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Filed	1/5/2021
180 th Day	7/4/2021
Staff:	C. Holloway
Staff Report:	1/27/2021
Hearing Date:	2/12/2021

STAFF REPORT: REGULAR CALENDAR

Application No.: 1-20-0216

Applicant: City of Point Arena

Agent: Stein Coriell, SHN Consulting Engineers & Geologists

Location: 810 Port Road, Arena Cove, Point Arena, Mendocino County

Project Description: Repair and expand existing seawall and jetty rock, install a new bio-retention basin, and raise a portion of the existing parking lot that serves the City's commercial fishing facility.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The City of Point Arena proposes to repair and improve the Arena Cove parking lot which serves coastal dependent commercial and recreational fishing uses by (a) regrading and repaving portions of the parking lot, (b) adding a two-foot-high bench atop an existing low floodwall (seawall), (c) expanding the seawall along the length of the existing parking lot, (d) installing a new bio-retention basin, and (e) raising a portion of the existing parking lot. Arena Cove is a popular destination in Mendocino County that

supports commercial and recreational fishing, public access, and an array of recreational uses. The Cove is often used for City-wide events and festivals.

Arena Cove is vulnerable to flooding and erosion from infrequent but intense winter storms. The current protective devices were permitted by the Commission under a 1985 permit to repair and replace the pier and parking lot following a storm. The proposed repairs and improvements would address damages caused by a 2016 winter storm and improve flood protection. The parking lot is regularly flooded during winter storm events when Arena Creek, which flows adjacent to the parking lot, mixes with ocean water and overtops the existing parking lot edge.

The primary Coastal Act issue associated with this project is the proposed seawall expansion and augmentation of rock revetment resulting in construction that alters natural shoreline processes. The seawall is required to protect coastal dependent commercial fishing uses. Staff recommends Special Conditions 1 through 8 to assure that the project is consistent with the relevant Coastal Act policies. The project, as conditioned, involves the least environmentally damaging feasible alternative for the proposed improvements, and therefore staff is recommending approval consistent with the requirements of section 30235. In addition, surveys for the endangered Point Arena Mountain Beaver (PAMB) did not identify any evidence of the species at the project site and the U.S. Fish & Wildlife Service staff has advised Commission staff that the development should not adversely affect nearby PAMB environmentally sensitive habitat.

Staff believes that the project, as conditioned, includes all feasible mitigation measures necessary to find the project consistent with the Chapter 3 policies of the Coastal Act. The motion to adopt the staff recommendation of approval with special conditions is on [page 4](#).

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APPENDICES

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EXHIBITS

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[Exhibit 3 – Project Plans](#)

[Exhibit 4 – Bio-retention Detail](#)

[Exhibit 5 – Wetland and Other Waters Delineation \(excerpts\)](#)

[Exhibit 6 – Point Arena Mountain Beaver Habitat Assessment and Survey, and Biological Report \(PAMB\) \(excerpts\)](#)

[Exhibit 7 – Area of Willow Removal](#)

I. Motion and Resolution

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve coastal development permit 1-20-0216 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby **approves** Coastal Development Permit Application No. 1-20-0216 for the proposed development 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 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

This permit is granted subject to the following special conditions:

1. **Construction Standards, Restrictions, and Responsibilities.** The permittee shall employ construction-related “best management practices” (BMPs) to protect water quality and adjacent sensitive habitat areas. The permittee shall ensure that all on-site workers and contractors understand and agree to observe the standards and limitations for work outlined in this permit and in the detailed project description included as part of the application submittal and as revised by these conditions.
 - A. The BMPs proposed by the permittee, including, but not limited to, the following measures shall be implemented, consistent with the additional requirements specified in subsection (B) below:
 - i. Construction activities occurring below high water mark shall be timed to occur during low tides.
 - ii. If rainfall is forecast during the time construction activities are being performed, all onsite stockpiles of soil, gravel, and construction debris shall be covered and secured before the onset of precipitation, and all silt and debris shall be removed from the construction area following a rainstorm.
 - iii. No excavated soil or construction debris shall be temporarily placed or stored where they may be subject to entering Arena Creek or the Pacific Ocean. Staging and stockpile areas shall be contained at all times to minimize discharge of sediment and other pollutants.
 - iv. Only wildlife-friendly, 100% biodegradable erosion control products that will not entrap or harm wildlife shall be used. Erosion control products shall not contain synthetic netting. Photodegradable synthetic products are not considered biodegradable.
 - v. No construction materials, debris, soil, silt, sand, trash, concrete or washings thereof, oil or other petroleum products or washings thereof,

or other foreign materials shall be allowed to enter or be placed where such materials may be washed by rainfall or runoff into coastal waters.

- vi. All trash shall be removed from the work site and disposed of on a regular basis. Spoils and construction debris shall be hauled offsite and disposed of at an appropriately permitted upland disposal facility consistent with the requirements of **Special Condition 2** (Final Debris Disposal Plan).
- vii. Equipment operators shall be trained in the procedures to be taken should an accidental spill occur. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available and immediately on-hand at the project site. A registered first-response, professional, hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spills shall be contained rapidly and cleaned up. In the event of a spill, the permittee shall notify the appropriate regulatory agencies immediately.
- viii. BMPs for concrete paving and grinding operations and storm drain inlet protection shall be employed to prevent concrete grindings, concrete slurry, and paving rinseate from entering drop inlets or sheet-flowing into coastal waters. No concrete will be poured below the high-water mark.

B. The following additional requirements also apply to the authorized construction work:

- i. Staging and Stockpile Management: Staging and storage of construction equipment and materials shall occur in inland areas at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible. Upon a showing of infeasibility, the permittee may submit a request for review and written approval to the Executive Director for staging and storage of construction equipment and materials closer than 50 feet from coastal water, drainage courses, and storm drain inlets. Construction is prohibited outside of the defined construction, staging, and storage areas.
- ii. Fueling and Maintenance: Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of equipment required on site shall take place at a designated staging area located in upland areas at least 100 feet from coastal waters, drainage courses, all other wetlands, and storm drain inlets. The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance

area may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

iii. Additional Water Quality Protection Measures

- a. Heavy equipment used in project construction shall be in good condition, shall be inspected for leakage of coolant and petroleum products prior to construction and regularly throughout construction activities, and shall be repaired offsite if necessary prior to entering the property. If equipment must be washed, washing shall occur offsite only.
- b. Drip pans shall be used for stationary equipment to capture any drips or leaks.

2. Protection of Sensitive Bird Nesting Habitat ESHA: The permittee shall undertake development in compliance with the following measures to protect sensitive bird nesting habitat areas (sensitive bird ESHA) from significant disruption:

- A. If work is conducted during the avian nesting season (February 15 – August 31), prior to commencement of construction, a qualified biologist shall survey sensitive bird ESHA (i.e., active nesting areas of raptors and rare species of birds) in and adjacent to the construction area according to current California Department of Fish and Wildlife (CDFW) protocols no more than seven days prior to the commencement of construction, and anytime construction activities have ceased for more than seven days;
- B. If any sensitive bird ESHA is detected (i.e., detection of an active nesting area of a raptor or any rare bird species), the biologist, in consultation with CDFW, shall determine the extent of a construction-free buffer zone to be established around the nest, and work in the buffer zone shall be delayed until after the young have fledged, as determined by additional surveys conducted by a qualified biologist. Alternatively, the biologist and CDFW can develop and agree upon construction methods that will allow work to continue without disturbing an active nest. Active nests may not be removed until after the young have fledged (based on field verification). A qualified biologist shall monitor active nests for disturbance and evidence of fledging during construction. If evidence of disturbance to an active nest is observed as a consequence of continued construction activities, construction activities shall immediately cease until such time as the birds have fledged or construction protocol is revised so as not to disturb nesting birds or fledglings; and
- C. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit, for the review and written approval of the Executive Director, the

survey required in subpart A above, including a map that delineates any sensitive bird nesting habitat identified by the survey and any required construction-free buffer zone and a narrative that describes proposed avoidance measures for the identified sensitive nesting bird habitat area(s).

