

City Manager's Office

November 18, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Re: Status of the Southern Peninsula and the building at 199 Seawall Drive in the Berkeley Waterfront

Introduction

During the recent evaluation of proposals for the 199 Seawall property, one proposer questioned the southern peninsula soil stability as well as structural integrity of the 199 Seawall Drive building in the Berkeley Waterfront, especially in light of Sea-level Rise (SLR) and potential land subsidence. This memo addresses these questions, and includes information about the regulatory jurisdictional setting, the history of the southern peninsula and building, previous leasing efforts for the building, and the health of the nearby trees.

199 Seawall Drive and Southern Peninsula of Berkeley Waterfront

The Southern Peninsula is the land mass that extends south from University Avenue along Seawall Drive. It contains the southern portion of Seawall Drive with approximately 84 parking spaces, an asphalt parking lot with 320 striped parking spaces, a perimeter trail and the 199 Seawall building, located at the southern-most tip of the southern peninsula. (Attachment 1)

Regulatory Jurisdictional Setting

The Berkeley Waterfront, which is defined as the uplands and adjacent waters that are to the west of Marina Blvd, falls within the regulatory jurisdiction of several agencies. A physical project changing the existing building at 199 Seawall Drive or its use would require regulatory authorizations and permits from two main agencies, the State Lands Commission and the San Francisco Bay Conservation and Development Commission (BCDC). Other agencies such as the Regional Water Board, U.S. Army Corps of Engineers, California Fish and Wildlife, and the City's Building Permit Center may also need to be consulted.

1. State Lands Commission

The State provided Berkeley with a grant of tidelands in 1913 to construct a yacht harbor in Bay waters. The original yacht harbor was completed in 1937 with partial funding from the federal Works Administration Program (WPA). In 1964, the City obtained a state loan to convert the Yacht Harbor into the current Berkeley Waterfront, with new uplands, parking lots, restaurants, hotel, parks, and the expansion of berth slips to 1,000. Construction was performed in phases from 1966 to 1975. The state grant of tidelands west of Marina Blvd makes the City a trustee of state lands and gives ownership rights to the City with key restrictions, summarized as follows: all uses must be related to water-dependent uses, such as navigation, commerce, and tourism, and must benefit the people of the state, and not just the local population. Housing and residential use are not allowable and other non-trust uses such as municipal and non-water-related use are limited.

2. San Francisco Bay Conservation and Development Commission (BCDC)

The shoreline of the Berkeley Waterfront is regulated by BCDC, who has jurisdiction over all waters of the Bay as well as the shoreline band around the Bay (defined as 100 ft inland from the high tide line). In 1966, the establishment of the southern peninsula and the 199 Seawall building was authorized by BCDC Permit 1966-028-000, which allowed for a restaurant, parking, a beach, and a park. Any expansion to the footprint of the 199 Seawall Drive building or any new uses of the land would trigger the need for a new BCDC permit as well as an amendment to the Bay Plan 2050, which could potentially take up to three years and only if there is strong political will. The Berkeley Waterfront currently has 28 BCDC permits that cover different parts of the Waterfront (buildings, parking lots, docks, parks, trails, etc.), which have been amended over time as the City implements renovations and new projects.(Attachment 3).

City staff is in regular communication with State Lands Commission and BCDC staff regarding operations, maintenance, use and capital projects.

Lease History of the building at 199 Seawall Drive and adjacent parking area

After the City obtained BCDC Permit No. 66-028-000 to create the southern peninsula, the City and Specialty Restaurant Corporation (SRC) entered into a 50-year ground lease in 1967, which allowed for the construction of a restaurant by SRC and a general-purpose shared parking lot by the City. SRC began construction of the 25,000 square foot building at 199 Seawall Drive later that year and completed the building (“Hs. Lordships Restaurant”) in 1969. The City completed the parking area around this time. The ground lease to SRC did not include the parking lot.

