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# Th18a

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Staff: R.T. Ananda - SF  
Staff Report: 8/25/2017  
Hearing Date: 9/14/2017

## STAFF REPORT: COASTAL DEVELOPMENT PERMIT

**Application Number:** 2-16-1131

**Applicant:** Three Captains Sea Products (Larry Fortado, Sr.)

**Project Location:** One Johnson Pier, Pillar Point Harbor, between the communities of Princeton-by-the-Sea and El Granada, San Mateo County.

**Project Description:** Installation of 19-foot-tall hoist and re-location of existing work/impound dock.

**Staff Recommendation:** Approval with Conditions.

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### SUMMARY OF STAFF RECOMMENDATION

Three Captains Sea Products (the Applicant) proposes construction of a new hoist on Johnson Pier, located within Pillar Point Harbor, in unincorporated Princeton-by-the Sea, San Mateo County. The development comprises the installation of a new 19-foot-tall dock hoist to facilitate loading and off-loading of fish products and fishing equipment. The proposed project also includes removal and re-location of an existing 50-foot long by 8-foot-wide work/impound dock from its current location to accommodate the new hoist.

The Applicant proposes installation of the hoist to improve the efficiency of its operations. The Harbor District and the Applicant evaluated alternative locations for the new hoist prior to the Harbor District authorization of the hoist at this specified location taking into consideration the locations of the existing fire protection equipment, freezers, and fueling station, and the

operational needs of the other fish-buying tenants and fishing fleets. Installation of the new hoist would upgrade existing commercial fishing operations, improve the Applicant's efficiency of off-loading products, and promote continued commercial fishing and associated uses at Johnson Pier, consistent with Section 30234 of the Coastal Act.

Congestion in the area where the pier stem meets the pier head would be increased due to the proposed, new hoist location. However, the Harbor District, as the underlying landowner, has approved the hoist at the proposed location and considered this issue when it approved the project on October 5, 2016. The Harbor District and its staff will continue to work with all existing Pier tenants to further manage operations and traffic in the area once the new hoist is installed.

Public access on Johnson Pier would not be affected by the proposed project, Public access on Johnson Pier is currently and will continue to be subject to temporary restrictions (for safety reasons) associated with harbor activities. With respect to water quality and marine resource issues, staff recommends special conditions to ensure best management practices are applied during project construction to minimize potential impacts to coastal water quality and marine resources. Therefore, Commission staff believes that the installation and operation of the new hoist and relocation of the work dock: a) would support Coastal Act priority, coastal-dependent, uses benefitting the commercial fishing industry; b) would not interfere with the public's ability to access the coast; and c) maintains the biological productivity and water quality of adjacent coastal waters consistent with Coastal Act resource protection policies.

For these reasons, staff recommends approval of the CDP application with conditions. The motion and resolution to act on this recommendation are found on **Page 4** of this report.

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#### **EXHIBITS**

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## I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number 2-16-1131 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number 2-16-1131 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

**1. Construction Requirements.** The Permittee shall undertake construction in accordance with following construction requirements:

- (a) **Protect Public Access.** Construction shall protect and maximize public access, including, but not limited to:
  - i. Staging and storage of construction equipment and materials (including debris) shall not take place on public access along the main stem of the pier, as depicted in [Exhibit 5](#).
  - ii. Storage of construction equipment and materials, and to the extent feasible, staging, shall occur in inland areas. Construction, staging, and storage are prohibited outside of the defined construction, staging, and storage areas.
  
- (b) **Construction Areas.** All such areas within which construction activities or staging are to take place shall be minimized to the extent feasible in order to have the least impact on public access, commercial and recreational fishing activities, and shoreline resources, including by using inland areas for staging and storing construction equipment and materials as feasible.
  
- (c) **Construction Methods and Timing.** All methods to be used shall keep the construction areas separate from the ocean waters to the extent feasible and separate from public recreational use areas (including using unobtrusive fencing (or equivalent measures) to delineate construction areas).
  
