



SUBJECT SITE
DANA POINT
HEADLANDS

Vicinity Map

EXHIBIT#1a

Page 1 of 3

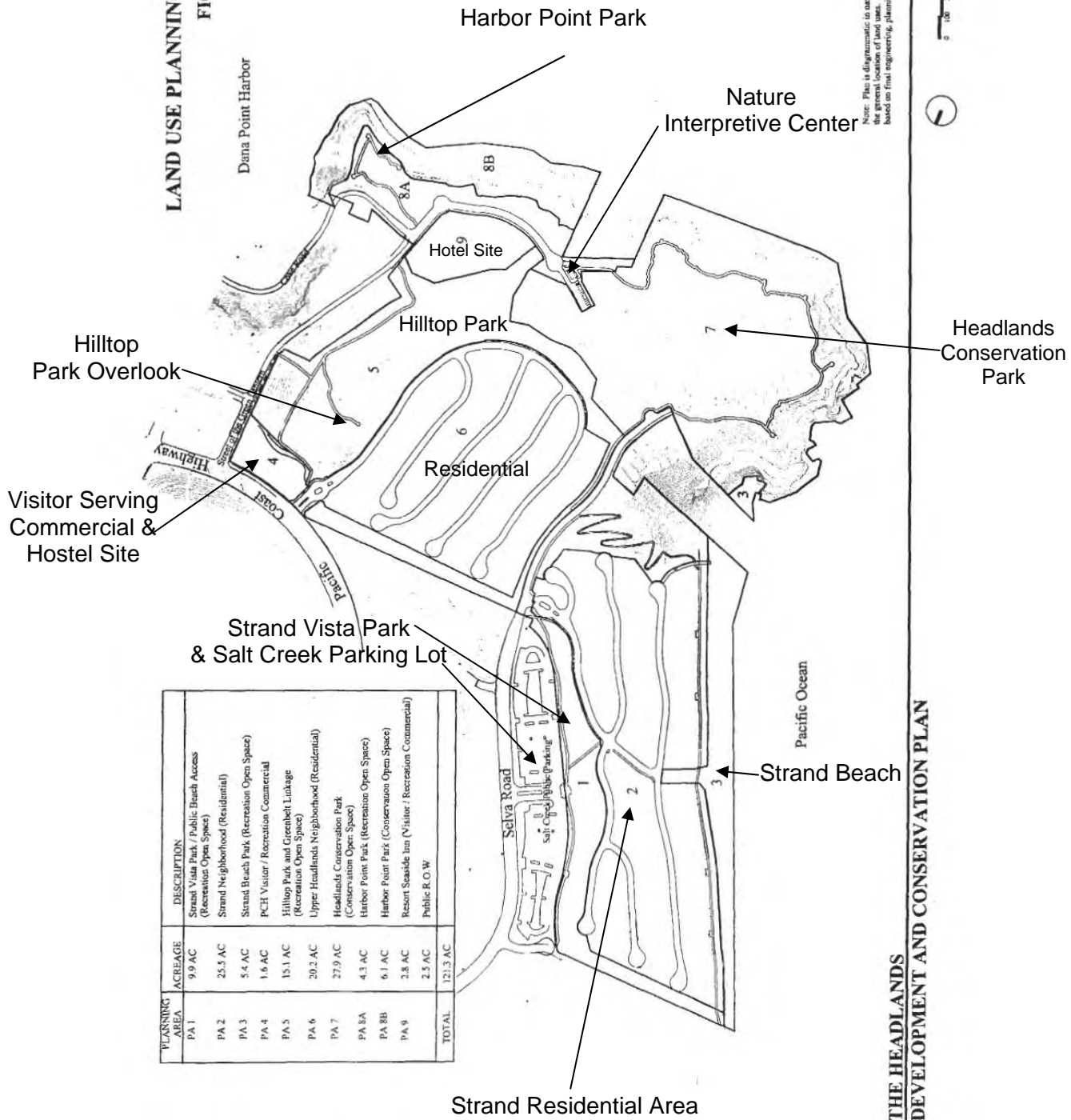
Application Number:

A-5-DPT-10-082

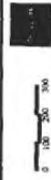


California Coastal
Commission

LAND USE PLANNING AREAS
FIGURE 4.3.1



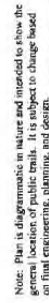
Note: This is a diagrammatic map and is intended to show the general location of land uses. It is subject to change based on final engineering, planning, and design.



**THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN**



FIGURE 4.5.11



Action Document A**ORDINANCE NO. 10 - XX****AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF DANA POINT, CALIFORNIA DECLARING
THE EXISTENCE OF PUBLIC NUISANCE CONDITIONS IN
THE VICINITY OF STRAND VISTA PARK AND
ORDERING THE PROHIBITION AND ABATEMENT
THEREOF BY AMENDING CHAPTER 13.04 OF THE
DANA POINT MUNICIPAL CODE SO AS TO ADOPT
OPERATIONAL HOURS AND ORDER THE
IMPLEMENTATION OF ENFORCEMENT DEVICES**

WHEREAS, City of Dana Point (the "City") City Council has been advised by Police Services and other staff that (1) public nuisance conditions exist at the Headlands project (the "Project"), and (2) the ability to close certain pedestrian access ways (the South Strand Switchback Access, the Mid-Strand Beach Access and the Central Strand Beach Access) during specified hours, as well as maintenance of gates and appropriate signage at these locations is necessary to abate these conditions;

WHEREAS, The California Coastal Commission (the "Commission") has asserted that (1) the City is presently unauthorized to restrict hours for public use of the Project pedestrian access ways because establishment of such hours constitutes "development" under the California Coastal Act for which the City would be required to obtain a Coastal Development Permit, and (2) gates restricting public use of the Mid-Strand Beach Access and Central Strand Beach Access are not authorized by the Coastal Act; and

WHEREAS, Division 20 of the California Coastal Act, Section 30005 provides, in pertinent part that no provision of the Coastal Act is a limitation on the power of any city to declare, prohibit, and abate nuisances; and

WHEREAS, City's City Council has previously declared that public nuisance conditions exist at the Project in the absence of nighttime closures of the access ways in question, and specifically the South Strand Switchback Trail, the Mid-Strand Beach Access, and the Central Strand Beach Access, as more fully set forth in Ordinance 09-05; and

WHEREAS, City's City Council desires to exercise the authority vested in it by Article XI, Section 7, of the California Constitution, and California Government Code Section 38771 (which power is specifically confirmed by Section 30005 of the Coastal Act), and leave no doubt that it has and hereby does declare nuisance conditions exist at the Project (as more fully described herein) and has and hereby does order that such

conditions be prohibited and abated by the implementation of closures, gates and signs (as more fully described herein); and,

WHEREAS, on March 5, 2010, the City received a notice from the Commission that, in order to avoid legal action, on or before April 2, 2010 the City is required to cease enforcing the hours of operation for the parks specifically closures of the Mid-Strand Beach Access, the Central Strand Beach Access and the South Strand Switchback Access as required by Ordinance 09-05, and further that the City must remove the pedestrian gates and signs located in the related area; and

WHEREAS, City's City Council finds and determines that based upon the facts presented to it by staff in the consideration of this matter (which information the Council has considered, has determined is accurate, and adopts as a basis for adopting this Ordinance), conditions exist which require the adoption of this Ordinance as an "urgency ordinance" such that it will be adopted and become effective immediately upon its introduction pursuant to Government Code Sections 36934 and 36937; and

WHEREAS, adoption of this Ordinance will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings related to public nuisances at the Headlands Parks including the South Stand Switchback Trail, Central Stand Beach Access and Mid-Strand Beach Access.

Based upon the staff report accompanying this matter and evidence presented to the City Council in connection with its consideration of this Ordinance, the City Council finds as follows:

1. Since construction began at the Headlands project, it has been a target of vandalism, graffiti, trespassing, loitering, and other unlawful activity.
2. The police calls for services at the Project are at an extraordinary level exceeding the level of calls with any other localized area in the City.
3. Persons are committing unlawful acts within the parks along the South Strand Switchback Trail, which constitute public nuisance conditions, including but not limited to loitering, trespass, drinking, graffiti, drug use and vandalism to area fences.
4. Persons are committing unlawful acts along the Mid-Strand Beach Access and Central Strand Beach Access and within the gated portions of the residential area of the Project, including but not limited to drinking, loitering, vandalism, graffiti, and trespass.

5. Persons are committing unlawful acts in the general vicinity of the South Switchback Trail, the Mid-Strand Beach Access, and the Central Strand Beach Access, including but not limited to loitering, drinking, drug use, vandalism, graffiti, and trespass, and, for all the reasons presented to the City Council during its consideration of this matter, in the absence of regulations closing the parks including these access points as provided in this Ordinance, gating the access points that traverse through the Headlands residential neighborhood, and utilizing signs to display the hours of operation for these facilities, such activities will occur and continue to occur unabated.

6. In the absence of the closure regulations, signage, and gates restricting public access during closures, all as specified by this Ordinance; and, due to the lack of physical barriers to keep members of the public on the Mid-Strand Beach Access and Central Strand Beach Access, unlawful activities such as trespassing, drug use, drinking, loitering, and vandalism, and theft of private property have occurred and will continue to occur upon the common areas, homes, and lots in the Headlands residential neighborhood. Moreover, these activities pose a substantial risk of injury to members of the public, and expose the City to liability and litigation costs.

7. In the absence of closure regulations, signs, and gates restricting public access during closures, all as set forth in this Ordinance, unlawful activities will occur within the parks including at the South Strand Switchback Trail and the general area of the Mid-Strand Beach Access and the Central Strand Beach Access, and sufficient recourses do not exist to allow for the type of Sheriff patrols which would be needed to combat these unlawful activities; moreover, a significant increase in the demand for and cost of police services will occur as a result of the enforcement activities that will be needed as the result of unlawful acts at the Project if closures do not occur and signs and gates do not exist as set forth in this Ordinance.

8. Public health, safety and welfare considerations are negatively impacted if the South Strand Switchback Trail is open for use by the public at night in as much as it is unlit and potentially unsafe for nighttime use, and is adjacent to Environmentally Sensitive Habitat Area which must be protected from light, noise, trespassing and other disturbances in order to preserve flora and fauna.

SECTION 2. Declaration of Public Nuisance due to Conditions Described in Section 1.

Based upon the staff report accompanying this matter and evidence presented to the City Council in connection with its consideration of this Ordinance, the City Council declares as follows:

The findings set forth in Section 1 above constitute a threat to the general health, safety and welfare of the entire community, as well as the Headlands neighborhood, and the conduct and activities described interfere with the interests of the community at large, and the comfort and convenience of the general public. Accordingly, the findings

in Section 1 above constitute public nuisance conditions which are to be prohibited and abated as set forth in this Ordinance.

SECTION 3. *Order for prohibition and abatement of public nuisance conditions.*

Based upon the staff report accompanying this matter and evidence presented to the City Council in connection with its consideration of this Ordinance, the City Council hereby finds, determines, orders and declares as follows:

1. The public nuisance conditions declared to exist in Section 1 hereof are to be prohibited and abated by the implementation of hours of operation for the parks and the South Stand Switchback Trail and the placement of signage advising the public of such hours of operation, as more fully set forth in Section 6 hereof. The closure between sunset and sunrise is deemed to be reasonable and necessary to accomplish the prohibition and abatement of the aforesaid nuisance conditions. While signs are to be utilized as set forth herein, City staff is directed to continue to work with the Commission to endeavor to address its concerns regarding appropriate language to be included on such signs.

2. The public nuisance conditions declared to exist in Section 1 hereof are to be prohibited and abated by the implementation of hours of operation for the Mid-Strand Beach Access and the Central Strand Beach Access, and the use of signs and gates, as more fully set forth in Section 6 hereof. The hours of operation as set forth in Section 6 and the resulting closure hours are deemed to be reasonable and necessary to accomplish the prohibition and abatement of the aforesaid nuisance conditions. The Council specifically finds that it is reasonable and necessary to have clear and objective closing times and signage in order to both prohibit and abate the nuisance conditions in question and to deal with practical considerations related to the use of gates, which it deems essential to nuisance prohibition and abatement. While signs are to be utilized as set forth herein, City staff is directed to continue to work with the Commission to endeavor to address its concerns regarding appropriate language to be included on such signs.

SECTION 4. *Findings related to Public Access*

Although not relevant to a public nuisance determination and order of abatement, the Council specifically finds and determines that the implementation of this Ordinance will not impact, impede, or otherwise change the intensity of public access to Strand Beach since: (i) to ensure unrestricted public access during the operating hours when the Mid-Strand Beach Access and Central Strand Access are open, this Ordinance will require that the gates at issue be locked open, and (ii) since a newly improved, lighted County stairway exists in close proximity to the South Strand Switchback Trail, the Mid-Strand Beach Access, and the Central Strand Beach Access, and will continue to provide access to Strand Beach during such hours when the County allows public use and access to Strand Beach and the City's trails are closed. The Council notes that to ensure the public is aware of alternate access points when the Mid-Strand Beach

Access and Central Strand Beach Access are closed, signs at the easterly gates on the Mid-Strand Beach Access and Central Strand Beach Access point out the alternate routes provided via the South Strand Switchback Trail and the County stairway -- as well as their respective hours of operation (sunrise until sunset, and 5:00 a.m. until Midnight, respectively.)

SECTION 5. Findings related to adoption of this measure as an urgency ordinance.

Based upon the staff report accompanying this matter and evidence presented to the City Council in connection with its consideration of this Ordinance, the City Council finds and determines as follows:

1. Data presented by City staff demonstrates that reports of unlawful activity in and around the Headlands Parks, the Mid-Strand Beach Access, the Central Strand Beach Access, the residential areas of the Project, and the South Strand Switchback Trail have greatly increased since the opening of Strand Vista Park and the above noted trails in January, 2010.

2. As warmer weather approaches, public visits to the Strand Vista Park and the above noted trails are expected to further significantly increase. Spring Break commences on April 2nd, the same date as the Commission staff is demanding that the City cease enforcing closures and remove the gates and signs in question.

3. The City will have an influx of activity at the beach as a result a significant increase of beach activity by young people will coincide with Spring Break, and this will result in an increase of both actual incidents, and opportunities for incidents of illegal activities (such as trespassing, graffiti, and vandalism), particularly during hours during which City enforcement resources are limited, such as evening, nighttime and early morning hours.

4. Removal of the gates and signs, and cessation of enforcement of closures of the parks and trails in question, would create unrestricted, unlit, access to the general public, including underage individuals looking for places to loiter, drink, "party" and engage in other unlawful acts.

5. In the absence of the gates in question and signage, the residential area abutting the Mid-Strand Beach Access and Central Strand Beach Access presents a significant opportunity for unlawful activity, which is increased due to the occurrence of Spring Break.

6. Based on the level of police activity already occurring at the site, the combination of removing gates and signage, the cessation of enforcement of the existing closure hours, and the introduction of Spring Break would result in a significant negative impact on public safety, and the level of unlawful activity at the Project under these conditions is likely to create an immediate threat to public health, safety and welfare.

7. This ordinance must be adopted on an urgency basis so as to ensure it becomes effective prior to Spring Break so that the nighttime closures and gates in question can remain in place during that period; and, since absent such action significant public nuisance conditions will exist during Spring Break for all the reasons noted in above, as well as those and presented to the Council during its consideration of this matter.

8. This ordinance must be adopted on an urgency basis so as to ensure it becomes effective prior to April 2, 2010, in order to: (i) allow the City to ensure that a clear means to prohibit and abate the identified public nuisance conditions exists which abatement process will unquestionably comply with the Coastal Act; and (ii) at the same time enable the City to achieve the important goal of eliminating the risk of unnecessary, expensive litigation with the CCC that would otherwise exist as of April 2nd.

9. Each of the recitals to this Ordinance is true and correct, and, pursuant to Government Code Section 36937(b), the adoption this Ordinance is required for the immediate preservation of the public health, safety, and welfare.

SECTION 6: The text of Title 13, Chapter 13.04, Sections 13.04.030 (h) and (g) of the City's Municipal Code are hereby amended so as to read in their entirety as follows:

(h) Mid-Strand Beach Access and Central Strand Beach Access will be open from 8:00 a.m. to 7:00 p.m. from May 1st through September 30th, and from 8:00 a.m. to 5:00 p.m. the rest of the year. Gates which can be locked in the open position, as presently existing on the Mid-Strand Beach Access and Central Strand Beach Access, shall be maintained and utilized to control pedestrian access to the Mid-Strand Beach Access and Central Strand Beach Access, so as to limit such access to operating hours. Said gates shall be locked open during such hours as the Mid-Strand Beach Access and Central Strand Beach Access are open. Signage advising the public of the above hours of closure, as well as the alternative access ways to the beach, shall be posted at or near the above noted gates at all times.

(g) Strand Beach Park and South Strand Switchback Trail will be open from sunrise to sunset throughout the year. Signage advising the public of the hours of closure applicable to South Strand Switchback Trail, as well as the alternative access ways to the beach, shall be posted at or near the access points to said trail at all times.

All text of Title 13, Chapter 13.04, which remains unchanged by this Ordinance, including specifically text adopted by the passage of Ordinance 09-05, is hereby readapted and reaffirmed, and the entirety of the text (as amended hereby) is deemed to be necessary to prohibit and abate public nuisances that would otherwise exist. All ordinances and provisions of the Dana Point Municipal Code and sections thereof

inconsistent herewith shall be repealed to the extent of such inconsistency and of no further force or effect.

SECTION 7: This urgency ordinance is enacted pursuant to the authority conferred on the City Council of the City of Dana Point by Government Code Sections 36934 and 36937, and shall be adopted, enacted and in full force and effect immediately upon its introduction and approval by a four-fifths vote of the City Council.

SECTION 8: If any section, subsection, subdivision, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Ordinance or any of the remaining portions hereof. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 9: The City Clerk shall certify the passage of this Ordinance and cause it to be published as required by law.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2010.

STEVEN H. WEINBERG, MAYOR

ATTEST:

KATHY M. WARD, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy M. Ward City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. ____ was adopted on an urgency basis at a regular meeting of the City Council on the _____ day of _____, 2010, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

I KATHY M. WARD
CITY CLERK

Supporting Document B

ORDINANCE NO. 09-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTER 13.04, PARKS AND RECREATIONAL FACILITIES REGULATIONS, OF THE MUNICIPAL CODE TO ADDRESS THE NEW PARKS AND FACILITIES IN THE CITY INCLUDING SEA TERRACE PARK AND THE DANA POINT HEADLANDS AND IN SUPPORT OF THE MARINE PROTECTED AREAS.

