



**CITY OF NEWPORT BEACH**

100 Civic Center Drive  
Newport Beach, California 92660  
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[newportbeachca.gov/PublicWorks](http://newportbeachca.gov/PublicWorks)

December 15, 2021

***DELIVERED VIA FIRST CLASS REGULAR MAIL AND EMAIL***

Swift Slip Dock and Pier Builders, Inc.  
6351 Industry Way  
Westminster, CA 92683

RE: 3312 Marcus Avenue (Plan check #2455-2021) – Notice of Harbor Commission Decision

Mr. Swift,

On December 8, 2021, the Harbor Commission approved the commercial dock construction project located at 3312 Marcus Avenue (Plan check #2455-2021). The project includes removing the existing floating dock, and gangway, and replacing with a new floating dock and City standard gangway. (1) pile will be reused and (1) pile will be replaced with new.

Newport Beach Municipal Code Section 17.50.040(B) requires that a notice of decision shall be provided to the applicant and shall be posted on the City's website for fourteen (14) calendar days. If no appeal or call for review of the decision is filed within the fourteen (14) calendar days, the decision is final. An Approval in Concept shall not be issued until the appeal period or call for review expires.

Please contact me if you have any questions or comments regarding this notice of decision.

Regards,

Chris Miller  
Public Works Manager

## RESOLUTION NO. HC2021-006

### A RESOLUTION OF THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING IN CONCEPT A RESIDENTIAL DOCK RECONFIGURATION AT 3312 MARCUS AVENUE

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 3312 Marcus Avenue has applied for a harbor development permit to reconfigure their residential dock system by replacing the gangway and float with a new gangway and float ("Project"). The property is located in the West Newport area where pierhead lines do not exist.
2. The Project is significantly different from the existing City-issued permit and thus does not comply with the criteria of "substantial conformance" of Council Policy H-1 (Section II.A) to qualify for staff review and approval.
3. NBMC allows the application for a harbor development permit, approval in concept, or variance to be referred to the Harbor Commission for a public hearing to determine if the harbor development permit, approval in concept or variance shall be issued, denied or conditionally approved if certain criteria is met.
4. A public hearing was held on December 8, 2021, 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 residential 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 existing overwater coverage (200 square feet compared to 204 square feet).

#### SECTION 3. REQUIRED FINDINGS.

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

1. NBMC Section 17.05.140(D)(1)(a). The use complies with Title 17, the Local Coastal Program, General Plan, Design Criteria and any applicable standards and policies approved by the City Council.

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

2. NBMC Section 17.05.140(D)(1)(b). The design, location, size and/or operating characteristics of the use are compatible with the allowed uses in the vicinity.

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 residential docks.

3. NBMC Section 17.05.140(D)(1)(c). The Project site is physically suitable in terms of design, location, shape, size and operating characteristics, and the provision of the public and emergency vehicle (e.g., fire and medical) access and public services and utilities is suitable.

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. Public access to the harbor waterways and waterfront areas will be maintained because the proposed float extends bayward a distance from the bulkhead equal to the distance the existing float extends. The Project is wholly within the prolongation of the property lines of 3312 Marcus Avenue. Navigation will not be negatively affected.

4. NBMC Section 17.05.140(D)(1)(d). Operation of the use at the Project site would not be detrimental to or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare.

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 from the bulkhead equal to the distance the existing float extends. The Project is wholly within the prolongation of the property lines of 3312 Marcus Avenue. Navigation will not be negatively affected.

5. NBMC Section 17.05.140(D)(1)(e). The Project is designed or sited so as to not obstruct public access to coastal resources, or further impact or impair the public's use of the bay or beach in the vicinity of the existing structure.

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 from the bulkhead equal to the distance the existing float extends. The Project is wholly within the prolongation of the property lines of 3312 Marcus Avenue. Navigation will not be negatively affected.

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, the 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 for 3312 Marcus 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 8<sup>th</sup> DAY OF DECEMBER, 2021.**

AYES:

NOES:

ABSTAIN:

ABSENT:

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

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