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STAFF REPORT: REGULAR CALENDAR

Application No.: 1-20-0261

Applicant: City of Eureka

Project Location: Along the shoreline of Humboldt Bay, off Waterfront Drive beneath the Highway 255 Bridge with offsite mitigation at "Parcel 4" behind the Bayshore Mall in Eureka, Humboldt County (APNs 002-241-006, 002-241-013, & 007-071-014).

Project Description: Improve an existing public boat launch facility by: (1) replacing a portion of an existing floating dock and installing a second floating dock; (2) demolishing and replacing an existing public restroom building with a new building containing public restroom facilities and storage for water rescue boats and equipment with associated utility connections; (3) installing ADA-compliant pedestrian pathways connecting the public boat launch facility to Waterfront Drive and the California Coastal Trail; (4) resurfacing and restriping the existing parking lot; (5) replacing signage; and (6) removing derelict piles at Parcel 4 as mitigation for 2.4 square feet of mudflat fill.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The City of Eureka proposes to improve the existing public boat launch facility located under the southern end of the Highway 255 Bridge on the shoreline of Humboldt Bay.

The facility was originally constructed in 1985 and a number of the proposed improvements are intended to extend the life of the development, including replacing a portion of an existing floating dock, resurfacing the parking lot, and replacing an existing 680-square-foot public restroom. The City also proposes to install a second floating dock at the boat launch to reduce conflicts between motorized and non-motorized vessels, install an ADA-compliant sidewalk along the western edge of the facility to connect the public boat launch and restroom to Waterfront Drive and the California Coastal Trail (CCT), and improve the CCT crossing of the boat launch facility with detectable warnings and striping. Overall, the proposed project will enhance the public's use and enjoyment of the Humboldt Bay shoreline and help maximize public access and encourage increased recreational boating, two priorities of the Coastal Act.

The proposed new floating dock requires the installation of three new twelve-inch-diameter piles in Humboldt Bay mudflat. To mitigate for the 2.4 square feet of additional fill, the City proposes to remove at least 2.4 square feet of derelict piles from mudflat along the shoreline of City-owned Parcel 4 prior to installation of the piles for the new floating dock. Commission staff recommends **Special Condition 9** to ensure piles are removed as proposed in a manner that is protective of surrounding habitat. In addition, given that native eelgrass (*Zostera marina*) beds are present in the project vicinity, the City has submitted a plan for avoiding eelgrass and monitoring and mitigating for unanticipated impacts to eelgrass involving the use of pre- and post-construction eelgrass surveys. Commission staff recommends **Special Condition 6** requiring a final eelgrass monitoring and mitigation plan for any unanticipated adverse impacts on eelgrass that includes detailed monitoring methods, clear standards for quantifying impacts triggering compensatory mitigation, and reporting requirements.

Construction of the project will result in the temporary closure of the boat launch and a portion of the California Coastal Trail (CCT). Staff recommends **Special Condition 13** requiring submittal of a Public Access Plan that demonstrates that the area and duration of public access closures are minimized and that the CCT is temporarily rerouted with adequate signage to inform the public of the detour.

Staff believes that the proposed project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act.

The Motion to adopt the staff recommendation of approval with conditions is found on Page 5.

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EXHIBITS

Exhibit 1 – Regional Location Map

Exhibit 2 – Vicinity Map

Exhibit 3 – Excerpts from 60% Construction Plans

Exhibit 4 – Excerpts from Soil and Groundwater Management Contingency Plan

MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit 1-20-0261 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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 to Approve the Permit:

The Commission hereby approves the Coastal Development Permit for the proposed project 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.

STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS

1. **Future Development Restriction.** This permit is only for the development described in coastal development permit (CDP) 1-20-0261. Accordingly, any future improvements to the development authorized by this permit, including, but not limited to, any improvement or change in use of the new building permitted for public restroom facilities and storage of water rescue boats and equipment shall require an amendment to CDP 1-20-0261 from the Commission or shall require an additional CDP from the Commission or the City of Eureka. In addition, thereto, an amendment to CDP 1-20-0261 from the Commission or an additional CDP shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and 14 CCR section 13252(a)-(b).
2. **Submittal of Final Plans.**
 - A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0261, the permittee shall submit, for the review and approval of the Executive Director, a set of final construction plans that are consistent with all special conditions of this coastal development permit and that substantially conform with the 60% plans and associated specifications prepared by Pacific Affiliates Consulting Engineers and dated December 4, 2020 (Exhibit 3). The permittee shall submit evidence that an appropriate licensed professional has reviewed and approved final foundation plans for the new public restroom/emergency aquatic response center, and certified that the final plans are consistent with the recommendations of a site-specific engineering geologic soils report.
 - B. The approved development shall substantially conform to the approved final construction plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
3. **Construction Responsibilities.** In accordance with the City's proposal, the permittee shall comply with the following construction-related requirements:
 - A. Timing of construction:
 - i. In-water construction shall be conducted only during the period of July 15th through October 15th to minimize conflicts with anadromous fish species;

- ii. Construction activities occurring below high-water mark shall be timed to occur during low tides;
 - iii. All work shall occur during the dry season (May 15th – October 15th); and
 - iv. All ground-disturbing activities and asphaltic-concrete paving operations shall occur during dry weather only. No work shall occur within 72 hours of 50% or greater forecast of rain by the National Weather Service.
- B. In-water Work Best Management Practices (BMPs):
- i. All in-water work shall be conducted by equipment positioned on land or on barges located in the dredged channel. No material will be placed temporarily on mudflat habitat;
 - ii. A full-depth turbidity screen shall be installed around the in-water work area during pile installation;
 - iii. Any heavy equipment to be operated over the waters of Humboldt Bay shall use vegetable oil-based hydraulic fluids only;
 - iv. Piles shall be driven with a vibratory hammer; use of an impact hammer is prohibited; and
 - v. The permittee shall only use coated steel piles as proposed or precast concrete piles. No creosote-treated wooden piles shall be placed in the waters of Humboldt Bay.
- C. Erosion, runoff, and sediment control:
- i. No excavated soil or other construction materials, equipment, waste, or debris shall be placed or stored where it may be subject to entering Humboldt Bay. All onsite stockpiles of soil and construction debris shall be contained at all times to minimize discharge of sediment and other pollutants;
 - ii. If rainfall is forecasted during the time construction activities are being performed, all onsite stockpiles of soil and construction debris shall be covered and secured and fiber rolls shall be placed around all disturbed areas before the onset of precipitation;
 - iii. Suitable sediment control BMPs such as silt fencing or straw waddles shall be installed downgradient of disturbed areas;
 - iv. Exposed soils shall be stabilized using mulch or other erosion control measures; and
 - v. 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 (that is, plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable.
- D. Debris disposal:
- i. During construction, all trash shall be removed from the work site and disposed of on a regular basis. Any and all spoils and debris resulting

from construction activities shall be removed from the project site and disposed of consistent with the final Debris Disposal Plan approved pursuant to Special Condition X within 10 days of project completion and/ or prior to the onset of the rainy season, whichever is earlier.

E. Hazardous materials management:

- i. Fuels, lubricants, and solvents shall not be allowed to enter Humboldt Bay. All equipment used during construction shall be free of oil and fuel leaks at all times. Staging, fueling and equipment maintenance shall occur in the designated staging area at least 100 feet away from the high water mark. Within the staging area, refueling will occur on a pad to capture any drips or spills. Equipment washing if necessary shall occur offsite; and
- ii. 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 spill shall be contained rapidly and cleaned up. In the event of a spill, the permittee shall notify the appropriate regulatory agencies immediately.

F. Concrete paving and grinding operations:

- i. 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.

4. **Final Erosion and Sediment Control and Pollution Prevention Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-20-0261, the permittee shall submit, for the review and approval of the Executive Director, an Erosion and Sediment Control and Pollution Prevention Plan.

- A. The plan shall demonstrate that temporary impacts to the biological productivity and quality of nearby coastal waters shall be minimized during demolition and construction activities consistent with the provisions of Special Condition 3.
- B. The plan shall include, at a minimum, the following required components:
 - i. A construction site map delineating the construction site, and the location of all temporary construction-phase BMPs (including silt fences, fiber rolls, and inlet protection), staging and stockpiling areas, vehicle and equipment maintenance and fueling areas, and concrete washout areas;
 - ii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities; and

- iii. A schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training).
 - C. The permittee shall undertake development in accordance with the approved final Erosion and Sediment Control and Pollution Prevention 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.
- 5. **Debris Disposal Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-20-0261, the permittee shall submit, for the review and written approval of the Executive Director, a final Debris Disposal Plan for the disposal of excess construction and demolition debris and excavated soils. The plan shall identify authorized disposal site(s) where materials will be lawfully disposed of on a regular basis and describe the manner and schedule by which the materials will be removed from the construction site, including any contaminated soil and groundwater encountered during construction that requires removal pursuant to the Soil and Groundwater Management Contingency Plan prepared by SHN Consulting Engineers & Geologists, Inc. and dated August 2013. Consistent with Special Condition 7, the contaminated soil and groundwater disposal and handling provision of the debris disposal plan shall adhere to the soil and groundwater management contingency plan. The permittee shall undertake development in accordance with the approved final Debris Disposal 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.
- 6. **Final Eelgrass Monitoring and Mitigation Plan.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0261, the permittee shall submit, for the review and approval of the Executive Director, a final Eelgrass Monitoring and Mitigation Plan in substantial conformance with the Eelgrass Survey Report prepared by SHN and dated September 2020.
 - A. The final plan shall demonstrate that:
 - i. A pre-construction eelgrass survey shall be conducted and completed during the active growing season for eelgrass (May-September) no more than 60 days prior to the beginning of construction. Eelgrass spatial distribution, aerial extent, percent vegetated cover, and turion density shall be sampled within the action area and at an appropriate reference site to help determine whether changes in eelgrass characteristics are attributable to natural variability or project actions. The survey shall be conducted in all intertidal and shallow subtidal areas within 10 meters of the in-water project footprint (“the action area”) and at an appropriate

