

# San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190  
State of California | Gavin Newsom – Governor | info@bcdca.gov | www.bcdca.gov

May 26, 2023

## Staff Recommendation

### 557 East Bayshore

(For Commission consideration on June 1, 2023)

Permit Application Number:	2023.004.00
Applicant:	Redwood Crossing LLC
Project Description:	Construct an approximately 2-acre portion of a new approximately 14-acre mixed-use commercial and residential development, including public access areas and amenities and a portion of a residential building, within the 100-foot shoreline band.
Location:	Within the 100-foot shoreline band, at 557 East Bayshore Road in the City of Redwood City, San Mateo County.
Application Filed Complete:	May 3, 2023
Deadline for Commission Action:	August 1, 2023
Staff Contact:	Katharine Pan (415/352-3650; katharine.pan@bcdca.gov)
Staff Recommendation:	APPROVAL WITH CONDITIONS

### Basis for Staff Recommendation

The staff recommends approval of the application as conditioned in the recommended resolution, below. The project will involve the redevelopment of an approximately 14-acre property at 557 East Bayshore Boulevard in the City of Redwood City into a residential and commercial mixed-use project consisting of 480 new residential units and a fitness center. Approximately two acres of the project would be located within the Commission’s shoreline band jurisdiction, which will include a 71,380-square-foot (1.64-acre) dedicated public access area and a portion of a 5-story residential building. The proposed use is not in conflict with any Priority Use Areas established by the San Francisco Bay Plan (“Bay Plan”). Among other things, the recommended resolution includes special conditions to:

- Require 75,798 square feet (1.74 acres) of dedicated public access, of which 34,798 square feet (0.80 acres) is new new dedicated public access.
- Require public access improvements within the dedicated public access area, including a multi-use trail, plazas, overlooks, lawns, a portion of a central paseo, landscaping, a sidewalk connecting the shoreline to the roadway along the eastern side of the project, and other related amenities.
- Ensure a public pedestrian connection between East Bayshore Road and the shoreline public access area through the center of the project site along a visually inviting corridor.

- Provide for special event programming in public access areas and in the central corridor.
- Provide for future trail connections to neighboring sites.
- Establish and maintain a view corridor through the center of the project site from East Bayshore Boulevard to the shoreline.
- Require a sea level rise adaptation planning process to ensure the continued viability of public access areas into the future.

## Recommended Resolutions and Findings

The staff recommends the Commission adopt the following resolution:

### I. Authorization

#### A. Authorized Project

Subject to the conditions stated below, the permittee, Redwood Crossing LLC, is granted permission to do the following within the 100-foot shoreline band, at 557 East Bayshore Road, in the City of Redwood City, San Mateo County.

##### 1. Within the 100-foot Shoreline Band

###### a. Site Preparation

Remove existing improvements, regrade the site, and install and maintain in-kind underground utility services (including fire water, domestic water, storm drain, sanitary sewer, communications, and electrical).

###### b. Shoreline Public Access Area

Construct, use, and maintain in-kind improvements within the approximately 71,380-square-foot Shoreline Public Access Area, as described in further detail in Section II.B.4 (“Improvements within the Total Public Access Area”), below, including wooden deck overlooks covering approximately 3,000 square feet; plazas covering approximately 2,366 square feet; lawns covering approximately 4,952 square feet, a paved portion of paseo covering approximately 2,419 square feet; an approximately 554-foot-long multi-use trail; wooden deck walkways; sidewalks; approximately 47,300 square feet of landscaping; and amenities such as bicycle racks and lighting.

###### c. Residential Development

Construct, use, and maintain in-kind residential improvements within the approximately 25,562-square-foot area not dedicated for public access, including a portion of a 5-story multi-family residential building (Residential Building B) covering a footprint of approximately 418 square feet, and landscaping.

d. **Parking Area and Right-of-Way**

Construct, use, and maintain in-kind an approximately 7,341-square-foot portion of parking lot with unassigned parking spaces and associated right-of-way on the western side of the project site, and an approximately 8,010-square-foot portion of parking lot with unassigned and Public Shore Parking spaces and associated right-of-way on the eastern side of the project site.

**B. Permit Application Date**

This authority is generally pursuant to and limited by the application dated February 13, 2023, including all accompanying and subsequently submitted correspondence and exhibits, subject to the modifications required by conditions hereto.

**C. Deadlines for Commencing and Completing Authorized Work**

Work authorized herein must commence prior to June 1, 2026, or this permit will lapse and become null and void. All work authorized herein must be completed by June 1, 2033, unless an extension of time is granted by amendment of the permit.

Once commenced, all work authorized or required by this permit must be diligently pursued to completion and must be completed within six years of commencement, unless an extension of time is granted by amendment of the permit.

**D. Project Summary**

Redwood Crossing LLC proposes to redevelop the approximately 14-acre property at 557 East Bayshore Road in Redwood City with a new mixed-use project consisting of two residential apartment buildings with a total of 480 units, including 85 affordable units, an athletic club and spa, and a shoreline public access area. Approximately 2 acres of the development would take place within the Commission's 100-foot shoreline band permitting jurisdiction. The site is located along a tidally influenced ditch, with East Bayshore Road to the south and Smith Slough and Bair Island to the north.

Within the shoreline band, the project would involve the demolition of an existing 88-foot-long gravel pathway, parking spaces (including four public shore spaces), and the approximately 5,000-square-foot portion of the existing theater structure within the Commission's jurisdiction; the construction of a portion of a 5-story residential building on a footprint of approximately 418 square feet; the development of an approximately 71,380-square-foot dedicated public access area; and the construction of portions of at-grade parking lots, including an approximately 7,341-square-foot lot on the west side of the project with 14 unassigned parking spaces and an approximately 8,010-square-foot lot on the east side with seven designated Public Shore Parking spaces and 15 unassigned spaces.

In addition, the project includes a 26-foot-wide, 900-foot-long public right of way and approximately 4,418-square feet of pedestrian access to be dedicated outside of the shoreline band along the eastern edge of the site, as well as a non-dedicated access corridor through the center of the site.

1. Bay Fill

The project will not result in any new Bay fill.

2. Public Access

The project would increase the dedicated public access area by approximately 34,798 square feet, to a total of approximately 75,798 square feet, including approximately 30,380 square feet of new dedicated public access along the northern edge of the project within the shoreline band and approximately 4,418 square feet of dedicated pedestrian access along the eastern edge of the site outside of the Commission's jurisdiction.

Within the dedicated public access area in the shoreline band, the project will provide a 12-foot-wide, approximately 554-foot-long, multi-use asphalt pathway with intermittent 3-foot-wide shoulders on either side; an approximately 2,419-square-foot portion of the paved central paseo; three lawn activity areas, totaling approximately 4,952 square feet; two decomposed granite plazas, totaling approximately 4,731 square feet, with a 13-foot by 40-foot pétanque court; two wooden deck overlooks, totaling approximately 3,000 square feet, with concrete seat walls and views of the slough; six- to eight-foot-wide wooden deck walkways, totaling approximately 3,774 square feet, with seven seating areas; approximately 9,843 linear feet of paved pathways; seven bicycle racks; seven designated Public Shore Parking spaces, including one ADA-accessible space, on the eastern edge of the Shoreline Public Access Area, to be accessed via a public right-of-way connecting to East Bayshore Road; and approximately 47,300 square feet of native and drought-tolerant plant landscaping.

Outside of the Commission's jurisdiction, the project would dedicate an easement for a 4- to 6-foot-wide sidewalk on the eastern side of the site, connecting East Bayshore Road with the shoreline access area, and provide a 26-foot-wide central access corridor between East Bayshore Road and the shoreline through the middle of the site.

**E. Related Permits**

BCDC Permit No. M1988.016.00 was previously issued on September 9, 1988, to Syufy Enterprises, and subsequently amended through Amendment No. Two, on December 4, 1990. As amended, the permit allowed for installation of a 24-inch-diameter storm drain outfall and the placement of 54 cubic yards of riprap and 4.7 cubic yards of concrete in the Commission's Bay jurisdiction; and, within the 100-foot-shoreline band, the grading and landscaping of a 41,000-square-foot public access area, the installation of an 88-foot-long and 3-foot-wide gravel pathway, the construction of a 5,075-square-foot portion of a total 75,000-square-foot movie theater complex, and the placement of a 24-inch-diameter storm drain pipe. The permit included special conditions requiring the dedication of the 41,000-square-foot area as public access, as well as the provision of an 88-foot-long pathway, landscaping including at least 13 trees and an irrigation system,

at least two pedestrian connections from the movie theater parking lot available during daylight hours, two public access signs posted at the pedestrian connections, and four designated public access parking spaces.

The project authorized by this permit would redevelop the entire area within the 100-foot-shoreline band covered by BCDC Permit No. M1988.016.02, with the exception of the previously authorized storm drain. The 41,000-square-foot public access area and public access improvements including the pathway, landscaping, pedestrian connections, and parking spaces required by BCDC Permit No. M1988.016.02 are hereby replaced by the public access requirements of this permit. Notwithstanding anything to the contrary herein, the authorization for the storm drainage pipe and outfall previously granted by BCDC Permit No. M1988.016.02 shall remain in place. BCDC Permit No. M1988.016.02 will need to be administratively amended to reflect the changes resulting from issuance of this permit.

Notwithstanding the authorization for the storm drainage pipe and outfall, the authorization, terms, and conditions of Permit No. M1988.016.02 shall remain in full effect unless and until the permittee exercises this permit by commencing any of the activities authorized in Section 1.A, in which event this permit shall be deemed to supersede and replace Permit No. M1988.016.02 except with respect to the authorization for the storm drainage pipe and outfall.