3. Final Debris Disposal Plan

- A. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit, for the review and written approval of the Executive Director, a final plan for the disposal of all construction debris and waste expected to be generated by the authorized work. The plan shall demonstrate that:
- i. All temporary stockpiles of construction debris, excess sediments, vegetative spoils, and any other debris and waste associated with the authorized work shall be minimized and limited to areas where (a) they can feasibly be contained with appropriate BMPs to prevent any discharge of pollutants to coastal waters and wetlands, and (b) consistent with the siting requirements of **Special Condition 1(B)(i)**;
 - ii. All construction debris, excess spoils, and any other debris and waste generated by the authorized work shall be disposed of at an authorized disposal site(s) capable of receiving such materials.

The plan shall include, at a minimum, the following:

- i. A site plan showing all proposed locations for the temporary stockpiling of construction debris, soils and vegetative spoils, excess materials, and any other debris and waste associated with the authorized work in relation to wetland areas, drainage courses, storm drain inlets, project features, and property lines;
 - ii. A description of how the stockpiled materials will be removed from the construction site and identification of all debris disposal sites that will be used; and
 - iii. A schedule for the removal of all construction debris, excess materials, and any other debris and waste associated with the authorized work.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

4. Minimization and Mitigation of Willow Disturbance

- A. Removal of vegetation (including trees, native vegetation, and root structures) during construction shall be limited to the removal of six secondary trunks from three willow trees identified in Exhibit 7 to enable construction access.
 - B. The permittee shall monitor the affected riparian vegetation for one year following the completion of vegetation pruning. By July 1 of the next calendar year after completion of vegetation pruning, the permittee shall submit a monitoring report for the review and approval of the Executive Director prepared by an arborist or qualified biologist detailing with photos and narrative discussion whether the affected trees are exhibiting new growth and whether any of the affected trees has died or exhibits signs of decline. If the monitoring report indicates that no new growth is observed on each of the three affected willows or if one or more individual willow trees dies or experiences a marked decline in health, the permittee shall submit a planting plan providing for the planting of two new willow trees along Arena Creek in the vicinity of the affected riparian area for each of the three affected willow trees that does not exhibit new growth, has died, or exhibits signs of decline. The planting plan shall be processed as an amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
- 5. Point Arena Mountain Beaver (PAMB) Protection:** As proposed in the PAMB survey report completed by SHN dated 11/05/2020, and as agreed to by the U.S. Fish and Wildlife Service (USFWS) in technical assistance correspondence dated 1/5/2021, the permittee shall implement the following measures for PAMB protection:
- A. There shall be no operation of above-ground noise-generating equipment (including chainsaws and weed eaters) within 100 feet of active burrows or unsurveyed suitable habitat as shown in [Exhibit 6](#).
 - B. During the PAMB breeding season (December 1 through June 30), there shall be no operation of mechanical equipment that is in direct contact with or below the ground, which causes ground vibrations (including the use of heavy equipment such as graders, soil excavators, air compressors, and directional boring equipment) within 100 feet of active burrows or unsurveyed suitable habitat. During the non-breeding season, these same restrictions shall apply to all areas within 50 feet of documented active burrows and unsurveyed suitable habitat areas.
 - C. During the PAMB breeding season, there shall be no operation of mechanical equipment that is in direct contact with the ground, or below ground, which causes severe ground vibrations (includes soil compaction with vibrators) within 500 feet of active burrows or unsurveyed suitable habitat. During the non-breeding season, these same restrictions shall

apply to all areas within 100 feet of active burrows or unsurveyed suitable habitat areas.

6. Maintenance Plan for Bio-retention Basin Providing Stormwater Treatment and Runoff Control

A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-20-0216, the permittee shall submit, for the review and written approval of the Executive Director, a final plan for the maintenance of the bio-retention basin that will provide stormwater treatment and runoff control for stormwater runoff from 21,380 ft² of impervious pavement in the Arena Cove parking lot as depicted in [Exhibits 3 and 4](#) of the staff recommendation. The plan shall demonstrate the following:

- i. Monitoring & Maintenance:
 - a. All vegetation planted within the bio-retention basin shall be maintained in a healthy growing condition throughout the life of the project and shall be promptly replaced with new vegetation whenever necessary.
 - b. Only native plant species shall be planted within the bio-retention basin. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or the State of California shall be planted or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Government shall be planted or allowed to naturalize or persist within the bio-retention basin.
 - c. The bio-retention basin shall be maintained in a litter-free and weed-free condition throughout the life of the project.
 - d. The use of landscaping chemicals (i.e., pesticides, herbicides, and fertilizers) in maintenance of the bio-retention basin shall be minimized to the extent feasible, to minimize the discharge of pollutants to coastal waters.
 - e. The inlet to the overflow drain shall be kept free of litter, landscaping debris, and any other material that may clog the inlet.
 - f. Routine maintenance of the bio-retention basin shall be conducted monthly, at a minimum, including a visual inspection of the bioretention basin to ensure the basin is free of litter and weeds, the planted vegetation is in a healthy growing condition, and the

inlet to the overflow drain is kept free of material that may clog the inlet.

- ii. Documentation: The City of Point Arena shall keep a maintenance log for the bio-retention basin that documents all inspections and maintenance activities that have been conducted. Any corrective actions, repairs, or replacements shall be documented in the maintenance log. The log shall be available for inspection upon request by the Executive Director of the Coastal Commission.

- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Maintenance Activities and Future Alterations. The permittee shall maintain the armoring structure for the life of the structure. The authorized structure may be maintained in its authorized as-built state, subject to the following:

- A. Routine Maintenance Required. The permittee shall remove or redeposit any debris, rock, concrete or other material that becomes dislodged as soon as possible after such displacement occurs. The permittee shall contact the Coastal Commission's North Coast District Office immediately upon discovery to determine whether such activities require a coastal development permit.
- B. Definition. "Maintenance" as it is understood in this special condition means development that would otherwise require a CDP the purpose of which is to maintain in the approved state the armoring structure authorized under this permit. Proposed activities that add to, enlarge, extend, heighten, or otherwise expand the authorized structure in any way shall not be considered maintenance and shall require an amendment to this permit or a new CDP depending on the nature and extent of the proposed activities.
- C. Other Agency Approvals. The permittee acknowledges that these maintenance stipulations do not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes.
- D. Maintenance Notification. At least 30 days prior to commencing any maintenance event, the permittee shall notify in writing the planning staff of the North Coast District Office. The notification shall include: (i) a detailed description of the maintenance event proposed; (ii) any plans, engineering and/or geology reports describing the event; (iii) a construction plan that complies with all aspects of the approved construction plans (SHN Consulting Engineers & Geologists, Inc., dated 05/2019); (iv) any other required agency authorizations; and (v) any other supporting documentation describing the

maintenance event. The maintenance event shall not commence until the permittee has been informed by planning staff of the North Coast District Office that the maintenance event complies with this CDP. If the permittee has not been given an oral response or sent a written response within 30 days of the notification being received in the North Coast District Office, the maintenance event shall be authorized as if planning staff affirmatively indicated that the event complies with this CDP. The notification shall clearly indicate that the maintenance event is proposed pursuant to this CDP and that the lack of a response to the notification within 30 days constitutes approval of it as specified in the permit. In the event of an emergency requiring immediate maintenance, the notification of such emergency episode shall be made as soon as possible and shall (in addition to the foregoing information) clearly describe the nature of the emergency. The permittee shall take all legally required follow-up activities, and in no event take steps beyond the minimum required to abate the immediate emergency episode, and in compliance with all Coastal Act policies insofar as possible given the situation. The permittee shall document all steps taken in a written report, including photos, to be submitted within 3 days of the action undertaken pursuant to this section.

