



Tammy Tengs <tammy@land22.com>

Re: Pacific Shores

1 message

Heidi Kunstal <hkunstal@co.del-norte.ca.us>
To: Tammy Tengs <tammy@land22.com>

Wed, Apr 28, 2021 at 2:30 PM

Hi Tammy,

The County's RV ordinance does not apply to the Pacific Shores Subdivision. The Subdivision is not included in the County's Certified Local Coastal Plan and is within the permit jurisdiction of the California Coastal Commission. Attached is a letter prepared by Commission staff in 2003 that is still applicable today. In particular, the letter notes that development, which requires a Coastal Development Permit, could include seasonal camping. Without knowing the extent of any particular resources on a given property, any earth-disturbing activities could cause harm to protected plants and other sensitive resources. I would be cautious of advising any potential landowner that they have the right to camp on their land as it could result in fines and/or penalties from the Coastal Commission. If you have further questions, you may reach out to the North Coast Office of the California Coastal Commission at 707- 826-8950.

Regards,
Heidi

On Wed, Apr 28, 2021 at 12:17 PM Tammy Tengs <tammy@land22.com> wrote:
Community Development Department Administration,

Please see my question below, thanks

Tammy Tengs
Land22 Real Estate
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----- Forwarded message -----

From: **Tammy Tengs** <tammy@land22.com>
Date: Wed, Apr 28, 2021 at 12:04 PM
Subject: Re: Pacific Shores
To: Taylor Carsley <tcarsley@co.del-norte.ca.us>

Hi Taylor,

You mention a 14 day limit on camping. If someone wanted to camp repeatedly for 14 days, is that possible? Can you please email me the official policy on camping limitations so that I can read it? Thanks

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On Mon, Mar 15, 2021 at 4:03 PM Taylor Carsley <tcarsley@co.del-norte.ca.us> wrote:

Hello Tammy,

Private property may be camped on in the County. There is a 14 day limit on any camping activities. Camping would not be permitted where disturbance of environmentally sensitive habitat areas would be required to actually access or park the RV there. Other ground disturbance including vegetation removal or grading is not permitted. Storing

anything on the property is also not permitted. Most of Pacific Shores constitutes sensitive habitat area and I never expressly recommend that people purchase Pacific Shores lots with the intention of doing much of anything with them.

Let me know if you have any other questions, thanks.

On Wed, Mar 10, 2021 at 1:04 PM Tammy Tengs <tammy@land22.com> wrote:

Hi Taylor,

I am thinking about buying APN 107161005000 in Pacific Shores near Crescent City. I understand that there are no utilities and the lot is not buildable. My question is, can an owner legally camp overnight in an RV on their own lot?

Thanks,

Tammy Tengs
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Taylor Carsley

Planner

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Heidi Kunstal

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Letter to Pacific Shores Property Owners and Interested Parties regarding CDP Requirements.pdf
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CALIFORNIA COASTAL COMMISSION

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July 16, 2003

Dear Pacific Shores Subdivision Lot Owners and Other Interested Parties:

Coastal Commission staff is aware that many questions have been raised about development on parcels in the Pacific Shores subdivision. The following information explains the state law that governs development within the coastal zone, the Coastal Act, especially those sections that are particularly relevant to Pacific Shores. We hope that this information will help lot owners and other concerned citizens better understand the rights afforded to and obligations imposed on property owners proposing to develop property within the coastal zone.

What authority does the Coastal Commission have to regulate development?

The Coastal Act states that activity defined as “development” within the coastal zone requires a coastal development permit (CDP).ⁱ The entire Pacific Shores subdivision lies within the coastal zone; therefore, all development at Pacific Shores requires a CDP. Del Norte County has a certified local coastal program for much of the County’s coastal zone, and issues most of the CDPs in those areas. However, the Pacific Shores subdivision is within an “area of deferred certification,” where no local coastal program has been certified. In areas of deferred certification, all CDP’s are processed by the Coastal Commission directly, rather than by the local government.

What counts as development?

The definition of development in the Coastal Act is very broad, and is set forth in the attached notes.ⁱⁱ The kinds of activities that fall within the scope of development most relevant to Pacific Shores are described below.

