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STAFF REPORT: REGULAR CALENDAR

Application No.: 1-17-0631

Applicant: Del Norte County

Location: 100 Prigmore Street, between Kellogg Road, Tell Blvd. and Prigmore St. within the Pacific Shores Subdivision, Del Norte County (APN 107-021-008).

Project Description: Develop a temporary watchman's station at the entrance to the Pacific Shores Subdivision to deter illegal dumping and camping by (1) placing approximately 60 cubic yards of gravel to create a 960-square-foot development pad and a 30-foot-long by 12-foot-wide driveway; (2) stationing an RV and associated 500-square-foot carport on the pad; and (3) installing a 120-square-foot utility building, signage, and wooden fence.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Del Norte County proposes to develop a temporary (for at least three years) watchman's station at the entrance to the Pacific Shores Subdivision (PSS) for the purpose of deterring the longstanding problem of illegal dumping within the subdivision. The PSS comprises a total of 1,524 roughly half-acre lots and 27 lineal miles of County roadway along the north shore of the coastal lagoons known as Lakes Earl and Tolowa, and adjacent to the Lake Earl Wildlife Area

and Tolowa Dunes State Park. Except for the road system, the entire PSS remains essentially undeveloped. Several of the County roads in the subdivision, including Tell Blvd. (the main north/south road) and others, are used by the public to access the lagoons, the open coastline, and state park and state wildlife area lands. Because of the combination of factors such as the rural secluded location, extensive road system with no street lights, and lack of development in the area, the lands of Pacific Shores have been impacted by illegal dumping and other illegal activities for many decades.

The California Department of Fish and Wildlife (CDFW) owns and manages over half of the original lots of PSS, which have been purchased from willing sellers over the years. The property on which the watchman's station would be developed is a half-acre undeveloped lot owned by CDFW that is part of the Lake Earl Wildlife Area. The proposed temporary public facility would be equipped with signage and surveillance cameras intended to deter illegal dumping in the area. The signage would welcome visitors to PSS and cite code violations for illegal dumping.

Staff recommends approval of the proposed public facility because (1) the proposed station is limited to the temporary placement of an RV on state-owned property and other temporary associated development; (2) a person (host) would be housed in the RV on a year-round basis for a limited period of time in an official capacity contracted by the County and the State for the purpose of deterring illegal dumping in the area; (3) the RV would be equipped with surveillance cameras and signage intended to deter illegal activities, and the signage will depict County and CDFW logos to ensure the development maintains an official, non-residential appearance; and (4) no permanent utilities would be constructed to serve the development.

Because the site is in a rural area that lacks services, if wastewater and solid waste from the proposed temporary public facility were not appropriately handled, the project could result in significant direct or cumulative adverse impacts to coastal resources. Staff therefore recommends various special conditions to ensure the development protects adjacent ESHA and surrounding park and recreation areas, including conditions (1) requiring the County to regularly collect and properly dispose of wastewater and solid waste in a timely manner, (2) ensuring that the development is confined to the approved project footprint and signed appropriately with official CDFW and County decals, and (3) limiting the length of development authorization under this CDP to only so long as the permittee is legally authorized by the property owner to use the site, but in no event more than three years from the date of Commission approval of the coastal development permit (i.e. until November 8, 2020). Any development associated with the watchman's station beyond the 3-year authorization term would require submittal of a new CDP application that includes an assessment of the station's effectiveness at deterring illegal dumping in the area as determined by required monitoring. **Special Condition 4** requires the County to submit a monitoring plan for illegal dumping in Pacific Shores prior to permit issuance that describes current conditions in the area with respect to illegal dumping and includes provisions for conducting annual assessments and a final assessment of conditions in the area related to illegal dumping.

The Motion to adopt the staff recommendation of **approval with special conditions** is shown on [page 4](#).

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I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve coastal development permit 1-17-0631 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. 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 permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration:** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation:** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment:** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land:** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Development Restrictions.** The authorized watchman's station shall be developed and maintained consistent with all the following:
 - A. The watchman's station shall be used only as a temporary public facility to deter illegal dumping and other illegal activities within the Pacific Shores Subdivision.
 - B. The Permittee shall implement and construct the project consistent the special conditions of Coastal Development Permit (CDP) 1-17-0631, with the revised site plan dated September 19, 2017, and with the grading and signage plans submitted with the CDP application (Exhibit 3).
 - C. At no time shall the host (watchman) interfere with the public's right of access to the ocean or surrounding park and recreation areas.
 - D. The watchman's station and any associated accessory structures and development (e.g., outdoor seating areas, outdoor potted plants, etc.) shall be confined to the approved project footprint as depicted on the revised site plan dated September 19, 2017 (Exhibit 3).
 - E. The authorized shelter structure shall be anchored to the ground as proposed and pursuant to applicable engineering specifications.
 - F. No landscaping shall be planted on the subject property.
 - G. To protect adjacent environmentally sensitive areas and park and recreation areas, no rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall be used on the property.
 - H. At all times, the authorized development shall be equipped with surveillance cameras and County and CDFW decals visible to the public from vantage points along both Kellogg Road and Tell Blvd. and affixed to the utility shed, RV, shelter structure, and fencing. The decals shall clearly represent the development as an official public facility.
 - I. The proposed signage at the entrance to Pacific Shores (proposed Sign #1, Exhibit 3) and at the base of the approved driveway (proposed Sign #2, Exhibit 3) shall be maintained in place at all times and shall be clearly visible from public vantage points along Tell Blvd.
 - J. No permanent utilities shall be constructed or installed to support the authorized development.
 - K. Del Norte County in cooperation with CDFW as applicable shall be responsible for the timely collection and off-site disposal of wastewater and solid waste on a routine basis for the life of approved development. No wastewater or solid waste shall be discharged at the site.
 - L. Electricity to the authorized development shall be disconnected upon termination of the use of the site for watchman's station purposes.