While the lease for the building was set to expire in August 2019, Specialty Restaurant Corporation terminated their lease suddenly, 13-months early and Hs. Lordships closed its doors on July 1, 2018.

1. Leasing Efforts with from 2018-2020

Five preliminary offers were received from 2018 to early 2021, but none of these prospective tenants were able to move forward with their proposals. The main reasons for this included concerns over building renovation costs, permitting complexities, structural unknowns about the building, financing issues, COVID-19, and the economy.

2. Leasing Efforts with IPG (2021-2023)

In 2021, Council authorized the City to enter into an Exclusive Negotiating Agreement (ENA) with Innovation Properties Group (IPG) (Resolution 70,043-N.S.) to obtain a tenant for the building, and authorized an extension of that ENA in 2022 (Resolution 70,481-N.S.). IPG attempted to develop a concept to draw customers and facilitate a phased development. IPG brought in over a dozen viable potential partners to evaluate the property and its business potential. They created a new vision, renderings, and other marketing materials and listings. They direct-marketed the project to restaurateurs from across the state and nation that they deemed to be a good fit for the Seawall project.

Between 2022 and 2023, the City received two preliminary proposals from IPG. As proposals were developed, investors and tenants grew more concerned about structural costs, rising interest rates, and challenges for indoor restaurants in the post-COVID-19 economy. Ultimately, neither of the two proposals materialized. The ENA with IPG ended in October, 2023.

3. Recent Leasing Efforts (2024)

In the Fall of 2024, the City received 3 new proposals and received direction from City Council to proceed with a 6-month ENA with TSA Holdings, Inc. to allow them to perform their due diligence on the property and negotiate with the City for a long-term lease. The ENA is scheduled to come before Council on November 19, 2024.

Operation of Building since 2018

Over the past six years, the front office space of the building has been occupied by the City's Park Monitors. During this time, the building has undergone fires, break ins, and vandalism, which has required repairs to safety and alarm systems, leaky fire suppression and water systems, and broken windows, lights, doors, and gates. The City must also cover the ongoing cost of utilities at the building (water, gas, electric) as well as increased insurance. These costs have been covered by the City's Marina Fund in the amount of \$225,000 per year.

Physical Status of the Building

1. Facilities Condition Assessment (2015).

In 2015, a facilities condition assessment of the building was performed by Kitchell Associates to study the following building elements: life safety, accessibility, exteriors and windows,

roofing, interiors (walls, doors, flooring, finishes, painting), mechanical (HVAC), plumbing (water supply and waste systems), fire protection systems, electrical systems and specialties (kitchen, laundry, other specific-use capital equipment). The report identified nineteen items that need repair, including the roof, windows, doors, wall and floor finishes, elevators, HVAC system, electrical system, sprinkler system, lighting, security, and fixed furnishings, at an estimated cost of \$2.6M in 2015 dollars.

2. Structural Assessment (October 2023).

In 2023, the City contracted with Transystems, Inc., an engineering firm, to perform an initial structural engineering assessment of the building to evaluate existing conditions. To inform the assessment, Transystems reviewed historical documents including available as-builts of the building, performed multiple onsite surveys including inspections of the structural members, and hired a separate engineering firm, GHD, to perform inspections and assessments of the piles and in-water elements of the building. The assessment findings stated that, “the subject building is in fair condition. Considering its use, the design and construction appear to be functionally appropriate.” More specifically, GHD identified 22 timber piles and 3 concrete piles that support the portion of the structure that is above the water. GHD’s findings regarding the condition of the piles stated that “based on the observations presented in this section, the piles, concrete slab, and beams can generally be rated as Fair since there was minimal damage and deterioration.” Note that “Fair” is defined as primary structural elements are sound but minor to moderate defects or deterioration are observed.¹ However, GHD identified two piles, “one concrete and one timber on the eastern side of the structure that need to be repaired. These two elements can be rated as Poor and should be prioritized for repairs.”