## **II. Special Conditions**

The authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

### **A. Specific Plans and Plan Review**

#### **1. Project Plans**

The development authorized herein shall be built generally in conformance with Exhibits A through D of this permit.

The permittee is responsible for assuring that all construction documents accurately and fully reflect the terms and conditions of this permit and any legal instruments submitted pursuant to this authorization. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

#### **2. Plan Review and Approval.**

Unless otherwise provided by this permit, no work whatsoever shall commence pursuant to this permit until final documents regarding authorized and required activities are approved in writing by or on behalf of the Commission. Documents submitted shall be accompanied by a written request for plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. All documents will be reviewed within 60

calendar days of receipt. To save time, preliminary documents may be submitted prior to the submittal of final documents. If final document review is not completed by or on behalf of the Commission within the 60-day period, the permittee may carry out the project authorized herein in a manner consistent with the plans referred to in Special Condition II.A.1 (“Project Plans”) of this permit.

a. Document Details

All construction documents shall be labeled with: the Mean High Water line or the upland extent of marsh vegetation no higher than +5 feet above Mean Sea Level and the tidal datum reference (NAVD88 or, if appropriate, Mean Lower Low Water); the corresponding 100-foot shoreline band; property lines; the location, types, and dimensions of materials, structures, and project phases authorized herein; grading limits; and the boundaries of public access areas and view corridor(s) required herein. Documents for shoreline protection projects must be dated and include the preparer’s certification of project safety and contact information. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

b. Conformity with Final Approved Documents

All authorized development and uses shall conform to the final documents. Prior to use of the facilities authorized herein, the appropriate professional(s) of record shall certify in writing that the work covered by the authorization and required of this permit has been implemented in accordance with the approved criteria and in substantial conformance with the approved documents. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

c. Discrepancies between Approved Plans and Special Conditions

In case of a discrepancy between final approved documents and the special conditions of this permit or legal instruments, the special condition shall prevail.

d. Reconsideration of Plan Review

The permittee may request reconsideration of a plan review action taken pursuant to this special condition within 30 days of a plan review action by submitting a written request for reconsideration to the Commission’s Executive Director. Following the Executive Director’s receipt of such a request, the Executive Director shall respond to the permittee with a determination on whether the plan review action in question shall remain unchanged or an additional review and/or action shall be performed by or on behalf of the Commission, including, but not limited to, an amendment to the permit and/or consultation with the Commission Design Review Board.

## B. Public Access

### 1. Total Public Access Area

The approximately 75,798-square-foot (1.74-acre) area, along approximately 888 linear feet of shoreline as generally shown on Exhibit A, shall be made available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, picnicking, and related purposes. If the permittee wishes to use the public access area for other than public access purposes, it must obtain prior written approval by or on behalf of the Commission, except as provided in Special Condition II.B.12 (“Special Events”).

The overall proposal for public access for this project includes:

New dedicated public access in the shoreline band	30,380 square feet (0.70 acres)
New dedicated public access out of the shoreline band	4,418 square feet (0.11 acres)
Previously dedicated public access to be improved (BCDC Permit No. M1988.016.02)	41,000 square feet (0.94 acres)

### 2. Permanent Guarantee

Prior to the commencement of any grading or construction activity, the permittee shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to the total 75,798-square-foot (1.74-acre) public access area. The instrument(s) shall create rights in favor of the public which shall commence no later than after completion of construction of any public access improvements required by this authorization and prior to the use of any structures authorized herein. Such instrument shall be in a form that meets recordation requirements of San Mateo County and shall include a legal description of the property being restricted and a map that clearly shows the shoreline (Mean High Water Line or 5 feet above Mean Sea Level if marsh is present), the property being restricted for public access, the legal description of the property and of the area being restricted for public access, and other appropriate landmarks and topographic features of the site, such as the location and elevation of the top of bank of any levees, any significant elevation changes, and the location of the nearest public street and adjacent public access areas. Approval or disapproval of the instrument shall occur within 30 days after submittal for approval and shall be based on the following:

- a. Sufficiency of the instrument to create legally enforceable rights and duties to provide the public access area required by this authorization;
- b. Inclusion of an exhibit to the instrument that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and
- c. Sufficiency of the instrument to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, licensees, and users.

3. Recordation of the Instrument

Within 30 days after approval of the instrument(s), the permittee shall record the instrument(s) on all parcels affected by the instrument(s) and shall provide evidence of recording to the Commission. No changes shall be made to the instrument(s) after approval without the express written consent by or on behalf of the Commission.

4. Improvements within the Total Public Access Area

The permittee shall install the following improvements, as generally shown on attached Exhibit B. All improvements shall be designed in compliance with ADA-standards and best practices to ensure Universal Access to the maximum feasible extent.

a. Shoreline Public Access Area

(1) Multi-Use Trail

A minimum 12-foot-wide, approximately 554-foot-long multi-use paved pathway with minimum 3-foot-wide shoulders (where appropriate) on either side.

(2) Plazas

An approximately 4,731-square-foot area including two decomposed granite plazas—one approximately 3,100 square feet in size, and the other approximately 1,631 square feet in size and containing a pétanque court measuring 13 feet wide and 40 feet long—and furnishings generally conforming to those shown in Sheet 23 (“Shoreline Plan”) of the plan set entitled “BCDC Design Review Board Submittal,” dated April 7, 2023, and prepared by BDE Architecture, SyRES Properties, VillaSport, ELS Architecture and Urban Design, the Guzzardo Partnership, Inc., and BKF Engineers, (i.e., three picnic tables, 11 lounge chairs, and three trash receptacles).

(3) Overlooks

An approximately 3,000-square-foot area including two wooden deck overlooks with concrete seat walls and views of the slough, one approximately 1,216 square feet in size, and the other approximately 1,783 square feet in size.



(4) Wooden Deck Pathways and Seating Areas

Approximately 3,774 square feet of wooden deck walkways with a minimum width of 6 feet, and seven seating areas each approximately 38 square feet in size with benches and space available for ADA-accessible companion seating.

(5) Lawns

An approximately 4,952-square-foot area including three lawns measuring approximately 2,550 square feet, 771 square feet, and 1,631 square feet, respectively.

(6) Paseo

An approximately 2,419-square-foot portion of the paved central paseo.

(7) Pathways

Approximately 9,843 linear feet of sidewalks and other paved pathways with a minimum width of 6 feet located along the parking lot, lawn, and plaza areas.

(8) Landscaping

An approximately 47,300-square-foot area of landscaping consisting of native and drought-tolerant non-invasive plant species.

(9) Bike Parking

A minimum of seven bicycle racks to accommodate at least 14 parked bicycles.

b. Eastern Pedestrian Connection

An approximately 4,418-square-foot area outside of the Commission's jurisdiction, consisting of an approximately 900-foot-long sidewalk with a minimum width of 4 feet, located along the eastern side of the project site, connecting East Bayshore Road with the public access area in the shoreline band.

5. Central Access Corridor

The approximately 710-foot-long corridor between East Bayshore Road and the shoreline through the center of the site shall be made available for public pedestrian access at all times (except as provided in Special Condition II.B.12 ["Special Events"] and Special Condition II.B.17 ["Reasonable Rules and Restrictions"]), including the following segments:

a. Central Sidewalk

An approximately 350-foot-long concrete walkway adjacent to VillaSport, with a minimum width of 6 feet, connecting East Bayshore Road to the Paseo.

b. Paseo

A 26-foot-wide corridor along the approximately 360-foot-long paved Paseo, connecting the Central Sidewalk to the Shoreline Public Access Area.

6. Public Shore Parking

Prior to the occupancy of Residential Building B, the permittee shall provide at least seven signed Public Shore Parking spaces, including one ADA-accessible space, free of charge for public use within the eastern surface parking lot located within the shoreline band.

7. Public Access Signage, Wayfinding, and Interpretive Elements Plan

At least 180 days prior to use of any improvements authorized or required by this permit, the permittee shall submit for review and approval by or on behalf of the Commission a comprehensive Public Access Signage, Wayfinding, and Interpretive Elements Plan ("Signage Plan") for the Shoreline Public Access Area, the Eastern Pedestrian Connection, the Paseo, and the Central East Bayshore Connection. The Signage Plan should accomplish the following:

- a. Provide for adequate signage to ensure that members of the public can clearly and conveniently identify and follow the pedestrian, bicycle, and roadway connections from East Bayshore Road to the shoreline;
- b. Include adequate signage for the Shoreline Public Access Area, Public Shore Parking, and the Central and Eastern access corridors;
- c. Maximize public recognition, use, and enjoyment of the project's public access improvements and connections;
- d. Include an interpretive signage exhibit along the Paseo;
- e. Identify and utilize appropriate measures to communicate to the range of social and linguistic groups residing in the surrounding community, including interpretive signage in relevant languages in addition to English, and reliance on iconography;
- f. Incorporate Universal Design features to maximize legibility across a wide variety of users, which may include tactile elements, Braille signage, etc.; and
- g. Provide detail on the location, quantity, and design of wayfinding, interpretive, Public Shore, and Public Shore Parking signs.

The Signage Plan shall be reviewed through the plan review process established in Special Condition II.A ("Specific Plans and Plan Review").

8. Public Right-of-Way

Prior to the commencement of any grading or construction activity, the permittee shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to the approximately 27,657-square-foot Public Right-of-Way connecting East Bayshore Road to the shoreline along the eastern side of the project site.

