

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT  
455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105  
PHONE: (415) 904-5260  
FAX: (415) 904-5400  
WEB: WWW.COASTAL.CA.GOV



# W13a

Filed: 10/5/2023  
Action Deadline: 4/5/2024  
Staff: Luke Henningsen - SF  
Staff Report: 10/27/2023  
Hearing Date: 11/15/2023

## STAFF REPORT CDP APPLICATION

**Application Number:** 2-23-0662

**Applicant(s):** Cleve Pasarell

**Project Location:** 59 Dipsea Road adjacent to Bolinas Lagoon in the private and gated Seadrift residential community located at the upcoast end of the unincorporated Stinson Beach area of Marin County (APN 195-080-35).

**Project Description:** Remodel interior of 2,927 square-foot single-family home; convert 1,025 square-feet of exterior paved area to planted landscape; and replace exterior outdoor steps, patio, and deck.

**Staff Recommendation:** Approval with conditions

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### SUMMARY OF STAFF RECOMMENDATION

The Applicant proposes to remodel a roughly 3,000 square-foot residence on a property located adjacent to Bolinas Lagoon within the private and gated Seadrift residential community in unincorporated Stinson Beach. More specifically, the Applicant proposes to modify two bedrooms and two and a half bathrooms; to convert about 1,000 square feet of exterior paved area into landscaped area; to replace exterior deck, steps, and patio areas in kind; and to add roughly 40 square feet of additional deck. The proposed development would result in a house that is similar in size and scope to nearby residential development at Seadrift, and doesn't raise significant coastal resource concerns, with one exception. Namely, this proposed house (and all of Seadrift) is located on what was historically a sandspit between the Pacific Ocean and Bolinas Lagoon and is still subject to significant coastal hazard concerns. In fact, the entire Seadrift community is fronted by a revetment on its seaward side that was originally permitted by the Commission in the early 1980s to address coastal erosion and related

hazards. Although this site is quite a bit inland of the revetment, and on the opposite side of the sandspit from the revetment, bordering Bolinas Lagoon, it is still subject to coastal hazard threats, including from flooding associated with both Bolinas Lagoon and Seadrift Lagoon,<sup>1</sup> but also potentially wave runup and flooding from the ocean side. All of these issues will only be exacerbated by rising sea levels.

The project, therefore, raises concerns regarding the need for shoreline armoring in the future to protect the proposed development, when that development is threatened by coastal hazards in the future. The Coastal Act does not allow shoreline armoring in most circumstances due to its significant impacts on coastal resources, including impacts on natural landforms, beaches, public access, and visual resources, and prohibits such armoring to protect new development, like this. Although the proposed development is not entitled to shoreline armoring at this time under Section 30253 of the Act (and none is proposed), it also would not be allowed such armoring in the future under that same section (and would not qualify for such armoring in any case under Section 30235 of the Act either). That said, the above identified coastal hazard risks are real, and only likely to increase as sea levels continue to rise.

Fortunately, it is possible to ensure that the Applicant internalizes any such risks so that any future adaptation and coastal hazard response associated with this site does not lead to adverse impacts to coastal resources, including those potentially borne by the public, and including that which might be attributable to future armoring. Specifically, staff recommends conditioning this CDP to include assumption of hazards risks, to require real estate disclosures of coastal hazard risks and CDP requirements, to prohibit any new armoring designed to protect the approved development in the event it becomes threatened by coastal hazards, to include triggers for removal/relocation of the development if it is threatened by coastal hazards in the future, and to require recordation of a deed restriction to provide additional notice to this and any potential future property owners about coastal hazard risks and CDP requirements. With these provisions, and some other conditions (to address stormwater, runoff, construction BMPs, etc.), the project can be found consistent with the Coastal Act. Thus, as conditioned, staff recommends that the Commission approve a CDP for this project, and the motion and resolution to do so are found on page 4 below.

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<sup>1</sup> Seadrift Lagoon was artificially created within the Seadrift community, but it is still hydrologically connected to Bolinas Lagoon, and Bolinas Lagoon extends along the entire inland side of the Seadrift community.

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EXHIBITS

- Exhibit 1 – Location Map
- Exhibit 2 – Site Photos
- Exhibit 3 – Proposed Project Plans
- Exhibit 4 – FEMA Flood Hazard Map

## 1. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a CDP with conditions for the proposed development. To implement this recommendation, staff recommends a **yes** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:*** *I move that the Commission **approve** Coastal Development Permit Number 2-23-0662 pursuant to the staff recommendation, and I recommend a **yes** vote.*

***Resolution to approve CDP:*** *The Commission hereby approves Coastal Development Permit Number 2-23-0662 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Chapter 3 policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the development on the environment.*

## 2. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid, and development shall not commence until a copy of the permit, signed by the Applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### 3. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