- 2. Construction Responsibilities & BMPs.** The Permittee shall minimize construction impacts by adhering to construction-related responsibilities and employing best management practices (BMPs) during construction activities, including, but not limited to the following:

 - A. Land disturbance during construction (clearing and grading) shall be minimized and in no case shall extend more than 10 feet beyond the perimeter of the footprint of the authorized development to minimize damage and removal of native vegetation and minimize soil compaction.
 - B. All construction debris, vegetative spoils, soil spoils, waste, and other excess material generated by the project shall be removed from project sites and disposed of in an upland location outside of the coastal zone or at an approved disposal facility.
 - C. Sediment control BMPs (such as silt fences, fiber rolls, sand bag barriers, or straw bale barriers) shall be installed to trap and remove eroded sediment from runoff, to prevent sedimentation of wetlands and coastal waters.
 - D. Only certified weed-free straw mulch shall be used for erosion, sediment, and runoff control purposes to avoid the inadvertent introduction of nonnative plant species to surrounding environmentally sensitive areas.
 - E. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) shall not incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) to prevent wildlife entanglement and plastic debris pollution.

- 3. Length of Development Authorization.** Development authorized by this permit is authorized only so long as the Permittee is legally authorized by the property owner to use the site, but in no event more than three years from the date of Commission approval of the coastal development permit (i.e. until November 8, 2020). Prior to the expiration of the authorization period of the permitted facility, the Permittee or its successors shall submit to the Commission an application for a coastal development permit amendment to either (a) extend the length of time the facility is authorized, (b) remove the watchman's station in its entirety, including, but not limited to, the RV, utility shed, fencing, shelter, development pad, driveway, and signage and restore the site to pre-project conditions, or (c) extend the length of time the facility is authorized and change or reduce its size or configuration. If a complete application is filed before the 3-year permit expiration, the expiration date shall be automatically extended until the time the Commission acts on the application. Any amendment application shall conform to the Commission's permit filing regulations at the time and shall at a minimum include the following:

 - A. If the amendment application would extend the length of time either the facility or any portion of the facility or modified form of the facility is authorized, the amendment application shall include (i) the results of the monitoring required by Special Condition 4 assessing the effectiveness of the watchman's station at deterring illegal dumping and other illegal activities in the area, (ii) written authorization from the land owner that the Permittee is legally authorized by the property owner to use the site for the proposed development during the additional length of time requested, and (iii) a plan for the collection and removal of wastewater and solid waste from the facility that will prevent discharges to the site and will provide for the lawful disposal of the waste at an off-site location.

- B. If the amendment application would remove all or a portion of the watchman's station, the amendment application shall include (i) a description of the manner by which the watchman's station development will be removed from the site, (ii) the location of all debris disposal site that would be utilized for demolition-related debris, demonstrating that all proposed disposal sites are in upland area where debris from the site restoration project may be lawfully disposed, and (iii) provisions for revegetation of the project footprint with regionally appropriate native plants to achieve a level of plant coverage and density similar to pre-project conditions.

4. Monitoring Plan for Illegal Dumping

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-17-0631, the Applicant shall submit, for the review and approval of the Executive Director, a plan for assessing, monitoring, and reporting on illegal dumping in the Pacific Shores Subdivision (PSS) in a manner that will enable the effectiveness of the watchman's station at deterring illegal dumping to be evaluated at the end of the authorization period. The plan shall include, at a minimum, the following:
 - i. Provisions for establishing the current (baseline) conditions with respect to illegal dumping in the PSS consistent with all of the following:
 - a) Completion of an updated on-the-ground assessment/survey of all the lands along the accessible roads in the subdivision that inventories and maps illegal dumping sites;
 - b) Preparation of a baseline conditions report documenting existing illegal dump sites within PSS that shall be completed and submitted prior to or concurrent with the development of the temporary watchman's station and prior to installation of Sign #1; and
 - c) Submittal of the baseline conditions report to the Executive Director within 30 days of completion of the baseline assessment/survey.
 - ii. Provisions for completing annual assessments of conditions in the area related to illegal dumping consistent with all of the following:
 - a) Annual assessments shall be completed by September 30th of each year beginning the first year following completion of the baseline assessment and continuing through the final year of authorization of the temporary watchman's station (2020);
 - b) Annual assessments shall at a minimum involve one or more updated on-the-ground surveys during the assessment year of all the lands along accessible roads in the subdivision to inventory and map illegal dumping sites that have occurred in the past year since completion of the previous annual assessment and any existing illegal dump sites observed in the previous surveys that have been cleared of debris in the past year since completion of the previous annual assessment; and
 - c) Annual assessment reports shall be submitted to the Executive Director by December 31st of each year (three months after completion of the annual assessment/survey), except for the final report, which shall be submitted pursuant to subsection (iii) below;