- E. Maintenance Coordination. Maintenance events shall be coordinated to the degree feasible with other maintenance events proposed in the immediate vicinity with the goal being to limit coastal resource impacts, including the length of time that construction occurs in and around the beach and creek area and beach access points. As such, the permittee shall make reasonable efforts to coordinate the permittee's maintenance events with other adjacent events, including adjusting maintenance event scheduling as directed by planning staff of the North Coast District Office.
- F. Noncompliance Provision. If the permittee is not in compliance with the terms and conditions of any Coastal Commission CDP or other coastal authorizations that apply to the subject armoring structure at the time that a maintenance event is proposed, then the maintenance event that might otherwise be allowed by the terms of this future maintenance condition shall not be allowed by this condition until the Executive Director provides a written determination that the permittee is in full compliance with all terms and conditions.

- 8. Removal or Modification if No Longer Needed.** In the event the armoring structure is no longer needed to protect the existing coastal dependent structures (i.e., the existing parking lot, commercial fishing related structures), the permittee shall apply for a CDP with an analysis of the feasibility of removing the hard components of the structure (e.g., concrete seawall, jetty rock). Such application shall include an alternatives analysis, including professional opinions from a qualified biologist and engineer, that examines how to best protect the riparian

habitats. If the Commission approves such a CDP, the permittee shall implement any removal or structural modifications authorized and required.

- 9. Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this permit, the permittee acknowledges and agrees (A) that the site may be subject to hazards from waves, storms, flooding, erosion, earth movement, and other natural hazards, many of which will worsen with future sea level rise; (B) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (C) 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 (D) 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.

10. Protection of Archaeological Resources.

- A. AT LEAST TWO WEEKS PRIOR TO COMMENCEMENT OF GROUND-DISTURBING ACTIVITIES, the permittee shall (i) notify the Manchester Band of Pomo Indians; (ii) invite tribal representatives to be present and to monitor ground-disturbing activities; and (iii) arrange for a qualified archaeological monitor to be present to observe ground-disturbing activities. The monitor shall have experience monitoring for Pomo tribal cultural resources during excavation projects, should be competent to identify significant resource types, and should be aware of recommended tribal procedures for the inadvertent discovery of human remains.
- B. If an area of cultural deposits is discovered during construction, all construction work shall cease and shall not recommence except as provided in subsection (C) hereof, and the permittee shall retain a qualified cultural resource specialist to analyze the significance of the find. The archaeologist shall immediately notify the THPOs of the Manchester Band of Pomo Indians.
- C. Prior to recommencing construction following the discovery of cultural deposits, the permittee shall prepare a supplementary archaeological plan prepared in consultation with tribal representatives from the Manchester Band of Pomo Indians for the review and written approval of the Executive Director.
 - i. If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed

development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director.

- ii. If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

11. State Lands Commission Review. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0216, the permittee shall provide to the Executive Director a written determination from the State Lands Commission that: (A) no State or public trust lands are involved in the development; or (B) State or public trust lands are involved in the development and all permits required by the State Lands Commission have been obtained; or (C) State or public trust lands may be involved in the development, but, pending a final determination, an agreement has been made with the State Lands Commission for the approved project as conditioned by the Commission to proceed without prejudice to that determination.

12. U.S. Fish and Wildlife Service (USFWS) Section 7 Consultation. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0216, the permittee shall provide to the Executive Director the results of the Section 7 Consultation between FEMA and USFWS that analyzes the potential for project activities to result in a taking of the federally listed Point Arena Mountain Beaver. The permittee shall inform the Executive Director of any changes to the project required by the USFWS. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description

The City proposes development to repair storm damage to portions of the parking lot that serves Arena Cove, a small commercial and recreational fishing harbor. The repairs include reinforcing and expanding an existing seawall and rock revetment and raising a portion of the parking lot for further protection and drainage enhancement. Specifically, the proposed development includes the following (see [Exhibit 3](#) for project plans):

- (1) Raise the height of an existing seawall by attaching a 2-foot-tall by 2-foot-wide concrete seating bench atop the existing 73-linear-foot (lf) section (currently flush with

the parking lot height) and (2) extend the existing seawall a total of 232 feet inland by replacing an existing asphalt concrete (AC) sidewalk with a continuous concrete bench that includes (a) a 134-foot-long section that is 3 feet wide and 2 feet tall with footings extending 5 feet or more below ground, and (b) a 98-foot-long section that is 2 feet wide and 2 feet tall with footings extending 3 feet below ground;

(2) augment the existing approximately 1,000 cubic yards of jetty rock with an additional 85 cubic yards of larger, adequately sized rock with no expansion of rock footprint. A portion of the originally placed jetty rock has been shifted slightly over time, and the proposed larger jetty rock would be strategically placed next to the parking lot and seawall in order to provide additional dissipation of swell energy before waves reach the seawall and parking lot;

(3) raise by up to 18 inches and regrade a 17,760-square-foot section of the existing asphalt parking lot; and

(4) install a new, 1,020-square-foot bio-retention facility along the southeastern edge of the parking lot to treat runoff. The bio-retention facility would be contained within a 6-inch concrete wall and would consist of a gravel layer, a layer of soil mix, and native plants.

All work would be confined to existing paved and rock areas, and there would be no expansion of armoring infrastructure onto beach, wetland, or creek areas. The City has proposed various mitigation measures and “Best Management Practices” as part of the project application, including, but not limited to, measures to protect Arena Creek and the adjacent riparian habitat during construction activities, measures to protect Point Arena Mountain Beaver-occupied habitat, and monitoring and maintenance of the proposed bio-retention basin.

B. Background and Environmental Setting

Point Arena is a small incorporated city on the southern Mendocino Coast. Arena Cove, a small sheltered harbor approximately three miles south of the geographic peninsula known as Arena Point, is the primary coastal access point within the city limits, located approximately one mile west of Highway One and the commercial core of the City, at the mouth of Arena Creek. The original pier was built in 1866 to support local fishing fleets and the transport of lumber. Heavy storm waves in January 1983 destroyed the pier and a fish-packing house and damaged a café and boathouse. Construction of a new 325-foot-long municipal pier and associated parking access and boat storage was approved by the Commission under CDP 1-85-039 in May of 1985 and included a skiff hoist and storage for 25 skiffs, a 5-ton hoist for launching and retrieving boats, fish cleaning stations, an articulated gangway/boarding system to allow access from the pier to the launched boats, and associated vehicular parking for public coastal access. The pier construction also included the placement of approximately 1,000 cubic yards of armor rock (“jetty rock”) around the landward end of the pier as well as a section of seawall with deep (~5-foot-deep) footings behind the jetty rock to project the parking lot

from flooding and erosion during extreme wave events and storm activity. In addition to the above facilities, today the Cove area also is developed with 17 mooring buoys, a small office for pier operations with an adjoining public restroom and shower facility near the shore end of the pier, a National Oceanic and Atmospheric Administration (NOAA) weather and tidal station, 54 parking spaces plus boat storage parking, and (landward of the pier, on adjacent private properties on the north side of the Cove), a restaurant, shops, professional offices, and visitor-serving lodging facilities in the historic pier master's house and Coast Guard house.

Facilities at Arena Cove were again damaged by a January 15, 2016 storm that produced unusually large waves. As a result of the storm, the parking lot, integral seawall, the flanking jetty rock, and adjacent rock cobble shoulder were damaged. The damage was classified by the Federal Emergency Management Agency (FEMA) as a disaster. To address damages caused by the most recent 2016 storm, and to prevent further damage from future winter storms, the City proposes to repair and enhance protective devices associated with the public fishing pier, boat launch, parking lot, and associated buildings. The proposed repairs are funded by FEMA.

The majority of the subject City-owned, 2.1-acre parcel is developed as a parking and boat storage facility to serve the City's commercial and recreational fishing pier and to provide public access to Arena Cove. Arena Creek, which flows immediately south of the project area, supports a well-developed willow-dominated riparian woodland with a mixed understory comprised of native and non-native species.

Arena Creek and its associated riparian habitat support several special-status plant and animal species. Most notably, the federally endangered Point Arena Mountain Beaver (PAMB) resides in burrows along the creek canyon, primarily on north facing slopes.

The parking area and fishing facility historically were developed on alluvium deposited at the mouth of Arena Creek. Steep and eroded shale bluffs rise to the north and south of the Cove area confining Arena Creek to a narrow canyon. A small cobbly pocket beach is located south of the project site.