WHEREAS, the City of Dana Point ("City") has determined that Chapter 13.04 of the Dana Point Municipal Code needs to be amended to address the new parks and facilities at the Dana Point Headlands, Sea Terrace Park and support of the Marine Protected Areas.

THE CITY COUNCIL OF THE CITY OF DANA POINT DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 13.04.020 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

13.04.020 Definitions.

The following words shall have the meaning indicated when used in these regulations:

- (a) "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer and every liquid or solid containing one-half of one (0.5) percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
- (b) "Amplified sound" means music, sound wave, vibration, or speech projected or transmitted by electronic equipment, including amplifiers.
- (c) "Park" means any community park, neighborhood park, conservation or recreational area maintained by the City. (Ord. 94-12, 8/23/94)
- (d) "Natural Open-Space" consists of Hilltop Park, Harbor Point Park and the South Strand Open Space as defined in the conservation easement approved by the City on November 30, 2005 and other conservation areas as may be designated by the City Council.

SECTION 2. Section 13.04.030 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

Ordinance No. 09-05
Page 2

13.04.030 Hours of Use.

It shall be unlawful for any person to enter, loiter or remain in any park at any time between the hours of 10:00 p.m. and 6:00 a.m. or in any City building between the hours of 11:00 p.m. and 6:00 a.m. except as follows:

- (a) City employees or agents and peace officers when engaged in official business;
- (b) Persons with permits issued by the City Council or the City Manager or his/her designee;
- (c) Persons and/or spectators participating in City-sponsored or City-approved programs which take place outside posted hours of operation;
- (d) Shipwreck Park will be closed at sunset throughout the year;
- (e) Hilltop Park and Harbor Point Park will be open at 7:00 a.m. and closed at sunset throughout the year;
- (f) The Nature Interpretive Center is considered part of Harbor Point Park; therefore all municipal codes for the Harbor Point Park also apply to the facility and parking lot of the Nature Interpretive Center, with the exception of hours of operation for the facility and parking lot which will be open Tuesday-Sunday (closed on Monday) from 10:00 a.m. to 4:00 p.m.
- (g) Strand Beach Park and South Strands Switchback trail will be open from sunrise to sunset throughout the year;
- (h) Mid/Central Strand Beach Access will be open from 8:00 a.m. to 7:00 p.m. from Memorial Day through Labor Day, and from 8:00 a.m. to 5:00 p.m. the rest of the year;
- (i) Strand Funicular Beach access will be open daily from sunrise to sunset from Memorial Day through Labor Day; and, from sunrise to sunset on weekends and holidays the rest of the year.

SECTION 3. Section 13.04.050 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

13.04.050 Care of Natural Resources.

- (a) It shall be unlawful for any person to damage, cut, carve, transplant or remove any tree, plant, algae, wood, turf in a park, or pick the flowers, seeds or fruit of any tree or plant in a park without written authorization from the City Manager or designee. (Ord. 94-12, 8/23/94)
- (b) It shall be unlawful to take, possess or disturb specimens of live or dead organisms from any Natural Open-Space or the Marine Protected Areas

Ordinance No. 09-05
Page 3

set aside for conservation within city limits other than those deemed permissible by the U.S. Fish and Wildlife or the California Department of Fish and Game with appropriate permits or licenses or written authorization from the City Manager or designee.

- (c) No person shall willfully injure, destroy or alter the Natural Open-Space of the Headlands and the Marine Protected Areas within city limits.
- (d) It shall be unlawful for any person to disturb, take or injure geological or cultural resources within the Dana Point Headlands open space recreational parks and Natural Open-Space.

SECTION 4. Section 13.04.055 of the Dana Point Municipal Code is added to read in its entirety as follows:

13.04.055 Trespassing in Natural Open-Space Areas.

It shall be unlawful for any person to leave the designated trail and trespass on protected habitat without consent from the Natural Resources Protection Officer or written authorization from the City Manager or designee in the Hilltop Park, Harbor Point Park and South Strand Switchback Trail's Natural Open-Space.

SECTION 5. Section 13.04.065 of the Dana Point Municipal Code is added to read in its entirety as follows:

13.04.065 Throwing Items in Headland Recreational and Conservation Parks.

It shall be unlawful for any person to throw any item (e.g. rocks, bottles, other refuse, trash or litter) in the Hilltop Park, Harbor Point Park, South Strand Switchback Trail, Strand Beach Park including the revetment trail, Mid/Central Strand Access Trail and the Funicular Beach Access.

SECTION 6. Section 13.04.095 of the Dana Point Municipal Code is added to read in its entirety as follows:

13.04.095 Pets in the Headland Recreational and Conservation Parks.

It shall be unlawful for dogs, with the exception of service dogs, or any other pet to be on the trails or in the park at Hilltop Park, Harbor Point Park, South Strand Switchback Trail, Strand Beach Park including the revetment trail, Mid/Central Strand Access Trail and the Funicular Beach Access.

SECTION 7. Section 13.04.130 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

Ordinance No. 09-05
Page 4

13.04.130 Bicycles, Skateboards, Rollerblades and Similar Items.

It shall be unlawful for any person to bicycle, skateboard, rollerblade or use a similar item of any type on tennis courts, handball courts, ball diamonds, patios, porches, play apparatus areas, and all other areas which are not designed or customarily used for such a purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or path reserved for pedestrian use. (Ord. 94-12, 8/23/94; amended by Ord. 06-07, 9/13/06)

It shall be unlawful for any person to bicycle, skateboard, rollerblade, or use a similar item of any type on the trails or on any other area of Hilltop Park, Harbor Point Park, South Strand Switchback Trail, Strand Beach Park including the revetment trail, Mid/Central Strands Access Trail and the Funicular Beach Access.

It shall also be unlawful for any person to skateboard or rollerblade in Sea Terrace Park

SECTION 8. If any Section, Subsection, Subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each Section, Subsection, Subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more Sections, Subsections, Subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 9. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 11th day of May, 2009.



LISA A. BARTLETT, MAYOR

ATTEST:



KATHY M. WARD, CITY CLERK

Ordinance No. 09-05
Page 5

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, Kathy M. Ward, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 09-05 introduced at a regular meeting of the City Council held this 13th day of April, 2009, and passed and adopted at a regular meeting held 11th day of May, 2009, by the following roll call vote:

AYES: Council Members Anderson, Schoeffel, Mayor Pro Tem Weinberg,
 and Mayor Bartlett

NOES: None

ABSENT: None

RECUSE: Council Member Bishop

(SEAL)


KATHY M. WARD, CITY CLERK

CALIFORNIA COASTAL COMMISSION

APR 05 2010

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 590-5084

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Vonne Barnes

Mailing Address: 13 Montilla

City: San Clemente

Zip Code: 92672-6250

Phone: (949)498-6650

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Dana Point

2. Brief description of development being appealed:

Placement of gates and signs restricting public beach access,, establishment of "hours of operation" limiting public beach access,

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Dana Point Headlands-Strand Beach accessways City of Dana Point, County of Orange

4. Description of decision being appealed (check one.):

- ☒ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:	
APPEAL NO.	A-5-DPT-10-082
DATE FILED	April 5, 2010
DISTRICT	South Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Unpermitted Development and regulation of restricted hours and use of public beach accessways Development that is inconsistent with the LCP, HDCP and Coastal Act, Abuse of Power by intentionally circumventing the Coastal Act & Coastal Commission with an Urgency Ordinance that has no evidence of "unlawful activities" at the Strand Vista Park, the Mid Strand Vista Park Access, or the Central Strand Vista Park Access.

City Governments must not be allowed frivolous use of Urgency Ordinance as a tool to circumvent the Coastal Act. This will set a precedent for repeat abuse of public right of access to the beach. Other coastal cities and will use nuisance abatement & Urgency Ordinances to evade authority of the Coastal Commission. This will weaken the power of the Coastal Act and authority of the Coastal Commission to protect public access to the beach.

This abuse of power by the city municipality is a direct attack on the general health and well being of the public who seek peace and enjoyment at Dana St. and Beach [see attached]

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: March 22, 2010

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Headlands, LLC 2849 Del Prado, Dana Point, CA 9262902853 and/or City of Dana Point, 33282 Goldern Lantern, CA 92629

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

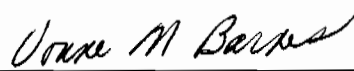
(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: 3/30/2010

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

_____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

SOUTH COAST DISTRICT (Orange County) City of Dana Point
RE: APPEAL• Urgency Ordinance Declaring Nuisance Conditions in Vicinity of Strand
Vista Park, Dana Point Headlands, March 22, 2010, Dana Point City Council
[Local Coastal Program Amendment LCPA07-02, General Plan Amendment GPA07-02, Coastal
Development Permit CDP04-23(I), and Site Development Permit SDP04-69(I)]

**Re: Imposition of Strict Hours, Gates, and Fences Restricting Public Beach Access at
Strand Vista Park, Mid Strand Access and Central Park Access**

March 30, 2010

Coastal Commissioners and Enforcement Officers,

On March 22, 2010 the Dana Point City Council approved an Urgency Ordinance to restrict hours and impose locking gates at Strand Vista Park, the Mid Strand Vista Park Access (MSVPA), and the Central Strand Vista Park Access (CSVPA). The restrictions were imposed without obtaining a Coastal Development Permit from the Coastal Commission. The restrictions violate a contract agreement that has been made between the city of Dana Point and the state of California, and constitute a breach of trust and abuse of power.

This frivolous use of nuisance abatement to justify Urgency Orders must not be permitted to circumvent the Coastal Act. If the city is allowed to restrict public access outside the authority of the Coastal Commission, there is nothing to stop the City from further frivolous restrictions in the future. It will set a precedent for other local governments to do the same thing, and the Coastal Commission will lose authority to protect the public right of access to the beach. Procedures for the permit process are clearly referenced on pages 53 and 55 of the HDGP in Section 3.

Dana Point's Urgency Ordinance is based on flawed, inaccurate, and incomplete police "evidence" that does not support the City staff findings. The Urgency Ordinance circumvents provisions of the Coastal Act that protect public beach access under authority of the Coastal Commission. Furthermore, the Urgency Ordinance benefits wealthy residents who live in a gated enclave that has 24/7 beach access, and restricts beach access to less affluent members of society.

In approving the Urgency Ordinance without substantial supportive evidence, the City of Dana Point appears to have violated the California Environmental Quality Act (CEQA) and Guidelines, the City's local CEQA Guidelines (Municipal Code 9.01.060), the Land Use Element in the Environmental Impact Report Addendum (EIRA), and the Coastal Act.

Since there is no substantial evidence to support any unlawful activities at Strand Vista Park, the MSVPA, or the CSVPA, it appears the City also acted in violation of the LCP where it states: "Public access shall be implemented in a manner that takes into account the need to regulate the time... depending on the **facts** and circumstances in each case ..." (HDGP, Section 5.0, Coastal Act Consistency, Table 5.1, pg. 5-4)

Restrictions in the Urgency Ordinance cause negative impacts on three of the project's most significant direct public access routes to Dana Strand Beach: the Mid Strand Vista Park Access (MSVPA); the Central Strand Access (CSVPA); and Strand Vista Park that includes the SBPLA. Other beach routes that connect to the MSVPA and CSVPA, such as the Lateral Revetment Walkway, are also negatively impacted and similarly restricted.

Restricting the MSVPA is Significant

The MSVPA is the shortest, access route to the beach open year round, and it is the only pedestrian access from the center of the County Parking lot to Central Strand Beach. Restricting the hours of the MSVPA to 9 hours per day, 3,285 hours per year, is the equivalent of closing it for 5,475 hours per year. **This adds up to 228 days of closure per year!**

Closing the MSVPA for 228 days is a significant change that diverts the public away from the shortest pedestrian route to Central Strand Beach. Beach users will be redirected from the MSVPA by a posted sign instructing them to use the alternate North Strand Access or South Strand Access. Either choice substantially increases the time and distance it takes to get to the beach, especially Central Strand Beach. North and South Strand Access will also experience more use and higher density. Both routes will become crowded.

To get to Central Strand Beach from the sign posted at the MSVPA, pedestrians will have to trek 1600 feet to the South Strand Access, 1600 feet down the trail, and 1000 ft up the beach — a total of 4200 feet! **[Map, Exhibit A]** Fourteen football fields is a significant distance to carry coolers, toddlers, beach umbrellas and beach toys to get to Central Strand Beach. It will be too hard for many families to get to Central Strand Beach, and they will not go there.

Likewise, the distance from the MSVPA to Center Strand Beach using the North Strand Access is 3100 feet or 10.3 football fields **[Exhibit A]**. This is also an unacceptable alternative because it will require too much effort to carry beach accessories the long distance to Central Strand Beach.

The “free” funicular “200 yards” away does not mitigate restricting the MSVPA because it is closed 203 days per year. Many families who follow the instructions posted on the sign will carry their belongings 1000 ft northeast to the funicular only to find that it is closed. Moreover, the distance of “200 yards” on the sign is incorrect **[Exhibit B]**. The distance to the funicular is 1000 feet away —more than 300 yards away, or the equivalent of 3.3 football fields! **[Exhibit A]**.

Restricting the MSVPA will decrease public use of Central Strand Beach, and subsequently increase use of the North and South Strand Beach. The balance of beach use will be negatively impacted, and it will be crowded at North and South Strand Beach.

Restricting the MSVPA will also polarize vehicular parking at the North and South ends

of the County lot, decrease parking density in the center, and increase the parking demand and traffic along Selva Rd in order to park closer to the South Strand Access. The balance of traffic and parking will encounter negative impacts by the restrictions on beach access.

Reducing hours and locking gates at the MSVPA also denies maximum enjoyment of the view and recreational opportunities at the Mid Strand Vista Park. It restricts enjoyment of ocean views, and use of amenities along the pathway such as picnic tables, overlooks, ocean view rest areas, for viewing of dolphins and whales, birds, ESHA, and access to the Lateral Revetment Walkway and benches along the top of the rock protective device.

The MSVPA is the key connector to the integrated trail system and if it is restricted, all of the other links in the system are restricted. It is also the key to all of the public amenities along the trail system such as ocean view opportunities, picnic tables, and rest areas. The MSVPA invites and encourages maximum use of the accessways, beach and other public facilities. All of these key Design Plan elements and Land Use elements are permanently restricted by the Urgency Ordinance.

Significant uses and provisions of the MSVPA in the LCP, HDCP, and EIRA that are restricted by the Urgency Ordinance include the following:

- The MSVPA provides dramatic coastal access and view opportunities from its unique site in an active park (Resolution No. 04-09-22-03, Exhibit A, "Implementation Plan *et al*," Design Concept; HDCP Section 2, Figure COS -51; Headlands Coastal View Opportunities, p. 65).
- The MSVPA is a major feature of Strand Vista Park and is the only key link from the center of the public parking lot to the integrated trail system (Resolution No. 04-09-22-03, Exhibit A, Implementation Plan *et al*," Design Concept).
- The MSVPA is significant "to the integrated trail system in terms of its prime center parking lot access location, spectacular 180 degree ocean view opportunity, park recreational activities, open space, and direct beach access from the center of the public parking lot" (Resolution No. 04-09-22-03, Exhibit A, pp. 43 ¶ 162 Access Modify Figure 4.4.10, 45 ¶ 169 Access Figure 4.5.2, ¶ 170 Access Figure 4.5.3).
- The MSVPA implements the Project Goal to "design all public beach accessways and surrounding development in a manner that conspicuously invites and encourages maximum public use of the accessways, beach and other public facilities"(HDCP p.33).
- The MSVPA implements the Project Design by providing a new access connection from the County parking lot to the Central Strand Beach Access (EIRA, pp. 2-17, 3-27, 3-30, A-56).

- The MSVPA encourages public access use via close proximity to the proposed visitor recreation facilities, Trail Plan, beach pathways, and pathway paralleling Strand beach along the top of the shoreline protective device (EIRA, p. 3-29).
- The MSVPA, an “eight foot wide walkway” of “moderately high use” provides “substantial and significant direct beach coastal access opportunities, park recreational facility opportunities, and dramatic coastal access view opportunities” (Resolution No. 04-09-22-03, Exhibit A, p. 39, § 161m (10), p. 40-41 §11, HDCP p. 21).
- The 500+ parking spaces in the County Parking Lot adjacent to the MSVPA, invites and encourages maximum public use of the MSVPA.
- The MSVPA is the quickest and most proximate route to the beach during nine months of each year when the funicular is closed, when the funicular breaks down, and when the County steps are closed for up to one year during reconstruction (EIRA pp. 3-24, 3-18, 3-27).
- The MSVPA is the shortest access to the pathway on top of the revetment, which runs lateral to the beach across the project (HDCP Figures 4.415, 4.416);
- The MSVPA is the “gateway” to connect the center of the County public parking lot to the Central Strand Beach Access; (EIRA pp. 3-27, 3-29, 4-10, A-59, A-50, A-56, A-59); (HDCP p. 4-10), EIRA, Chapter 3, Project Modifications # 161, p. 3-27. #167 p. 3-29) .
- The MSVPA features sign opportunities to “Define public access and increase public education through signage...”(HDCP, Section 4.0,pg. 4-120).
- The MSVPA is defined as Recreational Open Space (HDCP Section3, p 3-32, Table 3.4.5, Recreation Open Space and Conservation Open Space Designations).
- Strand Vista Park features sign opportunities to “Define public access and increase public education through signage...”(HDCP, Section 4.0,pg. 4-120).
- The Strand Vista Park “improves public access to the Coast” EIRA Section 2, p. 2-7).
- Public Trail/Access Plan, Figure 4.5.1, HDCP Section 4, pg. 4-46.
- Coastal Access Plan, Figure 4.5.2, HDCP, Section 4, pg. 4-47.
- Coastal View Opportunities, Figure 4.5.3, HDCP, Section 4, p. 4-48.

Restricting Strand Vista Park is Significant

Strand Vista Park stretches along the bluff top above Strand Beach for an approximate length of 1/3 mile. It reaches from the North Strand Beach Access at one end and ends at the Veteran's Park at the other. It has a user -friendly sidewalk running all the way through it called the Strand Beach Park Lateral Access (SBPLA). The park features ocean view overlooks, rest areas and picnic tables, grass seating areas. It also provides direct access to 4 major beach access routes: North Strand beach Access, the funicular, Mid Strand Beach Access, and Central Strand Beach Access.

Strand Vista Park is the gateway to the MSVPA and a key connector to the CSVPA, and integrated trail system. Restrictions on Strand Vista Park restrict all of the other links in the integrated trail system. It is also a key to all of the public amenities along the Strand Beach Park Lateral Accessway such as ocean view opportunities, picnic tables, and rest areas. It provides direct access to the funicular and North and South Beach.

