.080.** Based on the City's "case log," the City "filed" the present application with itself on June 20, 2017. Outreach regarding the proposal seems to have been confined to property owners and occupants of the homes in the area. It is not obvious from the staff report or Resolution of Approval if notice of the pending application was posted throughout the area as required by IP Section 21.50.080 (another provision added by the Commission during certification). The staff report mentions only a 10-day posted and published notice regarding the Zoning Administrator hearing.
5. In addition to the above possible inconsistencies with the LCP, I have these observations:
- a. This is an area of the City, like many, where land and visual access to public waterways has been almost entirely privatized.
 - i. The City asserts this makes the area unattractive for coastal access, even though it says the residents and their guests find the street ends to be a visual and recreational amenity.

- ii. Restricting public parking will make what the City claims is an already uninviting area even less inviting, which is contrary to one of the fundamental purposes of the Coastal Act, which, as I understand it, was to restore the public access that was lost, like this, in the pre-Coastal Act days.
- b. According to the staff report, the parking problem in this area appears to be primarily one created by the residents rather than by visitors: high occupancy rates exist despite the small amounts of non-resident parking.
 - i. Requests for the program appear to have been prompted by residents' observations of employees parking from nearby commercial operations. The staff report indicates the employee parking problems that prompted those requests have been largely corrected, yet the push for the PPZ goes on.
 - ii. Non-residents were said to occupy only between 0 and 20 percent of the spaces in 2017 (which was possibly before steps were taken to reduce employee parking).
 - iii. Under the PPZ, the potential number of permits (576) will vastly outnumber the number of spaces (102), suggesting the PPZ will do little to alleviate the overcrowding being experienced by residents and their guests.
 - iv. Since PPZ's in the Coastal Zone are strongly discouraged in general, one that will not alleviate congestion seems particularly problematic.
- c. Despite the City's belief few coastal visitors currently use the area, the PPZ proposes to establish six short-term spaces exempt from the permit requirement near the street ends. It is not obvious how visitors entering an area posted for residents-only parking will be made aware of the existence of these public spaces, or what assurance there will be that they will not be fully and continuously occupied by the residents and their guests who have exclusive use of all the remaining spaces, as well. The City's approval mentions new "regulatory signs" but fails to make clear if there will be any new public access signs directing visitors to the six remaining public spaces. I support improved access signage, but residents should be aware that may exacerbate the "problem" they are complaining of, rather than alleviate it. And one has to ask: if the City can make 96 "public" spaces available for residents only, can it make the 6 street end ones available only to persons unconnected with the private residences?
- d. The Resolution of Approval mentions six alternatives to a PPZ which were considered but rejected, often for reasons that seem questionable. Encouraging residents to better utilize their off-street garage parking, as an example, would seem like it would go a long way towards relieving congestion without creating a PPZ.
- e. In addition to not explaining the monitoring program, the approval is vague on details such as if there will be any exception to the PPZ for service or construction vehicles.

CALIFORNIA COASTAL COMMISSION

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JAN 23 2019

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioners Donne Brownsey and Steve Padilla

Mailing Address: 45 Fremont Street, Suite 2000

City:

Zip Code:

Phone:

San Francisco

94105

415.904.5202

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Newport Beach

2. Brief description of development being appealed:

A resident parking permit program (RP3), aka, preferential permit parking district restricting parking on public streets within the two-unit residential zoned Finley Tract on Balboa Peninsula to "No Parking Anytime Except by Permit" (including overnight). Residents may purchase up to 3, \$17 permits per household.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Finley Tract on Balboa Peninsula in Newport Beach: Finley Ave, Clubhouse Ave, Short St, and the 500-600 blocks of 34th, 35th, and 36th Streets

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

DATE FILED:

DISTRICT:

A-5-NPB-19-0003
1/23/19
South Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☒ Planning Director/Zoning Administrator
- ☐ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: 12/13/2018

7. Local government's file number (if any): CD2018-102

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Jim Mosher
2210 Private Road
Newport Beach, CA 92660

(2) Joe Grothus
515 35th Street
Newport Beach, CA 92663

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

City's LCP contains Policy 3.1.6-1 states: "Prohibit the establishment of new preferential parking districts in the coastal zone except where such restrictions would not have a direct impact to coastal access, including the ability to use public parking." The proposed parking district in this location would directly impact coastal access and is prohibited by the LCP.

The City's IP Section 21.30A.050(E) states: "Restrictions on public parking (e.g., posting of "no parking" signs, painting red curbs, installation of physical barriers, etc.) shall be prohibited except where there is substantial documented evidence of a public safety problem. Additionally, existing public parking that supports public access shall be protected." The City has acknowledged there is no public safety issue, thus, the City's approval is inconsistent with this LCP policy.

City's approval provides one (1) short-term parking space (1 or 3 hour parking limit, 8am to 10pm) for public use (i.e., no resident parking permit required) at each of the eight (8) street ends in RP3. There are currently approximately 100 on-street parking spaces in the subject area. A single public parking space where the street ends at a harbor channel (total of 8 on-street public parking spaces) would not be sufficient to avoid a direct impact to coastal access in this area.

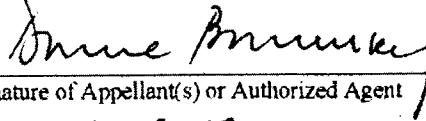
The City's approval authorizes the program for 18 months only with a 60 day review period to determine impacts to public access. The City must determine whether the project would have an impact on coastal access before approving any parking restriction, not after-the-fact as it has done in this case. The current use of the area for public parking demonstrates that new parking restrictions would impact coastal access.

The City argues that the public does not park on these residential public streets for coastal access, rather, parking in this neighborhood is mainly by employees and patrons of the nearby commercial areas of Lido Marina Village, Lido Plaza, and Lido House Hotel due to a recent revitalization of the area; however, visitation of this coastal visitor serving commercial area adjacent to beach areas is a form of public access and it would be impacted by the new parking restrictions.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: 1.18.19

Note: If signed by agent, appellant(s) must also sign below.

Section VI Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

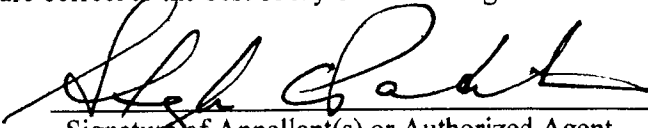
Signature of Appellant(s)

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: 01/23/2019

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

[NOT APPLICABLE]

to act as my/our representative and to bind me/us in all matters concerning this appeal.

[NOT APPLICABLE]

Signature of Appellant(s)

Date: [NOT APPLICABLE]



CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

December 13, 2018
Agenda Item No. 2

SUBJECT: Finley Tract Resident Parking Permit Program (PA2017-132)
▪ Coastal Development Permit No. CD2018-102

SITE LOCATION: Finley Tract Streets: Finley Ave, Clubhouse Avenue, Short Street, and the 500 – 600 Blocks of 34th, 35th, and 36th Streets.

APPLICANT: City of Newport Beach

PLANNER: James Campbell, Deputy Community Development Director
jcampbell@newportbeachca.gov

LAND USE DESIGNATIONS

General Plan: Two-Unit Residential Detached
Zoning District: R-2 (Two-Unit Residential)
Coastal Land Use Plan: Two-Unit Residential Detached (RT-D)
Coastal Zoning District: R-2 (Two-Unit Residential)

PROJECT SUMMARY

A Coastal Development Permit (CDP) for a resident parking permit program (RP3) that would restrict parking on certain public streets within the Finley Tract to resident vehicles that obtain and display City-issued parking permits. Vehicles not displaying resident permits would be subject to citations. The Finley Tract is located on the Balboa Peninsula west of the intersection of Finley Avenue and Newport Boulevard. The following streets are included in the proposed RP3: Finley Avenue, Clubhouse Avenue, Short Street, and the 500 – 600 blocks of 34th, 35th, and 36th Streets. Small parking regulatory signs along these streets will be installed on existing street sign posts or other vertical infrastructure. All of the potentially affected streets are local streets and not arterials, commuter roadways, or highways.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Draft Zoning Administrator Resolution No. 2018-__ approving Coastal Development Permit No. CD2018-102 (Attachment ZA 1).

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DISCUSSION

Program Need and Setting

The Finley Tract is a residential neighborhood located on the Balboa Peninsula just west of the intersection of Newport Boulevard and Finley Avenue. The Tract is zoned R-2 and developed with a mix of single-family dwellings and duplexes. The area is bound by Newport Boulevard and two narrow waterways of Newport Harbor (Rivo Alto and Rialto). The subject area is westward and adjacent to the Lido Village commercial area that is principally comprised of the Lido Marina Village, Lido Plaza shopping areas, and the Lido House Hotel (Figure 1). For many years, the Lido Marina Village shopping district was underperforming and had high vacancy rates. Recent renovations to this area and other Lido Village properties have revitalized the area. This renewed interest to visit the area has increased parking demands that exceed the available parking supplies at times. Other commercial properties also contribute to non-resident parking demand in the residential area.