- reference site, and shall be conducted in substantial conformance with the National Marine Fisheries Service (NMFS)' October 2014 California Eelgrass Mitigation Policy and Implementing Guidelines (CEMP). Survey results shall be submitted for the review and approval of the Executive Director no more than 30 days after the pre-construction survey occurs;
- ii. A post-construction survey of the eelgrass habitat in the action area and at the reference site using the same sampling protocols as the pre-construction survey shall be completed within 30 days of completion of construction. If project completion occurs after the eelgrass active growth season (September 30), the post-construction eelgrass survey shall occur the following year during the same month as the pre-construction eelgrass survey. The post-construction survey shall be performed in substantial conformance with NMFS' October 2014 CEMP;
 - iii. A monitoring report shall be provided to the Executive Director for review and approval within 90 days of completion of the post-construction growing season survey. The monitoring report shall include both the pre- and post-construction growing season survey results and include eelgrass maps and information on the spatial distribution, areal extent, percent cover, and turion density of eelgrass at the project and reference site within the defined survey areas at the time of each survey. The reports shall also include: (1) a summary of work operations; (2) photo-documentation of pre- and post-construction site conditions; (3) an impact analysis, including a quantitative assessment of any impacts on eelgrass that may have occurred as a result of project actions; and (4) a calculation of the area required for compensatory mitigation if needed and a description of how mitigation requirements will be met;
 - iv. If the post-construction survey and monitoring report demonstrate to the satisfaction of the Executive Director that eelgrass distribution and density has not decreased and there has been no loss of extent of vegetated cover, then no further monitoring or mitigation is required; and
 - v. If the post-construction survey and monitoring report indicate any decrease in eelgrass distribution or density attributable to project impacts, then an extended eelgrass mitigation and monitoring plan shall be prepared and submitted as an application for an amendment to Coastal Development Permit 1-20-0261 that provides for compensatory mitigation through removal of derelict piles in eelgrass habitat on tidelands adjacent to Parcel 4 within one year of the determination of impacts at an initial mitigation area to impact area ratio of at least 1.2:1.
- B. The final plan shall include, at a minimum, the following components:
- i. A map of the project survey area and reference site;
 - ii. A detailed schedule and methods for conducting pre- and post-construction eelgrass monitoring in substantial conformance with NMFS' October 2014 CEMP;

- iii. Clear standards for quantifying project impacts on eelgrass triggering compensatory mitigation;
 - iv. A preliminary plan for potential compensatory mitigation to provide for an initial mitigation area to impact area ratio of at least 1.2:1; and
 - v. A schedule for submittal of monitoring reports to the Executive Director.
- C. Eelgrass monitoring, mitigation, and reporting shall be conducted at all times in accordance with the final approved Eelgrass Monitoring and Mitigation 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. **Adherence to Soil and Groundwater Management Contingency Plan.** All recommendations of the Soil and Groundwater Management Contingency Plan prepared by SHN Consulting Engineers & Geologists, Inc. and dated August 2013 (Exhibit 4) shall be adhered to including recommendations for contractor and worker notification, actions to be taken before working in contaminated areas, actions to be take upon encountering contaminated material, construction practices to minimize the disruption and transport of contaminated material, and practices for the proper handling and disposal of contaminated material.
8. **Post-Development Runoff Plan.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0261, the permittee shall submit, for the review and approval of the Executive Director, a final Post-Development Runoff Plan.
- A. The plan shall demonstrate that runoff from all new impervious surface areas shall be directed in a non-erosive manner to permeable areas for infiltration where feasible. Where on-site infiltration is not appropriate or feasible, alternative BMPs shall be used to minimize post-development adverse changes in runoff flows, such as implementing BMPs to reduce runoff volume, velocity, and flow rate before directing runoff to the storm drain system.
 - B. The plan shall include a site plan and a narrative description addressing, at a minimum, the following components:
 - i. A site plan, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage features, structural BMPs, impervious surfaces, and permeable surfaces including landscaped areas;
 - ii. Identification of pollutants potentially generated by the proposed development that could be transported off the site by runoff;
 - iii. An estimate of the proposed changes in (1) impervious surface areas on the site, including pre-project and post-project impervious coverage area and the percentage of the property covered by impervious surfaces; (2) the amount of impervious areas that drain directly into the storm drain

system without first flowing across permeable areas; and (3) site coverage with permeable or semi-permeable surfaces;

- iv. A description of the BMPs that will be implemented, and the Low Impact Development approach to stormwater management that will be used, including a schedule for installation or implementation of all post-development BMPs; and
 - v. A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, if required for the BMPs to function properly.
- C. The permittee shall undertake development in accordance with the approved final Post-Development Runoff 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.
9. **Final Mudflat Fill Mitigation Plan.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0261, the permittee shall submit, for the review and approval of the Executive Director, a final Mudflat Fill Mitigation Plan to mitigate in-kind for the filling of 2.4 square feet of mudflat habitat by pulling piles along the shoreline at Parcel 4 (APN 007-071-014) at a 1:1 ratio as proposed by the permittee.
- A. The plan shall demonstrate that:
 - i. In-kind mitigation will be achieved through pile removal to compensate for filling of 2.4 square feet of mudflat at a 1:1 ratio;
 - ii. Pile removal will be performed in a manner that avoids impacts to the biological productivity and water quality of Humboldt Bay;
 - iii. Piles will be removed in their entirety or cut below the mudline to prevent debris from entering coastal waters, minimize any chemical leaching, and avoid creating watercraft navigation hazards;
 - iv. Piles will be disposed of at an authorized location and any potentially hazardous waste materials will be disposed of at a landfill equipped to handle hazardous waste. The piles and debris disposal shall be included in the Final Debris Disposal Plan required by Special Condition 5;
 - v. The City has obtained all necessary authorizations to perform the pile removal work on tidelands at Parcel 4; and
 - vi. Pile removal will be performed prior to driving piles for the new floating dock.
 - B. The plan shall include, at a minimum, the following components:
 - i. A site plan identifying the location of each pile to be removed at Parcel 4;

- ii. Details on how piles will be accessed, what equipment will be used to remove the piles, and what construction BMPs will be employed to avoid impacts to water quality and surrounding habitat during pile removal;
 - iii. Details on how pile debris will be properly contained and disposed of at an authorized location;
 - iv. A schedule for the mitigation work that demonstrates that the pile removal mitigation work will occur prior to installation of the two new piles at the boat launch facility; and
 - v. Provisions for submittal within 30 days of completion of the initial mitigation work a report with photo-documentation of before and after conditions and a narrative discussion demonstrating that the mitigation work has been completed in accordance with the approved final mitigation plan.
- C. The permittee shall undertake development in accordance with the approved final Mudflat Fill Mitigation 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.
10. **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 geologic and flood hazards, including but not limited to ground shaking, liquefaction, tsunami inundation, and storm and tidal flooding, some 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.
11. **Final Design Plans for the Restroom/ Emergency Aquatic Response Center Building.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-20-0261, the permittee shall submit for the review and written approval of the Executive Director, final design plans for the proposed new building that substantially conform with the project description and plans submitted to the Commission and attached as Exhibit 3 and are consistent with all special conditions of Coastal Development Permit 1-20-0261.
- A. The plans shall demonstrate that:

- a) A licensed professional civil engineer has reviewed and approved the final foundation plans and certified that the final plans are consistent with the recommendations of an engineering geologic soils report prepared for the site;
 - b) The new building is visually compatible with the character of surrounding area and conforms in architectural style, construction materials, surface treatments, and physical appearance with other similar public improvements along the Eureka waterfront; and
 - c) New exterior building lighting is low-wattage, shielded, and downcast such that no glare will shine beyond the bounds of the property or into coastal waters.
- ii. The plans shall contain at a minimum:
- a) A site plan location of the new building;
 - b) Design specifications for the new exterior building lighting;
 - c) To-scale, dimensioned elevation plan depictions of the new building;
 - d) A description of the exterior materials and colors of the new building; and
 - e) Final foundation plans.
- B. The permittee shall undertake development in accordance with the approved final design plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

12. **Protection of Archeological Resources**

- A. If ground disturbing activities greater than twelve inches in depth are required during project construction, than AT LEAST TWO WEEKS PRIOR TO COMMENCEMENT OF SAID GROUND-DISTURBING ACTIVITIES, the permittee shall notify the THPOs from the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria of the construction schedule and arrange for tribal representative(s) to be present to observe ground-disturbing activities if deemed necessary by the THPOs.
- B. A cultural resources monitor approved by the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria shall be present to oversee all ground disturbing activities greater than twelve inches in depth authorized by Coastal Development Permit 1-20-0261 unless evidence has been submitted for the review and approval of the Executive Director that the THPOs of these three entities have agreed that a cultural resources monitor need not be present.

If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall cease and shall not re-commence until a qualified cultural resource specialist, in consultation with the Tribal Historical Preservation Officers (THPOs) of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria, analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director, and either: (a) 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, or (b) the Executive Director reviews the Supplementary Archaeological Plan, determines that the changes proposed therein are not *de minimis*, and the permittee has thereafter obtained an amendment to Coastal Development Permit 1-20-0261.

13. Public Access Plan for Project Construction.

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0261, the permittee shall submit, for the review and approval of the Executive Director, a Public Access Plan to minimize public access impacts to the boat launch facility and coastal trail (CCT) during and following construction activities authorized under this coastal development permit.
 - i. The plan shall demonstrate that:
 - a. The duration of closure of the boat launch and CCT for construction-related public safety purposes shall be minimized and shall not exceed 30 days in total, unless the Executive Director grants in writing for good cause additional time as needed;
 - b. The CCT shall be temporarily rerouted around project construction in order to provide a clear, continuous path for trail users throughout construction; and
 - c. Adequate signage shall be posted informing the public about the temporary rerouting of the CCT, temporary closure of the boat launch, and alternative nearby boat launching sites.
 - ii. The plan shall include, at a minimum, the following components:
 - a. A narrative description of the proposed temporary access control measures to be used;
 - b. Depictions of the dimensions and content of signage informing the public of the changes to public access during project construction activities;
 - c. A site plan showing the route of the CCT detour around the construction areas, where any proposed temporary access barriers would be installed, and where signage would be placed; and

- d. A schedule of the estimated dates when the proposed temporary access control measures would be installed/implemented and removed/terminated.
 - B. The permittee shall undertake development in accordance with the approved final Public Access 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.
- 14. **Deed Restriction Recordation of Permit Conditions.** PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (i) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the “Standard and Special Conditions”); and (ii) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant’s entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.
- 15. **U.S. Army Corps of Engineers (ACOE) Approval.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT NO. 1-18-1078, the permittee shall provide to the Executive Director a copy of a permit issued by the ACOE, or letter of permission, or evidence that no permit or permission is required. The permittee shall inform the Executive Director of any changes to the project required by the ACOE. 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.
- 16. **NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD (Regional Board) CERTIFICATION.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT NO. 1-18-1078, the permittee shall provide to the Executive Director a copy of a Water Quality Certification or other permission issued by the Regional Board or evidence that no water quality certification or other permission is required. The permittee shall inform the Executive Director of any changes to the project required

by the Regional Board. 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.

