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STAFF REPORT: COASTAL DEVELOPMENT PERMIT

Application Number: 2-16-1131

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

Project Location: One Johnson Pier in Pillar Point Harbor, Princeton-by-the-Sea, San Mateo County.

Project Description: Installation of 19-foot-tall loading hoist.

Staff Recommendation: Approval with Conditions.

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 in San Mateo County. The proposed hoist would be 19 feet tall with a 21-foot boom to facilitate loading and off-loading of fish products and fishing equipment. The Applicant indicates that the hoist is needed to improve the efficiency of its operations. The Harbor District and the Applicant evaluated several potential locations for the new hoist prior to Harbor District authorization of the hoist at this location, taking into consideration the locations of the existing fire protection equipment, freezers, and the fueling station, as well as the operational needs of the other fish-processing tenants and the fishing fleet overall. Installation of the new hoist would upgrade existing commercial fishing operations, improve the Applicant's efficiency, and promote continued commercial fishing and associated uses at Johnson Pier, consistent with Coastal Act policies that protect and support commercial and recreational fishing.

At the same time, adjacent fishing operators on Johnson Pier have raised some concerns that congestion in the area would be increased due to the new hoist to their detriment. While the Commission takes these concerns seriously, the Harbor District thoughtfully considered all options to address their tenants' concerns, and ultimately decided that the hoist location was appropriate and would allow all of their tenants, including the Applicant, adequate services on the Pier. The District required the Applicant to prepare a Safety Plan to ensure the safety of individuals on the pier while the hoist is being operated, and ultimately decided against relocating a nearby work/impound dock that had raised some issues for nearby tenants. The Harbor District and its staff have indicated that it intends to monitor implementation of the Applicant's Safety Plan, and will continue to work with all existing Pier tenants to manage operations and traffic in the area to facilitate all tenants' operations once the new hoist is installed.

With respect to other issues, public access on Johnson Pier would not be affected by the proposed project, and will continue to be allowed subject to the same temporary restrictions (for safety reasons) that are currently associated with harbor activities. And to protect water quality and marine resources, staff recommends special conditions to ensure appropriate best management practices are applied during project construction to minimize and avoid potential impacts.

To sum up, staff believes that the installation and operation of the new hoist: 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) would maintain the biological productivity and water quality of adjacent coastal waters consistent with Coastal Act resource protection policies. In addition, issues regarding the effect of the hoist on competing fishing interests on Johnson Pier (and more broadly) have been resolved to the Harbor District's satisfaction, which is the appropriate arbiter of such issues in this case.

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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- [Exhibit 8 – Harbor District December 15, 2017 Letter](#)

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.** Public access shall be protected and maximized during all construction, including by staging and storing construction equipment and materials (including debris) outside of the primary public access route along the main stem of the pier as depicted in [Exhibit 5](#). In addition, storage of construction equipment and materials shall occur in inland areas, and to the extent feasible, staging shall occur in inland areas. Construction, staging, and storage are prohibited outside of the defined project site as shown in project plans dated November 14, 2016.
- (b) **Construction Areas.** All areas where construction activities or staging are to take place shall be minimized in order to have the least impact on public access, on commercial and recreational fishing activities, and on coastal 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 through the use and application of all of the following:
 - 1. 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.
 - 2. Equipment washing, refueling, and servicing shall take place at inland locations at least 50 feet from the shoreline. All construction equipment shall be inspected and maintained at an off-site inland location to prevent leaks and spills of hazardous materials at the project site.
 - 3. 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; and remove all construction debris from the site.
 - 4. 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.