Restricting hours at Strand Vista Park limits public access to all 4 of the connected beach access routes. To enforce "sunset to sunrise" hours, the City may decide to construct gated fencing around Strand Vista Park. This will "lock" the public out of the park amenities and connecting beach accessways. The city may also increase restrictions by reducing hours of access to the Strand Vista Park, SBPLA, MSVPA, and CSVPA. All of these significantly decrease access to the beach, particularly Central Strand Beach.

Pedestrians will have to use the North and South Strand Access. The balance of beach use will be negatively impacted, and it will be crowded at North and South Strand Beach. . North and South Strand Beach will have more use, and Central Strand Beach will have less.

Restricting the MSVPA will also polarize vehicular parking at the North and South ends of the County lot, decrease parking density in the center, and increase the parking demand and traffic along Selva Rd in order to park closer to the South Strand Access. The balance of traffic and parking will encounter negative impacts by the restrictions on beach access.

Strand Vista Park invites and encourages maximum use of the accessways, beach and other public facilities. All related key Design Plan elements and Land Use elements are permanently restricted by the Urgency Ordinance.

Significant uses and provisions of the Strand Vista Park in the LCP, HDCP, and EIRA that are restricted by the Urgency Ordinance include the following:

- Strand Vista Park "... shall accommodate two Strand Beach vertical public beach access paths(one of which will branch off to provide a connection to the mid-point of the County Strand beach parking lot" (HDCP p. 29, Urban Design Element pps. 16-17, Figure UD-2, p. 32).

- Strand Vista Park provides "...safe coastal view opportunities... and a lateral public accessway with picnic tables and benches , near bench level, seaward of the Strand residential development..." HDCP p. 32, Urban Design Element p. 58
- "Strand Vista Park, which overlooks Strand Beach will create and link several coastal accessways and provide visitor amenity and public recreation opportunities." HDCP, Section 1 pg. 21, Land Use Element pg. 47-48.
- Strand Vista Park features sign opportunities to "Define public access and increase public education through signage..."(HDCP, Section 4.0,pg. 4-120).
- Strand Vista Park provides one of the "...areas of highest scenic resources or biotic resource value and shall be designated for public open space" (HDCP p. 59 Conservation and Open Space Element, p. 35).
- Strand Vista in Planning Area 1 is recreational open space /public beach access (HDCP Section 4, Figure 4.3.1, Land Use Planning Areas p. 4-10).
- Strand Vista Park is one of the... "five major parks/public beach access within the comprehensive trail system that reinforces the relationship between the project site, the Harbor, and the Pacific Ocean" (HDCP, Section 4. p. 4-14, Figure 4/4/1, Park and Open Space Plan, p. 4-15, EIRA, Section 3 # 174, #175, p. 3-30).).
- Strand Vista Park Public Beach Access Conceptual Plan, Figure 4.4.10, HDCP Section 4 p. 4-33.
- Strand Vista Park Prototypical Trail Section, Figure 4.4.11. HDCP, Section 4, p. 4-36.
- Strand Vista Park Public Beach Access Conceptual Overlooks, Figure 4.4.12, HDCP, Section 4, p. 4-37.
- Table 4.5.4 Strand Vista Park/Public access (9.9) Acres public Access Program Guidelines, HDCP, Section 4, p.4-53).
- Strand Vista Park open space provides "... public amenities, such a visitor-serving facilities, lookouts, parking, kiosks, signage, benches, picnic tables, trails, ... and related recreational amenities" p. 60, Conservation and Open Space Element, p. 36, Figure COS-5a, Healands Coastal View Opportunities, HDCP p. 6).
- "The public trails and overlooks in the Strand Vista Park shall be open to the public year-round.

- Strand Vista Park Land Use is Open Space/Recreational with "... coastal access and direct links to the HDCP integrated trail system. Strand Vista Park shall contain a variety of public walkways, overlooks, sitting and resting areas, picnicking, landscaping and other design elements. It provides dramatic views of the beach, ocean, and distant coastline. The location complements the public Orange County parking lot, currently under utilization year round" (HDCP Section 3, p 3-32, Table 3.4.5, Recreation Open Space and Conservation Open Space Designations).

- Coastal View Opportunities, Figure 4.5.3, HDCP, Section 4, p. 4-48.

Restricting Central Strand Vista Park Access is Significant

Central Strand Vista Park Access (CSVPA) is located at the south end of the Strand Beach Park Lateral Access (SBPLA) where it connects to the Veteran's Park. The entrance to the CSVPA is hidden behind a thick grove of densely packed trees and shrubs and hard to see from circular seating around the Veteran's Park flagpole and from Selva Rd. Once you discover the entrance, it is convenient to enjoy the Veteran's Park and then take a walk along the CSVPA to the beach.

This public access has fewer steps than any of the other access routes, and it affords a pleasant walk on a sidewalk along Oceanfront Lane to Central Strand Beach. Restricting use of the CSVPA limits use of the picnic tables near the exit to Central Strand Beach and reduces the time that can be spent enjoying Central Strand Beach. The CSVPA connects to the Lateral Revetment Walkway, which in turn connects to the North and South Access routes. The CSVPA also connects to the MSVPA to provide a varied pathway up to Central Strand Vista Park to rest areas, overlooks and picnic tables. All of these interconnecting access pathways and associated amenities are limited by restricting the CSVPA.

Visitors will be restricted from being able to enjoy peaceful moments at Veteran's Park followed by a convenient walk to the beach via the CSVPA. They will have to walk 600 feet (2 football fields) up Selva Rd. to the closest beach entrance, which is South Strand Beach Access (SSBA). The SSBA is a 1600 ft (5.3 football fields) long hiking trail that exits at South Strand Beach. Central Strand Beach is an additional 1000 ft (3/3) football fields further **[Exhibit A]**. Because this is such a long walk, visitors may choose to get back in their car to try to find a parking space on Selva Rd that is closer to the entrance to this Switchback Hiking Trail.

The other alternate route is the North Strand Beach Access which is 1/3/ miles away from the CSVPA. Visitors may choose to get back in their cars to drive to the opposite end of the County Parking Lot rather than walk that far. If they take the 900 ft North Strand Beach stairway that exits at North Strand Beach, they will have to walk an additional 1200 feet to reach Central Strand Beach **[Exhibit A]**.

Restricting the CSVPA will polarize vehicular parking at the North and South ends of the County lot, decrease parking density in the center, and increase the parking demand and traffic

along Selva Rd in order to park closer to the South Strand Access. The balance of traffic and parking will encounter negative impacts by the restrictions on beach access.

The CSVPA invites and encourages maximum use of the accessways, beach and other public facilities. All related key Design Plan elements and Land Use elements are permanently restricted by the Urgency Ordinance.

Significant uses and provisions of the CSVPA in the LCP, HDCP, and EIRA that are restricted by the Urgency Ordinance include the following:

- The CSVPA is designed”... to encourage maximum public use of the accessways, beach and other public facilities” (HDCP Section 1, p. 32, Urban design Element p. 58).
- The CSVPA provides “unobstructed public pedestrian and bicycle access through the Strand residential development to the Central strand Beach Access point” (HDCP p. 58, Conservation and Open Space Element, Table COS 4, p. 25).
- “Located adjacent to the Strand Residential Neighborhood Entry, the Central Strand Beach Access provides public access from the Strand Vista Park, through the Strand Residential Neighborhoods(Planning Area 2), to the Strand Beach Park(Planning Area 3). The entryway and path shall be designed to conspicuously invite public use of the public accessway” (HDCP Section 3, p 3-33, Table 3.4.5, Recreation Open Space and Conservation Open Space Designations).
- “ The CSVPA (new) creates direct public access from the Strand Vista Park to Strand Beach. This access traverses through the Strand Residential neighborhood in Planning Area 2” (HDCP, Section 4, Development Guidelines, p. 4-9).
- Central Strand Beach Access Conceptual Plan, Figure 4.4.15, HDCP, Section 4, p. 4.42.
- Central Strand Beach Access Conceptual Plan, Figure 4.4.16 HDCP, Section 4, p. 4.43.
- Public Trail/Access Plan, Figure 4.5.1, HDCP Section 4, p. 4-46.
- Coastal Access Plan, Figure 4.5.2, HDCP, Section 4, p. 4-47.
- Coastal View Opportunities, Figure 4.5.3, HDCP, Section 4, p. 4-48.

In addition to all of the public access restrictions, a significant loss of sandy beach appears to have resulted from Headlands construction that may have caused the elimination of a large section of the beach that used to exist during the winter season **[Exhibit D]**. Before the Lateral Rock Revetment was constructed, beach users were able to walk on the beach from the

exit of the North County Stairs at North Strand Beach all the way to South Strand Beach year round. Now they cannot.

Construction of the Lateral Rock Revetment [protective barrier device] has resulted in winter high tides that splash all the way up against the rock wall. Approximately 800 ft of natural beach that used to extend from the North Stairs southerly towards Central Strand Beach no longer exists, —there is no sandy beach to walk on to get above high tide [Exhibit D].

In fact, the public can no longer enjoy walking along the beach during high tide at all during the winter season from North Strand Beach southeast towards Central Strand Beach, because that section of beach is gone. This stretch of beach used to be available to the public from 5am-12 midnight by taking the North County stairs. Now this section of beach is totally gone during winter season.

What is left for the public to use over this 800 ft section of eliminated beach is the alternate Lateral Revetment Walkway discussed earlier which is now affected by a plethora of access restrictions. Soon the Revetment Lateral Walkway may become gated, fenced or walled off from the North County Stair entry, and the 5 am-12 midnight access will be history.

Another loss of beach access is due to a large field of rocks that have appeared at the exit of the North County Stairs after completion of the Rock Lateral Revetment (March 23rd 2010). These fields of rocks have replaced the sandy beach that used to be there for the last 26 years. The rock piles extend laterally ~ 20 yards in each direction and seaward all the way to where the surf breaks, making it more difficult to walk on the beach. Heavy sand-moving equipment is required to move the rocks off the sand so that the public can safely walk on this section of North Strand Beach and so that visitors can lie down on towels. This new beach problem occurs in the Spring Season, when there is a high demand for beach use. The restrictions at the MSVPA and CSVPA divert the public to this beach.

Restricting the MSVPA, CSVPA, SBPLA & Strand Vista Park Is in Violation of the Coastal Act

- **Section 30600:** “ any person... wishing to perform or undertake any development in the coastal zone... shall obtain a coastal development permit.
- **Section 30001.5** (c) “new developments are required to **maximize public access to and along the coast.**”
- **Section 30213:** “developments are required to provide **meaningful access to the coast.**”
- **Section 30252:** “new developments are required to maintain and **enhance** public access to the coast.”

- **Sections 30210-30214:** “public coastal access opportunities must be **maximized**, and development must not be allowed to interfere with certain rights of public access.”

The sections of the Coastal Act referenced above protect the public right of access, and if the City of Dana Point is allowed to restrict this access without approval of a Coastal Development Permit, they are in direct violation of the Coastal Act. Moreover, if the Coastal Commission does not act on this violation, the agency will be violating the Act as well.

Police Reports & Log do Not Support Urgency Ordinance

The City Agenda Report states:

“Persons are committing unlawful acts along the Mid-Strand Beach Access and Central Strand Beach Access ... including but not limited to drinking, loitering, vandalism, graffiti, and trespassing” (Agenda Report, p 14, Section 1, Findings, point 4, March 22, 2010).

However, the City staff provided absolutely no evidence to support findings of any “unlawful acts” along the Mid-Strand or Central Strand pathways. None of the logged calls or police reports submitted as “evidence” had anything to do with Strand Vista Park, the MSVPA or the CSVPA. The security guard assigned to these pathways says there have been no problems from the public as they walk to and from the beach.

The HDCP states :

“Public access shall be implemented in a manner that takes into account the need to regulate the time... depending on the **facts** and circumstances in each case ...” (HDCP Section 5.0, Coastal Act Consistency, Table 5.1, pg. 5-4). The City appears to have violated this provision as the City staff report has **no facts** that any “unlawful acts” took place at the MSVPA, CSVPA, or Strand Vista Park.

At the City Council meeting, City staff argued that even if police evidence does not support the findings, the City can enact an Urgency Nuisance Ordinance based on Ordinance 09-05; but according to the Agenda Report, Ordinance 09-05 does not include any “specific nuisance findings”(pg. 5). Since there are no findings regarding public nuisances in Ordinance 09-05, it is not significant evidence to warrant an Urgency Order. There are also no provisions for Urgency Ordinances included in Ordinance 09-05, and no definitions of what actions constitute a “public nuisance.”

Police, sheriff, and City staff presented one-sided, fear based theories to restrict public access. Some of these include: Headlands security guards cannot arrest people; the city cannot afford to pay for all the police services; the public will destroy ESHA; private property will be vandalized; Spring Break will turn the Headlands into an amusement park for students; drug and sex parties will run rampant; homeless people will move into the Headlands and live in camps on oceanfront lots; and terrorists will be a real threat to the Headlands.

These inflammatory statements have no basis and are totally false. There is no evidence or proof to substantiate any of the fear-based theories. It is as if any possible frivolous nuisance is fair game to as an excuse to restrict public beach access through the MSVPA or CSPVA.

The *OC Register* provides a location map and daily log of police calls going back as far as August 11, 2009 (<http://www.ocregister.com/sections/city-pages/southbeaches/danapoint/>). Note: log is not indicative of police report or an arrest.

According to the *OC Register* there were only 3 calls from the Headlands Project over seven months from October 2009 to December 30, 2009, from a location on Whitewater Drive. Two of the calls were for a "Suspicious Person" and one was for a "Disturbance." That is all. None of the calls had anything to do with the Strand Vista Park, the MSVPA or the CSPVA.

Likewise, none of the weekly "Crime in your Neighborhood" blogs featured in the *Dana Point News* or *Dana Point Times* reference any disturbances at Strand Vista Park, the MSVPA or the CSPVA.

The City made much ado about 3 ladies who trespassed off a trail at Hilltop Park, which is about a mile away from the MSVPA. Hilltop Park is not a residential area like Strand Vista Park. It is a park conservancy and environmental sensitive habitat area (ESHA). It is filled with dense natural scrub brush, cacti, and pocket mice. There is no public beach access in this remote park. Dirt pathways are lined with open style trail fencing, and it is not hard to step off the trail.

By comparison, the MSVPA and CSPVA are lined with sturdy wrought iron fencing. The iron rods are close together, and each one has an upward pointed arrow on top to discourage intruders [Exhibit C]. There are also densely packed Bird of Paradise, Aleppo pines, and other vegetation up to 20 feet tall that are jammed against the side of the fencing that serve as a second barrier. In addition, there are numerous 25 ft tall trees to block intrusion.

The City used the transgression that occurred at Hilltop Park to justify restrictions on beach access at the MSVPA and CSPVA in Strand Vista Park. If the City really cared about ESHA as they claim, the Urgency Ordinance would restrict pathways at Hilltop Park, not Strand Vista Park.

Violation of CEQA

Section 3. Compliance with California Environmental Quality Act

Restrictions in the Urgency Ordinance are in direct conflict with the California Environmental Quality Act (CEQA), California Code of Regulations, Title 14, Chapter 3, because the restrictions cause physical changes in the environment.

As mentioned previously, signs posted at the entrances to the MSVPA and CSPVA instruct the public to use different routes to get to the beach. The change in pedestrian traffic will polarize use of North and South Strand Access, and cause crowding at North and South Strand Beach; Central Strand Beach will become more exclusive to the Headlands residents.

Vehicular traffic and parking dynamics will be physically changed by restrictions on beach access. Parking will polarize at opposite ends of the County parking lot with fewer visitors parking in the center of the County lot. There will be higher density of traffic on Selva Rd as visitors seek out spaces to park near the South Beach Access.

There will be decreased use of Central Strand Vista Park and amenities that otherwise attract visitors when the MSVPA and CSVPA are open. With access blocked, visitors will no longer be able to enjoy the overlooks followed by a convenient walk down the MSVPA to the Central Strand Beach or to the Lateral Revetment Walk. Likewise, visitors will no longer be able to enjoy peace at the Veteran's Park followed by a convenient walk along the CSVPA to Central Strand Beach or the Lateral Revetment Walkway. Each and every visitor will have to walk a long distance to another beach entry, or walk back to their car and drive somewhere else to park closer to the South Strand Access or North Strand Access.

The funicular is closed 203 days each year. Nine months of the year it is open only on weekends. It does not mitigate locking up the MSVPA, CSVPA or SVPLA. The restrictions lock up the MSVPA and CSVPA during weekdays when the funicular is closed. The sign **[Exhibit B]** posted on the MSVPA that instructs the public to use the "free" funicular is misleading because the funicular is closed a majority of the time. Families read the sign and trek 1000 ft to the funicular carrying all of their beach gear, expecting to be transported to the beach. When they get to the funicular they find that it is closed. Now they have the unpleasant reality of carrying everything 900 feet down the North Access. After that, they are still not at Central Strand Beach. That's another 1200 feet. Fourteen football fields!

All of these are substantial changes in the use of the project. The CEQA says that when substantial changes are proposed in a project that may have significant environmental effects, the city must base their decision on substantial evidence. The city failed to do so.

CEQA Guidelines compel the city to prepare an additional CEQA document such as a Supplemental Environmental Impact Report (SEIR) before voting to modify the project. The purpose of the SEIR is to provide the substantial evidence that is missing in the City staff report. There is no SEIR. Because the city failed to follow CEQA Guidelines the reports are flawed, incomplete, and inadequate.

Conclusion

The Coastal Act created the Coastal Commission to represent the public when municipalities fail to protect the public right to coastal access. That is exactly what has happened in this case. The developer and City tried to eliminate the MSVPA at the local level in 2008, and would have succeeded if the Coastal Commission had not overturned the decision on May 8, 2008. Now that the MSVPA is in place, the City and developer are trying to get around the Coastal Commission's authority with a frivolous Urgency Ordinance. The Coastal

Commission must step in to override the Urgency Ordinance and require the City to obtain approval and a permit that is consistent with the Coastal Act. Without the Coastal Commission there would be no MSVPA, CSVPA, or funicular for the public to enjoy. Do not allow capricious use of nuisance abatement become the loophole City governments use to circumvent the Coastal Act. Public access must be protected for future generations in Dana Point and for all other coastal zone areas throughout the state.