FINDINGS AND DECLARATIONS

A. Project Description and Background

The City of Eureka proposes to improve the existing public boat launch facility located under the south end of the Samoa (Highway 255) Bridge on the shoreline of the Eureka Inner Channel of Humboldt Bay. The existing facility includes a boat ramp, floating dock, parking for vehicles with boat trailers, and a public restroom. Proposed improvements include: replacement of the float on the existing floating dock; installation of a new, second floating dock; demolition and replacement of the existing restroom building with a larger building that will contain public restroom facilities and storage for water rescue boats and equipment; installation of ADA-compliant pedestrian pathways through the facility; resurfacing and restriping of the existing parking lot; and replacement of signage in-kind. These improvements are discussed in greater detail below. The proposed project also includes the removal of derelict piles at an offsite location on the Humboldt Bay shoreline to compensate for the proposed permanent fill of 2.4 square feet of mudflat associated with installation of three new piles at a 1:1 mitigation ratio.

Improvements to the Boat Launch

The existing boat launch consists of a two-lane, 30-foot-wide concrete launch ramp and a six-foot-wide by approximately 108-foot-long floating dock on the east side of the boat ramp. Under the proposed project, the existing float would be replaced with a new float of the same length using the existing piles. A new six-foot by 60-foot floating dock would be installed on the west side of the boat ramp and would require the installation of three new 12-inch diameter coated steel piles on Humboldt Bay mudflat.¹ Native eelgrass (*Zostera marina*) beds are present in the project vicinity with the nearest eelgrass approximately 40 feet to the west of the proposed new floating dock.

All work within tidelands and submerged areas would be conducted by equipment working either from land or from barges located in the dredged channel so that no barge, anchor, or other material would be placed temporarily on mudflat or eelgrass habitat. The proposed new piles would be installed by a crane with a vibratory hammer working from a barge. Pile installation would occur during low tides and turbidity curtains would be utilized.

Improvements to the Remainder of the Boat Launch Facility

The applicant proposes to demolish the existing 680-square-foot public restroom building located in the boat launch parking lot and install a new 1,512-square-foot

¹ Two 12-inch diameter steel piles will also be installed in uplands to support the new pier/gangway ramp to the new floating dock.

building approximately 170 feet further back from the shoreline. The proposed new building would include public restroom facilities as well as storage area for water rescue boat(s) and equipment. Existing underground water and sewer lines serving the existing restroom would be abandoned in place and new water, sewer, electric, and telephone lines would be extended underground from Waterfront Drive to the new building via trenching.

A new five-foot-wide ADA-compliant sidewalk would be installed along the western edge of the boat launch facility, providing a designated pedestrian connection from Waterfront Drive to the public restroom, boat launch, and California Coastal Trail (CCT), located directly adjacent to the shoreline in the project vicinity). A clearer pedestrian path would also be demarcated where the CCT crosses the northern end of the boat launch facility, near the top of the boat ramp. The proposed new building and portions of the new accessible walkway would displace existing grassy field, resulting in approximately 3,872 square feet of additional impervious area.

The existing Department of Boating and Waterways (DBW) sign at the entrance to the boat launch facility on Waterfront Drive would be replaced with an updated sign at the same location without expansion, and an existing sign on the west side of the boat ramp displaying the Humboldt Bay Water Trails Map would be relocated to the east side of the boat launch ramp to accommodate the new floating dock.

The existing 37,095-square-foot parking lot would be resurfaced by pulverizing a 0.3-foot-thick layer feet of the existing asphalt and placing a 0.3 foot-thick layer of new asphalt. A fog seal would be applied to extend the life of the parking lot and maintain a smooth ADA-compliant surface. Parking spaces would then be restriped, with two ADA spaces relocated adjacent to the new public restroom/ emergency aquatic response center building.

Construction equipment for landside work would include a backhoe, forklift, dump truck, paving equipment, and roller. Construction material and equipment staging and storage would occur in a 3,600-square-foot fenced upland area in the field to the west of the parking lot in a location more than 100 feet from coastal waters and wetlands.

Timing of Work

The applicant anticipates that all proposed demolition and construction work would be completed in a little over a month. The applicant plans to time construction to occur during the dry season but outside of the salmon fishing season, between May 15 and June 30 and/or between September 4 and October 15.

B. Environmental Setting

The subject public boat launch facility is located on filled former tidelands on the Eureka Inner Channel of Humboldt Bay, under the approach to the Highway 255 Bridge (there are three bridge-support columns in the parking lot and one in the intertidal zone next to the boat launch). The facility is located on the east side of Halvorsen Park. The site is surrounded by a grassy field and the Humboldt State University rowing team boathouse and boat dock directly to the west, Humboldt Bay to the north, and Waterfront Drive to

the south. Woodley Island is located across the Inner Channel to the north. Additional grassy fields are located directly to the east of the boat launch facility on vacant City-owned property where an RV park is currently envisioned but not permitted. A segment of the CCT traverses the northern perimeter of the site, crossing the inland end the boat launch ramp. This trail segment is part of a continuous 6.3-mile-long waterfront trail spanning the full length of the City's waterfront.

Most of the Eureka waterfront was previously the site of industrial development dominated by lumber mills, warehouses, and railroads. Only traces of the waterfront's past development remain. The subject site was part of the Dolbeer & Carson Mill which operated from approximately 1924-1950.² The California Department of Transportation (Caltrans) eventually acquired the land, and the Highway 255 Bridge was built in 1970-1971 as an extension of R Street, which formerly terminated at the mill. The City then acquired the land from Caltrans and received a coastal development permit (CDP) from the Coastal Commission to construct the existing boat launch ramp in 1985 (CDP 1-85-131).

Soil and groundwater contamination have been identified in the area of the former mill site which includes the subject 1.1-acre boat launch facility along with 6.3 acres of land to the west and 2.6 acres to the east. Identified contaminants of concern in soil and groundwater include total petroleum hydrocarbons (as motor oil and diesel), metals (chromium, lead, zinc), and polynuclear aromatic hydrocarbons. Remediation consisting of excavation and disposal of contaminated soil occurred in 2005 and 2011 under a North Coast Regional Water Quality Control Board cleanup order, culminating in closure of the cleanup case (Case 1NHU330) in March of 2013.

The project area currently consists of an asphalt parking lot and adjacent graded, gravelly, grassy area, with no former mill building features evident. The original grade is approximately six to ten feet below the current ground surface.³ The site is flat and low-lying, and the bayfront around the existing boat ramp and floating dock is armored with rock slope protection.⁴

The boat launch facility is surrounded to the east and west by non-native grassland. Special-status botanical surveys were conducted for the subject project on April 23 and July 2, 2020, and a special-status animal survey and habitat assessment was conducted on April 3, 2020. No special-status species were observed during the surveys. A wetland delineation was conducted in January 2020, and a small (136 square foot) freshwater wetland was identified in the field to the west of the boat launch

² A sawmill building and boiler room were located within the footprint of the boat launch facility.

³ William Rich and Associates. (May 2020). A Cultural Resources Investigation for the Samoa Boat Launch Facility Rehabilitation Project Located in Eureka, Humboldt County, California. Prepared for SHN Consulting Engineers and Geologists on Behalf of the City of Eureka Community Services Department.

⁴ This rock slope protection was permitted by the Commission in 1984 (CDP 1-84-119).

parking lot, midway between the parking lot and the Humboldt State University rowing team boathouse. This wetland is a minimum of 150 feet from the existing parking lot, 115 feet from the area to be graded for construction of the proposed new building, and approximately 105 feet from the proposed material and equipment staging and storage area.

C. Standard of Review

Portions of the proposed floating dock work will occur on tidelands where the Coastal Commission retains CDP jurisdiction, while the remainder of the project is located within the City of Eureka's permitting jurisdiction. Coastal Act section 30601.3 provides the Commission with the authority to act upon a consolidated permit for proposed projects that require a CDP from both a local government with a certified local coastal program (LCP) and the Commission. This authority is triggered if the applicant, local government and Executive Director (or Commission) consent to consolidate the permit. In this case, the City, as applicant and local government with CDP jurisdiction, has requested a consolidated permit process in a letter to the Commission dated September 3, 2020. The Executive Director has agreed to the consolidated permit processing request.

The policies of Chapter 3 of the Coastal Act provide the legal standard of review for a consolidated CDP application submitted pursuant to Coastal Act section 30601.3. The local government's certified LCP may be used as guidance.

D. Other Agency Approvals

Humboldt Bay Harbor, Recreation, and Conservation District

The Harbor District is a county-wide district established by the legislature with permit jurisdiction over all the tidelands and submerged lands of Humboldt Bay. The Board of Commissioners of the Harbor District approved Permit No. 2021-02 for the subject development on May 13, 2021.

California State Lands Commission

Portions of the project area are subject to the public trust. The California State Lands Commission has jurisdiction and management authority over public trust lands, including all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The state has granted authority over the subject state public trust lands to the City of Eureka.

North Coast Regional Water Quality Control Board (Regional Board)

The Regional Board requires water quality certification for projects involving dredging and/or filling activities under section 401 of the Clean Water Act. Special Condition 16 requires the applicant to submit a copy of any necessary Regional Board approval prior to commencement of construction or evidence that no such permission is required.

U.S. Army Corps of Engineers (ACOE)

The ACOE may have regulatory authority over the proposed project under section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 1344) and section 404 of the Clean Water Act. Special Condition 15 requires the applicant to submit a copy of any necessary ACOE permit prior to commencement of construction or evidence that no such permission is required.

E. Fill of Wetlands and Coastal Waters

Coastal Act section 30233 states, in applicable part:

- (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...
- (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...

Coastal Act section 30108.2 defines "fill" as "*earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.*" Portions of the proposed project qualify as fill in Humboldt Bay, including the three new 12-inch-diameter coated steel piles that will support the new dock float, the 108-foot-long by six-foot-wide dock float that will replace the existing dock float of the same size to the east of the ramp, and the new 60-foot-long by six-foot-

wide dock float that will be installed to the west of the ramp. The improvements to the launching facility result in a total of approximately 2.4 square feet of soft bottom wetland habitat (“mudflat”) fill resulting from the installation of the new piles, and 1,008 square feet of fill of coastal waters resulting from the new floats, of which 648 square feet is replacement fill for the float to be replaced.