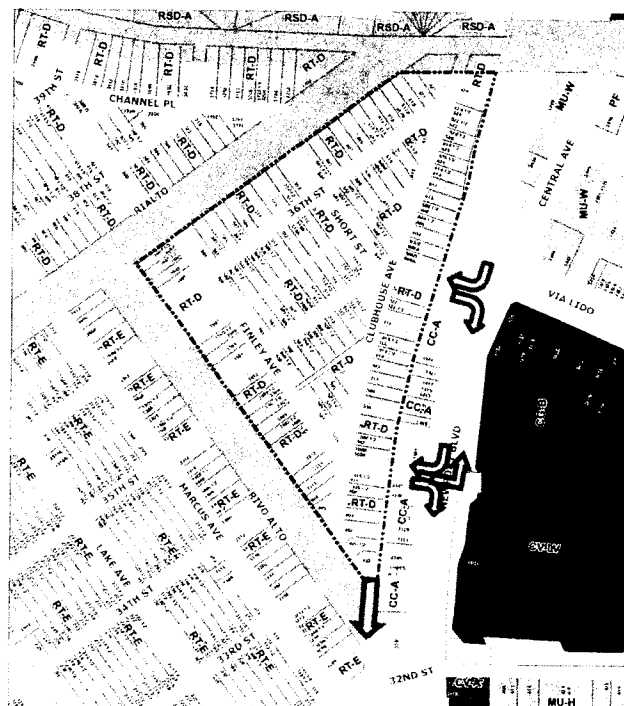
Figure 1: Vicinity Map



The Finley Tract, like many residential areas, was originally developed at a time when there was a lower need for parking compared to today. Remodeling and replacement dwellings have increased off-street parking supply in the area over the years; however, residents rely heavily on street parking. This trend has been exacerbated by more recent trends with increased numbers of drivers in households.

The Finley Tract has approximately 102 on-street parking spaces. Public Works staff performed an overall parking occupancy survey on four dates (May 9, 2017, June 29, 2017, August 12, 2017, and August 12, 2017) at different times. Overall occupancy ranged between 92 percent and 125 percent. The percentage over 100 percent is attributable to parking in front of residential garages and/or more vehicles squeezed into parking segments. Additionally, on May 2, 2017, and June 27, 2017, Public Works staff observed parking between 8:30 a.m. and 4 p.m. Within the study area, six to seven non-resident vehicles were parked in the AM hours and 0 to 20 non-resident vehicles were parked in the PM hours. Parking nearest the intersection of Short Street and Newport Boulevard at Via Lido were the most affected. Although these surveys were taken in mid-2017, conditions in the field have not changed remarkably. Despite varied and low numbers of non-resident parking in the area, occupancy rates are high, and residents complain their quality of life is negatively impacted. Limiting non-resident parking in the area will not solve all parking issues, but it would incrementally improve conditions and residents have requested relief through a resident parking permit program. The area is characterized by residential uses and zoned for duplexes (Figure 2).

Figure 2: Land Use Category



In total, the project boundary contains 118 lots with approximately 192 units. There are 102 street parking spaces, not including driveways or alleys. The proposal would affect the following public streets: Finley Avenue, Clubhouse Avenue, Short Street, 34th Street, 35th Street, and 36th Street (Figure 3).

Figure 3: Finley RP3 Area and Affected Streets



The abutting shops along Newport Boulevard include a mix of uses including three restaurants, retail businesses, offices, and a retail gasoline station. Two of the restaurants and one office building have off-street parking areas; however, these lots do not fully meet the minimum requirements. Several retail businesses have no off-street parking and are legal nonconforming. The shops are served by a nearby 31-space, metered public parking lot located at the northwest corner of Newport Boulevard and 32nd Street. Observations by staff support a higher than average amount of walk up traffic that result in a lower parking demand. The combination of existing public and private off-street parking adequately serves these uses as a result.

Access

Vehicular access to the area is limited to Short Street and Finley Avenue from Newport Boulevard and a one-way alley from a City public parking lot at the intersection of Newport Boulevard and 32nd Street.

Public access to the waterfront in the area is limited to eight street ends. Each street end has a bulkhead, no beach at higher tides, and a three- to five-foot grade differential from the top of the bulkhead to the water or mudline. There are no public parks or public recreational uses within the project boundary. Three of the street ends provide leased shore moorings: Short Street, 35th Street, and 36th Street. Observations by staff and residents suggest limited if any general public use of the street ends for recreational purposes. However, residents and their visitors who do not have a waterfront property enjoy physical and visual access these street ends provide.

Each street end with the exception of Finley Avenue and Short Street provide a small area (approximately 25-foot by 30-foot, though they vary in size) to sit or stand outside the street itself. The Finley Avenue street end does not provide any area outside the street itself and the Short Street, street end provides approximately seven feet to stand outside of the street. Table 1 indicates the basic improvements in each street end.

Table 1: Street End Characteristics

Street End	Parking	Moorings	Adequate area outside of street	One space short-term parking required
① Clubhouse south	Yes	No	Yes	Yes
② 34 th Street	Yes	No	Yes	Yes
③ 35 th Street	Yes	Yes	Yes	Yes
④ Unnamed	Yes	No	Yes	Yes
⑤ 36 th Street	Yes	Yes	Yes	Yes
⑥ Finley Avenue	No	No	No	No
⑦ Short Street	Yes	Yes	No	yes
⑧ Clubhouse north	No	No	Yes	No

Program Parameters

The program would be regulated by NBMC Chapter 12.68 (Residents' Preferential Parking) and implemented by the Revenue Division of the Finance Department. The following is a summary of how the program would be implemented.

- Residents would not be required to purchase an annual permit; however, parking on the RP3 streets would require a permit. Vehicles parked in the subject area without a permit would be subject to citation.
- A maximum of three annual permits for each household (residents and guests) would be issued. This means there would be a potential total of 576 permits if all of the 192 units in the Tract purchase the maximum number of permits.
- Proof of residency is required to be provided to the Revenue Division at the time of purchase. Common examples that prove residency include a driver's license with an address within the affected area, a current utility bill, and a rental agreement for a property in the area, among others.
- The current cost for each annual permit (resident and guest) is \$17. The fee is established by City Council resolution and is subject to change. The City is not responsible for lost or stolen permits and the replacement fee is \$17 each.
- There would be no parking priority and no guarantee that a parking space would be available at the time or location desired.
- Each permit issued shall be subject to all the conditions and restrictions set forth by the Municipal Code and of the preferential parking zone for which it was issued. The conditions or restrictions may be altered or amended from time to time.
- Permit types will be a hangtag, sticker, or the City could assign the permit to a vehicle license plate. The City may use a combination of permanent stickers for resident vehicles and hangtags for guests. If license plates are used, the City would use a video camera license plate reader system. Hangtags seem to be the preferred method as it provides more flexibility allowing residents to better manage guest parking.
- Permits are non-transferable, usable in legal public street parking spaces only. The permit would not allow parking inconsistent with California Vehicle Code or City regulations.
- Vehicles may be subject to citation if the permit is not clearly visible or not permanently affixed to the vehicle.
- It is unlawful for any person to sell, rent or lease; or cause to be sold, rented, or leased; for any value (compensation or consideration) any preferential parking permit, except by the City.

Regulatory signage would be mounted to existing infrastructure such as street sweeping signs, stop signs, street name signs, or streetlights to avoid installing new sign posts. However, new sign posts may be necessary in certain locations where no existing infrastructure is available and a sign is necessary. Staff envisions notification signs at Tract entries and possibly two to three regulatory signs per block where existing parking is located. The number of signs is dependent on the length of the block and specific field conditions and would be subject to the review and approval of the City Traffic Engineer and the Public Works Department. Several dozen small signs will be necessary to properly notify drivers. Enforcement would not begin before permits are issued and appropriate regulatory signage installed.

Public Outreach

During the preparation of the RP3, the City conducted three noticed community meetings where the program was discussed and feedback was received. The meetings were held on June 29, 2017, March 26, 2018, and October 1, 2018, and they were well-attended. The City also mailed a survey to residents and property owners to gauge support during the summer of 2018. Table 2 indicates the results.

