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Filed: 12/17/2018
Action Deadline: 6/15/2019
Staff: R.T. Ananda – SF
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Staff Report: 2/15/2019
Hearing Date: 3/6/2019

STAFF REPORT: COASTAL DEVELOPMENT PERMIT

Application Number: 2-18-1029

Applicant: Three Captains Sea Products Inc.

Project Location: On Johnson Pier in Pillar Point Harbor in the unincorporated Princeton-by-the-Sea area of San Mateo County.

Project Description: Installation of 19-foot-tall loading and off-loading hoist at the edge of the pier.

Staff Recommendation: Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

Three Captains Sea Products Inc. proposes construction of a new hoist on Johnson Pier, the largest and primary 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 San Mateo County Harbor District (the County entity that operates the Pillar Point Harbor) 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 overall, 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.

The Harbor District leases space to three fish buying and processing tenants on Johnson Pier, including the Applicant, and each lease allows up to two hoists at the end of the pier. Currently, there are four operational hoists operated by the existing three tenants.¹ These adjacent tenants on Johnson Pier have raised some concerns that congestion in the area would be increased due to the new hoist to their detriment. The Commission and the Harbor District take these concerns seriously, but ultimately the Harbor District, in approving the project in the proposed location, does so pursuant to a binding arbitration decision.² In addition, the Harbor District plans to further address the tenants' concerns through a more comprehensive planning process to expand and reconfigure the Johnson Pier terminus, with improvements to ameliorate safety and congestion issues. Staff believes that the approved hoist location is primarily operational in terms of its effect on commercial fishing, and otherwise does not present Coastal Act coastal resource concerns, and thus the Harbor District's approval of this location for the new hoist, and future plans to further address the congestion issues, provides substantial evidence that it is appropriate under the applicable sections of the Act.

Operationally, with the new hoist there would remain a 15-foot-wide common area on the pier for access by all tenants at all times. The Harbor District requires that this area be kept free and clear as a passageway for all potential traffic and use on the pier head. The passageway allows for unobstructed travel for fork lifts, trucks, and the public while the Applicant's hoist (as well as the other hoists) is in operation on the south side of the pier head. The Applicant would install removable bollards and a chain to prevent forklifts and people from entering the operations area of the hoist while it is operating, as an added safety measure. The Harbor District and its staff indicate that it will continue to work with all tenants on the pier to manage operations and traffic in the area to facilitate all tenants' operations once the new hoist is installed in the short term and will continue to work with all parties to develop a more comprehensive solution to address safety and congestion concerns through the longer-term project to expand and reconfigure the pier. In fact, the Harbor District has held two productive, well-attended public meetings, in which all fish buyer tenants were in attendance and provided feedback on a proposed reconfiguration solution that at this time appears amicable to all parties.³ Both these short- and long-term measures will ensure the continued safety of individuals on the pier and that 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.

¹ Pillar Point Seafood operates two hoists, Morning Star Fisheries operates one hoist, and the Applicant (Three Captains Sea Products Inc.) 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.

² Letter from John Moren Interim General Manager, San Mateo County Harbor District, January 30, 2019 (Exhibit 9).

³ *Id.*

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. 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.

In sum, staff believes that the installation and operation of the new hoist would support Coastal Act priority coastal-dependent uses benefitting the commercial fishing industry, would not interfere with the public's ability to access the coast, and as conditioned, would maintain 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 5** of this report.

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EXHIBITS

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Exhibit 6 – Commercial Fishing Community Comments

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Exhibit 8 – Johnson Pier Common Passageway

Exhibit 9 – Correspondence

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 2-18-1029 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number 2-18-1029 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 or 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 off of Johnson Pier, 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 October 6, 2014.
- (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 to the maximum extent feasible.
- (c) Construction Methods and Timing.** All construction areas shall be kept separate from ocean waters and from public recreational use areas to the maximum extent feasible, including by 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:

 - 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 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.
 - iii)** The construction site shall maintain good construction housekeeping controls and procedures, including, at a minimum, cleaning up all leaks, drips, and other spills immediately; keeping materials covered and out of the rain (including covering exposed piles of soil and wastes); disposing of all wastes properly, placing trash receptacles on site for that purpose, and covering open trash receptacles during wet weather; and removing 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.

- (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 ensure protection of 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 their contact information (including address, phone number, and an e-mail address) shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas for the duration of construction, 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 24 hours of receipt of the complaint or inquiry. All complaints and all actions taken in response shall be summarized and provided to the Executive Director on at least a weekly basis.
- (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.