The Coastal Act recognizes the importance and scarcity of wetlands. Filling, diking, or dredging in wetlands is permissible under section 30233(a) only if: (1) the use is for one of the seven allowable uses listed under section 30233(a)(1)-(7); (2) there is no feasible less environmentally damaging alternative; and (3) feasible mitigation measures have been provided to minimize adverse environmental effects. A project must meet all three tests to be authorized pursuant to section 30233(a). In addition, under section 30233(c), the development must maintain or enhance the functional capacity of the wetlands.

Allowable Use

Coastal Act section 30233(a) limits the fill of coastal waters to specific, enumerated uses. The proposed fill is allowable under Coastal Act section 30233(a)(3) because the fill is for an expanded public boating facility in an estuary (Humboldt Bay).

Alternatives Analysis

Coastal Act section 30233(a) also requires that projects involving filling of coastal waters be the least environmentally damaging feasible alternative. 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, alternatives include the “no project” alternative, an alternative location for the new floating dock, and reducing the size of the new floating docks. The “no project” alternative would mean not improving coastal access by installing the new floating dock. The purpose of the new floating dock on the west side of the boat ramp is to serve non-motorized vessels which will allow the existing floating dock on the east side of the boat ramp to be used exclusively by motorized vessels. According to the applicant, the new floating dock is necessary because the current lack of a designated location for launching non-motorized vessels has been causing conflicts between motorized and non-motorized vessels. Therefore, the no project alternative is not a less environmentally damaging feasible alternative, as it would not accomplish the project objective of alleviating conflicts among recreational boaters.

The new floating dock could be sited at an alternative location in the vicinity of the existing boat launch facility to meet the project objective of providing a means of launching non-motorized watercraft that would not conflict with use of the existing boat launch facility for motorized watercraft. Various locations east and west of the facility would be close enough to reduce the inclination of non-motorized watercraft users to launch from the existing float used by motorized watercraft boaters at the boat launch facility. However, as documented in the pre-construction eelgrass survey, the new floating dock in the proposed location will avoid direct impacts to eelgrass and is unlikely to cause indirect impacts to eelgrass beds. The new floating dock also takes

advantage of an existing boat launch facility and dredged channel. Conversely, an alternative location for such a new floating dock would likely require dredging and/or impacts to eelgrass. Therefore, an alternative dock location is not a less environmentally damaging feasible alternative to the proposed project as conditioned.

The amount of floating fill in coastal waters could be reduced by reducing the length of the new and replacement floats and/or reducing the widths of the floats from six feet to four feet. However, reducing the length of the new float would compromise the ability to launch non-motorized watercraft into sufficiently deep water for boating. The proposed 60-foot length of the proposed float would provide access to the dredged channel which remains submerged at all stages of the tide. Shorter float lengths would only allow non-motorized boaters to access sufficiently deep water for boating during higher tides. The existing and proposed 108-foot length of the existing launch ramp float is designed to facilitate the loading and unloading of motorized boats using the launch ramp and must extend as far as proposed to provide access to the boats. Reducing the width of the floats could be considered, as many marinas are constructed with four-foot-wide dock floats that provide access to boat berths. However, use of four-foot-wide floats for boat launching operations creates greater safety concerns than use of four-foot-wide floats simply to access boat berths in a marina. The new float will enable users of non-motorized watercraft such as kayaks and canoes to hand carry their watercraft as they walk to the end of the float for launching the vessel into deeper water. Negotiating a narrow four-foot-wide float while carrying a boat, particularly if there is another user on the dock at the same time, creates an unacceptable risk of falling off the float. Similarly, boaters using the replacement boat launch ramp floating dock often must carry gear to and from boats in the midst of other boaters using the float. Therefore, reducing the sizes of the new and replacement floating docks is not a less environmentally damaging feasible alternative as it would not accomplish the project objectives of safely providing boating access to deeper water.

Feasible Mitigation Measures

Coastal Act section 30233(a) further requires that feasible mitigation measures be provided to minimize adverse environmental effects of fill. The development involves work in and adjacent to Humboldt Bay that could result in direct and indirect impacts to coastal resources in Humboldt Bay. Depending on the manner in which the proposed development is conducted, the significant adverse environmental effects of the development may include: displacement of mudflat habitat and bay surface area; hydroacoustic impacts from pile driving on sensitive salmonids and other fish species; impacts to eelgrass habitat; and impacts on water quality and hydrology from construction activities and from postconstruction stormwater runoff.

Displacement of Mudflat Habitat and Bay Surface Area

As described above, approximately 2.4 square feet of soft bottom, wetland mudflat will be filled by the new pile installation, and 1,008 square feet of coastal waters will be covered or filled at the surface by the installation of floating docks, of which 648 square feet is replacement fill for the existing float to be replaced.

To compensate for the proposed permanent fill of 2.4 square feet of mudflat associated with installation of three new piles, the applicant proposes to remove existing piles elsewhere in Humboldt Bay to achieve a 1:1 mitigation ratio. The applicant proposes to document completion of the mitigation effort by submitting photographs and a summary of mitigation activities completed.



Figure 1. Aerial Image Showing Derelict Pilings Along the Shoreline at Parcel 4.

The proposed location for pile removal is in the bay adjacent to the City-owned “Parcel 4” (APN 007-071-014). Dozens of derelict piles exist along the shoreline of Parcel 4 that are remnants of the log ways, bulkhead and pier of the Holmes-Eureka Mill that operated at the site from approximately 1903 to 1961.⁵ Many of these piles are located in mudflat habitat.

The Commission finds a mitigation ratio of 1:1 acceptable in this situation because 1) the

City agrees to pull piles as mitigation prior to driving piles for construction of the proposed project, resulting in no temporal loss; and 2) the mitigation will have a high likelihood of success given that the mudflat habitat will be made available as soon as the piles are removed.

The applicant has not provided any details on which piles will be removed at Parcel 4 as compensatory mitigation, how construction access will occur, and how piles will be removed and disposed of. To ensure compensatory mitigation is carried out as proposed and avoids unanticipated impacts to the biological productivity and water quality of Humboldt Bay, **Special Condition 9** requires the applicant to submit a final fill mitigation plan prior to permit issuance for the review and approval of the Executive Director. Special Condition 9 requires the plan to demonstrate among other things, that pile removal will be performed in a manner that avoids impacts to the biological productivity and water quality of Humboldt Bay, the piles will be either removed in their entirety or cut below the mudline, and the pile removal will occur prior to the installation of the new piles for the new floating dock. In addition, Special Condition 9 requires the

⁵ Redwood Community Action Agency. Parcel 4 Public Access Development and Natural Resource Enhancement Feasibility Study.

plan to include a map depicting the location of each pile to be removed as well as details on how the piles will be accessed, what equipment will be used to remove the piles, what construction BMPs will be employed to avoid impacts to water quality and surrounding habitat during pile removal, and how pile debris will be properly disposed of. To ensure successful mitigation, Special Condition 9 requires the applicant to submit photo-documentation of before and after conditions and a summary of mitigation activities completed.

The project will result in fill of coastal waters, amounting to a net increase of 360 square feet of coastal water fill for the new non-motorized boat launching floating dock. Although the applicant does not propose mitigation for fill of coastal waters specifically, the coverage of 360 square feet of coastal waters in this location will not result in significant adverse direct impacts and potential adverse indirect impacts of the increase in dock fill will be mitigated as proposed and as conditioned herein. As discussed in Finding F, "Marine Resources and Water Quality," below, any shading or sedimentation of eelgrass habitat caused by the new floating dock will be mitigated below a level of significance. In addition, any indirect adverse impacts of the installation of the dock on fish species and water quality will be avoided or minimized by the proposed and required pile installation measures and water quality measures also discussed in Finding F. Furthermore, as mitigated, the proposed new floating dock will not cumulatively contribute to potential adverse impacts from similar projects in the area.

With the attachment of Special Condition 9, the Commission finds that the proposed development provides feasible mitigation measures to minimize the project's bay fill impacts consistent with Coastal Act section 30233.

For all the reasons discussed above, the Commission finds that the development as conditioned provides feasible mitigation measures to minimize the development's impacts on coastal waters consistent with Coastal Act section 30233.

Biological Productivity and Functional Capacity

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

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 above, the applicant proposes to pull derelict piles from the bay as compensatory mitigation for the placement of three new piles in the bay.

Therefore, the Commission finds that the project, as conditioned, will maintain the functional capacity of the Humboldt Bay estuary consistent with the requirements of Coastal Act section 30233.

Conclusion

For all of the reasons set forth above, the Commission finds that the project, as proposed and conditioned, is an allowable use, that there is no feasible less

environmentally damaging alternative, that feasible mitigation will be provided to minimize all significant adverse impacts associated with the dredging and filling of coastal wetlands, that wetland habitat values will be maintained or enhanced, and that coastal water quality will be protected. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with section 30233 of the Coastal Act.

F. Marine Resources and Water Quality

Coastal Act section 30230 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.

Coastal Act section 30231 states:

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

Coastal Act section 30232 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 containments and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The development involves work in and adjacent to Humboldt Bay that could impact marine resources and the biological productivity and quality of the bay. As discussed in Finding E, "Fill of Wetlands and Coastal Waters," installation of the three piles for the second floating dock to facilitate launching of non-motorized personal new watercraft launching facility will result in the displacement of 2.4 square feet of mudflat habitat which the City proposes to mitigate by the removal of existing piles elsewhere along the City's Humboldt Bay waterfront. Special Condition 9 requires that the proposed mitigation be carried out. The portion of Finding E discussing the bay fill impacts of the development and its mitigation are incorporated herein and the Commission finds that in addition to ensuring that the approved bay fill will provide feasible mitigation measures to compensate for the displacement of mudflat habitat consistent with section 30233,

Special Condition 9 is necessary to ensure that the project will protect these marine resources consistent with section 30230.

The development involves work in and adjacent to Humboldt Bay that could impact marine resources and the biological productivity and quality of the bay. The improvement to the boat launching facility could also result in construction-related adverse environmental effects on mudflat habitat, sensitive salmonids and other fish species, and eelgrass habitat. In addition, construction and post-construction runoff from the project area could result in adverse environmental effects on water quality. Avoidance, minimization, and mitigation measures for these potential impacts are discussed below.

Mudflat Habitat Impact Avoidance

In-Water Work and Eelgrass Impact Avoidance

The proposed development includes the replacement of the existing floating dock's float on the east side of the boat launch and the installation of a new floating dock on the west side of the boat launch. Installation of the new floating dock requires installation of three new 12-inch piles in mudflat habitat. The applicant proposes to conduct all waterside work with equipment working either from land or from barges located in the dredged channel so that no barge, anchor, or other material would be placed temporarily on mudflat or eelgrass habitat. These construction methods have been incorporated into the requirements of Special Condition 4(B)(i) to ensure they are implemented as proposed to minimize construction impacts and protect and maintain the mudflat habitat.