- iii. Provisions for completing a final assessment of conditions in the area related to illegal dumping consistent with all of the following:
 - a) The final assessment shall consider all the data collected over the course of the entire assessment period (including all data from the baseline survey and all subsequent on-the-ground surveys) and shall include a determination as to whether or not the watchman's station has been effective at deterring illegal dumping in the area; and
 - b) The final assessment report shall be submitted to the Executive Director by October 31, 2020 (one month after completion of the final annual assessment/survey and prior to the November 8, 2020 deadline for the termination of all development associated with the watchman's station authorized pursuant to this CDP).
 - B. The Permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations.
- 5. Exterior Lighting.** All exterior lighting attached to the authorized structures shall be low-wattage and downcast shielded such that no glare will be directed beyond the bounds of the property.
- 6. Future Development Restriction.** This permit is only for the development described in Coastal Development Permit (CDP) Application No. 1-17-0631 as conditioned by this CDP. Pursuant to Title 14 California Code of Regulations (CCR) section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(b) shall not apply to the development governed by the CDP 1-17-0631. Accordingly, any future improvements to structures authorized by this permit shall require an amendment to CDP 1-17-0631 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 1-17-0631 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR sections 13252(a)-(b).
- 7. Archaeological Resources.** If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall cease and shall not recommence until a qualified cultural resource specialist, in consultation with the Tolowa Tribe, analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director, and either: (a) the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de minimis* in nature and scope, or (b) the Executive Director reviews the Supplementary Archaeological Plan, determines that the changes proposed therein are not *de minimis*, and the permittee has thereafter obtained an amendment to CDP 1-17-0631.
- 8. Evidence of sufficient property interest.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-17-0631, the Permittee shall submit, for the review and

approval of the Executive Director, a copy of the final executed Memorandum of Agreement and other final agreements and permissions between the County and the California Department of Fish and Wildlife for the temporary watchman's station that clearly demonstrate that the property owner (CDFW) grants permission to the County to undertake development on the property pursuant to CDP 1-17-0631 as conditioned by the Commission herein.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT DESCRIPTION

Del Norte County proposes to develop a temporary watchman's station, also referred to as a host station, for a period of at least three years, at the entrance to the Pacific Shores Subdivision for the purpose of deterring the longstanding problem of illegal dumping within the subdivision. The property on which the station would be developed ([Exhibits 1-3](#)) is a 21,000-square-foot (approximately half-acre) undeveloped lot within the subdivision, at 100 Prigmore Street, owned by the California Department of Fish and Wildlife (CDFW) (APN 107-021-008).

Development of the temporary watchman's station would involve grading approximately half a cubic yard of material to level the site and placing approximately 60 cubic yards of gravel across a 30-foot by 32-foot "development pad" area and a 30-foot-long by 16-foot-wide driveway area. A 30-foot-long by 10-foot-high by 9-foot-wide recreational vehicle (RV) would be placed on the development pad, and a 16-foot-wide by 32-foot-long open-sided "carport" shelter structure installed over the RV for shelter. The structure would be anchored to the ground using anchor screws augured into the ground to a depth of 3 feet. In addition, a 120-square-foot, 12-foot-high utility building would be placed next to the RV. The RV would be occupied by a host with no other duties (e.g., no enforcement duties) other than to occupy the RV on a year-round basis. The RV would be equipped with surveillance cameras intended to deter illegal activity in the subdivision. A 7-foot-tall wooden fence also would be erected around a portion of the development pad for privacy (see [Exhibit 3](#)).

Proposed signage associated with the watchman's station includes two approximately 4-foot (horizontal) by 3-foot (vertical) signs to be displayed on Tell Blvd. adjacent to the site (one in the road median and one at the foot of the proposed driveway) welcoming visitors to Pacific Shores and citing County code violations prohibiting dumping and camping in the area ([Exhibit 3](#)). Signage would include logos of both the County and CDFW. County and CDFW decals also would be included on the RV and/or its associated carport or fencing.

The County has requested a minimum three-year period of authorization for the proposed watchman's station during which time the County would evaluate whether the station is effective in deterring illegal dumping. No permanent utilities would be constructed to serve the development. Because the property is in a rural area that lacks services, the RV would have a holding tank for waste, which would be pumped on-site on a biweekly basis by a commercial company (Roto-Rooter) contracted by the County. Water and solid waste disposal would be

provided by the County Parks Department on a weekly basis or as frequently as needed. Electricity would be supplied to the site from an aboveground extension from a pole located near the northeast corner of Tell Blvd. and Kellogg Road.

B. ENVIRONMENTAL SETTING AND PURPOSE OF PROJECT

Pacific Shores Subdivision

The Pacific Shores Subdivision (PSS), located on the northern shores of Lakes Earl and Tolowa, comprises a total of 1,524 roughly half-acre lots platted over a 1,486-acre (roughly 2.3-square mile) area. Shortly after the subdivision was approved in 1963, approximately 27 lineal miles of roadway to serve the subdivision were offered for dedication and subsequently accepted by the County and constructed with paved, chip-sealed, and/or gravel surfaces. Several of the County roads in Pacific Shores, including Tell Blvd. (the main north/south road) and others, are used by the public to access the lakes, the open coastline, and state park and state wildlife area lands. However, except for the road system, associated drainage ditches, and a single-circuit 12.5-kilovolt electrical transmission line with no substation facilities, the entire PSS remains essentially undeveloped.

