

## **RESOLUTION NO. HC2022-002**

### **A RESOLUTION OF THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING IN CONCEPT A PUBLIC DOCK RECONFIGURATION AT 29<sup>th</sup> STREET, EAST OF LAFAYETTE AVENUE**

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

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

1. The City owns the 29<sup>th</sup> Street public dock and has applied for a permit to reconfigure this public dock system by removing the existing gangway, piles, and floats, and installing a pier platform, gangway, and single finger float with piles ("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 public dock system is in the same location and is substantially the same size and purpose as the dock system it replaces. The overwater coverage of the new dock system is not substantially greater than the existing configuration (485 square feet compared to 475 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 previously approved by the City in 2011 when the City replaced the piles as evidenced by the as-builts in 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 the same distance as the existing float encroaches.

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 project line does not exist in the Rhine Channel. Therefore, the applicable limitation is the line established under the City-issued permit which is Newport Beach Municipal Code 17.25.020(C)(2) which states that any vessel berthed at a slip shall not extend bayward beyond the end of the slip by a distance of more than the maximum width of its beam. As the proposed float will encroach bayward beyond the pierhead line the same distance as the existing float, vessels will not extend bayward any further than what is currently allowed (width of its beam).

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 float will be open to the public, and its use and configuration is compatible with the existing, surrounding 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 the same distance as the existing float extends. The float will be open to the public.

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 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 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 the 29<sup>th</sup> Street end, east of Lafayette Avenue, is approved in concept.
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 12<sup>th</sup> DAY OF JANUARY, 2022.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
William Kenney, Chair

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