- (d) **Construction BMPs.** Construction BMPs shall be used during construction to protect coastal water quality and particular care shall be exercised to prevent foreign materials (e.g., construction scraps, chemicals, and other debris) from entering coastal waters, including the following:
  - i. silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff or sediment from discharging to the ocean;
  - ii. equipment washing, refueling, and servicing shall take place at least 50 feet from the shoreline. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site;
  - iii. the construction site shall maintain good construction housekeeping controls and procedures, including, at a minimum, clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site;

- iv. all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day; and
  - v. measures to avoid and reduce potential noise and vibration impacts to marine life, including the use of a bubble curtain and soft-start techniques.
- (f) **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs, including installation and removal, ongoing operation, inspection, maintenance, and training, to protect coastal water quality.
- (g) **Construction Site Documents.** Copies of the signed CDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP, and the public review requirements applicable to them, prior to commencement of construction.
- (h) **Construction Coordinator.** A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that contact information, including address, phone number, and an e-mail address, for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 72 hours of receipt of the complaint or inquiry.
- (i) **Notification.** The Permittee shall notify planning staff of the Coastal Commission's North Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

Minor adjustments to the above construction requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources. All requirements above shall be enforceable components of this CDP.

**2. Other Agency Review and Approval.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and authorizations for the approved project have been granted by all applicable agencies. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this CDP unless the Executive Director determines that no amendment is legally necessary.

**3. Assumption of Risk, Waiver of Liability, and Indemnity**

- (a) By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, all of which will may worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- (b) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit: (1) a copy of an agreement, in a form and content acceptable to the Executive Director, between the applicant and the San Mateo County Harbor District incorporating all of the above terms of subsection (a) of this condition, and (2) a written agreement by the San Mateo County Harbor District, in a form and content acceptable to the Executive Director, providing that upon termination of the applicant's lease of the property that is the subject of this coastal development permit, the San Mateo County Harbor District agrees (i) to be bound by the terms of subsection (a) of this condition if it becomes the owner of the possessory interest in such property, and (ii) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and written approval of the Executive Director, incorporating all of the terms of subsection (a) of this condition.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT LOCATION**

The proposed project would be located on Johnson Pier in Pillar Point Harbor. Pillar Point Harbor is five miles north of Half Moon Bay in the unincorporated community of Princeton-by-the-Sea, in San Mateo County (See [Exhibit 1](#)). The harbor is protected by outer and inner breakwaters constructed of pervious rubble/rock material and accommodates both commercial and recreational boating uses. There are 122 commercial fishing boats, ten commercial sport fishing boats, and 225 recreational vessels that berth at Pillar Point Harbor. It is a very active, working harbor that is open to the public.

Johnson Pier is a commercial fishing hub along this part of the California coast and is a base for one of California's top operating commercial fishing fleets. King salmon, Dungeness crab, and squid are the prime catches during the harbor's busiest fishing seasons. An average of 6,000,000 lbs. of fish is brought on-shore at Johnson Pier every year.<sup>1</sup> In 2016, 8,865,358 lbs. of squid and other wetfish, 3,306,168 million lbs. of Dungeness crab, 83,727 lbs. of salmon, 356,920 lbs. of

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<sup>1</sup> Pers. Communication/e-mail, John Draper, Assistant Harbor Master, San Mateo County Harbor District. January 14, 2015

groundfish, and 82,131 lbs. of other types of fish were brought on-shore at Pillar Point Harbor via Johnson Pier.<sup>2</sup> Johnson Pier is L-shaped with a 7,300 square-foot pier head containing a 3,762 square-foot building occupied by three fish-buying tenants, one of which is the Applicant. In addition to the fish buyers building, the pier accommodates storage areas and hoists for the tenants, commercial berths (D, E, F, G, and H), a fueling dock, and pump-out station ([Exhibit 1](#)). The area where the bulk of fish buying and transport activities occur can experience some congestion due to loading and off-loading activities and equipment located on the pier, such as refrigerated storage containers. The proposed hoist would be installed on the north side of the Johnson Pier head where the work/impound dock is currently located. The work/impound dock would be relocated 200 feet north away from the Johnson Pier head on the south side of Dock E, adjacent to the west side of the main pier extending from the shoreline ([Exhibit 3](#)).