- 1. Revised Final Plans.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two full size sets of Revised Final Plans to the Executive Director for review and written approval. The Plans shall be prepared by a licensed professional or professionals (i.e., geotechnical engineer, surveyor, etc.), shall be based on current professionally surveyed and certified topographic elevations for the site, and shall include a graphic scale. The Plans shall be substantially in conformance with the proposed plans (titled “59 Dipsea Plans” dated August 18, 2023, and dated received in the Coastal Commission’s North Central Coast District Office on August 21, 2023; see **Exhibit 3**) except that they shall be modified to meet the following requirements:
  - a. Permeable Surfaces.** Permeable materials shall be used in lieu of non-permeable treatments for the outdoor patios, all walkways, and any other exterior hard surfaces. This may include the use of permeable concrete or stone pavers, open-cell concrete blocks, porous pavement, or other pervious material that allows water to drain and percolate into the soil below.
  - b. Utilities.** All utilities shall be installed underground.
  - c. Stormwater and Drainage.** The plans shall clearly identify all stormwater and drainage infrastructure and related water quality measures, with preference given to natural BMPs (e.g., bioswales, vegetated filter strips, etc.). Such measures shall: (1) provide that all project area stormwater and drainage is filtered and treated to remove expected pollutants prior to discharge as much as possible; (2) retain runoff from the project onsite to the maximum extent feasible, including through the use of pervious areas, storage for onsite irrigation, percolation pits and engineered BMPs; and (3) be sized and designed to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event (and in extreme storm situations (i.e., greater than the 85th percentile 24-hour runoff event storm) where such runoff cannot be adequately accommodated onsite through the project’s stormwater and drainage infrastructure, any excess runoff shall be conveyed offsite in a non-erosive manner). All drainage system elements shall be permanently operated and maintained, and the plans shall identify all maintenance parameters for all such measures, including based on manufacturers’ recommendations, which shall be provided. It is the Permittee's responsibility to maintain the stormwater, drainage, and water quality protection infrastructure in a structurally sound manner and its approved state.
  - d. Construction BMPs.** The plans shall clearly demonstrate the BMPs that will be applied to ensure that coastal resources (including as it relates to Bolinas Lagoon, Seadrift Lagoon, and associated water quality) are protected against harm.
  - e. Notification.** The Permittee shall notify planning staff of the Coastal Commission’s North Central Coast District Office at least 3 working days in

advance of commencement of construction, and immediately upon completion of construction.

- f. Landscaping.** Any landscaping, now or in the future, shall only consist of native and noninvasive plant species consistent with the mix of native species in the project vicinity. Such plants shall be drought-tolerant; genetically appropriate for the location (avoiding cultivars), soil, hydrology, and atmospheric conditions; sourced from locally collected seed (e.g., coastal Marin County); and generally, be appropriate species to the lagoon-edge area. Outside irrigation shall be limited to the initial establishment period, using only drip or microspray systems, and herbicides, rodenticides, and fertilizers shall be prohibited. All such plants shall be kept in good growing condition and shall be replaced as necessary to maintain the approved vegetation over the life of the project. Regular monitoring and provisions for remedial action (such as replanting as necessary) shall be identified to ensure landscaping success.
- g. Floodproofing.** Storage for hazardous materials (e.g., propane tank, etc.) shall be situated at as high an elevation as feasible; and all mechanical and utility installations shall be attached at as high an elevation as feasible.

All requirements above and all requirements of the approved Revised Final Plans shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Revised Final Plans. Minor adjustments to the above requirements, as well as to the Executive Director-approved Revised Final Plans, which do not require a CDP amendment or new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- 2. Coastal Hazards.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of themselves and all successors and assigns, that:

  - a. Coastal Hazards.** This site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, wave overtopping, coastal flooding, and their interaction, all of which may be exacerbated by sea level rise.
  - b. CDP Intent.** The intent of this CDP is to allow for the approved project to be constructed and used consistent with the terms and conditions of this CDP for only as long as the development remains safe for occupancy, use, and access, without additional substantive measures beyond ordinary repair or maintenance to protect the development from coastal hazards.
  - c. No Future Armoring.** No new shoreline armoring (including but not limited to seawalls, revetments, retaining walls, gabion baskets, tie backs, piers, groins, caissons/grade beam systems, etc.) shall be constructed to protect the development approved pursuant to this CDP in the event that the approved development is threatened with damage or destruction from coastal hazards in

the future. Any rights to construct such armoring that may exist under Coastal Act Section 30235, the Marin County LCP, or any other applicable law, shall be waived, and no portion of the approved development qualifies as an “existing structure” for purposes of Section 30235.

- d. Public Trust.** This CDP does not allow encroachment onto public trust lands, and any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain. Any future encroachment would also be subject to the State Lands Commission’s (or other designated trustee agency’s) leasing and/or other approval.
- e. Assume Risks.** (1) All risks to the Permittee and to the property that is the subject of this CDP are assumed by the Permittee, including any injury and/or damage from coastal hazards in connection with this permitted development; (2) any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from coastal hazards are unconditionally waived; (3) the Commission, its officers, agents, and employees are indemnified and held harmless by the Permittee with respect to the Commission’s approval of the CDP against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to coastal hazards; and (4) all responsibility for any adverse effects to property caused by the permitted project is assumed by the Permittee.
- f. Coastal Hazard Response.** The Permittee is required to remove and/or relocate all or a portion of the development authorized by this CDP, and to restore the affected portion of the site, if any of the following occur:

  - 1. Unsafe Conditions.** Marin County or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that some or all of the approved development is currently and permanently unsafe for occupancy or use due to damage or destruction from coastal hazards, and that there are no feasible measures that could make such development suitable for occupancy or use without the use of shoreline armoring.
  - 2. Lack of Services.** Essential services to the site (e.g., utilities, roads, etc.) can no longer feasibly be maintained due to coastal hazards, including due to the degradation and/or failure of Seadrift Road, Dipsea Road, or Calle de Arroyo as viable roadways, and/or degradation and/or failure of utilities serving the site. Marin County and any other providers shall not be required to maintain access and/or utility infrastructure to serve the approved development in such circumstances.
  - 3. Adaptation Planning.** Removal and/or relocation is required pursuant to LCP policies for sea level rise adaptation planning.

Required removal and/or relocation shall require Executive Director approval of a plan to accommodate same prior to any such activities. In the event that portions of the approved development fall into the lagoon or to the ground before they are removed and/or relocated pursuant to the above criteria, the Permittee shall remove all recoverable debris associated with the development from such areas, and lawfully dispose of the material in an approved disposal site, all subject to Executive Director approval.