- 2. **Coastal Hazards Risk.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, to all of the following:
 - (a) **Coastal Hazards.** That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tsunami, tidal scour, coastal flooding, landslides, bluff and geologic instability, bluff retreat, liquefaction and the interaction of same, many of which will worsen with future sea level rise.
 - (b) **Assume Risks.** To assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from such coastal hazards in connection with this permitted development.

- (c) **Waive Liability.** To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards.
 - (d) **Indemnification.** To indemnify and hold harmless the Coastal Commission, its officers, agents, and employees with respect to the Commission's approval of the development 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 coastal hazards.
 - (e) **Permittee Responsible.** That any adverse effects to property caused by the permitted development shall be fully the responsibility of the Permittee.
3. **Liability for Costs and Attorneys' Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and/or (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission and/or its officers, employees, agents, successors and assigns challenging the approval or issuance of this CDP, the interpretation and/or enforcement of the CDP conditions, or any other matter related to this CDP. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission and/or its officers, employees, agents, successors and assigns.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION AND DESCRIPTION

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 (also referred to as Chinook) 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 and other seafood is brought on-shore at Johnson Pier every year.⁴ In 2017, 3,016,876 pounds of squid, 1,644,322 million pounds of

⁴ Personal communication/e-mail from John Draper, Assistant Harbor Master, San Mateo County Harbor District, January 14, 2015.

Dungeness crab, 67,759 pounds of salmon, 598,258 pounds of groundfish (including sole, flounder, sablefish, seabass, and halibut), and 3,546,125 pounds of other types of sea products were brought on-shore at Pillar Point Harbor via Johnson Pier – a total of nearly 9 million pounds of seafood.⁵ Johnson Pier is clearly an important hub for commercial fishing on the central coast, and it's the largest and primary pier within the Harbor.

Johnson Pier is L-shaped with a large 7,300 square-foot pier head that contains a roughly 4,000 square-foot building at the end occupied by three fish-buying and processing tenants, one of which is the Applicant (Three Captains Sea Products Inc.).⁶ In addition to the fish buyers building, the pier head area accommodates storage areas and hoists for the tenants, a fueling dock, and a pump-out station, and the remainder of the pier provides berths for the commercial fishing fleet (see **Exhibit 2**). The area where the bulk of fish buying and transport activities occur on the pier head can experience some congestion due to loading and off-loading activities and equipment located on the pier, such as refrigerated storage containers.

Each of the three tenants is allowed by their respective lease agreements with the Harbor District to operate up to two hoists on Johnson Pier. Currently, there are four operational hoists operated by the existing three tenants,⁷ and the Applicant is here seeking CDP authorization to install a second hoist.⁸ The new hoist would be 19 feet tall, 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 pounds. The proposed hoist would be installed on the south side of the Johnson Pier head (see **Exhibit 3**).

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 load and off-load products and equipment onto and off of authorized fishing vessels at the working dock, from the southwest 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.

A 15-foot-wide area on the pier would be kept clear/open for common area access by all tenants at all times (see **Exhibit 8**). The Harbor District requires that this area be kept free and clear as a passageway for traffic on the pier head. The passageway allows for unobstructed travel for fork lifts, trucks, and people while the Applicant's hoist (as well as the other hoists) is in operation on the south side of the pier head.

⁵ *Table 17PUB - Poundage And Value Of Landings By Port, San Francisco Area During 2017*, California Department of Fish and Wildlife. June 13, 2018.

⁶ The other two tenants are Pillar Point Seafood and Morning Star Fisheries.

⁷ Pillar Point Seafood operates two hoists, Morning Star Fisheries operates one hoist, and the Applicant (Three Captains Sea Products Inc.) 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.

⁸ Note that the Applicant installed a second hoist without a CDP in 2014, but as mentioned further in the "Project Background" section of this staff report, that hoist was removed in May 2016.

B. PROJECT BACKGROUND

In April 2014, the Applicant installed a second hoist at the currently proposed location on Johnson Pier without a CDP. On September 4, 2014, the Applicant submitted a CDP application (CDP Application No. 2-14-1592) requesting after-the-fact (ATF) authorization of that hoist installation. After evaluating the Applicant's originally proposed ATF second hoist, the Executive Director issued a De Minimis CDP waiver notice, intending to report said waiver to the Coastal Commission at the November 2014 Commission meeting.⁹ At that time the Executive Director had determined that the second hoist would facilitate existing high priority coastal-dependent uses by allowing for and increasing the efficiency of ongoing commercial fishing operations, and facilitating the economic and commercial use of the harbor. Further, the Executive Director determined at that time that the project would not affect any 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. Thus, at that time the Executive Director 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, and issued the Notice of Intent to Issue the CDP waiver.

