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NEWPORT BEACH

Harbor Commission Staff Report

June 10, 2020
Agenda Item No. 6.1

TO: HARBOR COMMISSION

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TITLE: Residential Dock Reconfiguration at 511 36th Street

ABSTRACT:

The applicant at 511 36th Street is proposing to reconfigure the residential dock by reorienting the position of the float as well as shifting the entire structure to the north. The proposed float will not extend bayward any further than the existing float. This residential dock is located in the West Newport area where pierhead lines do not exist. Because the applicant is proposing a new configuration of the dock, staff is unable to consider approving 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 511 36th Street 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. However, for staff to approve such projects, the reconstruction must be like-for-like including any upgrades required to meet current code and building standards, and the structure must be previously approved.

The applicant's dock is located at 511 36th Street which is within the Rialto channel, opposite Newport Island. As depicted on the aerials (Attachment B), the dock structures in this channel are situated on a bulkhead line, but a pierhead line does not exist. In addition, the applicant is proposing to reconfigure the dock structure so that the float would not be constructed in a like-for-

like manner. 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 area where pierhead lines do not exist, 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

Attachment C shows the only plans on file with the City for this particular dock. This 1946 plan depicts a 14x10-foot float which matches the present-day condition and orientation. However, the 1946 plan shows a 20-foot gangway with a small 4x4-foot pier, yet the current configuration has a 24-foot gangway attached directly to the bulkhead. (Sometime in the past, the small pier was eliminated to bring the gangway up to code to 24-feet.) The proposed float is also wholly within the 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. The entire dock structure will be shifted to the north, and the float configuration will rotate so the 10-foot side is parallel to the channel. The proposed dock structure will maintain the current 212 square feet (no change).

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 17.50.030. 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.

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 located in the West Newport area where pierhead lines do not exist.

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 north. The float dimensions remain the same, but the float is reoriented.

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

Facts in Support of Findings: The original dock system was permitted by the City in 1946 as evidenced by Attachment C. The current configuration is slightly different from the original permit, but the extension bayward remains the same. There are no other records in the City's files.

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 511 36th Street, and maintains the required setbacks. Navigation will not be negatively impacted.

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 212 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, May 16, 2020 (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