- 3. Future Permitting.** All future proposed development related to this CDP shall require a new CDP or a CDP amendment that is processed through the Coastal Commission, unless the Executive Director determines a CDP or CDP amendment is not legally required. The standard of review for any such CDP or CDP amendment shall remain the Coastal Act, with the Marin County LCP providing non-binding guidance.
- 4. Real Estate Disclosure.** Disclosure documents related to any future marketing and/or sale of the site/residence, including but not limited to marketing materials, sales contracts and similar documents, shall notify potential buyers of the terms and conditions of this CDP, including explicitly the coastal hazard requirements of **Special Condition 2**. A copy of this CDP shall be provided in all real estate disclosures.
- 5. Deed Restriction.** PRIOR TO THE ISSUANCE OF THIS CDP, the Permittee shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcels governed by this CDP a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this CDP, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; (2) imposing the terms and conditions of this CDP as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of all of the parcels governed by this CDP. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this CDP shall continue to restrict the use and enjoyment of the subject property so long as either this CDP or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

#### 4. FINDINGS AND DECLARATIONS

##### **A. Project Location and Description**

The proposed project is located at 59 Dipsea Road, just seaward of Bolinas Lagoon, and between the road and Seadrift Lagoon, within the private and gated Seadrift residential community at the upcoast end of the unincorporated Stinson Beach community within Marin County. The site is currently developed with a single-family home, garage and deck on a relatively level lot measuring approximately one-fourth of an acre. It is directly adjacent to Seadrift Lagoon and is bounded on either side by other



single-family residences. The site is zoned as coastal single family, Seadrift Subdivision, in the LCP, which allows for one unit/acre. See **Exhibits 1 and 2** for a location map and site area photos.

The existing 2,927 square-foot one-story, single-family residence on site was built in the early 1990s, subject to a Commission authorization issued by the Commission in April 1991 (CDP Waiver 1-91-39-W).

The proposed project would include an interior remodel affecting two bedrooms and two and a half bathrooms. In addition, the exterior deck, steps, and patio at the south side of the property would be replaced, increasing the deck area from 1,143 square-feet to 1,181 square-feet (a net increase of 38 square-feet), and the propane tank would be relocated to a new enclosure at the northwest side of the property. The project would also include the conversion of 1,025 square-feet of paved area into landscaped area.

Overall, the proposed development would result in an unchanged floor area ratio of 26% (the maximum allowable LCP floor area ratio in this zone is 30%), and the residence would remain unchanged in terms of height, square-footage, and lot coverage. The driveway and septic system would also remain unchanged.

See **Exhibit 3** for proposed project plans.

## **B. Standard of Review**

The proposed project is entirely within the California Coastal Commission retained permit jurisdiction. Therefore, the standard of review for this consolidated CDP application is the Chapter 3 policies of the Coastal Act, with Marin County's LCP providing non-binding guidance.

## **C. CDP Determination**

### **1. Coastal Hazards**

#### ***Applicable Coastal Act Provisions***

The Coastal Act requires that new development minimize risks to life and property, assure stability and structural integrity, not contribute to instability, and not rely on shoreline armoring to be safe from hazards now or in the future. Section 30253 states:

**30253.** *New development shall do all the following: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs....*

The Coastal Act only allows for shoreline armoring in limited circumstances. Section 30235 states:

**30235.** *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or*

*to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Further, the Coastal Act requires that permitting activities consider the potential of future, more hazardous conditions resulting from sea level rise and related hazards. Section 30270 states:

**30270.** *The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.*

### **LCP Policy Guidance**

The Marin County LCP similarly addresses coastal hazards, including identifying probable risk areas and requiring that new development does not rely on shoreline armoring, and in particular discourages shoreline armoring due to its potential for significant coastal resource degradation. For example, the LCP states:

**LUP Unit 1 Policy 7.** *Because revetments, seawalls or other shoreline protective works can be detrimental to maintenance of natural shoreline processes and can interfere with visual enjoyment and coastal access, such works are discouraged. The County of Marin through the LCP and other documentation has identified those coastal areas potentially subject to significant wave and run-off erosion. Because such probable risk areas are identified, sufficient opportunity for private investigation and response to such hazards is available. Therefore, the County of Marin shall not finance or construct emergency shoreline protective devices for the benefit of private developments.*

**IP Section 22.56.130I (K)(2) Standards and requirements for shoreline protective works.** *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be permitted only when: (a) Required to serve coastal-dependent uses or to protect existing structures (constructed before adoption of the LCP). (b) No other nonstructural alternative is practical or preferable. (c) The condition causing the problem is site specific and not attributable to a general erosion trend, or the project reduces the need for a number of individual projects and solves a regional erosion problem. (d) The structure will not be located in wetlands or other significant resource or habitat area and will not cause significant adverse impacts to fish or wildlife. (e) There will be no reduction in public access, use and enjoyment of the natural shoreline environment, and construction of a structure will preserve or provide access to related public recreational lands or facilities. (f) The structure will not restrict navigation, mariculture or other coastal use and will not create a hazard in the area in which it is built. In the absence of an overall wave hazard/shoreline erosion study, any permit application for seawalls, riprap or other protective structures on beaches, shall be accompanied by engineering reports stating the*

*nature and extent of wave erosion hazard along the beach area and an explanation of how the proposed protective works will mitigate the hazard, both on and off the project site. This requirement shall not apply to emergency permit applications applied for prior to January 1, 1983. ...*

Additionally, the LCP provides guidance on development within floodplains, such as the subject site:

***IP Section 22.56.130I Section L.2 Floodplain Development.*** *Coastal project permit applications adjacent to streams which periodically flood shall include a site plan that identifies the one-hundred-year floodplain (as described by the Army Corps of Engineers). Development of permanent structures and other significant improvements shall not be permitted within the limits of the one-hundred-year floodplain.*

Finally, the LCP includes discussion of coastal hazards at Seadrift. While much of this discussion is focused on the storm and wave-related hazards affecting immediate shoreline development, the LCP concludes that the entire community, given its low-lying elevation and geographic vulnerability sandwiched between the Pacific Ocean and Bolinas Lagoon, is subject to a wide range of coastal hazards, as follows:

***LUP Environmental Hazards Unit 1, Section IV, Public Services and New Development.*** *The Seadrift Subdivision is at a relatively low elevation with a gently sloping beach profile. These characteristics subject the Seadrift Spit to the dangers of seismic sea waves, particularly waves generated from a southerly direction. Wave run-up estimates are such that total over topping of the Spit may be possible during such seismic wave occurrences. A less drastic geologic occurrence, wind and wave erosion of the Spit, is a continuing process. Along the Bolinas Lagoon side of the spit, for example, gross estimates of shore erosion range from 3 to 10 inches a year. Wave erosion hazard along the ocean front is even more pronounced and, as recently demonstrated, can, with sudden efficiency, extensively erode the protective sand dunes fronting the Seadrift houses. The result of this phenomenon is twofold: the physical endangerment to the structures and the pressure to develop shoreline protective works that often distract from the public's visual and physical use and enjoyment of the coast. **In summary, the range of possible physical hazards at Seadrift is extensive. The predictability of experiencing some or all of these hazards is relatively high.** Build-out of the Subdivision's existing residential lots will expose a significant number of houses and people to these geologic hazards. (emphasis added)*

### **Analysis**

Taken together, the Coastal Act and the certified LCP (as guidance) require new development to minimize risks to life and property while ensuring stability and structural integrity without contributing significantly to erosion, geologic instability, or destruction of the site or surrounding area, and without shoreline armoring. In fact, the Coastal Act as a whole, and in particular its Chapter 3 provisions, does not allow shoreline armoring in most circumstances due to its significant impacts on coastal resources, including

impacts on natural landforms, beaches, public access, and visual resources. In addition, prior Commission actions have also found that shoreline armoring is almost always incompatible with coastal resource protection policies of Chapter 3.<sup>2</sup> Here, the proposed development is also subject to the Section 30253 requirement that the development is not allowed to use armoring to maintain stability and ensure structural integrity.

To be clear, this site is subject to coastal hazards risk. First, sea levels have been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea level rise continues to accelerate. Since the advent of widely available satellite altimetry in the early 1990s, measurements of absolute sea level from space indicate an average global rate of sea level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years.<sup>3</sup> Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, the best available science demonstrates that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. In April 2017, a working group of the Ocean Protection Council's (OPC) Science Advisory Team released *Rising Seas in California: An Update on Sea-Level Rise Science*.<sup>4</sup> This report synthesizes the evolving research on sea level rise science, notably including a discussion of probabilistic sea level rise projections as well as the potential for rapid ice loss leading to extreme sea level rise. This science synthesis was integrated into the OPC's *State of California Sea-Level Rise Guidance 2018 Update*.<sup>5</sup> This Guidance document provides high-level, statewide recommendations for state agencies and other stakeholders to consider when analyzing sea level rise. Notably, it provides a set of projections that OPC recommends using when assessing potential sea level rise vulnerabilities for various projects. In addition, just last year in 2022, the National Oceanic and Atmospheric Administration (NOAA) released a new Sea Level Rise technical report, which is the first update since 2017 and offers projections through 2150. Taken together, the *Rising Seas* report, updated State Guidance and the NOAA technical report account for the current best available science on sea level rise for the State of California. The updated projections in the 2017 *Rising Seas* report and the 2018 OPC Guidance suggest sea levels could rise between 2.4 and 10.2 feet by 2100

<sup>2</sup> See, for example, CDPs 2-14-0673 (Lundberg), A-2-SMC-09-006 (Johnson), and A-2-MAR-08-028-A3 (Lawson's Landing).

<sup>3</sup> See, for example, <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>.

<sup>4</sup> Griggs, G, Árvai, J, Cayan, D, DeConto, R, Fox, J, Fricker, HA, Kopp, RE, Tebaldi, C, Whiteman, EA (California Ocean Protection Council Science Advisory Team Working Group). *Rising Seas in California: An Update on Sea-Level Rise Science*. California Ocean Science Trust, April 2017.

<sup>5</sup> See OPC State of California Sea-Level Rise Guidance, 2018 Update at [http://www.opc.ca.gov/webmaster/ftp/pdf/agenda\\_items/20180314/Item3\\_ExhibitA OPC\\_SLR\\_Guidance-rd3.pdf](http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_ExhibitA OPC_SLR_Guidance-rd3.pdf).

at the San Francisco tide gauge,<sup>6</sup> depending on future greenhouse gas emissions and other factors. The OPC Guidance recommends that development of only moderate adaptive capacity, including residential development, use the medium-high risk aversion scenario, 6.9 feet of sea level rise by 2100, to inform decisions regarding development. The updated Rising Seas science report and OPC Guidance also include an extreme scenario (termed the “H++” scenario) of 9.9 feet of sea level rise by 2100 based on recent modelling efforts that look at possible sea level rise associated with rapid ice sheet loss. These projections and recommendations are incorporated into the 2018 update of the Coastal Commission’s Sea Level Rise Policy Guidance.<sup>7</sup>

As our understanding of sea level rise continues to evolve, it is possible that sea level rise projections will continue to change as well. While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear, and it is critical to continue to assess sea level rise vulnerabilities when planning for future development and/or permitting development through CDPs. Importantly, maintaining a precautionary approach that considers high or even extreme sea level rise rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California. This is particularly important at low-lying locations such as the Bolinas Sandspit atop which the Seadrift residential community is located.