In response to the Executive Director's CDP waiver notice, the Commission received objections to the waiver from some community members as well as representatives of the Half Moon Bay Seafood Marketing Association (HMBSMA) opposing the issuance of a waiver, and expressing concern about the potential for "significant economic loss" to its members and other operating businesses at Pillar Point Harbor. Specifically, HMBSMA contended 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 fuel station at the pier head, 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 to these newly raised concerns, the Executive Director retracted the proposed waiver in order to further evaluate the concerns raised. During the period of further evaluation, the Harbor District's approval of the second hoist at the originally proposed location expired, and the Harbor District decided not to extend it. As a result, the proposed project at that point no longer included the requisite local approvals as required for CDP applications to be considered by the Commission, and at a fundamental level no longer was supported by the underlying pier landowner, the Harbor District. Lacking such required elements, CDP Application No. 2-14-1592 was no longer complete. The application file was closed and returned to the Applicant without the requested CDP going to hearing; and the unpermitted hoist was removed by the Applicant in May 2016.

Subsequently on October 5, 2016, the Harbor District approved the Applicant's request to install a second hoist at a new location on the north side of the pier head, adjacent to the existing work/impound dock used to temporarily store derelict, abandoned boats awaiting lien sale. The

⁹ CDP waivers do not become effective unless and until they are reported to the Commission and the Commission concurs with the Executive Director's determination.

work/impound dock was proposed for removal as part of the project. Following Harbor District approval of this new project, the Applicant submitted a new CDP application (CDP No. 2-16-1131) to the Commission for the new hoist, as well as removal of the adjacent work/impound dock. Subsequently, the Harbor District again rescinded its approval of the project, and again the CDP application file was closed (on March 7, 2018). Subsequently, the Applicant and the Harbor District entered into arbitration in 2018 to resolve issues regarding the Applicant's request for a second hoist. Ultimately, the end result of the arbitration was that the Harbor District would approve a second hoist (i.e., the hoist that is the subject of this current CDP application before the Commission) and would support and help expedite the Applicant's efforts to obtain a CDP from the Commission.

Thus, on October 17, 2018 the Harbor District authorized the Applicant to install and use a second hoist on the south side of the pier; and determined the hoist was categorically exempt from the California Environmental Quality Act (CEQA) (see **Exhibit 4**). The Applicant has now submitted this application (CDP Application No. 2-18-1029) for a second hoist to be located on the south side of the pier head with the requisite local approvals and landowner authorization, which is the proposed project being presented for the Commission's CDP consideration at its February 2019 hearing.

C. STANDARD OF REVIEW

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

D. COMMERCIAL AND RECREATIONAL FISHING

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 coastal-related developments 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 the Johnson Pier, including primarily the pier head where the three fish-buying tenants operate, including via hoists. 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 (see **Exhibit 2**). Fishing vessels are off-loaded at the pier head 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 interior building space and storage space on the pier (exterior to the building) and is allowed under its respective lease to have up to two hoists, contingent upon obtaining authorization for the hoist from the County Harbor District. In this case, as described above, the Harbor District, pursuant to the arbitration decision, authorized the Applicant to install the new hoist at the proposed 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. While

some congestion issues still remain to be resolved, the Harbor District plans to address these concerns through a more comprehensive planning process involving stakeholder input to expand and reconfigure the Johnson Pier terminus, with improvements to ameliorate safety and congestion issues. Prior to authorization of this project, 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, the 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. While some congestion concerns remain, the Harbor District and its staff indicate that they will continue to work with all tenants on the pier to manage operations and traffic in the area to facilitate all tenants' operations once the new hoist is installed, both through current management efforts and the planned reconfiguration. Finally, the Harbor District has held two productive, well-attended public meetings, in which all fish buyer tenants were in attendance and provided feedback on a reconfiguration solution that at this time appears amicable to all parties.¹⁰ Both these short- and long-term measures will ensure the continued safety of individuals on the pier and that 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.

Currently, due to the location of the Applicant's lease area, 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 to the hoist at the rear of the 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 help to reduce such movement through the interior of the building, and help to reduce congestion occurring in front of the buying stations. Traffic on the pier during peak usage will be more spread out over the entire dock, rather than concentrated near the existing fish-buyer building. 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 pounds 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) should similarly benefit as well. 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 (see **Exhibits 2 and 3**).