The dedication shall meet the criteria and follow the procedures established in Special Condition II.B.2 (“Permanent Guarantee”) and II.B.3 (“Recordation of the Instrument”). The right-of-way will remain open and unobstructed at all times to provide access for bicycles and vehicles from East Bayshore Road to the Public Shore Parking and Shoreline Public Access areas.

**9. Site Furnishings and Amenities**

Prior to the temporary or permanent placement of any site furnishings or other amenities in the lawn or plaza areas, the permittee shall submit for review and approval by or on behalf of the Commission a Materials Plan and Furnishing Schedule detailing the type and location of any proposed furnishings and the period of time and/or frequency of the placement. All furnishings shall be made available to the public free of charge, be placed in such a manner that they would not negatively impact site circulation or views, and enhance the public’s enjoyment or use of the public access area. The plan shall be reviewed through the plan review process established in Special Condition II.A (“Specific Plans and Plan Review”).

**10. Hours of Operation**

Unless otherwise restricted pursuant to Special Condition II.B.17 (“Reasonable Rules and Restrictions”) or Special Condition II.B.12 (“Special Events”), the approximately 75,798-square-foot Total Public Access Area and the Central Access Corridor shall be open to the public at all times (i.e., 24 hours a day).

**11. Public Access Phasing**

The public access improvements required pursuant to Special Condition II.B (“Public Access”) shall be installed in phases in association with the construction of the adjacent development area according to the schedule below and as shown in Exhibit C. Any changes to the phasing of the development blocks must be approved by or on behalf of the Commission through the plan review process established in Special Condition II.A (“Specific Plans and Plan Review”) upon a finding that the public access provided at each stage of development is proportionate to the vertical development.

**a. Phase 1**

Public access improvements to be provided as part of Phase 1 of the project development shall include the portion of the Shoreline Public Access Area adjacent to Residential Building A, the Central Access Corridor, and the interim placement of the seven Public Shore Parking spaces, including an ADA-accessible space, in the western shoreline parking lot, as shown in Exhibit C-1. All Phase 1 public access improvements shall be completed and available for public use prior to the occupancy of Residential Building A or the VillaSport building.

b. Phase 2

Public access improvements to be provided as part of Phase 2 of the project include all remaining improvements not completed as part of Phase 1, including the remainder of the Shoreline Public Access Area, the Public Shore Parking area, the Eastern Pedestrian Connection, and the Public Right-of-Way, as shown in Exhibit C-2. All Phase 2 public access improvements shall be completed and available for public use prior to the occupancy of Residential Building B.

The permittee shall notify the Commission at the completion of Phase 1 if the Phase 2 public access improvements will not be completed and open to the public within 18 months. If the completion of Phase 2 will not be completed within 18 months of the completion of Phase 1, then in addition to all existing public access requirements, an interim extension of the multi-use trail must be completed within 18 months of the occupancy of the Phase 1 structures, connecting the completed portion of the trail to the northeastern corner of the project site. The alignment of the interim path shall be submitted for review and approval by the Commission according to Special Condition II.A (“Specific Plans and Plan Review”).

12. Special Events

Special events may occur only within the Paseo and lawn areas, subject to the limitations established below. No closure of the Public Access Area or the Central Access Corridor required by this permit may occur outside these defined areas, except as allowed below. Events outside of the required public access area or Central Access Corridor shall employ all appropriate measures to ensure that the Eastern Pedestrian Connection, Central Access Corridor, and Public Right-of-Way remain passable at all times.

a. Classes and Activities on the Lawns

Classes and other activities may be held in the lawn areas provided that only one of the three lawn areas may be used for classes or activities at any given time, and the area taken up by classes or activities be no more than 1,630 square feet (approximately one-third of the total lawn area).

All classes and activities shall be free and open to the general public on a first-come, first-served basis (i.e., may not require a ticket for entry or advanced registration), and shall not require restricting access (e.g., fencing or other barriers). Classes or other activities shall occur on no more than two weekend days and eight weekdays per any given month. No more than three hours per day may be used for classes or activities, including time for set-up and tear-down.

b. Private Events in Central Access Corridor

The permittee may use the Paseo for private events for up to eight event days per year. Events may include the placement of temporary structures (such as tents, booths, tables, exhibits, and stages). If set-up or tear-down of the event area requires the closure of the Paseo on days prior to or after the event day, then each calendar day the Paseo is closed will count as an event day. Events are limited to a 5,500-square-foot area located between the north side walkway between VillaSport and Building B and the north façade of Building A, as shown in Exhibit D. For events that would completely close the Paseo to the public, a pedestrian detour shall be provided between Building B and VillaSport to enable circulation from the passenger drop-off to the shoreline. Prior to holding any private event, the permittee shall submit a circulation plan, including available routes for the public to access the shoreline from the passenger drop-off area during the event, wayfinding signage, and signage locations, for review and approval by the Commission according to the plan review process in Special Condition II.A (“Specific Plans and Plan Review”).

c. Free Unrestricted Events in the Central Access Corridor

The permittee may use the Paseo for special events that are free and open to the general public on a first-come, first-served basis (i.e., may not require a ticket for entry or advanced registration), and which do not require restricting access (e.g., barriers, fencing) for up to two event days per month. Events are limited to a 5,500-square-foot area located between the north side walkway between VillaSport and Building B and the north façade of Building A, as shown in Exhibit D.

(1) Typical Event Plan

Prior to the first instance of any such event, the permittee shall submit a Typical Event Plan for review and approval by the Commission according to the plan review process in Special Condition II.A (“Specific Plans and Plan Review”). The plan shall include a site plan showing the typical locations and dimensions of any temporary structures; a circulation diagram; parameters for event timing, including times for set-up and tear-down; any related signage; and any other information necessary for the Commission to determine that any such event would not significantly disrupt the View Corridor or public circulation through the Central Access Corridor. Following approval of the Typical Event Plan, the permittee may hold free and unrestricted events according to the plan without further plan review.

(2) Events Not Conforming to the Typical Event Plan

Events that will not conform to the Typical Event Plan shall be reviewed and approved by the Commission according to the plan review process in Special Condition II.A (“Specific Plans and Plan Review”). For such events, the

permittee shall submit an Event Plan that shall include a description of the event; timing of the event, including times for set-up and tear-down; a site plan showing the locations and dimensions of any temporary structures; a circulation diagram; any related signage; and any other information necessary for the Commission to determine that the event would not significantly disrupt the View Corridor or public circulation through the Central Access Corridor.

d. Ongoing Monitoring and Reporting

Commencing on January 30 of the calendar year following the first special event held pursuant to this authorization, and every subsequent calendar year by January 30, the permittee shall submit a written Annual Report describing the prior year's special event program.

For each individual event, the Annual Report shall identify: (1) the event name, (2) event date (including dates for the event itself and set-up and tear-down), (3) event start and end time, (4) the purpose and type of event (i.e., class or activity, private event, or free unrestricted event), (5) the location of the event and its approximate footprint, (6) the approximate number of participants or visitors associated with the event, (7) documentation of any known complaints received from members of the public in response to the event, and (8) note of any damage and repairs required to public access areas as a result of the event.

Each Annual Report shall also include an overall assessment of the special events, including: a qualitative assessment of the overall performance of the public access areas during special events, including an analysis of whether the special events promoted or deterred use of the public access areas by different segments of the public, and recommendations as to any operating procedures that could be implemented to correct an identified problem.

e. Term of Authorization for Special Events

The permittee is authorized to conduct special events within the Paseo and lawn areas, as specified above, consistent with the terms of this permit for a period of five years total beginning with the completion of Phase 2 of the public access improvement requirements. Special events conditions shall be subject to future re-authorization for additional five-year periods by or on behalf of the Commission. No more than one year prior to the expiration of the 5-year term of this authorization for special events, the permittee may request a renewal of their authorization to conduct special events within the required public access areas. Renewal of authorization to conduct special events within the required public access areas may be granted by or on behalf of the Commission for another 5-year period upon a finding that the special events will be consistent with the Commission's relevant law and policies at that time. Analysis justifying

the decision to grant or deny renewal of the special event authorization will be informed, in part, on the information contained in the monitoring and reporting on special events that will be submitted on an annual basis.

### 13. Construction Impacts

For construction occurring within existing public access areas, the permittee shall establish a clearly marked and continuous detour rerouting the public around any portion of a public access pathway that may be occupied by construction. The permittee shall post clearly marked signs at and near the construction site to notify the public of any temporarily closed public access areas, the length of time that the access path will be closed, and the location of the temporary detour.

### 14. Trail Connections to Neighboring Parcels

The permittee shall enable the construction of future public access connections between its property and the neighboring parcels to facilitate the completion of the shoreline multi-use trail and its connection to the Bay Trail and Bair Island Trail systems. Within one year of commencement of construction of any shoreline public access area on a neighboring parcel, the permittee shall install improvements to create a physical connection to the new public access area(s) from the Public Access Area required herein. At such time, the permittee shall reasonably coordinate the design, construction, and maintenance of the connection(s) with the permittees of the adjacent parcel(s) to create a continuous and seamless transition between the public access areas, including landscaping and grade. The exact manner in which the connection is made shall be reviewed and approved by or on behalf of the Commission according to the Plan Review process outlined in Special Condition II.A ("Specific Plans and Plan Review").

### 15. Maintenance

The areas and improvements within the approximately 75,798-square-foot total public access area and the Central Access Corridor shall be permanently maintained by and at the expense of the permittee or its assignees. Such maintenance shall include, but is not limited to, repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, benches, drinking fountains, trash containers and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittee shall correct any maintenance deficiency noted in a staff inspection of the site.

## 16. Assignment

The permittee shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest, but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.

