

## RESOLUTION NO. HC2024-02

### A RESOLUTION OF THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING IN CONCEPT A DOCK RECONFIGURATION AT 20 BEACON BAY

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

#### SECTION 1. STATEMENT OF FACTS.

1. The owner of the property at 20 Beacon Bay ("Property") has applied for a harbor development permit to remove and replace the four dock floats and one gangway of the Beacon Bay Homeowner Association floats ("Project"), as more specifically described and depicted in the Staff Report and its attachments. With the reconfigurations, the dock systems will continue to extend beyond the specified limits.
2. Section 17.35.030(A) of the Newport Beach Municipal Code (NBMC) prohibits piers and floats from extending beyond the specified limits without the approval of the Harbor Commission pursuant to subsection (G)(1).
3. A public hearing was held on July 10, 2024 at the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and NBMC Section 17.05.140(B). Evidence, both written and oral, was presented to, and considered by, the Harbor Commission at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 (CEQA Guidelines) because it has no potential to have a significant effect on the environment. The replacement dock systems are in the same location and are substantially the same size and purpose as the dock systems they replace. The overwater coverage of the new dock systems is substantially the same as the existing dock systems.

#### SECTION 3. REQUIRED FINDINGS.

The Harbor Commission hereby adopts the following findings:

1. NBMC section 17.35.030(G)(1)(a). Special circumstances applicable to the subject property exist, such as location, shape, size, surrounding topography or other physical features.

Facts in Support of Findings: The Beacon Bay Homeowner Association community docks are located along a beach where no other residential docks exist. The City's Balboa Yacht Basin marina is immediately adjacent to the east of the Property and those floats extend to the Project Line. The replacement floats are substantially similar to the existing floats which have extended to the Project Line for over 50 years except for the Work Dock which had been constructed landward of the Project Line yet previously approved to the Project Line. The replacement floats accommodate the same number of vessels as the existing floats accommodate.

Additionally, the three main dock systems are orientated so that the slips are accessed via the landward side of the float therefore minimizing impacts channelward. Because of the proximity to the shoreline, relocating the floats landward to the specified limit would significantly hamper or eliminate access during most tide cycles.

2. NBMC section 17.35.030(G)(1)(b). Because of those special circumstances, strict compliance with the specified criteria would deny the property of privileges enjoyed by other properties in the vicinity.

Facts in Support of Findings: The replacement three main dock systems extend the same distance bayward to the Project Line as the existing, approved systems extend. Immediately east of the Property are the City's Balboa Yacht Basin marina floats which also extend to the Project Line. Allowing the Property's replacement floats to extend to the Project Line is consistent with the privileges other properties enjoy in the vicinity.

Additionally, the three main dock systems are orientated so that the slips are accessed via the landward side of the float therefore minimizing impacts channelward. Because of the proximity to the shoreline, relocating the floats landward to the specified limit would significantly hamper or eliminate access during most tide cycles. This would deny the Property the privilege of adequate slip access enjoyed by others in the vicinity.

3. NBMC section 17.35.030(G)(1)(c). The bayward extension will not provide the subject property with special privileges inconsistent with limitations on properties in the vicinity.

Facts in Support of Findings: The replacement three main dock systems extend the same distance bayward to the Project Line as the existing, approved systems extend. Immediately east of the Property are the City's Balboa Yacht Basin marina floats which also extend to the Project Line. Allowing the Property's replacement floats to extend to the Project Line is consistent with other properties in the vicinity and would not provide a special privilege.

4. NBMC section 17.35.030(G)(1)(d). There will be no negative impacts to adjacent property owners, harbor views, navigation, or future dredging.

Facts in Support of Findings: The replacement three main dock systems extend the same distance bayward to the Project Line as the existing, approved systems extend. Immediately east of the Property are the City's Balboa Yacht Basin marina floats which also extend to the Project Line as do the other floats eastward to the Balboa Island Bridge. There

will be no negative impacts to the adjacent property owners, harbor views, navigation or future dredging.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED BY THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH:**

1. In accordance with the above determination, this Project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines because it has no potential to have a significant effect on the environment.
2. The Project, Beacon Bay Homeowner's Association dock system reconfigurations at 20 Beacon Bay, is approved in concept subject to the conditions set forth in Exhibit A.
3. This action shall become final and effective fourteen days following the date of adoption of this Resolution unless within such time an appeal or call for review is made in accordance with the provisions of NBMC Chapter 17.65 (Appeals or Calls for Review).

**PASSED, APPROVED, AND ADOPTED THIS 10<sup>th</sup> DAY OF JULY, 2024.**

AYES: Scully, Beer, Yahn, Cunningham, Marston, Williams, Svrcek

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Steve Scully, Chair

BY: \_\_\_\_\_  
Marie Marston, Secretary

Exhibit(s):

Exhibit A – Special Conditions



Public Works  
100 Civic Center Drive  
Newport Beach, CA 92660

## **Special Conditions**

July 10, 2024

Project: Reconfiguration of Four Homeowner Association Dock Systems  
Address: 20 Beacon Bay

The approval in concept of the subject project at the above referenced address, to reconfigure the four dock systems in a similar configuration by removing and replacing the four floats, and removing and replacing a gangway, is subject to the following conditions:

1. The above referenced project and structure(s) is subject to all applicable federal, state, county and City of Newport Beach statutes, rules, ordinances, laws, and regulations, including but not limited to Title 17 of the Newport Beach Municipal Code.
2. Any future work on the above-mentioned structure(s) beyond that which is expressly permitted herein may require permits from the City of Newport Beach and any other applicable agencies. Painting and work considered to be cosmetic in nature does not require a permit. This approval does not extend to any changes to the operational characteristics, structures, and project beyond those expressly included as part of this approval.
3. The conditions set forth in this document pertain to the project as approved in concept. Any future modifications or alterations may require additional and/or updated conditions which may override or change these conditions. These conditions supersede all past conditions associated with this property.
4. Only marine oriented uses are allowed on the pier, pier platform, gangway, and float. Patio furniture, plants etc. are not permitted.
5. In accordance with subsections A and B.3 of the Newport Beach Municipal Code section 10.08.030 (Use of Streets and Sidewalks for Commercial Purposes), as amended from time to time or any other successor statutes thereto, the project applicant shall obtain the proper permits for equipment and materials storage.

6. The project shall be implemented in conformance with the current version of the City of Newport Beach Local Coastal Program – Coastal Land Use Plan.
7. The noise regulations in Newport Beach Municipal Code Section 10.28.040 (Construction Activity – Noise Regulations), as amended from time to time or any other successor statute thereto, apply.
8. Vessels shall not extend bayward beyond the east and west ends of each float by a distance of more than the maximum width of the beam.
9. Vessels may not extend beyond the prolongation of the east property line.
10. All required insurance shall be maintained in full force and effect during the pendency of this approval in concept.
11. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney’s fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s Approval in Concept, the applicant’s exercise of this Approval in Concept, the activities of the applicant carried on under authority of this Approval in Concept, and/or any related California Environmental Quality Act determinations. This indemnification shall include, but not be limited to, damages awarded against the City if any, costs of suit, attorney’s fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify City for all of City’s costs, attorney’s fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

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Lisa Walters, Public Works

Date

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Applicant Signature

Print Name

Date

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Joint Pier Applicant Signature (if applicable) Print Name

Date