While most building elements and systems are in functioning order, the October 2023 study identified three important structural items that need repair (these include the sagging concrete slab on the eastern side of the building that requires four new pilings, a failed beam support between the first and second floor, and repairs to two existing piles (one wooden and one concrete) at an estimated cost of \$1.8M. The cause of these problems is due to the failure of specific elements and not due to land settlement/subsidence. It should be noted that there are several non-structural interior and exterior items that will need renovation, such as waterproofing, electrical, plumbing, sewer, mechanical, security, communications, lighting systems, and renovations to walls, windows, ceilings, floors, carpets, doors, bathrooms, etc), but these items do not reduce the structural integrity of the building. A future tenant would need to fund these large improvements. The cost estimate in current 2024 dollars for the necessary repairs is \$1.8M for all structural work and \$4.1M for non-structural work. Note that this cost is to restore the building to its original condition (baseline) which should be implemented in the short-term, and does not include additional tenant improvements that would be specific to their proposed businesses (e.g., upgraded kitchens, remodeling, additional upstairs restrooms, space reconfiguration, and more). A specific geotechnical investigation at the building site will be required prior to advancing any engineered design of the structural repairs.

¹ From table of definitions from American Society of Civil Engineers (ASCE) Guidelines No. 130 – Waterfront Facilities Inspection and Assessment Condition Rating Table.

Parking Lot Condition and Operations

The asphalt parking lot at the southern peninsula was constructed by the City as general infrastructure to provide parking for the restaurant patrons as well as the general public visiting the Berkeley Waterfront. The parking lot has 320 striped parking spaces. The existing asphalt surface shows signs of typical asphalt deterioration. The unevenness appears to be due to localized asphalt failure and not any type of broader significant land subsidence. The parking lot will need reconstruction in the next five years and a geotechnical investigation will be required during the design phase.

Southern Peninsula Environment Setting / Conditions

- Is the southern peninsula rapidly sinking into the Bay?
- How will Sea Level Rise affect the southern peninsula?
- Will a project in the southern peninsula require the removal of healthy trees?

The southern peninsula at the Berkeley Waterfront was filled in with dredging soils in 1967 under BCDC Permit No. 66-028-000. The purpose of the new peninsula was to include a restaurant, a park and beach, general public parking, and a protected area for sailing at the South Sailing Basin. To-date, the City is not aware of any significant local settling of the restaurant building nor the peninsula itself, and there is no pumping out of ground water anywhere at the Berkeley Waterfront (pumping is known to cause land subsidence). The existing asphalt parking lot shows signs of extensive wear and tear and minor localized settlement that would be typical of any parking lot that is close to sixty years old. There is no evidence of any significant land subsidence of the underlying Bay Mud Holocene geologic layer that could be causing damage to the parking lot or the overall uplands at the Berkeley Waterfront.

Land Subsidence

According to the U.S. Geological Service, the term “land subsidence” in California is defined as

“... a gradual settling or sudden sinking of the Earth's surface due to subsurface movement of earth materials. The main cause of subsidence in California is groundwater pumping. The effects of subsidence include damage to buildings and infrastructure, increased flood risk in low-lying areas, and lasting damage to groundwater aquifers and aquatic ecosystems. <https://www.usgs.gov/centers/land-subsidence-in-california>

In 2018, a comprehensive study was published in **Science Advances** (Sherzaei and Burgmann) that evaluated land subsidence in California using detailed satellite data.²

² See <https://www.science.org/doi/10.1126/sciadv.aap9234>

Their report states the following:

The map of vertical velocities shows a complex pattern of uplift and subsidence across the SFBA. Most of the Pacific shorelines and areas adjacent to the San Francisco Bay are subject to subsidence at less than ~2 mm/year.

Portions of Treasure Island, San Francisco, San Francisco International Airport, and Foster City are subsiding as fast as 10 mm/year (Figs. 2D). Santa Clara Valley to the south of the Bay is characterized by uplift at 1 to 2 mm/year (Fig. 2C), likely due to rising groundwater levels during this period (25). We find that most of the subsiding pixels are located on Quaternary substrate such as Holocene Bay mud deposits or man-made landfills subject to long-term compaction (17, 26).

