



# REPORT TO COUNCIL

## City of Sacramento

915 I Street, Sacramento, CA 95814-2604  
www. CityofSacramento.org

Public Hearing  
**January 13, 2009**

**Honorable Mayor and  
Members of the City Council**

**Title: Piedmont Drive Private Boat Dock (P08-001)**

**Location/Council District:** Council District 4

**Recommendation:** Conduct a public hearing and upon conclusion adopt 1) a **Resolution** approving the environmental exemption under California Environmental Quality Action (CEQA) Guidelines Section 15270(a) based on denial of the permit; and 2) a **Resolution** denying a Special Permit to allow a private boat dock within the Flood (F) zone relating to the Piedmont Drive Private Boat Dock project.

**Contact:** Heather Forest, Associate Planner, (916) 808-5008; Nedzlene Ferrario, Senior Planner, (916) 808-7826

**Presenters:** Heather Forest, Associate Planner

**Department:** Development Services

**Division:** Current Planning

**Organization No:** 21001221

**Description/Analysis:**

**Applicant:** Michael Mix

**Issue:** The applicant is requesting the approval of entitlements to allow the construction of a single private boat dock on the Sacramento River within the Flood (F) zone, for use of the residence located at 955 Piedmont Drive. According to the applicant, a boat dock existed on the property but was removed during a storm event. The site is located in the Little Pocket neighborhood (just north of the Pocket neighborhood) where properties front the river and river frontage on the levee is privately owned. Several private boat docks exist along the Little Pocket and Pocket neighborhoods; however, staff's research indicated that most of the docks were built without special permit approval.

City staff does not support the request because approval is contrary to promoting a continuous lineal parkway along the Sacramento River Parkway between South Natomas and Freeport and it would degrade the appearance and public use of the river, as referenced in the existing 1988 General Plan, the Sacramento River



Parkway Plan, and the Zoning Code. Therefore, staff cannot find that the proposal meets all of the required Special Permit findings of the Zoning Code. For these reasons, the project was denied by the Planning Commission on July 17, 2008 and the applicant appealed the decision to City Council.

**Policy Considerations: Sacramento River Parkway Plan:** The Sacramento River Parkway Plan, adopted by City Council on October 21, 1997, is a twenty-two year policy guide for habitat preservation and restoration and recreational development for lands adjacent to the River. The Plan identifies current conditions, develops a vision for the future, and identifies programs and actions for achieving the vision. The Plan states that, "natural resource protection and enhancement is the main goal of the Parkway and will take precedence over public access recreation to the Parkway" (pg. 2). The Plan itself is a guide to promote "...as much access to the River as possible, while maintaining sensitivity to the private residential inholding in the Parkway" (pg. 2).

The subject site is governed by the Sacramento River Parkway Plan which establishes a policy guide for habitat preservation, restoration and recreational development for lands adjacent to the Sacramento River. The Plan promotes an unobstructed-lineal Parkway Concept for the Sacramento River along the South Natomas, Downtown, Land Park, Pocket and Freeport areas.

Included as one of the main components of the Sacramento River Parkway is the goal to:

- To create a continuous, lineal on-River Parkway with a bicycle and pedestrian trail along the Sacramento River from the City limits at I-80 and Garden Highway in South Natomas to the City limits at Freeport; until such time that all of the Parkway lands are under public ownership, the goal is to provide a continuous lineal parkway on and off-River by using an Interim Bypass Trail.

Specific to recreation uses (boating), the Sacramento River Parkway Plan states that:

- "Recreational Area" activities and facilities shall be accommodated only at designated locations which afford minimal conflict with adjacent land uses, natural, and cultural resources.
- Recreational activities which are hazardous or incompatible with Parkway natural habitat and uses, or detrimental to adjacent and surrounding habitat are prohibited.
- All recreational development including trails, signs, structures, and fences shall be constructed to prevent erosion, protect the structural integrity of the levee, and blend harmoniously with the surrounding landscape.

Specific to the Pocket area (the area bound by 25<sup>th</sup> Avenue at the north to the Freeport Reservoir to the south), the Plan recognizes that there are serious constraints to public access as most of the property is privately owned. The levee

area and/or river frontage would have to be purchased from the residents, either fee simple or a recreation easement, in order to develop it for public access to the River. Efforts to acquire recreational easements by City Parks and Recreation along this segment has been challenging due to the fact that much of the land is owned by private individuals and funding constraints.

