



== CITY OF ==

NEWPORT BEACH

Harbor Commission Staff Report

January 8, 2020
Agenda Item No. 7.1

TO: HARBOR COMMISSION

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TITLE: Residential Dock Reconfiguration at 117 North Bay Front

ABSTRACT:

The applicant at 117 North Bay Front is proposing to reconfigure the residential dock in essentially the same orientation by shifting the structure to the south. The proposed float will not extend bayward any further than the existing float, and this dock is in an area where the harbor lines (bulkhead, pierhead and project) are not clearly defined. Because the applicant is proposing a different configuration within an area where the harbor lines are not defined, 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. The applicant requests the Harbor Commission to approve the proposed dock configuration (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 the Project at 117 North Bay Front 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 (Attachment A) states that staff may consider approving pier and float projects if the project is in an area where pierhead lines do not exist or in areas not otherwise clearly defined by the Policy. However, for staff to approve such projects, the reconstruction must be like-for-like and previously approved.

The applicant's dock is located at 117 North Bay Front which is within the narrow channel between the northwest side of Balboa Island and the southeast side of Collins Isle. As depicted on the aerials (Attachment B), the docks in this channel are actually “landward” of the harbor lines

(bulkhead/pierhead/project), and would then fall under the category of “not otherwise clearly defined” per Council Policy H-1. Therefore, staff is unable to approve the project, and it must be brought to the Harbor Commission for consideration.

Council Policy H-1 provides that the Harbor Commission shall consider for approval, conditional approval or denial of the application based on certain requirements. A public hearing is required, and staff shall include a recommendation with supporting materials for the Harbor Commission.

When considering the application for approval, the Harbor Commission must make specific factual findings in each category of exceptions listed below. However, since this dock is in an undefined area of the harbor in relation to harbor lines, findings one through four are not applicable to the Project.

Council Policy H-1 Findings

- 1) The existing pier or float is currently encroaching bayward beyond the pierhead line;
- 2) The existing pier or float was previously permitted to encroach bayward beyond the pierhead line;
- 3) The pier or float will not encroach any further bayward beyond the pierhead line than the existing encroachment beyond the pierhead line;
- 4) Any vessel utilizing the pier or float will not extend bayward beyond the project line or line at which the vessel would currently be allowed, whichever is greater; and
- 5) The pier or float will:
 - a) Preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport Harbor;
 - b) Maintain or enhance public access to the harbor waterways and waterfront areas;
 - c) Preserve or enhance the visual character of the harbor; and
 - d) Not negatively impact adjacent property owners, navigation and future harbor dredging.

EXISTING DOCK CONFIGURATION

Newport Beach Municipal Code (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 other bayward extension of the permit area that is permitted by this 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.”

Attachment C shows the existing approved plans from February 2016 with a 410 square foot dock. The proposed float is also wholly within the original permitted area as specified in the existing permit on file with the City.

PROPOSED PROJECT

The Project (Attachment D) conforms to the Harbor Design Criteria and also includes a longer gangway from 20’ to 24’ as required. The proposed dock system is 410 square feet which is the same as the existing dock system therefore satisfying the requirements of 17.35.060.

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 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. The existing pier or float is in an area where pierhead lines do not exist or in an area not otherwise clearly defined by the criteria within the Policy.

Facts in Support of Findings: The existing dock system is landward of the bulkhead line, and therefore is not defined by any harbor lines.

Finding No. 3: Council Policy H-1. The proposed project is not like-for-like reconstruction.

Facts in Support of Findings: The proposed dock configuration is different from the existing configuration. The entire dock system is shifted to the south and the float dimensions are different.

Finding No. 4: Council Policy H-1. The existing pier and float configuration was previously permitted.

Facts in Support of Findings: The existing dock system was permitted by the City in February 2016 as evidenced by the attached stamped drawing.

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

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

Finding No. 6: Council Policy H-1 (5)(b). The pier or float will maintain or enhance public access to the harbor waterways and waterfront areas.

Facts in Support of Findings: Public access will be maintained because the proposed float extends channelward the same distance as the existing float.

Finding No. 7: Council Policy H-1 (5)(c). 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. 8: Council Policy H-1 (5)(d). The pier or float will not negatively impact adjacent property owners, 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. The Project is wholly within the prolongation of the property lines of 117 North Bay Front, and maintains the required setbacks. Navigation will not be negatively impacted, and maintenance dredging of the adjacent federal channel will not be affected.

Finding No. 9: 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 the proposed float extends channelward the same distance as the existing float. Public coastal views and coastal resources will not be obstructed because the dock system 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 remains the same as the existing dock system at 410 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 21.62.020(B)(2)(c). The notice was also published in the newspaper on Saturday, December 14, 2019 (Attachment E).

ATTACHMENTS:

- Attachment A - Council Policy H-1
- Attachment B - Aerial Photos
- Attachment C - Existing Approved Plans and Configuration
- Attachment D - Proposed Configuration
- Attachment E - Public Outreach