The rural antiquated subdivision is situated a substantial distance from police, fire, and ambulance emergency service responders, and the majority of the lots contain wetlands and/or other types of environmentally sensitive habitat areas (ESHA) such as rare plant habitat, sensitive dune habitats, and/or habitat for the federally threatened Oregon silverspot butterfly (*Speyeria zerene hippolyta*). Many of the low-lying lots (those below 10 feet in elevation) are subject to regular flooding associated with seasonal fluctuation in lagoon levels. Since 1963, infrastructure improvements within the subdivision have been minimal, and most of the road system is unmaintained, overgrown with vegetation, and riddled with large potholes. No water or sewage treatment systems exist, and only one permanent residence has been developed within the bounds of the subdivision.¹

Natural Resources and Land Ownership

The wetlands and associated natural resources of Lake Earl, situated south and southwest of Pacific Shores, were identified by the Department of Fish & Game (now CDFW) in 1974 as one of the 19 coastal wetlands included in a report entitled “Acquisition Priorities for Coastal Wetlands of California” in recognition of the area’s extraordinary habitat values. The dune-wetland complex that defines this ecological region is exceptional in its biological diversity, supporting over 250 species of birds, 50 species of mammals, and at least 16 species of reptiles and amphibians. The area is especially critical for the many thousands of wading birds and shorebirds that rely on the resources of the Lake Earl Wildlife Area during the annual migration.

The CDFW and California Department of Parks and Recreation (CDPR) own and manage more than 5,000 acres of land within or adjacent to Lake Earl and Lake Tolowa, including lands within

¹ The Pacific Shores Property Owners Association in 1987 created a special water district, the Pacific Shores Subdivision California Water District (Pacific Shores Water District), to provide water and sewage infrastructure, but the district was dissolved in 2007 because, despite making attempts to develop the subdivision, it had been unable to do so. To date, no legal development has occurred at Pacific Shores since the lots were first sold, other than the placement of a trailer prior to enactment of the Coastal Act and its predecessor statute in 1973.

the Pacific Shores Subdivision (PSS) ([Exhibit 4](#)). The Lake Earl Wildlife Area (LEWA), managed by CDFW, comprises over 5,600 acres of land and water area around the lagoon and today includes over half of the original PSS lots. Because of the large number of small privately-owned lots in Pacific Shores interspersed with publicly owned lands, and to better manage the significant wildlife and fisheries resources in the area, for several decades CDFW has purchased property within the PSS and elsewhere around Lake Earl from willing sellers who own land around the lagoon that is below 10 feet mean sea level (and therefore subject to periodic flood hazards).² In addition, pursuant to other coastal development permits,³ CDFW has managed water levels in the lagoon by periodically breaching the ocean sandbar that impounds the waters of the lagoon along the western shore of Lake Tolowa.

History of Illegal Activities in the Area

Because of the combination of factors such as rural secluded location, extensive road system with no street lights, and lack of development in the area, the lands of Pacific Shores have been impacted by illegal dumping and other illegal activities for many decades. Law enforcement personnel from the County, CDFW, CDPR, and California Highway Patrol all provide varying levels of patrol and enforcement to the area,⁴ but unlawful activities in the PSS remain problematic.⁵ The Commission also has enforcement authority over violations of Coastal Act CDP requirements in the Pacific Shores Special Study Area of Deferred Certification (i.e., the Pacific Shores Subdivision). Commission staff completed a partial inventory of illegal dumping sites in PSS in 2016, documenting over 20 egregious dump sites at that time ([Exhibit 5](#)). Commission staff also documented extensive unpermitted residential development on dozens of lots in the subdivision (e.g., RVs and trailers) and, in cooperation with other enforcement agencies, has helped with the successful vacation and cleanup of several parcels over the years.⁶

Characteristics of Subject Lot

As discussed above, the subject lot was originally created as part of the PSS and subsequently acquired by CDFW and added to the Lake Earl Wildlife Area. The lot is at the entrance to

² To date the CDFW's Wildlife Conservation Board (WCB), through the Smith River Alliance serving as its outreach intermediary, and in coordination with the Coastal Conservancy, has purchased over half of the 1,524 half-acre lots within the subdivision. As of November 2015, there were approximately 763 lots owned by the state (primarily CDFW, but also California Department of Parks and Recreation), 185 lots were owned by the Border Coast Regional Airport Authority with plans for the eventual transfer of those lots to CDFW, and there were 578 lots remaining in private ownership. Most lots at Pacific Shores are approximately one half-acre in size.

³ CDP 1-09-047, authorizing annual breaching for five years, was approved by the Commission on 11/19/10 (<https://documents.coastal.ca.gov/reports/2010/11/F8b-11-2010.pdf>). The most recent breaching, in 2016/2017, was authorized under Emergency Permit G-1-16-0070 issued 10/26/16. Del Norte County has submitted CDP Application No. 1-15-1265 to continue the periodic breaching of the sandbar complex that separates the lakes from the ocean, but that application is incomplete.

