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# **NEWPORT BEACH**

## **Harbor Commission Staff Report**

July 14, 2021  
Agenda Item No. 7.2

**TO:** HARBOR COMMISSION

**FROM:** Chris Miller, Public Works Administrative Manager – 949-644-3043,  
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**TITLE:** Residential Dock Reconfiguration at 633 Via Lido Soud

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**ABSTRACT:**

The applicant at 633 Via Lido Soud is proposing to reconfigure the residential dock system by replacing the pier, pier platform, gangway and float with a similar dock system. The proposed float extends beyond the pierhead line the same distance as the existing permitted float. Because the applicant is proposing to position the float beyond the pierhead line, 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;
- 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 633 Via Lido Soud 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 it is the City Council’s general policy not to approve piers and floats beyond the pierhead line, but that the Harbor Commission may make exceptions to this rule if specific findings are made at a public hearing.

The applicant’s dock is located at 633 Via Lido Soud on Lido Isle. As depicted on the aerials (Attachment B), many of the dock structures along this section of Via Lido Soud extend beyond the pierhead line because in previous versions of Council Policy H-1, floats were permitted to extend 20-feet beyond the pierhead line.

Council Policy H-1 provides that the Harbor Commission shall consider for approval, conditional approval or denial of the application based on certain conditions being met. 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 shall make specific factual findings as to each of the categories of exceptions.

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 most current plans on file with the City for this particular dock. This 1995 depicts the same dock configuration extending 115-feet beyond the pierhead line. The proposed float (Attachment D) also extends 115-feet.

**PROPOSED PROJECT**

The Project conforms to the Harbor Design Criteria.

**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:** Council Policy H-1(1). The existing pier or float is currently encroaching bayward beyond the pierhead line.

Facts in Support of Findings: The existing float currently encroaches bayward beyond the pierhead line.

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

Facts in Support of Findings: The existing dock configuration was approved in 1995 to encroach bayward beyond the pierhead line as evidenced by Attachment C.

**Finding No. 3:** Council Policy H-1(3). The pier or float will not encroach any further bayward beyond the pierhead line than the existing encroachment beyond the pierhead line.

Facts in Support of Findings: As depicted by Attachment D, the proposed float encroaches bayward beyond the pierhead line the same distance that the existing float encroaches.

**Finding No. 4:** Council Policy H-1(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.

Facts in Support of Findings: The proposed float encroaches bayward beyond the pierhead line the same distance that the existing float encroaches. The proposed float is a shorter distance to the side property line as the existing float. Therefore, a vessel berthed at the proposed float would not extend any further than existing conditions would allow based on the rule that vessels may not extend greater than their beam.

**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 system, 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 to the harbor waterways and waterfront areas will be maintained because the proposed float extends the same distance as the existing float extends.

**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 633 Via Lido Soud, and maintains the required setbacks. Navigation will not be negatively impacted.

**Finding No. 9:** 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.

**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 (687 square feet) is less than the existing overwater coverage (818 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 Friday, January 1, 2021 (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