On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore, which will result in increased flooding, erosion, and storm impacts to coastal areas. On a relatively flat beach, with a slope of 40:1, simple geometric modelling shows that every centimeter of sea level rise will result in a 40-centimeter landward movement of the ocean/beach interface. For fixed structures on the shoreline, such as a seawall, an increase in sea level will increase inundation of the structure. More of the structure will be inundated or underwater than is inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently. Accompanying this rise in sea level will be an increase in wave heights and wave energy. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to increased wave action, and those areas that are already exposed to wave action will be exposed more

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<sup>6</sup> The OPC Guidance provides sea level rise projections for twelve California tide gauges and recommends using the projections from the tide gauge closest to the project site. For the proposed project, the San Francisco tide gauge is the closest such gauge. The projections for the San Francisco tide gauge can be found on page 18 of the OPC Guidance.

<sup>7</sup> See <https://www.coastal.ca.gov/climate/slrguidance.html>.

frequently, with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.<sup>8</sup>

In short, rising sea levels are exacerbating and will continue to intensify hazards along the shoreline, including inundation, storm flooding, erosion, saltwater intrusion into aquifers, and liquefaction. Shoreline development will likely experience increasingly hazardous conditions over time. Therefore, to ensure safety and structural integrity consistent with Section 30253 of the Coastal Act, development must be sited and designed in such a way that considers the anticipated impacts of sea level rise over its expected lifetime. Changing conditions could also alter the anticipated impacts of the development on coastal resources. In particular, coastal resources such as beaches and wetlands that are located just inland of the sea could disappear if they are squeezed between rising sea levels and a fixed line of development on the shoreline, thus impacting public access, recreation, visual, and other coastal resources. Therefore, to be consistent with the Chapter 3 policies of the Coastal Act, proposed development must be sited, designed, and conditioned in such a way that considers the impact of the development upon coastal resources over its full lifetime, including avoiding impacts where possible, and mitigating unavoidable impacts (where such impacts are otherwise allowable in the first place under the Coastal Act).

In this case, the subject site is located some 650 feet inland from the dunes on the beach and is immediately adjacent to the inland side of Seadrift Lagoon.<sup>9</sup> Per the Applicant's plans, ground elevation for the deck replacement would remain at the same elevation as the current deck (at +6.93 NAVD88), and the existing finished floor height for the residence would likewise remain unchanged (at +13.25 NAVD88). Therefore, the project would include components that are roughly 4.5 to 10 feet above mean sea level.<sup>10</sup> At such elevations, especially in the future, there is the potential for the site to experience coastal flooding from both the ocean and Bolinas Lagoon (as well as Seadrift Lagoon).

FEMA flood maps are a helpful tool to understanding flood vulnerabilities. In this case, the entire proposed development (and much of the Seadrift area) falls within FEMA's Zone A (1% Annual Chance Flood Hazard)<sup>11</sup> (see **Exhibit 4**). However, FEMA's calculations do not account for flood hazard risks associated with sea level rise and/or beach erosion, which significantly exacerbate the flood risks to the proposed development, and thus must be understood in that context.

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<sup>8</sup> And 2019 research indicates that climate change has also increased the force of waves hitting the shore. Waves are generated by wind, and the study found that as air temperatures have warmed, waves worldwide became 0.4% more powerful every year between 1948 and 2008. In other words, waves are 24% stronger than they were in the middle of the 20th century (see Reguero, B.G., Losada, I.J. & Méndez, F.J. *A recent increase in global wave power as a consequence of oceanic warming*. Nat Commun 10, 205 (2019). <https://doi.org/10.1038/s41467-018-08066-0>).

<sup>9</sup> Seadrift Lagoon is also hydrologically connected to Bolinas Lagoon via tide gates.

<sup>10</sup> Because mean sea level is approximately +3.2 feet NAVD88 in Marin County.

<sup>11</sup> As defined by FEMA, the "1% Annual Chance Flood Hazard" – also known as a 100-year flood – refers to a 1% chance that in any given year the site will be inundated by a flood event.

Another helpful tool to assess hazard risks is the CoSMoS coastal hazards tool that considers future flood hazards, shoreline retreat and erosion. In this case, CoSMoS indicates that the subject property is likely to experience flooding under various near-, medium-, and long-term scenarios. CoSMoS depicts the subject site as significantly flooded from the Seadrift Lagoon side with only 1.6 feet of sea level rise plus an annual storm, and fully inundated with 2.5 feet of sea level rise plus an annual storm (the medium-high risk aversion scenario for the next 30 years). The low-risk aversion scenario for the next 100 years, 3.5 feet of sea level rise plus an annual storm, is also predicted to result in full inundation of this site. When paired with a 100-year storm event, CoSMoS shows the property and its only access road, Dipsea Road, as severely impacted by flooding with only 1.6 feet of sea level rise, a near-term scenario.

While not specific to this proposed development, the Marin County Sea Level Rise Adaptation Report (2018) provides additional context of the impacts of potential coastal hazards on the geographically isolated Seadrift peninsula. The Report analyzes risks to Seadrift under various scenarios, ranging from 10 inches of sea level rise in the near term to up to 6.5 feet of sea level rise with a 100-year storm. The analysis determines Seadrift is subject to a range of impacts, from 1.5 feet of temporary flooding above mean higher high water during extreme events to up to 13.5 feet of flooding in the most extreme scenario.<sup>12</sup> Additionally, the Report documents that the only road access for the Seadrift neighborhood, Calle de Arroyo, already floods frequently, and may eventually experience full inundation, making it likely that the neighborhood becomes inaccessible during storm events.<sup>13</sup> CoSMoS similarly shows Calle del Arroyo as likely impassible to regular vehicular travel due to flooding close to the Seadrift gate entrance with 10 inches of sea level rise and no storm conditions, and completely inundated with this near-term amount of sea level rise paired with an annual storm.