⁴ The County Sheriff Department is responsible for law enforcement in the unincorporated areas of the County. CDFW wardens patrol and enforce Fish and Game Code violations in State Wildlife Areas, including lots within the Pacific Shores Subdivision that are part of the Lake Earl Wildlife Area. Rangers with the California State Parks patrol and enforce violations on lots within the Pacific Shores Subdivision that are part of Tolowa Dunes State Park. California Highway Patrol has patrol and enforcement authority on roads within the area. CalFire also responds to wildfires in the area, including fires within the subdivision that may result from illegal activities.

⁵ See <http://www.triplicate.com/csp/mediapool/sites/Triplicate/News/story.csp?cid=4359799&sid=923&fid=151>

⁶ E.g., see <https://documents.coastal.ca.gov/reports/2007/10/Th12-s-10-2007.pdf> and <https://documents.coastal.ca.gov/reports/2006/11/W17-11-2006.pdf>.

Pacific Shores and is surrounded by roads on three sides (two of which, Kellogg Road and Tell Blvd., are paved roadways). The lot is located at an elevation of approximately 25 feet and therefore is in an area mapped as low risk for flood hazards by the Federal Emergency Management Agency (FEMA). CDFW biologists surveyed the property for wetlands and ESHA, including habitat for sensitive species of plants and butterflies, and determined that no wetlands, rare plant ESHA, or butterfly ESHA occur on the site. The property has been subject to significant past disturbance, as evidenced by the prevalence of nonnative vegetation and scattered nonnative gravel material, particularly on the northern portion of the lot where the proposed development would be located. There also is a swath of disturbed area with compacted soils that cuts across the lot from Tell Blvd. to Prigmore St. where vehicles have repeatedly driven in the past. The proposed driveway would be located on a portion of this disturbed area. Site photos are attached as [Exhibit 6](#).

C. STANDARD OF REVIEW

The project site is located within the Pacific Shores Special Study Area ADC (Area of Deferred Certification) within the County of Del Norte's Local Coastal Program. The site is located between the first through public road and the sea. Pursuant to Section 30604(a) of the Coastal Act, prior to certification of a certified LCP for this geographic segment, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

D. OTHER AGENCY APPROVALS

The County will be entering into a Memorandum of Agreement with the CDFW for the County's use of the subject property for the proposed development (see Finding K below). The draft agreement states that the Department intends to grant permission for these installation and construction activities by issuing a Right of Entry Permit to County. **Special Condition 8** requires the County to submit a final agreement and other final agreements and permissions signed by CDFW giving the Applicant permission to undertake development on the property pursuant to CDP 1-17-0631 as conditioned by the Commission. Special Condition 8 requires that this evidence be obtained prior to issuance of the CDP.

E. PROTECTION OF ESHA AND ADJACENT PARKS AND RECREATION AREAS

Section 30231 of the Coastal Act states as follows:

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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act states as follows:

- (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.*

Section 30107.5 of the Coastal Act defines “environmentally sensitive area” as follows:

‘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 the ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240(a) of the Coastal Act limits development within ESHA to only resource-dependent uses. The Applicant is not proposing to locate any development within ESHA. As discussed in Finding IV-B above, the project site is located at the entrance to Pacific Shores and is surrounded by roads on three sides (two of which, Kellogg Road and Tell Blvd., are paved roadways). A survey of the subject lot by CDFW biologists concluded that the lot contains no wetlands, rare plant ESHA, or butterfly ESHA. Much of the property has been subject to significant past disturbance, as evidenced by the prevalence of nonnative vegetation and scattered nonnative gravel material, particularly on the northern portion of the lot where the proposed development would be located. There also is a swath of disturbed area with compacted soils that cuts across the lot from Tell Blvd. to Prigmore St. where vehicles have repeatedly driven in the past. The proposed driveway would be located on a portion of this disturbed area.

Section 30240(b) of the Coastal Act requires that development in areas adjacent to ESHA 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. As discussed, the subject lot is part of the Lake Earl Wildlife Area and also is adjacent to Tolowa Dunes State Park. The dune-wetland complex that defines this ecological region is exceptional in its biological diversity, supporting over 250 species of birds, 50 species of mammals, and at least 16 species of reptiles and amphibians. Although the area within the project footprint itself is not ESHA, and although the CDFW biologists determined that no rare plants or butterfly host plants occur on the subject lot, much of the half-acre lot outside of the disturbed areas and adjacent to the project footprint maintains native, intact dune vegetation and is part of a “park and recreation area” subject to the protections of Section 30240(b).

The County has proposed various measures to protect water quality and adjacent ESHA and parks and recreation areas from impacts associated with the proposed development and ensure the development is sited and designed to prevent impacts which would significantly degrade those areas and is compatible with the continuance of those habitat and recreation areas. These measures include, but are not limited to: (1) regularly removing and properly disposing of wastewater and solid waste; (2) minimizing the footprint of the proposed development; and (3) restricting exterior lighting associated with the proposed development to limit lighting of

adjacent or surrounding ESHA. In addition, the project purpose is to deter illegal dumping in the sensitive habitat areas and park and recreation areas of Pacific Shores and Lake Earl.