## 17. Reasonable Rules and Restrictions

The permittee may impose reasonable rules and restrictions for the use of the Public Access Area or Central Access Corridor to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access areas, and would tend to correct a specific problem that the permittee has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.

## C. View Corridor

### 1. Visual Access

The permittee shall, for as long as the project remains in place, leave as open space and undeveloped—except for roadways, sidewalks, trails, or landscaping depicted in the plans referenced above in Special Condition II.A.1 (“Project Plans”)— a 26-foot-wide view corridor through the center of the project site connecting East Bayshore Road to the shoreline, to allow visual access from the public street to the Bay. The boundaries and location of the View Corridor is shown more precisely on Exhibit A of this permit. The permittee shall not allow any portion of a proposed structure or any appurtenant structure to intrude into the View Corridor, and the permittee shall landscape the View Corridor only with plants that do not exceed three feet in height or trees limbed to a minimum of 12 feet in height upon maturity and that have been approved by or on behalf of the Commission pursuant to Special Condition II.A (“Specific Plans and Plan Review”) of this permit.

### 2. Maintenance of Landscaping

The permittee shall maintain the View Corridor. Maintenance shall consist of the regular trimming of plant material to prevent their exceeding three feet in height and limbs falling below 12 feet in height and clearing and replacing of any dead plants.

## D. Flooding and Adaptation

### 1. Flood Reports

If any portion of the public access area required by Special Condition II.B.1 (“Total Public Access Area”) or II.B.5 (“Central Access Corridor”), is subject to flooding that results in its closure in whole or in part, the permittee shall submit to the Commission a written report within 30 days after the flooding incident with



documentation of: the date and duration of the closure; the location of the affected site; the recorded water levels during the closure period; the source of flooding (e.g., coastal flooding, groundwater flooding, stormwater backup, or overland flow); the resulting damage or cleanup; and illustrative photographs with site details.

## 2. Risk Assessment

Within 90 days of the first occurrence of flooding that results in closure of any portion of the Public Access Area or Central Access Corridor required by Special Condition II.B.1 (“Total Public Access Area”) and II.B.5 (“Central Access Corridor”), or by December 31, 2050, whichever is sooner, the permittee shall prepare and submit a revision of the document titled “557 East Bayshore Road – Preliminary Sea Level Rise Vulnerability Assessment,” prepared by BKF Engineers and dated December 20, 2022 (“Risk Assessment”), submitted as part of this application, to be approved by or on behalf of the Commission, pursuant to the process outlined for plan review in Special Condition II.A (“Specific Plans and Plan Review”). The Executive Director may determine that a flood event unrelated to reoccurring flood risk (e.g., clogged storm drain) does not trigger the requirement to prepare a revised Risk Assessment.

The revised Risk Assessment shall incorporate: (a) the most up-to-date sea level rise guidance and policies from relevant state and federal agencies, including the Commission; (b) an analysis of current and future water levels; (c) an analysis of landfill subsidence and groundwater rise and their contribution to flooding; (d) a report of any observed flooding events to date; (e) an analysis of the risk of flooding due to all types of potential flooding; (f) consequences of defense failure; and (g) degrees of uncertainty.

## 3. Sea Level Rise Adaptation Planning and Implementation

Should the revised Risk Assessment identify current or future flood risk for the Public Access Area or Central Access Corridor required by Special Condition II.B.1 (“Total Public Access Area”) and II.B.5 (“Central Access Corridor”) before the end of the century or another date until which the development approved by the Commission is required to be resilient, the permittee shall prepare a Sea Level Rise Adaptation Plan consistent with Commission policies at the time of revision. The Sea Level Rise Adaptation Plan shall be submitted for review and approval on behalf of the Commission within 180 days of approval of a revised Risk Assessment that identifies flood risks for which adaptation planning is required, according to the plan review process described in Special Condition II.A (“Specific Plans and Plan Review”). The Sea Level Rise Adaptation Plan shall meet the following objectives:

### a. Adaptation Measures

Measures shall be developed to address impacts to the project that, based on the best-available science at the time the Sea Level Rise Adaptation Plan is submitted to the Commission, can foreseeably arise as a result of flooding for the period during which the authorized uses will remain in place. Measures

considered and analyzed should include at least one alternative that allows for the upland migration of tidal marsh habitat. The Public Access Area and Central Access Corridor shall be protected from flooding by raising the elevation of the public access, relocating it further upland, installing a flood protection device (e.g., seawall, barrier wall, bulkhead, cutoff wall, etc.), or another method acceptable to the Commission. Any adaptive measure proposed shall ensure that shoreline public access will be roughly equivalent in terms of overall area and function to that public access required in this permit.

**b. Implementation Schedule**

A timeline shall be established to implement the required adaptation measures, which shall ensure that necessary actions are taken in advance of the time that use of the public access is impaired by flooding (outside of an extreme or unpredictable storm event). Upon review and approval of the Sea Level Rise Adaptation Plan by or on behalf of the Commission, the permittee shall implement all approved adaptation strategies within the approved timelines of the implementation schedule. Depending on the actions required to implement the Sea Level Rise Adaptation Plan, the permittee may be required to obtain a permit or permit amendment from the Commission. No permanent restrictions or closures of required public access areas may take place without additional approval by or on behalf of the Commission.

**4. Regional Project Database**

Within 90 days of receiving plan review approval for any construction documents related to shoreline protection or sea level rise resilience and adaptation measures, the permittee shall enter project details into the online regional project database for tracking such efforts (EcoAtlas Project Tracker; <https://ptrack.ecoatlas.org/>). After such project elements have been constructed, the permittee shall update details in the regional project database to reflect as-built conditions. The permittee shall also upload all relevant project adaptation and monitoring plans, flood monitoring reports, and risk assessments to the regional project database required under Special Conditions II.D (“Flooding and Adaptation”) as they are completed, in addition to submitting these documents directly to Commission staff. For guidance on data entry requirements and instructions for uploading documents to the regional project database, please visit the Commission’s website or contact Commission staff.

**E. Recording**

The permittee shall record this permit on all parcels affected by this permit with San Mateo County within 30 days after execution of the permit issued pursuant to this authorization and shall, within 30 days after recordation, provide the original recordation to the Commission.

## **F. Certification of Contractor Review**

Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that they have reviewed and understand the requirements of the permit and the final Commission-approved plans, particularly as they pertain to environmentally sensitive areas and any public access or open space required by this permit.

## **G. Foundation Layout Inspection**

### **1. Written Request**

Prior to constructing any building forms for any structure that will be located in or adjacent to the Commission's 100-foot-wide shoreline band or required Public Access Area or Central Access Corridor, the permittee shall request in writing an inspection by the Commission staff of the foundation layout as it has been surveyed and staked in the field relative to Mean High Water or 5 feet above Mean Sea Level in marshland.

### **2. Certificate of Foundation Layout Inspection**

Within five working days of receipt of the written request for an inspection, the Commission's staff will inspect the foundation layout as it has been surveyed and staked in the field for any structure that will be located in or adjacent to the Commission's 100-foot-wide shoreline band or required Public Access Area or Central Access Corridor. The permittee shall not commence construction of the forms or pour the foundation until the staff has confirmed in writing that the foundation layout is consistent with the terms and conditions of the permit by providing the permittee with a Certificate of Foundation Layout Inspection.

### **3. Responsibility of Permittee**

If the staff is unable to perform this inspection within the 5-day period, the permittee may commence such work, but the staff's inability to complete such an inspection does not relieve the permittee of the responsibility to provide public access pursuant to Special Condition II.B ("Public Access") and build any structures (the project) in accord with the approved plans.

## **H. Certificate of Occupancy and Use**

Prior to occupancy or use of any of the improvements authorized herein, the permittee shall submit the Notice of Completion and Compliance required herein and request in writing an inspection of the project site by the Commission staff. Within 30 days of receipt of the written request for an inspection, the Commission's staff will: (1) review all permit conditions; (2) inspect the project site; and (3) provide the permittee with written notification of all outstanding permit compliance problems, if any. The permittee shall not occupy or make use of any improvements authorized herein until the staff has confirmed that the identified compliance problems have been satisfactorily resolved and has provided the permittee with a Certificate of Occupancy or Use. Failure by the staff to perform such review and inspection and notify the permittee of any

deficiencies of the project within this 30-day period shall not deem the project to be in compliance with the permit, but the permittee may occupy and use the improvements authorized herein.

## **I. Notice of Assignment**

### **1. Notice to Buyers**

Prior to entering into any agreement to transfer any interest in any property subject to this permit, the permittee, or any assignee(s) of this permit or any part of it, shall provide the third party with a copy of this permit and shall call their attention to any provisions regarding the required public access or open space or the need to obtain approval of construction plans prior to the commencement of any construction.

### **2. Assignment of Permit**

No more than 10 days after transferring any interest in any property subject to this permit to another party, the transferor(s) shall (a) notify the Commission of the nature of the transfer, the name, address, and telephone number of the transferee, and the effective date of the transfer, and (b) shall also submit an assignment of this permit for the area transferred that has been executed by the transferor and the transferee and that indicates that the transferor has transferred the permit as it applies to the property that was transferred and that the transferee has read, understood, and has agreed to be bound by the terms and conditions of this permit.

## **III. Findings**

This authorization is given on the basis of the Commission's findings and declarations that the work authorized herein is consistent with the McAtter-Petris Act, the Bay Plan, the California Environmental Quality Act ("CEQA"), and the Commission's amended coastal zone management program for San Francisco Bay for the following reasons:

### **A. Use**

The Bay Plan designates those areas that should be reserved for priority land uses on the Bay shoreline, including ports, water-related industry, water-oriented recreation, airports, and wildlife refuges. The project site is not located in any such Bay Plan-designated priority use areas.