Popular recreational activities at Arena Cove include surfing, kayaking, beachcombing, picnicking, abalone diving, and fishing from the municipal pier.

C. Standard of Review

The project site is located entirely in the Commission's retained permit jurisdiction. The City of Point Arena has a certified Local Coastal Program (LCP), but the site is within an area shown on State Lands Commission maps over which the State retains a public trust interest. Therefore, as required by Public Resources Code section 30519(b) and Commission regulation 14 CCR section 13166(c), the standard of review is the Chapter 3 policies of the Coastal Act.

D. Other Agency Approvals

U.S. Army Corps of Engineers (Corps)

The Corps determined on April 28, 2020, that the project qualified for a Nationwide permit (NWP 3 - Maintenance).

North Coast Regional Water Quality Control Board (RWQCB)

The RWQCB issued a Water Quality Certification for the project on June 10, 2020 (No 1B20065WNME).

California Department of Fish and Wildlife (CDFW)

The CDFW granted a Streambed Alteration Agreement for the project on August 7, 2020 (No. 1600-2020-0184-R1).

State Lands Commission (SLC)

The SLC has direct jurisdiction and authority over ungranted sovereign tidelands and submerged lands underlying the State's navigable waterways (ocean, bays, sloughs, lakes, and rivers) as well as over lands subject to the public trust. The project area includes lands that may be subject to the public trust. To ensure that the Permittee has the legal ability to undertake all aspects of the project on these public lands, the Commission attaches **Special Condition 7**. This condition requires that the project be reviewed and where necessary approved by the SLC.

E. Protection of Commercial Fishing & Recreational Boating Facilities

Section 30224 of the Coastal Act states the following (emphasis added):

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234 of the Coastal Act states, in applicable part, the following (emphasis added):

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded...

Section 30234.5 states:

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

As discussed above in Finding IV(A), Arena Cove has long been used as a launch site for commercial and recreational fishermen since the original construction of the cove area in 1866. As discussed above, commercial fishing and recreational boating facilities in the Cove continue to operate and occupy a large portion of the parking lot and associated infrastructure. The pier is the only commercial fishing boat launching facility between Fort Bragg (45 miles north) and Bodega Bay (62 miles south), and a portion of the parking lot is allocated for the dry storage of commercial fishing vessels that use the pier's hoist launch to operate. The City of Point Arena General Plan highlights Arena Cove as a special area to be reserved for commercial activities in conjunction with commercial and recreational fishing. The General Plan states that "The City of Point Arena, recognizing the key role that commercial and recreational fishing and boating plays in the local and regional coastal economy, shall continue to encourage the enhancement of coastal dependent industry at Arena Cove by assigning a high priority status to improvement and/or expansion of existing coastal or marine dependent uses at Arena Cove as well as encouraging new uses which directly enhance or supplement the existing commercial/recreational boating and fishing opportunities at the Cove."

The proposed parking lot seawall project will protect and upgrade commercial fishing facilities at Arena Cove. The extended seawall will better protect the parking lot during heavy storms and will reduce the potential for damage that could close Arena Cove and, as a result, halt commercial fishing activities. Storm damage to the parking lot resulted in the loss of ten parking spaces. The proposed parking lot repair will restore these parking spaces. The construction of the bio-retention basin will remove four existing parking spaces, which will result in a net gain of six parking spaces. The restored parking spaces will increase the availability of parking nearest to the pier and increase the overall available area for parking commercial vehicles, trailers, boats, and dry storage for commercial and recreational fishing equipment.

Project construction will not interrupt commercial or recreational fishing activities and will not interfere with any major commercial fishing seasons. Fishing operations will have continued access to the pier, hoist, and dry storage areas. Further, in recognition of the importance of such activities, this project will improve and protect the facilities used for both commercial and recreational fishing.

Therefore, the Commission finds that the project as conditioned will protect and upgrade the existing boat launching facility that serves commercial fisheries and recreational boating, consistent with Coastal Act sections 30224, 30234, and 30234.5.

F. Stream Alteration/Bluff Protection

Coastal Act section 30235 states, in applicable part, as follows (emphasis added):

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30236 states (emphasis added):

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30253 states in applicable part:

New development shall do all of the following:

- (a) Minimize risks to life 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 project will substantially alter a stream (Arena Creek) by raising and extending a reinforced concrete seawall designed as a bench to reduce flood impacts to the parking lot from high creek flows during winter storms. The bench structure will consist of vertically and longitudinally reinforced concrete atop reinforced concrete footings that will extend through the existing pavement three to six feet below the existing perimeter of the parking lot for a length of 307 linear feet. The concrete bench will limit the ability of the stream bank to meander inward (east) and erode the parking lot.

As cited above, section 30236 allows for substantial alterations of rivers and streams for only three purposes, none of which are applicable in this case. Although the proposed project will, as discussed below, minimize flood risks, the project is not the only method feasible for protecting existing structures in the floodplain and is not necessary to protect public safety or existing development. Rather than expand the seawall for flood control, the City could protect public safety by closing the parking lot during seasonal winter storms, when beachgoers and commercial fishermen are already less likely to be using the Cove amenities due to stormy weather. However, reading the above-cited

policies together, the project may be permitted under section 30235 even if it is inconsistent with section 30236 if it can be found: (1) to be necessary to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion; and (2) if it is designed to eliminate or mitigate adverse effects on shoreline sand supply.

With respect to the first test, the project is necessary to serve coastal dependent uses. As discussed above, the Point Arena Cove is the primary coastal access point within the city limits. The cove area supports coastal dependent uses, including commercial and recreational fishing, the fishing-related pier, fish cleaning stations, two boat hoists, two product hoists, a paved boat storage area, and an office for pier operations. As discussed above, the Commission previously approved a CDP for protective devices at the Cove, including the existing jetty rock and the existing portion of the deep-footed seawall to protect the existing and new coastal-dependent facilities¹.

As discussed in the Project Description (Section A) above, the proposed seawall and augmentation to the rock revetment are intended to address FEMA-classified damages caused by a January 15, 2016 storm that produced unusually large waves. As a result of the storm, the parking lot, a section of an existing integral seawall, the flanking jetty rock, and adjacent rock cobble shoulder were overwashed and damaged. Jetty rock acts as the primary swell energy dissipater that protects the parking lot and adjacent structures from storm damage. Storm waves moved the jetty rock surrounding the pier and re-distributed portions of it away from the parking area towards the ocean, where it settled onto the rocky intertidal area. The concrete seawall that acts as a second line of defense against flooding and storm damage was also compromised during the 2016 storm. Much of the seawall was either cracked or, in some locations, completely separated from its location and lifted onto the adjacent parking lot. A rock cobble shoulder that separates Arena Creek from the parking lot was pushed upwards towards the parking lot at a low point, allowing Arena Creek to inundate the parking lot and deposit debris during the 2016 storm and subsequent storms.

As discussed above, the proposed project includes raising the existing section of seawall and extending the concrete seawall an additional 232 linear feet inland. The top of the wall will be constructed in the form of a bench for public use.

The project also includes raising a portion of the concrete parking lot to address flooding impacts and ensure appropriate drainage of the parking lot to a new bio-retention basin rather than the ocean. The additional height and extension of the existing seawall integrated with the raised bench will minimize the potential for extreme storm surge events to overtop the existing wall and flood the parking lot.