While the County has proposed various measures to protect water quality and adjacent ESHA and parks and recreation areas, conditions are needed to ensure implementation of the proposed measures. In addition, certain additional measures are needed to ensure that the project as implemented prevents impacts that would significantly degrade surrounding ESHA and parks and recreation areas and is compatible with the continuance of surrounding areas.

To ensure that the authorized development will maintain adequate services and will not cause off-site impacts to surrounding habitat areas or park and recreation areas, the Commission attaches Special Conditions 1 through 6. **Special Condition 1** confines the use of the approved development to an official public facility, requires that the project be implemented consistent with the approved final plans, and requires that the public facility is equipped at all times with surveillance cameras, official signage, and CDFW and County decals as proposed. Special Condition 1 also requires that the development be confined to the approved project footprint and requires the County to collect and properly dispose of wastewater and solid waste in a timely manner. Further, to aid in the containment of the authorized development, Special Condition 1 includes restrictions on the planting of landscaping to minimize the risk of nonnative plantings spreading into surrounding sensitive habitat areas and park and recreation areas. Moreover, the condition prohibits the use of certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone. Certain blood anticoagulant rodenticide compounds mentioned above have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/wildland interface areas. As these target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, the pest control compounds can bioaccumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species.

Special Condition 2 requires the applicant to minimize the potential for impacts to surrounding habitat areas associated with construction activities and to assure that the biological productivity and water quality of wetlands in the area will be maintained.

Special Conditions 3 and 4 are included to limit the length of development authorization consistent with the project description and ensure that the development is achieving its intended purpose of deterring illegal dumping in the area. Specifically, **Special Condition 3** limits the length of development authorization under this CDP to only so long as the permittee is legally authorized by the property owner to use the site, but in no event more than three years from the date of Commission approval of the coastal development permit (i.e. until November 8, 2020). The condition further requires that prior to the end of the authorization period for the watchman's station, the Permittee must submit an application for an amendment to this CDP to either extend the length of time that the facility is authorized or remove the watchman's station in its entirety and restore the site to pre-project conditions. Any development associated with the watchman's station proposed to be retained beyond the three-year length of development authorization will require submittal of a new coastal development permit application that includes an assessment of the watchman's station's effectiveness at deterring illegal dumping in the area as determined by the monitoring requirements of Special Condition 4.

Special Condition 4 requires the County to submit a monitoring plan for illegal dumping in Pacific Shores prior to permit issuance that describes current (baseline) conditions in the area with respect to illegal dumping and includes provisions for conducting annual assessments of conditions in the area related to illegal dumping. Special Condition 4 also requires submittal of a final assessment at the end of the 3-year authorization period for the watchman's station that assesses whether or not the watchman's station has been effective at deterring illegal dumping in the area.

Special Condition 5 restricts exterior lighting to only lighting that is low-wattage, downcast, and shielded such that no glare will shine beyond the bounds of the property where it could impact adjacent sensitive habitat areas. This condition is necessary because artificial night lighting can have a variety of significant direct and cumulative effects on flora and fauna, including disruption of light-dark photosynthesis cycles and circadian rhythms, disruption of foraging behaviors and increased risks of predation, and interference with vision and migratory orientation. These impacts can result in reductions in biological productivity, reduce the population of otherwise threatened, endangered, or rare species, elevate incidences of collisions between birds and structures, or cause large numbers of arthropods to fixate on the lighting source attraction to the point of fatal exhaustion, negatively affecting their populations and reproductive success, as well as the food web they support.

The Commission also notes that Section 30610(b) of the Coastal Act exempts certain additions to existing structures other than single-family residences or public works facilities⁷ from coastal development permit requirements. Pursuant to section 30610(b), once a structure has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment. Depending on its nature, extent, and location, however, such an addition or accessory structure could have a significant adverse impact on surrounding ESHA. Accordingly, section 30610(b) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to section 30610(b) of the Coastal Act, the Commission adopted section 13253 of Title 14 of the California Code of Regulations (CCR). Section 13253(b)(6) specifically authorizes the Commission to require a permit for additions to structures that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require a development permit. Therefore, pursuant to section 13253 (b)(6) of Title 14 of the CCR, **Special Condition 6**, requires that all future development on the subject parcel that might otherwise be exempt from coastal permit requirements requires an amendment or coastal development permit. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will not be sited or designed in a manner that would result in impacts to surrounding ESHA.

As conditioned in the manner discussed above, the Commission finds that the proposed project at Pacific Shores is designed to protect water quality, to prevent impacts that would significantly degrade adjacent environmentally sensitive habitat areas and park and recreation areas, and to be

⁷ Though the watchman's station is a public facility, it is not a public works facility as defined in section 30114 of the Coastal Act.

compatible with the continuance of those areas, consistent with Sections 30231 and 30240(b) of the Coastal Act.

F. PLANNING AND LOCATING NEW DEVELOPMENT

Section 30250 of the Coastal Act states in applicable part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

The intent of the above-cited policy is to channel development toward existing developed areas where services are provided and potential impacts to resources are minimized. Outside of existing developed areas, new development must nonetheless be located in areas with adequate public services and where no significant direct or cumulative adverse impacts to coastal resources would result.

