



CITY OF

NEWPORT BEACH

City Council Staff Report

June 11, 2019
Agenda Item No. 4

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Resolution No. 2019-48: Approving the Proposed Residential Dock Reconstruction Project at 939 Via Lido Soud

ABSTRACT:

At the May 28, 2019 meeting, the City Council approved the proposed residential dock project at 939 Via Lido Soud, and directed staff to return to the next Council meeting with an updated resolution to reflect the City Council's decision and findings. This report provides the requested resolution approving the proposed residential dock and sets forth the conditions of approval.

RECOMMENDATION:

- a) 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, Code of Regulations, Title 14, Chapter 3; and
- b) Adopt Resolution 2019-48, *A Resolution of the City Council of the City of Newport Beach, California, Approving the Residential Dock Reconstruction Project (File No. 2585-2018) at the Property Located at 939 Via Lido Soud.*

FUNDING REQUIREMENTS:

Beyond the related staff time needed to administer and process this item, there is no anticipated fiscal impact related to this item.

DISCUSSION:

Newport Beach Municipal Code Section 17.35.030(A) provides that piers and floats may not extend beyond the pierhead line unless approved by Council Policy. In 2018, City Council Policy H-1 was amended so that piers or floats may not extend beyond the pierhead line unless a determination is made that the extension will not negatively affect (1) navigation, (2) adjacent property owners, and (3) existing harbor uses.

Existing Permit and Residential Dock Configuration

The applicant who owns the home at 939 Via Lido Soud ("Property") has a residential dock on the easterly tip of Lido Isle, opposite Bay Island, and adjacent to the designated short-term anchorage area. The float is currently configured as a U-shape, which is slanted to the north. According to the applicant's current permit, the existing float is permitted to extend up to the pierhead line. However, in the existing configuration, the float extends approximately 9 feet beyond the pierhead line (as measured on the southern edge of the southern finger).

2018 Application for Residential Dock Reconfiguration

In October 2018, the applicant submitted a proposal to remove the existing pier-approach, gangway and U-shape float, and replace it with a new gangway lobe, gangway and reconfigured U-shape float which would extend 16 feet beyond the pierhead line. Staff denied the request based on City Council Policy H-1, which does not allow floats to extend beyond the pierhead line unless approved by the Harbor Commission.

Harbor Commission Appeal

The applicant appealed the Public Works Director's denial to the Harbor Commission, and a public hearing was held on February 13, 2019. After considering the appeal, the Harbor Commission upheld the Public Works Director's denial (6-1) because the Harbor Commission did not make the findings for approval.

City Council Appeal

The applicant appealed the Harbor Commission's denial to the City Council within the required timeframe on the basis that the proposed application conforms to the applicable provisions of Newport Beach Municipal Code ("NBMC") Title 17 and Council Policy H-1. On May 28, 2019, the appeal was heard by the City Council, which, pursuant to Section 17.65.040(F), is authorized to affirm, modify or reverse the Harbor Commission's decision.

At the hearing on May 28, 2019, the City Council considered both oral and written testimony from the applicant, neighbors and the public. The primary issues considered by the City Council at the appeal hearing was whether the proposed configuration of the float was allowed under NBMC Section 17.35.030 (A), 17.50.040(B)(2) and Council Policy H1. Specifically, the NBMC and Council Policy H1 prohibit a float from extending beyond the pierhead line, unless it is determined the extension of the float does not negatively affect (1) navigation, (2) adjacent property owners, and (3) existing harbor uses/permittees.

At the hearing, information was presented to the City Council that the navigable channel in front of the Property to the anchorage is 256 feet wide, which provides adequate space to navigate the channel without undue congestion. The applicant also provided the City Council with documents and correspondence from the adjacent property owners at 929, 933, 941 and 944 Via Lido Soud, which indicated the proposed project would not interfere with the adjacent property owners. Evidence was also submitted that the proposed project would not affect harbor dredging as the closest piling to the federal project line is set back five feet from the project line. Finally, correspondence from a former Harbor 20 Fleet Captain indicated the proposed project would not negatively affect sailboat racing in the area of Newport Harbor east of Lido Isle.

In addition, at the hearing, evidence was presented to the City Council regarding the proposed projects conformance with Harbor Design Guidelines, as required by Section 17.50.040(A) and (B)(1). At the hearing, City staff provided information to the City Council regarding the configuration of the proposed project in regards to the Harbor Design Guidelines. The Building Official has reviewed the design of the proposed project and determined that configuration of the proposed project is acceptable in that it does not lessen health, accessibility, life and fire safety, or structural requirements.

After hearing all of the testimony and evidence, the City Council voted 4-3 to approve the proposed dock reconstruction project at 939 Via Lido Soud with a special condition that any vessel berthed at the float shall not extend past the end of the float by more than fifty percent (50%) of the beam (i.e. overall vessel width). As part of the motion to approve the proposed project, the City Council directed City staff to return with a resolution approving the project, with conditions. The requested resolution is attached hereto as Attachment A. For background, City staff has also included the May 28, 2019 staff report, which is attached hereto as Attachment B.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council 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 residential dock system is in the same location and is substantially the same size, purpose and capacity as the dock system it replaces. The overwater coverage of the new dock system increased from 1,287 square feet to 1,765 square feet. The single, U-shape slip configuration remains the same, though oriented differently.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item). The public hearing for the May 28, 2019 meeting was also noticed to all residents within a 300' radius per NBMC 21.62.020(B)(2)(c) and published in the newspaper.

ATTACHMENTS:

Attachment A – Resolution No. 2019-48

Attachment B – Staff Report from the May 28, 2019 City Council Meeting