While the southern peninsula and all other uplands at the Berkeley Waterfront are clearly man-made landfills, in general, these areas undergo most of their consolidation during the installation construction process, followed by a secondary phase of consolidation settlement caused by the mechanical pressure from the weight of the soils, which can take decades.

In 2015, the U.S. Army Corps of Engineering Study of soil consolidation over Bay Mud in South San Francisco found that a fifteen-foot layer of artificial fill over a twenty-foot layer of Bay Mud would take approximately 42 years to reach 90% compaction.³ Given that the southern peninsula was constructed almost 55 years ago, most fill soil consolidation (compaction) has been completed, and the general subsidence rate of less than 2mm per year throughout the Berkeley Waterfront indicated by the 2018 Shirzaei and Burgmann map can be explained primarily by the underlying Bay Mud layer that is slowly compacting throughout the Bay Area.

In a second analysis, City staff reviewed topographical elevations at the parking lot at the southern peninsula over the past twenty-two years and performed site inspections and concluded that there is no evidence of significant subsidence of the elevation of the land. Given these facts, it is reasonable to conclude that the southern peninsula will remain stable for the foreseeable future.

It should be noted that any new retaining structure taller than four feet triggers the California Building Code (CBC) for a structural study and geotechnical study to be completed during the design phase. The geotechnical study would evaluate the soil characteristics, soil compaction, earthquake induced hazards including liquefaction, water table, geologic factors, and other factors and would result in specific structural design requirements for the structure. Any proposed alterations to the 199 Seawall Drive building would require these studies. The City has nine existing geotechnical studies that were performed for major capital projects at the Berkeley Waterfront and Aquatic Park. None of the studies found geologic conditions at the Berkeley Waterfront that would indicate each project was not feasible. Instead, they were able

³ See link at:

https://www.spn.usace.army.mil/Portals/68/docs/FOIA%20Hot%20Topic%20Docs/SSF%20Bay%20Shoreline%20Study/Appx%20G_Geotechnical.pdf

to provide specific design recommendations that would ensure structural viability and building code compliance for each project. (Attachment 4).

Sea-Level Rise

In 2019, the City commissioned a Sea-Level Rise (SLR) Study as required by State Assembly Bill 691 to evaluate vulnerabilities and potential solutions.⁴ The study's map shows that most of the uplands at the Berkeley Waterfront will not be impacted by SLR through the year 2100 (the year required by the legislation). For example, most of the uplands are at an elevation of 15 feet or higher which will be unaffected by the predicted new sea-level rise elevation of 12 feet by the year 2100. In addition, the land subsidence rate described above of less than 2mm would be considered too small to have any impact to the sea-level rise risk at the Berkeley Waterfront.

The 2019 SLR study identified three specific low spots at the Berkeley Waterfront that are vulnerable to SLR by the year 2050: a) the Virginia Street Extension at Marina Boulevard; b) the northeast corner of the Inner Harbor at the Doubletree Hotel; and c) the Bay Trail Extension south of University Avenue and west of Frontage Road. In November 2024, the City anticipates grant funding to design a mitigation project at the Virginia Street Extension and will seek construction funding to complete the project in the next five years. In 2022 and 2023, the City competed in two grant opportunities to address the vulnerable locations south of the Bay Trail Extension and will continue to seek project funding. The vulnerable spot at the northeast corner of the Inner Harbor is contained within the lease line of the Doubletree Hotel, and the City will need to work with them on designing and funding a mitigation project to address the impact of SLR at that location. The City will continue to seek project funding for these sites.