Table 2: RP3 Survey Results

Summer 2018 RP3 Survey Results	
Total Ballots	268
Total Responses	160
Ballots in Support	127
Ballots that Oppose	33
Total Participation	60%

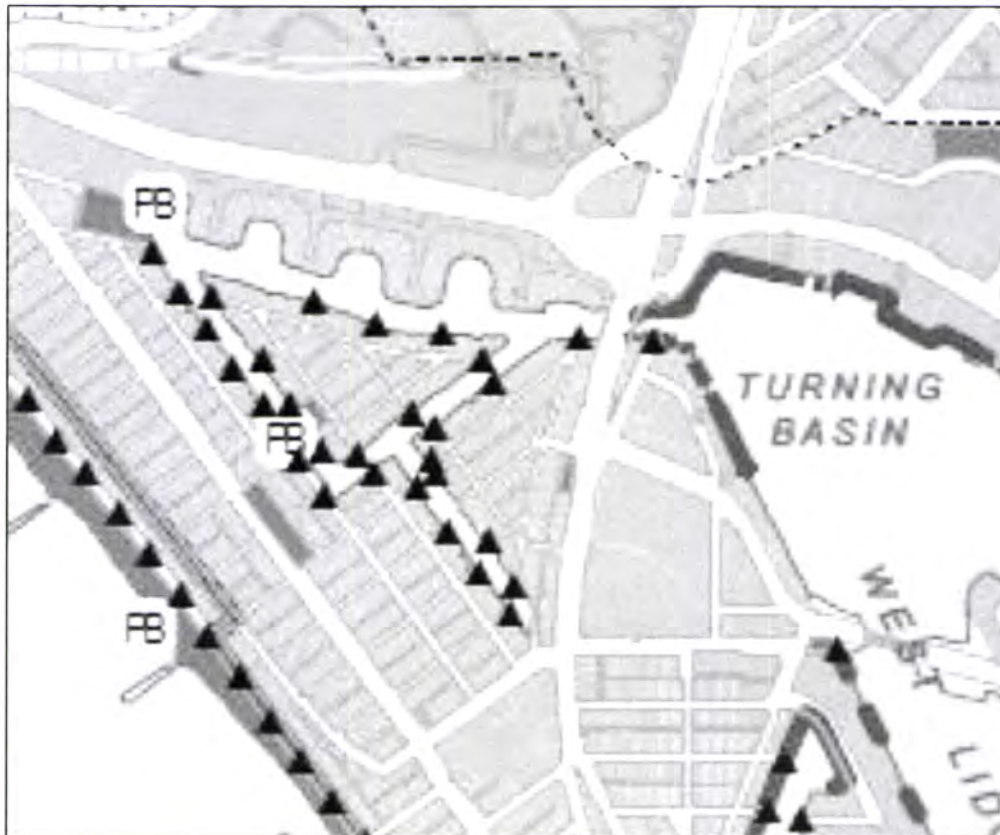
Considering all ballots, 47 percent support and 12 percent oppose. Considering only ballots received, 79 percent support and 20 percent oppose. These results show strong support and limited opposition. These efforts are in addition to the notice required by the Local Coastal Program (LCP) for this CDP application.

Local Coastal Program Consistency – Public Access

The LCP requires the City to provide for maximum public access to the coast. The City must also limit development such that it provides public access where appropriate. A number of other factors are considered including public safety, protection of sensitive resources, adequacy of existing access nearby and private property rights. Public access takes many forms including physical access to the water, public views, and public parking that supports access.

The LCP Coastal Land Use Plan (CLUP) includes a map showing several public access points in the Finley Tract that represent eight street ends (Figure 4). Photographs of each street end is provided in Attachment ZA 2.

Figure 4: Excerpt of CLUP Map 3-1



The CLUP provides the following policy guidance:

- 3.1.6-1. Prohibit the establishment of new preferential parking districts in the coastal zone except where such restrictions would not have a direct impact to coastal access, including the ability to use public parking.
- 3.1.6-2. Require a coastal development permit to establish new, or modify existing, preferential parking districts.
- 3.1.6-3. Use preferential parking permit fees to fund programs to mitigate impacts to coastal access.
- 3.1.6-4. Where appropriate, establish a graduated preferential parking permit fee schedule where progressively higher fees are required for each permit for households with multiple permits.
- 3.1.6-5. Limit the number of preferential parking permits issued per household to reduce potential adverse impacts to public access.

NBMC Chapter 21.30A of the LCP Implementation Plan provides regulations for protecting and providing public access to implement the CLUP policies. The program

does not increase or decrease the intensity of the use of land and would not result in increased demand for access. As a result, no additional access could be required on this basis due to a lack of a nexus. Protecting existing access is required pursuant to NBMC Section 21.30A.030 (Protection and Provision of Public Access Required) and adverse impacts to impacts to existing access are to be avoided and mitigated.

NBMC Section 21.30A.050(E) relates to parking and provides, "Restrictions on public parking (e.g., the posting of "no parking" signs, painting curbs red, installation of physical barriers, etc.) shall be prohibited except where there is substantial documented evidence of a public safety problem. Additionally, existing public parking that supports public access shall be protected." While there are no public safety issues in this case, strictly applying the prohibition in all other instances would conflict with the CLUP policies allowing the creation of preferential parking zones when impacts to public access are avoided and/or mitigated. This section limits the reason when unmitigated impacts are acceptable.

Restricting general public parking in the Tract could directly affect public access even though the public typically does not visit the area in ways ocean facing beaches or public parks are visited. Observed non-resident parking in the area is relatively low and is attributable to nearby businesses and not to people accessing the street ends. The street ends are primarily enjoyed by Tract residents from the Tract itself (and their visitors) although anyone can visit these street ends. Tract residents, visitors, and the general public would continue to have physical and visual access to the street ends and waterfront. The proposed RP3 does not include any structures (other than signs) or barriers to access in the study area.

Parking restrictions would push observed non-resident parking in the study area to other nearby parking areas that include existing public parking lots, on-street spaces, and private commercial lots. The observed number of cars varies and is approximately 20 spaces. The supply of parking in the larger Lido Village area will experience increased competition for spaces and should accommodate the demand. Monitoring the effect is important as human behavior suggests people will continue to search for free parking. Despite observations that suggest the street ends do not generate any parking demand, retaining a few non-permit public spaces would be necessary to avoid a potential impact to access. These spaces would need to be marked for short-term to ensure availability to the public and could be used by residents overnight when no public use would be anticipated. Staff further recommends the overall program be limited in duration and monitored to allow for adjustments to address unforeseen or unintended consequences.

Staff recommends the following conditions to ensure no direct impact to access and to find the proposed RP3 consistent with LCP requirements:

- I. The City shall provide one, short-term parking space (i.e. 1-hour to 3-hour parking limit) without a resident permit at each street end with either a shore mooring or open area for standing or sitting provided the street end accommodates any parking whatsoever. All street ends within the Finley Tract, with the exception of

Finley Avenue and Clubhouse north, meet these criteria. The short-term duration would not apply between 10 p.m. and 8 a.m.

- II. The Finley Tract RP3 shall be authorized for 18 months from implementation to allow for monitoring of any impacts to public access. The City shall periodically monitor the effects of the program and present its findings at a Zoning Administrator meeting at approximately six month intervals from the implementation of the program. Implementation is the earliest date after permits are issued and regulatory signs are installed when enforcement can legally begin.
- III. The City shall modify the Finley Tract RP3 within 60 days if it is found to adversely impact public access or if there are significant unanticipated spillover effects to nearby neighborhoods. Modifications to the program may include the use or reallocation of program revenue to mitigate impacts. The City shall discontinue the Finley Tract RP3 and remove all RP3-related parking regulatory signs if the modifications to the program fail to alleviate the adverse impacts to public access or unanticipated spillover effects. The City shall provide notice to area residents and permit holders prior to modifying or discontinuing the program.
- IV. The City shall limit the number of permits to three per household to reduce potential adverse impacts to public access. If adverse impacts to public access occur, the Zoning Administrator shall consider reducing the number of permits per household or recommend City Council adoption of a progressively higher fee schedule for households with multiple permits.
- V. All parking regulatory signs installed pursuant to this CDP shall be removed at the after 18 months or at an earlier date if the RP3 program is terminated for any reason.

Staff believes the conditions recommended will ensure that potential impacts to public access are minimized and mitigated with the program. Additionally, staff believes the proposed program can be found consistent with applicable CLUP policies by adopting the conditions. These determinations are supported by the limited nature of access in this specific area and parking availability to nearby businesses.

Alternatives

- Both Lido Marina Village and the Lido House Hotel implemented parking management plans to avoid and minimize parking conflicts. The City has worked extensively with the operators of Lido Marina Village and the Lido House Hotel to discourage employees and patrons from parking in the Finley Tract prior to considering the subject RP3 initiative.

