

## **RESOLUTION NO. HC2025-002**

### **A RESOLUTION OF THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING VARIANCE NO. HCVAR2025-001 TO ALLOW TWO SLIPS BAYWARD OF THE MERGED RESIDENTIAL LOT LOCATED AT 2100-2102 E. BALBOA BOULEVARD**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. Bay House 2100 ("Applicant"), is the owner of the residential properties located at 2100 and 2102 E. Balboa Blvd. (collectively, the "Property"). The dock system at 2100 E. Balboa Blvd. currently has two approved U-shaped slips, and the property at 2102 E. Balboa Blvd. has an existing, approved single side-tie dock positioned parallel to the bulkhead.
2. The Applicant has filed the variance application (Variance No. HCVAR2025-001) to reconfigure both dock systems by combining them into one system that spans the future merged lots, and to maintain two U-shaped slips and a single side-tie dock parallel to the bulkhead ("Project"). Newport Beach Municipal Code ("NBMC") Section 17.35.020(A)(7) allows only one slip at a residential lot, which is the reason for the variance request.
3. The Applicant has received approval from the City of Newport Beach ("City") for a lot merger. However, because a portion of the properties are within the California Coastal Commission's ("CCC") permit jurisdiction, the Applicant has applied to the CCC to merge those portions of the lots.
4. The Applicant has also filed an application to replace the existing separate dock systems with a single combined dock spanning the proposed merged lot.
5. The configuration of both lots that comprise the Property is unusual in that the overall property street frontage is less than the overall property harbor frontage due to the properties being on the rounded bend of the channel. The side property lines, therefore, are not parallel, and they instead fan out bayward resulting in approximately 150-feet of total property harbor frontage.
6. Two slips (in the form of a double U-shaped slip) exist at 2100 E. Balboa Blvd. This configuration was previously approved in 1974 by the City Council, the Coastal Zone Conservation Commission (later known as the California Coastal Commission) and the Army Corps of Engineers as required at the time.
7. A public hearing was held on August 13, 2025 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 not subject to the California Environmental Quality Act (“CEQA”) pursuant to Section 15060(c)(2) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 (“Guidelines”) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. The Project is also exempt from CEQA pursuant to Section 15301 (Existing Facilities) of the Guidelines because the activity will involve negligible or no expansion of existing or former use. Additionally, the Project is exempt from CEQA pursuant to Section 15302 (Replacement or Reconstruction) because the reconstruction of the Project will be located on the same site as the structure it replaced and will have substantially the same purpose by continuing to serve as a dock with comparable capacity. The variance request involves construction of two U-shaped slips at a residential lot. The overwater coverage of the new dock system is less than the overall coverage of the existing dock system (1,818 square feet compared to 2,545 square feet).

## SECTION 3. REQUIRED FINDINGS.

### Variance

In accordance with NBMC Section 17.05.140(D)(2), the following findings and facts in support of such findings are set forth below. (Exhibit and plans are found in the Staff Report):

#### Finding:

- A. *NBMC Section 17.05.140(D)(2)(a). The strict application of this title, the design criteria and other applicable standards and policies otherwise applicable to the property would deny the property owner privileges enjoyed by other property owners in the vicinity, based on special circumstances applicable to the property, including location, shape, size, surrounding topography or other physical features.*

#### Facts in Support of Findings:

1. The Property is formed by the merger of two legal lots with separate addresses and established water frontage. The resulting lot has a combined width and configuration which is atypical of most single-unit residential parcels in the area. The combined width of the harbor frontage is approximately 150 feet. Strict application of NBMC Section 17.35.020(A)(7) would limit the merged lot to a single slip despite its expanded frontage, physical layout and ability to accommodate multiple vessels without impacting navigation or adjacent uses. This unique circumstance of creating a larger, unified parcel justifies consideration for a two-slip dock. Limiting the dock to a single slip configuration would deny reasonable development potential that reflects the physical attributes of the Property.

2. The strict application of NBMC would deny the Applicant privileges enjoyed by other property owners in the vicinity based on special circumstances applicable to the Property including its width, configuration and merged lot status. The Property has greater waterfront frontage than typical single-unit parcels and the Property can safely accommodate two slips without infringing on adjacent uses or harbor navigation.

Finding:

- B. NBMC Section 17.05.140(D)(2)(b). Strict compliance with this title, the design criteria and other applicable standards and policies applicable to the property would deprive the subject property of privileges enjoyed by other properties in the vicinity.*

Facts in Support of Findings:

1. Strict compliance of the NBMC would deprive the Applicant of full and reasonable use of the waterfront portion of the Property. The existing configuration, which includes two slips (in the form of a double U-shaped slip), has been in place for a significant period. The Project represents a minimal deviation from these established conditions, seeking only to maintain the long-established utility of the Property.
2. While each case must be evaluated on its own merit, other properties with similar or greater harbor frontage and configuration have been developed with two-slip configurations. In this case, the expanded lot area with approximately 150 feet of harbor frontage supports the feasibility of a second slip while maintaining compliance with applicable Harbor Design Criteria. Denial of a second slip would disproportionately restrict the use of the Property as it is significantly wider than the surrounding parcels. Given the Property's expanded harbor frontage, the Project is proportionally comparable in scale and impact to docks serving narrower, neighboring lots. Limiting the site to a single slip would impose a disproportionate restriction not applied to other waterfront properties and inconsistent with the Property's physical capacity and potential.
3. Strict compliance with NBMC would deprive the Property of its reasonable use and enjoyment of its waterfront consistent with properties of similar size and harbor frontage. The Project's two-slip configuration reflects the functional potential of the merged lot.

