

San Francisco Bay Conservation and Development Commission

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May 10, 2024

Staff Recommendation

505 East Bayshore Townhome Project

(For Commission consideration on May 16, 2024)

Permit Application Number:	2023.005.00
Applicant:	Regis Homes Bay Area, LLC
Project Description:	Construct an approximately 1.32-acre portion of a new 2.54-acre residential development with shoreline public access and open space areas.
Location:	In the Bay and within the 100-foot shoreline band, at 505 East Bayshore Road in the City of Redwood City, San Mateo County.
Application Filed Complete:	April 3, 2024
Deadline for Commission Action:	July 2, 2024
Staff Contact:	Katharine Pan (415-352-3650; katharine.pan@bcdc.ca.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 2.54-acre property at 505 East Bayshore Road in the City of Redwood City into a residential site consisting of 56 for-sale townhomes, as well as shoreline public access and open space areas. Approximately 1.39 acres of the project would be within the Commission's permitting jurisdiction, including 0.15 acres in the Bay and 1.24 acres within the shoreline band. In the Bay, the project would result in 6,101 square feet (0.14 acres) of new dedicated open space and 645 square feet of new cantilevered Bay fill for public access. Within the shoreline band, the project would provide 13,446 square feet (0.31 acres) of new dedicated shoreline public access; a retaining wall along the Bay side of the property that will serve as a seawall as sea levels rise in the future; and three 3-story residential buildings containing 20 townhomes with associated sidewalks, paseos, vehicle circulation areas, stormwater treatment areas, and landscaping. The development itself will serve as a cap for polychlorinated biphenyl (PCB)-contaminated soils under a plan approved by the San Francisco Bay Regional Water Quality Control Board (Water Board) and the United States Environmental Protection Agency (U.S. EPA). The proposed use is not in conflict with any Priority Use Areas established by the San Francisco Bay Plan. Among other provisions, the recommended resolution includes special conditions to:



- Require 14,254 square feet (0.33 acres) of new dedicated public access and 6,426 square feet (0.15 acres) of new dedicated open space.
- Require public access improvements within the dedicated public access area, including a multi-use shoreline trail with two overlooks and an observation deck, portions of a trail plaza, seating, new pathways and landscaping, and other related amenities.
- Require public access improvements within the adjacent California Department of Transportation- (Caltrans-) and City of Redwood City-owned rights-of-way, including a new sidewalk connection to the existing Bair Island trail network, portions of a new trail plaza, improvements to an existing crosswalk, a new multi-modal sidewalk along East Bayshore Road, and 5 designated Public Shore Parking spaces.
- Provide for trail connections to neighboring areas, including the Bair Island trail network and the adjacent project at 557 East Bayshore Road, which was approved by the Commission on June 1, 2023.
- Require submission of preliminary (60 percent complete) and final (100 percent complete) construction plans and engineering reports prior to the start of construction.
- Require that remediation of contaminated soils on the property and in the tidally influenced ditch adjacent to the property be completed to the satisfaction of the Water Board prior to the construction of the buildings or public access areas.
- Require submission of all applicable water quality certifications or waste discharge requirements required by the Water Board prior to the start of construction.
- Require a sea level rise monitoring and adaptation planning process to ensure the continued viability of public access areas into the future.
- Require disclosures to future homebuyers regarding, among other issues, their responsibility to maintain the required public access and open space areas and to implement any necessary future sea level and groundwater rise adaptation.

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, Regis Homes Bay Area LLC, is granted permission to do the following within the Commission's Bay and 100-foot shoreline band jurisdictions, at 505 East Bayshore Road and in the adjacent City- and State-owned rights-of-way, in the City of Redwood City, San Mateo County.

1. In the Bay

a. Site Preparation

Remove approximately 23 linear feet of existing chain link fencing.

b. Cantilevered Public Access Area

Construct a 645-square-foot-portion of the total 1,660-square-foot cantilevered area of the retaining wall authorized under I.A.2.b ("Retaining Wall") to provide public access.

2. Within the 100-foot Shoreline Band

a. Soil Remediation and Site Preparation

(1) Remove existing improvements, pavement, site utilities, chain link fencing, and 10 trees.

(2) Remediate polychlorinated biphenyl (PCB)-contaminated soil at the project site in accordance with the requirements of the San Francisco Bay Regional Water Quality Control (Water Board), involving:

(a) Removing an existing storm drain outfall pipe;

(b) Removing contaminated soil from the site as required by the Water Board;

(c) Constructing clean utility corridors and tree planting areas by excavating contaminated soil around utility alignments and tree planting areas and placing a geotextile demarcation layer to separate contaminated soil and clean imported capping material;

(d) Regrading the excavated material across undisturbed areas of the site;

(e) Capping contaminated soil in place by placing a minimum of 3 feet of clean imported soil above the existing soil such that a minimum of 10 inches of cap material will remain undisturbed and soil impacted with PCBs will not be encountered during development excavations;

(f) Grading and compacting the clean soil across the site to a thickness of 3 to 5.5 feet; and

(g) Regrading the site, installing ground improvements, and installing and maintaining in-kind underground utility services, including fire water, domestic water, recycled water, stormwater, sanitary sewer, communications, and electrical utilities.

b. Retaining Wall

Construct an approximately 550-foot-long, 6-foot-high, and 18-inch-deep retaining wall with guardrails up to 44 inches tall and an approximately 1,015-square-foot portion of a total 1,660-square-foot cantilevered area, along approximately 550 linear feet of shoreline.

c. Storm Drain Outfalls

Construct, use, and maintain in-kind two new storm drain outfalls, and place approximately 30 square feet of riprap at the base of each outfall for energy dissipation, totaling 60 square feet of new riprap.

d. Multi-family Residential Development

Construct, use, and maintain in-kind three 3-story residential townhome buildings containing a total of 20 residential units and 40 resident parking spaces, with a total gross square footage of approximately 37,136 and covering a footprint of approximately 15,700 square feet. Construct, use, and maintain in-kind associated paseos, pathways, vehicle circulation areas, stormwater treatment areas, and other landscaping.

e. Public Access Area

Construct, use, and maintain in-kind a 16,561-square-foot portion of a total 18,807-square-foot Total Public Access Area including:

- (1) An approximately 550-foot-long, 10-foot-wide paved multi-use trail with 2-foot-wide shoulders on either side that includes seating, overlook areas, an observation deck, and other amenities located atop the retaining wall authorized in Section I.A.2.b.
- (2) An approximately 973-square-foot plaza containing bike racks, seating, wayfinding signage, a micro-mobility bike and/or scooter share station, and other amenities.
- (3) An approximately 98-foot-long, 8- to 10-foot-wide sidewalk connection to the Bair Island Trailhead with 4 approximately 24-inch-tall, 18-inch-wide, 48-inch-long curbside planter boxes.
- (4) A 190-linear-foot portion of an approximately 242-foot-long, 12.5-foot-wide multi-modal sidewalk adjacent to the property along East Bayshore Road.
- (5) Approximately 3,667 square feet of new landscaping.

f. Right-of-Way Improvements

Construct an improved accessible pedestrian crossing over East Bayshore Road at Whipple Avenue.

B. Permit Application Date

This authority is generally pursuant to and limited by the application dated April 26, 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 30, 2027, or this permit will lapse and become null and void. Once commenced, all work authorized or required by this permit must be diligently pursued to completion and must be completed by June 30, 2034, unless an extension of time is granted by amendment of the permit.

D. Project Summary

The project involves remediating and redeveloping the approximately 2.54-acre property at 505 East Bayshore Road in the City of Redwood City with a new multi-family residential development consisting of 9 buildings with 56 for-sale townhome units. This development includes 8 moderately affordable units for families earning up to 120 percent of the Area Median Income, a dedicated shoreline public access area, and dedicated open space. The project also involves making public access improvements on 0.10 acres of the adjacent publicly owned rights-of-way controlled by the California Department of Transportation (Caltrans) and the City of Redwood City. The site is located along a tidally influenced ditch. To the west lies East Bayshore Road, while to the east is a planned mixed-use residential project at 557 East Bayshore Road. To the north, the site is bordered by Smith Slough and the Bair Island Ecological Reserve. Approximately 1.39 acres of the total project would be located within the Commission's Bay and 100-foot shoreline band permitting jurisdictions.

Within the 100-foot shoreline band, the project will involve removing all existing structures; remediating contaminated soils under the oversight of the Water Board; raising site elevations approximately 5 to 7 feet above existing grade to finished floor elevations ranging from 12.6 feet to 13.7 feet NAVD88; constructing an approximately 550-foot-long, 6-foot-high, and 18-inch-deep retaining wall; constructing an approximately 16,561-square-foot portion of an 18,807-square-foot Total Public Access Area consisting of a shoreline path, observation deck, trail plaza, sidewalk connection to the Bair Island Trailhead, new seating, and other amenities; and constructing three 3-story residential buildings containing a total of 20 townhomes on a footprint of approximately 15,700 square feet, with associated sidewalks, paseos, vehicle circulation areas, stormwater treatment areas, and landscaping.

Approximately 0.15 acres of the project would be in the Bay, including 0.14 acres of dedicated open space in the tidally influenced ditch that will remain undeveloped and 0.01 acres (645 square feet) of new Bay fill. The Bay fill will consist of small portions of the new public shoreline trail that will be cantilevered over the tidal ditch. The project will also involve removing 23 linear feet of existing chain link fencing that currently extends into the Bay along the northern property line.

Outside of the Commission's jurisdiction, the project involves constructing 6 additional 3-story residential buildings containing 36 townhomes and associated amenities for future residents, as well as constructing an additional 1,601 square feet (0.04 acres)

of the 18,807-square-foot Total Public Access Area, including a new 190-foot-long, approximately 12.5-foot-wide multi-modal sidewalk. It will also include 5 new designated Public Shore Parking spaces along East Bayshore Road.

The permittee will complete the remediation of polychlorinated biphenyl (PCB)-contaminated soils that have been found at the site under the oversight of the San Francisco Bay Regional Water Quality Control Board (Water Board) prior to beginning construction of the residential buildings and the public access area. The remediation will generally involve removing and/or capping the contaminated soil in place by removing an existing storm drain outfall, constructing a retaining wall, demarcating areas of contaminated soil with a geotextile layer, and placing a minimum of 3 feet of clean imported soil above contaminated areas. Additional clean fill will be placed on top of the cap to elevate the site to a total of approximately 5 to 7 feet above existing grade to build resilience against sea level rise. A land use covenant will be placed on the property to maintain the integrity of the cap and limit future grading, trenching, or excavation that could adversely impact the performance of the cap.

1. Bay Fill

The project will result in 645 square feet of new cantilevered Bay fill for public access.

2. Public Access

There is currently no required public access at the project site. The project would provide 18,807 total square feet of new public access, including areas within and outside of the Commission's jurisdiction. Of the Total Public Access Area, 14,254 square feet would be dedicated on-site public access; 3,142 square feet would be off-site within the adjacent Caltrans right-of-way; and 1,411 square feet would be off-site within the adjacent City of Redwood City right-of-way.

Within the Total Public Access Area, the project would provide the following improvements and amenities: an approximately 550-foot-long, 10-foot-wide, multi-use paved concrete pathway with 2-foot-wide shoulders on either side, two cantilevered overlook areas totaling 320 square feet with seating and interpretive panels, and an approximately 150-square-foot cantilevered concrete observation deck with seating and viewing binoculars located on top of the retaining wall; an approximately 973-square-foot shoreline trail plaza with 2 bicycle racks, a drinking fountain, seating, a picnic bench, a dog waste station, and wayfinding signage; approximately 3,667 square feet of landscaping (the majority of which would be native, drought-tolerant species); a new 98-foot-long, 8- to 10-foot-wide sidewalk connection between the shoreline trail plaza and the Bair Island Trailhead, with four approximately 24-inch-tall, 18-inch-wide, 48-inch-long planter boxes installed curbside to improve pedestrian safety; and a new 190-foot-long, 12.5-foot-wide sidewalk along East Bayshore Road.

In addition to the public access improvements within the Total Public Access Area, the project would include constructing an ADA-accessible sidewalk ramp and improved crosswalk at Whipple Avenue and East Bayshore Road connecting the new shoreline plaza and sidewalk connection to the Bair Island Trailhead, as well as 5 new designated Public Shore Parking spaces within the public right-of-way along East Bayshore Road.

E. Related Permits

BCDC Permit No. M1986.023.00 was issued to Pacific Gas and Electric Company (PG&E), Bayport Marina Plaza, and Bair Island Mini Storage, Inc. on October 30, 1986, and subsequently amended on October 9, 1987. As amended through Amendment No. One, the permit authorized construction of the approximately 1,050-foot-long PG&E levee trail located on the south side of the unnamed tributary of Smith Slough and north of the tidal ditch bordering the 505 East Bayshore property. Subsequently, BCDC Permit No. 2012.003.01 was issued to the City of Redwood City on November 8, 2013, authorizing the replacement of the levee trail with a new 9-foot-wide asphalt trail with 1.5-foot-wide gravel shoulders on either side. The trail segment authorized by the latter permit begins at a trailhead located at the north end of Whipple Avenue. The project authorized herein would improve the sidewalk connection to that trailhead, as well as construct a new shoreline trail that would run parallel to and connect to the existing levee trail, allowing for circulation on both sides of the tidal ditch.

BCDC Permit No. 2000.004.00 was issued to Caltrans on July 10, 2000. The permit authorized construction of a 6,000-foot-long, 12-foot-wide Class I paved bicycle/pedestrian shoreline pathway on the east side of Highway 101, between the City of San Carlos and the City of Redwood City, terminating at Whipple Avenue immediately adjacent to the project site. The shoreline pathway provides connectivity to the Bair Island trail network at the trailhead located at the north end of Whipple Avenue and would connect to the shoreline public access area authorized herein.

BCDC Permit No. 2023.004.00 was issued to Redwood Crossing LLC on June 20, 2023. The permit authorized a new mixed-use development at 557 East Bayshore Road, the property adjacent to 505 East Bayshore. Special Condition II.B.14 of that permit, "Trail Connections to Neighboring Parcels," requires the permittee to reasonably coordinate with the permittees of adjacent parcels to create a continuous and seamless connection between public access areas within one year of the start of the construction on a neighboring parcel.

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 the following documents submitted as part of the application:

- a. The drawing set entitled “505 E. Bayshore Road, Redwood City, California,” prepared by DAHLIN Architects, BKF Engineers, and the Guzzardo Partnership and dated January 6, 2024, except as otherwise specified below in Special Condition II.A.1.b.
- b. The updated civil sheets entitled “505 East Bayshore Road Vesting Tentative Map Existing Conditions and Demolition Plan,” “505 East Bayshore Road Vesting Tentative Map Proposed Mapping,” and “505 East Bayshore Road Vesting Tentative Map Grading and Drainage Plan,” prepared by BKF Engineers and dated November 21, 2023.
- c. The diagram entitled “505 E. Bayshore Road Project Conceptual Sea Wall and Tidal Marsh Vegetation Sections,” prepared by BKF Engineers and dated February 1, 2024.

The permittee is responsible for ensuring 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 Special Condition II.A.2 (“Plan Review and Approval”) or a permit amendment.

2. Plan Review and Approval

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 days of receipt. 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, as appropriate, 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 (MLLW)); 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 Area(s) required herein. Construction documents for shoreline protection elements 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 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 required by the conditions, 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 within 30 days 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's Design Review Board or Engineering Criteria Review Board.
3. Preliminary Plan Review
In addition to the submission of final construction documents as required by Special Condition II.A.2 ("Plan Review and Approval"), the permittee shall submit the following preliminary (60 percent complete) construction documents, as individual documents become available, for review by or on behalf of the Commission according to the plan review process outlined in Special Condition II.A.2:

- a. All work within the Bay and shoreline band jurisdictions;
- b. All work required as part of the Special Condition II.B (“Public Access”) of this permit;
- c. All work required as part of on-site remediation;
- d. All roadways, driveways, and sidewalks;
- e. All site grading; and
- f. All site utilities.

Submitted plans should include a site plan for the entire project site showing building footprints and site coverage and describe proposed construction methods. Documents may be submitted in phases, as needed, consistent with the project schedule. If, based upon the information provided, the permittee or Commission staff determine that any component of the project cannot be built without increasing the authorized amount of Bay fill, altering the required public access design, or impacting Bay resources beyond what has been contemplated by this permit, an amendment to this permit will be required before the project may proceed. All documents submitted for preliminary review will be reviewed within 45 days of receipt.