Lido Marina Village modified the management of its parking structure to more efficiently use valet parking and they reduced the cost of employee parking in the structure. They did this at the suggestion of the City. Additionally, they began operating a shuttle service taking employees to and from an off-site parking structure on Superior Avenue. While employees have not embraced the shuttle, the reduction

of the fees and better valet service helped reduce non-resident parking in the Finley Tract. The City is also considering longer term parking on Via Oporto south of Via Lido as a pilot program to better accommodate longer parking stays typical of employees. After the initial start-up of the Lido House Hotel created some parking conflicts, the hotel operator and valet operator implemented several operational adjustments effectively eliminating hotel-related parking in the Finley Tract. However, these alternative efforts, while partially successful, have not completely eliminated the non-resident parking in the Finley Tract.

- Modifying the program to provide short-term parking limits rather than no parking without a resident permit is an alternative considered. Such a program would allow short-term parking but might not address long-term employee or visitor parking in the area. Those seeking a longer stay would be forced to move their vehicle increasing traffic on the residential streets. This alternative was rejected for these reasons.
- Installing meters or pay stations in the area was another alternative considered. Parking fees can be an effective way to influence parking behavior. The issue with this alternative is resident opposition, and the ability for anyone, including non-residents, a master parking permit to park a vehicle in the area without restrictions. This alternative was rejected for these reasons.
- One alternative is to launch a dedicated outreach effort to promote that residents park in their own garage. The City has requested that residents use their garages at all times to free up more street parking. The effectiveness of this request cannot be measured. This technique also does not address guest parking needs as they typically do not park in garages. It should be noted that resident guests are visitors to the coast. One phenomenon is where residents move their car from the garage to the street to save a space for a visitor. Limiting non-resident parking in the area should reduce this observed practice.
- Another alternative considered is to limit the program to certain hours. The parking conflict is largely attributable to nearby commercial uses so the program could be limited to typical commercial hours including evening hours due to the presence of nearby restaurants. Despite the fact that this option could be employed, regulating overnight hours is necessary because non-resident vehicles are left overnight from time-to-time. Restricting overnight hours will ensure the maximum number of spaces are available for residents when coastal visitors are not in the area.
- The last alternative considered was to potentially limit the program seasonally similar to the pre-Coastal Act program in place in Newport Island. This option was rejected because the area is not subject to seasonal fluctuations in non-resident parking and the area's remoteness to beaches or other areas that experience high visitor activity.

Next Steps

If the CDP is approved and becomes effective, the City Council would consider adopting an ordinance amending NBMC Chapter 12.68 (Residents' Preferential Parking) to legally establish the preferential parking zone. NBMC Chapter 12.68 is attached as Attachment ZA 3. The amendment would add the affected streets to a new preferential parking zone if the City Council is able to make the required finding required by NBMC Section 12.68.020. To make the required finding, the City Council would need to consider each of the criteria provided in NBMC Section 12.68.030. The potential adoption of an ordinance pursuant to Chapter 12.68 including the required finding and the criteria for making the finding are not the subject of this report. The process and requirements are highlighted and are attached for informational purposes only.

Summary

Staff believes approval and implementation of the Finley Tract RP3 as conditioned would be consistent with the LCP and Chapter 3 of the Coastal Act. The limited term of the program with monitoring and requirements to modify the program to mitigate public access impact should support this conclusion to approve the program. Facts in support of the required findings for the approval of a CDP are provided in the attached draft resolution.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to 15301 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. The project involves the implementation of parking restrictions within existing public streets that are developed with streets, curbs, gutters sidewalks, and typical street regulatory signs (i.e. street name signs, no parking signs, street sweeping signs, etc.). No construction will occur and the program will not affect existing regulations related to the use of private property. Physical changes to the environment are limited to the installation of small regulatory signs at vehicular entrances to the Tract and two to three dozen "no parking except by permit" signs on existing or new street signs.

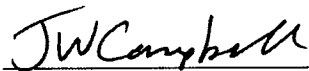
PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property and occupants within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways), including the applicant, and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

APPEALS

An appeal or call for review may be filed with the Director of Community Development within 14 days following the date of final action. Fees are required to appeal any final action (i.e. to approve, modify or deny the application) to the Planning Commission or City Council. The project site is located within the appeal area of the coastal zone, and therefore, final action to approve a CDP may also be appealed to the California Coastal Commission. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:



Jim Campbell

Deputy Community Development Director

Attachments:	ZA 1	Draft Resolution
	ZA 2	Finley Tract Street Ends
	ZA 3	NBMC Chapter 12.68 (for reference only)

Attachment No. ZA 1

Draft Resolution

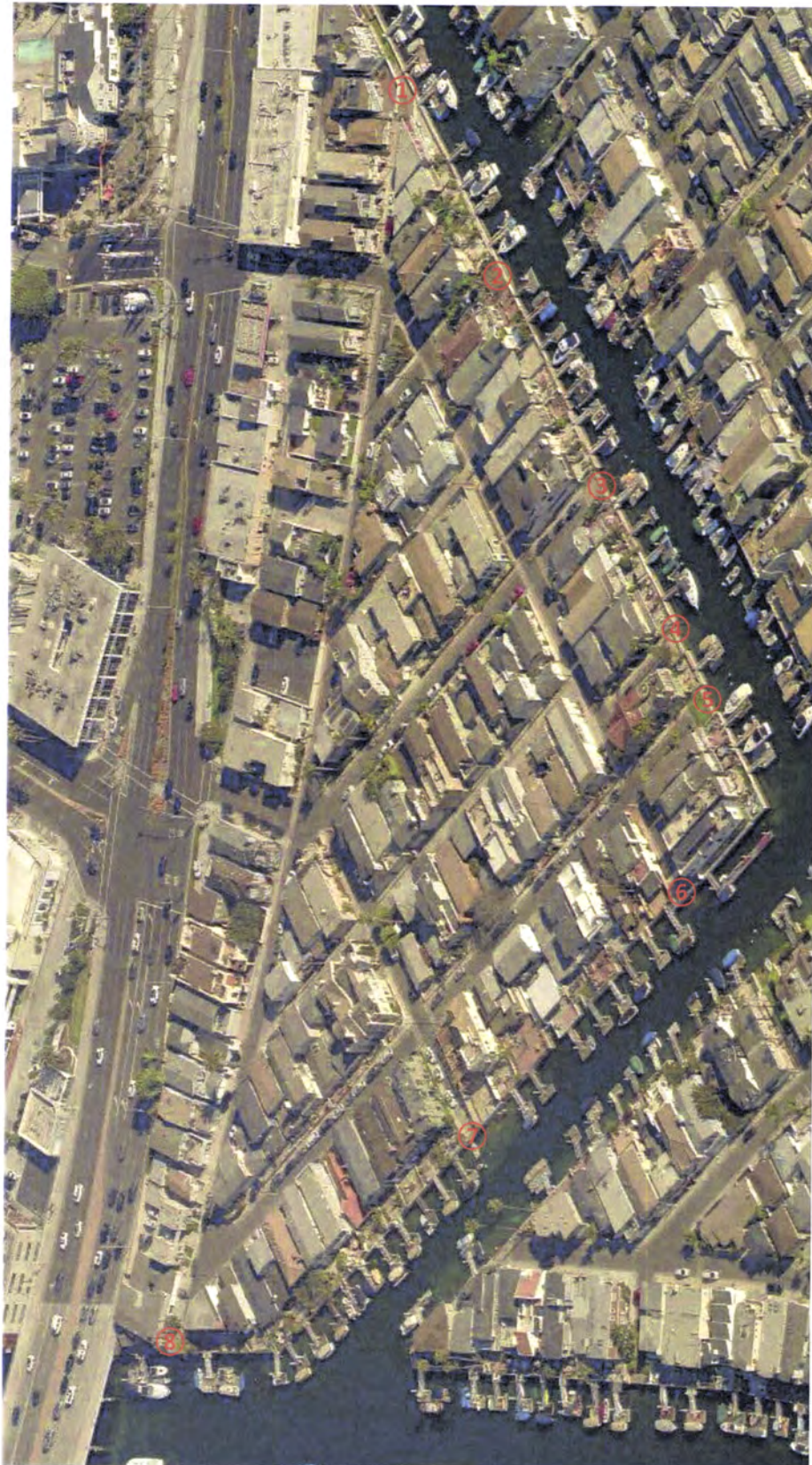
The draft resolution was not available at the time of printing. It will be transmitted under separate cover in advance of the meeting.

