



CITY OF

NEWPORT BEACH

City Council Staff Report

September 14, 2021
Agenda Item No. 7

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Resolution No. 2021-74: Approving Revisions to City Council Policy H-1 Recommended by the Harbor Commission

ABSTRACT:

City Council approval is requested for the recommended revisions to City Council Policy H-1, approved at the July 14, 2021 Harbor Commission meeting.

RECOMMENDATION:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Adopt Resolution No. 2021-74, *A Resolution of the City Council of the City of Newport Beach, California, Adopting a Revised City Council Policy H-1 "The Harbor Permit Policy"*.

DISCUSSION:

Background

Earlier this year, the City Council requested that the Harbor Commission review Policy H-1 and recommend changes that may allow the Harbor Commission to approve dock permit applications that cannot otherwise be approved by staff. The City Council also directed the Harbor Commission to review the recent changes adopted in 2020 and to make recommendations to the City Council regarding any proposed revisions thereto.

The Harbor Commission established a subcommittee at its February 10, 2021 meeting, to review the H-1, Harbor Permit Policy. The subcommittee's purpose was to clarify the policy's intent and recommend improvements and a process that support staff and the Harbor Commission when considering future applications for dock extensions and reconfigurations.

City Council Policy H-1

The purpose of City Council Policy H-1 is to provide guidance on Newport Beach Municipal Code Section 17.35.030(A) which states: “Piers and floats may not extend beyond the pierhead line unless approved in compliance with City Council policy as may be amended from time to time”. The policy is intended to lay out the process for exceptions to this code section. The City Council Policy was established in 1964 and has been revised 62 times since then.

City Council Policy H-1 provides criteria for staff and the Harbor Commission when making decisions regarding construction of piers and floats within Newport Harbor, specifically the distance piers extend bayward throughout the harbor.

Recommended Revisions

The revisions were unanimously recommended by the Harbor Commission at its meeting on July 14, 2021. Initially submitted for Council approval at the August 24, 2021 City Council meeting, the matter was continued to ensure consistency between what was approved by the Harbor Commission and what the Council has before it. Subsequent revisions to the version approved by the Commission on July 14 were related to formatting for consistency with other Council policies. Upon further review with Harbor Commission Chair Bill Kenney, H-1 Ad Hoc subcommittee member Commissioner Don Yahn, and the City Attorney’s Office, with one small exception, the revisions were determined not to be substantive in nature. The one substantive change was the use of “and” versus “or” in the finding that reads:

B. The existing pier or float was previously permitted to encroach bayward beyond the pierhead line ~~and~~ or is in substantial conformance with the existing City-issued permit;

The recommended revisions give the Harbor Commission more flexibility and discretion to approve structures that were not built exactly in accordance with an existing permit, but have extended bayward beyond the pierhead line for some time.

The recommended revisions also give staff more authority to approve structures that are being replaced with a structure of the same square footage or less, and of a substantially similar configuration.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

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).

ATTACHMENT:

Attachment A – Resolution No. 2021-74