B. Public Access

1. Total Public Access Area

The approximately 18,807-square-foot (0.43-acre) area (Table 1), along approximately 550 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.

TABLE 1: SUMMARY OF TOTAL PUBLIC ACCESS AREA

Public Access Areas	Amount
New dedicated public access <ul style="list-style-type: none">In the BayIn the Shoreline BandOutside the Commission’s Jurisdiction	14,254 square feet (0.33 acres) <ul style="list-style-type: none">632 square feet (0.01 acres)13,446 square feet (0.31 acres)176 square feet (<0.01 acres)
Public access improvements within the Caltrans right-of-way	3,142 square feet (0.07 acres)
Public access improvements within the City of Redwood City right-of-way	1,411 square feet (0.03 acres)
Total Public Access Area	18,807 square feet (0.43 acres)

2. Permanent Guarantee

Prior to the occupancy of any of the multi-family residential buildings located at the 505 East Bayshore Road property, 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 14,254-square-foot (0.33-acre) public access area shown in Exhibit A. 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 A. All improvements shall be designed in compliance with ADA standards and best practices to ensure Universal Access to the maximum feasible extent and shall be completed and available for public use prior to the issuance of a certificate of occupancy for any structure authorized herein.

- a. **Multi-Use Trail, Overlooks, and Observation Deck**
An approximately 550-foot-long, minimum 10-foot-wide multi-use paved pathway with guardrails and with:
 - (1) Minimum 2-foot-wide concrete shoulders on either side of the pathway;
 - (2) Two cantilevered overlooks, each approximately 160 square feet in size and containing interpretive signage and furnishings generally conforming to those shown in Exhibit A;
 - (3) A minimum of 2 benches, including 1 bench located across from each of the 2 cantilevered overlooks; and
 - (4) A 150-square-foot cantilevered observation deck with built-in seating and viewing binoculars, as generally shown in Exhibit A.
 - b. **Trail Plaza**
An approximately 973-square-foot concrete area located in the northwest corner of the subject property containing signage, landscaping, and furnishings as generally shown in Exhibit A (i.e., at minimum 2 bicycle racks with parking for 4 bikes total, 1 drinking fountain, 1 picnic bench, 1 dog waste station, seating, wayfinding signage, and landscaping).
 - c. **Pathways**
Approximately 552 linear feet of pathways connecting the trail plaza to the designated Public Shore Parking spaces required in Special Condition II.B.5.b ("Public Shore Parking").
 - d. **Landscaping**
Approximately 3,667 square feet of landscaping consisting of predominantly native and drought-tolerant non-invasive species.
 - e. **Improved Sidewalk Connection to Bair Island Trailhead**
An approximately 98-foot-long, 8- to 10-foot-wide sidewalk from the trail plaza to the Bair Island Trailhead, furnished with 4 approximately 24-inch-tall, 18-inch-wide, 48-inch-long curbside planter boxes.
 - f. **New Multi-Modal Sidewalk on East Bayshore Road**
An approximately 242-foot-long, 12.5-foot-wide sidewalk extending south along East Bayshore Road.
5. **Crosswalk Improvements and Public Shore Parking**
The permittee shall install the following improvements within the publicly owned right-of-way, as generally shown on Exhibit A.
- a. **Accessible Crosswalk**
An ADA-accessible sidewalk ramp and improved crosswalk at Whipple Avenue and East Bayshore Road.

b. Public Shore Parking

Five designated Public Shore Parking spaces located on East Bayshore Road.

6. 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 public access area. 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. Maximize public recognition, use, and enjoyment of the project's public access improvements and connections, including but not limited to the shoreline multi-use trail, trail plaza, and connection to the Bair Island Trailhead;
- c. Include interpretive signage exhibits along the multi-use trail;
- d. 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;
- e. Incorporate Universal Design features to maximize legibility across a wide variety of users, which may include tactile elements, Braille signage, etc.; and
- f. Provide detail on the location, quantity, and design of wayfinding, interpretive, and designated public shore parking signs.

The Signage Plan shall be reviewed through the plan review process established in Special Condition II.A.2 ("Plan Review and Approval").

7. Temporary Construction Impacts on Public Access

If the work authorized herein would require the temporary occupation or obstruction of any existing public access areas or pathways, the permittee shall submit a Detour Plan for approval by or on behalf of the Commission according to the plan review process established in Special Condition II.A.2 ("Plan Review and Approval") prior to commencing any remediation or construction activities. The plan shall include signage at and near the construction site to notify the public of any temporarily closed public access areas, the length of time that the public access area(s) will be closed, and alternative options for accessing adjacent public access areas and pathways.

8. Future Public Access Connections to Neighboring Parcels

The permittee shall enable the construction of future public access connections between its property and the neighboring parcel at 557 East Bayshore Road¹ to facilitate the completion of the shoreline multi-use trail and its connection to the Bay Trail and Bair Island trail systems. The permittee shall reasonably coordinate the design, construction, and maintenance of the connections with the permittee(s) of the adjacent parcel 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”). If, based upon submitted plans, the permittee or Commission staff determine that the connection cannot be built without impacts to the adjacent tidal ditch or plants and wildlife in the vicinity, the permittee shall submit a permit amendment request prior to constructing the connection.

9. Public Access Maintenance

The areas and public access improvements within the Total Public Access Area described above 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; irrigation; replacement of any trees or plant materials that die or become unkempt; repairs or replacement as needed of any required public access amenities, such as signs, benches and other seating, drinking fountains, binoculars, and lights; periodic cleanup of litter and other materials deposited within the public access areas; removal of any encroachments into the public access areas; assuring that the public access signs remain in place and visible; and safety inspections and maintenance of the retaining wall, cantilevers, and railings.

Within 30 days after notification by Commission staff, the permittee shall correct any maintenance deficiency noted in a staff inspection of the site. The permittee shall obtain approval by or on behalf of the Commission for any maintenance that involves more than in-kind repair and replacement, including potentially the need for a permit amendment or new permit.

10. Reasonable Rules and Restrictions

The permittee may impose reasonable rules and restrictions for the use of the public access area 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

¹ BCDC Permit No. 2023.004.00 Special Condition II.B.14 for that property provides a similar requirement for that permittee to facilitate a trail connection between 557 and 505 East Bayshore.

has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior. If requesting to impose rules and restrictions in publicly owned areas, the permittee must submit documentation from the property owner, i.e., Caltrans or the City of Redwood City, as applicable, that demonstrates the public entity's concurrence with the proposed limitations.

C. Open Space

1. Permanent Guarantee of Open Space

Prior to the occupancy of any of the multi-family residential buildings located at the 505 East Bayshore Road property, 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 6,426-square-foot open space area north of the retaining wall, as depicted on Exhibit A.

The instrument(s) shall create rights in favor of the public which shall commence 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 open space, the legal description of the property and of the area being restricted for open space, 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 open space 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 open space that will run with the land and be binding on any subsequent purchasers, licensees, and users.

2. 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.

3. Maintenance of Open Space

The open space area shall be permanently maintained by and at the expense of the permittee or its assignees. Such maintenance shall include, but is not limited to, periodic cleanup of litter and other materials deposited within the open space area and the removal of any encroachments into the open space area. Within 30 days after notification by Commission staff, the permittee shall correct any maintenance deficiency noted in a staff inspection of the site.

D. Retaining Wall

The retaining wall authorized in Section I.A.2.b shall be constructed in general conformance with one of the three retaining wall systems identified in the retaining wall feasibility study report entitled, "505 E. Bayshore Retaining Wall Feasibility Memorandum" prepared by Biggs Cardosa Associates, Inc., revised March 18, 2024.

At the time the preliminary construction documents for the wall are submitted required by Special Condition II.A.3 ("Preliminary Plan Review"), the permittee shall also submit draft or final versions of a geotechnical report and a structural design report and supporting calculations demonstrating that 1) the retaining wall will be constructed to meet sound engineering standards; 2) future sea level rise, future wave action (i.e., wave loading), and future adaptation measures have been adequately taken into account in the design of the wall through at least end-of-century; and 3) the wall will be constructed in a manner compliant with the Commission's laws and policies as contemplated under this permit. Each engineering report must be prepared by an engineer licensed in the state of California with the appropriate expertise and must consider seismic safety and the best available science on sea level rise at least through end-of-century. If draft versions of these reports are submitted with the preliminary construction documents, final versions shall be submitted with the final construction documents.

If the selected retaining wall design cannot demonstrate 1) through 3) above, a permit amendment may be warranted to modify the approved retaining wall system and/or this permit condition in order that implementation of the retaining wall can be found consistent with the Commission's laws and policies.

E. Remediation

The permittee shall ensure that remediation of the project site, to include the construction of the retaining wall and soil cap, and adjacent tidal ditch is completed prior to beginning construction of the multi-family residential buildings and public access area authorized herein and in accordance with the following requirements.

1. Remediation Plan

The permittee shall remediate the project site in accordance with the remedial action plan entitled "Site Cleanup Plan, 505 East Bayshore Road, Redwood City, California" ("Site Cleanup Plan"), prepared by Langan Engineering and

Environmental Services, Inc., dated March 1, 2022, and approved by the Water Board on March 11, 2022. Should the Water Board approve any revisions to the Site Cleanup Plan, the revised Plan will prevail. In this case, the permittee shall notify the Commission of any modifications to the Site Cleanup Plan within 10 days following approval of the changes by the Water Board.

Prior to beginning any remediation work at the project site under the Site Cleanup Plan, as revised if applicable, the permittee shall submit engineered plans detailing how the remediation work will be completed for review by or on behalf of the Commission according to the Plan Review process and Preliminary Plan Review process outlined in Special Condition II.A (“Specific Plans and Plan Review”).

If the permittee or Commission staff determine that any component of the Site Cleanup Plan, as revised if applicable, cannot be completed in a manner consistent with the authorization of this permit (for example, without increasing the amount of temporary or permanent Bay fill authorized under this permit, altering the required public access design, or impacting Bay resources beyond what has been contemplated by this permit), an amendment to this permit will be required before the remediation may proceed.

2. Site Bank and Off-Site Remediation

For the portions of the property and associated areas that are not covered by the Site Cleanup Plan, including the “site-bank” and “off-site” areas, as shown in Exhibit B and which will be subject to remediation under a separate cleanup plan, the permittee shall coordinate with the party or parties responsible for that cleanup to ensure the remediation work is completed prior to construction of the residential and public access components of the project authorized herein. If remediation of the “site-bank” and “off-site” areas is conducted in a manner such that the project authorized by this permit cannot be completed without increasing the authorized amount of temporary or permanent Bay fill, altering the required public access design, or impacting Bay resources beyond what has been contemplated by this permit, an amendment to this permit will be required before the project may proceed.

3. Documentation of Completion

The permittee shall submit documentation verifying that the remediation on the 505 East Bayshore Road property and within the adjacent tidal ditch have been completed in accordance with cleanup plans approved by the Water Board and the United States Environmental Protection Agency (U.S. EPA). This documentation must include 1) evidence that the Land Use Covenant required by the Site Cleanup Plan is in place; and 2) written approval by the Water Board of the Completion Report required by the document entitled, “Revised Remedial Action Plan, Site-Bank and Off-Site,” prepared by West Environmental Services & Technology and dated February 2024, and approved by the Water Board on March 6, 2024.

F. Property Interest and Maintenance Agreements

1. 505 East Bayshore Road Title

Prior to beginning construction on lands currently owned by the Alan B. Forrest and Adeline Forrest Revocable Trust, the permittee shall submit to Commission staff for review and approval documentation demonstrating that the permittee has adequate property interest to conduct the work authorized and/or required herein.

2. Right to Entry and Maintenance within the City- or State-Owned Right-of-Way

Prior to beginning work within the Caltrans and/or City-owned rights-of-way, the permittee shall submit to Commission staff for review and approval documentation of sufficient property interest to construct and maintain the improvements within the Total Public Access Area on lands owned or controlled by Caltrans or the City of Redwood City as required in Special Condition II.B.4 ("Improvements within the Total Public Access Area").

G. San Francisco Regional Water Quality Control Board Approval

At least 60 days prior to beginning any work authorized herein, the permittee shall submit to Commission staff for review all applicable water quality certifications or waste discharge requirements, or confirmation that such approvals are not required, from the Water Board. Any changes to the project plans to comply with any such approvals must be reflected in the documents submitted under Special Conditions II.A ("Specific Plans and Plan Review"). Substantial changes to the project plans and/or identification of significant additional impacts or inconsistencies with the activities authorized herein based on the Water Board's review may require amendment of this permit.

H. Mitigation for Habitat Loss

At least 60 days prior to beginning any work authorized herein, the permittee shall submit to Commission staff for review and approval documentation demonstrating that the permittee has purchased credits at a conservation bank with a service area within San Francisco Bay that provides suitable habitat for the salt marsh harvest mouse and salt marsh wandering shrew. The credits must be purchased at a minimum 1:1 (mitigation: impact) ratio for permanent impacts to offset the loss of habitat and biodiversity from the 0.04 acres of shading from cantilevered Bay fill.

I. Protection of Bay Resources

1. Construction Timing

All constructed activities authorized herein must be conducted during daylight hours only.

2. Erosion Control Materials

To minimize the risk of entangling and strangling wildlife, the permittee shall not place erosion control materials containing synthetic (e.g., plastic or nylon) monofilament netting.

3. Qualified Biologist On Call

The permittee shall have a Qualified Biologist on call during all remediation and construction activities, including vegetation removal, to ensure that impacts to special-status species such as, but not limited to, salt marsh harvest mouse, salt marsh wandering shrew, Alameda song sparrows, white-tailed kite, and Ridgeway's Rail are avoided during construction.

A Qualified Biologist is an individual who holds a bachelor's degree from an accredited university and: 1) is knowledgeable in relevant species' life histories and ecology; 2) can correctly identify relevant species; 3) has conducted field surveys for relevant species; 4) is familiar with relevant survey protocols; and 5) is knowledgeable of state and federal laws regarding the protection of sensitive species.

4. Worker Environmental Awareness

Prior to beginning any remediation and construction activities, the permittee shall provide a training program for all construction personnel. The training shall be conducted by a Qualified Biologist knowledgeable about the biology of special-status species that have the potential to appear at the project site, including salt marsh harvest mouse, salt marsh wandering shrew, Alameda song sparrows, white-tailed kite, and other species that may be present in adjacent areas or that may use the site for foraging. At minimum, the training shall include descriptions and depictions of these species, their habitat needs, their status under California Endangered Species Act and the Fish and Game Code, the general measures that are being implemented to conserve these species as they relate to the project, and the boundaries within which the project may be accomplished. A fact sheet containing the above information and guidance for visual identification shall also be prepared and distributed. Construction personnel shall also be instructed to immediately report any observation of salt marsh harvest mouse or salt marsh wandering shrew (or a similar species of mouse or shrew), and any other special-status species or similar species at the site to the Qualified Biologist.

5. Pre-Construction Survey and Exclusion Barrier

Prior to the start of construction activities below top of bank, the Qualified Biologist shall conduct a pre-construction survey of the area for salt marsh harvest mice and salt marsh wandering shrews, and a barrier shall be installed along the northernmost limits of the work area to exclude salt marsh harvest mice and salt marsh wandering shrews from the project site. The barrier shall be shown on the project plans submitted for plan review as part of Special Condition II.A ("Specific Plans and Plan Review") and shall be constructed under the guidance of the Qualified Biologist.

6. Work Stoppage

If any special-status species, including salt marsh harvest mouse and salt marsh wandering shrew, is observed on the project site during project activities, work that could result in injury to the animal observed shall be stopped, and the individual animal shall be allowed to leave the area on their own. The on-call Qualified Biologist shall be immediately notified. The Qualified Biologist shall have authority to stop or restrict work if any special-status species is detected in any area where it may be injured or killed by construction activities or to otherwise avoid impacts to species and or habitats. If there are issues with the Qualified Biologist stopping work or complying with this requirement, the California Department of Fish and Wildlife (CDFW) shall be immediately notified.