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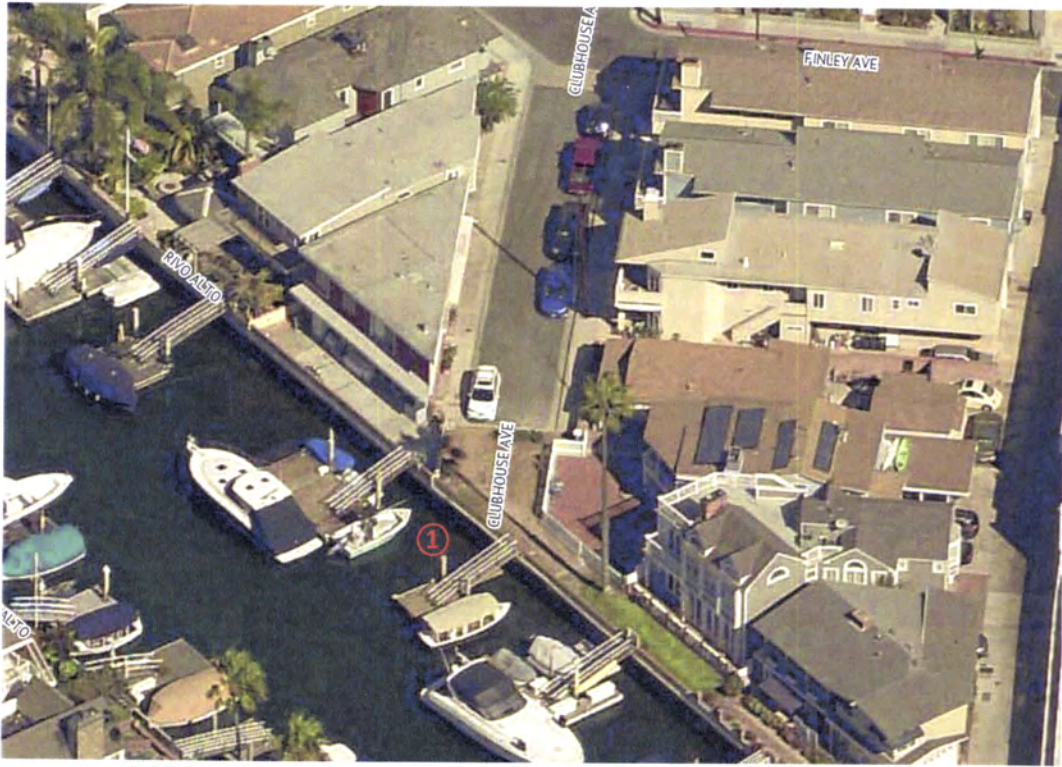
Attachment ZA 2