Thus, the proposed development is in a vulnerable location subject to coastal hazard risk, including over its anticipated lifespan, and these risks are likely to be more significant over time, including as such increasing risks could potentially lead to destruction or partial destruction of the proposed development. Per the Coastal Act and the LCP, as described above, this proposed development cannot rely on shoreline armoring to minimize these risks and/or to maintain stability, now or in the future, per Section 30253. Such armoring, by its very nature, is essentially always inconsistent with Coastal Act policies relating to coastal hazards, bluff alteration, visual resources, and public access. Coastal Act limitations on armoring are necessary because shoreline armoring can and often does have a variety of significant negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline and beach dynamics on and off-site, ultimately resulting in the loss of beaches and adverse impacts to coastal vistas and areas for recreation, which are all fundamental coastal resources. Therefore, it is appropriate in such cases to make sure that all parties' expectations are clear as they relate to the potential need for shoreline armoring to protect development being approved.

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<sup>12</sup> See Marin County Sea Level Rise Adaptation Report (2018), Page 45.

<sup>13</sup> See Marin County Sea Level Rise Adaptation Report (2018), Page 14.

Permitted armoring exists in the vicinity of the proposed project, including a revetment authorized by the Commission in 1994 that fronts the Seadrift residential area seaward of the site and provides some protection to all of the development on the sandspit, even lots that are not immediately adjacent to it, like this one. The Commission approved the revetment as part of a settlement of litigation involving public ownership and interest in the Bolinas sandspit area generally, including a lawsuit brought by Seadrift property owners disputing public rights to use the Seadrift beach. The settlement generally provides for sandy beach public access seaward of the revetment and to the mouth of Bolinas Lagoon and it limits the ability of the Commission to require more and/or different public access in the residential community through its subsequent actions related to development at Seadrift. The settlement was a compromise reached amongst the State, Federal, and private parties in recognition of the complicated and disputed property interests in the area. Regardless of this settlement, this proposed new development must be able to meet its Coastal Act and LCP obligations without the need for new armoring, now or in the future, to assure the development avoids impacts to coastal resource impacts as required by the Coastal Act and LCP.

Here, the Applicant has not proposed to construct any new armoring, and armoring is not authorized by this CDP. However, it is possible that the Applicant or a successor-in-interest could request armoring at some point in the future in response to coastal hazard threats. Because of the numerous adverse impacts to coastal resources caused by shoreline armoring (discussed above), many of which are relevant to this project, and to comply with Section 30253's prohibition on creating or significantly contributing to erosion and destruction of the site via armoring, it must be clear that the entire development recognized and approved by this CDP is not entitled to new or additional shoreline armoring now or in the future. Also, the project will add new development in an area subject to flooding hazards and future sea level rise, and some of the development may become increasingly threatened as water levels rise and inundate the site, and such scenario also needs to be addressed.

Accordingly, it is important that this Applicant internalize and assume any such risks as they affect their proposed development, including identifying coastal hazards, and that any coastal hazard response is limited to ordinary repair and maintenance and not armoring, which is not allowed by the Coastal Act. In addition, it is critical to ensure that any risks that cannot be abated through non-armoring means, and that lead to the site/development becoming unsafe, and/or that lead to access to it (including utilities) not being available, are also internalized by the Applicant, and that such circumstances be codified through requiring removal and/or relocation when such circumstance or circumstances come to pass. The same applies for circumstances where future LCP adaptation planning specifies such removal/relocation.

Therefore, **Special Condition 2** identifies coastal hazards and requires the Applicant to assume all risks for developing at this location, now and in the future, including prohibiting any new armoring now or in the future to protect the approved development. In addition, **Special Condition 2** requires removal of the approved development if it is threatened by coastal hazards in such a way as would necessitate new armoring to protect the development in the future. While the pattern of residential development in the Seadrift area would suggest that this site may not have issues with public trust lands



encroachment since it is inland of the road that serves the residential development, given the flooding hazards associated with the entire community that cannot be entirely ruled out, **Special Condition 2** also clarifies that no development onsite will be allowed to encroach into public trust areas in the future. **Special Condition 2** also indemnifies the Commission against claims of liability for damages resulting from hazards and requires that the Applicant remove development that is the subject of this permit when it is declared unsafe for occupancy or cannot be served by utilities/roads. **Special Condition 1g** requires the project be designed with measures to reduce flood hazard risks, including elevated storage for all hazardous materials, as well as all mechanical and utility installations, to minimize the chances that hazardous materials enter the water during high tide storm and flooding events; and that all mechanical and utility installations such as electrical panels, on-demand hot water heaters, and force air furnaces be attached to the walls at as high an elevation as possible. **Special Condition 4** requires real estate disclosures and **Special Condition 5** requires the recordation of a deed restriction, which together impose the CDP conditions as restrictions that adhere to title of the property and provide notice to successors and future potential owners of the property of coastal hazard risks and CDP requirements. These permit conditions are intended to assure that the property owners benefiting from private residential development in an area vulnerable to coastal hazards also bear the burdens and risks of such development. Thus, as conditioned, the project is consistent with the hazards policies of the Coastal Act and the Marin County LCP.