## **B. PROJECT BACKGROUND**

In April 2014, the Applicant installed a second hoist (Applicant already has one working hoist) on Johnson Pier, without an approved CDP along the south end of the pier head. On September 4, 2014, the Applicant submitted a CDP application (CDP No. 2-14-1592) for after-the-fact authorization of the hoist installation. After evaluation of the Applicant's originally proposed second hoist, Commission Staff issued a Notice of Proposed Permit Waiver on October 29, 2014 pursuant to Title 14, Division 5.5, California Coastal Commission Regulations, Section 13238.1. Staff determined, that the hoist would facilitate existing high priority coastal dependent uses by allowing for and increasing the efficiency of on-going commercial fishing operations, and facilitating the economic and commercial use of the harbor. Further, staff determined that the site did not contain sensitive habitat and that the proposed project would include best management practices to avoid and minimize potential impacts to the water quality of the harbor area and coastal waters. Therefore, staff concluded that installation and operation of the hoist would not result in adverse impacts individually or cumulatively on coastal resources, consistent with the Chapter 3 policies of the Coastal Act.

In response to the circulated Notice of Proposed Permit Waiver, Commission Staff was contacted by community members and representatives of the Half Moon Bay Seafood Marketing Association (HMBSMA) opposing the issuance of a waiver, expressing concern about the potential for "significant economic loss" to its members and other operating businesses at Pillar Point Harbor. Specifically, HMBSMA contested that the new hoist would have the potential to reduce off-load revenues by creating delays for off-loading vessels; have a negative effect on access to the existing fuel station, which could result in delays to fishing activity; and would affect other fish buying businesses by delaying their ability to adequately move product from vessels to trucks. Further, HMBSMA stated that the location of the new hoist and its potential impacts were not adequately studied.

In response, Commission Staff issued a Notice of Changed Executive Director Recommendation on November 7, 2014 in order to further evaluate the concerns raised with respect to consistency

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<sup>2</sup> Pers. Communication/e-mail, John Moren, Director of Operations San Mateo County Harbor District. August 24, 2017.

of the proposed project with Coastal Act Sections 30234 and 30234.5. During the period of further evaluation, the Harbor District's approval of the second hoist at the originally proposed location expired without being extended by the Harbor District. As the project now lacked local approvals and approval by the underlying landowner, the Executive Director was unwilling to waive the need for such approvals and, the original CDP application (CDP No. 2-14-1592) was eventually closed without a hearing by the Commission. The unpermitted hoist was removed by the applicant in May 2016, thereby resolving the violation of Coastal Act permit requirements. On October 5, 2016, the Harbor District approved the Applicant's request to install a second hoist ([Exhibit 4](#)) at the proposed new location on the north side of the pier head resulting in submission of a new CDP application to the Commission (CDP No. 2-16-1131).

### **C. PROJECT DESCRIPTION**

The Applicant operates a commercial fish-buying/distribution business as allowed by its lease agreement with the Harbor District. The Applicant is one of three tenants operating commercial, wholesale businesses (for buying and distribution fish) at the southeast end of Johnson Pier. The buyers operate under leases issued to them by the Harbor District which includes authorization to operate up to two hoists each on Johnson Pier. The Applicant currently has only one operational hoist and is seeking CDP authorization to install a second hoist. The new hoist would be 19 feet tall, as measured from the base of the pier, with a rated capacity to carry/lift a maximum of 1,000 lbs. It will be installed to the surface of the pier and no construction work would be conducted from the water. The purpose of the new hoist is to unload and load products and equipment onto and off of authorized fishing vessels at dock from the northeast side of the pier head depending on available space and other docked vessels. The hoist would be operated electronically, connecting to a 15 amp circuit to the existing panel located on the pier. It swings out over the boats docked at the pier for loading and off-loading items.