### **B. Bay Fill**

The project does not involve the placement of any Bay fill. All work will take place upland of the Bay shoreline, here measured as the edge of tidal marsh vegetation up to five feet above Mean Sea Level.

### **C. Public Access**

#### **1. Maximum Feasible Public Access**

Section 66602 of the McAtter-Petris Act states, in part, that "existing public access to the shoreline and waters of the ... [Bay] is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." Bay Plan

Public Access Policy No. 2 also states that “maximum feasible access to and along the waterfront ... should be provided in and through every new development in the Bay or on the shoreline.” Per Section 66632.4 of the McAteer-Petris Act, “within any portion or portions of the shoreline band that are located outside the boundaries of water-oriented priority land uses...the commission may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project, to the bay and its shoreline.”

In assessing whether a proposed project provides the maximum feasible public access to the Bay and its shoreline, the Commission has considered a variety of factors, including existing conditions at the project site, future demand for public access facilities resulting from the proposed project, the physical characteristics of the site and its surroundings, and previous Commission actions on comparable projects.

a. Existing Public Access Facilities

Existing facilities at the project site include the 88-foot-long, 3-foot-wide gravel path; two pedestrian connections from the movie theater parking lot; and four public parking spaces within a 41,000-square-foot dedicated public access area, as required by BCDC Permit No. M1988.016.02. While members of the public can reach the public access area through the parking lot, there is not a clearly established connection between the shoreline and East Bayshore Road. Furthermore, as the movie theater itself has been closed since 2006, there are no other attractions or public amenities to invite visitors to the site.

The project site is adjacent to a PG&E-owned parcel to the north that contains an 888-foot-long tidally influenced ditch. Immediately north of the ditch is a levee that separates the ditch from Bair Island and Smith Slough. A 1,900-foot-long trail runs atop the levee within an easement held by the City of Redwood City. The levee trail has two formal trailheads where the public can access Bair Island: one is located to the west of the project site, where the levee trail intersects with East Bayshore Road, near Whipple Avenue; the second access point is at Bair Island Road to the east of the project site where there is a dedicated parking lot for visitors.

North of the levee trail, on the other side of an unnamed slough, is the Bair Island Ecological Reserve, located on restored former salt ponds, which provides wildlife-related recreational opportunities and a segment of Bay Trail that connects to Bair Island Road east of the project site.

b. Projected Demand for Public Access

The project will develop the site with residential and commercial uses and will increase the demand for shoreline public access and recreational facilities. The project involves the construction of two multi-family residential buildings

totaling 480 new units, and will result in a projected 1,350 new residents at buildout. It will also involve construction of a 151,423-square-foot fitness center with 250 to 300 employees estimated at buildout. In addition to new residents and employees who may require new public access amenities, the commercial recreational nature of the fitness center may also attract users with a demand for public access, including regular members and other visitors seeking opportunities for physical activity or respite.

c. **Public Access Provided by the Project**

The project will completely redevelop the existing public access on site, increasing the amount of public access dedicated along the shoreline, providing a variety of amenities and recreational opportunities, and establishing connections to East Bayshore Road.

The 41,000-square-foot (0.94-acre) dedicated public access area required by BCDC Permit No. M1988.016.02 includes the entire area within the 100-foot shoreline band as measured at the time of the original approval. Since that time, it has been determined that the ditch adjacent to the project site is tidally influenced; thus, an updated shoreline and shoreline band has been determined for this permit using the limit of tidal marsh vegetation up to 5 feet above Mean Sea Level. Within the updated shoreline band, the project will newly dedicate an additional approximately 30,380 square feet (0.70 acres) of public access, for a total of approximately 71,380 square feet (1.64 acres) of dedicated public access in the shoreline band. The public access area represents 73 percent of the total area within the shoreline band, with the remaining approximately 25,462 square feet (0.58 acres) of area left undedicated to accommodate for a 418-square-foot footprint of a residential building, rights-of-way, parking area, and landscaping located directly adjacent to private residences. Public access improvements within the shoreline band include lawn, plaza, and overlook areas providing opportunities for passive and active recreation; seven Public Shore Parking spaces; and a multi-use trail segment with the potential to link to any future trail segments on neighboring sites. The improvements are discussed in more detail in Findings Section III.C.2 (“Public Access Improvements”) below.

In addition to the public access area dedicated within the shoreline band, the project will dedicate 4,418 square feet of area (0.10 acres) along the eastern side of the project site for an approximately 900-foot-long, 4- to 6-foot-wide sidewalk along the parking lot and Public Right-of-Way connecting East Bayshore Road to the shoreline. The Total Public Access Area dedicated by the project will be 75,798 square feet (1.74 acres).

The project will also provide a corridor through the center of the site (“Central Access Corridor”), consisting of a sidewalk leading from East Bayshore Road past a passenger drop-off area to a paseo that connects to the multi-use trail in the

shoreline band. The Central Access Corridor will overlap with the project’s designated View Corridor, which will over a 26-foot-wide visual connection to the shoreline. The Central Access Corridor will include a wayfinding and interpretive signage program, and allow for public passage from East Bayshore Road to the Shoreline Public Access Area, but will not be dedicated as public access.

The permittee plans to construct the project in phases, completing Residential Building A on the west side of the project site and the VillaSport fitness center on the southeastern side in Phase 1, and lastly completing Residential Building B in Phase 2. Phase 1 also will include the completion of the western half of the Shoreline Public Access Area, which is adjacent to Building A, the portion of the paseo directly adjacent to Building A and covered by the 26-foot-wide View Corridor, the sidewalk connecting the paseo to East Bayshore Road, and seven interim Public Shore parking spaces in the western parking lot closest to the shoreline improvements. The remainder of the public access will be completed as part of Phase 2. If the completion of Phase 2 will not occur within a year and a half of the completion of Phase 1, in addition to all other public access requirements, an interim extension of the multi-use trail will be provided to connect the east and west edges of the site.

d. Comparable Projects Approved by the Commission

Table 1, below, provides a comparison of the public access provided by the project with that provided by similar projects that have been approved by the Commission. The projects included were selected because they involved similar site conditions, such as total project area, land use, or setting.

**TABLE 1: COMPARISON OF PUBLIC ACCESS PROVIDED BY COMPARABLE PROJECTS**

Project Name	BCDC Permit No.	Total Project Area (acres)	Number of Residential Units/ Non-Residential Square-Footage	Dedicated Public Access Area (acres)	Public Access Percentage of Total Project Area
Blu Harbor Residential Development (2014)	2014.004	13.8	402 units	1.49	11%
Terminal One Mixed-Use Development (2018)	2018.006	13.1	316 units/ 2,500 commercial sqft	5.33	41%
Alameda Landing Mixed-Use Development (2018)	2018.004	22.8	400 units/ 5,000 commercial sqft	5.43	24%

Project Name	BCDC Permit No.	Total Project Area (acres)	Number of Residential Units/ Non-Residential Square-Footage	Dedicated Public Access Area (acres)	Public Access Percentage of Total Project Area
557 East Bayshore	2023.004	14.4	480 units/ 151,423 commercial sqft	1.74	12%

BCDC Permit No. 2014.004.02 was issued to RWC Harbor Communities, LLC, for the Blu Harbor residential development, located approximately 0.2 miles northeast of the project site. The Blu Harbor proposal involved the development of 402 new residential units on approximately 13.8 acres, and the permit required approximately 1.49 acres of dedicated public access, or 11 percent of the total project site.

BCDC Permit No. 2018.006.01 was issued to Terminal One Development, LLC, for the Terminal One mixed-use development in the City of Richmond. The Terminal One proposal involved the development of 316 new residential units and 2,500 square feet of commercial/retail uses on a 13.1-acre site. The permit required approximately 5.33 acres of dedicated public access, or 41 percent of the total project site. Of the required public access, 2.57 acres was located within the shoreline band, 0.94 acres was located in the Bay, and 1.82 acres was located outside of the Commission’s jurisdiction.

BCDC Permit No. 2018.004.00 was issued to Catellus Alameda Development LLC and the Successor Agency to the Community Improvement Commission of the City of Alameda for the Alameda Landing mixed-use Development in the City of Alameda. The Alameda Marina proposal involved the development of 400 new residential units and 5,000 square feet of commercial/retail uses on a 22.8-acre site. The permit required approximately 5.43 acres of dedicated public access, or 24 percent of the total project site. Of the required public access, 1.62 acres was located within the shoreline band, 2.22 acres was located in the Bay, and 1.59 acres was located outside of the Commission’s jurisdiction.

The 557 East Bayshore proposal involves 480 new residential units and 151,423 square feet of commercial use for the fitness center, more units and square footage than proposed by the other comparable projects. The 1.74 acres of total dedicated public access proposed by the project is most similar to the amount proposed for Blu Harbor, although the projects differ in that Blu Harbor did not include a mixed-use component. The other two mixed-use projects, Terminal One and Alameda Landing, both dedicated at least twice as much public access



as 557 East Bayshore will; however, a proportion of the access dedicated for those projects was in the Bay, whereas 557 East Bayshore does not have a Bay component. The amount of land within the shoreline band that will be dedicated by 557 East Bayshore is 1.64 acres, which is similar to the 1.62 shoreline band acres dedicated by Alameda Landing and more than half of the 2.57 shoreline band acres dedicated by Terminal One.

e. Consistency with Maximum Feasible Public Access

The project will increase the amount of dedicated public access at the site and will improve the existing dedicated access area with amenities to encourage and support increased usage by the public. The dedicated public access area will include nearly all of the shoreline band as well as a permanent connection between East Bayshore Road and the shoreline. Public Access Policy No. 7 states that “whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed.” Special Conditions II.B.1 (“Total Public Access Area”), II.B.2 (“Permanent Guarantee”), and II.B.3 (“Recordation of the Instrument”) are provided to ensure that the Total Public Access Area is permanently guaranteed.