Avoidance of Impacts to Fish Species

The marine environment of Humboldt Bay supports numerous fish species, including a number of special-status fish species that occur in Humboldt Bay including green sturgeon (*Acipenser medirostris*), coast cutthroat trout (*Oncorhynchus clarkii clarkii*), coho salmon (*Oncorhynchus kisutch*), steelhead (*Oncorhynchus mykiss irideus*), chinook salmon (*Oncorhynchus tshawytscha*), longfin smelt (*Spirinchus thaleichthys*), and eulachon (*Thaleichthys pacificus*). To minimize the hydroacoustic impacts of pile installation, the applicant proposes to install the three new coated steel piles for the new floating dock using a vibratory hammer rather than a traditional impact hammer. Pile driving with an impact hammer generates hydroacoustic pressure impulses and particle velocities that can cause effects on fish ranging from altered behavior, hearing loss, and tissue injuries to immediate mortality. In contrast, vibratory hammers produce peak sound levels that are substantially lower than those produced by impact hammers and as such are not expected to expose fish to sound levels that could result in injury or death (Caltrans, 2009). In addition, the applicant proposes to limit in-water work to July 1st through October 15th, when anadromous fish are least likely to be present in the area (i.e., before the majority of the upstream adult spawning migrations and after the downstream migration of smolts has occurred). All the aforementioned timing limitations and other in-water avoidance and minimization measures and Best Management Practices (BMPs) have been incorporated into **Special Condition 3** to ensure they are implemented as proposed to minimize impacts and protect and maintain fish species.

Avoidance of Impacts to Eelgrass Habitat

Native eelgrass (*Zostera marina*) grows in Humboldt Bay east and west of the boat launch. Eelgrass is essential to the health and productivity of the Humboldt Bay ecosystem as it provides many ecological benefits, including stabilization of bottom sediments, a substrate for epiphytic algae and invertebrates, foraging areas and shelter for young fish and invertebrates, food for migratory waterfowl, and spawning surfaces for invertebrates and fish. Eelgrass beds in Humboldt Bay persist all year, but they exhibit high variability in distribution and density, both seasonally and from year to year.

A preliminary eelgrass survey was conducted on May 8, 2020 during the eelgrass growing season in accordance with the requirements of the California Eelgrass Mitigation Policy and Implementing Guidelines (CEMP) prepared by the National Marine Fisheries Service (NMFS). The survey found two eelgrass populations in the project vicinity; including one population on the west side of the boat launch within forty feet of the proposed new floating dock, and one population on the east side of the boat launch over 120 feet northeast of the project area.⁶ Mudflat elevations and shading from the Highway 255 Bridge likely prevent growth of eelgrass closer to the dock.



Figure 2. Pictures of Eelgrass Beds in the Project Vicinity (taken from the Eelgrass Survey Report prepared by SHN and dated September 2020).

Although the proposed project will avoid direct impacts to these nearby eelgrass populations, indirect impacts to the population west of the boat launch could potentially occur as a result of increased turbidity or other impacts to water quality resulting from construction, or from additional shading or alteration of circulation patterns resulting from installation of the new floating dock. However, given the proposed construction BMPs discussed below (e.g., turbidity screen) and the distance of the proposed floating dock from the nearest eelgrass population, these impacts are unlikely. To verify that the development will not impact eelgrass habitat as expected, the applicant proposes to

⁶ Consistent with the CEMP, mapped eelgrass habitat includes all areas of vegetated eelgrass cover and a buffer of 16 feet from occupied habitat, excluding areas unsuitable for supporting eelgrass habitat (e.g., areas outside the elevation range that supports eelgrass).

conduct pre- and post-construction eelgrass surveys. Both identified populations of eelgrass will be surveyed, with the eelgrass bed located over 120 feet northeast of the project area used as a reference site.

In the unlikely event that the pre- and post-construction eelgrass surveys indicate that eelgrass is impacted by project construction, the applicant proposes to submit a mitigation plan to the appropriate regulatory agencies within 60 days of completion of the post-construction survey. The applicant has identified the City-owned "Parcel 4" (APN 007-071-014) as a feasible location for eelgrass mitigation, if needed, the shoreline adjacent to Parcel 4 is littered with piles and other remnant debris, including in areas of eelgrass habitat. Derelict piles could be removed from these areas to expose mudflat area suitable for additional eelgrass habitat.

In most cases, in-kind mitigation is the preferred option to compensate for impacts to eelgrass, which is generally achieved through transplanting or seeding eelgrass into unvegetated habitat. However, eelgrass mitigation by transplanting in Northern California has a high percent failure rate.⁷ Because of the lack of success associated with eelgrass transplanting projects in Northern California, California Department of Fish and Wildlife (CDFW) and Commission staff have been encouraging eelgrass mitigation in Humboldt Bay through removal of debris in areas where eelgrass is likely to grow back. Removing debris is generally considered in-kind mitigation when 1) the debris is in an area suitable for eelgrass; 2) the debris is precluding eelgrass growth; and 3) when the debris is removed, eelgrass becomes established in its place. Based on NMFS guidance, the remnant piles constitute non-habitat and the removal of remnant piles should make it possible for eelgrass to grow in the mudflat substrate.

The applicant's plan for monitoring for eelgrass impacts would document the pre-project and post-project condition of the eelgrass beds in the project vicinity. However, the plan lacks clear standards for quantifying project impacts on eelgrass triggering compensatory mitigation. Therefore, to ensure that eelgrass is maintained consistent with the marine resource protection mandate of Coastal Act section 30230, the Commission attaches **Special Condition 6** requiring submittal of a final eelgrass mitigation and monitoring plan prior to permit issuance that includes survey and impact quantification methods in accordance with the CEMP. To ensure monitoring and mitigation oversight by the Commission, Special Condition 6 also requires the applicant to submit a monitoring report to the Executive Director for review and approval within 90 days of completion of the post-construction growing season survey. Among other requirements, this report is required to include survey results, photo-documentation of pre- and post-construction site conditions, and a quantitative assessment of any impacts on eelgrass that may have occurred as a result of project actions. If post-construction survey results indicate any decrease in eelgrass distribution or density attributable to project impacts, Special Condition 6(1) requires the final monitoring plan

⁷ The CEMP cites a 75% failure rate in the region based on the results of four transplant actions in the past 25 years.

to include a calculation of the area required for compensatory mitigation and a description of how mitigation requirements will be met, and (2) requires the applicant to submit a supplemental eelgrass mitigation and monitoring plan as an application for an amendment to CDP 1-20-0261.

In the unlikely event that the project results in impacts to eelgrass, the applicant has proposed a mitigation ratio for impacts to eelgrass of 1:1 mitigation area to impact area. In the CEMP, NMFS recommends a final in-kind mitigation ratio of 1.2:1 mitigation area to impact area. This ratio is based on present value calculation using a discount rate of 0.03, assuming that restored eelgrass habitat achieves habitat function comparable to existing eelgrass habitat within a period of three years or less. Given the limited temporal loss of eelgrass habitat and the likelihood of success that eelgrass will re-establish in the mitigation site, in compliance with NMFS guidelines, Special Condition 6 requires that any necessary compensatory mitigation be performed through the removal of derelict piles in eelgrass habitat on tidelands adjacent to Parcel 4 as proposed within one year of the determination of impacts at an initial mitigation area to impact area ratio of at least 1.2:1. As noted above, any necessary compensatory mitigation will be subject to further review by the Commission under an amendment to this permit as required by Special Condition 6.

With the incorporation of Special Condition 6, the Commission finds that the proposed in-water work will protect and maintain the eelgrass habitat.

Avoidance of Impacts to Water Quality

The development could result in adverse impacts to water quality from construction-related activities both in the water and on land and from stormwater runoff from the project site once it is completed. To minimize the generation of suspended sediment during in-water construction, the applicant proposes to perform all in-water construction activities during low tides only, and install a full-depth turbidity screen around the in-water work area during pile installation. To ensure that adverse water quality impacts associated with hazardous material spills are minimized, the applicant proposes to only use equipment that relies on vegetable based hydraulic oil during in-water construction. Vegetable based hydraulic oil has lower aquatic toxicity and breaks down more rapidly in the environment than petroleum products, reducing the potential water quality impacts of spills.

Proposed landside construction activities include installing a gangway ramp for the new floating dock, demolishing the existing restroom (located 45 feet from the mean higher high water line of the bay), installing a new building (approximately 200 feet from the bay), trenching to connect utilities to the new building, installing curbs on the east and west sides of the boat launch parking lot and sidewalk along the western edge of the facility, improving the California Coastal Trail connection across the boat launch facility, and resurfacing and restriping the existing parking lot. Landside construction activities could result in sediments, debris, and other pollutants entering Humboldt Bay and impacting water quality. To avoid such impacts, the applicant proposes a number of erosion and sediment control and pollution prevention measures.

Among other erosion, runoff, and sediment control BMPs, the applicant proposes to (a) limit work to the dry season; (b) limit all ground-disturbing activities and asphaltic-concrete paving operations to periods of dry weather only; (c) contain onsite stockpiles of soil and construction debris at all times and cover and secure them with fiber rolls before the onset of precipitation; (d) install suitable sediment control BMPs such as silt fencing or straw wattles downgradient of disturbed areas; (e) stabilize exposed soils with mulch or other erosion control measures; and (f) store all equipment and materials in a fenced staging area at least 100 feet from coastal waters and wetlands (the proposed staging area is shown on Plan Sheet C-3, pg. 4 of Exhibit 3).

Spill prevention measures that have been proposed by the applicant include (a) maintaining equipment free of oil and fuel leaks at all times; (b) performing any fueling and equipment maintenance at least 100 feet away from the high water mark and performing any equipment washing offsite; (c) keeping hazardous materials management equipment including oil containment booms and absorbent pads available and immediately on-hand at the project site; (d) retaining a registered first-response, professional hazardous materials clean-up/remediation service locally available on call; and (e) rapidly containing and cleaning up any accidental spills that occur. The applicant also proposes use of BMPs for concrete paving and grinding operations and storm drain inlet protection to prevent concrete grindings, concrete slurry, and paving rinseate from entering drop inlets or sheet-flowing into coastal waters. The aforementioned best management practices have been incorporated into the requirements of Special Condition 3 to ensure they are implemented as proposed to protect and maintain water quality.