- The placement or erection of any solid material or structure.
 - This includes, but is not limited to, such activities as 1) placing dirt or gravel on your property to create a pad to park a vehicle, 2) installing a culvert or drainage pipe, and 3) placing a shed, outhouse, fence, gate or any other structure on your property.
- Grading, removing, dredging, or extraction of any materials.
 - This covers any kind of landform alteration on your property, including digging by hand or with heavy equipment. It also includes filling-in wet areas and altering the natural drainage patterns.
- Change in the density or intensity of use of land.
 - This includes converting your property from a vacant unused parcel to one that is used as a residence or seasonal camping area.
- Construction of any structure.
 - This includes constructing any kind of physical structure, including, but not limited to, structures such as a shed, fence, gate, or house.
- Removal or harvesting of major vegetation.

- “Major vegetation” includes, among other things, native vegetation growing in areas that are wetlands or sand dunes. It also includes native vegetation that is habitat for sensitive, threatened, or endangered species. Habitat for sensitive, threatened, or endangered species constitutes “environmentally sensitive habitat areas” (ESHAs) which receive special protection under the Coastal Act. Removing plants associated with wetlands, sand dunes, and ESHAs constitutes development which first requires a CDP before removal occurs.

This list of activities that constitute development is not exhaustive – if you have any questions about whether or not an activity is “development”, we encourage you to discuss your questions with Commission staff.

How do I apply for a coastal development permit (CDP) from the Commission?

The CDP application process involves submitting an application form, which includes a detailed description of the proposed development project, as well as supplementary information required to determine if the project is consistent with the policies found in Chapter Three of the Coastal Act. After receiving an application with all supplementary information, staff will review the application for completeness, and will inform the applicant as to what additional information, if any, is needed to complete the application. Once the application is complete, staff will analyze the proposed project for consistency with the Coastal Act, and prepare a report that recommends approval, approval with conditions, or denial of the project, based on whether or not the project is consistent with the Coastal Act. The application will be then be scheduled for consideration by the Commission at one of its monthly meetings.

The Coastal Act encourages public participation in the permitting and development process. The staff report is mailed to interested parties and property owners within 100 feet of the proposed development project. The Commission considers the CDP application at a public hearing, at which any interested member of the public is allowed to speak for or against the project. If you are unable to attend the hearing, you can submit comments in writing. After the public hearing, the Commission votes on whether or not to approve the project and grant or deny the CDP request.

Three policies in the Coastal Act are particularly relevant to proposed development at Pacific Shores. The first policy relates to environmentally sensitive habitat areas (ESHAs). Section 30240 of the Coastal Act requires that ESHAs be protected against significant disruption of habitat values, and that only uses dependent on those resources be allowed. This policy also requires that development in areas adjacent to ESHAs must avoid impacts that would significantly degrade those areas, and must be compatible with the continuance of the habitat area.ⁱⁱⁱ

The Pacific Shores subdivision is located in an area of pervasive ESHA's, and CDP applications for development in Pacific Shores may require substantial supplementary biological information to allow the Commission to determine whether or not the proposed development project is consistent with these requirements of the Coastal Act. Depending on the scope of the development and the characteristics of the site, a wetlands delineation and/or a biological assessment may need to be submitted as part of a CDP application. Typically, project applicants hire a consulting firm to perform these studies. Generally speaking, if a project is inconsistent with the ESHA policies (or any other policies) of the Coastal Act, the Commission either will

condition the permit to require changes to make it consistent with the policies, or if that cannot be done, will deny the project.

A second policy of the Coastal Act particularly relevant to development at Pacific Shores relates to fill in wetlands. Section 30233 of the Coastal Act states that diking or filling of wetlands is only allowed for eight very specific purposes, such as the development of commercial fishing facilities, or for restoration purposes. Residential use is not among the eight purposes for which diking and filling of wetlands is allowed. A development project that proposes the placement of fill in wetlands for residential use would not be consistent with this section of the Coastal Act.^{iv}

A third policy of the Coastal Act particularly relevant to development at Pacific Shores relates to the availability of public services and cumulative impacts on coastal resources. Section 30250 of the Coastal Act indicates that new residential development must be located in an area with adequate public services, including water and sewage disposal facilities. Sewage disposal facilities are especially problematic at Pacific Shores, because the presence of a very high water table in many cases precludes the use of septic systems. In addition, the Pacific Shores subdivision does not have a community-based sewer system or water system. An application for residential development at Pacific Shores must demonstrate that water supply and sewage disposal has been adequately addressed. This policy also indicates that new development must be located in areas where it will not have cumulatively significant adverse effects on coastal resources.^v