¹ William Rich and Associates, Cultural Resources Investigation, April 2020

Pursuant to section 30235, the seawall and revetment augmentation must be permitted if required to protect an existing threatened structure, coastal-dependent use, or public beach. In this case, the seawall and revetment augmentation are designed to protect the coastal-dependent commercial fishing uses of the paved portion of the cove. The Commission must therefore analyze project alternatives and ensure that the project is the least environmentally damaging feasible alternative that can serve to achieve the stated goal of protecting the threatened coastal-dependent uses. Alternative designs to the seawall that were analyzed include:

- i. No Project Alternative: A no project alternative would mean that no new seawall would be constructed, the parking lot would not be repaired or raised, and no new bio-retention facility would be installed to treat parking lot runoff. Under this alternative, the parking lot would continue to flood during storm events and portions of the parking lot would remain unavailable for public access, commercial fishing, and City events. The City asserts that the no project alternative would put the culturally and economically significant Arena Cove at risk and would threaten the availability of the sole coastal access point for commercial and recreational fisherman, surfers, residents, and tourists. The unrepaired parking lot would continue to deposit chunks of concrete and parking lot fill into coastal waters, and with the absence of the proposed bio-retention basin, untreated parking lot water would continue to flow into Arena Creek and the ocean. Therefore, the no project alternative would not meet the project objectives of protecting coastal dependent uses from continued damage and is not a feasible less environmentally damaging alternative to the proposed development as conditioned.
- ii. Reduced Parking Lot Alternative: The City also considered an alternative that would reduce the area of the parking lot and new seawall. Under this alternative, construction activities and new fill material would be located further inland and outside of Arena Creek's ordinary high water mark (OHWM). This alternative would reduce the size of the parking lot and, in turn, the number of available parking spaces. The parking lot currently fills to capacity during peak commercial and recreational fishing season. The reduced parking lot alternative would limit the public's ability to use the parking lot and associated coastal dependent uses and would potentially be inconsistent with Coastal Act sections 30210, 30220, and 30223, which require that coastal areas suitable for recreation shall be protected and that maximum public access and recreation shall be maintained. The footprint of the extended seawall and new bio-retention facility as proposed will be limited to the existing paved parking area, and the project will maintain the maximum feasible buffer distances from adjacent sensitive habitat areas. Therefore, a reduced parking lot alternative is not a feasible less environmentally damaging alternative than the proposed project as conditioned.
- iii. Repair Alternative: A third alternative would be to repair the parking lot and not extend the seawall or lift the parking lot. The City has observed damage

to the parking lot during heavy winter storms, and winter storms are expected to occur more frequently and with more intensity due to sea level rise. Therefore, it is expected that a repaired parking lot would soon be damaged again and would not meet the project objectives of protecting coastal dependent uses from continued damage from wave overtopping and scouring. Therefore, a parking lot repair alternative is not a feasible less environmentally damaging alternative than the proposed project as conditioned.

Therefore, the Commission finds that the proposed armoring rock and reinforced and expanded seawall are necessary to protect coastal-dependent uses and supporting infrastructure from flooding impacts and represent the least environmentally damaging feasible alternative.

The second test of section 30235 is that seawalls and other projects that alter natural shoreline processes must be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. In its review of a project's impact on local sand supply, the Commission considers three components: (1) the encroachment of an area of beach or shoreline that is physically occupied by the armoring structure and thus cannot be used for other purposes like public access and recreation; (2) the hardening or "fixing" of the back of the beach such that the beach cannot migrate inland and is eventually lost to erosion; and (3) the sand retention impact resulting from armoring of a shoreline that prevents natural erosion of any bluff or dune features that backs the beach.

The project has been designed to eliminate adverse impacts on local shoreline supply, in part, by siting new development within the footprint of the existing pavement rather than expanding the horizontal footprint onto the adjacent cobbly beach. Because the extended seawall and augmented rock revetment will be located within an existing fill pad, these improvements will not result in the retention of any additional sand that would otherwise have benefited the beach. In addition, the new seawall will be embedded in existing nonnative fill material and therefore will not prevent the natural sand (or cobble, as the case may be) source from reaching the beach.

The permittee investigated the soils within an eight-foot deep test pit in the parking lot footprint, in an area representative of the proposed seawall. The test pit showed non-native fill down to four feet below ground surface (bgs), followed by a stiff clay layer from four to eight feet bgs. Bedrock material was not found in the excavated test pit and therefore is assumed to be located below eight feet bgs across portions of, if not all of, the parking lot. New footings are proposed to extend to a maximum depth of six feet bgs and above the expected layer of bedrock. Ultimately over the long term, as sea level rises, the seawall will not prevent future inland migration of the beach, because it will eventually be undermined by scour and therefore will not completely "fix" the back of the beach, allowing for natural erosion. Therefore, the Commission finds that the project as proposed has been designed to eliminate or mitigate adverse impacts on local shoreline supply, consistent with the requirements of section 30235.

With respect to consistency with the requirements of section 30253, the project has been designed to avoid overtopping of the paved area of the cove by waves and storm surge to prevent inundation and subsequent erosion and destruction of the coastal dependent use area. Therefore, the development will minimize risk to life and property in an area of high flood risk consistent with section 30253(a).

Because the subject CDP serves to authorize the structure on a long-term basis, in order for the Commission to find the project consistent with the Coastal Act's hazards policy, the City must monitor and maintain the shoreline armoring project for the life of the project, particularly after major flooding events, which have the potential to damage the structure and/or Arena Creek morphology. Accordingly, **Special Condition 3** requires monitoring and maintaining the structure as long as it remains in place. If the structure is no longer necessary to serve coastal-dependent uses, **Special Condition 4** requires an assessment of the feasibility of removing or modifying the structure. In addition, **Special Condition 5** requires the City to assume the risks of extraordinary erosion, flooding, and geologic hazards and waive any claim of liability on the part of the Commission. The condition also requires the permittee to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards.

As conditioned, the Commission finds the project is consistent with section 30253, which requires that risks to life and property be minimized, that stability and structural integrity are assured, and that the proposed project neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area.

Based on the above discussions, the Commission concludes that, as conditioned, the project is required to protect coastal-dependent uses, will not adversely affect shoreline sand supply, includes best mitigation measures feasible, and minimizes flood hazards. Therefore, the Commission finds that the project is consistent with sections 30235 and 30253.

G. Development Within Wetlands

Section 30233 of the Coastal Act provides, in applicable part, as follows (emphasis added):

- a. The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
 - (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
 - (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
 - (4) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
 - (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
 - (6) Restoration purposes.
 - (7) Nature study, aquaculture, or similar resource dependent activities.
- b. Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.
 - c. In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...

Section 30233 requires that a project involving the diking, filling, or dredging of wetlands be one of the above seven enumerated uses, be the least environmentally damaging feasible alternative, and provide maximum feasible mitigation. Section 30108.2 defines fill as the placement of earth or other substance or material in a submerged area. The proposed development includes temporary construction impacts and the placement of portions of the new jetty rock below the ordinary high water mark (OHWM) of Arena Creek. The project also includes vegetation removal along the adjoining riparian area to facilitate construction access.

Most of the proposed shoreline armoring project will occur within the footprint of the existing paved parking lot. Concrete footing form work will involve a one-foot-wide area of temporary disturbance offset beyond the existing pavement edge along the entire 307-linear-foot length, but less than one square foot will fall within the ordinary high water mark (OHWM) of Arena Creek (see [Exhibit 5](#)). The area subject to temporary disturbance consists of a typically dry (except during high flows in the winter/rainy season) cobbly area that will have cobbles replaced following construction and will be restored to pre-project conditions. In addition, the project proposes to place 85 tons of new armor rock within the footprint of existing armor/jetty rock between the beach and

the parking lot. The majority of the new rock will be placed above the OHWM of the creek and above the Mean High Tide Line, but out of the approximately 10,000-square-foot total area of jetty rock, approximately 600 square feet will fall within the OHWM of Arena Creek. Portions of the existing jetty rock are already located within the OHWM of Arena Creek, and the project proposes to place new jetty rock on top of the existing rock, increasing the vertical footprint of fill in the wetland. In sum, the project proposes 600 square feet of wetland fill that must be evaluated for conformity with section 30233(a)

b. Allowable Uses

The proposed fill in wetlands as summarized above is an allowable use under section 30233(a)(1) as an expanded coastal-dependent facility, and specifically a commercial fishing facility. As previously discussed in Finding E above, the Arena Cove area supports a diverse marine industry with a major portion devoted to commercial boating and fishing. The proposed augmentation of the existing rock revetment and expansion of the seawall will protect the parking lot serving these coastal dependent uses from damage during heavy storms.