Trees

The City arborist has performed an inspection of the 43 trees that are in the vicinity of the 199 Seawall Drive building. The trees are primarily a mix of Monterey cypress (*Hesperocyparismacrocarpa*) and Monterey pine (*Pinus radiata*). There are also four New Zealand Christmas trees (*Metrosiderosexcelisa*), a few small myoporum (*Myoporum laetum*) and a couple of other species. Most of the pines and cypress are senescent (over-mature) and in varying levels of decline. The Monterey pines are infected with pitch canker (*Fusarium circinatum*) and many are at a point where removal should be considered when the property is redeveloped. The Monterey cypress are in fair health, but there have been many branch failures over the years and they should be assessed individually at the time of redevelopment to determine if preservation or removal is appropriate. The four New Zealand Christmas trees are in good health with good structure and should be preserved. The *myoporum* and a few other trees should also be assessed individually based on the plans.

The condition of the pine and cypress trees are consistent with other mature trees of the same species throughout this region. Pitch canker is a prevalent disease wherever there are

⁴See link at: https://berkeleyca.gov/sites/default/files/documents/2019-8-30%20Draft%20Sea%20Level%20Rise%20Assessment%20Study_0.pdf

Monterey pine and this species has been suffering because of it for decades. Another common canker disease is cypress canker (*Seiridium sp.*) which is affecting many Monterey cypress throughout their range. Some of the cypress here show signs of it, as well as many other throughout the Waterfront, but repeated branch and stem failure affecting structural integrity is the primary concern for the cypress trees near 199 Seawall.

There were no indications of root failure resulting from soil changes, or any other observable signs or symptoms indicating the condition of these trees was anything more than the natural aging progression of these species in this region.

Conclusion

City staff reviewed surveys and field conditions and did not find evidence of significant land subsidence at the southern peninsula nor at the building at 199 Seawall Drive. Additionally, while we do have sea level rise concerns in three areas of the Waterfront, they are not in the Southern Peninsula or in the area of 199 Seawall Drive in Berkeley Waterfront.

With regard to structural issues at the 199 Seawall Building, the structural assessment of 2023 indicated there is a need to perform structural repairs to three specific supporting pilings and building components, at the minimum, to meet its original structural integrity. These structural repairs and any additional tenant improvements will need to comply with current building code and be approved by the City's Building & Safety Department