The project will increase demand for public access from new residents, employees, customers, and other visitors resulting from the proposed development, as well as in response to greater activation of the project site. As discussed above, comparable projects previously approved by the Commission proposed similar total project areas and numbers of new units; however, this project will result in significantly more commercial development than the others, and thus potentially more demand for public access facilities. While the other mixed-use projects have dedicated larger amounts of public access compared to this project, the project could still be considered within the general range of the three comparable projects reviewed.

In terms of project phasing, Special Condition II.B.11 (“Public Access Phasing”) is included to ensure that the first phase of development will be accompanied by the greatest amount of the project’s public access feasible given constraints related to construction, and that the access provided will be proportionate to the public access demands of the Phase 1 private development. Phase 1 of the project will include the adjacent portion of the Shoreline Public Access Area, a direct connection from East Bayshore Road and the shoreline, and interim Public Shore Parking.

For the reasons stated above, the Commission finds that the project is consistent with its laws and policies regarding maximum feasible public access.

## 2. Public Access Improvements

Bay Plan Public Access Policy No. 8 states that “public access improvements provided as a condition of any approval should be consistent with the project, the culture(s) of the local community, and the physical environment, including protection of Bay natural resources, ...and provide for the public's safety and convenience.” This section describes the project improvements proposed within the dedicated public access area. Consistency of the improvements per relevant Bay Plan policies utilized by the Commission to evaluate the adequacy of the public access are discussed in the sections below. Based on the discussion below, the Commission finds that the project is consistent with the Bay Plan’s policies for public access improvements.

### a. Local Community

Bay Plan Public Access Policy No. 5 states that “public access that substantially changes the use or character of the site should be sited, designed, and managed based on meaningful community involvement to create public access that is inclusive and welcoming to all and embraces local multicultural and indigenous history and presence. In particular, vulnerable, disadvantaged, and/or underrepresented communities should be involved.”

The Commission’s Environmental Justice and Social Equity policies, including Public Access Policy No. 5, were adopted in 2019, while the project was already in its design phase but prior to receiving local entitlements. Over the remainder of the design phase, the permittee participated in several meetings with community groups that they identified as having potentially been disadvantaged in past development processes and commercial activities. Among these organizations was Casa Circulo, a community-based organization dedicated to creating cultural programming reflective on the Latino communities in the Bay Area while promoting leadership development for youth and adults. Casa Circulo’s input on public access included the need for improved and more active shoreline access in the highly urbanized area. The public access provided by the project would include a variety of different activity areas to allow for different ways of using the site, including three distinct lawns that can provide space for seating and picnicking as well as fitness programming available to the public; two plazas providing seating and table space in addition to a public pétanque court; two wooden overlooks and connected walkways with seating to enjoy views of the slough; and a system of pathways, including the multi-use trail, to allow for strolling, bicycling, and potential future connections to the nearby Bair Island Trail and Bay Trail networks.

### b. Bay Resources

Public Access Policy No. 4 states that “public access should be sited, designed and managed to prevent significant adverse effects on wildlife.” H.T. Harvey and Associates prepared a biological analysis for the project in April 2020, which was

subsequently incorporated in the Environmental Impact Report (“EIR”) for the project. The biological resources analysis of the EIR stated that the public access area for the project would convert 1.0 acre of existing upland ruderal grassland habitat. The EIR found that the upland habitats at the site support common wildlife species but are of low quality and unlikely to support large numbers of any given species. The EIR identified nesting bird species with the potential to occur on site that could potentially be impacted by construction activities, lighting, and collisions. Regarding the public access area, construction activities would be subject to mitigation measures set forth in the EIR to avoid or minimize disturbance of nesting birds, and additional mitigation measures are provided by the project’s Mitigation Monitoring and Reporting Plan to reduce the impact of lighting through shieling, orientation, and minimization. The Mitigation Monitoring and Reporting Plan was adopted as part of the approval of the project by the City of Redwood City as lead agency.

The EIR also noted that there was potential for construction activities to indirectly impact the tidal ditch as a result of sediment mobilization or spills of fluids or materials, and that any such releases could be mobilized to affect Smith Slough north of the site. The EIR found that the project must comply with the General Construction Permit, which requires the preparation of a Stormwater Pollution Prevention Plan, and Municipal Regional Permit to reduce pollutants in surface runoff during construction to a less than significant level. The EIR also found that the project would be required by the City to prepare an erosion control plan prior to grading to address potential erosion impacts.

Public Access Policy No. 10 states that “diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.” Public Access Policy No. 4 also states that “siting, design and management strategies should be employed to avoid or minimize adverse effects on wildlife.” While the project will site public access improvements near the tidal ditch, the design of the improvements provides visual and physical cues (e.g., wooden pathways that create a visual boundary at the edge of the lawns and contrast between the wooden overlooks and pathways and the landscaping) to discourage members of the public from entering the ditch and potentially disrupting the habitat.

c. Connectivity

Public Access Policy No. 10 states that “access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available.”

Within the Shoreline Public Access Area, the project will provide a multi-use trail for pedestrians and cyclists to traverse the shoreline, as well as a network of other varied walkways to provide access to different amenities along the shoreline. Special Condition II.B.4 (“Improvements within the Total Public Access Area”) specifies the pathways to be provided, as well as minimum widths and other parameters to ensure usability. While there are a number of other trail systems in the vicinity, including the levee trail north of the project site and the Bair Island Bay Trail across the slough, the project’s multi-use trail will not initially connect to them. However, given the potential for new development on neighboring sites, including a proposed residential development at 505 East Bayshore Road immediately to the west, there is potential for a future connection that would create a longer trail route for users to enjoy, as well as access to other trail networks in the area. Special Condition II.B.14 (“Trail Connections to Neighboring Parcels”) is provided to ensure that the project coordinates with future neighboring developments to provide trail connections with safe and convenient transitions between sites.

Public Shore Parking spaces will also be provided in a lot located partially within the shoreline band and connected to the trail. Special Condition II.B.6 (“Public Shore Parking”) ensures the provision of those spaces, including one ADA-accessible space. The parking spaces are connected to East Bayshore Road by the dedicated Public Right-of-Way. Special Condition II.B.8 (“Public Right-of-Way”) ensures that the right-of-way is dedicated for public use and will remain available to the public at all times. The project will also provide seven public bicycle racks within the public access area as required by Special Condition II.B.4.a (“Shoreline Public Access Area”).

The project will provide two pedestrian connections to East Bayshore Road. On the east side of the project site, the project will dedicate the Eastern Pedestrian Connection, a 4- to 6-foot-wide, approximately 900-foot-long sidewalk. Special Condition II.B.4.b (“Eastern Pedestrian Connection”) ensures that the connection is dedicated for public use and will remain available to the public at all times.

In addition, this permit requires the project to provide the Central Access Corridor, which runs between East Bayshore Road and the Shoreline Public Access Area, for the public to pass through the site (Special Condition II.B.5 [“Central Access Corridor”]). The permit requires this connection because Central Access Corridor is the most intuitive connection between the public road and the shoreline and was designed to provide an attractive and welcoming approach to the Shoreline Public Access Area. The Central Access Corridor overlaps with the 26-foot-wide View Corridor being provided by the project, and provides the only visual connection through the project from the roadway to the shoreline. The corridor is also the most direct connection from the project’s passenger drop-off area and for visitors coming from the west along East Bayshore Road, and is the

shorter of the two connections provided by the project, measuring approximately 710 feet in length. The greater width of the Central Access Corridor will also provide a more comfortable alternative to accommodate large numbers of visitors than the narrower Eastern Pedestrian Connection could alone.

The Paseo segment of the corridor was a key topic of discussion during the Design Review Board's review of the project on August 5, 2019. The Board members discussed the visual access provided by the View Corridor, commended the project for opening up the center for public access in a way that could set an example for other nearby projects, and recommended strategies to further distinguish the residential spaces from the Paseo and make the space feel more public to invite visitors to journey to the shoreline. An interpretive exhibit will be provided on the Paseo to invite the public to the shoreline and improve the public's awareness about the Bay at this location, and must be accessed using the Central Access Corridor. Thus, Special Condition II.B.5 ("Central Access Corridor") is included to ensure that the Central Access Corridor is available for access at all times, except those times the Paseo is authorized to be closed for special events or when the permittee must exercise Special Condition II.B.17 ("Reasonable Rules and Restrictions") to address specific substantiated problems. Special Condition II.B.12 ("Special Events") provides parameters for special events to allow no more than eight total private event closures, and to ensure that clear and convenient detour and signage plans are prepared to guide members of the public to the shoreline. Special Condition II.B.17 ("Reasonable Rules and Restrictions") is included to establish a process by which the permittee may restrict access to resolve particular problems, such as those that might impact public safety.

The project will include a wayfinding signage program to provide direction to members of the public arriving at the site using various modes of transportation, and to guide them safely and conveniently to the shoreline. Special Condition II.B.7 ("Public Access Signage, Wayfinding, and Interpretive Elements Plan") is included to ensure the preparation of a comprehensive signage program.

d. Public Access Experience

Public Access Policy No. 8 states that "improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should provide barrier free access for persons with disabilities, for people of all income levels, and for people of all cultures to the maximum feasible extent, ...and should be identified with appropriate signs, including using appropriate languages or culturally-relevant icon-based signage."