7. Work Windows and Pre-Construction Nesting Bird Surveys

All remediation and construction activities authorized herein shall occur from September 1 through January 31, outside of the nesting season, to the extent feasible. If work cannot be scheduled to occur outside of the nesting season, and remediation or construction activities (grading, staging, etc.) are initiated during the nesting season (February 1 through August 31, inclusive), a Qualified Biologist shall conduct a nesting bird survey no more than 14 days prior to the start of the activities. If no active nests are identified during the surveys, work may proceed without restriction. If active nests are identified, the Qualified Biologist shall determine a no-disturbance buffer (typically ranging from 25 feet to 500 feet, depending on the species, nest location, and protection status of the species) to be implemented around the nest. The Qualified Biologist shall conduct daily monitoring of the active nests in the morning of each work day until all nesting birds are clear of the area. After an active nest is determined to no longer be active, the buffer around the nest shall be removed and work may proceed without restriction.

8. Pile Driving

a. Biological Resources Report Addendum

If construction of the retaining wall requires pile driving, the permittee shall submit for review and approval, through the plan review process outlined in Special Condition II.A ("Specific Plans and Plan Review"), an addendum to the Biological Resources Report prepared for the project that evaluates whether there is any potential for significant noise impacts from pile driving on special-status species which may be present in the tidal ditch and the unnamed slough north of the paved levee trail. The addendum shall also identify any proposed minimization measures, if applicable. If upon review of the addendum the Executive Director concurs that the pile driving required to construct the retaining wall would not result in significant adverse impacts to special-status species, the permittee may move forward, subject to Special Condition III.I.8.a

(“Noise Impact Reduction”). If based upon review of the addendum the Executive Director determines that the pile driving would result in significant adverse impacts, a permit amendment may be required prior to the use of any pile driving.

b. Noise Impact Reduction

To reduce sound impacts to fish and other aquatic wildlife from pile driving, the permittees shall use vibratory hammers. If the permittees find vibratory hammering is incapable of driving the piles to an adequate depth, the permittee may use impact hammers, and must use a soft-start method and a wood cushion block to minimize noise. If marine mammals are observed within 250 feet of the pile driving or removal, work will cease until they are observed to leave the area or 30 minutes have passed without observation. If impact hammers are used, the permittees shall submit a post-construction report detailing the construction methods and minimization measures used within 30 days following completion of construction.

9. Best Management Practices

All construction operations shall be performed to prevent construction materials from falling 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. All construction debris shall be removed to an authorized location outside the Commission’s jurisdiction.

10. Marsh and Upland Plant Protection During Construction

The work authorized by this permit shall be performed in a manner that will prevent, avoid, or minimize any significant adverse impact on any tidal marsh, other sensitive wetland resources, and existing native upland vegetation. If any unforeseen adverse impacts occur to any such areas as a result of the activities authorized herein, the permittee shall restore the area to its previous condition, including returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, the permittee shall notify the Commission’s staff and prepare a mitigation and monitoring plan detailing remedial actions for approval by or on behalf of the Commission, which may require a permit amendment or a new permit. The permittee shall employ mitigation measures to minimize impacts to wetland areas, such as: (1) minimizing all traffic in marsh/mudflat areas; and (2) carefully removing, storing, and replacing wetland vegetation that has been removed or “peeled back” from construction areas as soon as possible following construction.

11. Construction and Maintenance Completed from Upland Areas

All construction activities and any future maintenance of the retaining wall, public access areas, and private development must be completed from the upland side of the Commission's Bay jurisdiction line, unless otherwise permitted through amendment of this permit.

J. Flooding and Adaptation

1. Flood Reports

If any portion of the Total Public Access Area required by Special Condition II.B.1 ("Total Public Access Area") 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 Total Public Access Area required by Special Condition II.B.1 ("Total Public Access Area"), or by December 31, 2050, whichever is sooner, the permittee shall prepare and submit a revision of the document titled "505 East Bayshore Road – Preliminary Sea Level Rise Vulnerability Assessment," prepared by BKF Engineers and dated revised March 15, 2024 ("Risk Assessment"), submitted as part of this application, to be approved by or on behalf of the Commission, pursuant to the plan review process outlined in Special Condition II.A.2 ("Plan Review and Approval"). 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; (g) an analysis of the impact of wave reflection from the retaining wall on adjacent and nearby tidal marsh areas; and (h) degrees of uncertainty.

3. Sea Level Rise Adaptation Planning and Implementation

Should the revised Risk Assessment identify current or future flood risk for the Total Public Access Area required by Special Condition II.B.1 (“Total Public Access Area”) 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 by or 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.2 (“Plan Review and Approval”). 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. The dedicated public access areas shall be protected from flooding by raising the elevation of the public access or another method that may be acceptable to the Commission. The permittee shall maintain and facilitate accessible connections to required public access on publicly-owned property. Any adaptive measure proposed shall ensure that shoreline public access will be roughly equivalent in terms of overall area, function, and quality to that public access required in this permit and must maintain or improve the public access experience and physical and visual connections to the Bair Island Bay Trail and Bair Island Ecological Reserve. Implementation of an adaptive measure(s) meeting the above requirements may require the permittee to submit a permit amendment request or an application for a new 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). The implementation schedule shall plan for the necessary costs of implementing the measures. 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 new 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. Impacts of Retaining Wall on Tidal Marsh

Should the revised Risk Assessment provide evidence that wave reflection from the retaining wall is resulting in scour of adjacent or nearby tidal marsh areas, the permittee shall develop and implement measures to reduce the impacts of the wave reflection consistent with Commission policies at the time of revision. The permittee shall submit the planned measures for review and approval by or on behalf of the Commission within 180 days of approval of a revised Risk Assessment, according to the plan review process described in Special Condition II.A.2 ("Plan Review and Approval"). Depending on any actions required to reduce any impacts of the wave reflection, the permittee may be required to obtain a permit or permit amendment from the Commission.

5. Adaptation of Publicly-Owned Facilities

The permittee shall not be responsible for the adaptation in-place of portions of the project located on Caltrans or City of Redwood City property. In the event that required public access improvements in those areas are subject to flooding related to sea level or groundwater rise that results in closure of the public access areas, the permittee shall coordinate with Caltrans and/or the City of Redwood City and BCDC to determine a feasible adaptation solution consistent with the process set forth in Special Condition II.J.3 ("Sea Level Rise Adaptation Planning and Implementation").

K. 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 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.

L. Riprap Material, Placement, and Maintenance

Riprap material shall be either quarry rock or specially cast or carefully selected concrete pieces free of reinforcing steel and other extraneous material and conforming to quality requirements for specific gravity, absorption, and durability specified by Caltrans or the U. S. Army Corps of Engineers. The overall thickness of the slope protection shall be no more than three feet measured perpendicular to the slope.

Use of dirt, small concrete rubble, concrete pieces with exposed rebar, large and odd shaped pieces of concrete, and asphalt concrete as riprap is prohibited. Riprap material shall be placed so that a permanent shoreline with a minimum amount of fill is established by means of an engineered slope not steeper than two (horizontal) to one (vertical) unless slope is keyed at the toe.

The riprap shall be regularly maintained by and, at the expense of, the permittee, lessee, assignee or other successor in interest to the project. Maintenance shall include the collection of riprap material that becomes dislodged, the in-kind replacement of damaged or missing riprap material and associated filter fabric or other material, if present, and the removal of debris on riprap. Within 30 days of notification by or on behalf of the Commission, the permittee(s) or any successor in interest shall correct any identified maintenance deficiency.

M. 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 to the prospective transferee the disclosure notice in Exhibit C of this permit. Modifications to the disclosures in Exhibit C are prohibited unless approved through the Plan Review process described in Special Condition II.A.2 ("Plan Review and Approval") or by amendment of this permit.

N. Assignment of Public Access Maintenance Responsibility

The rights, interests, and obligations contained in this permit are assignable in full or in part. The permittee may transfer maintenance responsibility to a public agency, homeowner's association, or another legal entity at such time as the property transfers to a new party in interest, provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit. Prior to assigning maintenance responsibility for the public access required by this permit, the permittee shall submit for approval by the Executive Director a legal instrument that establishes a single entity responsible for maintaining all public access areas, improvements, and landscaping required by this permit. The Executive Director shall approve the instrument only if it demonstrates to the Executive Director's satisfaction that the entity agrees to meet the responsibilities for maintaining all of the public access areas, improvements, and landscaping required herein, including obligations to monitor flood risk and undertake necessary adaptive measures according to Special Condition II.J ("Flooding and Adaptation").

If the permittee proposes to establish an entity that has a membership, such as a homeowners association, the instrument shall comply with applicable California Department of Real Estate laws and regulations to also: (1) establish the authority of the

entity to impose charges on its members to assure that the entity has sufficient financial resources to maintain all of the public access improvements and landscaping, including obligations to monitor flood risk and undertake necessary adaptive measures according to Special Condition II.J (“Flooding and Adaptation”); (2) provide that the entity has the legal authority to take any and all actions necessary to maintain all of the public access improvements and landscaping, including obligations to monitor flood risk and undertake necessary adaptive measures according to Special Condition II.J; (3) provide that the Commission may serve all notices, including notices on any members, on the entity only; and (4) provide that the entity has the authority to accept a partial assignment of the amended permit for the purposes described above.

O. Recording

The permittee shall record this permit on all privately-owned parcels affected by this permit with San Mateo County within 30 days after close on the purchase of the property at 505 East Bayshore Road, and shall, within 30 days after recordation, provide the original recordation to the Commission.

P. Notice to Contractor

The permittee shall provide a copy of this permit to any contractor or person working in concert with the permittee to carry out the activities authorized herein and shall point out the special conditions contained herein.

Q. Certification of Contractor Review

Prior to commencing any grading, demolition, remediation, 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.

R. Foundation Layout Inspection

1. Written Notice

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, the permittee shall provide notice in writing to Commission staff to provide inspection 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 notice 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.

Upon inspection, if staff concurs that the foundation layout is consistent with the terms and conditions of this permit, staff shall provide the permittee with a Certificate of Foundation Layout Inspection within 2 working days of the inspection. If staff finds that the foundation layout is not consistent with the terms and conditions of this permit, staff shall notify the permittee of non-approval and identify the inconsistencies within 2 working days of the inspection. The permittee shall correct the inconsistencies and provide new written notice to staff to re-inspect the corrected layout according to the process and timelines of this condition.

The permittee shall not commence construction of the forms or pour the foundation until the Certificate of Foundation Layout Inspection has been obtained, except as provided in Special Condition II.R.3 ("Responsibility of Permittee").

3. Responsibility of Permittee

If the staff is unable to perform inspection within 5 working days of receipt of a written notice for inspection, the permittee may commence such work without obtaining the Certificate of Foundation Layout inspection. 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 accordance with the plans referenced in Special Condition II.A.1 ("Project Plans") of this permit.

S. 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.

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 McAteer-Petris Act, the San Francisco Bay Plan (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. Jurisdiction

Section 66610(a) of the McAteer-Petris Act states, in part, that the Commission's jurisdiction includes "a shoreline band consisting of all territory located between the shoreline of the San Francisco Bay...and a line 100 feet landward of and parallel with that line." 14 CCR §10121 Act further defines the shoreline as "being located at mean high water in those areas other than tidal marsh and as [up to] five feet above mean sea level in areas of tidal marsh."

The project site is bounded to the north by a ditch that continues along the length of the neighboring property at 557 East Bayshore Road. Immediately north of this ditch is a levee that separates the ditch from an unnamed slough that eventually meets Smith Slough. Historically, the ditch was characterized as non-tidal; exhibits to BCDC Permit No. M1988.016.02, as amended through November 8, 1991, which authorized improvements at 557 East Bayshore Road, show the ditch as part of the shoreline band, with the shoreline located on the northern edge of the levee. Since that permit was issued, BCDC staff have determined that the ditch adjacent to the project site is tidally influenced and contains tidal marsh vegetation (BCDC Jurisdictional Determination dated December 23, 2015); 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.

B. 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.

C. Bay Fill

The project involves the placement of 645 square feet of Bay fill, as shown in Exhibit D, comprising cantilevered portions of the shoreline public path that extend past the Bay shoreline, here measured as the edge of tidal marsh vegetation up to five feet above Mean Sea Level. It will also involve removal of a small amount of solid fill in the form of 23 linear feet of chain link fencing that currently extends into the tidal ditch in two locations, including at the eastern property line and at the northwest end of the site.

Section 66605 of the McAteer-Petris Act states, in part, that fill should be authorized only when (1) "public benefits from fill clearly exceed public detriment" and the fill is "limited to water-oriented uses...or minor fill for improving shoreline appearance or public access to the bay"; (2) "no alternative upland location" is available; (3) the fill is the "minimum necessary to achieve the purpose"; (4) the "nature, location, and extent of the fill will minimize harmful effects to the bay area" including water quality and fertility of fish and wildlife resources; (5) the fill will "be constructed in accordance with sound safety standards; (6) the fill will establish a permanent shoreline; and (7) the applicants have valid title to the property where the fill would be placed.

1. Public Benefit vs. Detriment and Minor Fill for Improving Public Access

The project will result in approximately 645 square feet of new cantilevered Bay fill, comprising 265 total square feet at two overlook areas and an observation deck, as well as an additional 380 square feet along the length of the retaining wall to accommodate the width of a new shoreline pathway. At 2.54 acres, the project site is relatively constrained in size, creating challenges for preparing a site layout that would accommodate the townhomes and public access amenities. The cantilevered fill was proposed following recommendations by the Commission's Design Review Board to consider using cantilevering to provide a more generous public access area while avoiding construction or the placement of additional fill in the tidal ditch.

Public detriment resulting from the fill is related primarily to impacts on Bay resources, in that it will result in permanent shade impacts on 0.04 acres of muted tidal marsh habitat that will be mitigated through the purchase of mitigation credits. These impacts are discussed in more detail below, in Finding III.C.4 ("Effects on Bay Resources").

In terms of public benefit, the overlooks, deck, and additional width along the pathway provided by the fill will provide opportunities for the public to pause and enjoy the wildlife and vegetation in the tidal ditch as well as views of the Bair Island Ecological Reserve at a location where public access does not currently exist. The fill areas will also provide seating, interpretive signage, and viewing binoculars to enhance the public's enjoyment of the access area. As the fill will allow for a more pleasant and varied public access experience than would be feasible otherwise, and because the overall impacts on Bay resources will be limited and mitigated, the Commission finds that public benefit from the addition of cantilevered fill along the shoreline trail exceeds the public detriment.

California Code of Regulations Section 10701, Minor Fill for Improving Public Access, states that "the Commission may approve the placement of minor fill to improve public access...only if, in addition to the other findings required by Cal. Government Code Section 66605 and the San Francisco Bay Plan, the Commission finds and declares that (a) the fill is necessary because: (1) there is at present inadequate public access to the Bay shoreline in the area, and (2) it is either physically impracticable or economically infeasible to improve public access without filling; (b) the fill will improve public access to the Bay; and (c) the amount of filling approved is the minimum necessary to provide improved public access to the Bay."

Presently, there is no public access to the Bay shoreline at the project site. Additionally, while public access could be provided without filling, the small size of the project site and requirements of the townhome development would have limited both the overall amount of public access area and the recreational opportunities that could have been made available. By cantilevering the fill,

the project will provide additional space for public access without requiring the placement of any solid fill and, as such, is the minimum necessary to provide adequate space for members of the public to travel along the shoreline and to linger for more contemplative activities. Thus, the fill constitutes minor fill for improving public access to the Bay.

2. Alternative Upland Location

The permittee analyzed a variety of site layouts and designs to maximize the public access area while minimizing the amount of Bay fill, including widening the shoreline public access trail, increasing the distance between the buildings, reconfiguring the roadways, and modifying the orientation of the buildings. The initial project design proposed 66 residential units, and that number decreased to 56 to accommodate recommendations and requirements from BCDC staff, the Design Review Board, the fire department, and the local government. Given the size constraints of the site, the current project with the cantilevered Bay fill was determined to provide the greatest amount of public access while remaining financially feasible. Therefore, the Commission finds there is no alternative upland location for the cantilevered portions of the shoreline public path that would avoid the need to fill the Bay while achieving the purpose of the fill.