Vonne M. Barnes
13 Montilla
San Clemente, CA 92672

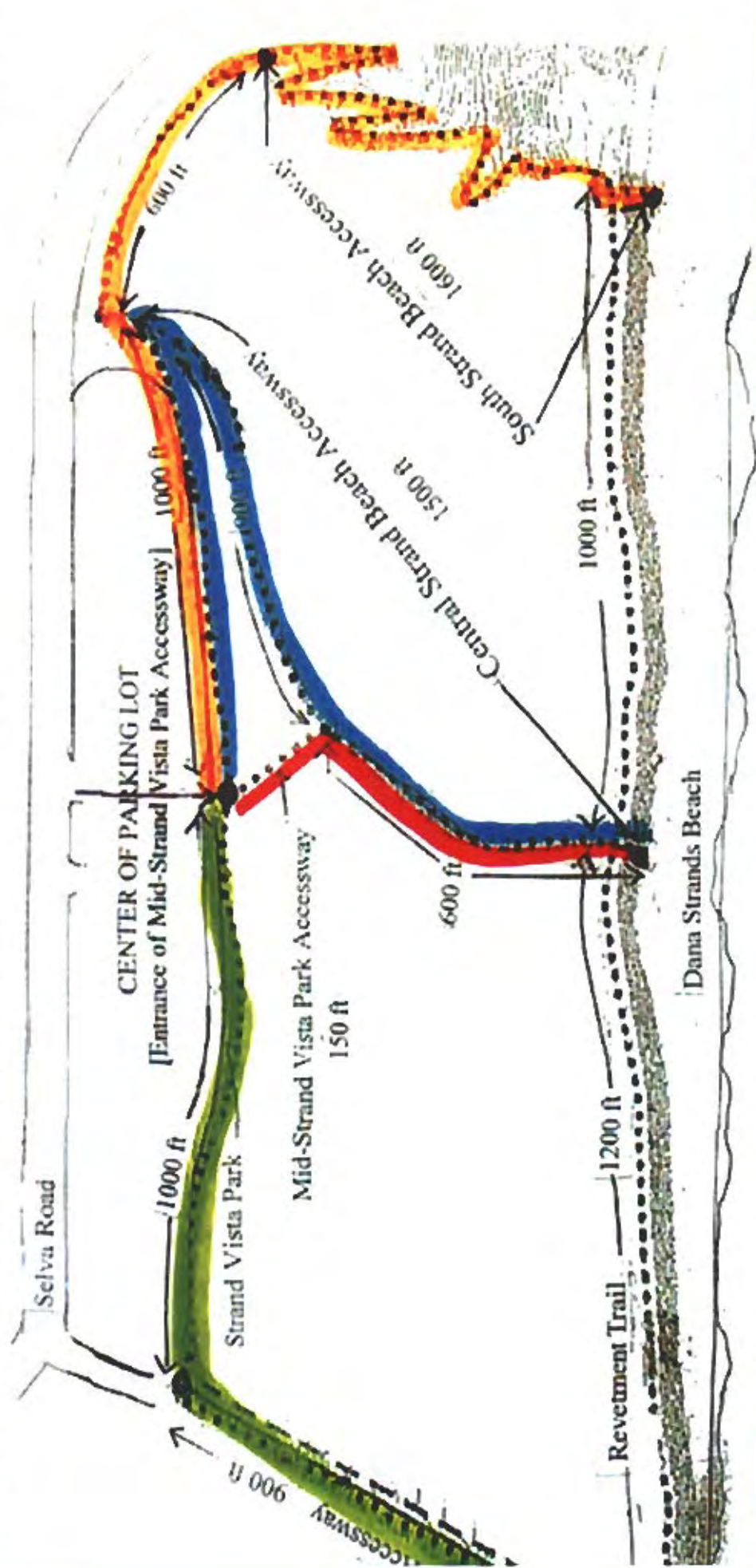


Exhibit A

- 750 ft (2.5 football fields)
- 1900 ft (6.3 football fields)
- 2500 ft (8.3 football fields)
- 3200 ft (10.6 football fields)



300 ft = 1 football field

Exhibit B

Beach Access
Free Incline
Elevator
200 Yards →

The distance to the funicular is incorrect on this sign. According to Figure 4.5.1, Exhibit A, the distance is more like 1000 ft (3.3 football fields), which is more than 300 yards.

3/4/16 Enlargement of sign posted at entrance to Mid Strand Access does not indicate that the funicular is only open on weekends and holidays and daily for 3 months from Memorial day to Labor day. It does not indicate that the funicular is closed on weekdays 9 months of the year. To walk 3.3 football fields, possibly carrying beach gear and children to use the funicular is futile if the elevator is closed. edit

Unlike Hilltop Park that has open trail fencing where 3 ladies were arrested for stepping outside the trail, the MSVPA is fortified with wrought iron fencing that has pointed arrows on top and rods that are 3-4 inches apart. Tall, densely packed bird of paradise up to 20 ft in height tower above the wrought iron fencing. The arrow points and thick, tall vegetation along this residential pathway prevent users from stepping outside the pathway.

Exhibit C



Exhibit D

Lateral Revetment Walkway (LRW) on top of rock revetment (shoreline protective barrier). Due to the restriction on the MSVPA and CSVPA, access to this pathway from Strand Vista Park is now limited.

In Winter season, high tide comes all the way up to the rock revetment. Approximately 800 feet of sandy beach is gone above the high tide where beach walkers used to be able to walk above the high tide along the beach all the way from North Strand Beach to South Strand Beach. Now the only access to bypass the high tide is the Lateral Revetment Walkway on top of the rock revetment.

CALIFORNIA COASTAL COMMISSION

APR 05 2010

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4418

VOICE (562) 590-5071 FAX (562) 590-5084

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Surfrider Foundation

Mailing Address: PO Box 6010

City: San Clemente

Zip Code: 92651

Phone: 949/492-8170

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Dana Point

2. Brief description of development being appealed:

City's March 22 (2010) Emergency Nuisance Ordinance Declaring Existence of Public Nuisance Conditions in Vicinity of Strand Vista Park and Dana Point Headlands: emergency nuisance ordinance passed to allow unpermitted existing gates, continue restricted hours of operation and keep inappropriate signage that restrict public access opportunities to coast at Mid-Strand Vista Park Access, Central Strand Beach Access, Strand Beach Park Lateral Access and South Strand Beach Access at Dana Point Headlands, circumventing rightful jurisdiction of Coastal Commission and avoiding CDP and LCP amendments submissions required under the Coastal Act.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Generally the northwest corner of street of The Green Lantern and Pacific Coast Highway in Dana Point (Orange County)

4. Description of decision being appealed (check one.):

- ☒ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-5-DPT-10-082DATE FILED: April 5, 2010DISTRICT: South Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: March 22, 2010

7. Local government's file number (if any): Ordinance No. 09-05

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Denise Erkeneff, 33566 Seawind Court, Dana Point, CA 92629

(2) Doug Reece, 2720 Via Montezuma, San Clemente, CA 92672

(3) Surfrider Foundation South Orange County Chapter, 34145 Pacific Coast Hwy, #619, Dana Point, CA 92629

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

This appeal stems from the March 22, 2010 City Council affirmative vote by the City of Dana Point (the "City") to approve an Urgency Ordinance (the "Ordinance") declaring the existence of Public Nuisance Conditions in the vicinity of Dana Point, Strand Vista Park, and the Dana Point Headlands development.

The Ordinance is being appealed because it does not conform to the standards set forth in the certified local coastal program and the public access policies set forth in the California Coastal Act (the "Act") because it unfairly restricts hours of operation by using locked gates and unnecessarily limits public access hours to coastal tidelands to much less than the maximum access requirements under the Coastal Act, and it allows the continued placement of unpermitted gates to obstruct maximum coastal public access through the Headlands development via the Mid Strand Beach Access and the South Strand Switchback Trail.

Legal Standards:

This timely appeal is brought pursuant to Public Resources Code §30603(a)(1), and the grounds for this appeal are set forth in Public Resources Code §30603(b)(1). Specifically, approval of the Ordinance does not conform to the public access provisions of the Coastal Act (§§30220-30224) and City of Dana Point's certified Local Coastal Program ("LCP") (certified in September 1989 after Dana Point incorporated and amended several times thereafter).

When the City of Dana Point's LCP was certified, public trust protections for maximum tidelands access were properly transferred from the California Coastal Commission (the "CCC") to the City. It became the City's responsibility to uphold Coastal Act §30210 requirements for maximum public access protection and enhancement. The Coastal Act and the City's LCP both establish a Coastal Development Permit ("CDP") as the sole remedy for establishing hours of operation for access ways and without an approved CDP all gates, signage and restricted hours of operation are considered "unpermitted development" as defined in the Coastal Act.

Dana Point's certified amended LCP states clearly in Policy 5.31 that, "Recreation and access opportunities at public beaches and parks at Headlands shall be protected, and where feasible, enhanced as an important coastal resource. Public beaches and parks shall maintain lower-cost user fees and parking fees, and maximize hours of operation to the extent feasible, in order to maximize public access and recreation opportunities. Limitations on time of use or increases in user fees or parking fees shall be subject to a coastal development permit (Coastal Act §§30210, 30212, 30213, 30221)." LCP policy clearly states any lawful change in usage or hours of operation requires CDP approval by the CCC. Also, as stated in the LCPA for Dana Point, "The project (Headlands) will establish coastline access for the public through public parks, trails and related amenities which will serve local and regional visitors

and create significant public recreational and educational opportunities.”

Background on the development:

Prior to 2005, the City did not adopt “The Strand” development under its LCP, but instead “whiteholed” the area upcoast from Dana Point Headlands (i.e., the City did not assign it any particular land-use designation or development policy). In 2005, The Strand was finally brought into the LCP, and development at the Headlands started in April 2005. The Headlands project, including 121 acres of residential development, is the last large oceanfront, private residential development project in Orange County.

For approval of the gated 118-house residential development of the Dana Point Headlands Conservation Plan (the “Plan”), the CCC required the development of four coastal access ways, which were a condition to and fair mitigation of the Plan to offset adverse public access impacts caused by it. Additional public parking for the access ways was not required. These access ways included the Mid-Vista Park Access Way, which is subject to the Ordinance. The CCC expressly conditioned the original permit with the Mid-Vista public staircase to help offset major loss of visual and access resources for the public. And in 2008, when the developer requested to drop the Mid-Vista staircase mitigation, the CCC unanimously refused, one Commissioner stating, “mitigations cannot be mitigated!” Every effort must be made to afford maximum public access in a walled residential development that tends toward favoring resident exclusivity to the detriment of other community residents and visitors to Dana Point’s public beaches. All public benefits that served as permit conditions must be fully honored in perpetuity by the Headlands project.

The Dana Point Headlands Conservation Plan (page 33) defines one project goal as “design all public beach access ways and surrounding development in a manner that conspicuously invites and encourages maximum public use of the access ways, the beach and other public facilities.” The installation of self-locking gates with restricted hours of use are a conspicuous and negative signal to public residents that they are not generally welcome to access the beach at Headlands. The project’s final EIR states the mitigation for closing the project to public vehicles driving through the development to a beach drop-off point is to open the Mid-Strand Vista Park Access. Should this access way be eliminated, the project must then open its roadways for public vehicular access and beach drop-off. The Headlands project mitigation when the project gained approval at the CCC clearly stated: “an unimpeded bicycle/pedestrian access to the beach through the development.” The Commission report states there are no substitutions for this conditioned mitigation.

Headlands Reserve LLC (developer Sanford Edward) opened sale of lots in 2005 and Mr. Edward sells undeveloped lots only and buyers are expected to build custom houses on one of the 118 purchased lots. Seventy of the lots are in the North Strand, which is beach front below the bluff. The Mid-Vista and Central Access go through this section. Forty-eight lots are in the South Strand section by the Pacific Coast Highway. At present, approximately 13 homes are under construction and 35 lots have been sold in total. Public access ways must all be opened before any homes are approved for a Certificate of Occupancy. Local community advocates believe one house is occupied even though access ways are not fully open. At the City Council hearing the City Attorney testified no one yet lives at Headlands. It is predicted it will take at least a decade to sell all the lots and perhaps another two decades to complete all construction. Five years after approval, the Headlands is thirty five percent complete in lot sales and less than ten percent complete in home construction. Access and construction issues will extend far into the future for the City of Dana Point and its City Council and community members. Whatever solutions evolve to ensure maximum public access to the Strands Beach must accommodate future construction. The City must find effective remedies to deal with perimeter construction fence violations that do not

include impermissibly excluding residents and visitors from the coastal zone and beaches of Dana Point.

Application:

The city's approval of the Ordinance restricting access is inconsistent with the LCP and the Coastal Act. Mid-Strand, Central Strand, Mid-Vista and South Strand beach access ways are all dedicated public access ways and as such, according to LCP guidelines, may not be gated or carry restricted hours of operation. The LCP strictly prohibits the Headlands from being an entirely gated residential community. Any and all gates require a LCP Amendment and an approved CDP to be lawfully authorized. As a result of the Ordinance, hours are now listed on gates that prevent the public from accessing state tidelands during morning and twilight hours. Establishment of these gates and hours of operation represents a clear change in intensity of use and access to the water and therefore require a Coastal Development Permit. Limiting access by installation of gates and reducing hours of operation improperly limits coastal access rights for residents and visitors to Dana Point.

The City's "evidence" of community safety issues as a basis for passing the Ordinance does not provide adequate support for the Ordinance and is open to interpretation and perception. The City in its staff report for the Ordinance hearing proposed many police calls and infractions at the Headlands, which were alleged to be nuisances. However, under the City staff report's broad definition of nuisance – "anything injurious to general health, safety and welfare of a community" or "something that impacts an entire community or neighborhood" – the large majority of the police calls and infractions listed in the City's report were associated with the construction phase of the development, occurred mostly during day light hours, and were primarily incidents of construction fence damages at the perimeter of Headlands. None of the incidents occurred on the public access ways subject to this appeal or the Strand Vista Park. The City also claims that Headlands-related calls exceed all calls to other areas of the City, but this statement is not verified by published police records.

Further, a search utilizing the Orange County Register link to daily police calls and a review of "sheriff reports" in weekly editions of the Dana Point News and the Dana Point Times fail to provide evidence of police actions sufficient for the Ordinance. For example, there appear to be only three police calls within Headlands – all from the same location, Whitewater Drive. One call was for "disturbance" and two were for "suspicious person/s." These calls are insufficient to justify an urgency ordinance. The public police report and call data does not support the City staff report's findings, the Ordinance nor any other measure to limit public access to the beach at The Strands.

Moreover, as a public policy consideration, allowing Cities through nuisance ordinances to restrict public access rights based on a few arguably irrelevant police calls and reports may establish precedent that threatens coastal access on a boarder scale, leading to the use of frivolous claims statewide to prohibit public access rights.

This Urgency Ordinance is not the first time that public access at the Mid-Vista Access Way was threatened by the Headlands development. Following approval of the Plan by the CCC, the developer returned to the CCC arguing to drop Mid-Vista staircase from the Plan due to "geotechnical and engineering" difficulties. The CCC staff engineers reviewed the planned staircase but disagreed that the staircase was too difficult to build. In turn, the CCC denied the developer's request to drop the Mid Strand Access Way from the Plan. After denial of that request, the Mid-Vista Access Way was installed and is currently operational. This attempt illustrates the developer's true intent, which is to limit access to the beach solely to homeowners within Headlands. The Urgency Ordinance is simply another attempt to circumvent the requirements of the Act – this time under the guise of an inflated police safety report.


In general, once a public access way is gated and restricted it is very hard if not impossible to re-open full coastal access to the public. Likewise, once sole and full control for coastal access vests with a local government under an urgency ordinance, it will be difficult to balance the necessary lawful equities of public access protection with development, and for the shared governance of state and local jurisdictions to partner together to safeguard and balance private property rights and public access benefits as envisioned and provided for in the Coastal Act.

For the above stated reasons we respectfully request a hearing on this matter.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or Authorized Agent

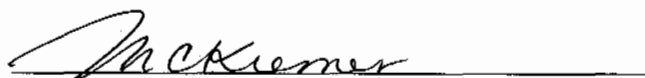
Date: 4.5.10

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

Surfrider Foundation
to act as my/our representative and to bind me/us in all matters concerning this appeal.


Signature of Appellant(s)

Date: 4.5.10

**CITY OF DANA POINT
AGENDA REPORT**

Reviewed By:

DH	<u> X </u>
CM	<u> X </u>
CA	<u> X </u>

DATE: MARCH 22, 2010

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: CITY ATTORNEY, CHIEF OF POLICE SERVICES, DIRECTOR OF COMMUNITY DEVELOPMENT, NATURAL RESOURCES PROTECTION OFFICER

SUBJECT: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA DECLARING THE EXISTENCE OF PUBLIC NUISANCE CONDITIONS IN THE VICINITY OF STRAND VISTA PARK AND ORDERING THE PROHIBITION AND ABATEMENT THEREOF BY AMENDING CHAPTER 13.04 OF THE DANA POINT MUNICIPAL CODE SO AS TO ADOPT OPERATIONAL HOURS AND ORDER THE IMPLEMENTATION OF ENFORCEMENT DEVICES

RECOMMENDED ACTION:

That the City Council adopt the attached Urgency Ordinance entitled:

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA DECLARING THE EXISTENCE OF PUBLIC NUISANCE CONDITIONS IN THE VICINITY OF STRAND VISTA PARK AND ORDERING THE PROHIBITION AND ABATEMENT THEREOF BY AMENDING CHAPTER 13.04 OF THE DANA POINT MUNICIPAL CODE SO AS TO ADOPT OPERATIONAL HOURS AND ORDER THE IMPLEMENTATION OF ENFORCEMENT DEVICES

BACKGROUND:

In anticipation of the dedication of new public park facilities associated with the Headlands development, in May 2009, the City Council adopted Ordinance 09-05 (Supporting Document B) for the purpose of prohibiting and abating public nuisances that would otherwise exist by setting operating hours, as it does for all of its parks, during which the public may utilize the public parks dedicated by the Headlands development including the "South Strand Switchback Trail," the "Mid Strand Beach Access" and the "Central Strand Beach Access." The Dana Point City Council approved Local Coastal Program Amendment 01-02 (the "LCP") and Master Coastal

Development Permit 04-23 (the "CDP") for the Headlands project which specifically included gates at the various entry points to the residential development from which public beach access may occur, as a means by which to enforce hours of operation and thereby prohibit and abate public nuisances that would otherwise exist. The California Coastal Commission (the "CCC") certified the LCP following its approval by the City Council.