Attachment 1: Map of southern peninsula at the Berkeley Waterfront

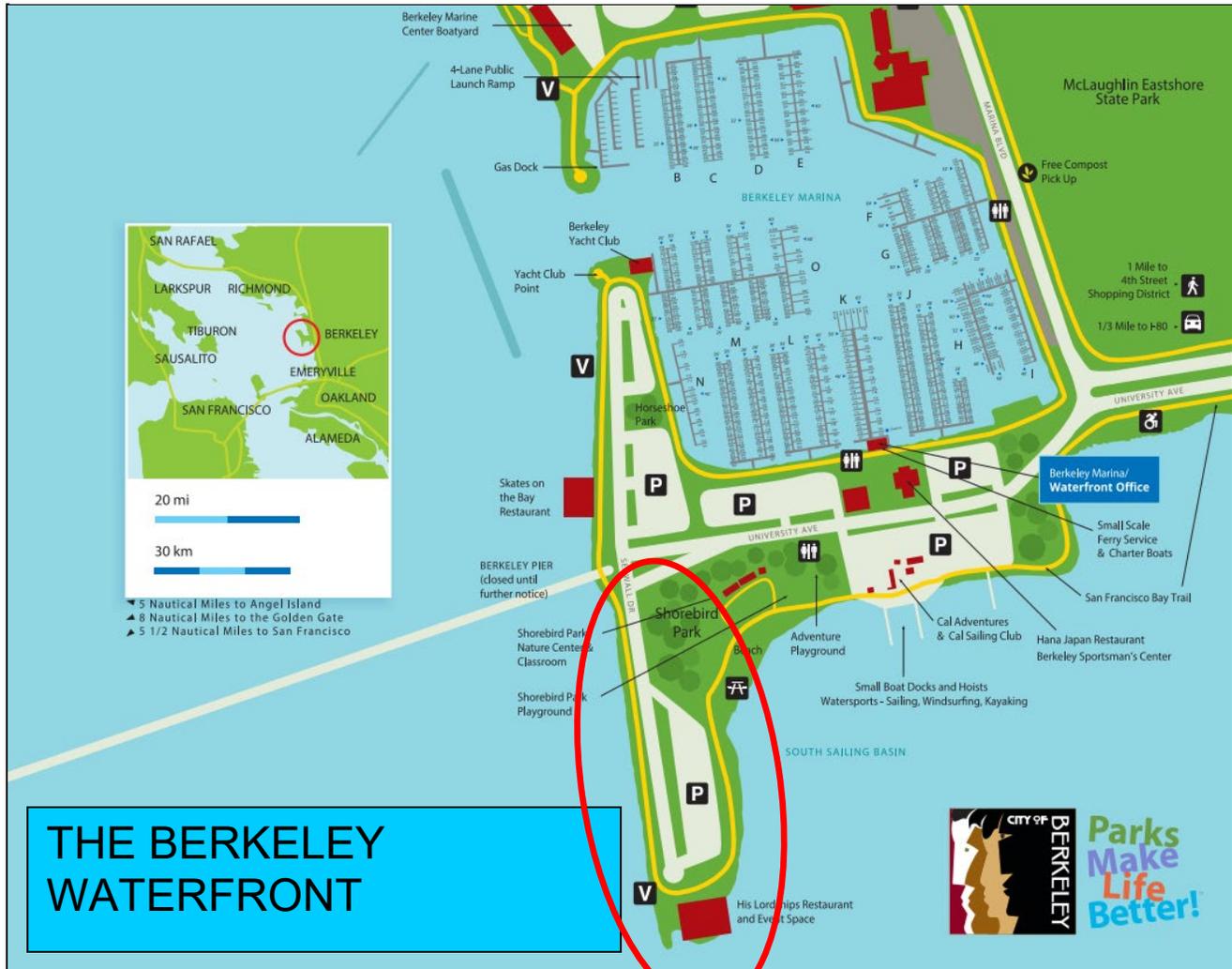
Attachment 2: Map of Subsidence

Attachment 3: List of BCDC Permits for the Berkeley Waterfront

Attachment 4: List of Geotechnical Reports at the Berkeley Waterfront

cc: Anne Cardwell, Deputy City Manager
LaTanya Bellow, Deputy City Manager
Scott Ferris, Director, Parks, Recreation & Waterfront Department
Terrance Davis, Director, Public Works Department
Jenny Wong, City Auditor
Mark Numainville, City Clerk
Matthai Chakko, Assistant to the City Manager
Farimah Brown, City Attorney