3. Minimum Fill Necessary

In addition to Section 66605(c) of the McAteer-Petris Act requiring that fill should be the minimum necessary to achieve the purpose of the fill, Public Access Policy No. 1 states that “a proposed fill project should increase public access to the Bay to the maximum extent feasible.” The total 645 square feet of cantilevered Bay fill along the length of the retaining wall is provided solely for the purpose of public access and will allow for a 10-foot-wide trail with 2-foot-wide shoulders on either side as well as two overlook areas and an observation deck. In addition, the design is intended to provide adequate space for multi-modal trail use and public amenities such as seating, viewing binoculars, and interpretive signage to enhance the public experience of the shoreline. Reducing the cantilevered area would reduce passive recreational opportunities for users of the trail. The cantilevered fill in the northwest corner of the site also allows for a larger trail plaza and a straighter path alignment with clear east-west sightlines, which will improve the experience for trail users. Thus, the Commission finds that the authorized fill is the minimum necessary to achieve the purpose of the fill.

4. Effects on Bay Resources

The portion of the project area within the Commission’s Bay jurisdiction includes portions of the muted tidal marsh in the tidal ditch north of the site. The Environmental Impact Report (EIR) completed for the project characterizes the habitat value of this area as limited due to its size and relative isolation, but notes that it provides suitable habitat for special-status species, including salt marsh harvest mouse and salt marsh wandering shrew.

The planned retaining wall itself, and all related construction activities, would be located upland and outside of the tidal ditch along the northern edge of the project site. However, the 645 square feet of cantilevered Bay fill extending Bayward from the wall would result in shading that will permanently degrade 0.04 acres of tidal marsh habitat in the ditch.

Bay Plan Mitigation Policy No. 1 states that “projects should be designed to avoid adverse environmental impacts to Bay natural resources such as to...plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required. Mitigation is not a substitute for meeting the other requirements of the McAteer-Petris Act.”

To mitigate for the loss of the 0.04 acres of muted tidal marsh habitat, the permittee has committed to purchasing credits at a conservation bank that provides suitable habitat for salt marsh harvest mouse, per Mitigation Measure MM Bio-5.1 of the project EIR. Special Condition II.H (“Mitigation for Habitat Loss”) is included to require the permittee to provide proof of purchase of mitigation credits to Commission staff for review and approval prior to beginning any work authorized by this permit. This condition also specifies that the conservation bank must provide suitable habitat for salt marsh wandering shrew, which the Biological Resources Report prepared for the project (H.T. Harvey and Associates, 2022) also found may be present, in addition to salt marsh harvest mouse. As part of the EIR, the City of Redwood City identified the San Francisco Bay Tidal Wetlands Bank (also called the San Francisco Bay Wetland Mitigation Bank) in Redwood City, which is regulated by the U.S. Army Corps of Engineers, as an appropriate mitigation bank for purposes of the mitigation measure. Commission staff confirmed with the regulatory bank manager for the San Francisco Bay Wetland Mitigation Bank that, at the time of the Commission’s consideration of this permit application, the Bank remains in good standing, that the service area provides suitable habitat for both salt marsh harvest mouse and salt marsh wandering shrew, and that there were sufficient available credits to accommodate the 0.04 acres of habitat loss.

This permit includes several conditions intended to avoid or minimize the impact of construction on Bay resources, including those added based on consultation with the California Department of Fish and Wildlife (CDFW) and review of the EIR for the project. These include Special Condition II.I.1 (“Construction Timing”), which requires that all construction activities must be conducted during daylight hours to avoid disturbing salt marsh harvest mouse; Special Condition II.I.2 (“Erosion Control Materials”), which prohibits the use of erosion control materials containing synthetic that could risk entangling and strangling wildlife; Special Condition II.I.3 (“Qualified Biologist On Call”), which requires qualified biologist be on-call during construction;

Special Condition II.I.4 (“Worker Environmental Awareness”), which requires the permittee to conduct an orientation program for all construction personnel prior to beginning work; Special Condition II.I.5 (“Pre-construction Survey and Exclusion Barrier”), which requires the Qualified Biologist to conduct a pre-construction survey for salt marsh harvest mouse and salt marsh wandering shrew and monitor the installation of an exclusion barrier to deter them from entering the site during construction; Special Condition II.I.6 (“Work Stoppage”) which requires potentially harmful work to cease upon the sighting of a special-status species; Special Condition II.I.7 (“Work Windows and Pre-Construction Nesting Bird Surveys”) to avoid negatively impacting nesting birds; Special Condition II.I.8 (“Pile Driving”), which minimizes potential impacts from pile driving for the retaining wall; Special Condition II.I.10 (“Marsh and Upland Plan Protection During Construction”), which requires work authorized by this permit to be performed in a manner that will prevent, avoid, or minimize any significant adverse impacts on any tidal marsh, other sensitive wetland resources, and existing native upland vegetation, and to restore the area to its previous condition should any unforeseen impacts occur; and Special Condition II.I.11 (“Construction and Maintenance Completed from Upland Areas”), which requires work to be conducted from upland rather than below the Bay shoreline.

Given the relatively small area of habitat loss and with these measures in place to avoid, minimize, and mitigate for any potential impacts to salt marsh harvest mouse, salt marsh wandering shrew, and other special-status species that could be impacted, the Commission finds that the nature, location, and extent of the fill required for the project minimizes harmful effects to the Bay and Bay resources.

5. Sound Safety Standards

At the time of the Commission’s consideration of this permit application, the applicant has not yet finalized the design of the proposed retaining wall. During the application process, the permittee provided the results of a feasibility study conducted by Biggs Cardosa Associates, Inc., for three alternatives for constructing the retaining wall, including: 1) a mechanically stabilized embankment (MSE) wall; 2) a cast-in-place wall with tieback-deadman system supported on auger cast-in-place piles; and 3) a steel sheet pile wall with concrete cap. The analysis took into consideration the cantilevered portions of the wall, including the cantilevered areas of Bay fill, as well as the potential for the wall height to increase by approximately 5 feet to accommodate expected levels of sea level rise by 2100. The feasibility study report, dated January 31, 2024, concluded that the MSE wall and the sheet pile wall were structurally viable, but that the cast-in-place wall was not recommended without additional geotechnical and pile behavior study. The report also noted that the sheet pile wall could be acceptable if pile driving systems are not prohibited.

The conceptual designs indicate that a version of the retaining wall based on one of the three alternatives is feasible; however, additional detail and technical study are still needed to guarantee that the wall will be engineered and constructed to sound safety standards, will be able to accommodate potential adaptation strategies that would increase loading on the wall, and will withstand any potential exposure to Bay waters and wave action. Therefore, Special Condition II.A.3 (“Preliminary Plan Review”) and Special Condition II.D (“Retaining Wall”) are included to provide Commission staff adequate opportunity to review the retaining wall design before it is finalized in order to identify any potential engineering issues. These conditions have been included to ensure that the final design is engineered and constructed to sound safety standards and will adequately consider future sea level rise, future wave action on the wall, and future adaptation measures. If the selected retaining wall design cannot meet the specified conditions, a permit amendment may be warranted to modify the conceptual design and/or permit conditions in order that implementation of the retaining wall can be found consistent with the Commission’s laws and policies.

6. Permanent Shoreline

The project involves constructing a retaining wall to protect the residential development from coastal flooding impacts from sea level rise. The permittee has stated that the wall would be located, and can be constructed, entirely within the shoreline band, with only a small portion (645 square feet) cantilevered over the Bay.

To ensure the project does not result in additional permanent or temporary filling of the Bay, Special Condition II.A.3 (“Preliminary Plan Review”) requires that the permittee submit construction plans demonstrating that there is sufficient space upland of the Commission’s Bay jurisdiction line to construct the retaining wall without increasing the amount of Bay Fill authorized under this permit. Special Condition II.C (“Open Space”) requires the permittee to permanently restrict the portions of the property north of the retaining wall as open space. Further, Special Condition II.I.11 (“Construction and Maintenance Completed from Upland Areas”) requires that project construction and any future maintenance of the retaining wall, public access areas, and private development be completed from the upland side of the Bay jurisdiction line, unless otherwise permitted through amendment of this permit.

Taken together, these conditions will ensure that the project will involve no additional filling of the Bay due to construction or future maintenance activities.

7. Valid Title

At the time of application, the permittee, Regis Homes Bay Area, LLC, had entered into a Memorandum of Purchase and Sale Agreement (PSA) with the property owner, the Alan B. Forrest and Adeline Forrest Revocable Trust. The permittee has

indicated that they do not intend to exercise their right to purchase the property under the PSA until after all soil remediation in the site-bank and off-site areas, as discussed further under Findings Section III.H.1 (“Remediation”), is complete. Commission staff determined that the PSA provided adequate property interest for purposes of accepting and processing this permit application, but Special Condition II.F.1 (“505 East Bayshore Road Title”) requires the permittee to submit proof of adequate property interest to the 505 East Bayshore Road property prior to conducting the work authorized and/or required herein.

A small portion (13 square feet) of the cantilevered Bay fill, along with other required improvements, will be located on property owned by Caltrans. In addition, some of the required improvements will be located on property owned by the City of Redwood City. Accordingly, Special Condition II.F.2 (“Right to Entry and Maintenance within the City- or State-Owned Right-of-Way”) requires the permittee to submit documentation demonstrating adequate property interest to construct and maintain any authorized improvements on publicly-owned property prior to beginning any of the work authorized by this permit.

D. Public Access

The Commission finds that the project, as conditioned, is consistent with McAteer-Petris Act and Bay Plan policies related to public access for the following reasons:

1. Maximum Feasible Public Access

Section 66602 of the McAteer-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 the proposed project, should be provided.” Section 66632.4 states, in part, that “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.”

Bay Plan Public Access Policy No. 2 states, in part, that “maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline.” Policy No. 7 states, in part, 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.”

In assessing whether a proposed project provides the maximum feasible public access to the Bay and its shoreline, the Commission has in past instances considered factors including the existing conditions at the project site, future demand for public access facilities resulting from the proposed project, the public access improvements provided by the project, and its previous actions on comparable projects.

a. Existing Conditions at the Project Site

The project site is characterized by corrugated metal warehouse buildings and outdoor storage facilities associated with the site's existing use as a metals recycling and supply facility dating back to 1963. There is currently no existing public access at 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. North of the levee trail, on the other side of an unnamed slough that is a tributary of Smith 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.

The levee trail has two formal trailheads where the public can access Bair Island: one is at Bair Island Road to the east of the project site, where there is a dedicated parking lot for visitors with 108 parking stalls, including 6 accessible stalls, and 2 public restrooms; the second access point is located approximately 115 feet northwest of the project site, where the levee trail intersects with East Bayshore Road at Whipple Avenue. This second trailhead is primarily accessed by pedestrians and cyclists coming from Whipple Road. However, unsafe conditions at the shoulder where Whipple Avenue meets East Bayshore Road, the lack of sidewalks along East Bayshore Road, and a lack of public parking in the immediate vicinity limit public use of this trailhead.

The project authorized herein will improve upon existing site conditions by constructing an improved sidewalk trail connection from the project site to the nearby trailhead. Planters installed curbside on the sidewalk will provide an additional safety buffer between trail users and vehicles. The permittee will add ADA-compliant curb ramps, high-visibility features such as new striping and lights, and new signage to the existing pedestrian crosswalk where Whipple Avenue meets East Bayshore Road to improve safety at this location. To provide greater access to the trailhead, the permittee will also fund the construction of and signage for five Public Shore Parking spaces within the City of Redwood City's right-of-way. These five parking spaces will not be dedicated, but they will be designated for members of the public visiting the shoreline and will be available to the public 24 hours a day, 7 days a week. During the application process, the City raised concerns about its ability to enforce the intended use of these parking spaces for public shore parking if, for example, guests of residents monopolize the spaces. To address this potential issue, Special Condition II.B.10

(“Reasonable Rules and Restrictions”) allows for the permittee, in conjunction with the City, to request approval to impose rules such as time limits (e.g., 3- to 4-hour parking) on the public shore parking spaces to ensure that the spaces remain reasonably available for public visitors to the trail and the greater Bair Island area.

The project site is also adjacent to a parcel to the east at 557 East Bayshore Road. The owner of that parcel obtained BCDC Permit No. 2023.004.00 on June 20, 2023, to redevelop the site into a residential and commercial mixed-use project. The 557 East Bayshore development will include 1.74 acres of dedicated public access with a variety of public access improvements, including a multi-use shoreline trail that will terminate at the western property line where it meets the 505 East Bayshore Road property. As of the consideration of this permit application, construction of the development authorized at 557 East Bayshore Road has not begun. Special Condition II.B.8 (“Future Public Access Connections to Neighboring Parcels”) will encourage a seamless shoreline experience for users across the two sites by requiring the permittee to reasonably coordinate the design, construction, and maintenance of a public access connection between the planned trail segments.

b. Projected Demand for Public Access

The project involves construction of nine multi-family residential buildings containing 56 total new units, including two, three, and four-bedroom townhome units, and will result in a projected 156 new residents at buildout. The new residents and their guests are expected to increase demand for public access facilities in the vicinity of the project site.

Additionally, any public access provided at this location has the potential to be used by visitors to the nearby Bair Island trail system and the planned adjacent development at 557 East Bayshore.

c. Public Access Provided by the Project

The project will provide 18,807 total square feet of new public access along the shoreline, including a new multi-use shoreline path and a variety of amenities, described further under Findings Section III.D.1.e (“Public Access Improvements”) below, as well as establish connections to the Bair Island trail network, East Bayshore Road, and the adjacent property at 557 East Bayshore Road.

The project will newly dedicate an approximately 14,254 (0.33-acre) public access area, including 632 square feet (0.01 acres) of cantilevered area in the Commission’s Bay jurisdiction, 13,446 square feet (0.31 acres) within the shoreline band, and 176 square feet (less than 0.01 acres) outside the Commission’s jurisdiction. The dedicated public access area represents

13 percent of the total 2.54-acre site. An additional 6,101 square feet (0.14 acres) located in the Commission’s Bay jurisdiction and 325 square feet (0.01 acres) within the 100-foot shoreline band will be dedicated open space and will remain undeveloped, as required by Special Condition II.C.1 (“Permanent Guarantee of Open Space”) to ensure continued visual connections to the tidal marsh in the ditch and the larger Bair Island Ecological Reserve. The open space area includes the portion of the site north of the retaining wall up to the property line. The remaining 89,994 square feet (2.07 acres) of the site will accommodate the residential development, including nine 3-story townhomes with a combined footprint of 40,100 square feet, paseos and a drive aisle, parking, landscaping and stormwater retention areas, and other private amenities.

d. Comparable Projects Approved by the Commission

Table 2, 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 2: SUMMARY OF PUBLIC ACCESS PROVIDED BY COMPARABLE PROJECTS

Project Name	BCDC Permit No.	Total Project Area (acres)	No. 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%
Hercules Bayfront Creekside Apartments (2017)	2017.002	2.2	172 units/6,200 sf commercial	0.45	20%
557 East Bayshore (2023)	2023.004	14.4	480 units/151,423 sf commercial	1.74	12%
505 East Bayshore	2023.005	2.64	56 units	0.33	13%

BCDC Permit No. 2014.004.02 was issued to RWC Harbor Communities, LLC, for the Blu Harbor residential development, located approximately 0.4 miles southeast of the project site in Redwood City, San Mateo County. The Blu Harbor project involved the development of 402 new residential units on 13.8 acres, and the permit required 1.49 acres of dedicated public access, or 11 percent of the total project site.

BCDC Permit No. 2017.002.00 was issued to Hercules Development Partners, LP, for the mixed-use Hercules Bayfront Creekside Apartments development, in the City of Hercules. The Creekside Apartments proposal involved the development of 172 residential units and 6,200 square feet of commercial space on 2.2 acres, and the permit required 0.45 acres of dedicated public access, or 20% of the total project site.

BCDC Permit No. 2023.004.00 was issued to Redwood Crossing LLC for a mixed-use development, located adjacent to the project site in Redwood City, San Mateo County. The 557 East Bayshore project involves the development of 480 residential units and 151,423 square feet of commercial space for a fitness center on 14.4 acres, and the permit required 1.74 acres of dedicated public access, or 12% of the total project site.