As the proposed boat dock is for private use it would conflict with the Parkway Plan goal to establish continuous public access along the river and creation of a lineal on-River Parkway for the development of pedestrian or bicycle trails, as well as being incompatible with the natural habitat. The noise generated by boating at the dock may also be incompatible with the adjacent land uses.

Current General Plan:

The project site is designated as Low Density Residential 4-15 dwelling units per net acre (du/na) in the General Plan with the western half of the site designated Open Space and Recreation. Although the proposed use is consistent from a recreational standpoint, it is contrary to open space and habitat preservation goals and policies as stated in the Conservation and Open Space Element of the General Plan:

- Conservation and Open Space Element, Goal C, Sec 6-13  
Conserve and protect the planned open space areas along the American and Sacramento Rivers, floodways and undevelopable floodplains to the extent possible.
- Conservation and Open Space Element, Goal A, Sec 6-16  
Conserve and protect the Sacramento and American Rivers, their shorelines and parkways.
- Conservation and Open Space Element, Policy 2, Sec 6-17  
Implement the goals and policies of the Sacramento River Parkway Plan, and amend the Plan to include updated information and recommendations from the Sacramento River Marina Carrying Capacity Study.

Smart Growth Principles: The City Council adopted a set of Smart Growth Principles in December 2001 to promote growth that is economically sound, environmentally friendly, and supportive of community livability. The subject proposal is not consistent with these principles in that it would not preserve open space, natural beauty, and critical environmental areas.

Strategic Plan Implementation: The requested proposal does not conform with the City of Sacramento's Strategic Plan, specifically because the proposed project does not adhere to goals that achieve sustainability and enhance livability throughout the City.

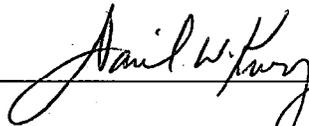
**Committee/Commission Action:** On July 17, 2008 the Planning Commission voted to deny the requested Special Permit by a vote of 5 to 3. Commissioners Contreras, Givens, and Samuels voted no because they were interested in granting a temporary permit.

**Environmental Considerations:** The Development Services Department, Environmental Planning Services Division (EPS) has reviewed this project and determined that it is exempt from the provisions of the California Environmental Quality Act (CEQA) under Class 32, Section number 15270, which states that CEQA does not apply to projects which a public agency rejects or disapproves.

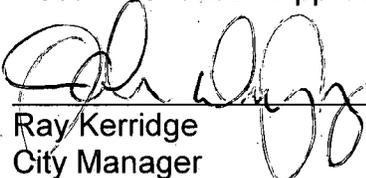
**Rationale for Recommendation:** The proposed project conflicts with goals as stated in the Sacramento River Parkway Plan and the General Plan. Therefore, the proposal cannot meet all of the required Special Permit findings of the Zoning Code. For these reasons, staff recommends that the Council approve the Resolution adopting the Environmental Exemption as well as the Resolution denying the Special Permit request to allow a private boat dock within the Flood (F) zone as attached hereto.

**Financial Considerations:** This project has no fiscal considerations.

**Emerging Small Business Development (ESBD):** No goods or services are being purchased under this report.

Respectfully Submitted by:   
David Kwong  
Planning Manager

Approved by:  For:  
William Thomas  
Director of Development Services

Recommendation Approved:  
  
Ray Kerridge  
City Manager

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**Attachment 1 – Background**

**Background Information:** The project site consists of a single parcel with dual zoning of Standard Single Family (R-1) and Flood (F), bisected by the levee separating the property located at 955 Piedmont Drive and the Sacramento River. The project site is located within the Little Pocket area of the City of Sacramento, a small neighborhood which was subdivided in 1947 and subsequently annexed into the City. Approximately seventeen (17) parcels along Piedmont Drive mimic that of the applicant's where the parcel lines extend from Piedmont Drive west to the Sacramento River. Other such similar parcels are found in the Little Pocket and within the Pocket Community. The property owners of such parcels own their portion of the levee and land on the river side of the levee. In total approximately, seventy (70) such parcels exist within this area of the City as shown on Exhibit 5, Little Pocket Parcel Map page 14, and Exhibit 6, Pocket Parcel Map, page 15. The portion of the levee adjacent to Piedmont Drive is not open to the public, unlike portions of the river levee to the north and to the south.

