



== CITY OF ==

# NEWPORT BEACH

## Harbor Commission Staff Report

August 14, 2019  
Agenda Item No. 6.1

**TO:** HARBOR COMMISSION

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**TITLE:** Residential Dock Reconfiguration at 1708-1710 South Bay Front

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**ABSTRACT:**

The applicants at 1708 & 1710 South Bay Front are proposing to reconfigure their shared residential dock in a similar U-shape configuration. The proposed float will extend the same 15 feet beyond the pierhead line as it does in the current configuration. Council Policy H-1 generally allows floats to extend to the pierhead line, but the policy also allows the Harbor Commission to grant exceptions as to how far a float may extend beyond the pierhead line if specific findings are made. The applicant therefore, requests the Harbor Commission to approve the proposed dock configuration (Project).

**RECOMMENDATION:**

- 1) Conduct a public hearing;
- 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 the Project at 1708-1710 by making specific findings to allow the float to extend beyond the pierhead line by 15 feet pursuant to the provisions within Council Policy H-1.

**FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

**DISCUSSION:**

Newport Beach Municipal Code (NBMC) Section 17.35.030(A) provides that piers and floats may not extend beyond the pierhead line unless approved by Council Policy H-1. In other words, staff may approve dock reconfiguration projects if the floats extend to the pierhead line and if the projects also conform to the City’s rules concerning dock construction including the City’s Harbor Design Criteria.

Council Policy H-1 (Attachment A) provides that the Harbor Commission shall consider for approval, conditional approval or denial, of the application based on certain requirements. All applications require Harbor Commission consideration regardless of whether or not the float had

previously been permitted for an extension. A public hearing is required, and staff shall include a recommendation with supporting materials for the Harbor Commission. The Harbor Commission may approve, or conditionally approve a permit if the Harbor Commission makes specific factual findings in each category of exceptions listed below:

- 1) The existing pier or float is already physically encroaching beyond the pierhead line.
- 2) The existing pier or float was legally permitted to encroach beyond the pierhead line.
- 3) The pier or float will not result in an increase in the physical encroachment beyond the pierhead line that is greater than the existing encroachment.
- 4) Any boat utilizing the pier or float will not extend beyond the project line or line at which it would currently be allowed, whichever is greater.
- 5) The pier or float will:
  - i. Preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport Bay;
  - ii. Maintain or enhance public access to the harbor water and waterfront areas;
  - iii. Preserve or enhance the visual character of the harbor; and
  - iv. Not negatively impact adjacent property owners and dredging of the harbor.

## **EXISTING DOCK CONFIGURATION**

Attachment B shows the relationship of the current float to the adjacent neighbors, channel and the Balboa Yacht Club mooring field.

The existing dock system is shared between 1708 and 1710 South Bay Front. The City issues a pier permit to each resident of the shared pier and bills each resident exactly 50%. How the pier is maintained and managed is decided between the residents themselves.

Attachment C shows the existing approved plans from February 2000 with the floats extending 15 feet beyond the pierhead line.

The existing dock system is 979 square feet. NBMC Section 17.35.060(A) and (B) addresses piers on Balboa Island.

“...Any revision of an existing pier or float shall be in strict conformance with the section and shall not be approved if the addition or revision would, in comparison to the existing structure, further restrict or impair the public’s use of the bay or beach in the vicinity of the pier or floats.

Revision to the existing structures shall be limited to the following:

- 1) The overall square footage of the revised structure shall be equal to or less than the square footage of the permitted structure;

- 2) The revised structure does not extend beyond the City permit line (the U.S. pierhead line or such bayward extension of the permit area that is permitted by the section or the Council policy); and
- 3) The revised structure is wholly within the original permitted area as specified in the existing permit on file with the City.”

## **PROPOSED PROJECT**

Attachment D is the Project plan which conforms to the Harbor Design Criteria. It is 958 square feet, and it extends the same distance bayward (15 feet) as the existing dock system, therefore satisfying the requirements of 17.35.060.

Of particular interest in this section of the harbor, NBMC 17.25.020(C)(2) states that docks between Bulkhead Station No. 256 beginning at Collins Avenue and ending at Bulkhead Station No. 255 shall not extend more than fifteen feet bayward from the end of the pier or slip or more than the width of the beam of the boat, whichever is less. (See Attachment E.) This rule was established in 2003 to address larger vessels extending beyond the float into the adjacent and unusually narrow channel.