The 505 East Bayshore project would involve redeveloping a 2.54-acre property with 56 residential units. The project is most similar to the Hercules Bayfront Creekside Apartments development in terms of size, although the projects differ in that the latter project involved a more intensive use of the site, with 172 residential units as well as a mixed-use component. In addition, the 505 East Bayshore project would leave 6,426 square feet of open space undeveloped to minimize impacts to the adjacent tidal ditch and ensure public visual access to the tidal marsh vegetation in the ditch and Bair Island Ecological Reserve. The other two projects, Blu Harbor and 557 East Bayshore, each dedicated at least three times as much square footage of public as the 505 East Bayshore will, but were also much larger sites in terms of absolute acreage. As a percentage of the total site, the 505 East Bayshore project is comparable to Blu Harbor and 577 East Bayshore (and in fact provides the most public access percentage-wise out of these three projects). The 505 East Bayshore project will also provide an additional 4,553 square feet of public access improvements on publicly-owned property within Caltrans' and the City of Redwood City's rights-of-way.

e. 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 Total 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.

(1) 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.”

During the design phase, the permittee made extensive efforts to reach local community groups, including neighbors, non-profit community groups, housing advocates, and environmental justice organizations. Among several others, the permittee met with the Bair Island Neighborhood Association, the Redwood City Downtown Streets Team, the GoBair Aquatic Center, the Redwood City Education Foundation, Acterra, and the Citizens Committee to Complete the Refuge. Community members strongly supported the robust street improvements provided as part of the project, including the new sidewalks, public parking spaces, new sidewalk connection to the Bair Island trailhead, and the safety improvements to the crosswalk at Whipple Avenue and East Bayshore Road. The permittee also modified plans for the project in response to environmental concerns, including changing tree species, adding bird-safe glass, and adjusting light fixtures.

(2) 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 August 2022, which was subsequently incorporated into the EIR for the project. The biological resources analysis in the EIR stated that the project would convert 0.03 acres of ruderal ditch bank habitat and redevelop 2.42 acres of developed habitat on the site. The EIR found that these habitats support common wildlife species but are of low quality and are unlikely to support large numbers of any given species. The EIR also identified bird, mammal, and insect species with the potential to occur at or near the site that could be impacted by construction activities and lighting. The EIR set forth several mitigation measures to avoid or minimize these impacts, including construction work windows to minimize impacts to nesting birds and requirements for shielding, orientation, and minimization of exterior lighting to limit impacts on local wildlife populations from artificial lighting.

Regarding the public access area, the EIR noted that the cantilevered sections of the proposed bike and pedestrian trail would cross over 0.04 acres of muted tidal marsh habitat, and that shading from the cantilevered structures

would result in the long-term degradation of this habitat. The EIR stated that the muted tidal marsh habitat in the ditch could provide suitable habitat for salt marsh harvest mouse and salt marsh wandering shrew, but that due to the limited extent of the ditch and separation from higher-quality habitat, the quality of the pre-existing muted tidal marsh habitat for these species is low. The EIR required compensatory mitigation for the permanent loss of the muted tidal marsh habitat, which will be fulfilled through the purchase of credits at a conservation bank, as discussed further under Finding III.C.4 (“Effects on Bay Resources”). The EIR also set forth several mitigation measures to reduce impacts to these species during construction, including requiring a worker environmental awareness program, an exclusion barrier along the northernmost limits of the work, fencing off environmentally sensitive areas, and work stoppage if an animal that appears to be a salt marsh harvest mouse or wandering shrew is observed on the project site.

The EIR also noted that there was potential for construction activities in areas immediately adjacent to the tidal marsh to directly and indirectly impact water quality in the tidal ditch as a result of sediment mobilization or spills of fluids or materials into the ditch, which could impact special-status fish, essential fish habitat, and marine mammals in the unnamed tidal slough north of the site. Additionally, the EIR found that the project could result in the introduction of invasive weeds. The EIR also found that the project must comply with the Construction General Permit and all applicable best management practices for sediment control at the size to avoid and minimize such impacts. The EIR also noted that the project would include upgraded stormwater treatment to comply with the Municipal Regional Stormwater NPDES Permit. The EIR further required the program to implement invasive weed best management practices to avoid further degradation of the muted tidal marsh habitat.

Special Condition II.G (“San Francisco Regional Water Quality Control Board Approval”) requires the permittee to submit all applicable water quality certifications or waste discharge requirements, or confirmation that any such approvals are not required, from the Water Board prior to beginning any work authorized herein. This condition will ensure that project construction will not adversely impact water quality in the Bay and will minimize indirect adverse effects on special-status species.

Public Access Policy No. 10 states, in part, 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.” The project would provide a new

shoreline path elevated atop a retaining wall, with overlook areas and an observation deck containing seating and viewing binoculars. Members of the public will have opportunities to observe the habitat areas in the ditch and enjoy views of the Bair Island Ecological Reserve. Guardrails along the wall will protect users as well as discourage visitors from entering the ditch and disrupting the habitat. In addition, Special Condition II.J.4 (“Impacts of Retaining Wall on Tidal Marsh”) requires that, should the revised Risk Assessment required by Special Condition II.J (“Flooding and Adaptation”) evidence that wave reflection from the retaining wall is causing scour of adjacent or nearby tidal marsh areas, the permittee must develop measures to reduce the impacts of wave reflection, consistent with the Commission’s policies at that time.

Public Access Policy No. 9 states that “...a small amount of fill may be allowed if the fill is necessary and is the minimum absolutely required to develop the project in accordance with the Commission’s public access requirements,” and 14 CCR section 10701 provides that “the Commission may approve the placement of minor fill to improve public access.” Public Access Policy No. 13 states, in part, that “The Design Review Board should advise the Commission regarding the adequacy of the public access proposed.” The project design attempts to strike an appropriate balance between the need to achieve maximum feasible public access while minimizing adverse effects on wildlife. During the review of the project at the Design Review Board’s March 21, 2022, meeting, Board members expressed concerns that the public path, at only 10 feet wide, and the relatively small trail plaza area would not feel sufficiently public. The Board suggested straightening the alignment of the trail adjacent to the plaza to improve east-west sightlines and to create a more generous entry point for members of the public arriving at the site. In response, the permittee proposed expanding the cantilevering along the length of the wall to widen the shoreline path to 14 feet wide and enlarged the trail plaza area. The changes resulted in approximately 645 square feet of Bay fill, including small portions of the two overlooks, the observation deck, an area at the northwest corner of the site, and other limited segments along the length of the wall that will be cantilevered over the Bay, as discussed above under Findings Section III.C.4 (“Effects on Bay Resources”) and III.D.1.e(2) (“Bay Resources”).

(3) Connectivity

Public Access Policy No. 10 states, in part, 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 Total Public Access Area, the project will provide a multi-use trail for pedestrians and cyclists to traverse the shoreline, as well as a new sidewalk connection to the Bair Island trailhead northwest of the project site and a new sidewalk segment along East Bayshore Road leading to 5 new designated Public Shore Parking spaces. 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. Special Condition II.B.5.b (“Public Shore Parking”) ensures the provision of those spaces, which are located in the City of Redwood City’s right-of-way and will remain available to the public at all times. The 5 parking spaces will also provide an additional access point to pedestrians and cyclists accessing the Class I bicycle/pedestrian trail that begins at the north end of Whipple and continues north along Highway 101 to San Carlos.

The project will also involve improving an existing crosswalk at Whipple Avenue and East Bayshore Road with ADA-compliant curb ramps, high-visibility features such as new striping and lights, and new signage. This crosswalk will improve safety and connectivity for visitors traveling from areas across Highway 101 along Whipple Road.

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.6 (“Public Access Signage, Wayfinding, and Interpretive Elements Plan”) is included to ensure the preparation of a comprehensive signage program. Additionally, an interpretive signage program will enhance the trail experience by informing users of the unique wildlife in the area given the trail’s connection to Bair Island, or other topics related to the history of the area or the native vegetation, as was recommended by CDFW.

The project will also provide 2 bicycle racks with space for 4 bicycles, as well as a 10-foot-wide by 28-foot-long area within the 973-square-foot trail plaza that could be programmed in the future to accommodate a micro-mobility bicycle and/or scooter station in accordance with the City of Redwood City’s Transportation Demand Management requirements, within the public access area as required by Special Condition II.B.4 (“Improvements within the Total Public Access Area”).

In addition, as discussed above under Findings Section II.D.1.a (“Existing Conditions at the Project Site”), the planned residential development at 557 East Bayshore Road immediately to the east provides 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.8 ("Future Public Access 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.

(4) 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."

The project will provide the public with different means of enjoying the public access area, such as viewing opportunities of the ditch and wider Bair Island Ecological Reserve from the overlook areas and observation deck, opportunities to picnic or rest at the trail plaza, or travel or exercise along the multi-use trail. Interpretive panels will also provide an opportunity for the public to learn about the habitat in the tidal ditch and areas beyond into the slough.

The project's public access components provide barrier-free access for persons with disabilities. The trail plaza is accessible by steps and at-grade. 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.6 ("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.

(5) Maintenance

Public Access Policy No. 8 states that "improvements ... should include an ongoing maintenance program." The permittee has indicated that a future homeowners association will be responsible for maintaining the Total Public Access Area, and will enter into a Landscaping Maintenance Agreement with the City of Redwood City to maintain improvements on Caltrans' and the

City's property. Special Condition II.B.9 ("Public Access 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. In addition, Special Condition II.F.2 ("Right to Entry and Maintenance within the City- or State-Owned Right-of-Way") requires the permittee to submit documentation demonstrating sufficient property interest to maintain the improvements on publicly-owned property prior to beginning any construction on Caltrans' and/or the City's property.

f. 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 Commission's Design Review Board reviewed the project on August 21, 2021, and on March 21, 2022.

At the August 21, 2021, meeting, the Board discussion focused on the sense of invitation for the public to access the site and creating visual distinction between public and private areas; connectivity with the neighboring site at 557 East Bayshore Road and the Bair Island trail network; and potential sea level and groundwater rise impacts to the public access areas and private development, as well as the capacity of future homeowners to adapt given proximity to the shoreline.

In response to the Board's feedback, the applicant enlarged the setback between the retaining wall and the private areas of the site from 18 to 22 feet and widened the shoreline path to a total 14 feet, including 10 feet of paved trail and 2-foot concrete shoulders on either side. The applicant also expanded the cantilevered area at the west end of the site to provide for a more generous trail plaza area and a widened connection to the Bair Island Trailhead, as well as improve sightlines to the adjacent site. Further, the applicant modified the landscaping plan and materiality of the trail to increase the sense of "publicness" in the public access area.

At the March 21, 2022, meeting, the Board expressed appreciation for the changes, but continued to raise concerns about the interface between the public shoreline path and the private residential buildings and whether the project would result in public spaces that "feel public," as well as the capacity of the site to accommodate sea level rise, especially in the absence of a regional solution. The Board also noted the potential need for mitigation to offset the loss of habitat in the tidal ditch due to cantilevering along portions of the wall.

Since the March 21, 2022, Design Review Board meeting, the applicant continued to modify the project to make the site feel more “public” through the selection of materials, adding bike racks and including space to support a future micro-mobility program with a bicycle and/or scooter share station, and widening the public sidewalk along East Bayshore Road to 12.5 feet. The applicant has also reviewed potential sea level rise and groundwater rise adaptation strategies. The applicant determined that the originally proposed strategy of replacing the guardrails along the wall with solid concrete wall extensions remains their preference, but 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.

2. Consistency with Maximum Feasible Public Access

The project will provide 14,254 square feet of new dedicated public access where none currently exists at the site and will provide a variety of new amenities, including a new multi-modal shoreline path, a new trail plaza, space to support a future micro-mobility area, seating, and landscaping to encourage and support increased usage by the public. It will also increase access to the Bair Island trail network and connect it to the planned shoreline path on the adjacent 557 East Bayshore site, which is expected to be constructed on a similar timeline. In addition, the project will provide new and improved public amenities within the adjacent rights-of-way owned by Caltrans and the City of Redwood City, including new sidewalks, landscaping, 5 new Public Shore Parking spaces, and an improved crosswalk over Whipple Avenue at East Bayshore Road.

Special Condition II.B.1 (“Total Public Access Area”) describes the Total Public Access Area required of the project. This area includes the 14,254 square feet (0.33 acres) of dedicated public access, as well as 3,142 square feet (0.07 acres) of public access improvements within Caltrans’ right-of-way and 1,411 square feet (0.03 acres) of public access improvements within the City of Redwood City’s right-of-way.

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 improvements on property owned by Caltrans and the City of Redwood City will not be dedicated; however, Special Condition II.B.9 (“Public Access Maintenance”) requires the permittee to permanently maintain the areas and public access improvements within the Total Public Access Area.

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

E. 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.” Bay Plan 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, Bay Plan 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 metals recycling and supply facility including four single-story warehouses, a paved parking area, a staging area, a narrow landscaped area, and chain link fencing. The site is visible from the Bair Island Bay Trail on the other side of the tidal ditch and beyond from the unnamed slough. The project would raise the elevation of the project site and construct nine 3-story residential buildings containing 56 townhomes.

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 would enhance the experience of visitors to the Bay Trail compared to the site’s current industrial use. The project site is bounded to the south by a former car dealership that blocks views of the Bay from East Bayshore Road and Highway 101. Thus, the increased size of the structures would not impact any existing views to the Bay. The orientation of the buildings, with paseos between the buildings fronting the shoreline, would allow for views of the Bay from within the private areas of the site. The project would also remove the existing chain-link fencing along the northern property line, as well as permanently dedicate the portion of the property north of the retaining wall as open space, per Special Condition II.C (“Open Space”).

The Commission’s Design Review Board reviewed the project at its meetings on August 21, 2021, and March 21, 2022, meetings. During the meetings, the Board’s discussion focused on ways to visually distinguish between the public and private areas of the site and increase the sense of “publicness” at the site. In response to the Board’s feedback, the permittee enlarged the setback between the retaining wall and the private areas of the site from 18 to 22 feet; widened the shoreline path to 14 feet (including 10 feet of paved trail and 2-foot-wide decomposed granite shoulders on either side); added accent paving at the overlook areas; and modified the landscaping plans to use primarily native and drought-tolerant, non-invasive landscaping.

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

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.”

Bay Plan Environmental Justice and Social Justice 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 1,392 people by the 2017–2021 American Community Survey) identified as having “highest contamination vulnerability.” The site is across Highway 101 from a block group (estimated population of 3,281) identified as having “moderate contamination vulnerability.” Contamination vulnerability in the area is associated with nearby hazardous cleanup activities, groundwater threats, hazardous waste facilities, solid waste facilities, and impaired water bodies. Both block groups are identified as having “low social vulnerability.”

During the development of the project design, the applicant conducted outreach to numerous community groups to identify any environmental or social equity concerns. Among other groups, the applicant met with the Redwood City Education Foundation, the Redwood City Downtown Streets Team, the Bair Island Aquatic Center, and Acterra, which are identified on the Commission’s list of Community Based Organizations. Issues identified through outreach included a strong desire for increasing the amount of affordable housing in the community and improved shoreline access through trail connections and parking, as well as avoiding creating new raptor perches close to the tidal marsh habitat. In response to feedback, the permittee committed to making connectivity improvements in the Caltrans- and City-owned rights-of-way, including an improved sidewalk connection to the Bair Island Trailhead and a new multi-modal

sidewalk segment and five designated Public Shore Parking spaces along East Bayshore Road. The permittee also adjusted the tree species proposed along the Bayfront to avoid attracting predatory birds. Additionally, the project will provide eight Below Market Rate units (14 percent of the total 56 units) that will be affordable to households making up to 120 percent of the Area Median Income.

G. Shoreline Protection

Bay Plan Shoreline Protection Policy No. 1 states that “new shoreline protection projects and the maintenance or reconstruction of existing projects and uses should be authorized if a) the project is necessary to provide flood or erosion protection for existing development, use or infrastructure or proposed development, use or infrastructure that is consistent with other Bay Plan policies; b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the causes and conditions of erosion and flooding at the site; c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes sea level rise into account; d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access; e) the protection is integrated with current or placed adjacent shoreline protection measures; and f) adverse impacts to adjacent or nearby areas, such as increased flooding or accelerated erosion, are avoided or minimized. If such impacts cannot be avoided or minimized, measures to compensate should be required. Professionals knowledgeable of the Commission’s concerns, such as civil engineers experienced in coastal processes, should participate in the design.”