The proposed project also includes removal and re-location of the existing work/impound dock, currently located adjacent to where the new hoist would be placed. The removal activities would entail work from the pier. The work/impound dock is currently used to temporarily store derelict, abandoned, boats awaiting lien sale. The work/impound dock will be dismantled from the pier and towed approximately two hundred feet to the north and reinstalled on the south side of Dock E. The reinstallation will entail driving three concrete piles to a depth of 30 to 40 feet using a small impact hammer (See [Exhibit 3](#)). Measures to reduce the sound created from pile driving will include a bubble curtain to mitigate sound vibrations, monitoring hydro-acoustic sounds, and soft start method. A soft start method entails not using full force for initial strikes of the pilin, but at a significantly reduced force and to slowly build up to full force over several strikes. Species that may occur in the vicinity of the pile driving can effectively move away from the pile driving to another location. This avoids and or reduces potential pile driving impacts.

### **D. STANDARD OF REVIEW**

The proposed project is located within the retained coastal development permit jurisdiction of the Coastal Commission. The Commission retains jurisdiction in the project area because the project

is located within an area defined as former tidelands, submerged land, or land subject to the public trust; therefore, the standard of review is the Chapter 3 policies of the Coastal Act.

## **E. COMMERCIAL FISHING AND RECREATIONAL BOATING FACILITIES**

### **Applicable Policies**

Coastal Act Sections 30234 and 30234.5 require the protection of facilities that provide services for commercial and recreational fishing. Coastal Act Section 30255 gives coastal-dependent developments priority over other developments and directs that they be developed within reasonable proximity to the uses they support.

**Section 30234:** *Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

**Section 30234.5:** *The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.*

**Section 30255:** *Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.*

The Coastal Act defines coastal-dependent and coastal-related as follows:

**Section 30101:** *"Coastal-dependent development or use" means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.*

**Section 30101.3:** *"Coastal-related development" means any use that is dependent on a coastal-dependent development or use.*

### **Consistency Analysis**

Commercial and recreational fishing and recreational boating are coastal-dependent priority uses that cannot function without sufficient harbor facilities. Fishing fleets currently have the ability to on-load fishing equipment and off-load their catches at Johnson Pier where fish-buying tenants operate. The Applicant (as well as the two other wholesale tenants) serves as a link to consumers wishing to purchase seafood products. The three top-grossing fishing seasons for Pillar Point Harbor include Dungeness crab, king salmon, and squid seasons. Crab season is between mid-November and June, squid season overlaps and extends from mid-October to the end of March, and salmon season begins in April and extends through the end of September. Thus, Johnson Pier is in active use by the commercial fishing industry throughout the entire year. The equipment on-loading and fish off-loading conducted on and from Johnson Pier during

fishing season, is a high priority, coastal-dependent use and as such must be afforded the required protections under the Coastal Act.

A hoist is an essential piece of equipment necessary for loading and off-loading the vessels that transport sea products to be sold wholesale. The Applicant, the two other commercial tenants, and fishing fleets, all rely heavily on having working hoists on the pier to facilitate and support their respective, industry-related, activities. There are currently four operational hoists located on Johnson Pier. The four hoists are operated by the existing three tenants: 1) Pillar Point Seafood operates two hoists; 2) Morning Star Fisheries operates one hoist, and the Applicant operates one hoist. The Applicant's single existing hoist is located at the back of the fish-buying building, Pillar Point Seafood's two existing hoists are located on the south side of the pier head, and Morning Star Fisheries owns a single hoist located on the northwest side of the pier ([Exhibit 2](#)). Fishing vessels are off-loaded at the dock and the buyers load their purchases directly onto refrigerated trucks. The products are then transported by the buyers via truck to their respective customers.

Each tenant leases approximately 1,250 square feet of area on the pier and is allowed under their respective leases to have up to two hoists, contingent upon obtaining authorization for the hoist locations from the Harbor District. The Harbor District authorized the Applicant to install the new hoist at the proposed, specified location after taking into consideration the needs of the working dock and the needs of the other tenants. Prior to authorization, the Harbor District and the Applicant evaluated alternative locations for the new hoist taking into consideration the locations of the existing fire protection equipment, freezers, the fueling station, and the operational needs of the other tenants and fishing fleets. Further, the Harbor Master is required to manage traffic and use areas at Johnson Pier to the benefit of tenants and as such, the Harbor District Commissioners considered these factors relative to the new hoist location when considering it for approval.