The applicant has stated that a boat dock existed on the subject property under the former owner, but the dock had been damaged and torn down due to a storm event. City staff was unable to locate an approved Special Permit for the prior boat dock. The City Code has required a Special Permit entitlement for private boat docks since approximately 1955. City staff is aware that private boat docks exist along the Sacramento River, particularly in both the Little Pocket Community and the Pocket Community however; most were built without an approved Special Permit required under the current Zoning Code and are non-conforming uses.

Applications for private boat dock special permits are not routinely submitted, with the most recent request heard by the Planning Commission in 1989. The request in 1989 was for a Special Permit for a private boat dock to be located for use of the residence at 943 Piedmont Drive. In that case, City Planning Staff recommended denial of the Special Permit.

The City of Sacramento has jurisdiction over the proposed private boat dock use. However, outside approvals and permits must be obtained by an individual property owner in order to legally erect a boat dock. Therefore, City staff contacted the following State Agencies and jurisdictions, requesting their comments on the proposed boat dock:

- Central Valley Flood Protection Board
- California State Lands Commission
- Sacramento Area Flood Control Agency (SAFCA)
- California State Reclamation Board
- California Regional Water Quality Control Board
- United States Army Corps of Engineers
- Central Valley Regional Water Quality Control Board

With the exception of the California State Lands Commission, all of the agencies

contacted staff to explain that they do not oppose the proposed private boat dock, and some of the agencies confirmed their need to review the proposal in order to issue a permit.

The California State Lands Commission did not indicate whether it was willing to grant the required permit (see Exhibit 7, California State Lands Commission Letters). The boat dock encroaches into submerged lands that are subject to the public trust doctrine. However, boating activities have been permitted in public trust lands. State Lands Commission staff also indicated that a lease has not been granted for this site.

**Public/Neighborhood Outreach and Comments:** The project was routed to the Little Pocket Neighborhood Association and all property owners within 500' of the project site. City staff did not receive formal comments on the proposed project

**Additional Policy Information:**

As stated previously, the proposed private boat dock is contrary to promoting a continuous lineal parkway along the Sacramento River Parkway between South Natomas and Freeport, would degrade the appearance and public use of the river as referenced in the existing 1988 General Plan, would conflict overall with the Sacramento River Parkway Plan, and would conflict with the Zoning Code. Furthermore, staff notes that within a quarter-mile radius of the project site are three marinas, which could be utilized as an alternative location: two along the West Sacramento side of the river, and one just north of the site at Le Rivage/Captain's Table (see Exhibit 12, Nearby Marinas Exhibit).

Draft 2030 General Plan:

Although the 2030 General Plan has not been formally adopted by the City Council, it is important to note that the current draft document contains direction and policy regarding private boat docks and marinas. Within the Land Use and Urban Design Element of the Draft 2030 General Plan is Draft Policy LU 9.1.6 which states:

Private Boat Docks and Marinas. The City shall discourage development along the rivers of privately-owned boat docks and marinas that are not available to the general public.

Special Permit to Develop Within the Flood (F) Zone; Zoning Code Section 17.48.060:

The Flood (F) zone is considered an Open Space zone within the Zoning Code Chapter 17.48. The purpose of the open space regulations is:

- A. To protect the public health, safety, and welfare;
- B. To contain and structure urban development;
- C. To protect and preserve undeveloped land as a limited and valuable resource;

- D. To provide for:
1. Managed resource production and preservation,
  2. Outdoor recreation,
  3. Public health and safety,
  4. Visual amenity.

In order to construct a boat dock within the Flood (F) zone, a Special Permit is required. The City Council may grant a special permit if it finds that the design, location and nature of the proposed use is in compliance with the following findings. Staff believes that the proposed use conflicts with Findings A and G and may be in conflict with B and C.

- A. Development will enhance the appearance and public use of the river, and is consistent with adopted specific plans;**

Development of the private boat dock does not enhance the appearance of the river and is contrary to promoting public access to the Sacramento River and constrains development of a continuous lineal parkway along the Sacramento River. The proposed use is inconsistent with General Plan open space goals and the Sacramento River Parkway Plan to establish public access bicycle and pedestrian trails.

- B. Development will not have an adverse effect on any natural resources;**

Development of a private boat dock may not have adverse effects on natural resources that cannot be mitigated in that construction of the dock in the river would be subject to local and state regulations. However, environmental review of the project is needed.

- C. Development will not have an adverse effect on the use of adjacent property;**

Development of a private boat dock may not have an adverse effect on the use of adjacent property. However, environmental review of the project is needed.