## 2. Natural Resources

### ***Applicable Coastal Act Provisions***

The Coastal Act provides protection for natural resources and habitats, including on and offshore marine resources, wetlands, and environmentally sensitive habitat areas (ESHAs) adjacent to and in the vicinity of this site, including as follows:

***Section 30107.5.*** “Environmentally sensitive area” means any area in which plant or animal life, or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

***Section 30230.*** Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

***Section 30231.*** The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial

*interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

**Section 30240.** *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.*

### **LCP Policy Guidance**

The Marin County LCP emphasizes the Coastal Act's protections for these same natural resources and habitats, including as follows:

#### **C-BIO-1 Environmentally Sensitive Habitat Areas (ESHAs).**

*1. An environmentally sensitive habitat area (ESHA) is any area in which plant or animal life, or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

*2. ESHA consists of three general categories: wetlands, streams and riparian vegetation, and terrestrial ESHAs. Terrestrial ESHA includes non-aquatic habitats that support rare and endangered species; coastal dunes as referenced in C-BIO-7 (Coastal Dunes); roosting and nesting habitats as referenced in C-BIO-10 (Roosting and Nesting Habitats); and riparian vegetation that is not associated with a perennial or intermittent stream. The ESHA policies of C-BIO-2 (ESHA Protection) and C-BIO-3 (ESHA Buffers) apply to all categories of ESHA, except where modified by the more specific policies of the LCP.*

**C-BIO-22 Marine Resources.** *Maintain, enhance, and, where feasible, restore marine resources. Provide special protection to areas and species of special biological or economic significance. Carry out uses of the marine environment in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

**C-WR-1 Water Quality Protection and Biological Productivity.** *Monitor, protect, and enhance the quality of coastal waters for the benefit of natural communities, human health, recreational users, and the local economy. Maintain and, where feasible, restore the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health through means such as minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water*

*reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alterations of natural streams.*

The LCP also provides guidance on requirements for development of new sewage disposal systems to protect water quality, including as follows:

***LUP Policy C-PFS-6 Sewage Disposal Systems and Protection of Water Quality.*** *Require new and expanded sewage disposal systems to be designed, constructed, and maintained so as to protect the biological productivity and quality of coastal streams, wetlands, and other waters.*

### **Analysis**

Both the Coastal Act and the LCP, as guidance, emphasize the need to protect natural resources and habitats within the coastal zone, as indicated above. The project does not contain any on-site ESHA or other habitats, but it is immediately adjacent to Seadrift Lagoon, and in close proximity to Bolinas Lagoon and the Pacific Ocean. Bolinas Lagoon is part of the Gulf of the Greater Farallones National Marine Sanctuary, and the Convention on Wetlands of International Importance has recognized it as a “Wetland of International Significance”,<sup>14</sup> and the Commission considers it as a natural resource warranting protection. Seadrift Lagoon, although originally artificially created, still constitutes a marine resource to which the Coastal Act and the LCP apply. The proposed development is directly adjacent to Seadrift Lagoon and fronts Dipsea Road, which means that construction on site could lead to adverse impacts on Bolinas and Seadrift Lagoon waters, if not properly conditioned to mitigate any such impacts. In this case, such adverse impacts to water quality are prevented through the inclusion of conditions that require best management practices and stormwater and drainage controls be incorporated (see **Special Conditions 1d and c**, respectively). Further, all landscaping required through **Special Condition 1f** is required to be native species consistent with lagoon-edge environments. This is important because 1,025 square-feet of paved area will be converted into landscaped area, and native plants species accustomed to lagoon-edge environments will best protect lagoon resources, and also be best suited to weathering extreme flooding events.

With respect to other measures to protect natural resources and habitat as required by the Coastal Act, **Special Condition 1** includes requirements for drainage and stormwater management, where all such runoff must be filtered and treated prior to discharge, and where the emphasis is on keeping such runoff on site, including with preference given to natural BMPs (e.g., bioswales, vegetated filter strips, etc.), and a requirement for the use of permeable materials for outdoor hard spaces. **Special Condition 1** also requires the use of construction BMPs to protect against coastal resource harm, including such measures as runoff, erosion and sediment controls and best management practices to protect Lagoon water quality.

In conclusion, as conditioned, the proposed development is consistent with the natural resource and habitat protections and provisions of the Coastal Act and LCP.

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<sup>14</sup> Recognized in 1998 by the Convention on Wetlands of International Importance.

### 3. Public Views

#### **Applicable Coastal Act Provisions**

The Coastal Act provides that the scenic and visual qualities of coastal areas are resources of public importance that must be protected, and that new development is required to protect public views and be designed to be visually compatible with the surrounding area. Section 30251 states:

**30251.** *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

#### **LCP Policy Guidance**

The Marin County LCP provides additional guidance on protecting visual resources and ensuring compatibility with the built environment, as follows:

**LUP C-DES-1 Compatible Design.** *Ensure that the siting, height, scale, and design (including materials and color) of new structures are compatible with the character of the surrounding natural and built environment. Structures shall be designed to follow the natural contours of the land and shall limit reflectivity of glass and other surfaces.*

**LUP C-DES-2 Protection of Visual Resources.** *Development shall be sited and designed to protect significant views, including views both to and along the ocean and scenic coastal areas as seen from public viewing areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, and coastal streams and waters used for recreational purposes. The intent of this policy is the protection of significant public views rather than coastal views from private residential areas. Require development to be screened with appropriate landscaping provided that when mature, such landscaping shall not interfere with public views to and along the coast. The use of drought tolerant, native coastal plant species is encouraged. Continue to keep road and driveway construction, grading, and utility extensions to a minimum, except that longer road and driveway extensions may be necessary in highly visible areas in order to avoid or minimize other impacts.*