Many of the water quality BMPs proposed by the applicant lack specificity as to the specific type and location of measures to be employed. For example, the application does not specify the type or location of sediment control BMPs to be deployed downgradient of disturbed areas. Therefore, the Commission attaches **Special Condition 4** requiring that a final erosion and sediment control and pollution prevention plan be submitted to the Executive Director for review and approval prior to commencement of construction that includes a construction site map identifying the location of all aforementioned BMPs and construction activities, a narrative description of the BMPs to be implemented, and a schedule for the management of all BMPs.

Construction debris will include cinderblocks (approximately 2 tons), roofing materials (approximately 0.25 tons), and three (3) doors from removing the existing public restroom, as well as the existing float to be replaced. The applicant has provided information on appropriate disposal locations for these materials.⁸ The applicant has also indicated that all excess debris will be disposed of at an authorized upland location. To ensure that waste and debris generated by the development will be properly handled

⁸ The City has indicated that cinderblocks and roofing are to be recycled at a construction facility outside of the coastal zone. The restroom doors will be reused if possible or landfilled. The existing float will be removed and stored by the City at its storage yard on Marina Way for potential future use in repair and maintenance of existing City docks.

and disposed of in a manner that protects water quality and aquatic resources, **Special Condition 5** requires submittal of a final debris disposal plan for the Executive Director's review and approval prior to commencement of construction.

The subject boat launch facility is located within the footprint of a former mill where soil and groundwater contamination have previously been identified, including total petroleum hydrocarbons (as motor oil and diesel), metals (chromium, lead, zinc), and polynuclear aromatic hydrocarbons. Site investigations at the former mill site (which includes the subject boat launch facility along with lands to the east and west) commenced in 1994 with Phase I and II Environmental Site Assessments, followed by an additional targeted site assessment in 2001, excavation of impacted soils in 2005 and 2011 (in areas outside of the current project footprint), and groundwater monitoring at various times between 2005 and 2012. Corrective actions and monitoring activities were completed culminating with the North Coast Regional Water Quality Control Board approving closure of the cleanup case ("Samoa Bridge Site," Case 1NHU330) in March of 2013. As a condition of case closure, a Soil and Groundwater Management Contingency Plan (SGMCP) was prepared to address worker safety issues associated with future site development (See Exhibit 4 for relevant excerpts of the SGMCP). Although no residual soil or groundwater contamination has been identified within the footprint of the boat launch facility, the SGMCP recommends the presumption that any shallow soil and groundwater at the site may contain residual levels of contamination.

Ground disturbance associated with the proposed project includes demolition of the existing building foundation, preparation of the new building foundation, and trenching in the field to the west of the parking lot to connect utilities to the new building.⁹ According to the applicant, the utility trenches will be less than five feet deep, and the foundation work will be no deeper than eight inches. Nevertheless, ground disturbance associated with construction of the proposed project has the potential to mobilize and spread potential soil and/or groundwater contamination, threatening the quality and biological productivity of nearby coastal waters.

During circulation of the CEQA Initial Study/Mitigated Negative Declaration for the subject boat launch facility upgrades, Regional Board staff recommended requiring adherence to the SGMCP. The SGMCP contains information regarding site history and the location and levels of contamination present, and outlines necessary actions to ensure worker safety. Required actions include development of a site-specific health and safety plan; review of monitoring data and avoidance of identified contamination zones; protocol for waste characterization, handling, and disposal in the event that contaminated soil and/or groundwater is encountered during site development activities; and education of workers regarding hazards and required protocol if hazards are encountered. To avoid mobilization of and exposure to potential subsurface contamination, the Commission attaches **Special Condition 7** requiring adherence to

⁹ The applicant proposes one trench for a new four-inch gravity sewer lateral, one trench for a new 1.5-inch water line, and a third joint utility trench for electric, gas, cable, and phone.

the SGMCP. The debris disposal plan required by Special Condition 5 and discussed above must include contaminated soil and groundwater handling and disposal provisions that adhere to the SGMCP.

The existing boat launch facility is approximately 1.67 acres in size and comprised of an impervious parking lot, boat launch, and restroom (along with three bridge-support columns of the Highway 255 Bridge). The facility is located on a 9.46 acre parcel that includes large grassy fields to the east and west of the boat launch facility (Humboldt bay is situated to the north of the subject site).¹⁰ The boat launch parking lot is graded so that it drains to three storm drain inlets that direct runoff to an outfall near the east side of the boat ramp. Under the proposed project, the existing parking lot is being resurfaced and will continue to drain to the inlets, including the area where the existing 680-square-foot restroom will be demolished and replaced with parking lot paving.

The proposed project will result in an overall increase in impervious surface area of 3,872 square feet, including 2,360 square feet for the proposed new sidewalk and 1,512 square feet for the proposed new building. The new impervious surfaces will displace grassy field to the west of the existing facility. The applicant proposes to infiltrate runoff from the new building and sidewalk onsite into the surrounding field. The field is nearly level and the soils have a high ability to infiltrate runoff as documented by the wetland delineation prepared for the site.

Although the applicant has indicated that they intend to use a Low Impact Development approach to stormwater management of runoff from the new impervious surface area resulting from the project, they have not provided a plan detailing how onsite infiltration will be achieved and maintained for the life of the development. Thus, **Special Condition 8** requires the applicant to submit a post-development runoff plan to the Executive Director for review and approval prior to permit issuance that describes the measures to be implemented and demonstrates that stormwater runoff from the new impervious surfaces will be directed in a non-erosive manner to the grassy field for infiltration to minimize stormwater pollution and erosion from runoff flows after development is completed.

With the incorporation of Special Conditions 4, 5, 6, 7, and 8, the Commission finds that the development will protect marine resources and prevent degradation of the biological productivity and quality of coastal waters consistent with the requirements of Coastal Act sections 30230 and 30231. The Commission further finds that as conditioned, the proposed development will provide protection against the spilling of gas, petroleum products, and hazardous substances and provide effective containment and cleanup for accidental spills that do occur consistent with section 30232 of the Coastal Act.

¹⁰ The shoreline including the boat launch is located on a separate 4-acre parcel.

For all the reasons discussed above, the Commission finds that the development, as conditioned, will maintain marine resources and the biological productivity and quality of coastal waters as mandated by Coastal Act sections 30230 and 30231.

G. Coastal Hazards

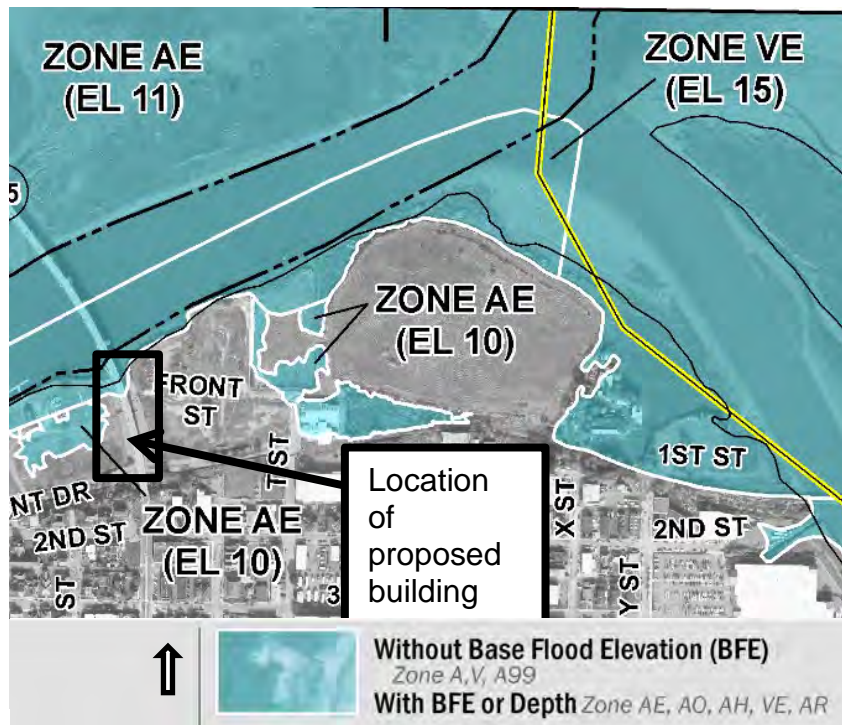
Coastal Act section 30253 states, in applicable part:

New development shall do all of the following:

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

The proposed project is located in an area subject to high geologic and flood hazards that include the potential for strong ground shaking, liquefaction, tsunami inundation, and flooding associated with high waves and storm events. The frequency and severity of flood events at the site is expected to worsen with projected sea-level rise.

Flood Hazards and Sea Level Rise



Elevations at the boat launch facility range from a minimum of 10.20 feet at the top of the existing boat ramp to a maximum of 13.50 feet at the existing south entrance to the parking lot (referenced to NAVD88). The boat launch itself and the existing restroom to be demolished are located within the mapped 100-year floodplain (in a VE zone with a base flood elevation of 15 feet), while the majority of the existing parking lot is located outside of the mapped floodplain. The proposed new building will be setback approximately 170 feet further from the shoreline than the existing

Figure 3. FEMA Flood Insurance Rate Map (Humboldt County Panel 845 of 2050, Map #06023C0845G, Revised 6/21/2017).

building and will be located outside of the floodplain (See Figure 3). While the flood

elevation on the shoreline is 15 feet (accounting for storm waves), the floodplain further inland in the vicinity of the proposed new building has a base flood elevation of 10 feet (NAVD88).

Although the proposed new building will be located outside of the floodplain, the site is vulnerable both to sea-level rise and increased storm intensity associated with climate change and, as a result, is likely to experience more frequent and intense flooding episodes and an expansion of the 100-year floodplain over time. To address potential sea level rise, the CEQA Mitigated Negative Declaration adopted for the project includes a mitigation measure requiring the new building to be designed and constructed with a minimum finished floor elevation of 14.23 feet NAVD88.¹¹

The California Ocean Protection Council's State of California Sea-Level Rise Guidance 2018 Update contains a set of sea level rise projections for 12 tide gauges throughout California, and the Coastal Commission recommends using these projections and related information as best available science on sea level rise in California. Table 1, below, provides the projections for Humboldt Bay (measured at NOAA's North Spit Tide Gage), which has the highest relative rate of sea level rise in the State due to active land subsidence.

Table 1¹². Projected¹³ Sea Level Rise (in feet) on Humboldt Bay

	Low Risk Aversion (ft.)	Medium-High Risk Aversion (ft.)	Extreme Risk Aversion (ft.)
2030	0.7	1	1.2
2050	1.5	2.3	3.1
2070	2-2.4	3.5-4	5.6
2100	3.1-4.1	6.3-7.6	10.9

¹¹ The mitigation measure requires a minimum finished floor elevation of 15 feet mean lower low water, which is the equivalent of 14.23 feet NAVD88 based on Tidal Benchmark "941 8802 B Tidal" which is located on the railroad bridge over Eureka Slough next to the Eureka Target.