The development site is in a rural area outside of the service district boundaries for water and sewer. In 1987 the Pacific Shores Property Owners Association created a special water district to provide water and sewage infrastructure to the lands within the subdivision, but the district was dissolved in 2007. The proposed watchman's station is a public facility use and will not function as a residential use because (1) the proposed station will involve only the temporary placement of an RV on state-owned property and other temporary associated development; (2) a person (host) will be housed in the RV on a year-round basis in an official capacity contracted by the County and the State for the purpose of deterring illegal dumping in the area; (3) the RV will be equipped with surveillance cameras and signage intended to deter illegal activities, and the signage will depict County and CDFW logos to ensure the development maintains an official, non-residential appearance; and (4) no permanent utilities will be constructed to serve the development.

Because the site is in a rural area that lacks services, if wastewater and solid waste from the proposed temporary public facility is not appropriately handled, the project could result in significant direct or cumulative adverse impacts to coastal resources. The County proposes to collect waste in a holding tank that will be regularly pumped on-site. In addition to providing regular wastewater services, the County Parks Department also will provide water and solid waste disposal services for the watchman's station facility weekly or as frequently as needed. Electricity will be supplied to the site from an aboveground extension from an existing pole located near the northeast corner of Tell Blvd. and Kellogg Road. As proposed, electricity will be disconnected when the proposed use terminates.

However, if the watchman's station is not successful in deterring dumping, it would effectively function as a residential use subject to the limitations of section 30250 rather than as a public facility use. As discussed above, residential uses have not been authorized at Pacific Shores,

because they cannot be approved consistent with the limitations set forth in section 30250 of the Coastal Act given the lack of wastewater treatment capacity and the lack of a demonstrated water supply. Therefore, **Special Condition 4**, as discussed above, requires the County to submit a plan for monitoring illegal dumping in the area to determine whether or not the proposed watchman's station is fulfilling its intended purpose of deterring illegal dumping. The condition requires the County to submit the plan prior to permit issuance. The plan must describe current (baseline) conditions in the Pacific Shores Subdivision with respect to illegal dumping and must include provisions for conducting annual assessments of conditions in the area related to illegal dumping. The County must submit a final assessment prior to the November 8, 2020 deadline for the termination of all development associated with the watchman's station authorized pursuant to this CDP that considers all the data collected over the course of the entire assessment period and assesses whether or not the watchman's station has been effective at deterring illegal dumping in the area. In addition, **Special Condition 3** requires in part that this assessment to be included as part of any future CDP application to authorize the continued use of a watchman's station on the site. The assessment will provide evidence to evaluate whether the watchman's station has been effective at deterring illegal dumping and therefore fulfilling its public facility purpose.

Therefore, the Commission finds that the proposed project, as conditioned, will not have significant adverse effects, either individually or cumulatively, on coastal resources.

G. VISUAL RESOURCES

Section 30251 of the Coastal Act states in applicable part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The site is not within a designated high scenic area. The proposed development will be located on the inland side of the subdivision and will not block public views to the ocean. As the project site is relatively flat and level, construction of the watchman's station will involve only minimal grading (less than 60 cubic yards). Although the project involves new development in an otherwise largely undeveloped area (except for existing roads and electrical power lines), the proposed new structures, including RV, shelter structure, utility shed, and fencing, will be limited in height (maximum height of 12 feet) and development footprint (approximately 960 square feet, excluding the driveway, of an approximately 21,000 square feet of the lot will be developed). In addition, as previously discussed, **Special Condition 3** limits the development authorization to a period of three years, after which the site must be restored to its pre-project condition, unless the Commission approves a permit amendment to allow a watchman's facility to remain on the site for a long period. The Commission would evaluate the consistency of such a proposal to allow the facility to remain for a longer period with section 30251 of the Coastal Act at that time. Furthermore, also as discussed above, **Special Condition 5** restricts exterior

lighting to only lighting that is low-wattage, downcast, and shielded such that no glare will shine beyond the bounds of the property.

Therefore, the Commission finds that the development will protect public views, minimize the alteration of natural land forms, and be visually compatible with the character of surrounding area, consistent with Section 30251 of the Coastal Act.

H. ARCHAEOLOGICAL RESOURCES

Section 30244 of the Coastal Act states:

Where development would adversely impact archeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The project area is located within the traditional territory of the Tolowa Tribe, which currently has two separate federally recognized governments: the Tolowa Dee-ni' Nation (formerly Smith River Rancheria) and the Elk Valley Rancheria. The native Tolowa people lived in the Lake Earl area prior to European settlement of the region commencing in the 1850s. Previous archaeological surveys conducted in the area have documented Tolowa sites at numerous locations around the lagoon above the +10' MSL elevation.

The County consulted with the Tribal Historic Preservation Officer for the Tolowa Dee-ni' Nation regarding the proposed project. The THPO indicated that given the minimal ground disturbance associated with the project, it is unlikely that the project will adversely affect archaeological resources. Nevertheless, to ensure protection of any cultural resources that may be discovered at the site during construction, the Commission attaches **Special Condition 7**. This special condition requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease, and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits, the permittee is required to submit a supplementary archaeological plan for the review and approval of the Executive Director, who determines whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act section 30244.