- D. Development will have direct access to a major or collector street;**

The proposed use of a private boat dock does not require direct access to a major or collector street.

- E. Development is fully served by all necessary utility services;**

The proposed use of a private boat dock may not require service by utility

services.

**F. Adequate off-street parking is provided on the landward side of the levee;**

The proposed use of a private boat dock does not require additional off-street parking.

**G. Development is consistent with the purposes of the flood zone, the open space element of the general plan, the Sacramento River Parkway Plan, and adopted specific plans;**

Development of the private boat dock is not consistent with the General Plan Open Space goals and policies or the Sacramento River Parkway Plan for the reasons stated in the staff report.

**Attachment 2 – Environmental Resolution**

**RESOLUTION NO.**

Adopted by the Sacramento City Council

**DETERMINING PROJECT EXEMPT FROM REVIEW UNDER THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT  
(955 PIEDMONT DRIVE)  
(P08-001) (APN: 016-0171-007)**

**BACKGROUND**

- A.** On July 17, 2008, the City Planning Commission conducted a public hearing on the Piedmont Drive Private Boat Dock project (hereafter referred to as "Project"), and denied the requested Special Permit, and found the project exempt per CEQA Guidelines Section 15270(a), projects which a public agency rejects or disapproves.
  
- B.** On January 13, 2009, the City Council conducted a public hearing, for which notice was given pursuant to Sacramento City Code Section 17.200.010(C)(2)(a), (b), and (c) (publication and mail [500']), and received and considered evidence concerning the Project.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL  
RESOLVES AS FOLLOWS:**

**Section 1.** Based on the determination and recommendation of the City's Environmental Planning Services Manager and the oral and documentary evidence received at the hearing on the Project, the City Council finds that the Project is exempt from review under Section 15270 of the California Environmental Quality Act Guidelines as follows:

- a.** CEQA does not apply to projects which a public agency rejects or disapproves.

**Attachment 3 – Special Permit Resolution**

**RESOLUTION NO. 2009-\_\_\_\_\_**

Adopted by the Sacramento City Council

**PIEDMONT DRIVE PRIVATE BOAT DOCK (P08-001)**

**BACKGROUND**

- A. On July 17, 2008, the City Planning Commission conducted a public hearing on the project and denied the requested Special Permit. Within the time limits specified in the Zoning Code, the project entitlements denied by the Planning Commission were appealed by the applicant.
- B. On January 13, 2009, the City Council conducted a public hearing, for which notice was given pursuant to Sacramento City Code Sections 17.212.030 and 17.200.010(C)(2)(a, b, c, and d)(publication, posting, and mail) and received and considered evidence concerning the Project.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

Section 1. Based on the verbal and documentary evidence received at the hearing on the Piedmont Drive Private Boat Dock project, the City Council denies the Special Permit based on the findings of fact as set forth below.

Section 2. The City Council denies the Project entitlements based on the following findings of fact:

- A. **Environmental Determination:** The exemption for the Project has been adopted by Resolution No. \_\_\_\_.
- B. **Special Permit:** The Special Permit to allow a private boat dock within the Flood (F) zone is denied based on the following findings of fact:

**1. Development will not enhance the appearance and public use of the river, and is not consistent with adopted specific plans;**

- a. The private boat dock does not enhance the appearance of the river and is contrary to promoting public access to the Sacramento River and constrains development of a continuous lineal parkway along the

Sacramento River. The proposed use is inconsistent with the General Plan open space goals and the Sacramento River Parkway Plan to establish public access bicycle and pedestrian trails.

**2. Development is inconsistent with the purposes of the flood zone, the open space element of the General Plan, the Sacramento River Parkway Plan, and adopted specific plans;**

- a. Development of a private boat dock is not consistent with the General Plan Open Space goals and policies or the Sacramento River Parkway Plan for the following reasons:
  1. The dock could conflict with the Parkway Plan goal to establish continuous public access along the river and creation of a lineal on-River Parkway for the development of pedestrian or bicycle trails.
  2. A boat dock would be incompatible with the Parkway Plan goal to maintain the natural habitat along the riverfront.
  3. The dock is inconsistent with the open space and habitat preservation goals and policies as stated in the Conservation and Open Space Element of the General Plan.
- b. Development of a private boat dock is not consistent with the purposes of the flood zone to protect and preserve undeveloped land as a limited and valuable resource and a visual amenity.