- (e) **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.
- (f) **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. Prior to commencement of construction all persons involved with the construction shall be briefed on the content and meaning of the CDP, and that the CDP and construction site documents shall be available for public review on request.
- (g) **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 contact information (e.g., name, phone number, e-mail, etc.) 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.
- (h) **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 (including the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the California State Lands Commission) or evidence that no such permits, permissions, approvals, and authorizations are required. 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) **Permittee Acknowledgement.** By acceptance of this CDP, the Permittee acknowledges

and agrees: (1) that the site may be subject to hazards, including but not limited to ocean waves, storms, tides, tsunamis, and flooding, all of which may worsen with sea level rise; (2) to assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from such hazards in connection with this permitted development; (3) 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 (4) 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) Harbor District Acknowledgement. PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit: (1) a copy of an agreement, in a form and content acceptable to the Executive Director, between the Permittee 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 Permittee's lease of the property that is the subject of this CDP, 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 area is 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 it accommodates both commercial and recreational boating and fishing 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, and an average of 6 million pounds of fish is brought on-shore at Johnson Pier every year.¹ 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 groundfish, and 82,131 lbs. of other types of fish were brought on-shore at Pillar

¹ Personal communication/e-mail from John Draper, Assistant Harbor Master, San Mateo County Harbor District, January 14, 2015.

Point Harbor via Johnson Pier.² Johnson Pier is L-shaped with a 7,300 square-foot pier head that contains a 3,762 square-foot building occupied by three fish-buying tenants, one of which is the Applicant, Three Captains Sea Products. In addition to the fish buyers building, the pier accommodates storage areas and hoists for the tenants, commercial berths, a fueling dock, and pump-out station ([Exhibit 2](#)). 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 near the work/impound dock (which is used for storing impounded vessels) ([Exhibit 2](#)). The Harbor District approved the project and has committed to not storing derelict vessels at the dock while the new hoist is being utilized and operated by the Applicant ([Exhibit 4](#) and [Exhibit 8](#)).

B. 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 the distribution of fish at the southeast end of Johnson Pier. At Pillar Point Harbor, the buyers operate under leases issued to them by the Harbor District, leases that include authorization to operate up to two hoists per buyer on Johnson Pier. The Applicant currently has one operational hoist and is seeking CDP authorization to install a second hoist.³ The new hoist would be 19 feet tall ([Exhibit 3](#)), as measured from the base of the pier, with a 21-foot long boom, and a rated capacity to carry/lift a maximum of 1,000 lbs.

The Applicant would implement a plan to maintain safe conditions on the dock after the hoist is installed and in operation. The Safety Plan is designed to limit pedestrian and other use of the dock area in the vicinity when the new hoist is being operated as a means of ensuring safety for other dock users. The Harbor District states the plan satisfactorily addresses the Harbor District's concerns and its staff will monitor the implementation of the Applicant's Safety Plan. The Harbor District has also committed to continuing to work with the Applicant, as well as all existing Pier tenants, to further manage operations and traffic in the area once the new hoist is installed ([Exhibit 8](#)).

The new hoist would be attached to the surface of the pier and no construction work would be conducted from an area directly over the water. The purpose of the new hoist is to unload and load products and equipment onto and off of authorized fishing vessels at the working dock, from the northeast side of the pier head, depending on available space and use by other docked vessels. The hoist would be operated electronically, connecting to a 15 amp circuit to the existing panel located on the pier, and it would swing out over the boats docked at the pier for loading and off-loading items.

² Personal communication/e-mail from John Moren, Director of Operations, San Mateo County Harbor District, August 24, 2017.

³ Note that the Applicant installed a second hoist without CDPs in 2014, but that hoist has since been removed.

C. STANDARD OF REVIEW

The proposed project is located over Harbor waters within the retained coastal development permit jurisdiction of the Coastal Commission, and thus the standard of review is Chapter 3 of the Coastal Act.