Finding:

- C. NBMC Section 17.05.140(D)(2)(c). Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*

Facts in Support of Findings:

1. Granting the variance will allow the Applicant to preserve the existing two-slip configuration and enjoy substantial property rights, including the ability to berth vessels consistent with the physical capacity of the site and the existing configuration. The dock as proposed would allow safe and efficient vessel access and use, in line with the overall intent of Title 17 to support functional and safe waterfront improvements. Without the

variance, the merged parcel would be underutilized compared to its physical and functional potential.

2. Granting the variance is necessary to preserve the Applicant's substantial property rights, including the ability to safely berth more than one vessel in a manner consistent with the physical attributes of the Property and the harbor environment.

Finding:

- D. NBMC Section 17.05.140(D)(2)(d). Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on the other properties in the City.*

Facts in Support of Findings:

1. The requested variance is based on the Property's unique configuration including the 150-foot harbor frontage as well as the existing, approved two slips (in the form of a double U-shaped slip). The Project's two slips are designed in accordance with Harbor Design Criteria, and they have been evaluated for consistency with applicable environmental and navigational standards. The merged lots will continue to have two distinct addresses including a main residence and an accessory dwelling unit. This variance request is justified independently by the unique configuration of the subject site and not by precedent alone.
2. Granting of the variance will not constitute a grant of special privilege inconsistent with limitations imposed on other properties in the harbor. The Applicant's properties are already developed with two separate dock systems that also include a two-slip configuration at 2100 E. Balboa Blvd. The merged lot will have two addresses with two residential units. The approval is based on unique site-specific conditions.

Finding:

- E. NBMC Section 17.05.140(D)(2)(e). Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the vicinity.*

Facts in Support of Findings:

1. The existing properties have separate and independent dock systems from one another. The Project's dock design will consolidate the two separate systems into one dock system spanning the entire merged Property, yet it will still maintain a similar configuration to accommodate multiple vessels. The Project will comply with the City's Harbor Design Criteria and the NBMC by adhering to the required setbacks from the side property lines and by not extending bayward beyond the Pierhead Line as required. The two-slip configuration will not result in overcrowding, navigational hazards, or adverse impacts to adjacent neighboring uses and navigation. The structure reflects allowable harbor development, and it will not impede public access, compromise harbor operations, or detract from the orderly development of the area.

2. Granting of the variance will not be detrimental to the harmonious and orderly growth of the City and Newport Harbor nor will it endanger or otherwise constitute a hazard to public convenience, health, safety, or general welfare. The Project is consistent with all applicable harbor safety and design standards.

Finding:

- F. NBMC Section 17.05.140(D)(2)(f). Granting of the variance will not be in conflict with the intent and purpose of this title, the design criteria and any applicable standards and policies approved by the City Council.*

Facts in Support of Findings:

1. The Project meets the intent of NBMC Title 17 which regulates waterfront development in a manner that supports responsible use of harbor areas, promotes safety, and protects the public and environmental interests. The variance seeks to provide for a practical use of the Property's waterfront potential without compromising design standards or public resources. It aligns with the City's goals for maintaining the character and functionality of Newport Harbor.
2. Granting of the variance is not in conflict with the intent and purpose of Title 17, the City's Harbor Design Criteria, or other applicable standards and policies. The Project supports recreational boating and is a reasonable and responsible use of waterfront resources on a uniquely configured residential property.

SECTION 4. DECISION.

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

1. The Harbor Commission finds the approval of the Variance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 ("Guidelines") because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. The Harbor Commission also finds that approval of the Variance is categorically exempt from CEQA pursuant to Section 15301 (Existing Facilities) of the Guidelines because the activity will involve negligible or no expansion of existing or former use. Additionally, the Harbor Commission also finds that approval of the Variance is categorically exempt from CEQA pursuant to Section 15302 (Replacement or Reconstruction) because the reconstruction of the project will be located on the same site as the structure it replaced and will have substantially the same purpose by continuing to serve as a dock with comparable capacity.
2. The Variance request to construct the Project consisting of two U-shaped slips at a residential dock is approved.

3. This action shall become final and effective fourteen (14) 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 13<sup>th</sup> DAY OF AUGUST, 2025.**

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

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Ira Beer, Chair

BY: \_\_\_\_\_  
Steve Scully, Secretary