Bay Plan Shoreline Protection Policy No. 5 states that “all shoreline protection projects should evaluate the use of natural and nature-based features such as marsh vegetation, levees with transitional ecotone habitat, mudflats, beaches, and oyster reefs, and should incorporate these features to the greatest extent practicable.”

Bay Plan Shoreline Protection Policy No. 8 states that “all contamination remediation projects in the Bay or along the Bay shoreline should integrate the best available science on sea level rise, storm surge, and associated groundwater level changes into the project design in order to protect human and ecological health by preventing the mobilization of contaminants into the environment and preventing harm to the surrounding communities.”

The project authorized by this permit involves the construction of a retaining wall in the shoreline band, which will support the capping of the project site as part of the remediation of on-site contamination (discussed further in Finding III.H) and the elevation of the site as a sea level rise resiliency strategy. Once constructed, the retaining wall will also underlie a portion of the required public access improvements, including the cantilevered public access areas. As of the Commission’s consideration of this permit, the permittee has proposed three alternatives for the design of the wall, but has not yet selected a final design for the retaining wall.

During the application process, the permittee considered alternatives to a retaining wall, including potential nature-based shoreline protection options such as an earthen berm. Given the relatively small size of the project site, the permittee determined that such alternatives were infeasible, as the project could not accommodate the large amount of horizontal space needed to construct an appropriately designed slope without significantly increasing the amount of fill in the Bay. The permittee also stated that further increasing the height of the townhomes or reducing building footprints would render the project economically infeasible.

The permittee evaluated three alternatives for the design of the retaining wall, as described in a feasibility memorandum prepared by Biggs Cardoso Associates, Inc., dated January 31, 2024. These alternative designs include: 1) a mechanically stabilized embankment (MSE) wall; 2) a cast-in-place wall with tieback-deadman system supported on auger cast-in-place piles; and 3) a steel sheet pile wall with a concrete cap. As the permittee had not yet selected a preferred alternative, engineering details for retaining wall were not yet available at the time the Commission considered this permit. The permittee will be unable to provide these details until construction documents are prepared for the project. This permit assumes that the work may proceed in a manner where, as conditioned, the project would not result in any increases in authorized fill, impacts to required public access, or impacts to Bay resources. However, if this is not the case, a permit amendment may be required before the permittee can construct the retaining wall.

Special Condition II.A (“Specific Plans and Plan Review”) establishes a process for submitting preliminary and final construction documents related to the retaining wall that will allow Commission staff adequate time to review the work for compliance with this permit before it is finalized. Special Condition II.D (“Retaining Wall”) further specifies that the preliminary and final construction documents should be accompanied by a geotechnical report and structural design report that confirm and demonstrate that the wall will be constructed to meet sound engineering standards, accommodate potential future adaptation measures (such as raising the top of the wall and elevating the public access area), withstand future wave action resulting from rising sea levels through end-of-century, and be consistent with the authorization and conditions of this permit. Per Special Condition II.A.3 (“Preliminary Plan Review”), if Commission staff determines that the wall cannot be constructed without increasing the authorized amount of Bay fill, altering the required public access design, or impacting Bay resources beyond what has been contemplated by this permit, an amendment to this permit will be required before the project may proceed.

Bay Plan Shoreline Protection Policy No. 4 states that “authorized protective projects should be regularly maintained according to a long-term maintenance program to assure that the shoreline will be protected from tidal erosion and flooding and that the effects of the shoreline protection project on natural resources during the life of the

project will be the minimum necessary.” Special Condition II.B.9 (“Public Access Maintenance”) requires that the areas and public access improvements within the Total Public Access Area, which includes the shoreline trail atop the retaining wall, be maintained in perpetuity by and at the expense of the permittee or its assignees. This maintenance includes, among other work, repairs to any public access areas or improvements that are damaged by future subsidence, uneven settlement, flooding, or inundation caused by sea level or groundwater rise, including raising land elevation or redesigning public access features to protect and preserve the usability of the public access areas and improvements at all times.

In addition, to protect nearby habitat areas once sea levels reach the wall, Special Condition II.J.4 (“Impacts of Retaining Wall on Tidal Marsh”) requires that, should a revised Risk Assessment provide evidence that wave reflection from the retaining wall is resulting in scour of adjacent or nearby tidal marsh areas, the permittee shall develop measures to reduce the impacts of the wave reflection consistent with Commission policies at the time of revision. This condition provides for the wall to be adapted if and when it begins to impact adjacent habitats, including the valuable Bair Island Ecological Reserve, and will allow for the permittee to incorporate the best available science and available technologies at the time. Implementation of any such measures may require the permittee to submit a permit amendment request at that time.

H. Bay Resources

The Commission finds that the project, as conditioned, is consistent with the McAteer-Petris Act and Bay Plan policies on Water Quality; Fish, Other Aquatic Organisms and Wildlife; and Tidal Marshes and Tidal Flats for the following reasons:

1. Remediation

As detailed in the “Site Cleanup Plan” prepared by Langan Engineering and Environmental Services, Inc. and approved by the Water Board on March 11, 2022, environmental analyses of the project site dating back to 1998 have found evidence of contaminated soil at the site, most notably elevated concentrations of PCBs. Additional step-out testing conducted in 2023 and 2024 demonstrated that the contaminants are also present in soils and sediment in the tidal ditch and the unnamed slough to the north and concluded that activities at the project site were the source of the contamination. Due to the nature of PCBs and their affinity for binding to soil, rather than water, a negligible amount of PCBs was detected in the groundwater at the site. Remediation of the site and the tidal ditch is being conducted under the oversight of the Water Board through two separate but related efforts. Limits of work for the remediation efforts are shown in Exhibit B.

The first effort, which is within the scope of the project authorized by this permit, will include all portions of the 505 East Bayshore Road property up to and including the retaining wall at the northern property line. The permittee will be responsible for completing this cleanup according to Site Cleanup Plan, as approved by the Water Board. The Site Cleanup Plan calls for capping the contaminated soil in place on site by constructing a retaining wall and placing a minimum 3 feet of clean imported soil, with a geotextile layer demarcating between the contaminated soil and cap material. Above the cap, the permittee plans to place additional clean fill to further elevate the site to 5 to 7 feet above existing grade to protect the site from groundwater and sea level rise. Hardscaping and stormwater treatment areas above the cap will reduce erosion and preserve the integrity of the cap, as well as minimize the risk to future residents of exposure to PCBs and any other contaminants present in the existing soil. In addition, a land use covenant for the site (with the Water Board as the primary beneficiary and signatory, and the United States Environmental Protection Agency [U.S. EPA] as a third-party beneficiary) will be placed on the property to limit future grading, trenching, or excavation that could adversely impact the performance of the cap at the property. The land use covenant will include a Cap Construction Completion Report and a Cap Inspection, Maintenance, and Repair Plan.

The second effort is beyond the scope of the project authorized by this permit, and will include the portions of the 505 East Bayshore Road property north of the retaining wall and extending partially into the tidal ditch, shown in Exhibit B as the “site-bank” and corresponding to the area that will ultimately be dedicated as open space under Special Condition II.C.1 (“Permanent Guarantee of Open Space”), as well as the portions of the tidal ditch that are owned by PG&E, shown in Exhibit B as “off-site.” Additional cleanup may be required in the slough north of the PG&E levee, but this has not yet been determined as of the Commission’s consideration of this permit and would not be within the scope of this permit. The current 505 East Bayshore Road property owner will be responsible for completing this cleanup effort and subsequently revegetating the tidal ditch and for obtaining all necessary regulatory approvals for these activities, including from the Commission. The Water Board approved a Remedial Action Plan for the site-bank and off-site areas developed by West Environmental Services & Technology on March 6, 2024. As of the Commission’s consideration of this permit, plan approval from the U.S. EPA was still pending.

Bay Plan Water Quality Policy No. 4 states that “when approving a project in an area polluted with toxic or hazardous substances, the Commission should coordinate with appropriate local, state, and federal agencies to ensure that the project will not cause harm to the public, to Bay resources, or to the beneficial uses of the Bay.”

Commission staff coordinated closely with Water Board staff overseeing the remediation process, and this permit includes several conditions to ensure that this remediation work at and associated with 505 East Bayshore Road is conducted such that it will not cause harm to the public, Bay resources, or to the beneficial uses of the Bay. Special Condition II.E (“Remediation”) requires that both remediation efforts described above be completed to the Water Board’s satisfaction before construction of the residential development and public access improvements authorized in this permit begins. Special Condition II.E.1 (“Remediation Plan”) requires the permittee to remediate the site in accordance with the Site Cleanup Plan approved by the Water Board on March 11, 2022, and to notify the Commission within 10 days of any changes in the approved plan.

Engineering details for the on-site remediation work based on the Site Cleanup Plan were not yet available at the time the Commission considered this permit, and the permittee will be unable to provide them until construction documents are prepared for the project. This permit assumes that the work may proceed in a manner where, as conditioned, the project would not result in any increases in authorized fill, impacts to required public access, or impacts to Bay resources. Special Condition II.E.1 (“Remediation Plan”) further requires the permittee to submit engineered plans demonstrating how the on-site remediation will be completed, as well as that it can be completed without increasing the amount of temporary or permanent Bay fill authorized under this permit, altering the required public access design, or impacting Bay resources beyond what has been contemplated by this permit, otherwise a permit amendment will be required. Special Condition II.A.3 (“Preliminary Plan Review”) requires the permittee to submit 60-percent complete construction documents for all work required as part of the remediation for preliminary review to provide Commission staff the time to review the work for compliance with this permit before the work is finalized.

The site-bank and off-site remediation work will be completed by a separate permittee under a separate authorization, and the project description for that work has not yet been finalized as of the Commission’s consideration of this permit. As such, there is potential for the completion of that remediation work in the adjacent area to affect the permittee’s ability to complete this project as authorized and conditioned. Special Condition II.E.2 (“Site-Bank and Off-Site Remediation”) requires the permittee to coordinate with the 505 East Bayshore Road property owner and any other parties responsible for remediating the site-bank and off-site areas to ensure the remediation work is completed prior to construction of the residential and public access components of the project authorized by this permit. It further specifies that if, following the remediation of the site-bank and off-site areas,

this project cannot be completed without increasing the amount of temporary or permanent Bay fill, altering the required public access design, or impacting Bay resources beyond what has been contemplated by this permit, the permittee would need to obtain a permit amendment before proceeding.

Special Condition II.E.3 (“Documentation of Completion”) requires the permittee to submit documentation verifying that all of the required remediation on the 505 East Bayshore Road property and in the adjacent tidal ditch has been completed in accordance with cleanup plans approved by the Water Board and the U.S. EPA. These conditions will minimize the risk that any remediation work in the tidal ditch could destabilize or otherwise threaten the safety of the retaining wall, the shoreline public access area, or future residents in the townhomes located in the shoreline band. They will also minimize the disruption to existing and planned public access adjacent to the site, such as the Bay Trail segments located on the PG&E levee and on Inner Bair Island north of the unnamed slough.

2. Biological Resources

Bay Plan Fish, Other Aquatic Organisms and Wildlife Policy No. 2 states that “native species, including candidate, threatened, and endangered species; species that the California Department of Fish and Wildlife, the National Marine Fisheries Service, and/or the U.S. Fish and Wildlife Service have listed under the California or Federal Endangered Species Act; and any species that provides substantial public benefits, as well as specific habitats that are needed to conserve, increase, or prevent the extinction of these species, should be protected...”

Bay Plan Tidal Marshes and Tidal Flats Policy No. 3 states that “projects should be sited and designed to avoid, or if avoidance is infeasible, minimize adverse impacts on any transition zone present between tidal and upland habitats.”

As previously discussed, the project EIR and the Biological Resources Report prepared by H.T. Harvey and Associates (2022) characterizes the habitat value of this area as limited due to its size and relative isolation, but notes that it provides suitable habitat for special-status species, primarily the salt marsh harvest mouse, salt marsh wandering shrew, and Alameda song sparrow. In addition, white-tailed kite has the potential to occur on the site as they may be present in adjacent areas, and a number of other special-status species are generally absent from the site but potentially may appear occasionally as foragers. Findings sections III.C.4, III.D.1.e, and III.G each include discussions of the project’s consistency with Commission laws and policies related to Bay resources impacts from Bay fill, public access, and the retaining wall. In addition, there is potential for impacts to biological resources (such as special-status species and habitats) from project construction.

Special Condition II.I (“Protection of Bay Resources”) includes provisions for limiting construction times to daylight hours to avoid encounters with salt marsh harvest mice, which are nocturnal, as well as any other nocturnal species, and prohibiting the use of synthetic netting in erosion control materials to minimize the risk of entangling wildlife. It also includes a provision for a Qualified Biologist to be on call throughout all construction activities, provide training for workers on the identification and habitat needs of special-status species that may occur on the site, conduct a pre-construction survey for special-status species, monitor the installation of an exclusion barrier prior to construction, and, if needed, conduct pre-construction nesting bird surveys and monitor the protection of any nesting birds found on-site. In addition, per Special Condition II.I.6 (“Work Stoppage”), if any special-status species are observed on-site during project activities, all work that could impact the animal is required to be stopped and the biologist must be contacted. In addition, Special Conditions II.I.10 (“Marsh and Upland Plant Protection during Construction”) and II.I.11 (“Construction and Maintenance Completed from Upland Areas”) require that work be conducted in a manner that will prevent, avoid, or minimize impacts on tidal marsh, sensitive wetland resources, and upland vegetation.

Construction of the retaining wall may require pile driving; however, as discussed in Findings Section III.G, the final design of the wall and method of construction had not yet been selected at the time of Commission consideration of this permit. Special Condition II.I.8 (“Pile Driving”) is included to require an addendum to the Biological Resources Report prepared for the project if pile driving is proposed. If, upon review of the addendum, the Executive Director finds that, with the impact minimization measures in Special Condition II.I.8.b (“Noise Impact Reduction”), the pile driving would not result in significant adverse impacts to special-status species, the permittee may proceed. Otherwise, the Commission may require a permit amendment to address the identified impacts before pile driving may proceed.

3. Water Quality

Bay Plan Water Quality Policy No. 2 states that “water quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the Water Board’s Water Quality Control Plan, San Francisco Bay Basin, and should be protected from all harmful or potentially harmful pollutants. The policies, recommendations, decisions, advice, and authority of the State Water Resources Control Board and the Regional Board should be the basis for carrying out the Commission’s water quality responsibilities.”

The permittee obtained a preliminary jurisdictional determination from the U.S. Army Corps of Engineers dated February 1, 2021, that concluded that the project would fall outside the Corps’ jurisdictional waters. As such, the project does

not require a Section 404 certification from the Water Board under the Federal Clean Water Act. However, the Water Board has determined that the project is subject to a General Order for Non-Federally Jurisdictional Waters (WQO 2004-0004) under the Porter-Cologne Water Quality Control Act, given the proximity of the planned retaining wall to the tidal ditch and the potential for construction to result in a discharge that would directly or indirectly impact waters of the state.

The Commission's regulations require an applicant to submit a copy of any water quality certification or waste discharge requirements that are required by the Water Board prior to filing an application as complete, unless this requirement is waived or modified by the Executive Director in accordance with Regulations Section 10311. However, the permittee has not yet developed construction documents for the retaining wall at a sufficient level of detail to obtain Water Board approval for the project, and will not be able to provide such documents until after Commission approval has been received, but will do so prior to the commencement of any work authorized herein. This decision was based on a determination that the project can be sufficiently conditioned to mitigate the risk of adverse impacts to water quality in the Bay prior to receipt of said approvals.

Special Condition II.G ("San Francisco Regional Water Quality Control Board Approval") requires that prior to beginning any work authorized by this permit, the permittee must submit all applicable water quality certifications or waste discharge requirements, or confirmation that such approvals are not required, from the Water Board. If the Water Board determines that substantial changes to the project are necessary such that the resulting project is no longer consistent with the authorization or conditions of this permit, project authorized in this permit, the permittee will be required to obtain an amendment to this permit before they may proceed.