The addition of the new hoist should 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 (see **Exhibit 6**). Specifically, the new hoist will

¹⁰ Letter from John Moren Interim General Manager, San Mateo County Harbor District, January 30, 2019 (Exhibit 9).

provide an additional unloading station for the fishermen, which will allow faster unloading and support additional boats that can be unloaded concurrently. 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 will facilitate the commercial fishing industry as recommended by the California Fish and Game Commission (see **Exhibit 7**). The improvements will serve commercial fishing businesses that use Johnson Pier and the harbor.

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-wide free and clear area that serves as a common passageway along the pier for forklift and truck access (see **Exhibit 8**). The construction would not interfere with the use of this restricted corridor.

In sum, the County Harbor District considered all options to address tenants' concerns, and ultimately approved the hoist location pursuant to binding arbitration. To more comprehensively address the congestion and safety concerns, the Harbor is now planning a reconfiguration of Johnson Pier. The Harbor District and its staff have indicated that they will continue to work with all tenants to manage operations and traffic in the area, and will assure they do so through the pier reconfiguration process.¹¹ The project has support from many of the fishermen that use Johnson Pier at Pillar Point Harbor (see **Exhibit 6**) and supports the California Fish and Game Commission's objectives, including the explicit request that the Coastal Commission support California's coastal fishing communities by taking their infrastructure and economic needs into consideration when considering coastal development projects, such as this (see **Exhibit 7**). The proposed project in this case is one of these projects, and it will help to ensure the continued protection and enhancement of California's maritime heritage and the economic well-being of coastal fishing communities along the coast through these improvements at Pillar Point Harbor. Installation of the new hoist augments existing commercial fishing operations by improving the efficiency of off-loading products and loading equipment, and by extension help to promote 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, maximized 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, including 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

¹¹ Personal communication from John Moren, Interim General Manager, San Mateo County Harbor District, January 2018; Letter from John Moren Interim General Manager, San Mateo County Harbor District, January 30, 2019 (Exhibit 9).

degrade those areas. Section 30220 protects water-oriented recreational activities such as those provided by over water piers. 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.*

***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.*

***Section 30220.** Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

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 sunset, and the offshore piers, including Johnson Pier, likewise provide the unique opportunity to experience the Harbor setting from over the water (see **Exhibit 6**). The Coastal Act requires that development 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 and take in the Harbor environs more generally. 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 existing public access opportunities in the Pillar Point Harbor 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, subject to the same existing temporary restrictions (for safety reasons) associated with harbor activities such as loading and

off-loading docked vessels, including at the new hoist location. As mentioned above, there will be a 15-foot-wide passageway for traffic on the pier head that will allow for unobstructed travel for fork lifts, trucks, and people while the Applicant's hoist (as well as the other hoists) is in operation on the south side of the pier head. The Applicant will install removable bollards and a chain to prevent forklifts and people from entering the operations area of the hoist while it is operating as an added safety measure. As described above, the Harbor District and its staff will also continue to work with all tenants on the pier, throughout the reconfiguration process, and in the interim, to manage operations and traffic in the area to facilitate all tenants' operations once the new hoist is installed. This will ensure the continued safety of individuals on the pier and that the new hoist does not interfere with public access and recreational uses in the harbor area. Therefore, and subject to conditions to protect access during construction (see **Special Condition 1**), the hoist will not result in impacts to the recreational use or public access in and around the harbor area and as conditioned, the project is consistent 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 2013,¹² some special-status wildlife species have the potential to be present within the Pillar Point Harbor, and thus in the project area. However, 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 any such species or to marine mammals or other wildlife are expected.

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 collected and properly disposed of. To protect against such potential impact, **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 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 (i.e., the Applicant's lease with the Harbor District includes requirements for the protection of harbor waters consistent with Section 30230).

In short, as conditioned, the construction and operation of the new hoist would be 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

¹² *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).

episodic processes. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the many 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 (see **Special Condition 2**). Specifically, **Special Condition 2** requires the Applicant to acknowledge and assume these coastal hazard risks associated with construction and operation of the hoist, and to waive any potential Commission liability, including through indemnifying the Commission with respect to its approval of the subject development.

H. OTHER

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications.¹³ Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicants. Therefore, consistent with Section 30620(c), the Commission imposes requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this CDP (see **Special Condition 3**).

I. 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 the CEQA lead agency determined on October 17, 2018 that the proposed hoist project was categorically exempt from CEQA pursuant to CEQA Guidelines Section 15300 et seq. 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.

¹³ See also California Code of Regulations Title 14 Section 13055(g).

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).

2-18-1029 (Three Captains Hoist)

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Administrative record for CDP Application Number 2-18-1029

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- Applicant
- San Mateo County Harbor District
- San Mateo County Planning and Building Department