

RESOLUTION NO. HC2022-001

A RESOLUTION OF THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING IN CONCEPT A COMMERCIAL DOCK RECONFIGURATION AT 717 LIDO PARK DRIVE

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 717 Lido Park Drive has applied for a permit to reconfigure their commercial dock system by adding an additional two fingers to the bayward headwalk, and extending the landward headwalk adjacent to the bulkhead ("Project"). With the reconfiguration, the dock system will continue to extend beyond the pierhead line.
2. Title 17 of the Newport Beach Municipal Code (NBMC) prohibits piers and floats from extending beyond the pierhead line unless approved in compliance with Council Policy.
3. A public hearing was held on January 12, 2022, in the Council Chambers located 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 commercial dock system is in the same location and is substantially the same size and purpose as the dock system it replaces, and the overwater coverage of the new dock system is less than the previously removed 2005 overwater configuration (8,608 square feet compared to 9,429 square feet).

SECTION 3. REQUIRED FINDINGS.

The Harbor Commission hereby adopts the following findings (the referenced Attachments are found in the Staff Report):

1. Council Policy H-1(I)(A). The existing pier or float is currently encroaching bayward beyond the pierhead line.

Facts in Support of Findings: The existing float currently encroaches bayward beyond the pierhead line.

2. Council Policy H-1(I)(B). The existing pier or float was previously permitted to encroach bayward beyond the pierhead line or is in substantial conformance with the existing City-issued permit.

Facts in Support of Findings: The existing dock configuration was approved by the City Council in 1982 to encroach bayward beyond the pierhead line as evidenced by Attachment B.

3. Council Policy H-1(I)(C). The pier or float will not encroach any further bayward beyond the pierhead line than the existing encroachment.

Facts in Support of Findings: As depicted in Attachment B, the proposed float encroaches bayward beyond the pierhead line a distance equal to the distance the existing, adjacent floats encroach.

4. Council Policy H-1(I)(D). Any vessel utilizing the pier or float will not extend bayward beyond the project line or the line established under the City-issued permit, whichever is less.

Facts in Support of Findings: The existing dock configuration, approved in 1982, has floats that encroach bayward beyond the project line as well as the pierhead line. As a result, vessels have, by default, extended beyond the project line. The proposed floats will extend bayward by the same amount as the existing floats. Thus, vessels berthed in the new slips will not extend bayward any further than what is allowed for the vessels in the adjacent slips under Newport Beach Municipal Code 17.25.020(C)(2) (maximum width of the vessel's beam). Accordingly, the proposed project is consistent with the intent of H-1(I)(D).

5. Council Policy H-1 (I)(E)(1). The pier or float will preserve the diverse uses in Newport Harbor and the waterfront that contribute to the charm and character of Newport Harbor.

Facts in Support of Findings: The Project use and configuration conforms to the provisions of the NBMC, applicable policies and the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria Commercial and Residential Facilities. The Project use and configuration is also compatible with the existing, surrounding commercial docks.

6. Council Policy H-1 (I)(E)(2). The pier or float will maintain or enhance public access to Newport Harbor's waterways and waterfront areas.

Facts in Support of Findings: Public access to the harbor waterways and waterfront areas will be maintained because the proposed float extends bayward a distance equal to the distance the existing, adjacent floats extend.

7. Council Policy H-1 (I)(E)(3). The pier or float will preserve or enhance the visual character of Newport Harbor.

Facts in Support of Findings: The Project conforms to the provisions of the NBMC, applicable policies and the City of Newport Beach Waterfront Project Guidelines and Standards

Harbor Design Criteria Commercial and Residential Facilities. The Project use and configuration is also compatible with the existing, surrounding commercial docks.

8. Council Policy H-1 (I)(E)(4). The pier or float will not negatively impact adjacent property owners, harbor views, navigation, and future harbor dredging.

Facts in Support of Findings: The Project conforms to the provisions of the NBMC, applicable policies and the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria Commercial and Residential Facilities. Navigation will not be negatively impacted.

9. Council Policy H-1 (I)(E)(5). The pier or float will be aesthetically consistent and compatible with its surroundings.

Facts in Support of Findings: The Project use and configuration is compatible with the existing, surrounding commercial docks.

10. NBMC Section 17.50.030. The Project conforms to the provisions of the NBMC, Harbor Design Criteria, and applicable standards and policies in conjunction with plan reviews by the Public Works Department.

Facts in Support of Findings: The Project conforms to the provisions of the NBMC, applicable policies and the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria Commercial and Residential Facilities.

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, a dock system reconfiguration at 717 Lido Park Drive, is approved in concept subject to the condition that vessels do not extend bayward beyond the end of the slip by a distance of more than the maximum width of their beam.
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 12th DAY OF JANUARY, 2022.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
William Kenney, Chair

BY: _____
Steve Scully, Secretary

Attachments:

Attachment A – Special Conditions



Public Works
100 Civic Center Drive
Newport Beach, CA 92660

Special Conditions

January 12, 2022

Project: Reconfiguration of Commercial Dock
Address: 717 Lido Park Drive

The approval in concept of the subject project at the above referenced address, to add two fingers to the bayward headwalk and to extend the landward headwalk adjacent to the bulkhead, is subject to the following conditions:

1. The project applicant is aware of the Harbor Permit Policies, (Council Policy H-1) and Title 17 of the City of Newport Beach Municipal Code. The project applicant understands that 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 these Policies and Codes.
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 project applicant acknowledges that 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 may not extend bayward beyond the end of the finger by a distance of more than the maximum width of the vessel's beam.
9. All required insurance shall be maintained in full force and effect during the pendency of this approval in concept.
10. 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.

Lisa Walters, Public Works

Date

Applicant Signature

Print Name

Date

Joint Pier Applicant Signature (if applicable) Print Name

Date