Therefore, the Commission finds that for the reasons discussed in this section and above in Finding E, the proposed fill in coastal wetlands for the proposed parking lot seawall is for a commercial fishing facility and thus is an allowable use pursuant to section 30233(a)(1) of the Coastal Act.

c. Alternatives

For projects involving diking, dredging, and filling of wetlands, the Commission must ensure that there is no feasible less environmentally damaging alternative to the diking, dredging, and filling aspects of a project. Coastal Act section 30108 defines “feasible” as “...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” In this case the Commission must consider whether there are any feasible less environmentally damaging alternatives to the placement of 600 square feet of additional rock fill material below the OHWM of Arena Creek. Alternatives considered include the following:

- i. No addition of new jetty rock: An alternative to the placement of new jetty rock below the OHWM would be to limit the project to the proposed seawall improvements within the upland areas. Portions of the originally placed jetty rock have become displaced and no longer serve to diminish storm swells before they reach the parking lot. In addition, the approximately 600-square-foot area where new rock is proposed below the OHWM is where Arena Creek seasonally flows at its closest point from the edge of the parking lot and is also where ocean waves frequently crash over the existing jetty rock and into the parking lot. Therefore, new rock will provide the greatest level of protection if it is placed in this location and below the OHWM. Without

augmentation with additional rock, this area will continue to erode, eventually undermining and causing further erosion of the parking lot. Therefore, not placing the proposed eighty-five cubic yards of new jetty rock is not a feasible less environmentally damaging alternative to the proposed project, as conditioned, as it will not meet the project goal of protecting the commercial fishing facilities.

- ii. Expanding coverage of jetty rock: The City has indicated that expanding the jetty rock over a larger area could provide even more protection. However, placing new jetty rock along the beach and outside of its current horizontal footprint would increase wetland impacts. Therefore, the expanded jetty rock alternative is not a feasible less environmentally damaging alternative to the proposed project, as conditioned.

The Commission concludes that, as conditioned, the project is the least environmentally damaging feasible alternative and consistent with the alternatives test of section 30233(a).

d. Feasible Mitigation Measures

In addition to requiring that diking, dredging, and filling in coastal wetlands and waters only be permitted if found to be an allowable use and the least environmentally damaging feasible alternative, section 30233 further requires that feasible mitigation measures be provided to minimize adverse environmental effects. In addition, the project must maintain and enhance the functional capacity of coastal wetlands and waters consistent with section 30233.

The placement of 600 square feet of new rock within the OHWM will occur within the existing footprint of rock and will not increase the overall area of wetland fill associated with the parking lot armoring structures. No new wetland areas will be filled.

The Applicant has designed the project with minimal impacts to wetland and riparian habitats and has proposed several measures to further minimize any adverse environmental effects. **Special Condition 1** outlines BMPs proposed by the Applicant (Condition 1A) and additional measures imposed by the Commission (Condition 1B) to protect water quality and adjacent sensitive habitat areas. Measures proposed by the Applicant and required by the condition include, but are not limited to, the following: (1) restricting construction activities below the high water mark to periods of low tides only; (2) covering all onsite stockpiles to prevent sediment and pollutants from running off during periods of rainfall; (3) using wildlife-friendly erosion control products that will not entrap wildlife or contain synthetic netting that could degrade and contribute to marine debris pollution; and (4) using appropriate Best Management Practices (BMPs) for concrete paving and grinding operations. While the measures proposed by the Applicant are appropriate, in some cases they do not go far enough or include enough detail to ensure that appropriate feasible measures are included to minimize adverse environmental effects. For example, no measures are proposed related to equipment

fueling, maintenance, or washing to ensure such activities are set back sufficiently from wetlands and coastal waters to adequately protect these areas. Thus, these added requirements, among others, are included in Special Condition 1B. Among other things, this condition requires that fueling and maintenance of construction equipment be sited at least 100 feet from coastal waters, that equipment washing shall occur offsite only, and that drip pans shall be used for stationary equipment to capture any drips or leaks and prevent such pollutants from potentially entering coastal waters and wetlands.

Therefore, the Commission finds that the proposed project, as conditioned, provides feasible mitigation measures to minimize adverse environmental effects consistent with section 30233(a).

e. Biological Productivity and Functionality

The fourth general limitation set by section 30233(c) is that any proposed dredging or filling in coastal wetlands or estuaries must maintain or enhance the functional capacity of the wetland.

The mitigation measures incorporated into the project and required by the special conditions discussed above will ensure that the project will not have significant adverse impacts on coastal waters or wetlands in and around the project vicinity. As discussed below in Finding H, the project proposes to install a new bio-retention basin to capture and treat parking lot runoff. Therefore, the Commission finds that the project, as conditioned, will maintain and enhance the functional capacity of wetlands consistent with the requirements of section 30233 of the Coastal Act.

Conclusion

For all of the reasons set forth above, the Commission thus finds that the proposed project, as conditioned, is an allowable use, that there is no feasible less environmentally damaging alternative, that feasible mitigation measures will be provided to minimize adverse environmental effects associated with the filling of coastal wetlands, and that the functional capacity of the wetland will be maintained. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with section 30233 of the Coastal Act.

H. Water Quality

Section 30230 of the Coastal Act states:

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 of the Coastal Act states:

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

Section 30232 of the Coastal Act states:

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.

a. Construction-related water quality impacts:

The project involves construction adjacent to Arena Creek and the Pacific Ocean that could result in sediment, debris, or hazardous materials entering coastal waters and impacting sensitive fish species, marine mammals, and other aquatic resources. Arena Creek is a small year-round stream that historically supported steelhead populations and likely continues to support special-status fish species.

As previously discussed, the City has proposed a number of BMPs to be implemented during construction to protect water quality, control sediment and erosion, and prevent leaks and accidental spills, including, but not limited to: (1) restricting construction activities occurring below OHWM to occur during low tides; (2) staging construction materials in the flat, paved designated staging areas; (3) containing stockpiles at all times and covering before the onset of precipitation; (4) disposing of all construction debris at an authorized upland disposal location within 10 days of project completion and/or prior to the onset of the rainy season, whichever is earlier; (5) ensuring that hazardous materials management equipment, including oil containment booms and absorbent pads, are available and immediately on-hand at the project site; and (6) training equipment operators in procedures to be taken should accidental spills occur. Special Condition 1A requires the Applicant to implement these measures as proposed. Also as discussed above, Special Condition 1B requires several additional water quality protection measures, including but not limited to: (1) limiting refueling of construction equipment to designated staging areas at least 100 feet from coastal waters; (2) requiring that drip pans be used for stationary equipment to capture any drips or leaks and to prevent such pollutants from potentially entering coastal waters and wetlands, and (3) maintaining heavy equipment in good condition free of leakage of coolant and petroleum products.

The Commission thus finds that the proposed development, as conditioned, will maintain the biological productivity and quality of coastal waters during construction consistent with sections 30230, 30231, and 30232.

b. Impacts on water quality from post-construction stormwater runoff:

The proposed development involves regrading and repaving approximately 21,380 sf of AC parking lot near Arena Creek. The existing parking lot will be raised eighteen inches above current grade at its highest point, and the new AC paving will slope down to the current grade to match the surrounding parking lot elevations. The regraded and repaved parking lot will direct surface flow to the proposed bio-retention basin, which will prevent stormwater runoff from conveying sediment, debris, and pollutants from flowing into Arena Creek or the ocean. The entire parking lot is currently covered with impermeable concrete, and the proposed project will not increase the amount of impervious surface area beyond current conditions.

The impervious surfaces of the parking lot block the natural infiltration of rainfall into the ground and prevent the filtration of pollutants that naturally occurs in soil, allowing pollutant transport to Arena Creek and the ocean.

To reduce this existing transport of pollutants to coastal waters, the proposed new 1,020-square-foot bio-retention basin is designed to treat parking lot runoff from the 85th percentile, 24-hour storm event. The basin will be located within a portion of the existing paved parking lot along its southeastern edge, adjacent to Arena Creek. In this area the current grade is particularly low, allowing for inundation where storm surge and Arena Creek meet. The parking lot drains via sheet flow from the east-west oriented Cove building to the south boundary. Proposed parking lot modifications will maintain the current flow regime but decrease the slope to a minimum, and direct parking lot drainage to the proposed bio-retention basin.