Finley Tract Street Ends

Finley Tract Street Ends

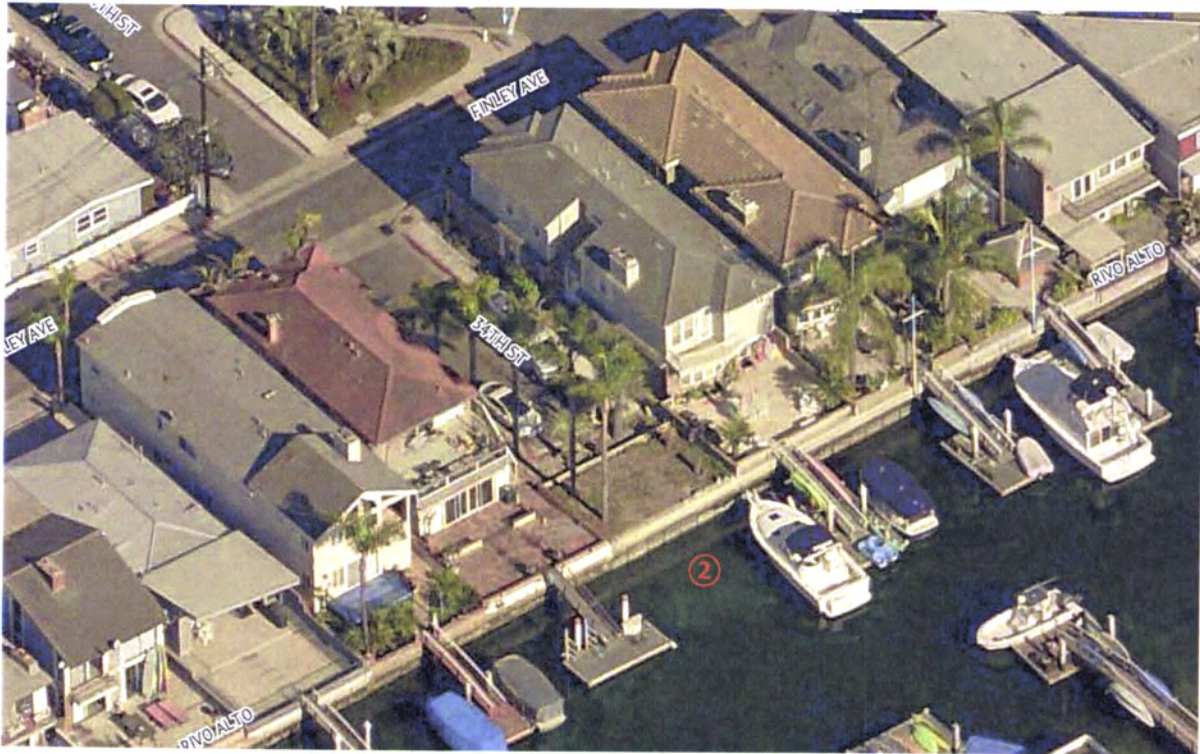


Finley Tract Street Ends



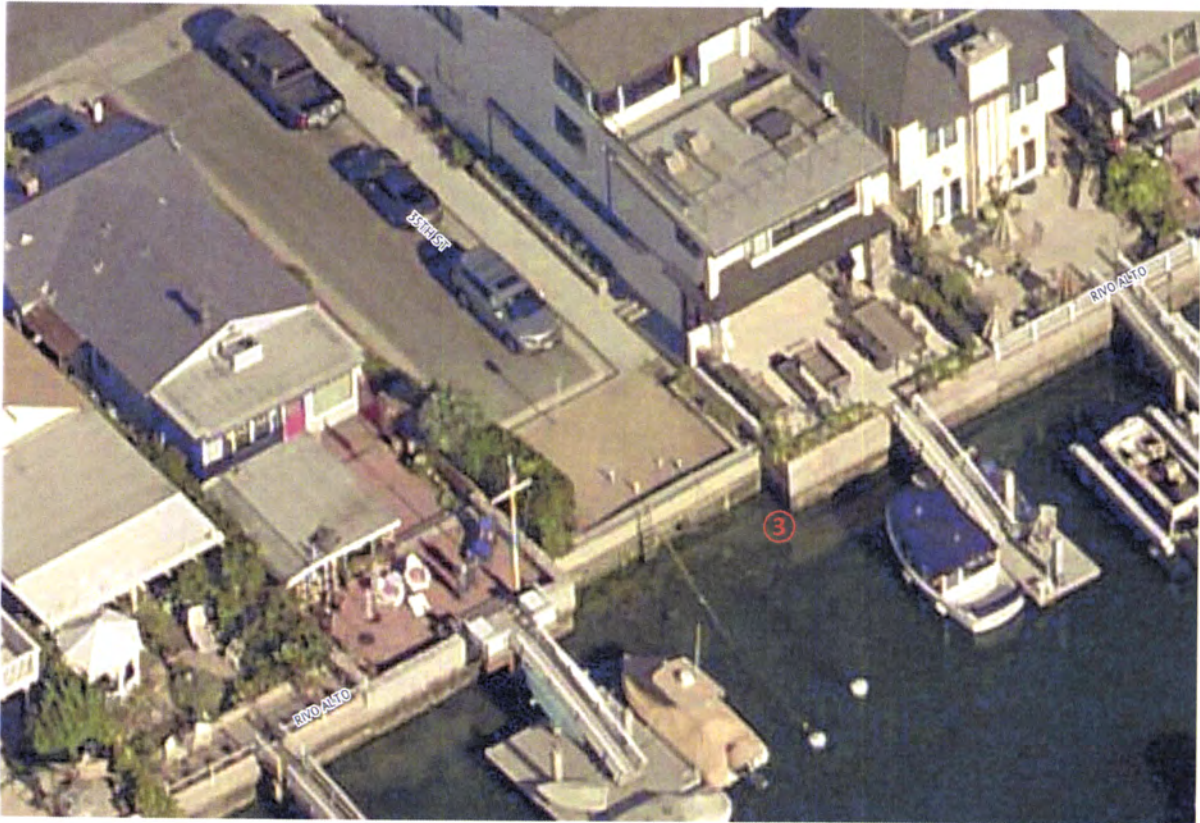
① Clubhouse Avenue South

Finley Tract Street Ends



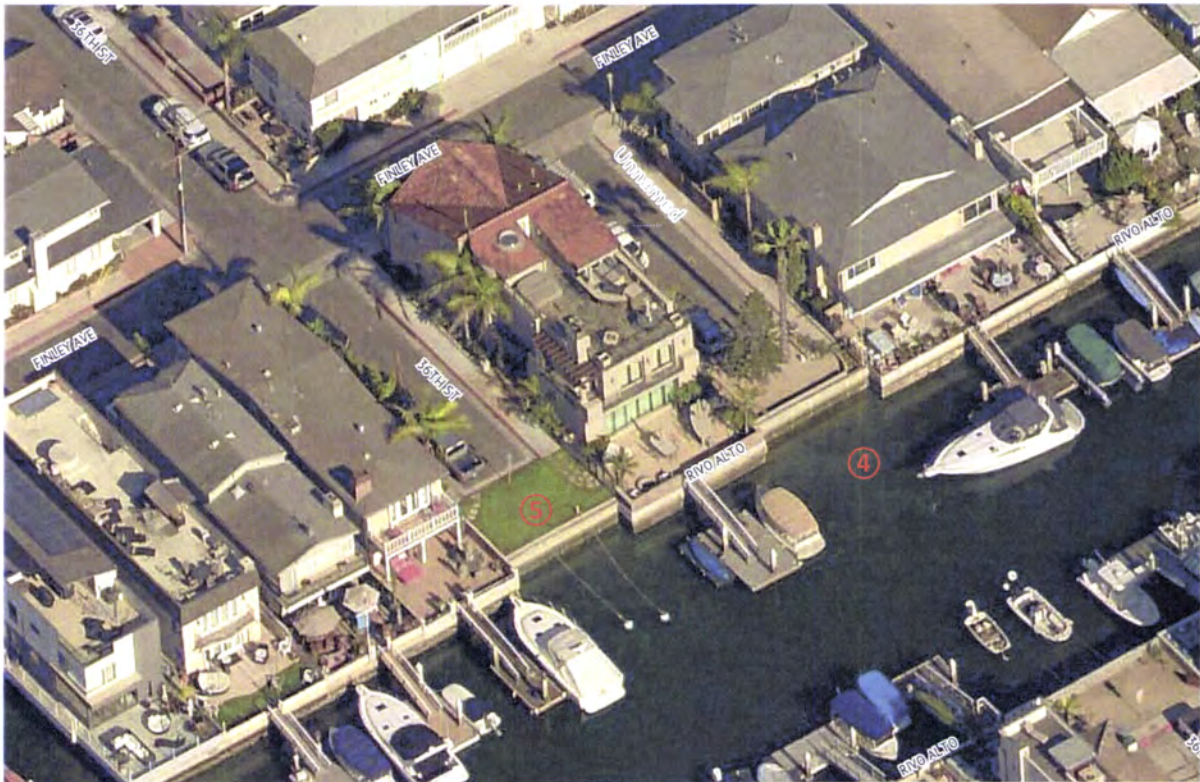
② 34th Street

Finley Tract Street Ends



③ 35th Street

Finley Tract Street Ends



- ④ Unnamed street end
- ⑤ 36th Street

Finley Tract Street Ends



④ 36th Street and unnamed street end

Finley Tract Street Ends



⑤ Finley Avenue

Finley Tract Street Ends



⑥ Short Street

Finley Tract Street Ends



⑦ Clubhouse Avenue north

Attachment ZA 3

NBMC Chapter 12.68

Residents' Preferential Parking

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Chapter 12.68

RESIDENTS' PREFERENTIAL PARKING

Sections:

- 12.68.010 Legislative Findings.
- 12.68.020 Residential Streets and Alleys—Establishment of Preferential Parking Zones.
- 12.68.030 Preferential Parking Zones—Criteria for Determination of Findings.
- 12.68.040 Preferential Parking Privileges—Issuance of Permits.
- 12.68.050 Prohibitions.
- 12.68.060 Preferential Parking Zones—Locations and Restrictions.

12.68.010 Legislative Findings.

The City Council finds that this chapter is enacted in response to the serious adverse effects caused in certain residential areas and neighborhoods of the City by motor vehicle congestion, particularly parking on residential streets and alleys to the detriment of the residents therein.

In order to protect and promote the integrity of these areas and neighborhoods, it is necessary to enact parking regulations, restricting unlimited parking by nonresidents therein, while providing an opportunity for residents to park near their homes. Uniform parking regulations restricting residents and nonresidents alike would not serve the public interest. Further, for the preservation of safe, healthy and attractive neighborhoods and residential areas, this chapter is adopted to establish a system of preferential resident parking. The City Council has considered the facts and finds that the livability of residential neighborhoods has deteriorated by the practice of nonresidents parking in these areas for extended periods of time. Further, there exists within the City certain areas which attract parking by nonresidents which further exacerbates the residential parking problem. (Ord. 1883 § 1 (part), 1981)

12.68.020 Residential Streets and Alleys—Establishment of Preferential Parking Zones.

The City Council may designate, by ordinance, certain residential streets or alleys or any portions thereof, as preferential parking zones for the benefit of residents adjacent thereto, in which zones vehicles displaying a permit or other authorized indicia may be exempt from parking prohibitions or restrictions otherwise posted, marked or noticed. Each preferential parking zone shall be designated only upon the City Council finding that such zone is required to enhance or protect the quality of life in the area of the proposed zone threatened by noise, traffic hazards, environmental pollution or devaluation of real property resulting from long-term nonresidents parking, that such zone is necessary to provide reasonably available and convenient parking for the benefit of the adjacent residents, and that the proposed zone is desirable to alleviate traffic congestion, illegal parking and related health and safety problems.

No preferential parking restrictions shall apply until signs or markings giving adequate notice thereof have been places. (Ord. 1883 § 1 (part), 1981)

12.68.030 Preferential Parking Zones—Criteria for Determination of Findings.

The findings referred to in Section 12.68.020 of this chapter shall be based upon the following criteria established to the satisfaction of the City Council:

- A. The parking in the area by nonresidents does substantially and regularly interfere with the use of the majority of the available public street or alley parking spaces by adjacent residents;
- B. That the interference by the nonresidents parking referred to in subsection (A) of this section, occurs at regular and significant daily or weekly intervals;
- C. That nonresidents parking is a source of unreasonable noise, traffic hazards, environmental pollution or devaluation of real property in the area of the proposed zone;
- D. That the majority of the residents adjacent to the proposed zone desire, agree to or request preferential parking privileges;

- E. That no unreasonable displacement of nonresident vehicles will occur in surrounding residential areas;
- F. That a shortage of reasonably available and convenient residentially related parking spaces exists in the area of the proposed zone; and
- G. That no alternative solution is feasible or practical. (Ord. 1883 § 1 (part), 1981)

12.68.040 Preferential Parking Privileges—Issuance of Permits.

- A. Issuing Authority. The Finance Director shall issue permits for preferential parking. Applicants for such permits may be required to present such proof as may be required by the Finance Director of residence adjacent to the area designated as a preferential parking zone. Any combination of permanent and visitor permits, up to a total of three per unit, shall be issued for each qualified dwelling unit to any qualified applicant.
- B. Fees. The Finance Director shall collect a fee set forth by resolution of the City Council for each permit issued pursuant to this section, whether permanent or visitor.
- C. Duration of Permits. Permits issued pursuant to this section shall remain effective for one year, commencing January 1st and ending December 31st, or fraction thereof, or until the preferential parking zone for which such permit was issued was eliminated, whichever period of time is less. Notwithstanding the foregoing, permits issued to residents for the year 1981 shall be valid during 1982 without additional cost.
- D. Conditions of Permits. Each permit issued pursuant to this section shall be subject to all the conditions and restrictions set forth in this chapter and of the preferential parking zone for which it was issued, including conditions or restrictions which may be altered or amended from time to time. The issuance of such permit shall not be construed to be a permit for or approval for any violation of any provision of this Code or any other law or regulation. (Ord. 2013-19 § 2, 2013; Ord. 84-25 § 1, 1984; Ord. 1897 § 1, 1982; Ord. 1883 § 1 (part), 1981)

12.68.050 Prohibitions.

- A. No vehicle shall be parked or stopped adjacent to any curb or allowed alley parking in a preferential parking zone in violation of any posted or noticed prohibition or restriction, unless such vehicle shall have prominently displayed, on or by the left rear bumper thereof a permit indicating an exemption for such restriction or prohibition. Visitor permits, however, must be displayed as required by the terms of said permit and be visible from the outside of the vehicle.
- B. It is unlawful for any person to sell, rent or lease, or cause to be sold, rented or leased for any value or consideration any preferential parking permit, except by the issuing authority. Upon the conviction of a violation of this subsection, all preferential parking permits issued to, or for the benefit of, the dwelling unit for which the sold, rented or leased permit was authorized shall be void.
- C. It is unlawful for any person to buy or otherwise acquire for value or use any preferential parking permit, except as provided in this chapter.
- D. Any vehicle having issued to it a permanent or visitor's permit which is not properly displayed, shall be deemed in violation of this chapter. The fact that a permit had been issued to the vehicle but the permit was not properly displayed shall not be a defense or considered by the court in determining whether or not a violation of this chapter has occurred. (Ord. 1883 § 1 (part), 1981)

12.68.060 Preferential Parking Zones—Locations and Restrictions.

The following locations are declared to be preferential parking zones, subject to the provisions of this chapter and the times and manner of restriction or prohibition indicated:

- A. Zone "1"—Newport Island. No parking shall be permitted at any time on Newport Island, between May 15th and the following September 15th of any year, except by permit.
- B. Zone "2"—Newport Heights and Cliff Haven. Parking on the following streets shall be limited to two hours' duration on school days between the hours of 8:00 a.m. and 6:00 p.m., except by permit, unless otherwise indicated below.