D. COMMERCIAL FISHING AND RECREATIONAL BOATING FACILITIES

Applicable Policies

Coastal Act Sections 30234 and 30234.5 require the protection, and where feasible the upgrading, of facilities that provide services for commercial and recreational fishing, and recognizes the economic importance of fishing activities. Coastal Act Section 30255 gives coastal-dependent developments priority over other developments at the shoreline, 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 Act coastal-dependent and priority uses that cannot function without sufficient 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 between commercial fisheries and those 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 fishery 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 operated by the existing three tenants: Pillar Point Seafood operates two hoists, Morning Star Fisheries operates one hoist, and the Applicant operates one hoist. The Applicant's 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 has a single hoist located on the northwest side of the pier ([Exhibit 2](#)). Fishing vessels are off-loaded at the pier 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 each, 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, the needs of the other tenants, and the constraints created by increased intensification of use. Prior to authorization, the Harbor District and the Applicant evaluated alternative locations for the proposed 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 manages the harbor, including the traffic and use areas at Johnson Pier, to the benefit and safety of tenants and the public, and the Harbor District Commission considered these factors relative to the new hoist location when it approved the proposed hoist. The Harbor District plans to continue to monitor the implementation of the Applicant's Safety Plan for operation of the new hoist as safety on the pier remains a priority for the Harbor District and the Applicant ([Exhibit 8](#)).

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 through the inside of 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 in the reverse through the existing building. A hoist installed at the proposed location will reduce such movement through the interior of the building and 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, in a less-congested area, 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 and productive. 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.⁴ 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 ([Exhibit 2](#)).⁵

Construction of the new hoist would occur on two, half days in the early morning. Fishing and fish-buying activities would continue during the construction activities. The existing Harbor District tenant leases require an unobstructed, 15-foot minimum length along the pier for forklift and truck access, and the construction would not interfere with the use of this restricted corridor, including because construction of the new hoist would occur along the edge of the pier stem.

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, and adjacent fishing operators on Johnson Pier have raised some concerns that such congestion would be to their detriment. While there may be some validity to this argument, the Harbor District thoughtfully considered all options to address their tenants' concerns, and ultimately decided that the hoist location was appropriate and would allow all of their tenants, including the Applicant, adequate services on the Pier. And the Harbor District has indicated that it intends to continue to work, as they have been, with all tenants to manage operations and traffic in the area.⁶ The Harbor Master and/or District Harbor Patrol staff can easily respond and prioritize uses during construction and fish-buying activities, should conflicts arise.

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

⁴ Personal communication from Scott Grindy, Acting General Manager, San Mateo County Harbor District, December 2014.

⁵ Note that at one time the Applicant proposed a hoist on the south side of the dock, and this raised issues for some with respect to the fuel dock, and now proposes it on the opposite side of the pier, including avoiding those concerns.

⁶ Personal communication from Steve McGrath, General Manager, San Mateo County Harbor District, August 2017.

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, in turn moving greater quantities of fish product more quickly across the pier. This, in turn, will generate additional revenue for the tenants of the pier, as well as for the Harbor District. The Harbor District believes that the additional hoist will benefit the commercial fishing industry operations at Pillar Point Harbor as a whole. The Harbor District further 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 additional revenue generated will provide an overall benefit.⁷ 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 pounds of sea products brought on-shore at Pillar Point Harbor. In a letter dated August 16, 2017 ([Exhibit 7](#)), the Executive Director of the 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. The proposed project in this case is one of these projects, and it 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. Therefore, the proposed project is consistent with Sections 30234, 30234.5 and 30255 of the Coastal Act.

E. PUBLIC ACCESS AND RECREATION

Applicable Policies

Coastal Act Sections 30210 and 30212(a) require the provision of, and 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 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 provides for the protection of free and lower cost access, and Section 30240(b) requires that development in areas adjacent to recreation areas be compatible with and not significantly degrade those areas.

Applicable policies include:

***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.*

⁷ Personal communication from Steve McGrath, General Manager, San Mateo County Harbor District, August 2017.

***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 (2) adequate access exists nearby...*

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

Consistency Analysis

The public beaches and access trails located along the Pillar Point Harbor and Princeton-by-the-Sea shoreline provide the public with a variety of recreational opportunities, such as walking trails, beaches, and opportunities for viewing wildlife or watching the sun set ([Exhibit 5](#)). The Coastal Act requires that new development proposals provide maximum access and recreational opportunities to the public, consistent with public safety needs and the protection of natural resources. In addition the above-referenced access opportunities, Pillar Point Harbor also 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 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 Coastal Trail that extends through the harbor area, including 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. There will be no loss of access and recreation for the public. The public can continue to walk on Johnson Pier as currently provided, subject to the temporary restrictions (for safety reasons) associated with harbor activities such as loading and off-loading docked vessels at the new hoist location, where these restrictions are not unlike those that currently apply. The Applicant, as mentioned above, will also implement a Safety Plan to ensure the safety of individuals on the pier while the hoist is operating overhead. 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, and subject to conditions to protect access during construction (**Special Condition 1**), the hoist will not result in impacts to the recreational use or public access in and around the harbor area inconsistent with the public access and recreation policies of the Coastal Act.