Since the adoption of Ordinance 09-05, Police Services, the City's Natural Resources Protection Officer, and Community Development staff (which includes Code Enforcement) have reported an inordinate amount of enforcement activities that have occurred, and that continue to occur at an alarming pace at the project site. In the last 13 months there have been over 130 documented calls for police services at the site. This call level far exceeds the amount of calls to any other localized area of the City, including areas that have traditionally received the heaviest level of calls for service. Most troubling is that 35, or nearly 1/3 of these calls for police services, have occurred since the fencing came down at the site and the Mid-Strand Beach Access and Central Strand Beach Access were opened to the public. City staff has observed innumerable violations of City ordinances at the site which have not been the subject of documented calls for police services, and these are estimated to at least equal, and more likely exceed the documented calls for police services. Police Services estimates that an unprecedented number of calls for a localized area of the City (expected to exceed 400) will be received for the area this year based on the number of calls received to date.

In October, just prior to the opening of the various public amenities associated with the Headlands, the City received a letter from CCC staff suggesting that the City did not have the legal authority to set the hours of operation, that signs at various locations were inappropriate, and that the above noted gates are not permitted. Staff has attempted to work with CCC staff to resolve these issues since that time. Notably, City staff disagrees with the CCC staff's analysis including for the following reasons: (i) the Coastal Act specifically allows the City to take actions to declare, prohibit and abate public nuisances as has already occurred here; (ii) the LCP specifically authorizes the City to set hours of operation for the parks and trails in question; (iii) the LCP and the CDP specifically authorize the gates; and (iv) public access to the beach can be accommodated during times of closures via adjoining alternate access routes at the South Strand Switchback Trail and the North Strand Access, which are not gated and are open from sunrise to sunset and 5:00 AM to Midnight, respectively.

After several months of working with CCC staff to resolve these issues, on March 5th the City received a letter from the CCC staff (Supporting Document C) in which it threatens to commence legal action against the City for purportedly violating the Coastal Act and the LCP. The basis of the letter is the assertion that: (i) the City may not set hours of operation without processing a CDP, (ii) the gates in question (even though shown in drawings that are part of the LCP and CDP) are a violation of the LCP and require both a LCP and CDP; and (iii) signage at various access points may have the unintended effect of restricting public access. Importantly, the CCC staff's letter requires that the gates and signs be removed, and that the City stop enforcing "nighttime closures" as dictated by the City's hours of operation, by April 2, 2010.

Police Services, the City's Natural Resources Protection Officer, and Community Development staff (which includes Code Enforcement) are very concerned about the CCC staff's position in light of the high volume of unlawful activity that has taken place on and adjacent to the access points in question, and especially given that Spring Break is about to commence on April 2.

As discussed further below, the recommended action, adoption of the attached Urgency Ordinance, will: readopt and reaffirm Ordinance 09-05; once again declare the existence of public nuisance conditions in the vicinity of Strand Vista Park that Ordinance 09-05 and the LCP/CDP were intended to prohibit and abate; and order the prohibition and abatement of such nuisance conditions by the adoption of operational hours and the implementation of gates and signage as a means of enforcement. The Urgency Ordinance would take effect immediately upon adoption, and is necessary in order to prohibit and abate the threat to public health, safety and welfare, and nuisance conditions, that would immediately come into existence if the City were to comply with the demands set forth in the letter from CCC staff.

ISSUE:

Based on overwhelming evidence of ongoing unlawful activity, Police Services, the City's Natural Resources Protection Officer, and Code Enforcement are very concerned that absent the recommended action a significant and immediate threat to public health, safety and welfare will exist, and specifically that such threat constitutes a public nuisance. This situation requires that there be limited hours of operation and access to all the trails in question, the implementation of signage, and the implementation of the gates in question to prevent unfettered public access to the residential neighborhood and existing construction site during nighttime and early morning hours.

Of particular concern, and driving the need to act by an urgency ordinance which will become effective immediately, are two factors. The first is the dramatic increase in the number of police calls since January 7, 2009, when the construction fence in Strand Vista Park was removed. The second is the fact the Capistrano Unified School District (and many other school districts) will commence "Spring Break" on April 2nd, the date the CCC staff has demanded that the gates be removed and the "nighttime closures," which result from the City's current hours of operation, cease. Based on past experience, Police Services believes that a significant increase of beach activity by young people will coincide with Spring Break, and that this will result in an increase of both actual incidents, and opportunities for potential incidents (such as trespassing, graffiti, and vandalism), particularly during evening and nighttime hours. Police Services and Code Enforcement both believe that in order to prohibit and abate nuisances that will inevitably occur, and those that would otherwise occur, it is imperative to both have hours of operation in place to effectuate nighttime closures and to have gates at the entry points to the residential neighborhood (which is still primarily an active construction site). In addition, signs are needed to advise the public of the operational hours, as without signs the public cannot be expected to know and comply with applicable operational hours.

City staff disagrees with the CCC staff's assessment that the signs, hours of operation, and gates violate the LCP or the Coastal Act. There is no need to engage in a debate or controversy over these issues, however, in as much as Section 30005 of the Coastal Act provides that nothing in the Coastal Act is a limitation on the power of any city to declare, prohibit, and abate nuisances. Accordingly, to abate and prohibit the imminent threat to public health, safety and welfare, and the public nuisance that would otherwise immediately exist if the CCC staff's demands were met, City staff recommends adoption of the accompanying Urgency Ordinance (Action Document A) which declares the existence of public nuisance conditions, and orders the prohibition and abatement of such conditions through the adoption of hours of operation (which result in closures during hours when City enforcement resources are most limited, and the existing residences, undeveloped acreage and construction sites are most vulnerable) and the continued use of gates to be locked open during operating hours to encourage public access and locked closed during closure hours to prohibit and abate nuisance conditions. Notably, the recommended action is for all practical purposes declarative of existing law and approvals, and is duplicative of existing Ordinance 09-05 which unquestionably was adopted for the purpose of prohibiting and abating public nuisances. Nevertheless staff proposes the recommended action since during the adoption of Ordinance 09-05 the fact its purpose was prohibiting and abating nuisance conditions was not expressly set forth. Staff recommends the adoption of the accompanying Urgency Ordinance to clarify the purpose and intent of Ordinance 09-05 so that there can be no dispute about this issue.

Typically, an ordinance requires two meetings to be adopted, one for a first reading and one for a second reading; and, an ordinance is not effective until 30 days following its adoption. An urgency ordinance, in contrast, is adopted and becomes effective upon its first reading and no second reading is required. Here, an urgency ordinance is necessitated by: (i) the dramatic increase in calls for police services at the Headlands site in general, and the increased level of enforcement needs that has occurred since the opening of Strand Vista Park, in particular; (ii) the fact Spring Break is scheduled to commence April 2nd, the exact date the CCC staff is demanding the cessation of nighttime closures and the removal of the gates in question; combined with (iii) the fact Police Services and Code Enforcement believe that if as of April 2nd nighttime closures cease and the gates in question are removed, as demanded by CCC staff, public nuisance conditions will immediately increase, posing additional threats to public health, safety and welfare, especially because of the commencement of Spring Break that day; (iv) the fact time does not permit the adoption of an ordinance through the typical process that would be effective as of April 2nd so as to abate the nuisance conditions that would commence on that date if the CCC staff's demands were met; and (v) the important goal of eliminating the risk of unnecessary, expensive litigation with the CCC which might exist as of April 2nd absent effectuation of a clear means to abate the identified public nuisance conditions that unquestionably complies with the Coastal Act.

DISCUSSION:

In anticipation of the opening of the public beach access points, on May 11, 2009 the City Council adopted Ordinance 09-05. This Ordinance amended Title 13 the City's Municipal Code, which is the Section of the Municipal Code that sets forth hours of operation and other regulations for the City's various parks. In pertinent part, Ordinance 09-05 set the hours during which the public may use the South Strand Beach Access (also called the South Strand Switchback Trail) as sunrise until sunset; and set the hours during which the public may use the Mid-Strand Vista Park Access (also known as the Mid-Strand Beach Access) and the Central Strand Beach Access as 8am to 7pm from Memorial Day through Labor Day and 8am to 5pm the rest of the year.

Ordinance 09-05 was adopted pursuant the City's broadly defined "police powers" by which, pursuant to Article XI, Section 7 of the California Constitution, it may adopt rules to promote and protect the general health, safety and welfare of the community. Anything that is injurious to the general health, safety and welfare of the community, or any neighborhood is defined as a public nuisance. More specifically, a public nuisance is something that affects an entire community or neighborhood, or any considerable number of persons at the same time (Cal. Civ. Code § 3480; Cal. Penal Code § 370) and is an act or omission which interferes with the interests of the community or the comfort or convenience of the general public and interferes with the public health, comfort and convenience. (*Venuto v. Owens Corning Fiberglass Corp.*, (1971) 22 Cal. App. 3d 116). Just as it provides the City the power to adopt ordinances to protect public health, safety and welfare, the "police power" also grants the City the authority to declare what activities or uses constitute a nuisance, and to enact regulations designed to eliminate or reduce the occurrence of a nuisance in an effort to protect the general welfare. (Cal. Const. art. XI, § 7; Cal. Gov't Code § 38771 [a city legislative body may, by ordinance, declare what constitutes a nuisance].) It seems self evident, therefore, that by adopting an ordinance that imposes regulations to promote and protect public health, safety and welfare, the Council is at the same time taking action to prohibit and abate conditions that are injurious to public health, safety and welfare (i.e., taking an action to prohibit and abate nuisance conditions.)

In light of the foregoing, staff thinks it is obvious that the purpose of adopting Ordinance 09-05 pursuant to its police power (as well as the purpose of the LCP expressly granting the City the right to set hours of operation) was to prohibit and abate public nuisance conditions (i.e., conditions injurious to public health, safety and welfare) that would otherwise exist, such as loitering, drinking, vandalism, trespassing, and similar activities which could otherwise easily occur (in particular during nighttime and early morning hours) without some form of municipal regulation. Although in adopting Ordinance 09-05 the Council did not make any specific nuisance findings, the fact the adoption was an exercise of its police powers for the general promotion of health, safety and welfare of the community would seem to make clear nuisance prevention and abatement was at its core. Indeed, the City's Municipal Code specifically provides that any violation of the Municipal Code or any violation of any ordinance adopted by the City Council shall constitute a public nuisance. (DPMC Section 1.01.240.)

The proposed action accomplishes two critical objectives: (i) it assures that the nuisance conditions will be prohibited and abated as Spring Break approaches, and (ii) it eliminates any question as to whether the Council's adoption of Ordinance 09-05 and this Urgency Ordinance are exempt from the Coastal Act as a result of the fact the Council is declaring, prohibiting and seeking to abate public nuisance conditions, and thereby avoid further disputes and possible litigation with the CCC concerning Coastal Act compliance. Towards that end, the Council is being requested to declare the existence of public nuisance conditions, and to order that they be prohibited and abated by the setting of hours and use of pedestrian gates and signs, based on the facts set forth below.

Loitering, trespassing, vandalism and similar concerns at the South Strand Switchback Trail, Central Strand Beach Access and Mid-Strand Beach Access.

Since construction began at the Headlands project, it has been a target of vandalism, graffiti and trespassing. Between 2005 and 2008 numerous police reports were taken by the Orange County Sheriff for such acts. The severity of some of these actions has led to specialized police activities, including assistance from the FBI. A redacted sampling of some of these reports (ones which Police Services indicates would not compromise security concerns) is included as Supporting Document D, and demonstrates significant graffiti and vandalism problems at the site. Between February 15, 2009 and January 7, 2010, there were 96 calls for police services at the property. Police Services reports that this is an extraordinary number of calls for any localized area of Dana Point, and exceeds the number of calls for service in areas generally considered as areas of high crime incidents by City standards. Since January 7th, 2010, when the construction fence in Strand Vista Park was removed, allowing for the opening the Mid-Strand Beach Access and the Central Strand Access, there has been a **dramatic increase** in the number of police calls, with 35 calls for service being received in the two month period between January 7th and March 8th. Police Services reports they estimate over 400 calls will be received in 2010 based on the current level of calls for service. Supporting Document E is a summary of calls for police services between February 15, 2009 and March 8, 2010, which demonstrates a significant number of calls for trespassing, vandalism, loitering by suspicious persons, drinking, drug use and other nefarious activities. Staff reports having seen many instances of unlawful activity that are not included in the recorded police calls, such as trespassing in ESHA, trespassing on private property within the Headlands residential development, and drinking; and, it is estimated that the number of such instances which are not recorded as calls for police services exceed the documented calls for service. For instance, the City has created a new position to assist with policing the Headlands' public amenities, a Natural Resources Protection Officer. He alone reports issuing verbal warnings for issues such as trespassing violations on a regular basis, estimated at more than twice per week.

Some of the instances of unlawful conduct are worthy of note. Police Services has dealt with ongoing vandalism to the fence that surrounds the residential area, including specifically along the South Switchback Trail. At least two of these instances have involved acts that constitute felonies which are currently being criminally prosecuted, and the fencing around the entire project site has been subject to significant damage.

Several women were observed by staff having a picnic of sorts and drinking alcoholic beverages in an area of ESHA and are being prosecuted for not only trespassing, but also for resisting arrest. Staff has observed individuals having sunset picnics on vacant residential lots. In this regard, staff has observed individuals sitting on ledges and dangling their legs over drops that exceed 50 feet in some cases. Accordingly, staff is concerned that a significant threat to public safety exists.

It is also worth noting that a significant threat to public safety exists by virtue of the fact most of the residential sites have not yet been developed, and will not be for years. In the interim, there is active construction occurring and no physical barrier within the project's residential boundaries to keep the public out of the construction areas (other than the gates in question). Not only is the public subject to personal injuries associated with wandering around on a construction site, but also a security threat exists with regards to persons who may wish to steal from or damage such sites (something that occurred with alarming frequency during the site preparation portion of the project).

The Chief of Police reports that it is his professional opinion that unless the Mid-Strand Beach Access and Central Strand Beach Access are closed to nighttime and early morning use, and gated to ensure that there is no public access during the closures, public nuisance conditions will continue to exist and will increase within the residential area. He reports that based on his experience, combined with the exorbitant number of calls for service that already exist in the area in general, it is his professional opinion that without gates the two unlit Access trails, the residential area and the undeveloped acreage will become a mecca for unlawful activities such as trespassing, drug use, drinking, loitering, thefts, underage parties and similar mischief, vandalism, and other crimes. He reports that resources simply do not exist to allow for the type of Sheriff patrols in the nighttime and early morning hours which would be needed to combat these unlawful activities. In addition, he reports that the City can anticipate a significant increase in the demand for, and cost of police services as a result of the enforcement activities that will be the result of unlawful acts at the site if gates do not exist to restrict access during these hours.

The Police Chief reports that it is his professional opinion that the South Switchback Trail needs to be closed to the public from sunset to sunrise. He believes that if the public is allowed access to this area during nighttime hours the types of public nuisance conditions noted above will exist, and that the recommended hours of closure are necessary to prohibit and abate public nuisance conditions. It is his opinion that based on the available lines of sight from the existing roadway, adequate enforcement should be possible so as to prohibit nuisance conditions if hours of closure are set at sunset to sunrise as is the case under Ordinance 09-05.

City staff, including the Police Chief, Code Enforcement, and Community Development staff, have collaborated to analyze the conditions within the gated confines of the Mid-Strand Beach Access and Central Strand Beach Access. Staff's collective conclusion is that conditions at this location are different than at the South Switchback Trail, and hence different hours of operation are needed to prohibit and abate nuisance

conditions. It is noted that there are not clear lines of sight to observe the Mid-Strand Beach Access or the Central Strand Beach Access from either the roadway or parking lot, as is the case with the South Switchback Trail. Importantly, no physical barriers exist within the gated confines to keep the public from wandering off the two Access trails, and hence an ability to access the entirety of the developed residential area and the undeveloped acreage exists and must be monitored. Staff feels it is reasonably necessary to allow for a certain limited amount of daylight to remain after the gates are closed in order to allow the site to be secured.

An additional difference is the existence of the gates in question. Practical concerns exist once it is determined, as is the case here, that gates are needed. First, personnel must be available to perform the task of both opening and closing the gates and securing the City's two access trails that exist within them. In addition, it is important to for members of the public have a clear, objective closing time so as to ensure they do not become locked within the gates. For instance, if all gates closed suddenly at 7pm, members of the public using the trails might be trapped inside. In terms of a procedure, the current plan and procedure is to cause the gates at the easterly (parking lot) end of the two Access trails to be locked first, and then walk the site, clearing any remaining members of the public out of the westerly (beach) end before locking the gates at that end. The recommended hours of operation for the Mid-Strand Beach Access and the Central Strand Beach Access were determined by taking into account the need for a fixed, objective time for the reasons noted above, combined with a desire to attempt to keep the trails open as late in the day as reasonable, while still generally allowing for daylight to clear and secure the area. Staff recognizes that at certain times in the year there may no longer be daylight at closing time, just as at other times there may be some daylight remaining after the gates are closed. Ultimately, the times recommended were selected after balancing the need for clearly stated, objective time frames and the availability of personnel to open and close the gates and secure the site, against the vagaries of when sunset/sunrise occurs.

In terms of signage, staff feels it is imperative that signs indicating operational hours be posted in order for the proposed method of nuisance prohibition and abatement to be effective. Absent such signs, members of the public will have no practical way of knowing when the trails are closed. Police Services reports that signs are needed to advise the public of this information (in particular at the un-gated South Switchback Trail). In the absence of signs at the South Switchback Trail, Police Services reports it is their experience that the public will use the trail at all hours, and will likely be resistant to compliance with oral instructions to leave at times when the trail is closed. Moreover, Deputies will be hampered in enforcement efforts as the courts will be less likely to uphold citations absent clear notice of operating hours. While less of an issue due to the gates, some of the same concerns exist with regards to the Mid-Strand Beach Access and Central Strand Beach Access.

Staff notes that public access to Strand Beach is not impacted by the recommended action. To ensure public access during times when the Mid-Strand Beach Access and Central Strand Beach Access are open, the proposed Ordinance requires that the gates be locked open during operating hours. (Supporting Document F is attached for

reference and is comprised of photos of the site, including specifically photos depicting the gates in both their locked open and locked closed positions.) In addition, a newly improved, lighted County stairway exists in close proximity to the South Strand Switchback Trail and Mid-Strand Beach Access and Central Strand Beach Access. (Note that the City's inclined elevator/funicular is adjacent to the County Stairway [Supporting Document F includes photos that depict the County stairway, the funicular landing, and the South Strand Switchback]). This County stairway will continue to provide access to Strand Beach during such hours when the County allows public use and access to the beach and the City's trails are closed. Notably, to ensure the public is aware of alternate access points when the Mid-Strand Beach Access and Central Strand Beach Access are closed, signs at the easterly gates on the Mid-Strand Beach Access and Central Strand Beach Access point out the alternate routes provided via the South Strand Switchback Trail and the County stairway -- as well as their respective hours of operation (See Supporting Document F).