Currently, fishermen that utilize the Applicant's single existing hoist are required to transport their gear and products from their trucks back and forth from the pier inside and through the fish-buying building. The current flow of equipment on the pier requires off-loading equipment from a truck, placing it on pallets, and carrying the load inside and through the building to the existing hoist at the back of the building for on-loading onto a vessel. Off-loading requires the same sort of operation through the existing building. A hoist installed at the proposed location will reduce congestion occurring in front of the buying stations as traffic on the pier in this area during peak usage will be more spread out over the entire dock as opposed to mainly next to the existing fish buying buildings. The fishermen delivering to the Applicant will not need to go through the building to transport gear and fish to and from the vessels as the second hoist location provides an additional station for fishermen to unload their catches and to load equipment at the pier. The Applicant can currently unload approximately 7,000 lbs. of fish product per hour. After installation of the second hoist the Applicant will be able to simultaneously unload multiple boats with two hoists, thereby making the unloading process more efficient. Access to and from the dock or the ability for fishermen to unload catch or load pots (and other gear) will be easier, as well.

While the proposed new hoist would mainly facilitate the operations of the Applicant, the other tenants could also benefit from the installation of the new hoist. The Applicant's lease requires that the "tenant shall cooperate with all other tenants of Landlord who will be operating enterprises in the vicinity..." The other wholesale tenants at Johnson Pier have the opportunity to use the hoist upon occasion should their respective hoists become temporarily inoperable.<sup>3</sup> The Applicant indicates that Morning Star Fisheries can use the hoist during the start of the crab season to relieve pressure/congestion on the west side of the pier and at the season's end to unload crab pots. Either of the other tenants would also be able to use the hoist in the event of an emergency. The location of the hoist would not conflict with the use of the fuel dock by vessels as fueling occurs on the east side of the main stem of the pier, away from the location of the proposed, new hoist.

The Applicant plans to construct the proposed project immediately if the Commission approves the proposed project and a CDP is issued. Construction of the new hoist would occur on two half days in the early morning. Removal and re-location of the work/impound dock would take less than a day. Fishing and fish-buying activities would continue during the construction, removal and relocation activities. The re-location of the work/impound dock would occur on the opposite side of the pier and is not expected to cause a significant conflict with the other tenants' fishing activities because the construction would take place away from their respective hoists. The tenant leases from the Harbor District require an unobstructed, 15-foot minimum length along the pier for forklift and truck access. The proposed project would not interfere with the use of this restricted corridor. The dock area immediately adjacent to the proposed new hoist location currently provides storage space for each tenant. Congestion in the area where the pier stem meets the pier head could be increased due to the proposed, new hoist. However, the Harbor District, as the underlying landowner, has approved the hoist at the subject location, finding that it will not conflict with current operations at Johnson Pier, and will continue to work with all tenants to manage operations and traffic in the area.<sup>4</sup> The Harbor Master and/or District Harbor Patrol staff can easily respond to potential conflicts between uses and users during construction and fish-buying activities. Further, the re-located impound/work dock will not result in any significant loss of harbor facilities, as this use would be relocated and continued at the proposed new location adjacent to Dock E. The new, impound location is somewhat smaller than the existing location and therefore the new location may accommodate fewer vessels than the existing location, depending on the size of the impounded boat. The number of vessels that are actually impounded, however, fluctuates; and if the new dock fills to capacity, the Harbor District, although not its preference, can use any of its other available boat slips to store a seized vessel (which is what the Harbor District does presently for those few occasions when there is no space left on the existing impound dock). The new location for the work/impound dock is currently unoccupied and there will continue to be adequate space for the recreational boats that use Dock E. Therefore, the new location for the impound deck does not raise any Coastal Act issues of concern.