¹² Table 1 is adapted from the 2018 OPC SLR Guidance to present only the three scenarios OPC recommends evaluating. Additionally, while the OPC tables include low emissions scenarios, only high emissions scenarios, which represent RCP 8.5, are included here because global greenhouse gas emissions are currently tracking along this trajectory.

¹³ The projections for relative sea level rise on Humboldt Bay take into account the combined effects of regional eustatic sea level rise and vertical land motion (tectonic uplift and subsidence). The low-risk aversion scenario has an approximately 17% chance of being exceeded, and the medium-high risk aversion scenario has a 1 in 200 chance, or a 0.5%, chance of being exceeded. The extreme risk accounts for the extreme ice loss scenario and does not have an associated probability at this time. Given the range of many uncertainties incorporated into the models, these projections are not precise, but are intended to reflect a precautionary approach. As our understanding of sea level rise continues to evolve, these sea level rise projections will continue to change as well. While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear.

The current mean monthly maximum water (MMMW)¹⁴ elevation on Humboldt Bay is 7.74 feet (NAVD 88), and the average annual king tide elevation is 8.8 feet (NAVD 88). The applicant anticipates the life of the proposed public restroom/emergency aquatic response center building to be approximately 50 years (i.e., through 2070). Under the medium-high risk scenario cited above, future MMMW levels in the year 2070 are projected to be approximately 11.74 feet NAVD88 (i.e., 7.74 feet + 4 feet of sea level rise) and future average annual king tides are projected to be 12.8 feet. With a minimum finished floor elevation of 14.23 feet, the new building will be safe from nuisance flooding for its design life. Consideration of the medium-high risk scenario is precautionary in this case, because the new building is a public restroom and storage facility not permitted for extended human occupancy.

The applicant anticipates the life of the proposed floating docks to be approximately 20 years (i.e., through 2050). Both floats will be adjustable vertically, and, according to the applicant, the height of the existing and proposed guide piles associated with the floats are tall enough that there will be at least six feet of pile exposed above the water at current high tides. Given that the medium-high risk aversion sea level rise projection for 2050 is 2.3 feet, the floating docks will remain functional for their design life.

The new concrete abutment supporting the gangway to the new floating dock will be installed on land at an elevation of approximately 9.20 feet. Under the medium-high risk scenario cited above, future MMMW levels in the year 2050 are projected to be approximately 10.04 (i.e., 7.74 feet + 2.3 feet of sea level rise). Thus, the gangway at the abutment may be flooded during MMMW levels at the end of its projected life. However, because the floating dock is not critical infrastructure and will not involve a habitable structure, occasional inundation from the highest tides at MMMW levels will not result in a significant risk to life or property.

Therefore, the Commission finds that the proposed project, as conditioned, will minimize flood risk to life and property from hazards, consistent with Coastal Act section 30253(a).

Geologic Hazards

Northwestern California is one of the most seismically active regions in the continental United States. The Humboldt County region occupies a complex geologic environment characterized by very high rates of active tectonic deformation and seismicity. The subject site is covered by a layer of historic imported fill material, with underlying native soils consisting of bay mud, sand or other recent (late Pleistocene) marine or estuarine

¹⁴ MMMW is not an official tidal datum, but it is the tidal boundary most closely associated with the current Humboldt Bay natural shoreline elevation. MMMW is the tidal base elevation that has been used in various regional SLR planning documents (e.g., Trinity Associates 2015) to assess shoreline vulnerability and to depict areas that would be vulnerable to tidal inundation should the existing shoreline protection (e.g., agricultural dikes) be breached.

sedimentary deposits. Although relatively infrequent, high-intensity ground shaking, liquefaction, settlement, and tsunamis are some of the seismic hazards with the potential to occur at the site.

The applicant has submitted 60% design plans for the proposed development prepared by a licensed engineer (Exhibit 3). Plan Sheet C-4 depicts compacted engineered fill¹⁵ being used to elevate the proposed new building's finished floor elevation, and perimeter footings extending below the fill prism. The submitted plans indicate that all excavations and placement of engineered fill will be in accordance with an approved soils report for the site. **Special Condition 11** requires the applicant to submit final construction plans that substantially conform with the submitted 60% design plans, and provide evidence that an appropriate licensed professional has reviewed and approved final foundation plans for the new public restroom/ emergency aquatic response center, and certified that the final plans are consistent with the recommendations of a site-specific engineering geologic soils report.

The Commission thus finds that the proposed development as conditioned will assure the stability and structural integrity of the new development and minimize risks to life and property from ground shaking, liquefaction, and settlement consistent with the requirements of Coastal Act section 30253.

Tsunamis (A Flood & Geologic Hazard)

The boat launch facility is located within the mapped tsunami inundation area on the Tsunami Inundation Map for Emergency Planning (California Geological Survey, August 13, 2020). The inundation area on this map represents the maximum considered tsunami runup from several extreme, infrequent, and realistic tsunami sources.¹⁶ Based on available inundation modeling, only the boat ramp itself would be inundated by smaller, more frequent tsunamis, while the proposed new building, located approximately 200 feet inland of the higher high water line of the bay, would only be inundated by a very infrequent and extreme event (i.e., an event with a 2,475-year average return period). Such a tsunami event would extend inland across Waterfront Drive to an adjacent bluff on the other side of the street. As the public boat launch facility is coastal-dependent, and the public restroom and emergency aquatic response center space need to be located near the boat launch to fulfill their purposes, there is no alternative location for siting the new building that would avoid the zone.

The risk to life and property associated with inundation of the project site by an extreme 2,475-year tsunami event is limited or reduced by several factors. First, the boat launch

¹⁵ A minimum 12-inch layer of new compacted aggregate base material that is separated from the slab foundation by a moisture barrier.

¹⁶ A 975-year average return period tsunami model (with a 5% probability of exceedance in 50 years) was used as a basis for the maximum inundation extent for inundation mapping in conjunction with data from an earlier 2009 mapping effort. The 2009 maps were not probabilistic and instead used a suite of tsunami source events for modeling, representing realistic local and distant earthquakes and hypothetical extreme undersea, near-shore landslides.

facility is used on an occasional basis for launching boats and the facility does not include buildings intended for residential uses or other extended human habitation. The proposed new building will be developed as a public restroom and a storage facility for water rescue boats and equipment. Conversion of the use of the building to one that involves extended human habitation would require a permit amendment. Thus, the degree of human exposure to an extreme tsunami event is relatively limited. Second, safe ground beyond the extent of inundation from an extreme tsunami event is located in close proximity to the site. Nearby "T" Street provides immediate access to the higher ground south of Waterfront Drive that is safe from tsunami inundation. The entrance to the boat launch facility off Waterfront Drive is only approximately 600 feet away from "T" Street. At an impaired walking speed (0.89 meters/second), it would only take approximately three minutes to walk this distance. An extreme tsunami event generated by an earthquake in a nearby location along the Cascadia Subduction Zone is expected to take approximately 10-15 minutes to reach the site after the strong and long-lasting shaking that would result from the earthquake. Third, a tsunami warning system is in place in the area. Tsunami sirens have been installed that are designed to sound in the event of a tsunami and alert people to seek higher ground.

As (1) there is no alternative location for siting the boating facility improvements along the bay that would avoid the tsunami zone, (2) only an extreme tsunami event with a 2.475-year average return period would inundate the upland portions of the boat launch facility, (3) the limited use of the boat launch facility limits human exposure to tsunami events, (4) safe ground above the inundation area is located in close proximity, and (5) a tsunami warning system is in place, the Commission finds that the proposed development minimizes tsunami hazard risk.

Conclusion

Therefore, for all the reasons set forth above, the Commission finds that the proposed project, as conditioned, assures geologic stability and structural integrity and minimizes risks of geologic and flood hazards consistent with the requirements of Coastal Act section 30253.

Assumption of Risk

Finally, considering the significant geologic and flood hazards at the site, the Commission attaches **Special Condition 10**, which requires the applicant to assume the risks of coastal hazards to the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite flooding and geologic risks, the applicant must assume the risks. Special Condition 10 notifies the applicant that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant 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 the hazards.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Coastal Act section 30253.

H. Archaeological Resources

Coastal Act section 30244 states:

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 Wiyot tribe. At the time that Euro-Americans first made contact in this region, the Wiyot lived almost exclusively in villages along the protected shores of Humboldt Bay and near the mouths of the Eel and Mad Rivers. Today, representatives of the Wiyot Tribe are the Table Bluff Reservation Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria.

William Rich and Associates conducted a cultural resource investigation and prepared a report for the subject project in 2020. The investigation included a review of the files at the Northwest Information Center, a review of other archaeological and historical literature pertinent to the project and surrounding area, correspondence with tribal representatives, and a systematic pedestrian field survey of the entire project area and an adjacent buffer. The field survey, conducted on March 20, 2020, found no archaeological site indicators. According to the report, “historical grading and filling appear to have disturbed the landform within much of the project area to a point that any archaeological remains are either destroyed or deeply buried.”¹⁷

On February 3, 2020, project information and the results of the cultural resource investigation were referred to the Tribal Historic Preservation Officers (THPOs) of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and Blue Lake Rancheria. The THPOs of all three tribal groups responded recommending that protocols for the evaluation and protection of archaeological resources inadvertently discovered during construction be made a condition of project approval. In response to the request of the THPOs, to ensure protection of any archaeological resources that may be discovered at the site during project construction, the Commission attaches **Special Condition 12**. This condition requires that if an area of cultural deposits or human remains is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist, in consultation with the THPOs of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria, must analyze the significance of the find. To recommence construction following discovery of cultural deposits or human remains, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director and obtain a

¹⁷ A previous archaeological survey conducted in 1985 involved excavation of large trenches, portions of which were in the current project area, and no archaeological site indicators were identified. Saturated native soils were found below imported fill material at a ten-foot depth.

permit amendment for changes the Executive Director determines are not *de minimis* in nature and scope.