Because this is a shared pier between 1708 and 1710 South Bay Front, staff requires that both joint owners approve the plans. See Attachment F.

## **STAFF RECOMMENDATION AND FINDINGS**

Staff recommends approval of the Project. Council Policy H-1 allows the Harbor Commission to approve a permit for a pier or float to extend beyond the pierhead line if specific factual findings are made. Staff recommends the Harbor Commission make the following findings in support of their approval, though the Harbor Commission may make additional findings as necessary.

**Finding No. 1:** Section 17.50.040(A) and (B)(1). 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.

**Finding No. 2:** Council Policy H-1 (1). The existing pier or float is already physically encroaching beyond the pierhead line.

Facts in Support of Findings: The existing dock system extends 15 feet beyond the pierhead line.

**Finding No. 3:** Council Policy H-1 (2). The existing pier or float was legally permitted to encroach beyond the pierhead line.

Facts in Support of Findings: The existing dock system was permitted by the City in February 2000 as evidenced by the attached stamped drawing. Floats were permitted to extend beyond the pierhead via the version of Council Policy H-1 in effect at the time.

**Finding No. 4:** Council Policy H-1 (3). The pier or float will not result in an increase in the physical encroachment beyond the pierhead line that is greater than the existing encroachment.

Facts in Support of Findings: The Project encroaches 15 feet beyond the pierhead line which is the same distance that the existing dock encroaches.

**Finding No. 5:** Council Policy H-1 (4). Any boat utilizing the pier or float will not extend beyond the project line or line at which it would currently be allowed, whichever is greater.

Facts in Support of Findings: NBMC Section 17.25.020(C)(2) states that between Bulkhead Station No. 256, beginning at Collins Avenue to Bulkhead Station No. 255, boats moored at a pier or slip shall not extend more than 15 feet bayward from the end of the pier or slip or more than the width of the beam of the boat, whichever is less. This specific rule for most of South Bay Front has been in effect since 2003 covering both the existing and proposed pier configuration.

**Finding No. 6:** Council Policy H-1 (5)(i). The pier or float will preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport Bay.

Facts in Support of Findings: The Project is substantially the same configuration as the existing U-shape float, and the float can accommodate approximately the same number of vessels.

**Finding No. 7:** Council Policy H-1 (5)(ii). The pier or float will maintain or enhance public access to the harbor water and waterfront areas.

Facts in Support of Findings: Public access will be maintained because of the current restriction on the distance a vessel may extend beyond the end of the finger floats. In addition, public access on the adjacent beach will not be affected.

**Finding No. 8:** Council Policy H-1 (5)(iii). The pier or float will preserve or enhance the visual character of the 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.

**Finding No. 9:** Council Policy H-1 (5)(iv). The pier or float will not negatively impact adjacent property owners and dredging of the 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 is wholly within the prolongation of the property lines of 1708 and 1710 South Bay Front, and maintains the required setbacks. Potential maintenance dredging of the adjacent federal channel will not be affected.

**Finding No. 10:** NBMC Section 17.50.040(B)(3). The Project conforms to the policies and regulations of the certified Local Coastal Program.

Facts in Support of Findings: The Project will not obstruct public access and will have minimal impacts to public coastal views and coastal resources. As indicated above, public access will not be obstructed because of the current restriction on the distance a vessel may extend beyond the end of the finger floats. In addition, public access on the adjacent beach will not be affected. Public coastal views and coastal resources will not be obstructed because the slip is substantially the same size, purpose and capacity as the dock system it replaces.

**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 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 decreased from 979 square feet to 958 square feet. The float remains as a U-shaped, though it is wider.

**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 21.62.020(B)(2)(c) and to the immediately adjacent onshore mooring permittees. The notice was also published in the newspaper. See Attachment G.

**ATTACHMENTS:**

- Attachment A - Council Policy H-1
- Attachment B - Aerial Photos
- Attachment C - Existing Approved Plans and Configuration
- Attachment D - Proposed Configuration
- Attachment E - Vessel Overhang Rule
- Attachment F - Joint Owner Approval
- Attachment G - Public Outreach