Attachment 1: Map of the southern peninsula at the Berkeley Waterfront

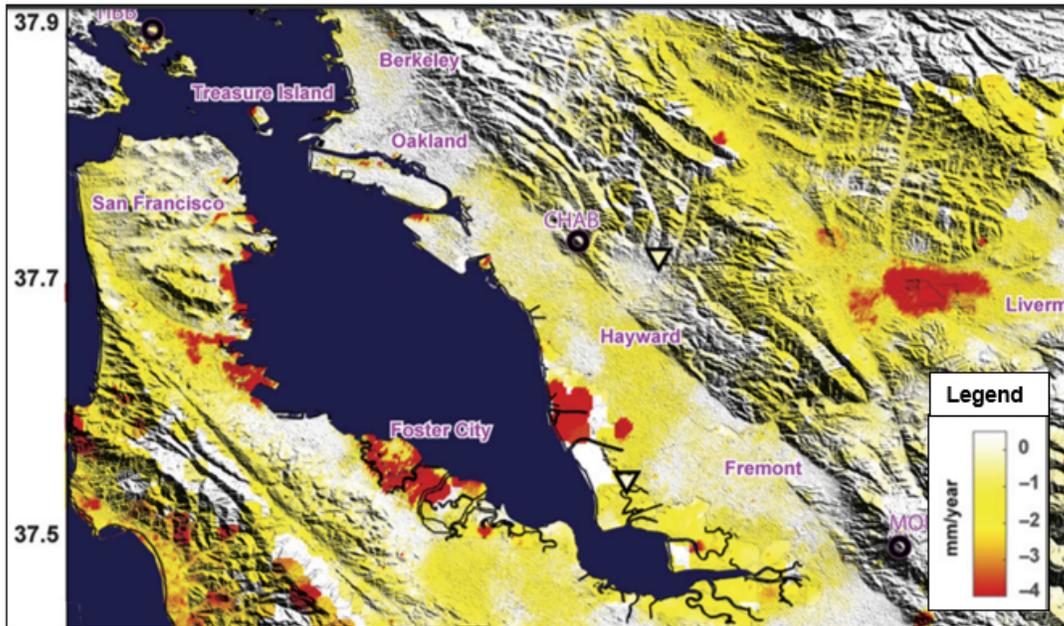


THE BERKELEY WATERFRONT

Southern peninsula at the Berkeley Waterfront

Attachment 2: Map of Subsidence – Bay Area
(source: Science Advance, Shirzaei & Burgmann, 2018.
<https://www.science.org/doi/10.1126/sciadv.aap9234>)

Regional map of subsidence velocity in the Bay Area



Regional map of subsidence velocity in the Bay Area. Per the Legend, red indicates higher subsidence rate (more than 4mm per year), yellow indicates a lower rate of less than 2mm per year. Yellow is indicated for much of southern Richmond and Albany and parts of West Berkeley down to the greater San Jose area, as well as parts of San Francisco and the peninsula. (See source article for details on rates & methodology: Shirzaei and Burgman, 2018).



See the Berkeley Waterfront in the red circle. It is shown as yellow, indicating a subsidence rate of less than 2mm per year. (Source: Shirzaei and Burgman, 2018).

Attachment 3: List of BCDC Permits for the Berkeley Waterfront

Permit	Permittee	Location	Description
1966.028.00	COB	University Avenue	Marina restaurant, beach, park, and parking at South Sailing Basin
1967.002.00	COB	Berkeley Marina	Berkeley Marina Project
1971.037.02	COB	Berkeley Marina	Rip-rap and sewage pump out
1978.033.07	COB	North Waterfront Park	Park
1979.005.13	COB	Berkeley Marina	Boat Mooring
1979.040.00	COB	Berkeley Marina	Breakwater
1982.006.03	COB	Berkeley Municipal Fishing Pier	Fishing pier extension/improvements
1994.003.01	COB	Berkeley Marina	new berths, replacement
2007.008.04	COB	Berkeley Bay Trail Spur	Berkeley Bay Trail extending on the south side of University Ave., past Cal Sailing club. Amended in 2019
M1969.045.00	COB	Small craft harbor at Berkeley Marina	Replace 10 existing piles, place 7 new piles and 2 three-pile dolphins, relocate 2 existing piles, and provide anchorages for 480 lineal feet of floating berth space at end of pier
M1970.033.01	COB	Berkeley Marina at the foot of University Ave	In water area: piles, floats and 20,000 cubic yds of dredging; on shore: extensive landscaping, lighting, utility undergrounding and construction of marine office bldg, heliport and motel
M1972.020.00	COB	Berkeley Marina	Drive 7 piles along existing cruise boat dock
M1972.050.09	COB PW	vicinity of Berkeley Marina, Aquatic Park	maintenance dredging and disposal. amend 9
M1974.030.03	COB, PW	255-265 University Ave	Remove temporary tent facilities, temporarily place two trailers, and construct two-story restaurant-cafe-fishing sport center covering 9,600 sq. ft.
M1978.003.01	COB, Berkeley Yacht Club	In the Bay, within 100-foot shoreline band, at Berkeley Yacht Club, at 100 Seawall Drive.	Reconstruct and use a portion of a yacht club structure consisting of an approx. 39-ft-long, 26-ft-wide structure covering approx. 1,000 sq ft of area
M1981.043.01	COB	Berkeley Municipal Marina	Repair and replace 5,700 square feet of deteriorated concrete floating docks
M1981.044.01	COB	Berkeley Municipal Marina	Dredge 15,000 cubic yards near the breakwater and marina entrance to provide safe water depth for vessels
M1981.124.00	COB	At Berkeley Marina, south of University Ave near the South Sailing Basin	Place and use fencing and paving of 16,300-square-foot area of which 5,200 is within the Commission's jurisdiction