The proposed bio-retention basin has been designed to have a 1,020-square-foot footprint and a total overall depth of 48 inches. The depth is comprised of a 6-inch ponding/freeboard layer, an eighteen-inch soil layer with an assumed porosity/void ratio of 30%, and a 24-inch gravel/storage layer with an assumed porosity/void ratio of 35%. The required treatment volume for the bio-retention basin is based on a drainage management area (DMA) of 21,380 square feet. The total DMA includes 21,380 square feet of raised and replaced asphalt concrete, as well as 6,830 square feet of existing pavement that would convey stormwater to the facility, for a total DMA area of 28,210 square feet. However, the bio-retention basin has been designed to treat runoff from the area of raised and replaced asphalt concrete as opposed to the entire DMA. To treat the entire 28,210 DMA would require the removal of additional commercial boat parking spaces and would conflict with project goals of providing maximum public access and protecting the coastal-dependent use of the site. The proposed bio-retention basin has been designed so that the retained volume is greater than the total runoff volume and exceeds the minimum sizing factor stipulation in the California Phase II LID Sizing Tool Documentation Method.

To ensure that the bio-retention basin will be maintained to ensure that it will function effectively over time in filtering and infiltrating stormwater runoff to keep pollutants from washing into Arena Creek and the ocean, the Commission attaches **Special Condition 6**. This condition requires the submittal of a maintenance and monitoring plan for the bio-retention basin prior to CDP issuance that includes provisions for (1) planting only native species in the bio-retention basin and maintaining vegetation in a healthy growing condition throughout the life of the project, (2) monthly inspections to ensure that the bio-retention basin is kept free of litter and weeds and that the inlet to the overflow drain is kept free of clogging materials, and (3) record keeping of maintenance and inspections.

The Commission finds that, as conditioned, the proposed development will improve stormwater detention and infiltration at Arena Cove and will reduce the amount of stormwater pollutants entering Arena Creek and the Ocean. The Commission thus finds that the proposed development, as conditioned, will maintain and enhance the biological productivity and quality of coastal waters both during construction and post-construction consistent with sections 30230, 30231, and 30232.

I. Protection of ESHA

Section 30240 of the Coastal Act states:

- a. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- b. Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Environmentally sensitive habitat areas (ESHA) in the project vicinity include sensitive vegetation communities, freshwater wetlands and riparian areas, and active breeding habitat for the federally endangered Point Arena Mountain Beaver (*Aplodontia rufa nigra*; PAMB) throughout the Arena Creek watershed, including within 500 feet of the project site. A PAMB habitat assessment and survey and biological report was prepared for the project in 2020 (SHN, November 2020), and no PAMB were observed within the study area. However, the proposed project will directly impact riparian vegetation located along the parking lot's southwestern edge through selective willow trunk removal to allow for equipment access to work areas.

a. Development in ESHA

Section 30240(a) limits development within ESHA to only resource-dependent uses that will not result in significant disruption of habitat values. Riparian habitat along Arena Creek includes coast willow (*Salix hookeriana*) and pacific willow (*Salix lasiandra* var.

lasiandra), among other understory species. As noted in the biological assessment completed for the project, the riparian vegetation along Arena Creek provides nesting habitat for several species of birds and other important ecological functions for the creek resources. Project construction will affect three willow trees located between Arena Creek and the parking lot. Each of the three trees has multiple trunks that emerge from the ground. The City proposes to remove six total trunks from the three trees, ranging in diameter from four to twelve inches each. The tree trunk removal is proposed to allow access by construction equipment and personnel for seawall construction. [Exhibit 7](#) shows the relatively small area of willows that will be trimmed in relation to the much larger total footprint of willows along the parking lot edge. The six willow trunks to be removed will result in the removal of approximately 425-square-feet of canopy area. This amount represents approximately five percent of the total 8,000-square-foot area of willow canopy immediately adjacent to the parking lot. The proposed willow pruning will occur one time, prior to construction activities.

The proposed work within riparian ESHA is not for a resource-dependent use and therefore is not consistent with section 30240(a). However, reading this policy in conjunction with section 30235 of the Coastal Act discussed in Finding F above, the project may be permitted under section 30235 even if it is inconsistent with the uses allowed under section 30240(a), because the project (1) is necessary to protect coastal-dependent uses and supporting infrastructure from flooding impacts, and (2) has been designed to eliminate or mitigate adverse impacts on local shoreline supply. The access to the work site that necessitates the development within ESHA (i.e., the removal of 425 square feet of willows) is essential to the project's constructability.

Three special-status bird species are listed in the biological assessment and have a moderate or high potential of occurring within the project area². To avoid the potential disturbance to sensitive bird nesting habitat that may be present during construction, the Commission attaches **Special Condition 2**. This condition requires pre-construction surveys by a qualified biologist for any work conducted during the avian nesting season. If any sensitive bird ESHA is detected (i.e., detection of an active nesting area of a raptor or rare species), the biologist, in consultation with CDFW, shall determine the extent of a construction-free buffer zone to be established around the nest, and work in the buffer zone shall be delayed until after the young have fledged, as determined by additional surveys conducted by a qualified biologist.

Although section 30235 requires approval of the proposed project construction within the ESHA, the development must be found consistent with the other requirements of section 30240 to the maximum extent feasible, including the requirement that the development not result in significant disruption of habitat values within the ESHA. The

² Osprey (*Pandion haliaetus*) and great blue heron (*Ardea herodias*) have a high potential of occurring and California brown pelican (*Pelecanus occidentalis californicus*) has a moderate potential of occurring in the project area.

Applicant's biologist indicates that willows are resilient species and that the willows can be expected to resprout and fill in the clearing created by the trunk removal relatively quickly. To ensure that the pruned willows recover as anticipated from the selective pruning, the Commission attaches **Special Condition 3**. This condition requires the Applicant to monitor the affected willows for one year following the completion of vegetation pruning and to submit a monitoring report to the Executive Director detailing the health of the affected trees. If the report indicates that the affected willows have not fully recovered, Special Condition 3 requires the Applicant to replace willow tree vegetation adversely affected by project construction at a 2:1 ratio to compensate for temporal loss. As conditioned, the development will avoid significant disruption of the habitat values of the riparian area consistent with Section 30240(a).

b. Development Adjacent to ESHA.

Section 30240(b) requires that development adjacent to ESHA be sited and designed to prevent impacts that would significantly degrade the habitat and be compatible with the continuance of the habitat. As noted above, the development is located adjacent to areas consisting of PAMB habitat and to other portions of the riparian habitat not directly encroached upon by construction. The consistency of the proposed development adjacent to each of these ESHAs with the requirements of section 30240(b) is discussed below.

i. Point Arena Mountain Beaver habitat

The City's Local Coastal Program (LCP), Zoning Code section 5.24 discusses the importance of protecting the federally listed PAMB and its habitat. The LCP identifies several threats to PAMB, and threats relevant to this project include road construction and maintenance, public access and recreational use, and storm water run-off and irrigation. PAMB are particularly sensitive to disturbances in the form of noise and ground vibrations, and actions involving noise-generating activities within 500 feet of occupied habitat have the potential to harm the animals, especially during the breeding season of December 15 to June 15. The LCP, which is not the standard of review, but which may be used as guidance and is especially relevant for consideration of geographic-specific ESHA, such as PAMB habitat, requires species-specific surveys for proposed actions that involve noise-generating or habitat-modifying activities within PAMB habitat and the 500-foot buffer area.

PAMB habitat exists adjacent to and south of the project area within the willow habitat associated with Arena Creek. PAMB prefer areas with abundant herbaceous vegetation, particularly along north-facing slopes or gullies where soils are well drained and friable. They are typically found in riparian habitat, moist coastal scrub, and dune scrub comprised of a wide variety of brushy and herbaceous cover.³ The City contracted with

³ USFWS, "Point Arena Mountain Beaver Recover Plan" (1998)

local planning and engineering firm SHN to conduct PAMB habitat assessments⁴ including surveying for and mapping suitable habitat for PAMB within the vicinity of the project area, including indicator species.