In addition, construction activities have the potential to result in impacts to water quality. Special Condition II.I.9 ("Best Management Practices") is included to prevent construction materials from falling into the Bay and, in the event that such material does enter the Bay, to require the permittee to immediately retrieve and remove it. Special Condition II.I.10 ("Marsh and Upland Plant Protection during Construction") is included to require that work authorized by this permit be performed in a manner that prevents, avoids, or minimizes any adverse impacts on tidal marsh, other sensitive wetland resources, and existing native upland vegetation. If any unforeseen adverse impacts occur to any such areas as a result of the activities authorized herein, the permittee shall restore the area to its previous condition, including returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, the permittee shall seed all disturbed areas with appropriate vegetation consistent with plans approved by or on behalf of the Commission.

I. 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 permit application, the permittee submitted a risk assessment memorandum prepared by BKF Engineers, entitled “505 East Bayshore Road – Preliminary Sea Level Rise Vulnerability Assessment” (Vulnerability Assessment) and dated March 15, 2024.

According to the Vulnerability Assessment, the site is subject to coastal flood hazards, including flood waters from the Bay; groundwater rise, where sea level rise raises shallow groundwater levels to at or ground surface levels; and pluvial flooding, which is surface water flooding that can occur when intense rain overwhelms a municipal drainage system and which can be exacerbated by elevated king tides in the Bay. Based on the San Francisco Bay Tidal Datums and Extreme Tides Study conducted by AECOM in 2016, the current 100-year storm tide elevation at the project site is approximately 10.69 feet NAVD88. Groundwater levels were measured for the Site Cleanup Plan prepared by Langan Engineering and Environmental Services, Inc. (2022), at between 3.0 and 9.75 feet below ground surface, corresponding to elevations 5.3 to -0.9 feet NAVD88 over the varied site elevations. To design the project, the permittee used a design groundwater elevation (a conservative assumption of current groundwater levels based on Langan’s measurements) of 7.0 feet NAVD88.

The Vulnerability Assessment is based on the 2018 Ocean Protection Council’s State of California Sea Level Rise Guidance (OPC Guidance), which the Commission considers the best available science at this time. The 2018 OPC 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 cost 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 OPC Guidance provides sea level projections for these risk aversion levels for the San Francisco Bay Area over time scales for low emissions and high emissions scenarios.

The Vulnerability Assessment used the medium-high risk aversion, high emissions scenario in analyzing risks to the site. 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.” As the project involves the development of multiple for-sale townhomes immediately adjacent to the public access area on a size-constrained site near the Bay shoreline, it can be considered a less adaptive, more vulnerable project with potentially high consequences from sea level rise impacts. Use of the medium-high risk aversion, high emissions scenario is consistent with how the Commission has analyzed applications for similar projects in the past that provide significant shoreline public access improvements, which may be challenging to adapt, but which do not represent critical infrastructure requiring the lowest possible risk tolerances.

The permittee anticipates that the project will be in place at mid-century (2050) but has not estimated a total lifespan for the project. For purposes of this analysis, the Commission has taken a conservative approach and assumes the residences and public access proposed will remain in place through at least end-of-century (2100). Using the medium-high risk aversion, high emissions scenario, the projected sea level rise in 2050 and 2100 is 1.9 feet and 6.9 feet, respectively, resulting in 100-year storm tide levels of 12.59 feet NAVD88 in 2050 and 17.59 feet in 2100. Groundwater levels are also anticipated to rise at the site at the same rate as the Bay. The current design groundwater elevation is 7.0 feet NAVD88. With this projected rise in sea level, groundwater is expected to rise to an average of 8.9 feet NAVD88 in 2050 and 13.9 feet NAVD88 in 2100. There is a raised levee trail on a PG&E easement north of the property whose elevation is about 9.7 feet NAVD88, which encircles Bair Island. The Bay is expected to rise up and overtop the raised levee trail to meet the project site on a daily basis starting around 2070, when Mean High Water (the mean of the daily high tides) reaches 10.01 feet NAVD88. Table 3 summarizes projected changes in water levels for the medium-high risk aversion, high emissions scenario at 2050 and 2100.

TABLE 3: SUMMARY OF SEA LEVEL RISE WATER ELEVATIONS

	Current Elevation (2016) (feet, NAVD88)	Elevation at 2050 (feet, NAVD88)	Elevation at 2100 (feet, NAVD88)
100-Year Storm Tide	10.69	12.69	17.69
Groundwater (Design Elevation)	7.0	8.9	13.9

The existing elevations along the tidal ditch edge range from 4.9 feet NAVD88 at the northeast corner of the site to 2.7 feet NAVD88 at the northwest corner of the site. The project includes elevating the entire site 5 to 7 feet above existing grade, with most of the public access area raised to an elevation of 13.2 feet NAVD88, except for the northwest corner portion of the access where elevations decrease to 11.13 feet NAVD88 to conform to existing grades in the Caltrans right-of-way and at the Bair Island trailhead. Table 4 provides the design elevations for selected project elements.

TABLE 4: PROJECT DESIGN ELEVATIONS

Project Element	Elevation (feet, NAVD88)
Residential finished floor elevations	13.2 to 13.7
Top of retaining wall at 505 East Bayshore	13.7
Top of retaining wall in Caltrans right-of-way (low point)	11.5
Shoreline trail at 505 East Bayshore	13.2
Sidewalk in Caltrans right-of-way (low point)	11.1
Underground storm drains (invert/inside floor)	7.8 to 9.5

At the proposed elevations, most of the project and public access area will be resilient to flooding from the 100-year storm tide in 2050 under the medium-high risk, high emissions scenario, with the exception of improvements in the northwest area of the site that will be graded to meet existing off-site elevations. In the longer term, the 100-year storm tide is projected to reach 13.6 feet NAVD88 by 2060 and 14.5 feet by 2070, meaning that the public access area and private areas of the site would be at risk of frequent flooding before end-of-century. Additionally, rising groundwater levels will have the potential to compromise the project's storm drains by 2050 and are projected to be at or above ground level by 2100. On a larger scale, much of the surrounding area, including adjacent roadways, is projected to be inundated by 2100 or as early as 2050.

However, as early as 2070, with an estimated 3 feet of sea level rise, the public access shoreline trail, as well as private areas of the site, would be at risk of frequent flooding due to adverse impacts to the storm drains and infiltration areas from groundwater rise.

2. Resiliency and Adaptation Planning

Bay Plan 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—other than repairs of existing facilities, small projects that do not increase risks to public safety, interim projects and infill projects within existing urbanized areas—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.”

Bay Plan Public Access Policy No. 6 states that the “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.”

As discussed above, the on-site public access areas will be elevated to be resilient to mid-century sea level rise but will be vulnerable to sea level rise-related flooding by 2070 and flooding from groundwater rise by 2100. The permittee has not committed to a particular adaptation approach, but has identified some potential strategies to address flood risks. With respect to coastal flooding, the permittee has proposed raising the edge of the retaining wall, which would entail replacing the open railings with solid concrete barriers to protect the public access area. The wall feasibility study dated March 18, 2024, submitted as part of the application indicates that all three wall designs under consideration could accommodate this adaptation measure. However, this approach is not fully consistent with applicable Bay policies, as it would fundamentally change the character of the public access, walling off visual connections to and diminishing the public’s ability to engage with the Bay and Bair Island Ecological Reserve. It could also contribute to the public access area feeling “less public” because the space would feel less expansive and would be heavily oriented towards the private development. For these reasons, staff have recommended that solid walls on the Bay side of public access not exceed 32 inches above the Bay Trail, to allow for all trail users to continue to experience views of the Bay. An alternative approach could include elevating the trail with a lower adjacent solid wall, which may be more compatible with maintaining the quality of the public access area. Additional study will be needed to determine its feasibility, since the raised trail would be about 8 feet from the front of the condominiums. With respect to groundwater flooding, the Vulnerability Assessment identified groundwater pumping as a potential means of lowering the water table in the project area to prevent surface flooding and impacts to the storm drains.

Special Condition II.J (“Flooding and Adaptation”) is included to provide a framework for addressing and avoiding sea level rise impacts over time. It requires 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 sea level or groundwater rise-related flooding, and the development of an adaptation plan tied to the Vulnerability Assessment that will include adaptation measures, a timeline, and cost considerations for those measures so the future permittee (expected to be a homeowners association) will have the means to address any sea level rise impacts on public access. Special Condition II.J.3.a (“Adaptation Measures”) specifies that any adaptive measure proposed shall ensure that shoreline public access will be roughly equivalent in terms of overall area, function, and quality to that public access required in this permit, and must maintain or improve the public access experience and physical and visual connection to the Reserve. Special Condition II.J.5 (“Adaptation of Publicly-Owned Facilities”) is included to address the fact that the permittee will not own the public access improvements required by this permit on property owned by Caltrans and the City of Redwood City, and may not have the ability to adapt those areas. Special Condition II.J.5 requires the permittee to coordinate with those agencies and BCDC to determine whether a feasible adaptation solution is possible and, if not, to provide alternative access commensurate in terms of overall area, function, and quality of the access being lost.

In addition, Special Condition II.N (“Assignment of Public Access Maintenance Responsibility”) requires that prior to assigning any portion of this permit to a public agency, homeowner association, or another entity, the permittee shall submit for approval by or on behalf of the Commission, a legal instrument that establishes a single entity responsible for maintaining all public access areas, improvements and landscaping required by this permit.

In the case the permittee proposes to establish an entity that has a membership, such as a homeowners association, Special Condition II.N (“Assignment of Public Access Maintenance Responsibility”) provides criteria, subject to consistency with applicable California Department of Real Estate laws and regulations, to ensure that the entity is enabled to meet the required public access maintenance responsibilities, including those of Special Condition II.J (“Flooding and Adaptation”).

During the Design Review Board review of the project, Board members raised concerns about the capacity of future owners of the townhomes to finance the future adaptation that will be necessary to ensure the public access areas remain viable. To address this issue, this permit includes special conditions to encourage future homeowners to prepare for the costs of adaptation. Special Condition II.M (“Notice to Buyers”) requires, prior to transferring any interest in property subject to

this permit, that the permittee provides prospective transferees with the disclosure notice in Exhibit C of this permit, which specifies key conditions of the permit, including Special Condition II.J (“Flooding and Adaptation”), to alert potential buyers of the anticipated risks and responsibilities related to sea level rise at the site. Additionally, Special Condition II.J.3 (“Sea Level Rise Planning and Implementation”) establishes requirements for preparing an adaptation plan and implementation schedule based on updated sea level rise risk information and includes a requirement to plan for the costs of implementing the proposed adaptation plan.

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 Policy Nos. 1(e), 1(f), and 4 and Climate Change Policies Nos. 2, 3, and 6, Special Condition II.K (“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) 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.

J. 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.

K. Environmental Review

Pursuant to the California Environmental Quality Act (CEQA), an EIR was prepared for the “505 E. Bayshore Road Project” that is the subject of this permit. The City of Redwood City, as the lead agency, issued a Notice of Determination on June 28, 2023, certifying the Final EIR and finding that the project will not have an unavoidable 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.

L. 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(s) execute 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, interests, and obligations contained in this permit are assignable in full or in part. This permit shall be assigned within thirty (30) days whenever: (a) the permittee transfers any interest in any real property on which an activity is authorized by a permit to occur; or (b) reassignment is necessary to achieve full compliance with one or more conditions of a permit. To assign this permit, the permittee-assignor and the assignee shall execute and submit for review and approval by Commission counsel a permit assignment document executed and dated by the assignor and assignee or their authorized representatives that contains all of the information specified in section 10830(a) of the Commission's regulations (14 C.C.R. § 10830(a)) and that also complies with sections 10830(b) or 10830(c), if applicable.

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 Water 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(s) 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 the 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(s) 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(s) 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(s) 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(s) 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(s), 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(s), 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(s) 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(s) shall contact Commission staff to confirm current restricted periods for construction.

P. Indemnification by Applicants and Liability for Costs and Attorneys Fees

By acceptance of this permit, the permittee agrees to reimburse BCDC in full for all: (1) reasonable BCDC staff time, calculated using reasonable hourly rates; and (2) BCDC costs and attorneys fees - including (a) those charged by the Office of the Attorney General, and (b) any court costs and attorneys fees that BCDC may be required by a court to pay - that BCDC incurs in connection with the defense of any action brought by a party other than the permittee against BCDC or any of its officers or employees challenging the approval or issuance of this permit. As part of any request for reimbursement, BCDC will provide an itemized accounting of the reasonable BCDC staff time and BCDC costs and attorneys fees for which BCDC is requesting reimbursement, and permittee shall make payment within 30 days of receiving a reimbursement request. BCDC retains complete authority to conduct and direct the defense of any legal action initiated against the agency.

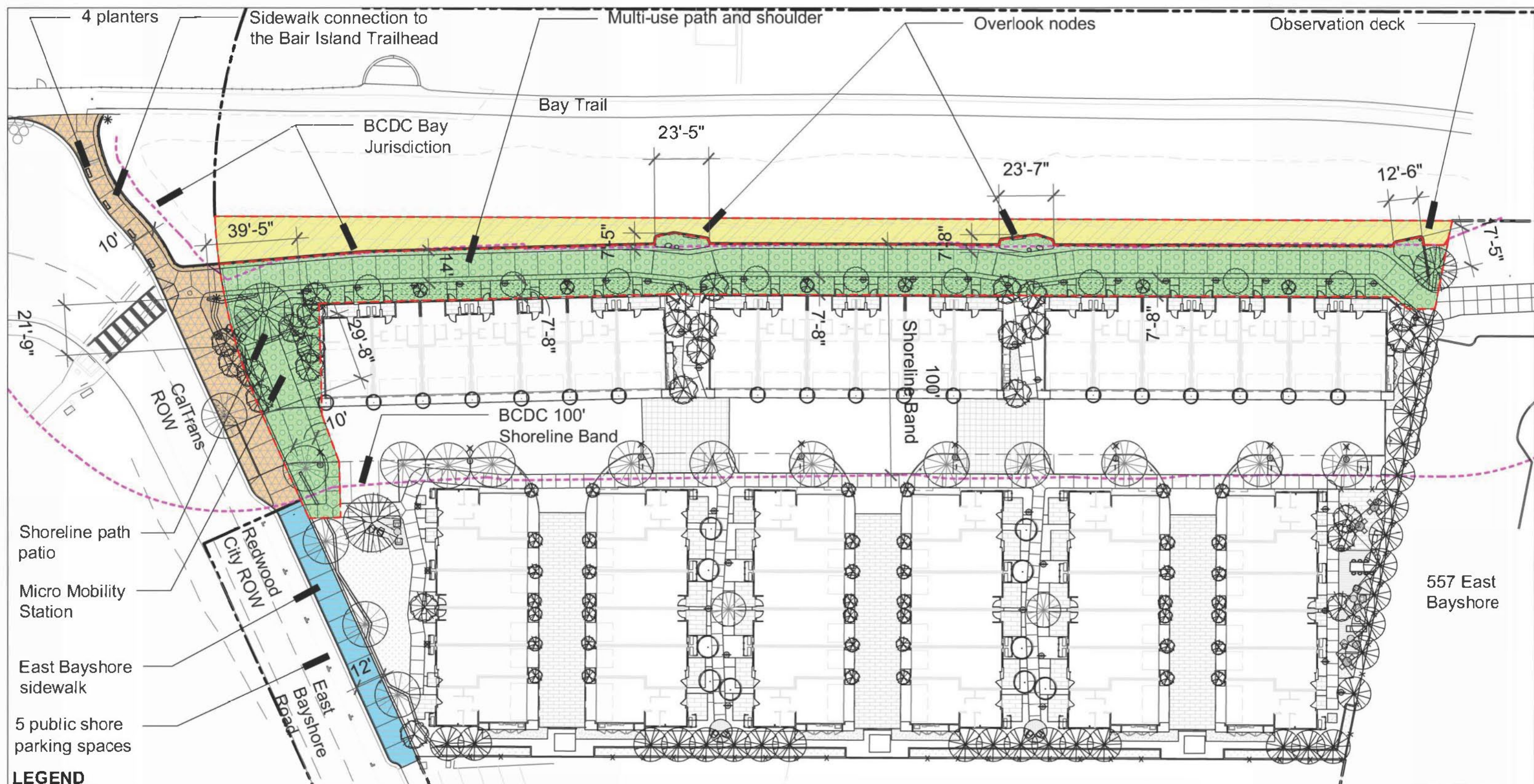
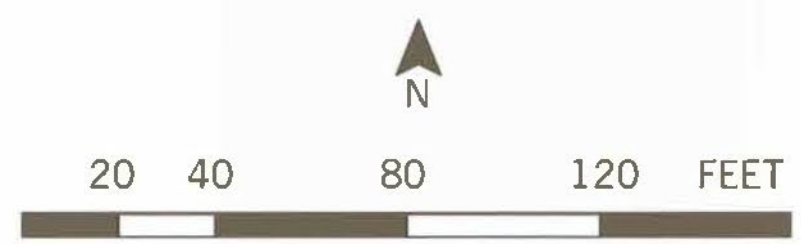