Permit	Permittee	Location	Description
M1982.088.01	COB	The South Sailing Basin, Berkeley Marina	Replacement of an existing dock by dock of new 1,250-square-foot docks and place 400 cubic yards of riprap
M1983.012.02	COB	Frontage Rd between University Ave and Ashby Ave	Place approximately 1,500 cubic yards of riprap along the edge of 4,200 linear feet of roadway
M1983.096.00	Boykin-Berkeley, Inc.	Berkeley Marriott Inn, Marina Blvd	Construct an approximately 1,000-square-foot expansion to an existing lounge and a 500-square-foot expansion to an existing banquet room
M1985.050.02	COB	Berkeley Marina, off University Ave	Improve park facilities within the 100-foot shoreline band at the Berkeley Marina to make them fully accessible to the disabled
M1987.059.01	COB	O Dock, Berkeley Marina	replace dock and eight boat berths
M1998.063.00	COB	Along West Frontage Road	public access construction and improvements and slope protection
M2004.033.00	COB and Regents of the UofCal	100 University Ave,	Expand an existing dry boat storage yard, install and repair signs to facilitate public use of the South Sailing Basin area
M2006.010.03	COB	400 Gilman St, south of Gilman St and west of I-80	Install 10,828 sq. ft. of landscaping and a 9.5 ft. long, 8-inch-diameter stormwater outfall as the beginning phase for construction of sports fields
M2007.008.03	COB	Within the 100-foot-shoreline band, at University Ave	Construct 2,100-ft-long section of Bay Trail & improve windsurfer access. Install footbridge, windsurfer ramp, bus pad, other access amenities. Remove riprap, asphalt. Ongoing, in-kind maintenance.

Attachment 4: List of Geotechnical Reports at the Berkeley Waterfront:

- Berkeley Animal Shelter, Geotechnical Investigation, 1 Bolivar Drive, Berkeley, California, Alan Kropp & Associates, Inc., December 15, 2008.
- Berkeley Bicycle/Pedestrian Bridge, Geotechnical Investigation, Eastern Touchdown Plaza, Aquatic Park, Berkeley, CA, Alan Kropp & Associates, Inc., July 31, 2007.
- Berkeley Marina Rehabilitation (D&E Dock), Geotechnical Investigation, Berkeley, CA, Treadwell & Rollo, Inc. (Concept Marine Associates, Inc.), December 16, 2004.
- Berkeley Marine Dock D & E Replacement Project Pile Driving & Height Geotechnical Memo, COWI North American, Inc. (Marnel Daway, James Connolly), April 25, 2022.
- Cesar Chavez Park, Riprap Repair, Data Review, Surveys and Site Investigation Results, Berkeley, CA, Mactec Inc., December 4, 2008.
- North Breakwater, Detailed Project Report, Small Navigation Project (North Breakwater), Berkeley Marina, Alameda County, CA, U.S. Army District, San Francisco Corps of Engineers, 1976.
- Shorebird Nature Center, Mactec Boring Geotech Study, March 28, 2006.
- South Cove Public Dock and Parking Lot Renovation Project, Berkeley Marina, Berkeley, CA, Geotechnical Investigation, A3GEO, Inc., February 12, 2013.
- University Avenue Lane Reconfiguration Project, Field and Laboratory Data Memorandum, Berkeley, CA, Crawford & Associates, Inc., March 17, 2020.