The survey found no PAMB along Arena Creek in the vicinity of the proposed improvements, including no burrows or other evidence of PAMB. A portion of the north-facing bluff slope located on the opposite side of Arena Creek and approximately 240 feet south of the project area was not surveyed due to unknown property ownership and lack of permission. USFWS staff has confirmed that the unsurveyed habitat has been occupied by PAMB regularly since 1991. It is therefore assumed that the unsurveyed north-facing slope is occupied by PAMB, and appropriate protections are required to prevent impacts that would significantly degrade PAMB ESHA during construction.

The City has proposed protective measures consistent with the USFWS's Draft Point Arena Mountain Beaver Standard Protection Measures for "No-Take" Determinations. These measures, included in **Special Condition 1(A)(xi)**, limit the use of noise-generating equipment and require certain minimum buffer distances from unsurveyed suitable PAMB habitat, depending on the type of construction activity, and whether construction is occurring during the PAMB breeding season (December 15 – June 15). USFWS staff has reviewed the proposed protective measures and agrees that the proposed distances are adequate to protect PAMB and that proposed construction activities should have little to no impact on occupied habitat located over 200 feet away. Moreover, consistent with conditions imposed by other resource agencies, the City plans to restrict construction activities to the period of June 15 – October 15, outside of the PAMB breeding season.

While USFWS staff has provided technical assistance on the project and concurred that the project is not likely to result in PAMB disturbance, the Section 7 Consultation between FEMA (the project funder) and the USFWS is still pending. In the event that the final Section 7 Consultation results in a different set of recommendations than those required herein, **Special Condition 8** requires the City to obtain a CDP amendment for any resulting changes to the project that the Executive Director determines is legally required. For all of the reasons discussed above, the Commission finds that the proposed project, as conditioned, will not significantly degrade adjacent PAMB ESHA and is compatible with continuance of the habitat.

⁴ The PAMB surveys were conducted by a biologist who is USFWS PAMB survey trained and has three years PAMB surveying experience. Surveys employed methods described in the "Draft Guidelines for Project Related Habitat Assessments and Presence-Absence Surveys for the Point Arena Mountain Beaver" (USFWS, 2017a).

ii. Protection of riparian and wetland habitat

As previously discussed, the southeastern edge of the parking lot is located immediately adjacent to riparian and wetland habitat associated with Arena Creek. As discussed above in Finding D, **Special Condition 1** requires various BMPs and mitigation measures to protect water quality and prevent pollution and disturbance in surrounding riparian habitats. As conditioned, the development is designed and sited to prevent impacts that would significantly degrade the adjacent riparian ESHA and is compatible with continuance of the habitat. Therefore, the Commission finds that the proposed project as conditioned is consistent with the requirements of section 30240.

J. Public Access and Recreation

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 requires that access from the nearest public roadway to the shoreline be provided in new development projects, except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or where adequate access exists nearby. Section 30211 requires that development not interfere with the public's right of access to the sea where acquired through use or legislative authorization. Section 30214 provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying these sections, the Commission considers whether public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The proposed project is designed to protect existing public access and to enhance public access opportunities. Arena Cove is the only public beach access point within the City and is a popular venue for annual public events like the Fourth of July celebration and Harbor and Seafood Festival. Currently, seating is limited to a few scattered picnic benches. The proposed 307-foot-long concrete bench will serve as a new public access amenity and provide new seating areas for visitors to the cove. In addition, an access slot will be installed in the bench that will allow the public to pass through the concrete structure from the parking lot to the beach. During the busy season, the parking lot is often at full capacity. As previously mentioned, the project will restore previously damaged parking space and will result in a net gain of six parking spaces.

Construction of the project will result in temporary closure of portions of the public parking area, and portions of the parking lot will be unavailable for approximately 60 days during the total 120-day construction window. Alternative parking will be available in an adjacent parking lot directly east of the shops and along Port Road. The main access road to the parking lot and access to the pier will remain open throughout construction. Beach access will also remain open to the public throughout construction via the north side of the pier. Signage will indicate which areas of the parking lot are available for use during construction.

Therefore, as the project will enhance public access use, the temporary construction interference with public access and recreational use of the site will be limited to a relatively short duration, and as pedestrian and fishing access will be maintained to the site for the duration of the project, the Commission finds that the project, as conditioned, will not have a significant adverse effect on public access, and that the project as proposed is consistent with the requirements of Coastal Act sections 30210, 30211, and 30212.

K. Protection of Archaeological Resources

Coastal Act section 30244 states as follows:

Where development would adversely impact archeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The project area lies within the traditional territory of the Bokeya Pomo, a tribe of the Central Pomo. The Manchester Band of Pomo of the Manchester Rancheria, located four miles upstream from the coastal mouth of the Garcia River, consists of members of tribal groups known formerly as the Boya and the Bokeya who lived between the Russian River Valley and the coast.

A cultural resources investigation and report was completed for the subject property in April 2020 by William Rich and Associates (WRA). The investigation included a record search at the Northwest Information Center and a review of archaeological/historical reports and published literature pertinent to the project area. WRA referred the project to the Native American Heritage Commission and tribal representatives. A field survey was performed over the entire approximately five-acre project area on March 4, 2020. In addition, the Commission referred the project to the Manchester Band of Pomo on December 10, 2020 and notified the Tribes of the Commission hearing on January 22, 2021. To date, no comments have been received from any Tribe.

The cultural resource investigation did not find any archaeological, ethnographic or historic-period sites, artifacts, features or deposits at the project site that would be considered an historical resource, or a historic property. However, a known ancestral Pomo village exists in the general vicinity. The proposed project includes new seawall footings that will be dug to deeper depths below the existing surface. Given the proximity of the project area to a known archaeological resource, and because of the likely considerable cultural use of the Cove area, the cultural resources investigation recommended that a qualified archaeological monitor be present during project-related ground disturbance activities to ensure that any archaeological artifacts or features are quickly identified, evaluated and any impacts mitigated, as needed. **Special Condition 6** is attached to ensure protection of archaeological resources and reflects the recommendations from the cultural resources investigation.

The Commission finds that the proposed project, as conditioned, is consistent with section 30244, as the development includes reasonable mitigation measures to address adverse impacts to archaeological resources.

L. Visual Resources

Section 30251 of the Coastal Act states, in applicable part, as follows:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The site is within and adjacent to a public parking lot adjacent to the Pacific Ocean and a public beach at Arena Cove. The project will result in a new, two-foot-tall, 307-foot-long concrete bench along the southern end of the public parking lot, between the parking lot and the public beach. The concrete bench is consistent with similar infrastructure in the Arena Cove commercial area including existing concrete and wood picnic tables, jetty rock, and concrete flowerpots. As mentioned above in the ESHA section of the report, the project will result in temporary impacts to riparian willow vegetation through the pruning of six limbs off three willow trees to allow for project construction. The willows are expected to grow back successfully following project construction. In addition, the project proposes a new bio-retention facility, which will replace approximately 1,020-square-foot of existing paved parking area with native plants. The Commission, therefore, finds the project consistent with section 30251, because the project as conditioned will not significantly affect views, minimizes the alteration of natural land forms, and will be visually compatible with the character of the surrounding area.

M. California Environmental Quality Act (CEQA)

The City of Point Arena, as the lead agency, determined the project to be categorically exempt from CEQA review.

Section 13096 of the Commission's administrative regulations requires Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of environmental review under CEQA. (14 CCR § 15251(c).)

The Commission incorporates its findings on Coastal Act consistency as if set forth in full herein. No public comments regarding potential significant adverse environmental effects of the project were received by the Commission prior to preparation of the staff report. As discussed above, the project has been conditioned to be consistent with the policies of the Coastal Act. As specifically discussed in these above findings, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed development, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

1-20-0216 (City of Point Arena)

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

1. CDP Application File No. 1-85-039
2. City of Point Arena Certified Local Coastal Program