The addition of the subject new hoist will also promote the economic, commercial, and recreational needs of the commercial fishing industry as a whole, as expressed in public comments from various members of the commercial fishing community ([Exhibit 6](#)).

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<sup>3</sup> Pers. Communication, Scott Grindy Acting General Manager, Pillar Point Harbor. December 2014.

<sup>4</sup> Pers. Communication, Steve McGrath General Manager, Pillar Point Harbor. August 2017.

Specifically, the new hoist will provide an additional unloading station for the fishermen, which will allow an increase in the number of boats that can be unloaded concurrently and more quickly. The faster that fishing crews unload their catches the sooner they can go back out to sea to continue fishing. Greater quantities of fish product will be able to more quickly move across the pier which in turn will generate additional revenue for the tenants as well as the Harbor District. Staff believes (and as confirmed by the Harbor District) that the additional hoist is beneficial to the commercial fishing industry as a whole. The Harbor District indicates that even with the costs associated with added wear and tear of having a new hoist on the pier, it is reasonable that the revenue generated will provide an overall benefit.<sup>5</sup> Staff reasons that it is likely that the additional revenue to the Harbor District could have the effect of contributing to the Harbor District's capital improvements, such as upgrades to the pier, roadway, or the existing tenant building, thereby making it beneficial to all who use the pier/harbor facilities. The improvements would serve both the commercial fishing businesses and recreational boaters that use Johnson Pier and the harbor.

Thus, installation of the new hoist is vital and beneficial to the commercial fishing industry as it contributes to the off-loading of approximately 6 million lbs. of sea products brought on-shore at Pillar Point Harbor. In a letter ([Exhibit 7](#)) dated August 16, 2017, the Executive Director of California Fish and Game Commission wrote Chair Bochco and the Commission asking the Commission to support California's coastal fishing communities by taking their infrastructure and economic needs into consideration when approving coastal development projects. This will ensure the protection of California's maritime heritage and the economic well-being of coastal fishing communities along the coast. Installation of the new hoist augments the existing commercial fishing operations by improving the efficiency of off-loading products and promoting continued commercial fishing and associated uses at Johnson Pier. Further, improving the Applicant's efficient use of the pier would result in additional revenue to the Harbor District which could assist in future capital improvements to its facilities benefiting both commercial and recreational coastal-dependent uses. Therefore, the proposed project is consistent with Sections 30234, 30234.5 and 30255 of the Coastal Act.

## **F. PUBLIC ACCESS AND RECREATION**

### **Applicable Policies**

Coastal Act Section 30604(c) requires that every coastal development permit issued for new development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road. Coastal Act Sections 30210 and 30212 (a) provide protections for public access and recreation consistent with public safety needs and the need to protect fragile coastal resources. Coastal Act Section 30211 requires that development shall not interfere with the public's right of access to the sea and the use of dry sand and rocky coastal beaches extending landward to the first edge of terrestrial vegetation. Section 30213, in particular, provides for the protection of

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<sup>5</sup> Pers. Communication, Steve McGrath General Manager, Pillar Point Harbor. August 2014.

free and low-cost access, and Section 30140(b) requires that development in areas adjacent to recreation areas be compatible with and not significantly degrade those areas.

**Section 30210:** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

**Section 30211:** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**Section 30212(a):** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources ...*

**Section 30213:** *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

**30240(b):** *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

### **Consistency Analysis**

The public beaches and access trails located along the Pillar Point and Princeton-by-the-Sea shoreline provide the public with a variety of recreational opportunities such as walking and watching the sun set. ([Exhibit 6](#)) The Coastal Act requires that new development proposals provide maximum access and recreational opportunities to the public consistent with public safety needs, in addition to the protection of natural resources, as provided by Sections 30210, and 30212(a) cited above. Pillar Point Harbor provides recreational boating opportunities for the public. Johnson Pier, as described earlier, is a working, commercial-fishing, pier; however, the public has the ability to access it in order to purchase fish products directly from docked fishing boats as well as to safely walk along the main stem of the pier. Aside from being able to access Johnson Pier, the public can also experience the coast recreationally by walking along a portion of the California Trail that extends through the harbor area between the existing harbor parking lot and the shoreline.