1. Clay Street—South side from St. Andrews to 15th Street.
2. Fullerton Avenue—From 15th Street to and including 542 on the east side and 543 on the west side of Fullerton Avenue.
3. Haven Place—From St. Andrews Road to Irvine Avenue.
4. Holly Lane—From Irvine Avenue to and including 2328 on the north side and 2321 on the south side of Holly Lane.
5. Irvine Avenue—West side from 15th Street to Laurel Place.
6. Laurel Place—From Irvine Avenue to westerly terminus of Laurel Place.
7. Margaret Drive—From Irvine Avenue to and including 2322 on the north side and 2323 on the south side of Margaret Drive. One-hour limit 8:00 a.m. to 6:00 p.m. every day, except holidays.
8. Michael Place—From 15th Street to and including 601 on the west side and 620 on the east side of Michael Place.
9. Pirate Road—From Clay Street southerly to and including 424 on the east side and 427 on the west side of Pirate Road.
10. St. Andrews Road—From 15th Street to Haven Place on the west side; from Clay Street to alley south of Clay Street on the west side; from Clay Street to and including 400 on the east side of St. Andrews Road.
11. St. James Road—From 15th Street to and including 625 on the north side and on the south side from 15th Street to and including 636 St. James Road.
12. Signal Road—From 15th Street southerly to and including 418 on the east side and 419 on the west side of Signal Road.
13. Snug Harbor Road—From Clay Street southerly to and including 406 on the east side and 401 on the west side of Snug Harbor Road.
14. 15th Street—North side from Irvine Avenue to Michael Place; from Clay Street to Kings Place; south side from alley west of Irvine Avenue to Irvine Avenue; from two hundred ten (210) feet east of Irvine Avenue to three hundred ten (310) feet east of Irvine Avenue; from St. Andrews Road to Kings Place.

C. Zone "3"—Eastbluff. Parking on the following streets shall be limited to one hour duration on school days between the hours of 7:00 a.m. and 4:00 p.m., except by permit.

1. Aralia Street.
2. Arbutus Street.
3. Aleppo Street.
4. Alder Place.
5. Almond Place.
6. Alta Vista Drive between Aleppo Street and Aralia Street. (Ord. 2016-15 § 1, 2016; Ord. 2016-3 § 1, 2016; Ord. 2013-20 § 1, 2013; Ord. 2009-20 § 1, 2009; Ord. 2001-21 § 1, 2001; Ord. 98-25 § 1, 1998; Ord. 97-28 § 1, 1997; Ord. 97-2 § 1, 1997; Ord. 96-32 § 1, 1996; Ord. 96-11 § 1, 1996; Ord. 84-25 § 2, 1984; Ord. 1883 § 1 (part), 1981)

RESOLUTION NO. ZA2018-136

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY
OF NEWPORT BEACH COASTAL DEVELOPMENT PERMIT NO.
CD2018-102 FOR THE FINLEY TRACT RESIDENT PARKING
PERMIT PROGRAM (PA2017-132)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was prepared by the City of Newport Beach for a resident parking permit program (RP3) pursuant to Newport Beach Municipal Code (NBMC) Chapter 12.68 for the Finley Tract.
2. The Finley Tract is a residential area consisting of approximately 118 lots located between portions of Newport Bay and Newport Boulevard, west of the intersection of Finley Avenue and Newport Boulevard.
3. Streets within the Finley Tract are within the Coastal Zone and within the City's permit jurisdiction based upon the Post-Certification Permit and Appeal Jurisdiction map approved by the California Coastal Commission. Most of the affected area is within the appeal area as shown on the map where approval of Coastal Development Permits can be appealed to the California Coastal Commission by aggrieved persons.
4. Portions of the Finley Tract are located between the first public road and the shoreline of Newport Harbor within the coastal zone.
5. Properties within the Finley Tract are designated RT (Two-Unit Residential) and are within the R-2 (Two-Unit Residential) Coastal Zone District. The proposed RP3 does not affect or authorize development on private property within the Finley Tract.
6. During the preparation of this program, the City conducted three noticed community meetings for residents and property owners from the study area. The program was discussed at each meeting, and feedback was received. The meetings were held on June 29, 2017, March 26, 2018, and October 1, 2018, and were well-attended. The City also mailed a survey to residents and property owners to gauge support during the summer of 2018, where 60 percent of the 268 total survey ballots were returned and 79 percent of the participants indicated support.
7. A public hearing was held on December 13, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Local Coastal Program. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act ("CEQA") under Class 3 (Existing Facilities).
2. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use.
 - a. The project involves implementing and enforcing parking restrictions within existing residential streets within the public right-of-way.
 - b. No construction would occur.
 - c. The project would include the alteration of existing infrastructure (i.e. parkways, sign posts, streetlights, etc.) to add two to three dozen small parking regulatory signs on existing vertical infrastructure or to add new sign posts where none exist in parkways where deemed necessary by the City's Traffic Engineer and Public Works Department.

SECTION 3. FINDINGS.

In accordance with Newport Beach Municipal Code ("NBMC") Section 21.52.015 (Coastal Development Permits, Findings and Decision), the following findings and facts in support of such findings are set forth:

Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

Facts in Support of Finding:

1. *LCP Coastal Land Use Plan Policy 3.1.6-1 prohibits the establishment of new preferential parking districts in the coastal zone except where such restrictions would not have a direct impact to coastal access, including the ability to use public parking.*

The Finley Tract is relatively isolated and not located in proximity to beaches, parks, or recreational uses. Ocean beaches are approximately 0.3 of a mile away via the shortest pedestrian route. This distance makes it inconvenient for beach visitors to park in Finley. Public testimony during the hearing supports the fact that coastal visitors do not park in the area. There are four public parking lots (Newport Blvd./32nd Street, Newport Beach Lots 1-3) and long term street parking (six-hour limit) along 32nd Street available in closer proximity to the beach than the Finley Tract. Non-resident visitor parking in the area varies and was observed to be no more than 20 vehicles at different times throughout the day, and they were primarily employees or patrons from nearby businesses. Public testimony during the hearing supports this observation. The permit program will push these visitors to park in nearby commercial parking lots or the public parking lot located at the intersection of Newport Boulevard and 32nd Street. Restricting non-resident visitors from the Finley Tract will free up spaces for residents and their visitors from needing to park in nearby commercial areas or public parking lots.

The Finley Tract shoreline is on the Newport Harbor channels known as Rialto and Rivo Alto. The shoreline consists of vertical bulkheads with no intervening beach (sandy or otherwise) between the bulkhead and the water. Both sides of these channels are fully developed, primarily with single and two-unit dwellings. These channels connect with the Newport Harbor Turning Basin and Main Channel via a channel under the Newport Boulevard Bridge.

Eight street ends provide coastal access to these channels in the form of viewing opportunities and access to shore moorings. No changes to these access points are authorized. No structures or barriers would be constructed in these street ends. Condition No. 4 preserves one short-term parking space (i.e. 1-hour to 3-hour parking limit) for the public without a resident permit at six of the eight street ends with either a shore mooring or open area for standing or sitting provided the street end accommodates parking.

Condition No. 5 limits the Finley Tract RP3 to 18 months from implementation, making it a pilot program that requires monitoring. Condition No. 6 requires adjustments to the program to mitigate impacts, and it requires the termination of the program if adverse impacts to coastal access cannot be mitigated. The Finley Tract RP3 will not impact coastal access or the ability to use public parking with the incorporation of the conditions of approval, and as a result, the Finley Tract RP3 is consistent with Policy 3.1.6-1.