Finally, staff points out one substantive matter contained in the proposed Urgency Ordinance that is a change from existing Ordinance 09-05. Specifically, the hours of operation for the Mid-Strand Beach Access and Central Strand Beach Access are recommended to be from 8am to 7pm from May 1st, through September 30th each year, as opposed to being from Memorial Day through Labor Day each year. This will add nearly 60 days to the "summer season" during which the two access points remain open until 7pm, rather than closing at 5pm. Staff feels as though these time frames are consistent with the goals and constraints it evaluated in recommending the operational hours for these two access trails and can be supported by available resources.

Additional concerns at South Strand Switchback Trail.

In addition to the issues noted above, Staff believes site conditions at the South Strand Switchback Trail require that it be closed between sunset and sunrise for the forgoing reasons. The South Strand Switchback Trail is a steep, winding, unlit trail. The City was not able to require the installation of lights due to the adjacent ESHA conditions. (See photos, Supporting Document F.) These site conditions require that the trail be closed between sunset and sunrise in order to prohibit and abate existing nuisance conditions, and due to the need to prohibit and abate nuisances that would pose a threat to habitat, and which stem from both liability and safety concerns. Staff is concerned that if used at night this trail poses a threat to public health, safety, and welfare, and will interfere with the interests of the general community and adjacent natural habitat. Notably, this trail has already been the site of one felony. While the trail is safe for use during daylight hours—it was built as designed and approved by qualified professionals—if used between sunset and sunrise the public may be subjected to injuries and the likelihood of the nuisance activities that have been previously noted will continue unabated. Accordingly, the public health, safety, and welfare are being harmed as a result of both the existing nuisance conditions, and the potential for injuries with the costs of litigation related thereto. Additionally, the adjacent habitat, which has been deemed ESHA by the CCC, requires that public access be controlled and moderated to ensure the preservation of existing flora and fauna. Staff believes these factors

constitute public nuisance conditions that should be prohibited and abated by adopting an ordinance setting hours which effectively close this trail between sunset and sunrise.

Comment re Coastal Commission Staff's Legal Position

City staff is at a loss to understand how the CCC staff can take the position a violation of some sort exists as a result of either: (i) the City setting hours for the South Strand Beach Access, the Mid-Strand Vista Park Access, and Central Strand Beach Access, or (ii) the City effectuating nighttime/early morning closures which are enforced by the gates in question. The LCP relevant to the Headlands development (also known as the Headlands Conservation and Development Plan or HDCP) requires five means of public beach access. It specifically contemplates that gates regulating public access will exist, and only requires the fifth access point (a funicular) if such regulatory barriers are approved. The HDCP also specifically provides that the City will set the hours of operation for these public beach access points. The HDCP (portions of which that are relevant to this staff report have been included collectively as Supporting Document G) specifically reads in pertinent part as follows:

"Strand Vista Park Shall include five vertical public beach access pathways – South Strand Beach Access, Mid-Strand Vista Park Access, Central Strand Beach Access, North Strand Beach Access, and if gates, guardhouses, barriers, or other development designed to regulate or restrict public access are approved for Planning Area 2, a public funicular (inclined elevator)."

(HDCP pg. 4-53, Item 5 of Table 4.5.4)

"The public trails and overlooks in the Strand Vista Park shall be open to the public year-round. The City will determine hours of operation."

(HDCP pg. 4-53, Item 5 of Table 4.5.4.).

The LCP/HDCP approved by the City Council and the CCC for the Headlands additionally depict pedestrian access gates at the easterly (parking lot side) side of the Central Strand Beach Access and the westerly side (beach side) of the Central Strand Beach Access/Mid-Strand Vista Park Access. [See, Supporting Document G, HDCP Figures 4.4.15 and 4.12.4.] The CDP approved by the City also depicts gates at these two points, and in addition depicts gates at the easterly side of the Mid-Strand Vista Park Access. [See relevant graphics from CDP collectively included as Supporting Document H.] Notably, the CDP was appealed to the CCC for a so called "substantial issue determination" -- a process by which the CCC decides if there is enough of a chance that the CDP is out of compliance with the LCP that a further hearing and investigation by the CCC is warranted. The CCC staff report on the matter asserted that, among other things, a substantial issue existed as to whether public access as approved in the CDP is consistent with the LCP. After the hearing, the CCC determined there was no substantial issue, or, stated otherwise, it determined the CDP (which includes the graphics which comprise Supporting Document H) was consistent with the LCP. Accordingly, City staff has determined the City is in compliance with the Coastal

Act (and the LCP), and would be even absent taking action to declare, prohibit and abate nuisance conditions as it did in adopting Ordinance 09-05 and as contemplated by the current recommended action. This information is simply provided for reference in as much as Coastal Act restrictions which might otherwise apply if CCC staff were legally correct are not pertinent to nuisance declaration, prohibition and abatement actions such as are represented by Ordinance 09-05 and the proposed Urgency Ordinance.

Urgency Conditions

As noted above, in the last two months since construction fencing in Strand Vista Park was removed, there has been an alarming increase in the number of police calls for service at the Headlands site. In addition, Spring Break commences on April 2nd (the same date as the CCC staff is demanding that the City cease enforcing nighttime closures and remove the gates and signs.) Police Services and Code Enforcement report that the City will have an influx of activity at the beach as a result. Of particular concern is the fact that removal of the gates and signs, and cessation of enforcement of nighttime closure of the trails in question, would create unrestricted, unlit, access to the general public, including underage individuals looking for places to loiter, drink, "party" and engage in other unlawful acts. The existence of unsecured construction sites within in the residential area presents a grave concern to Police Services in that without gates significant vandalism is likely to occur when unsupervised, underage persons have an opportunity to be out of school at night in the area. The Police Chief has reported that in his professional opinion, and based on the level of police activity already occurring at the site, the combination of removing gates and signs, the cessation of enforcement of the existing nighttime closure hours, and the introduction of Spring Break would be a law enforcement disaster. He reports that the level of activity at the site under these conditions would create an immediate threat to public health, safety and welfare. The Police Chief and City staff recommend that the proposed ordinance be adopted on an urgency basis so as to ensure it becomes effective immediately and prior to Spring Break so that the nighttime closures and gates in question can remain in place during that period. Otherwise, it is their opinion that significant public nuisance conditions will continue, and will increase during Spring Break, for all the reasons noted above.

By adopting the recommended ordinance as an urgency measure, the City will be able to ensure that a clear means to prohibit and abate the identified public nuisance conditions will exist, and that this abatement process will unquestionably comply with the Coastal Act. At the same time it will achieve the important goal of eliminating the risk of unnecessary, expensive litigation with the CCC that would otherwise exist as of April 2nd.

Page No.

ACTION DOCUMENTS:

A. Urgency Ordinance.....13

SUPPORTING DOCUMENTS:

B. <u>Ordinance 09-05</u>	21
C. <u>Letter from Coastal Commission received by City on May 5th</u>	27
D. <u>Sampling of Police Reports</u>	32
E. <u>Summary of Calls for Police Services</u>	93
F. <u>Photos of Relevant Areas</u>	99
G. <u>Relevant portions of LCP/HDCP</u>	101
H. <u>Relevant portions of Headlands CDP</u>	105

Action Document A**ORDINANCE NO. 10 - XX**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF DANA POINT, CALIFORNIA DECLARING
THE EXISTENCE OF PUBLIC NUISANCE CONDITIONS IN
THE VICINITY OF STRAND VISTA PARK AND
ORDERING THE PROHIBITION AND ABATEMENT
THEREOF BY AMENDING CHAPTER 13.04 OF THE
DANA POINT MUNICIPAL CODE SO AS TO ADOPT
OPERATIONAL HOURS AND ORDER THE
IMPLEMENTATION OF ENFORCEMENT DEVICES**

WHEREAS, City of Dana Point (the "City") City Council has been advised by Police Services and other staff that (1) public nuisance conditions exist at the Headlands project (the "Project"), and (2) the ability to close certain pedestrian access ways (the South Strand Switchback Access, the Mid-Strand Beach Access and the Central Strand Beach Access) during specified hours, as well as maintenance of gates and appropriate signage at these locations is necessary to abate these conditions;

WHEREAS, The California Coastal Commission (the "Commission") has asserted that (1) the City is presently unauthorized to restrict hours for public use of the Project pedestrian access ways because establishment of such hours constitutes "development" under the California Coastal Act for which the City would be required to obtain a Coastal Development Permit, and (2) gates restricting public use of the Mid-Strand Beach Access and Central Strand Beach Access are not authorized by the Coastal Act; and

WHEREAS, Division 20 of the California Coastal Act, Section 30005 provides, in pertinent part that no provision of the Coastal Act is a limitation on the power of any city to declare, prohibit, and abate nuisances; and

WHEREAS, City's City Council has previously declared that public nuisance conditions exist at the Project in the absence of nighttime closures of the access ways in question, and specifically the South Strand Switchback Trail, the Mid-Strand Beach Access, and the Central Strand Beach Access, as more fully set forth in Ordinance 09-05; and

WHEREAS, City's City Council desires to exercise the authority vested in it by Article XI, Section 7, of the California Constitution, and California Government Code Section 38771 (which power is specifically confirmed by Section 30005 of the Coastal Act), and leave no doubt that it has and hereby does declare nuisance conditions exist at the Project (as more fully described herein) and has and hereby does order that such

conditions be prohibited and abated by the implementation of closures, gates and signs (as more fully described herein); and,

WHEREAS, on March 5, 2010, the City received a notice from the Commission that, in order to avoid legal action, on or before April 2, 2010 the City is required to cease enforcing the hours of operation for the parks specifically closures of the Mid-Strand Beach Access, the Central Strand Beach Access and the South Strand Switchback Access as required by Ordinance 09-05, and further that the City must remove the pedestrian gates and signs located in the related area; and

WHEREAS, City's City Council finds and determines that based upon the facts presented to it by staff in the consideration of this matter (which information the Council has considered, has determined is accurate, and adopts as a basis for adopting this Ordinance), conditions exist which require the adoption of this Ordinance as an "urgency ordinance" such that it will be adopted and become effective immediately upon its introduction pursuant to Government Code Sections 36934 and 36937; and

WHEREAS, adoption of this Ordinance will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings related to public nuisances at the Headlands Parks including the South Stand Switchback Trail, Central Stand Beach Access and Mid-Strand Beach Access.

Based upon the staff report accompanying this matter and evidence presented to the City Council in connection with its consideration of this Ordinance, the City Council finds as follows:

1. Since construction began at the Headlands project, it has been a target of vandalism, graffiti, trespassing, loitering, and other unlawful activity.
2. The police calls for services at the Project are at an extraordinary level exceeding the level of calls with any other localized area in the City.
3. Persons are committing unlawful acts within the parks along the South Strand Switchback Trail, which constitute public nuisance conditions, including but not limited to loitering, trespass, drinking, graffiti, drug use and vandalism to area fences.
4. Persons are committing unlawful acts along the Mid-Strand Beach Access and Central Strand Beach Access and within the gated portions of the residential area of the Project, including but not limited to drinking, loitering, vandalism, graffiti, and trespass.

5. Persons are committing unlawful acts in the general vicinity of the South Switchback Trail, the Mid-Strand Beach Access, and the Central Strand Beach Access, including but not limited to loitering, drinking, drug use, vandalism, graffiti, and trespass, and, for all the reasons presented to the City Council during its consideration of this matter, in the absence of regulations closing the parks including these access points as provided in this Ordinance, gating the access points that traverse through the Headlands residential neighborhood, and utilizing signs to display the hours of operation for these facilities, such activities will occur and continue to occur unabated.

6. In the absence of the closure regulations, signage, and gates restricting public access during closures, all as specified by this Ordinance; and, due to the lack of physical barriers to keep members of the public on the Mid-Strand Beach Access and Central Strand Beach Access, unlawful activities such as trespassing, drug use, drinking, loitering, and vandalism, and theft of private property have occurred and will continue to occur upon the common areas, homes, and lots in the Headlands residential neighborhood. Moreover, these activities pose a substantial risk of injury to members of the public, and expose the City to liability and litigation costs.

7. In the absence of closure regulations, signs, and gates restricting public access during closures, all as set forth in this Ordinance, unlawful activities will occur within the parks including at the South Strand Switchback Trail and the general area of the Mid-Strand Beach Access and the Central Strand Beach Access, and sufficient recourses do not exist to allow for the type of Sheriff patrols which would be needed to combat these unlawful activities; moreover, a significant increase in the demand for and cost of police services will occur as a result of the enforcement activities that will be needed as the result of unlawful acts at the Project if closures do not occur and signs and gates do not exist as set forth in this Ordinance.

8. Public health, safety and welfare considerations are negatively impacted if the South Strand Switchback Trail is open for use by the public at night in as much as it is unlit and potentially unsafe for nighttime use, and is adjacent to Environmentally Sensitive Habitat Area which must be protected from light, noise, trespassing and other disturbances in order to preserve flora and fauna.

SECTION 2. Declaration of Public Nuisance due to Conditions Described in Section 1.

Based upon the staff report accompanying this matter and evidence presented to the City Council in connection with its consideration of this Ordinance, the City Council declares as follows:

The findings set forth in Section 1 above constitute a threat the general health, safety and welfare of the entire community, as well as the Headlands neighborhood, and the conduct and activities described interfere with the interests of the community at large, and the comfort and convenience of the general public. Accordingly, the findings

in Section 1 above constitute public nuisance conditions which are to be prohibited and abated as set forth in this Ordinance.

SECTION 3. Order for prohibition and abatement of public nuisance conditions.

Based upon the staff report accompanying this matter and evidence presented to the City Council in connection with its consideration of this Ordinance, the City Council hereby finds, determines, orders and declares as follows:

1. The public nuisance conditions declared to exist in Section 1 hereof are to be prohibited and abated by the implementation of hours of operation for the parks and the South Stand Switchback Trail and the placement of signage advising the public of such hours of operation, as more fully set forth in Section 6 hereof. The closure between sunset and sunrise is deemed to be reasonable and necessary to accomplish the prohibition and abatement of the aforesaid nuisance conditions. While signs are to be utilized as set forth herein, City staff is directed to continue to work with the Commission to endeavor to address its concerns regarding appropriate language to be included on such signs.

2. The public nuisance conditions declared to exist in Section 1 hereof are to be prohibited and abated by the implementation of hours of operation for the Mid-Strand Beach Access and the Central Strand Beach Access, and the use of signs and gates, as more fully set forth in Section 6 hereof. The hours of operation as set forth in Section 6 and the resulting closure hours are deemed to be reasonable and necessary to accomplish the prohibition and abatement of the aforesaid nuisance conditions. The Council specifically finds that it is reasonable and necessary to have clear and objective closing times and signage in order to both prohibit and abate the nuisance conditions in question and to deal with practical considerations related to the use of gates, which it deems essential to nuisance prohibition and abatement. While signs are to be utilized as set forth herein, City staff is directed to continue to work with the Commission to endeavor to address its concerns regarding appropriate language to be included on such signs.

SECTION 4. Findings related to Public Access

Although not relevant to a public nuisance determination and order of abatement, the Council specifically finds and determines that the implementation of this Ordinance will not impact, impede, or otherwise change the intensity of public access to Strand Beach since: (i) to ensure unrestricted public access during the operating hours when the Mid-Strand Beach Access and Central Strand Access are open, this Ordinance will require that the gates at issue be locked open, and (ii) since a newly improved, lighted County stairway exists in close proximity to the South Strand Switchback Trail, the Mid-Strand Beach Access, and the Central Strand Beach Access, and will continue to provide access to Strand Beach during such hours when the County allows public use and access to Strand Beach and the City's trails are closed. The Council notes that to ensure the public is aware of alternate access points when the Mid-Strand Beach

Access and Central Strand Beach Access are closed, signs at the easterly gates on the Mid-Strand Beach Access and Central Strand Beach Access point out the alternate routes provided via the South Strand Switchback Trail and the County stairway -- as well as their respective hours of operation (sunrise until sunset, and 5:00 a.m. until Midnight, respectively.)

SECTION 5. Findings related to adoption of this measure as an urgency ordinance.

Based upon the staff report accompanying this matter and evidence presented to the City Council in connection with its consideration of this Ordinance, the City Council finds and determines as follows:

1. Data presented by City staff demonstrates that reports of unlawful activity in and around the Headlands Parks, the Mid-Strand Beach Access, the Central Strand Beach Access, the residential areas of the Project, and the South Strand Switchback Trail have greatly increased since the opening of Strand Vista Park and the above noted trails in January, 2010.

2. As warmer weather approaches, public visits to the Strand Vista Park and the above noted trails are expected to further significantly increase. Spring Break commences on April 2nd, the same date as the Commission staff is demanding that the City cease enforcing closures and remove the gates and signs in question.

3. The City will have an influx of activity at the beach as a result a significant increase of beach activity by young people will coincide with Spring Break, and this will result in an increase of both actual incidents, and opportunities for incidents of illegal activities (such as trespassing, graffiti, and vandalism), particularly during hours during which City enforcement resources are limited, such as evening, nighttime and early morning hours.

4. Removal of the gates and signs, and cessation of enforcement of closures of the parks and trails in question, would create unrestricted, unlit, access to the general public, including underage individuals looking for places to loiter, drink, "party" and engage in other unlawful acts.

5. In the absence of the gates in question and signage, the residential area abutting the Mid-Strand Beach Access and Central Strand Beach Access presents a significant opportunity for unlawful activity, which is increased due to the occurrence of Spring Break.

6. Based on the level of police activity already occurring at the site, the combination of removing gates and signage, the cessation of enforcement of the existing closure hours, and the introduction of Spring Break would result in a significant negative impact on public safety, and the level of unlawful activity at the Project under these conditions is likely to create an immediate threat to public health, safety and welfare.

7. This ordinance must be adopted on an urgency basis so as to ensure it becomes effective prior to Spring Break so that the nighttime closures and gates in question can remain in place during that period; and, since absent such action significant public nuisance conditions will exist during Spring Break for all the reasons noted in above, as well as those and presented to the Council during its consideration of this matter.

8. This ordinance must be adopted on an urgency basis so as to ensure it becomes effective prior to April 2, 2010, in order to: (i) allow the City to ensure that a clear means to prohibit and abate the identified public nuisance conditions exists which abatement process will unquestionably comply with the Coastal Act; and (ii) at the same time enable the City to achieve the important goal of eliminating the risk of unnecessary, expensive litigation with the CCC that would otherwise exist as of April 2nd.