F. MARINE RESOURCES

The Coastal Act protects marine resources and related habitats. 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.*

***Section 30232:** Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

Consistency Analysis

Coastal Act Sections 30230 and 30231 require the maintenance, enhancement, and where feasible, the restoration of marine resources, and also requires the biological productivity and quality of coastal waters, streams, wetlands and estuaries be maintained. Based upon an evaluation of habitat types present within the harbor area that was conducted by the Harbor District in 2012 and 2013,⁸ the new hoist would not have any direct impacts on federal or state special-status plants. The 2013 site survey found that five special-status wildlife species could occur within the Pillar Point Harbor, and thus in the project area (these include green sturgeon, Chinook salmon, steelhead and Coho salmon). The new hoist would be attached to the surface of the pier and no construction work would be conducted from an area directly over the water, and no impacts to marine mammals are expected. The Applicant, under its existing lease with the Harbor District, is required to comply with all applicable environmental laws and regulations including applying all reasonable measures and Best Management Practices to avoid polluting the land and water from sources 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 could potentially involve discharge of construction materials into Harbor waters if precautions are not taken to ensure that debris and residual materials are not left on the pier/dock and released into the water. To ensure this is the case, **Special Condition 1** imposes construction requirements, including best management practices, to ensure coastal resource protection during construction. The work to install the new hoist does not require working within the harbor waters, and measures will be implemented to comply with the

⁸ *Biological Resources Analysis Pillar Point Harbor Dredge, Maintenance, and Repair Projects, One Johnson Pier, Half Moon Bay CA 94019* by Sandra Etchell (August 13, 2012; revised February 21, 2013).

Applicant's lease requirements to prevent discharge to adjacent waters. 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 (RWQCB) and the California Department of Fish and Wildlife (CDFW). **Special Condition 2** requires review and approval from other applicable agencies, such as RWQCB, CDFW, and the State Lands Commission, to ensure compliance with these other requirements and protection of State Tidelands. The Applicant's lease with the Harbor District includes requirements for the protection of harbor waters consistent with Section 30230.

In short, and conditioned, the construction and operation of the new hoist is consistent with Sections 30230, 30231, and 30232 of the Coastal Act regarding maintenance of the biological productivity of coastal waters and protection of marine resources.

G. COASTAL HAZARDS

Coastal Act Section 30253 requires that new development minimize risk to life and property in areas of high flood hazard areas, ensure long-term structural integrity, and avoid landform altering protective measures in the future. Section 30253 states in relevant part:

30253: *New development shall do all of the following:*

- (a) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed project is located in the Pillar Point Harbor in an area that is subject to coastal hazards, including but not limited to ocean waves, storms, tides, tsunamis, and flooding, all of which may worsen with sea level rise. In terms of recognizing and assuming the hazard risks for this type of over water and shoreline development, the Commission's experience in evaluating proposed developments in areas subject to hazards has been that applicants continue to pursue development despite periodic episodes of heavy storm damage and other such occurrences. Development in such dynamic environments is susceptible to damage due to such long-term and episodic processes. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden for damages onto the people of the State of California, applicants are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location, and to require the Applicant to provide evidence of both the Applicant and the Harbor District acknowledging those risks for this lessee and any others that may make use of the hoist (see **Special Condition 3**). Specifically, **Special Condition 3** requires the Applicant, and through a lease agreement the Harbor District as the lessor, to assume the risks 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 determined that the new hoist is exempt from CEQA. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of the Natural Resources Agency 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 CDP 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

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

1. Applicant
2. San Mateo County Harbor District
3. San Mateo County Planning and Building Department
4. Half Moon Bay Seafood Marketing Association