In addition to referral to the THPOs in February 2020, the applicant conducted a previous site visit with the THPOs on March 13, 2019 to discuss the subject project as well as an envisioned recreational vehicle park on the adjacent parcel to the west (the two projects were evaluated under the same Initial Study/Mitigated Negative Declaration, adopted in September 2019). Shortly after this site visit, the THPO of the Blue Lake Rancheria sent the applicant recommendations for mitigations, which she sent again in August 2019 in response to the circulated environmental document. In response to these earlier recommendations, the applicant also proposes to enlist the paid services of a Wiyot tribal monitor for all excavations greater than twelve inches in depth. The Commission includes this additional mitigation measure as part of Special Condition 12 in case deeper than anticipated excavations are ultimately found to be necessary.

Therefore, the Commission finds that the development, as conditioned, is consistent with Coastal Act section 30244.

I. Visual Resources

Coastal Act section 30251 states in applicable part:

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 of visually degraded areas.

Waterfront Drive affords scenic views through the project site of the Eureka Inner Channel of Humboldt Bay and Woodley Island on its opposite shore. The boat launch facility itself is highly visible from Waterfront Drive and also from the Coastal Trail which passes through the boat launch facility site.

Components of the proposed development that could potentially affect visual resources include replacement signage, the new public restroom/emergency aquatic response center building, and new exterior lighting.

Signage

The applicant proposes to replace an existing DBW sign at the entrance to the boat launch facility on Waterfront Drive with an updated sign at the same location and size. In addition, the applicant proposes to relocate an existing sign displaying the Humboldt Bay Water Trails Map from the west to the east side of the boat launch ramp to accommodate the new floating dock. Neither of these changes will further impact public views, and as the signs replace two of the existing signs in the area without enlargement, the replacement signs will be compatible with the character of the surrounding area.

New Building

The proposed new building will be 1,512 square feet in size with a 14-foot eave height and maximum ridge height of 27 feet (See Exhibit 3, pg. 12 for building elevation plans). The existing site is flat and no alteration of landform is required to accommodate the new building. Although the new building will be 832 square feet larger than the existing building to be demolished, it will be set approximately 170 feet further back from the shoreline on the west side of the parking lot. As a result, replacement of the existing restroom with the new building will expose additional blue-water views of the bay from the boat launch parking lot. Like the existing building to be demolished, the new building will block some blue-water view from Waterfront Drive, but Waterfront Drive has extensive views of the bay and the impact of the new building will be negligible. As preliminarily described and depicted by the applicant, the height, bulk, and design of the proposed building is similar to public restroom buildings in use at other coastal access facilities in the area and will not adversely affect the visual character of the area. To ensure the new building will be unobtrusive on the landscape and visually compatible with the character of the surrounding area, **Special Condition 11** requires the applicant to submit final design plans for the new building prior to commencement of construction for the review and approval of the Executive Director. Special Condition 11 requires that the final design plans (1) include final elevation plans for the building and a description of exterior building materials and colors; and (2) demonstrate that the building will be visually compatible with the character of the surrounding area and conform in architectural style, construction materials, and surface treatments with similar public improvements along the Eureka waterfront.

Lighting

The applicant proposes to retain two existing light poles in the parking lot and two existing light poles illuminating the CCT on the east and west sides of the boat launch. The only proposed new lighting will be attached to the north, south and east sides of the new building (exterior building lighting is depicted on the building elevation plans included on pg. 12 of Exhibit 3). The applicant has proposed a mitigation measure for new lighting prohibiting any portion of the illuminated fixture or lens from extending below or beyond the canister or light shield. To ensure lighting is visually unobtrusive, Special Condition 11 also requires new building lighting to be low-wattage, shielded, and downcast, and requires the applicant to submit lighting design specifications for the Executive Director’s review and approval prior to commencement of construction. In summary, the proposed development as conditioned is consistent with section 30251, as the development will protect views to and along the coast, minimize the alteration of natural landforms, and will be compatible with the character of the surrounding area.

J. Public Access & Recreational Boating

Coastal Act section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public

safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act section 30211 states:

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

Coastal Act section 30212(a) states, in part:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected.

Coastal Act section 30213 states, in part:

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

Coastal Act section 30220 states:

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

Coastal Act section 30223 states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act section 30224 states:

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.

Coastal Act section 30234 states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and

located in such a fashion as not to interfere with the needs of the commercial fishing industry.

The purpose of the proposed project is to maintain and improve a public boat launch facility to encourage public access to and along Humboldt Bay and increased recreational boating use, two priorities of the Coastal Act. The proposed replacement of the existing floating dock, public restroom, and entrance sign and resurfacing of the parking lot will extend the life of the facility (which was constructed in the mid-1980s and is deteriorating in condition), while the proposed addition of a floating dock will reduce conflicts between motorized and non-motorized vessels at the boat launch. In addition, the proposed improvement¹⁸ of the CCT crossing of the boat launch facility will improve safety for users of both the trail and the boat launch, and the installation of a new ADA-compliant sidewalk along the west side of the facility will provide a safe and accessible connection from the CCT and boat launch facility to the new public restroom, ADA parking spaces, and Waterfront Drive.

The entire public boat launch facility is currently accessible to the public free of charge and the applicant is not proposing to change or limit access as part of the proposed project. During environmental review of the project,¹⁹ it was anticipated that a portion of the proposed new building would be designated for private use by a third party potentially as a retail space, but now the applicant proposes to use the building for a public restroom and for storage of Humboldt Bay Fire water rescue boat(s) and equipment. The proposed storage use is in service of public safety and will not generate significant demand for parking or otherwise conflict with recreational boating and public access use of the site. The facility meets the definition of a public works facility in the Coastal Act and thus any improvement to the building does not qualify for the exemptions from coastal development permit requirements under Section 30610 for improvements to certain kind of structures. A change of use of the building would require a permit amendment. To ensure that the potential public access and recreational boating impacts of any proposed new use will be adequately evaluated, the Commission attaches **Special Condition 1** clarifying that any future change in use of the building must receive CDP authorization.

While the proposed project will maintain and upgrade a no-cost recreational amenity that provides parking, restrooms, and access to and along Humboldt Bay for recreational boaters, coastal trail users, and the public at large, construction of the project will necessarily result in temporary public access impacts. According to the applicant, the work to replace the existing float and install the new floating dock will require closure of the boat launch, a portion (approximately one-sixth) of the parking lot, and CCT access across the site for approximately six working days. CCT improvements

¹⁸ Where the CCT crosses the facility, the City proposes to delineate the trail with painted four-inch white hatched lines bordered by four-inch white painted lines. Detectable warning surfaces (truncated domes) will be installed where the trail crosses the boat launch ramp on each side.

¹⁹ The City of Eureka adopted a Mitigated Negative Declaration for the project on September 20, 2019.

including resurfacing, a new trail connection to the proposed new sidewalk, and installation of detectable warnings and striping for the trail crossing of the site will require trail closure for a period of three days. Parking lot resurfacing and restriping will require a trail closure period of five days. The boat launch, trail crossing, and five-sixths of the parking lot will remain open during the remainder of the proposed work.²⁰ The demolition of the existing restroom and construction of the proposed new building will take approximately twenty days, with the entire proposed project will take a little over one month.

To avoid facility closure during peak boat launch usage periods, the applicant proposes to schedule construction outside of the salmon fishing season between May 15 and June 30 and/or between September 4 and October 15. The applicant also proposes to post signs onsite and put out a press release to notify the public of alternative nearby launch sites.²¹ Temporary traffic barriers will be placed between active construction areas and the remainder of the facility to allow safe public use during construction. The construction barges will be stationed in the dredged area at the base of the ramp outside of the navigable channel where there could be conflicts with boaters traversing the bay.

The total duration of construction activities requiring closure of the CCT across the site will be fourteen calendar days. The applicant proposes to provide a pedestrian detour during the closure period to allow continued public use of the CCT. The applicant proposes to delineate the detour with temporary construction fencing and signs to safely reroute pedestrian traffic around the site via Waterfront Drive.

To ensure that the project's impact on public access and recreational boating is temporary and minimized, **Special Condition 13** requires submittal of a public access plan prior to permit issuance for the Executive Director's review and approval. Among other requirements, Special Condition 13 requires that the applicant limit closures of the boat launch and CCT crossing to less than 30 days, post adequate signage to inform the public of the closures and alternative boat launching sites, and provide a temporary detour of the CCT as proposed. Special Condition 13 also requires the applicant to submit a site plan showing the route of the CCT detour around the construction areas and where barriers and signage will be installed.

As the closure of the boat launch and trail crossing will be for a relatively short duration, a trail detour is proposed, and alternative public access and recreational boating facilities exist nearby, the Commission finds that the temporary adverse impacts of

²⁰ Construction material and equipment staging and storage will occur in a 3,600-square-foot upland area in the field to the west of the parking lot to minimize temporary public access impacts at the boat launch facility. This staging and storage area will be delineated by a temporary chain link fence.

²¹ Among other facilities in the project vicinity, the Bonnie Gool public dock is located approximately one quarter mile west of the subject site, the Eureka Marina public boat ramp is located 1.2 miles west of the site, and the Woodley Island Marina is located across the bay channel to the north.

construction on public access and recreational boating are not significant. With implementation of Special Conditions 1 and 13, the project will be carried out in a manner that will protect existing, and facilitate expanded, coastal access and recreational boating opportunities at the project site. The Commission therefore finds that the proposed project, as conditioned, consistent with the coastal access and recreational boating sections of the Coastal Act.

K. California Environmental Quality Act

The City of Eureka served as the lead agency for the project for California Environmental Quality Act (CEQA) purposes. The City adopted a Mitigated Negative Declaration for the project on September 20, 2019 (State Clearinghouse #2019029149).

Section 13096 of the Commission's regulations requires Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that 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. (Section 15251(c)).

The Commission incorporates its findings on Coastal Act consistency as if set forth in full. No public comments regarding potential significant adverse environmental effects of the project were received by the Coastal Commission prior to preparation of the staff report. As discussed above, the proposed 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 that 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, is the least environmentally damaging feasible alternative, has no remaining significant environmental effects, either individual or cumulative, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A – Substantive File Documents

Coastal Development Permit Application No. 1-20-0261 and associated file documents.

City of Eureka Certified Local Coastal Program.

California Coastal Commission. (2015, August 12; including October 2018 Science Update adopted November 7, 2018). California Coastal Commission sea level rise policy guidance: Interpretive guidelines for addressing sea level rise in local coastal programs and coastal development permits.

California Department of Transportation. (2009, February). Technical guidance for assessment and mitigation of the hydroacoustic effects of pile driving on fish. Sacramento, CA: ICF Jones & Stokes, Illingworth & Rodkin.

California Ocean Protection Council. (2018). State of California Sea-Level Rise Guidance.

National Marine Fisheries Service. (2014, October). California Eelgrass Mitigation Policy and Implementing Guidelines.