Exhibit A1 - Public Access Site Plan

505 E. Bayshore Road, Redwood City, San Mateo County
BCDC Permit No. 2023.005.00

24.04.05



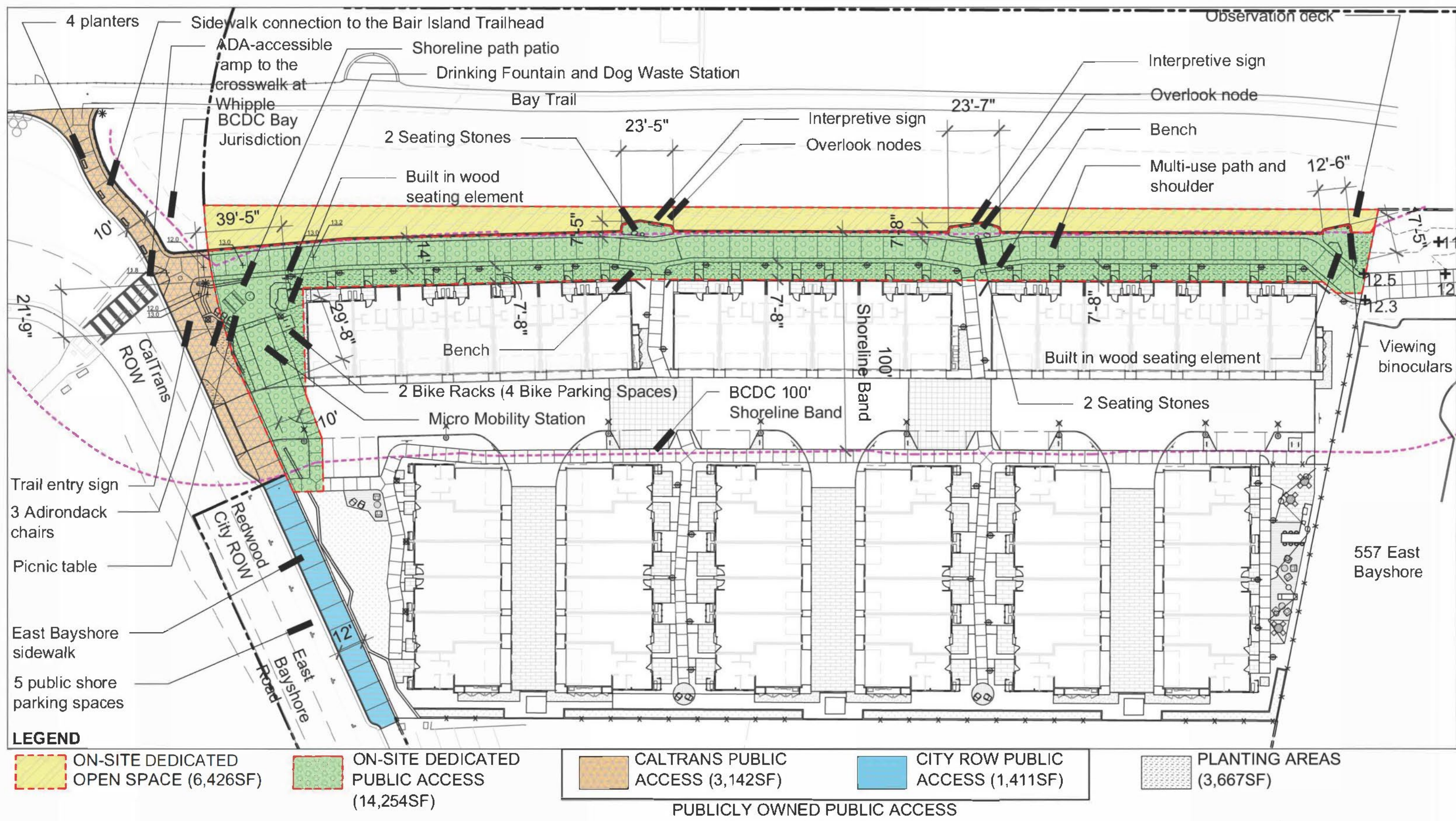
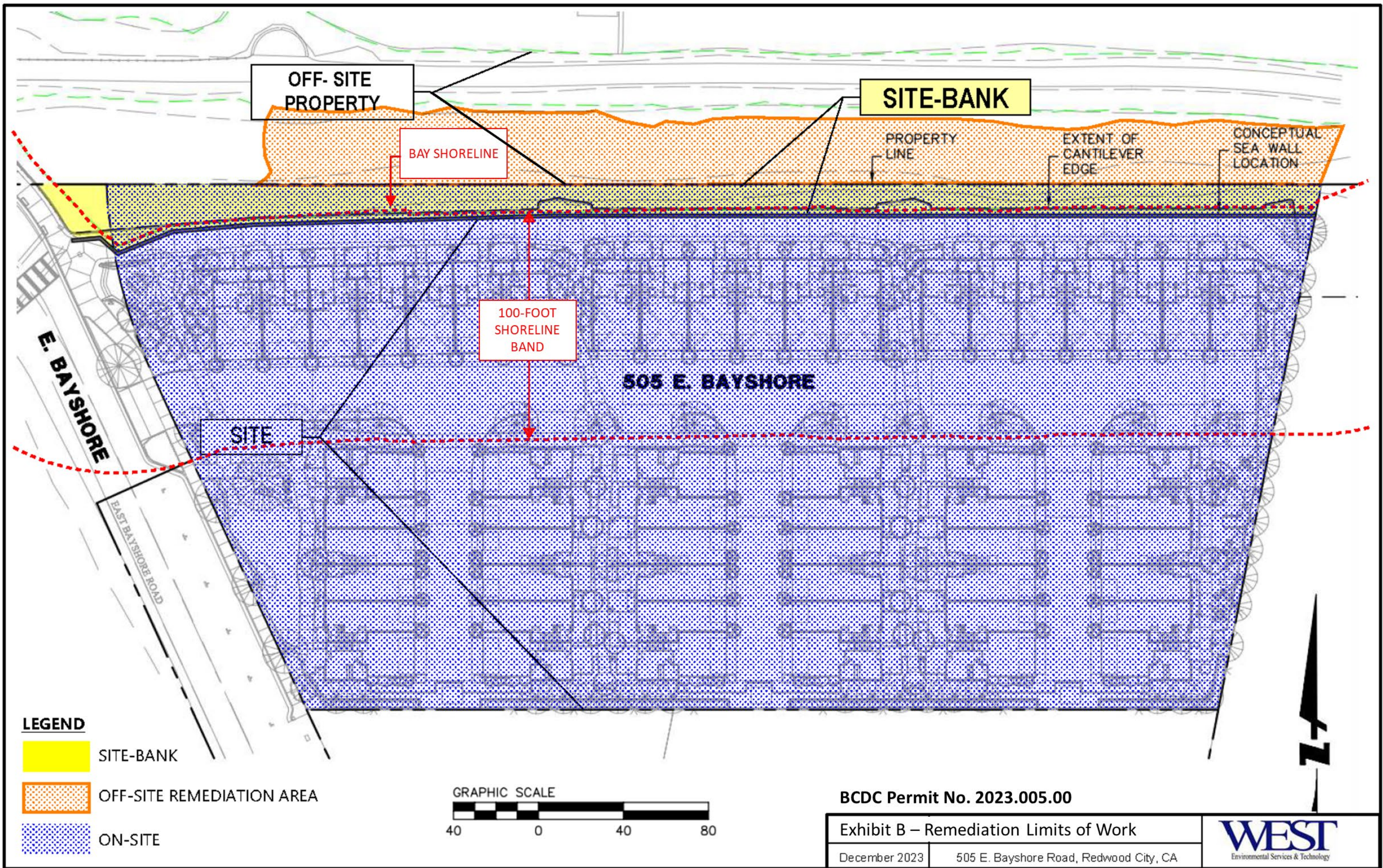


Exhibit A2 - Public Access Site Amenities

505 E. Bayshore Road, Redwood City, San Mateo County
BCDC Permit No. 2023.005.00

24.04.05

20 40 80 120 FEET



BCDC Permit No 2023.005.00

Exhibit C

Notice to Buyers

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510 San Francisco, California 94105 tel 415 352 3600

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Notice to Prospective Purchasers

The property at 505 East Bayshore Road is subject to a permit (Permit No. 2023.005.00) issued by the San Francisco Bay Conservation and Development Commission (BCDC) on _____, 2024. BCDC is a California state regulatory and planning agency that works to protect and enhance San Francisco Bay and advance the Bay's responsible, productive, and equitable uses for this and future generations as we face a changing climate and rising sea levels.

Key Permit Requirements

BCDC requires that you receive a copy of this notice highlighting key information contained in Permit No. 2023.005.00 before acquiring a property interest in the development. Please carefully read this notice and the permit to ensure you understand what is required of the permittee related to the required public access and open space areas, remediation activities completed on and adjacent to the property, the need for sea level rise adaptation measures in the future, and notice to prospective purchasers.

In particular, please note that:

1. Permit No. 2023.005.00 requires that the public access and open space areas be permanently dedicated to the public. (Special Conditions II.B and II.C).
2. The permittee is responsible for maintaining the public access areas and improvements, including the pathways and sidewalks, landscaping, signage, and other amenities. (Special Conditions II.B.9 and II.N).
3. Before construction began, contaminated soils on the site and in the adjacent tidal ditch were remediated under the oversight of the San Francisco Regional Water Quality Control Board. A land use covenant has been placed on the property to assure that the remediation remains undisturbed. (Special Condition II.E).
4. Sea level rise will impact San Francisco Bay and adjoining properties. This site and most properties along the Bay are expected to experience disruption from sea level and groundwater rise as early as 2070. For this site, this will require adaptation in the future to protect the viability of public access areas required by Permit No. 2023.005.00. The permittee will be responsible for

Notice Date: _____

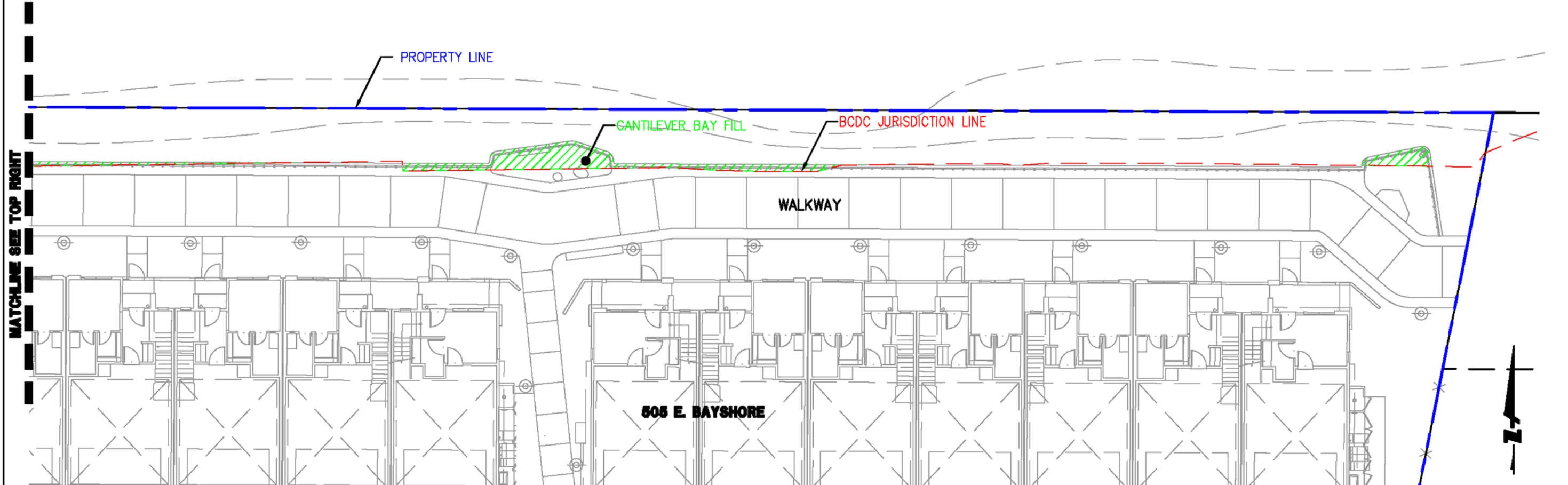
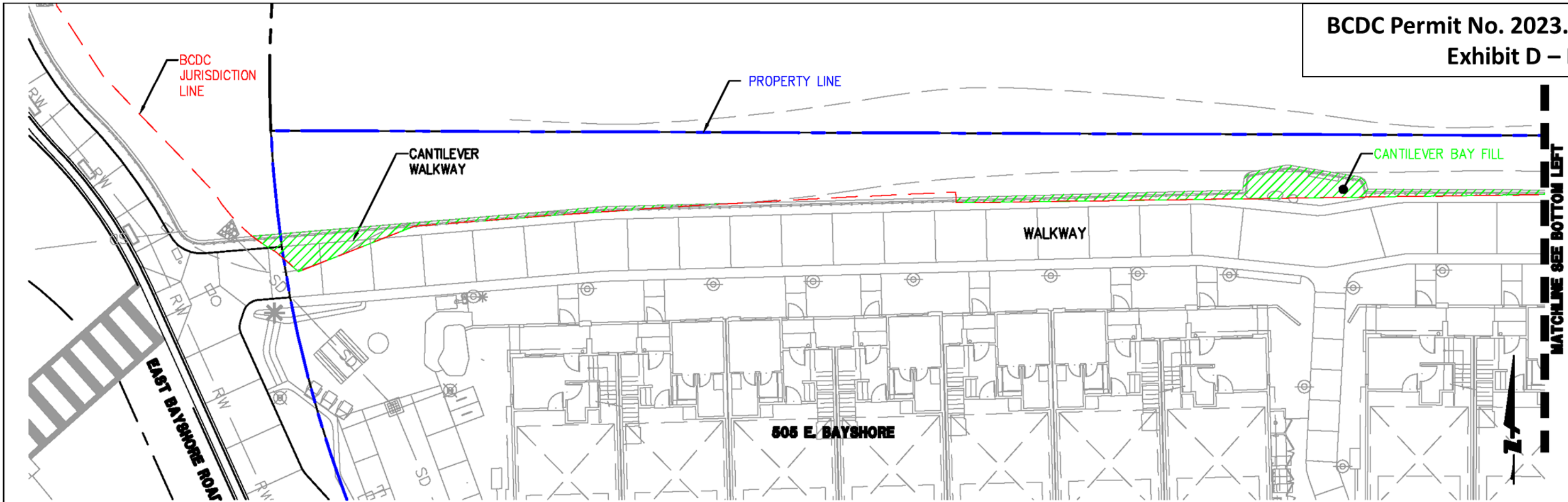


identifying and potentially implementing adaptation measures, subject to approval by BCDC, as well as for obtaining any permit(s) from BCDC and other regulatory agencies necessary to implement those adaptation measures. (Special Condition II.J).

5. All future prospective purchasers must be provided a copy of the permit and this notice. (Special Condition II.M).

For More Information

For copies of relevant reports, including the most current Sea Level Rise Vulnerability Assessment, Geotechnical Report, and Sea Level Rise Adaptation Plan, or to learn more about BCDC or Permit No. 2023.005.00, please contact BCDC at info@bcdc.ca.gov.



BKF ENGINEERS 255 SHORELINE DRIVE SUITE 200 REDWOOD CITY, CA 94065 (650) 482-6300 www.bkf.com	
BKF	
505 E. BAYSHORE ROAD PROJECT CONCEPTUAL SEAWALL CANTILEVERED BAY FILL REDWOOD CITY SAN MATEO COUNTY CALIFORNIA	
Revisions	No.
Drawn: 1/1/24	
Design: 1/1/24	
Check: 1/1/24	
Approved: 1/1/24	
Job No. 2023.005.00	
EXH D 1 of 1	