As described above in Findings Section III.C.2.a (“Local Community”), there will be a variety of distinct improvements within the public access area, including the 12-foot-wide multi-use trail, lawns, plazas and pétanque court, wooden overlooks and seating areas, paseo, and walkways. Each set of improvements offers the public a different means of enjoying the public access area, such as viewing opportunities of the slough while strolling or sitting in the wooden deck areas, picnicking or passively sitting on the lawns or in the plazas, using the pétanque court, traveling or exercising along the multi-use trail, etc. Special Condition II.B.4.a (“Shoreline Public Access Area”) establishes requirements for the provision of the improvements. In addition, the permittee may also hold fitness classes in the lawn areas that would be free and open to the public without reservation. Special Condition II.B.12 (“Special Events”) sets parameters for such classes to take place while minimizing disruption of the public access area. The project also provides opportunities for members of the public to access and enjoy the shoreline by foot, by bicycle, or by vehicle, by providing pedestrian corridors from East Bayshore Road and paths in the public access area, bicycle parking, and Public Shore Parking spaces. Improvements within the public access area are all required to be open and available to the public at all times, meaning that they may be used free of charge.

The project’s public access components provide barrier-free access for persons with disabilities. The Public Shore Parking area includes an ADA-accessible Public Shore Parking space, as required by Special Condition II.B.6 (“Public Shore Parking”). Special Condition II.B.4 (“Improvements within the Total Public Access Area”) also includes a requirement for improvements to be designed in compliance with ADA standards and best practices to ensure Universal Design to the maximum feasible extent.

The project will provide wayfinding and interpretive signage to direct members of the public through the site to the public access area and provide contextual information about the Bay setting. Special Condition II.B.7 (“Public Access Signage, Wayfinding, and Interpretive Elements”) requires the permittee to prepare a signage program that identifies and utilizes appropriate measures to communicate to the range of social and linguistic groups in the area and to incorporate Universal Design features to maximize legibility across a wide variety of users.

e. Maintenance

Public Access Policy No. 8 states that “improvements ... should include an ongoing maintenance program.” The permittee has not proposed a maintenance program for the public access area. However, Special Condition II.B.15 (“Maintenance”) requires maintenance of the public access amenities to ensure maximum feasible access for the life of the project, including by any future assignees of the permit.

#### **D. Appearance, Design, and Scenic Views**

Bay Plan Appearance, Design, and Scenic Views Policy No. 2 states that “All bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore.” Appearance Design, and Scenic Views Policy No. 4 states that “structures and facilities that do not take advantage of or visually complement the Bay should be located and designed so as not to impact visually on the Bay and shoreline.” Additionally, Appearance, Design, and Scenic Views Policy No. 12 states that “the Commission’s Design Review Board... should review, evaluate, and advise the Commission on the proposed design of developments that affect the appearance of the Bay in accordance with the Bay Plan findings and policies on Public Access; on Appearance, Design, and Scenic Views; and the Public Access Design Guidelines.”

The project site is currently developed with a movie theater complex and parking lot with landscaped islands, trees, and pole lights, and is visible from the Bair Island Bay Trail on the other side of the unnamed slough. The project would raise the elevation of the project site and construct two five-story residential buildings and a two-story fitness center on the site.

While the project would alter the existing visual character of the site and introduce structures with greater height and bulk compared to existing conditions, it does provide for a 26-foot-wide view corridor from East Bayshore Road to the shoreline through the center of the site. The Commission’s Design Review Board provided comments on the View Corridor during their August 5, 2019, review of the project, responding positively to the corridor’s effect of opening the middle of the site for visual access. Special Condition II.C (“View Corridor”) is included to ensure that the corridor established by the project are maintained over time to ensure that visual access to the shoreline is not diminished. To achieve the objectives of the View Corridor, no structures, landscaping, or trees that would impede the View Corridor shall be permitted, except upon a finding that they will have no adverse impact on views to the Bay.

The Design Review Board did not comment specifically on the architecture of the project along the shoreline; however, the project design displays some of the strategies for enhancing visual quality that are included in the Design Guidelines. The building facades on the shoreline are articulated, and the private outdoor spaces provide a sense of human scale. The shoreline band consists primarily of Bay-oriented public access features and native and drought-tolerant, non-invasive landscaping to enhance the shoreline in a manner that complements the urban nature of the development.

The Commission finds that the project is consistent with its policies on Appearance, Design, and Scenic Views.

## **E. Design Review Board**

Bay Plan Public Access Policy No. 12 states that Commission's "Design Review Board should advise the Commission regarding the adequacy of the public access proposed" and that its advisory "Public Access Design Guidelines should be used as a guide to siting and designing public access consistent with a proposed project." The Board reviewed the project at its meetings on August 5, 2019.

The Board's discussion focused on ensuring visual access to the site and a sense of invitation for the public to access the site, carefully considering the variety of activities available to the public and the programming of the site to attract more visitors, providing connectivity between the shoreline and the surrounding area, creating visual distinction between public and private areas, addressing wildlife compatibility, providing opportunities for adjacent habitats to adapt to rising sea levels, and evaluating the appropriateness of the project's proposed adaptation strategy.

Following the Design Review Board meeting, the permittee modified the project to further define the boundaries between the public access and private areas by creating patios for the private residences along the paseo, identified the range of activities and programming to take place at the site, adopted mitigation measures specified in the Environmental Impact Report to mitigate any potential impacts on special status species and sensitive habitats, improved the project's signage program along the paseo and in the shoreline band, and reviewed the proposed sea level rise adaptation. In reviewing other potential adaptation strategies, the permittee determined that the originally proposed strategy of a 4- to 6-foot seawall was their preference, but that they will conduct a future review of adaptation alternatives as part of an adaptation planning process that would allow for the consideration of changing site conditions, best available science, and best practices, as discussed further in Findings Section III.F, below.

## **F. Environmental Justice and Social Equity**

Bay Plan Environmental Justice and Social Equity Policy No. 3 states that "equitable, culturally-relevant community outreach and engagement should be conducted by local governments and project applicants to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in underrepresented and/or identified vulnerable and/or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action."

Environmental Justice and Social Equity Policy No. 4 states that "if a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate impacts should be identified in collaboration with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within



the scope of their respective authorities, to require mitigation for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed.”

According to the Commission’s Community Vulnerability Mapping Tool, the project site is located within a 2020 Census block group (estimated population of 3,257 people by the 2014-2018 American Community Survey) identified as having “highest contamination vulnerability” and “moderate social vulnerability.” It is across East Bayshore Road from a block group (estimated population of 3,151) identified as having “high social vulnerability” and “lower contamination vulnerability.” Social vulnerability in the area is associated with indicators for households with very low income, a single parent, renter occupancy, individuals over 65 living alone, or no vehicle; non-U.S. citizens; limited English proficiency; and individuals without a high school degree. Contamination vulnerability in the area is associated with nearby hazardous cleanup activities, groundwater threats, hazardous waste facilities, solid waste facilities, and impaired water bodies.

In addition to the engagement with Casa Circulo described in Findings Section III.C.2.a, the permittee also engaged with the Redwood City Education Foundation and the Redwood City Police Athletic League to discuss issues related to disadvantaged youth. In discussions with these community groups, the key environmental justice and social equity issues identified included a desire for more affordable housing in the community, jobs, and a need for more and improved shoreline access. While affordable housing and jobs are outside of the Commission’s purview, 85 of the project’s 480 rental units will be affordable for very-low-, low-, and moderate-income levels, and the permittee plans to host job fairs for the community on site.

## **G. Flooding and Sea Level Rise**

### **1. Risk Assessment**

Bay Plan Climate Change Policy No. 2 states that “when planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end of century based on the best scientific data available should be used in the risk assessment. Inundation maps used for the risk assessment should be prepared under the direction of a qualified engineer. The risk assessment should identify all types of potential flooding, degrees of uncertainty, consequences of defense failure, and risks to existing habitat from proposed flood protection devices.”

As part of the project application, the permittee submitted a risk assessment memorandum prepared by BKF Engineers, entitled “557 East Bayshore Road – Preliminary Sea Level Rise Vulnerability Assessment” (“Vulnerability Assessment”) and dated December 20, 2022.

According to the Vulnerability Assessment, the site is subject to coastal flood hazards, including flood waters from the Bay, and pluvial flood hazards, or surface water flooding that can occur when intense rain overwhelms a municipal drainage system, which can be exacerbated when they coincide with elevated King Tides in the Bay. The current Federal Emergency Management Agency (“FEMA”) Base Flood Elevation (“BFE”) (the elevation of surface water resulting from a flood that has a 1-percent chance of being equaled or exceeded in any given year) for the project site is 10.00 feet NAVD88.

The Vulnerability Assessment is based on the 2018 Ocean Protection Council’s State of California Sea Level Rise Guidance (“State Guidance”), which is considered the best available science. The 2018 State Guidance includes a range of sea level rise projections for use in decision making. On one end of this range, a “low risk aversion scenario” is included for instances where decision-makers can be fairly risk tolerant, in that the project is easily adapted and/or the consequences of failure are low. On the other end of this range, an “extreme risk aversion scenario” is included for projects that have little to no adaptive capacity, would be irreversibly destroyed or significantly costly to relocate/repair, or would have considerable public health, public safety, or environmental impacts should they be impacted by projected sea level rise. The 2018 State Guidance provides sea level rise projections for these risk aversion levels San Francisco Bay Area over time scales for low emissions and high emissions scenarios.