I. PUBLIC ACCESS

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects, except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or where adequate access exists nearby. Section 30211 of the Coastal Act requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner

that takes into account the capacity of the site and the fragility of natural resources in the area. In applying sections 30210, 30211, 30212, and 30214, the Commission is also limited by the need to show that any denial of a permit application based on these sections or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

At Pacific Shores, there is existing public access to the sea, to public beaches, and to Lakes Earl and Tolowa via public roads through and adjacent to the subdivision, including Kellogg Rd., Tell Blvd., and various others. If not carefully sited and designed, the signage and surveillance cameras to be installed at the watchman's station to deter people from entering the subdivision to dump debris could also deter the public from driving on the public roads of the subdivision to gain coastal access. The project as proposed will not adversely affect public access because the language proposed for the new signage on Tell Blvd. will include language welcoming visitors to Pacific Shores. Members of the public will continue to have access to multiple existing access points to the sea, to public beaches, and to Lakes Earl and Tolowa. The project as proposed will not reduce existing public access to public land. The project proposes no new fencing of any kind which would block existing public access to beach or shoreline areas. Furthermore, the project as proposed states that the host will have no duties other than to deter via presence on site, illegal camping and other illegal activities in the area. To ensure that the watchman station does not interfere with the public's right of access to the ocean or surrounding park and recreation areas, the Commission attaches **Special Condition 1-A**. This condition states that at no time shall the host (i.e., the person residing in the RV for watchman station duties) interfere with the public's right of access to the ocean or surrounding park and recreation areas.

Therefore, the Commission finds that the proposed project does not have any significant adverse effect on public access, and that the project as conditioned and as proposed without new public access is consistent with the requirements of Coastal Act sections 30210, 30211, 30212, and 30214.

J. LOCAL COASTAL PROGRAM PLANNING

Section 30604(a) of the Coastal Act states as follows:

Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

As discussed in Finding IV-C, the project site is located in an area of deferred certification (ADC) where the Coastal Commission retains permit authority. The policies of Chapter 3 of the Coastal Act provide the legal standard of review. Section 30604(a) of the Act provides that the Commission shall issue a CDP only if the project will not prejudice the ability of the local government having jurisdiction to prepare an LCP that conforms with the Chapter 3 policies of the Coastal Act.

If the watchman's station is not successful in deterring illegal dumping, it would effectively function as a residential use rather than as a public facility use. As discussed above, residential uses have not been authorized at Pacific Shores, because they cannot be approved consistent with the limitations set forth in section 30250 of the Coastal Act given the lack of wastewater treatment capacity and the lack of a demonstrated water supply. Authorizing residential development could set a precedent for approving residential uses at Pacific Shores and thus would be prejudicial to the County's preparation of a future LCP for this ADC segment that conforms with the Chapter 3 policies of the Coastal Act, including sections 30250, 30233, and 30240. Therefore, the monitoring required by **Special Condition 4**, discussed above, is necessary to ensure that any future CDP application to authorize use of the watchman's station for a longer period of time will include evidence that the public facility effectively functions as such in deterring illegal dumping in the surrounding parks and recreation areas of Pacific Shores. As conditioned, the public facility use at this location will not prejudice the ability of Del Norte County to obtain a fully certified LCP for the Pacific Shores Special Study Area ADC that conforms with the Chapter 3 policies of the Coastal Act.

K. APPLICANT'S LEGAL INTEREST IN THE SUBJECT PROPERTY

The development site is on land owned by CDFW and is not within the Applicant's ownership. The County has provided a copy of draft Memorandum of Agreement between the County and CDFW for the proposed development. As required by section 30601.5 of the Coastal Act, the County has submitted evidence that (a) the property owner has been notified of the project as proposed in the CDP application, and (b) the property owner has been invited to join the CDP application as a co-applicant, and (c) the property owner grants permission to the County to undertake development on the project as proposed by the Applicant. In addition, as also required by section 30601.5, the Applicant must demonstrate the authority to comply with all conditions of approval. Thus, **Special Condition 8** requires the Applicant to submit a final agreement signed by CDFW giving the Applicant permission to undertake development on the property pursuant to CDP 1-17-0631 as conditioned by the Commission. Special Condition 8 requires that this evidence be obtained prior to issuance of the CDP. The Commission thus finds that as conditioned, the development is consistent with the requirements of section 30601.5 of the Coastal Act.

L. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Del Norte County served as the lead agency for the project for CEQA purposes. The County determined the project to be categorically exempt under CEQA [Class 3 Item 15303(3)]. Section 13906 of the California Code of Regulation requires Coastal Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Public Resources Code 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 that would significantly lessen any significant effect that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed development has been conditioned to be consistent with the policies of Chapter 3 of the Coastal Act. The findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the method of proposed repair and maintenance, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

1-17-0631 (Del Norte County)

**APPENDIX A
SUBSTANTIVE FILE DOCUMENTS**

Application File for Coastal Development Permit No. 1-17-0631

Commission files for CDP 1-09-047, G-1-16-0070, 1-15-1265, V-1-06-010, CCC-07-CD-08, CCC-07-RO-05, V-1-03-009, and CCC-06-CD-08

The Del Norte *Triplicate* article published 2/13/17 titled “A shadowy area” by Adam Madison:
<http://www.triplicate.com/csp/mediapool/sites/Triplicate/News/story.csp?cid=4359799&sid=923&fid=151>

Del Norte County Local Coastal Program