



== CITY OF ==

# NEWPORT BEACH

## Harbor Commission Staff Report

January 12, 2022  
Agenda Item No. 6.1

**TO:** HARBOR COMMISSION

**FROM:** Chris Miller, Public Works Administrative Manager – 949-644-3043,  
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**TITLE:** Commercial Dock Reconfiguration at 717 Lido Park Drive

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**ABSTRACT:**

Curci Companies (“Applicant”) has applied for a permit to reconfigure a portion of their commercial dock system at 717 Lido Park Drive by adding an additional two fingers to the bayward headwalk, and extending the landward headwalk adjacent to the bulkhead (“Project”). The proposed fingers on the bayward headwalk extend beyond the pierhead line the same distance as the adjacent fingers within the same dock system extend. Because Applicant is proposing to construct bayward beyond the pierhead line, staff is unable to approve the project. Therefore, Council Policy H-1 directs the Harbor Commission to hold a public hearing for the proposed project.

**RECOMMENDATION:**

- 1) Conduct a public hearing; and
- 2) Find the Project 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, Chapter 3; and
- 3) Approve in concept the Project by making specific findings to allow the dock to be reconfigured pursuant to the provisions in Council Policy H-1.

**FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

**DISCUSSION:**

Council Policy H-1 and the Newport Beach Municipal Code (NBMC) state that piers and floats may not extend bayward beyond the pierhead line unless approved in compliance with Council Policy. However, Council Policy H-1 does set forth circumstances wherein the Harbor Commission may approve a pier or float to extend bayward beyond the pierhead line after holding a public hearing and considering a staff report with accompanying supporting materials.

Applicant’s marina encompasses the entirety of the Lido Peninsula, and the Project includes a small portion of the overall marina located along the northeast portion of Lido Peninsula adjacent to Anchorage Way. The aerials (Attachment A) depict all of the residential and commercial finger floats along Anchorage Way and Lido Park Drive extending beyond the pierhead line as permitted via previous versions of Council Policy H-1. In addition, the Harbor Commission previously

approved a dock reconstruction project within this same portion of the marina in 2008 and permitted the floats to extend the same distance as shown on the aerials. (Note: The 2008 marina project was subsequently abandoned.)

Council Policy H-1 provides that the Harbor Commission may approve or conditionally approve a harbor development permit and/or approval in concept for a pier or float to extend bayward beyond the pierhead line upon making all of the following findings:

Council Policy H-1 Findings

- A. The existing pier or float is currently encroaching bayward beyond the pierhead line;
- 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;
- C. The pier or float will not encroach any further bayward beyond the pierhead line than the existing encroachment;
- 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; and
- E. The pier or float will:
  - 1. Preserve the diverse uses in Newport Harbor and the waterfront that contribute to the charm and character of Newport Harbor;
  - 2. Maintain or enhance public access to Newport Harbor's waterways and waterfront areas;
  - 3. Preserve or enhance the visual character of Newport Harbor;
  - 4. Not negatively impact adjacent property owners, harbor views, navigation and future harbor dredging; and
  - 5. Be aesthetically consistent and compatible with its surroundings.

**EXISTING DOCK CONFIGURATION**

Attachment B shows the most current plans on file for this commercial dock system. In 1982, the City Council approved the floats in this same portion of the marina to be reconstructed and to extend those floats beyond the pierhead line as presently shown. It should also be noted that Applicant previously removed a dock system (herringbone-shaped configuration) at this same location in 2006, and this dock system also previously extended the same distance as presently proposed.

**PROPOSED PROJECT**

The Project conforms to the Harbor Design Criteria. The proposed floats shown in Attachment B extend approximately 107-foot channelward from the physical bulkhead and extend the same distance as the adjacent floats in the same marina.

## STAFF RECOMMENDATION AND FINDINGS

Staff recommends approval in concept of the Project. Attachment D (Resolution 2022-001, Special Conditions) lists draft conditions which will be part of the Approval in Concept. The conditions are in draft form because they could be amended during the plan check process if the project is adjusted unrelated to the pierhead line portion of the project.

Council Policy H-1 allows the Harbor Commission to approve or conditionally approve a harbor development permit and/or approval in concept for a pier or float to extend bayward beyond the pierhead line upon making all of the following findings:

**Finding No. 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.

**Finding No. 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.

**Finding No. 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.

**Finding No. 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 float 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(1)(D).

**Finding No. 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.

**Finding No. 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.

**Finding No. 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.

**Finding No. 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.

**Finding No. 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.

**Finding No. 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.

### **ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this Project 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, Chapter 3. CEQA Guidelines Section 15301 (Class 1) applies to the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use." Section 15302 (Class 2) applies to the "replacement or reconstruction of existing structures and facilities where the new structures will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced[.]" 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).

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item). This public hearing was noticed to all residents within a 300' radius per NBMC Section 17.05.140(B). The notice was also published in the newspaper on Sunday, December 26, 2021 (Attachment C).

**ATTACHMENTS:**

- Attachment A - Aerial Photos
- Attachment B - Existing Approved Plans and Proposed Configuration
- Attachment C - Public Outreach
- Attachment D - Resolution HC2022-001