The three policies of the Coastal Act noted above are not the only policies against which a project is analyzed for consistency, but they are particularly relevant to development at Pacific Shores. Every person has a right to apply for a CDP for any development project, and Commission staff helps project applicants as much as possible to understand potential inconsistencies of the project with the Coastal Act, and to discuss project modifications that might eliminate such inconsistencies. It is our job to make sure that development is carried out in accordance with state coastal law. There are some development projects at Pacific Shores for which staff can recommend approval, and some for which staff must recommend denial because of inconsistency with the Coastal Act. But we often cannot determine what the staff recommendation is likely to be until we have a specific project description and all the relevant supplementary information submitted as a CDP permit application.

If you are considering performing development on a lot at Pacific Shores, we encourage you to discuss your plans with Commission staff as early as possible in the process. You can arrange for a pre-application meeting with staff to review the project and identify issues of concern.

How does Commission staff enforce development regulations?

Any development performed at Pacific Shores (or anywhere in the coastal zone) without first securing a CDP is a violation of the Coastal Act's permit requirements discussed above. All reports of alleged Coastal Act violations are independently confirmed by Commission staff before an enforcement action is initiated.^{vi} The Commission keeps the identity of persons reporting violations in confidential files.

Once a violation has been confirmed by Commission staff, we work with the violator to resolve the violation. There are two paths to resolution: the administrative path and the formal enforcement action path. An administrative resolution involves voluntary submission of a permit application to resolve the violation. Often, the submitted application is for removal of the

unpermitted development and restoration of the site to the condition it was in before the unpermitted development occurred. Any permit application submitted to resolve a violation must go through the same application procedure described above, including analysis for consistency with the Coastal Act, a public hearing, and a vote by the Commission.

Commission staff prefers to work with violators to resolve violations administratively, however, if a violation is not resolved voluntarily, formal remedies are available to the Commission.^{vii} The Executive Director of the agency can issue a temporary cease and desist order, valid for ninety days and requiring the violator to cease all unpermitted development activities. After conducting a public hearing, the Commission can issue permanent cease and desist orders, as well as restoration orders requiring removal of the unpermitted development and restoration of the site to the condition it was in before the unpermitted development occurred. Violation of either a cease and desist order or a restoration order can carry fines of up to \$6000 per day.

The Coastal Act also authorizes the superior court to impose liability for violation of the Coastal Act in an amount between \$500 and \$30,000. Knowing and intentional violation of the Coastal Act can carry liability between \$1,000 and \$15,000 per day for each day that the violation persists. In addition to these penalties, the Coastal Act authorizes exemplary damages.

Commission enforcement staff has recently opened several new violation cases for alleged unpermitted development activity on lots within the Pacific Shores subdivision. If you have unpermitted development on your property, we encourage you to contact Commission staff, so that we can work together towards resolving the situation. If you would like to report a suspected violation of the Coastal Act, please contact enforcement staff.

Who should I talk to if I have questions?

The permit analyst for the Pacific Shores subdivision is Jim Baskin. Please call Jim if you have any questions about what counts as development or how to apply for a permit. The enforcement staff member for the north coast area is Audrey McCombs. Please call Audrey to discuss any enforcement related issues. Both Jim and Audrey can be contacted at the North Coast District Office in Eureka, at (707) 445-7833. Additional information about the Commission and the permit process can be found on the Internet at www.coastal.ca.gov. Copies of the Coastal Act are available on-line at this site, or for \$10.00 from our office.

Notes

ⁱ **Section 30600(a)** ...[A]ny person...wishing to perform or undertake development in the coastal zone...shall obtain a coastal development permit.

ⁱⁱ **Section 30106** "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreation use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with section 4511).

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

^{iv} **Section 30233** (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource-dependent activities.

^v **Section 30250** (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...

^{vi} Sections 6254(f) and 6254(k) of the Public Records Act provide for exceptions to disclosure requirements in the case of law enforcement records. Please contact Commission enforcement staff if you have any questions about confidentiality.

^{vii} Coastal Act sections 30802 and 30803 discuss provisions for civil liability. Sections 30809, 30810 and 30811 discuss cease and desist orders and restoration orders. Section 30821 provides for penalties for violations of cease and desist or restoration orders. Finally, section 30822 discusses exemplary damages.