The Vulnerability Assessment considered the project site to have low risk aversion “because impact on communities, infrastructure or natural systems is low, the consequences of disruption at the site are low as the project is limited in scope and scale, the site has adaptive capacity for future systems to readily change in response to sea level rise, and economic impacts are low.” However, the Commission has in the past analyzed applications for similar projects that provide significant shoreline public access improvements under the medium-high risk aversion planning scenario. According to the 2018 State Guidance, the medium-high risk planning scenario is appropriate to provide “a precautionary protection that can be used for less adaptive, more vulnerable projects or populations that will experience medium to high consequences as a result of underestimating sea level rise.” Due to the presence of multi-family housing units proposed by this project immediately adjacent to the public access area, and the fact that these structures would be residences, including affordable residences, and could not be easily moved, staff recommends that the Commission take a more conservative view of the project’s adaptive capacity and potential impacts of sea level rise on public access that

vulnerable populations may rely on. The permittee anticipates that the project will be in place at mid-century (2050) but not at the end of the century (2100), as the development is expected to end its serviceable life around 2080. The Vulnerability Assessment uses the high emissions scenarios, which the Commission has in the past found to be appropriate.

Table 2 Summarizes the range of water levels for a range of sea level rise scenarios, including the 2050 and 2080 low risk aversion scenarios used in the Vulnerability Assessment, the 2050 and 2080 medium-high risk aversion scenarios reviewed by the Commission in the past for similar projects, and the 2100 medium-high risk scenario reviewed by the Commission in the past to show how the shoreline may change by end-of-century. All scenarios referenced in this discussion are high emissions scenarios.

Water Level	Current Elevation	2050 High Emissions Low Risk	2050 High Emissions Medium-High Risk	2080 High Emissions Low Risk	2080 High Emissions Medium-High Risk	2100 High Emissions Medium-High Risk
Projected Sea Level Rise (feet)	0	1.1	1.9	2.4	4.5	6.9
Base Flood Elevation (100-year storm)	10	11.10	11.90	13.9	14.50	16.90
Mean High Water (Bay Shoreline)	6.51	7.61	8.41	8.91	11.01	13.41
Mean Higher High Water	7.12	8.22	9.02	9.52	11.62	14.02

The existing elevations along the Smith Slough range from 9.1 at the northeast corner of the site to 4.8 at the northwestern corner of the site. The Vulnerability Assessment used the 2080 low risk aversion scenario projected sea level rise of 2.4 feet to determine that the minimum finished floor elevation for critical infrastructure should be the BFE plus 2.4 feet, or 12.4 feet NAVD88. The project will elevate the entire site, with most of the public access area raised to an elevation of approximately 12.4 feet NAVD88, except for the walkway at the northwest parking area that connects the multi-use trail to the edge of the site, which would be approximately 10.9 feet NAVD88.

At the proposed elevations, most of the project and public access area will be resilient through 2050 under either the low or medium-high risk aversion scenarios. However, the northwest portion of the site, where the multi-purpose trail may eventually connect to public access on a future neighboring project, will be vulnerable to flooding from the 100-year storm. At 2080, the public access area and much of the site will be vulnerable to flooding from the 100-year storm under either risk scenario. At 2100, under the medium-high risk scenario, the site would be inundated at Mean High Water.

The Vulnerability Assessment did not consider potential risks from groundwater rise. A review of the Sea Level Rise and Shallow Groundwater: Future Conditions mapping tool<sup>1</sup> shows that at 24 inches of sea level rise, comparable to the 2050 medium-high risk scenario, there will be groundwater projected within 6 feet of the current, unelevated, ground surface around the majority of the site. At 52 inches of sea level rise, comparable to the 2080 medium-high risk scenario, there is the potential for emergent groundwater in some of the central portions of the site, at current site elevations. At 84 inches of sea level rise, comparable to the 2100 medium-high risk scenario, the majority of the site could experience emergent groundwater, at current site elevations. By elevating the site, the project may delay potential impacts from groundwater rise, although additional analysis would be required to adequately determine the extent of potential vulnerabilities to groundwater rise.

## 2. Resiliency and Adaptation Planning

Climate Change Policy No. 3 states that “to protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects... should be designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century.”

As discussed above, most of the project will be resilient to mid-century, except a portion of the public access area and the parking lot at the northwest corner of the site. Public Access Policy No. 6 states that public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.” Public Access Policy No. 7 states that “any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby.” Special Condition II.D (“Flooding and

---

<sup>1</sup> Pathways Climate Institute and San Francisco Estuary Institute (2022). Sea-Level Rise and Shallow Groundwater: Future Conditions Online Mapping Tool. Accessed May 25, 2023.  
<https://sfei.maps.arcgis.com/apps/instant/portfolio/index.html?appid=2ab0c998497f4f7398aa54f176a6fb26>.

Adaptation”) is provided to ensure that the public access area avoids significant adverse impacts from sea level rise and is consistent with the Bay Plan’s policies by requiring ongoing flood monitoring and reporting for the public access area, revisions to the Vulnerability Assessment triggered by the closure of any public access amenity due to flooding that may be reoccurring, and the development of an adaptation plan tied to the Vulnerability Assessment that will include adaptation measures and a timeline to address any sea level rise impacts on public access.

The project is not committed to any particular adaptation strategy, but the permittee has indicated that they are prepared to construct a 4- to 6-foot seawall or raise the elevation of the multi-use trail to protect the site against sea level rise impacts. The Design Review Board considered the seawall strategy during its review of the project, and comments included concerns that the seawall would not be a viable strategy without the coordination of neighboring properties, that a seawall wouldn’t protect against groundwater rise, that such a wall would be too tall, and that it would not allow for habitat migration from the tidal ditch area. Elevation of the trail with a shorter seawall was suggested by the Board, and the permittee conducted initial research into its feasibility, but further assessment of future site conditions will be necessary to determine the most appropriate adaptation strategy. Special Condition II.D “Flooding and Adaptation”) also serves as a framework to ensure that adequate adaptation planning takes place such that a well-researched, appropriate set of adaptation measures can be implemented for the project when the adaptation is needed based on site conditions.

### 3. Regional Project Database (EcoAtlas Project Tracker)

To better understand the impact of shoreline protection measures and habitat restoration over time, their impact on adjacent and nearby areas, and the regional context for sea level rise adaptation, consistent with Bay Plan policies, including Shoreline Protection Policies Nos. 1(e), 1(f), and 4 and Climate Change Policies Nos. 2, 3, and 6, Special Condition II.D.4 (“Regional Project Database”) is included to require the permittee to contribute information about the project and all relevant plans and monitoring reports to a regional project database (EcoAtlas Project Tracker, [ptrack.ecoatlas.org](http://ptrack.ecoatlas.org)) which has been developed to catalog such information. The entry of project details will be used by the Commission and partner agencies to support regional decision-making and planning, and to better understand the cumulative impacts of projects involving shoreline protection and habitat restoration.

## H. Coastal Zone Management Act

The Commission further finds, declares, and certifies that the activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

## **I. Environmental Review**

Pursuant to the California Environmental Quality Act (“CEQA”), an Environmental Impact Report (“EIR”) was prepared for the “557 East Bayshore Road” project that is the subject of this permit. The City of Redwood City, as lead agency, issued a Notice of Determination on December 15, 2022, certifying the Final EIR and finding that the project will not have a significant effect on the environment. The EIR identified mitigation measures that were made a condition of approval of the project and a Mitigation Monitoring and Reporting Plan was adopted for the project.

## **J. Enforcement Program and Civil Penalties**

The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission’s jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

## **IV. Standard Conditions**

### **A. Permit Execution**

This permit shall not take effect unless the permittee executes the original of this permit and return it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

### **B. Notice of Completion**

The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

### **C. Permit Assignment**

The rights, duties, and obligations contained in this permit are assignable. When the permittee transfers any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittee/transferor and the transferees shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignees execute and the Executive Director receives an acknowledgment that the assignees have read and

understand the permit and agree to be bound by the terms and conditions of the permit, and the assignees are accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.

**D. Permit Runs with the Land**

Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

**E. Other Government Approvals**

All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.

**F. Built Project must be Consistent with Application**

Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.

**G. Life of Authorization**

Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.

**H. Commission Jurisdiction**

Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

**I. Changes to the Commission's Jurisdiction as a Result of Natural Processes**

This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.

**J. Violation of Permit May Lead to Permit Revocation**

Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation of the permit. The Commission may revoke the permit for such violation after a public hearing held on reasonable notice to the permittee or their assignees if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittee or their assignees if the permit has been assigned.

**K. Should Permit Conditions be Found to be Illegal or Unenforceable**

Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittee or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

**L. Permission to Conduct Site Visit**

The permittee shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

**M. Abandonment**

If, at any time, the Commission determines that the improvements in the Bay authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee, their assignees or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.

**N. Best Management Practices**

**1. Debris Removal**

All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee, their assignees, or successors in interest, or the owner of the improvements, shall remove such material, at their expense, within ten days after they have been notified by the Executive Director of such placement.



## 2. Construction Operations

All construction operations shall be performed to prevent construction materials from falling, washing or blowing into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittee shall immediately retrieve and remove such material at their expense.

## O. In-Kind Repairs and Maintenance

Any in-kind repair and maintenance work authorized herein shall not result in an enlargement of the authorized structural footprint and shall only involve construction materials approved for use in San Francisco Bay. Work shall occur during periods designated to avoid impacts to fish and wildlife. The permittee shall contact Commission staff to confirm current restricted periods for construction.