9. Each of the recitals to this Ordinance is true and correct, and, pursuant to Government Code Section 36937(b), the adoption this Ordinance is required for the immediate preservation of the public health, safety, and welfare.

SECTION 6: The text of Title 13, Chapter 13.04, Sections 13.04.030 (h) and (g) of the City's Municipal Code are hereby amended so as to read in their entirety as follows:

(h) Mid-Strand Beach Access and Central Strand Beach Access will be open from 8:00 a.m. to 7:00 p.m. from May 1st through September 30th, and from 8:00 a.m. to 5:00 p.m. the rest of the year. Gates which can be locked in the open position, as presently existing on the Mid-Strand Beach Access and Central Strand Beach Access, shall be maintained and utilized to control pedestrian access to the Mid-Strand Beach Access and Central Strand Beach Access, so as to limit such access to operating hours. Said gates shall be locked open during such hours as the Mid-Strand Beach Access and Central Strand Beach Access are open. Signage advising the public of the above hours of closure, as well as the alternative access ways to the beach, shall be posted at or near the above noted gates at all times.

(g) Strand Beach Park and South Strand Switchback Trail will be open from sunrise to sunset throughout the year. Signage advising the public of the hours of closure applicable to South Strand Switchback Trail, as well as the alternative access ways to the beach, shall be posted at or near the access points to said trail at all times.

All text of Title 13, Chapter 13.04, which remains unchanged by this Ordinance, including specifically text adopted by the passage of Ordinance 09-05, is hereby readapted and reaffirmed, and the entirety of the text (as amended hereby) is deemed to be necessary to prohibit and abate public nuisances that would otherwise exist. All ordinances and provisions of the Dana Point Municipal Code and sections thereof

inconsistent herewith shall be repealed to the extent of such inconsistency and of no further force or effect.

SECTION 7: This urgency ordinance is enacted pursuant to the authority conferred on the City Council of the City of Dana Point by Government Code Sections 36934 and 36937, and shall be adopted, enacted and in full force and effect immediately upon its introduction and approval by a four-fifths vote of the City Council.

SECTION 8: If any section, subsection, subdivision, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Ordinance or any of the remaining portions hereof. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 9: The City Clerk shall certify the passage of this Ordinance and cause it to be published as required by law.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2010.

STEVEN H. WEINBERG, MAYOR

ATTEST:

KATHY M. WARD, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy M. Ward City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. ____ was adopted on an urgency basis at a regular meeting of the City Council on the _____ day of _____, 2010, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

I

KATHY M. WARD
CITY CLERK

Supporting Document B

ORDINANCE NO. 09-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTER 13.04, PARKS AND RECREATIONAL FACILITIES REGULATIONS, OF THE MUNICIPAL CODE TO ADDRESS THE NEW PARKS AND FACILITIES IN THE CITY INCLUDING SEA TERRACE PARK AND THE DANA POINT HEADLANDS AND IN SUPPORT OF THE MARINE PROTECTED AREAS.

WHEREAS, the City of Dana Point ("City") has determined that Chapter 13.04 of the Dana Point Municipal Code needs to be amended to address the new parks and facilities at the Dana Point Headlands, Sea Terrace Park and support of the Marine Protected Areas.

THE CITY COUNCIL OF THE CITY OF DANA POINT DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 13.04.020 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

13.04.020 Definitions.

The following words shall have the meaning indicated when used in these regulations:

- (a) "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer and every liquid or solid containing one-half of one (0.5) percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
- (b) "Amplified sound" means music, sound wave, vibration, or speech projected or transmitted by electronic equipment, including amplifiers.
- (c) "Park" means any community park, neighborhood park, conservation or recreational area maintained by the City. (Ord. 94-12, 8/23/94)
- (d) "Natural Open-Space" consists of Hilltop Park, Harbor Point Park and the South Strand Open Space as defined in the conservation easement approved by the City on November 30, 2005 and other conservation areas as may be designated by the City Council.

SECTION 2. Section 13.04.030 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

Ordinance No. 09-05
Page 2

13.04.030 Hours of Use.

It shall be unlawful for any person to enter, loiter or remain in any park at any time between the hours of 10:00 p.m. and 6:00 a.m. or in any City building between the hours of 11:00 p.m. and 6:00 a.m. except as follows:

- (a) City employees or agents and peace officers when engaged in official business;
- (b) Persons with permits issued by the City Council or the City Manager or his/her designee;
- (c) Persons and/or spectators participating in City-sponsored or City-approved programs which take place outside posted hours of operation;
- (d) Shipwreck Park will be closed at sunset throughout the year;
- (e) Hilltop Park and Harbor Point Park will be open at 7:00 a.m. and closed at sunset throughout the year;
- (f) The Nature Interpretive Center is considered part of Harbor Point Park; therefore all municipal codes for the Harbor Point Park also apply to the facility and parking lot of the Nature Interpretive Center, with the exception of hours of operation for the facility and parking lot which will be open Tuesday-Sunday (closed on Monday) from 10:00 a.m. to 4:00 p.m.
- (g) Strand Beach Park and South Strands Switchback trail will be open from sunrise to sunset throughout the year;
- (h) Mid/Central Strand Beach Access will be open from 8:00 a.m. to 7:00 p.m. from Memorial Day through Labor Day, and from 8:00 a.m. to 5:00 p.m. the rest of the year;
- (i) Strand Funicular Beach access will be open daily from sunrise to sunset from Memorial Day through Labor Day; and, from sunrise to sunset on weekends and holidays the rest of the year.

SECTION 3. Section 13.04.050 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

13.04.050 Care of Natural Resources.

- (a) It shall be unlawful for any person to damage, cut, carve, transplant or remove any tree, plant, algae, wood, turf in a park, or pick the flowers, seeds or fruit of any tree or plant in a park without written authorization from the City Manager or designee. (Ord. 94-12, 8/23/94)
- (b) It shall be unlawful to take, possess or disturb specimens of live or dead organisms from any Natural Open-Space or the Marine Protected Areas

Ordinance No. 09-05
Page 3

set aside for conservation within city limits other than those deemed permissible by the U.S. Fish and Wildlife or the California Department of Fish and Game with appropriate permits or licenses or written authorization from the City Manager or designee.

- (c) No person shall willfully injure, destroy or alter the Natural Open-Space of the Headlands and the Marine Protected Areas within city limits.
- (d) It shall be unlawful for any person to disturb, take or injure geological or cultural resources within the Dana Point Headlands open space recreational parks and Natural Open-Space.

SECTION 4. Section 13.04.055 of the Dana Point Municipal Code is added to read in its entirety as follows:

13.04.055 Trespassing in Natural Open-Space Areas.

It shall be unlawful for any person to leave the designated trail and trespass on protected habitat without consent from the Natural Resources Protection Officer or written authorization from the City Manager or designee in the Hilltop Park, Harbor Point Park and South Strand Switchback Trail's Natural Open-Space.

SECTION 5. Section 13.04.065 of the Dana Point Municipal Code is added to read in its entirety as follows:

13.04.065 Throwing Items in Headland Recreational and Conservation Parks.

It shall be unlawful for any person to throw any item (e.g. rocks, bottles, other refuse, trash or litter) in the Hilltop Park, Harbor Point Park, South Strand Switchback Trail, Strand Beach Park including the revetment trail, Mid/Central Strand Access Trail and the Funicular Beach Access.

SECTION 6. Section 13.04.095 of the Dana Point Municipal Code is added to read in its entirety as follows:

13.04.095 Pets in the Headland Recreational and Conservation Parks.

It shall be unlawful for dogs, with the exception of service dogs, or any other pet to be on the trails or in the park at Hilltop Park, Harbor Point Park, South Strand Switchback Trail, Strand Beach Park including the revetment trail, Mid/Central Strand Access Trail and the Funicular Beach Access.

SECTION 7. Section 13.04.130 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

Ordinance No. 09-05
Page 4

13.04.130 Bicycles, Skateboards, Rollerblades and Similar Items.

It shall be unlawful for any person to bicycle, skateboard, rollerblade or use a similar item of any type on tennis courts, handball courts, ball diamonds, patios, porches, play apparatus areas, and all other areas which are not designed or customarily used for such a purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or path reserved for pedestrian use. (Ord. 94-12, 8/23/94; amended by Ord. 06-07, 9/13/06)

It shall be unlawful for any person to bicycle, skateboard, rollerblade, or use a similar item of any type on the trails or on any other area of Hilltop Park, Harbor Point Park, South Strand Switchback Trail, Strand Beach Park including the revetment trail, Mid/Central Strands Access Trail and the Funicular Beach Access.

It shall also be unlawful for any person to skateboard or rollerblade in Sea Terrace Park

SECTION 8. If any Section, Subsection, Subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each Section, Subsection, Subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more Sections, Subsections, Subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 9. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 11th day of May, 2009.



LISA A. BARTLETT, MAYOR

ATTEST:



KATHY M. WARD, CITY CLERK

Ordinance No. 09-05
Page 5

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, Kathy M. Ward, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 09-05 introduced at a regular meeting of the City Council held this 13th day of April, 2009, and passed and adopted at a regular meeting held 11th day of May, 2009, by the following roll call vote:

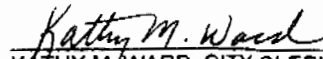
AYES: Council Members Anderson, Schoeffel, Mayor Pro Tem Weinberg,
and Mayor Bartlett

NOES: None

ABSENT: None

RECUSE: Council Member Bishop

(SEAL)


KATHY M. WARD, CITY CLERK

Ordinance No. 08-05
Page 6

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

AFFIDAVIT OF POSTING
AND PUBLISHING

KATHY M. WARD, being first duly sworn, deposes, and says:

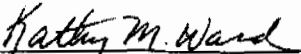
That she is the duly appointed and qualified City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 09-05, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING CHAPTER 13.04, PARKS AND RECREATIONAL FACILITIES REGULATIONS, OF THE MUNICIPAL CODE TO ADDRESS THE NEW PARKS AND FACILITIES IN THE CITY INCLUDING SEA TERRACE PARK AND THE DANA POINT HEADLANDS AND IN SUPPORT OF THE MARINE PROTECTED AREAS.

was published in summary in the Dana Point News newspaper on the 7th day of May, 2009, and the 21st day of May, 2009, and, in further compliance with City Resolution No. 91-10-08-1, on the 30th day of April, 2009, and the 14th day of May, 2009, was caused to be posted in four (4) public places in the city of Dana Point, to wit:

Dana Point City Hall
Capistrano Beach Post Office
Dana Point Post Office
Dana Point Library


KATHY M. WARD, CITY CLERK

SUPPORTING DOCUMENT C

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceanview, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5971

RECEIVED**MAR -5 2010**

**CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT**

March 4, 2010

Kyle Butterwick
Community Development Director
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Violation File Number:

V-5-09-026

Property Location:

Dana Point Headlands - Strand Beach accessways
City of Dana Point, County of Orange

Unpermitted Development:

Placement of gates and signs restricting public beach
access; establishment of "hours of operation" limiting
public beach access.

Dear Mr. Butterwick:

Thank you (and City staff) for taking time to meet with Commission staff Sherilyn Sarb, Karl Schwing, Teresa Henry, Pat Veesart and myself on February 18th, to discuss the gates, signage, and hours of operation at the site of the Dana Point Headlands project. We appreciate your time and efforts and hope that we can resolve this quickly and amicably. As you know, we are concerned that the unpermitted gates, signs, and posted hours of operation at issue are restricting public access opportunities to the coast. You'll remember that public access was a critical component of the Commission's certification of the LCP which includes the Headlands Development and Conservation Plan ("HDGP") and the subsequent approval of the project by the City pursuant to Coastal Development Permit No. 04-23. We understand and appreciate that the subject restrictions on public access might be originating from pressure on the City to address perceived public safety issues. However, as we explained, the gates, signs, and hours of operation require authorization through the coastal development permitting process. Thus, we would like to work with the City to achieve a mutually acceptable resolution that addresses both public safety and public access to the coast through that process. Based on discussions during our February 18th meeting, we are optimistic that we can reach such a resolution.

At our February 18th meeting, we discussed the unpermitted development at issue, which is described in more detail below, including installation of gates on public coastal accessways, closure of the beach accessways through establishment of hours of operation by ordinance, and installation of signs displaying the hours of closure. Hours of closure have been established for the Mid-Strand Vista Park Access, Central Strand Beach Access, Strand Beach Park Lateral Access, and South Strand Beach Access. Gates and signage displaying the hours of closure are

V-5-09-026 (City of Dana Point)
March 4, 2010
Page 2 of 5

installed at the Mid-Strand and Central Strand accesses. Signage displaying the hours of closure is installed at the North Strand Beach Access, Strand Beach Park Lateral Access, and South Strand Beach Access.

The gates on the accessways are not authorized by a valid coastal development permit and are expressly prohibited by the HDCP. In addition, the hours of closure of the accessway, as well as the signs displaying the closures, are also unpermitted and apparently inconsistent with the public access protection policies of the HDCP and Coastal Act. In order to resolve this matter, we are requesting that the City remove the gates and replace the signs displaying the hours of closure with public access signage that does not display hours of closure. We would be glad to work with the City through the coastal development permit process to establish hours of operation that effectively address proven public safety issues and maximize public access to the coast.

We also discussed issues with existing signage installed on the accessways that is confusing and misleading, and by staff's own observations, is hindering access. Finally, we briefly discussed vegetation at the overlooks on the North Strand Beach Access that is obstructing views of the coast; I will address this issue under separate cover.

Access Closures and Signage

In authorizing the Dana Point Headlands project, and the subject beach accessways, Coastal Development Permit ("CDP") No. 04-23 does not establish hours of closure for the accessways; under the terms of the CDP then, the hours during which the public may enter the beach accessways are unrestricted. The ordinance establishing hours of operation for the accessways, and the signage displaying the hours, close the Mid-Strand and Central Strand, and South Strand Beach Accesses to the public, from 5 or 7pm to 8am, depending on the season, and sunset to 7am, respectively. The Strand Beach Park Lateral Access is closed from sunset to sunrise. Each of these accessways individually and separately provides access to the beach and coast. The ordinance and signage thus restrict public access to the coast.

As noted in our previous correspondence with the City of Dana Point, pursuant to Section 9.75.040 of the City's zoning code, the definition of "development" includes a "change in the intensity of use of water, or of access thereto." Therefore, the ordinance and signage restricting access to the coast constitute development. All development within the Coastal Overlay District that is not otherwise exempt requires a CDP pursuant to Zoning Code Section 9.27.010. The closure of the accessways and the signs depicting the closures: 1) constitute development, 2) are located within the Coastal Overlay District, 3) are not authorized by CDP No. 04-23 (or any other CDP), and 4) are not exempt.

You asserted at our February 18th meeting that Table 4.5.4, entitled "Strand Vista Park/Public Access Guidelines," of the Headlands Development and Conservation Plan ("HDCP") authorizes the beach access closures. Item 2 of Table 4.5.4 states "The public trails and overlooks in the Strand Vista Park shall be open to the public year-round. The City will determine hours of operation." As noted above, establishing hours of operation constitutes development and all development within the Coastal Overlay District requires a CDP. The HDCP is not a CDP, and no provision of the Coastal Act, the HDCP, or any other section of the City Local Coastal

Y-5-09-026 (City of Dana Point)
March 4, 2010
Page 3 of 5

Program ("LCP"), provides for authorization of development solely through certification of an LCP.

Instead, LCPs are planning tools that set policies concerning development. The definition of an LCP, found in Coastal Act Section 30108.5, describes an LCP as a bundle of documents for implementing the provisions and policies of the Coastal Act at the local level. Within the LCP's bundle of documents, there may be documents, such as a land use plan ("LUP"), that are sufficiently detailed to provide specific standards of review for development within the LCP area; an LUP is defined in relevant part within the Coastal Act as, "the relevant portion of a local government general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies, and where necessary, a listing of implementing action." Section 30108.5. As noted above, all development that is not otherwise exempt requires a CDP in order to ensure consistency with these detailed policies of the LCP. The process to ensure a proposed development's consistency with these detailed policies of the LCP is the coastal development permit process, hence, the requirement in the City's LCP for all development to be authorized by a CDP.

Here, the LCP provisions at issue are the "guidelines" in Item 2 of Table 4.5.4. The guidelines identify the City as the managing entity of the Mid-Strand, Central Strand, Strand Beach Park, and South Strand Beach Accesses, as opposed to the County or a non-profit, which the HCP identifies as the managing entities of the North Strand Beach Access and Headlands Conservation Park, respectively. As explained above, these guidelines do not authorize development. Rather, the guidelines provide a standard of review, together with LCP policies that require maximizing public access, particularly HDCP Section 4.4, which specifies that trails will maximize public coastal access, for any proposed development affecting the accessways, such as establishing hours of closure. Staff emphasized at our meeting that we believe the closures and signage are inconsistent with the public access policies of the LCP and Coastal Act that provide for maximizing public access because the access closures and signage prohibit access even during daylight and twilight hours.

Beach Access Gates

The gates erected at the entrances to the beach accessways clearly constitute development; "development" is defined in Section 9.75.040 of the City's zoning code, in relevant part as "the placement or erection, on land, in or under water, of any solid material or structure." You have referred staff to an unidentified icon in the location of the subject gates on the approved Headlands project plans, asserting that the icon is an indication of approval of the gates. The icon is not identified on the plans as a symbol for gates. In contrast, on the same project plans where gates are consistent with the HDCP and were authorized by CDP 04-23, namely, at the entrances to trails within the Headlands Conservation Park to reduce impacts to ESHA, gates are specifically identified and labeled.

Moreover, the gates are inconsistent with the access policies of the HDCP. HDCP Section 3.4.A.6 expressly prohibits gates or other development in Planning Areas 2 and 6 that restrict public pedestrian and bicycle access. Section 3.4.A.6 reads in pertinent part:

V-5-09-026 (City of Dana Point)
March 4, 2010
Page 4 of 5

Gates, guardhouses, barriers or other development designed to regulate or restrict public access shall only be allowed in conjunction with a public funicular in Planning Area I providing mechanized public access from the County beach parking lot to the beach. Only public vehicular access may be restricted. Public pedestrian and bicycle access shall not be restricted. (underlining added for emphasis)

General Condition No. 3 of CDP 04-23 requires all development to be consistent and comply with the requirements of the HDCP. Since the gates are inconsistent with the HDCP, they could not be validly authorized by the CDP.