The proposed new hoist will not impede public access to, from, or along the California Coastal Trail in the area. Nearby coastal access points including at Perched Beach and Surfers Beach located to the south and the stretch of beach immediately adjacent to Barbara's Fishtrap restaurant located to the north will not be affected by installation or operation of the new hoist. The public can continue to walk on Johnson Pier as currently provided given that there may still be temporary restrictions (for safety reasons) associated with harbor activities such as loading

and off-loading docked vessels. The new hoist does not interfere with the public's right of access to the shore or present a conflict with recreational uses in the harbor area. Therefore, the installed hoist will not result in impacts to the recreational use or public access in and around the harbor area consistent with the public access and recreation policies of the Coastal Act.

## **G. MARINE RESOURCES**

The Coastal Act protects marine resources and habitat offshore of this site. Coastal Act Sections 30230, 30231, and 30232 provide:

**Section 30230:** *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

**Section 30231:** *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams*

### **Consistency Analysis**

Coastal Act Sections 30230 and 30231 requires the maintenance, enhancement, and where feasible, the restoration of marine resources and the biological productivity and quality of coastal waters, streams, wetlands and estuaries. Based upon an evaluation of habitat types present within the harbor area that was conducted by the Harbor District for its Pillar Point Harbor Dredge, Maintenance, and Repair and Dock Finger projects in August 2012 and updated in February 2013<sup>6</sup>, the new hoist would not have any direct impacts on federal or state special-status plants. The February 16, 2013 site survey, found that five special-status wildlife species could occur within the project area. These include green sturgeon, Chinook salmon, steelhead and Coho salmon that could occur in the ocean outside of the harbor and potentially inside the harbor on occasion.<sup>7</sup> Pillar Point Harbor waters are located immediately adjacent to the location of the new Hoist and activities would be conducted within harbor waters through the relocation of the dock. The Applicant, under its existing lease with San Mateo County Harbor District, is required to comply with all applicable environmental laws and regulations including applying all reasonable

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<sup>6</sup> Etchell, Sandra, *Biological Resources Analysis Pillar Point Harbor Dredge, Maintenance, and Repair Projects, One Johnson Pier, Half Moon Bay CA 94019*. August 13, 2012, Revised February 21, 2013.

measures to avoid polluting the land and water caused by or originating in, on, or about its facilities. The Applicant is also required to prevent all waste and potential pollutants from being discharged into harbor waters.

The installation of the new hoist and relocation of the dock could potentially involve discharge of construction materials into harbor waters if precautions are not undertaken to ensure that debris and residual materials are not left on the pier/dock and released into the water. Therefore, **Special Condition 1** requires construction requirements, including best management practices, to ensure that foreign materials are not discharged to harbor waters. The work to install the new hoist does not require working within the waters and measures will be implemented to comply with the Applicant's lease requirements to prevent discharge to adjacent waters. Further, the construction of the new dock will include measures, as required in **Special Condition 1**, to avoid and reduce potential noise impacts to marine life from sound created from pile driving. The use of the new hoist will avoid cargo/products from being dumped into the surrounding waters or onto the pier/dock, as required under the tenant's lease and regulatory provisions of the California Regional Water Quality Control Board and the California Department of Fish and Wildlife. Thus, the construction and operation of the new hoist is consistent with Sections 30230 and 30231 of the Coastal Act regarding maintenance of the biological productivity of coastal waters and protection of marine resources. Additionally, due to the hazardous location for construction and operation of the hoist, and the associated risks, such as waves, storms, and flooding, **Special Condition 3** requires the permittee, and through a lease agreement, the Harbor District as the lessor, to assume the risk of construction and operation of the hoist and indemnify the Commission against any damages.

## **H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The San Mateo County Harbor District, acting as lead CEQA agency, found the proposed project to be categorically exempt per CEQA Guideline Section 15304 (minor alterations to land). The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available

which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. If so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

**APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. *Administrative record for CDP Application Number 2-16-1131.*