The LCP also provides guidance on protecting views from Highway 1, across the Bolinas Lagoon from the Seadrift neighborhood, stating, in part:

**C-TR-2 Scenic Quality of Highway One.** *Ensure that Highway One shall remain a scenic two-lane roadway throughout Marin's Coastal Zone. Maintain the existing narrow, twisty two-lane roadway that successfully complements the rugged, open character unique to the coastal area from the southern boundary of*

*Marin's Coastal Zone northward to the Bolinas Lagoon. Ensure that improvements shall not, either individually or cumulatively, detract from the rural scenic characteristics of the highway throughout the Coastal Zone...*

### **Analysis**

Although the Seadrift community is visible from Highway 1, many of the homes are difficult to see from that vantage point and blend somewhat together in that view, which is probably the most important public view that encompasses the site. Furthermore, the development has been sited, scaled and designed to be compatible with the character of the surrounding area consistent with C-DES-1 and C-DES-2. With regard to public views from the beach fronting Seadrift, a similar phenomenon is found as the houses nearest to the beach are quite visible, but the houses further inland are not. The same can be said for public views from the town of Bolinas just upcoast and past the Lagoon's ocean connection; namely only the closest homes and development are prominent in that view. In all of those public views, the proposed development and remodel will not affect the existing views in any substantial way, especially given that the square-footage and height of the house will remain unchanged. In addition, even where visible, the proposed project is similar in design to the existing balance of development within the Seadrift community and will blend in.<sup>15</sup> Thus, the project should not lead to any adverse impacts to public views and is consistent with the Coastal Act on this point.

## **4. Public Access**

### **Applicable Coastal Act Provisions**

The Coastal Act requires the Commission to make a public access finding for any development located seaward of the first public road and the sea, such as the proposed project. Maximizing public recreational access opportunities is a fundamental objective of the Act, which also protects against impacts to existing public access. Relevant policies include:

**30210.** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

**30211.** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**30212(a).** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of*

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<sup>15</sup> The project is located in a private gated community where the public is not allowed, so views of the site from inside of Seadrift are private views, not public views, and thus are not protected by the Coastal Act.

*fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. ...*

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

**30221.** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

**30222.** *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

**30223.** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Further, Coastal Act Section 30240(b) protects sensitive habitat, as well as parks and recreation areas, such as the adjacent beach, while Section 30252 speaks to more broadly protecting and enhancing public access as it relates to circulation, stating:

**30240(b).** *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.*

**30252.** *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

### **LCP Policy Guidance**

The Marin County LCP provides for limited public access within the private Seadrift subdivision, stating:

**LCP LUP C-SB-2 Limited Access in Seadrift.** *Allow public access across the open space area generally located north of Dipsea Road and adjacent to Bolinas Lagoon in the Seadrift subdivision to protect wildlife habitat subject to the Deed*

*of an Open Space and Limited Pedestrian Easement and Declaration of Restrictions as recorded March 26, 1986, as Instrument No. 86-15531. This area includes parcels 195-070-35 and 36; 195-080-29; 195-090-44; 195-320-62 and 78; and 195-340-71, 72, and 73.*

### **Analysis**

When the revetment fronting Seadrift was originally permitted by the Commission, the Commission also entered into a settlement agreement with multiple parties (including a subset of Seadrift property owners, the California State Lands Commission, and the U.S. Interior Department), where the settlement was intended to resolve public access issues related to the sandspit. Ultimately, that settlement generally provides for sandy beach public access seaward of the revetment and to the mouth of Bolinas Lagoon, and limits the ability of the Commission to require more and/or different public access through its subsequent actions related to development at Seadrift, stating:

*So long as the Seadrift subdivisions continue to be substantially used for residential purposes in the form of single-family residences, so that the kind and intensity of uses are not substantially changed, the CCC, SLC and the County of Marin agree that none of them will impose in any permit for improvements to the Seadrift Sandspit any condition which requires greater public access to the Seadrift Sandspit than required by this Agreement.*

Thus, the Commission is limited in this circumstance in terms of any potential additional public access requirements to meet Coastal Act tests as part of this CDP application. In addition, while the project site is adjacent to the open space area, generally located north of Dipsea Road and adjacent to Bolinas Lagoon, as called out in LCP Policy C-SB-2, the project as proposed will not interfere with continued public access to that open space. As is, the closest public beach access to Seadrift is via the public pathway at Van Praag Road just outside of the Seadrift gates, which is serviced by approximately eight public parking spaces in the small parking area on Calle de Arroyo. Additionally, the public can also access the sandy beach by traveling west from downcoast Stinson State Beach, and through multiple locations along the Calles and Patios that connect from Calle de Arroyo towards the beach.

Therefore, the proposed development can be found consistent with Coastal Act and LCP provisions for public coastal access, and with specific provisions within the LCP pertaining to Seadrift.

### **5. CEQA**

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with CDP applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

Marin County, acting as lead CEQA agency, determined the proposed project was exempt from non-CDP discretionary approvals, that it would require only a ministerial building permit, and exempted it from CEQA requirements (citing CEQA Guidelines Section 15301 and 15303). The Coastal Commission's review and analysis of land use proposals such as this CDP application has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. The preceding findings in this report have discussed the relevant coastal resource issues with the proposal, and the CDP terms and conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. Further, all public comments received to date have been addressed in the preceding findings, which are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

## 5. APPENDICES

### **A. Substantive File Documents<sup>16</sup>**

- Seadrift Settlement Agreement
- Marin County Sea Level Rise Adaptation Report (2018)

### **B. Staff Contacts with Agencies and Groups**

- Marin County Community Development Agency

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<sup>16</sup> These documents are available for review from the Commission's North Central Coast District office.