



CITY OF

NEWPORT BEACH

Harbor Commission Staff Report

January 9, 2019
Agenda Item No. 6.1

TO: HARBOR COMMISSION

FROM: Chris Miller, Administrative Manager – 949-644-3043,
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TITLE: 2888 Bayshore Drive (Newport Marina) – Appeal

ABSTRACT:

The Harbor Commission will consider an appeal of the City's approval of the proposed marina reconfiguration project at 2888 Bayshore Drive.

RECOMMENDATION:

- 1) Find the project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
- 2) The Harbor Commission may either uphold, amend or reverse the Harbor Resources Manager's approval of the proposed marina reconfiguration at 2888 Bayshore Drive.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION

BACKGROUND

In 2016, the applicant at 2888 Bayshore Drive submitted a proposal to reconfigure their commercial marina. See Attachment B. One of the components of this proposal was the ingress and egress to the back of the marina via the southern entrance immediately adjacent to 2782 Bayshore Drive. At the time, the neighbor at 2782 Bayshore Drive appealed the Approval in Concept based on the width of this southern access channel because of the potential for the boats to drift into his water space.

Over a series of meetings, the Harbor Commission amended the Harbor Resources Manager's decision and placed conditions upon the 2016 proposed project. The October 2016 Harbor Commission Minutes and resulting Notice of the Harbor Commission's Decision are attached for reference. See Attachments C and D. Please note that the Minutes state "the applicant was

under no obligation to build to the requirements of the motion. The applicant could submit a new and different application for proposal including dolphin piles.”

The applicant did not resubmit a revised proposal based on the Harbor Commission’s conditions. Instead, the applicant spent the following two years searching for a solution for ingress and egress to a back channel via the north (opposite) side of the marina, adjacent to the Coast Highway Bridge. This new 2018 design addresses all of the concerns raised in 2016 by eliminating a back channel and corresponding access on the south side. The applicant has also proposed that the southernmost finger be an additional 6 inches from the property line as an extra buffer. See Attachment E and F.

Staff determined that the 2018 proposal was completely different from the 2016 proposal, and warranted an independent, new review absent of any previous discussions or Harbor Commission motions.

APPEAL

The neighbors at 2782, 2800, 2812 and 2832 Bayshore Drive are collectively appealing (See Attachment G) the Harbor Resources Manager’s decision to approve the 2018 proposed marina based on the following:

1. The proposal is contrary to Harbor Commission approval requiring 26-foot setback from the Property Line and 24-foot setback from bulkhead and 46 slips.
2. Failure to provide notice to known interested parties.
3. Inconsistent with health and safety standards.
4. Violates due process.

ADDITIONAL INFORMATION

The 2018 proposed plan conforms to the City’s Harbor Design Standards without any requests for variances.

In addition, please note the following:

1. Commercial marinas: No setbacks required for piers, gangways, floats and vessels. See Attachment H.
2. Residential docks: Five-foot setback required for piers, gangways and floats. No setback required for vessels. See Attachment I.
3. The Approval in Concept is conditioned so that cleats are not permitted on the southern side of the southern finger adjacent to 2782 Bayshore Drive.
4. Private view corridors are not considered when evaluating harbor related projects.
5. The City is not required to provide notice to the surrounding community for routine projects. In this case, the commercial marina is being rebuilt in a manner consistent with the current configuration albeit with access to the backside of the marina from the north instead of the south.

6. The distance from the vessel at 2782 Bayshore Drive to the property line will be approximately 2.76 feet. See Attachment J. The 2018 proposed marina will be setback an additional 6 inches from the property line.
7. The vertical clearance under the pier for access to the backside of the marina from the north entrance has been reviewed by the Fire Department. Issues such as this will be reviewed during the plan check process.

ENVIRONMENTAL REVIEW:

The project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

The proposed replacement marina is in the same location and is substantially the same size, purpose and capacity as the marina it replaces. The overwater coverage of the new marina increased by 4.1% from 12,787 square feet to 13,319 square feet. The number of slips decreased from 53 to 50 with the slip mix remaining balanced.

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).

ATTACHMENTS:

Attachment A	2016 Aerial
Attachment B	Existing and 2016 Proposed
Attachment C	October 2016 Harbor Commission Minutes
Attachment D	October 2016 Notice of Harbor Commission Decision
Attachment E	2018 Proposed
Attachment F	Approval in Concept for 2018 Proposal
Attachment G	Appeal Filed Against 2888 Bayshore Drive
Attachment H	Commercial Marina City Standard STD 607-L
Attachment I	Residential Pier City Standard STE 608-L and NBMC
Attachment J	Distance from Vessel at 2782 to Property Line
Attachment K	Public Notice