2. *LCP Coastal Land Use Plan Policy 3.1.6-2. requires a coastal development permit to establish new, or modify existing, preferential parking districts.*

The subject Coastal Development Permit application satisfies this requirement.

3. *LCP Coastal Land Use Plan Policy 3.1.6-3. requires the use of preferential parking permit fees to fund programs to mitigate impacts to coastal access.*

The program as conditioned will avoid or mitigate impacts to coastal access. Permit fees support municipal functions allowing monitoring of parking in the area. Condition No. 5 requires monitoring and if impacts to coastal access occur, Condition No. 6 requires adjustments to the program to mitigate impacts.

4. *LCP Coastal Land Use Plan Policy 3.1.6-4. provides, where appropriate, the establishment of a graduated preferential parking permit fee schedule where progressively higher fees are required for each permit for households with multiple permits.*

The City Council has established a \$17 fee for each preferential parking permit as it is the cost of issuing permits. If adverse impacts to public access occur, it may be appropriate to establish a progressively higher permit fee schedule for households with multiple permits to reduce the number of permits issued. Condition No. 7 requires the Zoning Administrator to consider such an option if adverse impacts to public access occur. Adopting such a progressive fee schedule would require City Council authorization.

5. *LCP Coastal Land Use Plan Policy 3.1.6-5. limits the number of preferential parking permits issued per household to reduce potential adverse impacts to public access.*

NBMC Chapter 12.68 limits the maximum number of permits per household to three for residents and their guests. Condition No. 7 also limits the maximum number to three permits per household. In addition, Condition No. 7 requires the Zoning Administrator to consider reducing the number of permits issued to each household if adverse impacts to public access occur.

6. *LCP Implementation Plan (NBMC) Section 21.30A.030(C) requires new development to provide new public access under certain circumstances.*

The Finley Tract currently provides vertical public access to waters of Newport Harbor within eight street ends (public rights-of-way). Through these access points, adequate access to the waterfront is currently provided in the form of viewing opportunities and access to shore moorings. The program does not increase or decrease the intensity of the use of land and would not result in increased demand for coastal access. As a result, no additional access would be required on this basis due to a lack of a nexus.

7. *LCP Implementation Plan (NBMC) Section 21.30A.050(E) requires the protection of public parking that supports public access.*

Although Section 21.30A.050(E)(2) prohibits the public parking restrictions, it must be applied in light of LCP Coastal Land Use Plan Policies 3.1.6-1 through 3.1.6-5 that allow resident preferential parking districts where impacts to coastal access are avoided and mitigated. Section 21.30A.050(E)(3) requires the protection of existing public parking. The facts in support of Finding A above are incorporated herein by reference and with the incorporation of the Conditions of Approval. These conditions reserve public parking for public access at each of Finley Tract street ends. Therefore, the Finley Tract RP3 is consistent with Section 21.30A.050(E).

Finding:

- B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. Adequate access to the shoreline is currently provided by eight existing public street ends that will not be modified by this permit. The Finley Tract RP3 does not impact public access to the shoreline with the implementation of the Conditions of Approval attached as Exhibit A based upon the facts in support of Finding A above. All facts in support of finding A are incorporated herein by reference.
2. The Finley Tract is developed with residential uses and no public recreational uses are developed or provided with the exception of limited improvements within the eight public street ends. The proposed project does not include any construction or barrier to public use of these street ends. Public parking will be retained in six of the eight street ends where parking is allowed without a resident permit and that have improvements (i.e. areas to stand or sit outside the street or shore boat moorings) where the public can safely access the shoreline.

Finding:

C. *The following alternatives were considered prior to considering the Finley Tract RP3.*

Facts in Support of Finding:

1. Both Lido Marina Village and the Lido House Hotel implemented parking management plans to avoid and minimize parking conflicts. The City has worked extensively with the operators of Lido Marina Village and the Lido House Hotel to discourage employees and patrons from parking in the Finley Tract prior to considering the resident parking permit program.

Lido Marina Village modified the management of its parking structure to more efficiently use valet parking, and they reduced the cost of employee parking in the structure. They did this at the suggestion of the City. Additionally, they began operating a shuttle service taking employees to and from an off-site parking structure on Superior Avenue. While employees have not embraced the shuttle, the reduction of the fees and better valet service helped reduce non-resident parking in the Finley Tract. The City is also considering longer term parking on Via Oporto south of Via Lido as a pilot program to better accommodate longer parking stays typical of employees. After the initial start-up of the Lido House Hotel created some parking conflicts, the hotel operator and valet operator implemented several operational adjustments effectively eliminating hotel-related parking in the Finley Tract.

However, these alternative efforts, while partially successful, have not completely eliminated the non-resident parking in the Finley Tract.

2. Modifying the program to provide short-term parking limits rather than no parking without a resident permit was an alternative considered. Such a program would allow short-term parking but might not address long-term employee or visitor parking in the area. Those seeking a longer stay would be forced to move their vehicle, thus increasing traffic on the residential streets. This alternative was rejected for these reasons.
3. Installing meters or pay stations in the area was another alternative considered. Parking fees can be an effective way to influence parking behavior. The issue with this alternative is resident opposition, and the ability for anyone, including non-residents, with a master parking permit to park a vehicle in the area without restrictions. This alternative was rejected for these reasons.
4. One alternative is to launch a dedicated outreach effort to promote that residents park in their own garage. The City has requested that residents use their garages at all times to free up more street parking. The effectiveness of this request cannot be measured. This technique also does not address guest parking needs as they typically do not park in garages. Resident guests are also visitors to the coast. One phenomenon is where residents move their car from the garage to the street to save a space for a visitor. Limiting non-resident parking in the area should reduce this observed practice.
5. Another alternative considered is to limit the program to certain hours. The parking conflict is largely attributable to nearby commercial uses so the program could be limited to typical commercial hours including evening hours due to the presence of nearby restaurants. Despite the fact that this option could be employed, regulating overnight hours is necessary because non-resident vehicles are left overnight from time-to-time. Restricting overnight hours will

Exhibit 4

ensure the maximum number of spaces are available for residents when coastal visitors are not in the area.

6. The last alternative considered was to potentially limit the program seasonally similar to the pre-Coastal Act program in place in Newport Island that only restricts parking during the Summer months. This option was rejected because the area is not subject to seasonal fluctuations in non-resident parking and the area's remoteness to beaches or other areas that experience high visitor activity.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach finds this project exempt from the environmental review pursuant to Title 14 of the California Code of Regulations Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act ("CEQA") under Class 3 (Existing Facilities).
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-102, subject to the findings contained in this resolution and the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 13TH DAY OF DECEMBER, 2018.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The project is subject to the Local Coastal Program and all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. The applicant shall comply with all federal, state, and local laws with regard to the implementation of enforcement of the Finley Tract RP3. Material violation of any of those laws in connection with the program may be cause for revocation of this Coastal Development Permit.
3. Enforcement of this program shall not be commenced until after an ordinance amendment establishing a resident preferential parking zone is adopted by the City Council pursuant to NBMC Chapter 12.68 and all necessary regulatory signs are installed.
4. The City shall provide one short-term parking space (i.e. 1-hour to 3-hour parking limit) without a resident permit at each street end with either a shore mooring or open area for standing or sitting, provided the street end accommodates any parking whatsoever. All street ends within the Finley Tract, with the exception of Finley Avenue and Clubhouse north, meet this criteria. The short-term duration would not apply between 10 p.m. and 8 a.m.
5. The Finley Tract RP3 shall be authorized for 18 months from implementation to allow for monitoring of any impacts to public access. The City shall periodically monitor the effects of the program and present its findings at a Zoning Administrator meeting at approximately six month intervals from the implementation of the program. Implementation is the earliest date after permits are issued and regulatory signs are installed when enforcement can legally begin.
6. The City shall modify the Finley Tract RP3 within 60 days if it is found to adversely impact public access or if there are significant unanticipated spillover effects to nearby neighborhoods. Modifications to the program may include the use or reallocation of program revenue to mitigate impacts. The City shall discontinue the Finley Tract RP3 and remove all RP3-related parking regulatory signs if the modifications to the program fail to alleviate the adverse impacts to public access or unanticipated spillover effects. The City shall provide notice to area residents and permit holders prior to modifying or discontinuing the program.
7. The City shall limit the number of permits to three per household to reduce potential adverse impacts to public access. If adverse impacts to public access occur, the Zoning Administrator shall consider reducing the number of permits per household or recommend City Council adoption of a progressively higher fee schedule for households with multiple permits.
8. All parking regulatory signs installed pursuant to this CDP shall be removed after 18 months or at an earlier date if the RP3 program is terminated for any reason.