Existing Signs

During our visit to the site, staff noted several signs on the project site that may have the unintended effect of restricting public access:

- 1) Signs at the top and foot of the North Strand Beach Access displaying the hours of operation of the funicular read: beach access hours 8am to 5pm. This may give the public the mistaken impression that access to the beach is limited to 8am to 5pm. The signs should be clear that the hours listed on the signs are solely the hours of operation of the funicular.
- 2) Signs labeled "Alternate Public Beach Access" recently installed at the Mid-Strand and Central Strand Beach Accesses direct the public to alternative accessways to the north and south of the Strand Vista Park "when gate is closed", but do not identify that beach access is available at the Mid-Strand and Central Strand Beach Accesses at all other times. While on site, staff witnessed two members of the public mistakenly interpret one of these signs to mean that no beach access was available at the Central Strand Beach Access, where the sign in question was located, even though the gate was open. This mistaken impression could be counteracted by replacing the sign with a map of all the available accessways on the site, including, but not limited to the Mid-Strand and Central Strand Beach Accesses, along with removal of the gates as discussed above.
- 3) Another sign at the Mid-Strand Beach Access reads: Public Beach Access, Free Inclined Elevator, 200 Yards (an arrow points towards the funicular). This sign suggests the public access is only located at the funicular, instead of at the Mid-Strand, Central Strand, and South Strand Beach Accesses.
- 4) A sign located at the foot of the Mid-Strand access directs the public to remain on the sidewalk, however, there is no sidewalk in this location. Depicting the course of the accessway with the familiar "barefoot" public access icon used to identify accessways in California may be more appropriate in this location.
- 5) A sign on the landward side of the fence at the foot of the Central Strand Beach Access states access is restricted to the sidewalk. This gives the false impression that access is restricted to the Strand Beach Park Lateral Access. However, as you know, the entirety of Strand Beach Park, including at the foot of the Central Strand Beach Access, is a public beach.

Signs, such as those listed above, erroneously mislead the public to believe public access is unavailable or restricted and these signs should be removed. The City is authorized through the

V-5-09-026 (City of Dana Point)
March 4, 2010
Page 3 of 5

CDP to install signage that details public access availability, although as detailed above, signs that establish hours of closure of accessways or restrict public access are unpermitted. Thus, replacement signs that make clear the public access opportunities that are available may not require a CDP if they do not restrict public access; however, we would like the opportunity to coordinate with City staff regarding the signage that may be acceptable to accurately direct public use of these accessways to the beach. As indicated, signage which establishes hours for access and/or beach use would require a CDP.

As we have noted in prior communications, any development activity conducted in the Coastal Zone/CO District without a valid CDP which requires a permit, as does the subject installation of gates on public coastal accessways, closure of the beach accessways through establishment of hours of operation by ordinance, installation of signs displaying the hours of closure of accessways, and installation of signs that deter access by misrepresenting the available public access opportunities, constitutes a violation of the Coastal Act and the City's LCP. While we remain confident that this matter can be resolved amicably and strongly prefer to do so, please be advised that Public Resources Code Section 30810(a)(3) authorizes the Commission to issue a cease and desist order to enforce any requirement of a certified LCP if the local government is a party to the violation (as in this instance where the City owns the property upon which the Coastal Act violation is located and operates the subject gated accessways). In order to resolve this matter, we are requesting that the City remove the gates and replace the signs displaying the hours of closure with public access signage that do not display hours of closure by April 2, 2010. Please contact me by March 19, 2010 regarding how the City intends to resolve this matter.

Thank you for your attention to this matter and for taking the time to meet with us onsite. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me at (562) 590-5071. We look forward to working with you and your staff to resolve this matter in the near future.

Sincerely,



Andrew Willis
District Enforcement Analyst

cc: Sherilyn Sarb, Deputy Director, CCC
Lisa Haage, Chief of Enforcement, CCC
Karl Schwing, Orange County Planning Supervisor, CCC
Alex Helperis, Staff Counsel, CCC
Teresa Henry, District Manager, CCC
N. Patrick Veesart, Enforcement Supervisor, CCC
Christopher Pederson, Deputy Chief Counsel, CCC

SUPPORTING DOCUMENT D

1. Copies To: Dana Point

COPY ORIGINAL

2. Case No. 10-038724

Priority: ☒ Yes ☐ No

SANDRA HUTCHENS, SHERIFF-CORONER

SHERIFF'S DEPARTMENT
JSD ORANGE COUNTY
SANTA ANA, CALIFORNIA

2a. Citation No.

3. OFFENSE				4. DATE-TIME COMMITTED				INITIAL CRIME REPORT							
PC 594(b)(1) Vandalism				Wednesday 3-3-10 0957											
5. WHERE COMMITTED				6. GRID		7. DATE-TIME REPORTED									
Selva / PCH Dana Point, Ca 92629				971F6/135											
8. VICTIM				9. ADDRESS PHONE											
10. VICTIM DOB				11. ADDRESS PHONE											
12. BUSINESS ADDRESS-PHONE				13. CONTACT TIME-ADDRESS											
14. FIRM NAME OF VICTIM				15. BUSINESS ADDRESS-PHONE											
City of Dana Point				33368 Golden Lantern Dana Point, Ca 92629											
16. VICTIM'S OCCUPATION RACE SEX AGE				17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED											
				Wrought Iron Fence lining Dana Strand Park											
18. POINT OF ENTRY				22. WEAPON OR MEANS USED											
19. INSTRUMENT OR MEANS USED				23. VICTIM'S ACTIVITY AT TIME OF OFFENSE											
20. METHOD USED				24. EXACT WORDS USED BY SUSPECT											
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE?				25. FORCE OR METHOD USED											
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN				27. TOTAL VALUE STOLEN											
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S)															
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS															
1999 Ford Explorer Sport black (Cal. Lic. 4FIN102)															
30. WITNESSES OR PRESIDENCE/BUSINESS ADDRESS PHONE				R											
(1)				B											
(2)				R											
(3)				B											
31. SUSPECT(S) IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER				BKG. NBR. 2560658											
(1)				BKG. NBR.											
(2)				BKG. NBR.											
(3)				BKG. NBR.											
NAME				ADDRESS				SEX RACE DOB HT. WT. HAIR EYES							
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS															
QUAN.	ARTICLE	BRAND	SERIAL NO.	MODEL NO.	MISC. DESCRIPTION	VALUE									
	Damage to Wrought Iron fence lining Dana Strand Park:														
	(70) Broken wrought iron spiros off of fence columns														
	(2) Broken wrought iron pieces off of fence columns														
Evidence Collected:															
(3) wrought iron pieces and photos of damage.															
33. INVESTIGATING OFFICERS				REPORT BY				34. DATE OF REPORT				35. APPROVED			
				M. Northart #613				3/3/10				Sgt 9 Caputo			

PAGE 1 OF 3

1. COPIES TO:
Dana Point

2. CASE NO. 10-038724

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

Narrative: I responded to Pacific Coast Highway and Dana Strand Beach Park reference four subjects throwing rocks at the fence line and breaking the decorative tops off the fence. While driving to the call I was told the subjects were leaving the area. I patrol checked the area and was ultimately notified the subjects were stopped in their 1999 Ford Explorer (Cal. Lic. 4FIN102) at Avenida Vaquero and Camino Capistrano by Deputy B. Stephenson.

I then contacted the [REDACTED] in the Dana Strand Beach parking lot. She told me that she was walking near the south end of the park area and she saw two subjects throwing rocks at the wrought iron fence that leads to the south beach trail off Selva road. [REDACTED] said that several people were yelling at the subjects asking them to stop. [REDACTED] said that there were four male teen-aged subjects who got into the black Ford Explorer and they drove away toward Pacific Coast Highway. [REDACTED] provided me the license number of the car. I obtained her identification information and provided her this case number on my card.

I then drove to the area where [REDACTED] said the damage had occurred and I found the listed damage. I photographed the damage and collected three of the broken spires. I then drove to where Deputy Stephenson stopped the Ford Explorer. I also had [REDACTED] drive to the location where I conducted an In-Field show up. She identified [REDACTED] and [REDACTED] as the two seen throwing rocks and damaging the fence. [REDACTED] signed the In-Field Show Up forms and she left the location.

I then handcuffed [REDACTED] and read him the Miranda Advisement from my department issue card. He answered "Yes" to all questions and agreed to talk to me. [REDACTED] told me that the three went to Strands Beach to check the surf, after being involved in a surf contest, close by. He said that he did not throw rocks or damage the fence and was only looking at the surf. He said that people who were walking on the trail and sidewalk saw them and started yelling at them because [REDACTED] was throwing rocks and causing the damage.

[REDACTED] admitted that [REDACTED] told him some of his friends had thrown rocks at the fence prior and it was easy to break the tops off the wrought iron. He continually denied that he had done any damage and said no one but [REDACTED] was responsible.

I then spoke to [REDACTED] who said that the Ford belongs to his parents. He admitted that they were at Strands Beach and that [REDACTED] threw rocks at the fence. He told me that they all drove away when people started yelling at them about the damage [REDACTED] was causing. [REDACTED] also told me that [REDACTED] said he had other friends who had done damage to the fence. [REDACTED] said that [REDACTED] did nothing wrong.

I also spoke to [REDACTED] who said that they went to look at the surf and was throwing rocks at the fence along Selva road. He said that [REDACTED] admitted that a friend named [REDACTED] had done damage to the fence and that [REDACTED] told them how easy it was to break the wrought iron tops off the fence line.

I read the Miranda Advisement to [REDACTED]. He answered "Yes" to all questions and agreed to talk to me. [REDACTED] said that they were at the beach to check out the surf. He said he was the only one of the four who broke anything with a rock today. He said that he had only broken one top piece off the fence. I questioned him how he knew that rocks would break off the wrought iron and he ultimately admitted that two of his

33. INVESTIGATING OFFICERS	REPORT BY M. Northart #613	DATE OF REPORT 3/3/10	APPROVED <i>Sgt. J. Carpenter</i>
----------------------------	-------------------------------	--------------------------	--------------------------------------

PAGE 2 OF 3

1. COPIES TO:
Dana Point

2. CASE NO. 10-038724

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

friends, named " [REDACTED] " and " [REDACTED] ", who are Dana Hills High School students, had broke several pieces off prior. [REDACTED] said that [REDACTED] did nothing wrong and that he was the only one that damaged anything.

[REDACTED] and [REDACTED] left the location and [REDACTED] was released to his mother. [REDACTED] was booked in to Orange County Jail.

33. INVESTIGATING OFFICERS	REPORT BY M. Northart #613	DATE OF REPORT 3/3/10	APPROVED <i>Sgt. J. Carpenter</i>
----------------------------	-------------------------------	--------------------------	--------------------------------------

PAGE 3 OF 3

COPIES: DANA POINT

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

CASE NO.

10-038724

PRIORITY: ☒ YES
☐ NO

SANDRA HUTCHENS, SHERIFF-CORONER

IN FIELD SHOW-UP REPORT

OFFENSE PC 594 (b)(1) VANDALISM	LOCATION OF OCCURRENCE SHELVA / PCH DANA POINT CT
VICTIM STATE CT CALIFORNIA	DATE OF OCCURRENCE 3-3-10
	GRID 971F6

ADMONITION OF VICTIMS AND WITNESSES:

It is requested that you look at an individual who has been temporarily detained by the Police. This person may or may not have committed the crime. It is just as important to eliminate an innocent person from suspicion, as it is to identify the person who committed the crime. You are under no obligation to identify this person. The fact that the person has been detained, may be handcuffed, seated in a Police car, or surrounded by Police Officers should not influence your decision. While viewing this individual, be aware of the possibility that the person being detained may have altered his/her appearance by using a disguise or by changing clothing since the time of the reported crime. The possibility should be considered in your final identification or elimination of the individual being detained. Please do not discuss the case with other witnesses or indicate in any way that you have or have not identified someone.

I fully understand the admonition presented to me by Officer DEPT NORTHALL regarding the In Field Show-Up.
☒ Yes ☐ No

(Signature of Witness)

IDENTIFICATION:

<input type="checkbox"/> I cannot identify this individual as the suspect.
<input checked="" type="checkbox"/> I can identify this individual as the suspect.

ADDITIONAL COMMENTS OF VICTIM / WITNESSES:

SIGNATURE OF WITNESS: X [REDACTED] DATE: 3-3-10
 WITNESSED BY OFFICER: M. Northall 613 DATE / TIME: 3-3-10 1110
 LOCATION OF IN FIELD SHOW-UP: CAMINO CARPINTERO / Ave Jacaranda Santa Clemente
 DATE & TIME OF IN FIELD SHOW-UP: 3-3-10 1110
 NAME AND DATE OF BIRTH OF PERSON VIEWED: [REDACTED]

INVESTIGATING OFFICERS	REPORTED BY <u>M. Northall 613</u>	DATE OF REPORT <u>3-3-10</u>	APPROVED <u>Sgt G Carpenter</u>
------------------------	---------------------------------------	---------------------------------	------------------------------------

COPIES:

CASE NO. 10-058724

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIAPRIORITY: ☒ YES
☐ NO

SANDRA HUTCHENS, SHERIFF-CORONER

IN FIELD SHOW-UP REPORT

OFFENSE PC 594(b)(1) VANDALISM	LOCATION OF OCCURRENCE 3254 / Pacific Coast Hwy Dana Point
VICTIM STATE OF CALIFORNIA	DATE OF OCCURRENCE 3-3-10
	GRID 971 F6

ADMONITION OF VICTIMS AND WITNESSES:

It is requested that you look at an individual who has been temporarily detained by the Police. This person may or may not have committed the crime. It is just as important to eliminate an innocent person from suspicion, as it is to identify the person who committed the crime. You are under no obligation to identify this person. The fact that the person has been detained, may be handcuffed, seated in a Police car, or surrounded by Police Officers should not influence your decision. While viewing this individual, be aware of the possibility that the person being detained may have altered his/her appearance by using a disguise or by changing clothing since the time of the reported crime. The possibility should be considered in your final identification or elimination of the individual being detained. Please do not discuss the case with other witnesses or indicate in any way that you have or have not identified someone.

I fully understand the admonition presented to me by Officer [redacted] regarding the In Field Show-Up.

☒ Yes ☐ No

(Signature of Witness)

IDENTIFICATION:

<input type="checkbox"/> I cannot identify this individual as the suspect.
<input checked="" type="checkbox"/> I can identify this individual as the suspect.

ADDITIONAL COMMENTS OF VICTIM / WITNESSES:

SIGNATURE OF WITNESS: [redacted]

DATE: 3-3-10

WITNESSED BY OFFICER: M. Netherland #613

DATE / TIME: 3-3-10 1110

LOCATION OF IN FIELD SHOW-UP: Camino Capistrano / Adel Jacinto San Clemente

DATE & TIME OF IN FIELD SHOW-UP: 3-3-10 1110

NAME AND DATE OF BIRTH OF PERSON VIEWED: [redacted]

INVESTIGATING OFFICERS	REPORTED BY M. Netherland #613	DATE OF REPORT 3-3-10	APPROVED Sgt G Capistrano
------------------------	-----------------------------------	--------------------------	------------------------------

Copies To: DANA POENT

2. Case No. 10-038729

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

SANDRA HUTCHENS, SHERIFF-CORONER

JUVENILE INVESTIGATION REPORT

3. OFFENSE W & I 602		4. GRID 971FS		5. DATE/TIME COMMITTED 03-03-10 / 1110	
6. LOCATION WHERE OFFENSE WAS COMMITTED SEVEN 11 PACIFIC COAST HWY, D.P. CA		7. DATE/TIME REPORTED 03-03-10 / 1110		8. DATE 03-03-10	
9. LOCATION OF ARREST 2800 CAMINO CAPESTRANO		10. TIME 1110		11. NAME	
12. ALIAS OR NICKNAME		13. ADDRESS		14. TELEPHONE	
15. BIRTHDATE		16. BIRTHTIME		17. MARKS - SCARS	
18. OFFENSE CFC 944 FELONY VANDALISM		19. ACTION See Box 53		20. DATE 5'11	
21. ADDITIONAL INFORMATION SEE BOX 49		22. VEHICLE - YEAR, MAKE, BODY TYPE		23. COLOR	
24. CLOTHING - DESCRIPTION (FILL OUT FOR MISSING, RUNAWAYS, ESCAPES) BROWN JACKET, BLUE T-SHIRT, BLUE JEANS, BLACK SLIPPERS		25. SCHOOL STATUS SOPHOMORE		26. SCHOOL STATUS	
27. COUN#		28. STATE		29. SS#	
30. FATHER/STEP		31. ADDRESS Box 13		32. TELEPHONE HOME Box 14	
33. CITY		34. ZIP		35. BUS	
36. MOTHER/STEP		37. ADDRESS Box 13		38. TELEPHONE HOME Box 14	
39. CITY		40. ZIP		41. BUS	
42. LIVES WITH: MOTHER & FATHER		43. ADDRESS Box 13		44. TELEPHONE	
45. CITY		46. ZIP		47. TELEPHONE	
48. Released to: PARENT		Application for Petition Filed: YES		NO	
49. Detained Juvenile Hall - Parent notified.		School Attending: SAN CLEMENTE H.S.		Grade: 9TH	
50. Detained Other (explain Box 49) - Parent notified.		No further action recommended.		Date: 03-03-10 Time: 1210	
51. Released to: (Not an admission of Guilt) (Signed by Juvenile)		ISSUED BY Deputy:			

49. ADDITIONAL INFORMATION AND REMARKS:

50. INVESTIGATING OFFICER M. Hutchens 653		51. DATE OF REPORT 3-3-10		52. APPROVED Sgt. Carpenter	
53. FINAL DEPARTMENT DISPOSITION C <input type="checkbox"/> I <input type="checkbox"/> P <input type="checkbox"/> D <input type="checkbox"/>		54. INV.		55. CJI OPERATOR	

SF-F 066 (03/08)

ORIGINAL - DEPARTMENT - COPY - JUVENILE

03/22/10

Page 38

PLEASE ATTACH 3 COPIES OF CRIME ARREST REPORTS (+ IF REQUESTING ARREST WARRANT)

APPLICATION FOR PETITION

SEND TO PROBATION OFFICE
P.O. BOX 10260, SANTA ANA, CA 92711-0260

REF. AGENCY D.C.S.D. POLICE USE ONLY CASE NO. 10-038729

MINOR'S LEGAL NAME [REDACTED] AKA [REDACTED]

MINOR'S ADDRESS [REDACTED] PHONE [REDACTED]

DOB [REDACTED] AGE [REDACTED] ETHNICITY [REDACTED] SEX [REDACTED] HAIR BUN EYES BUN HGT. 5'11 WGT. 135

PLACE OF BIRTH ALBANY, NY LAST SCHOOL ATTENDED S.C.H.S. CITY S.C. GRADE 10

OFFENSE GPE 594 FELONY NARCOTICS LOCATION SALVANT P.C.H. D. DATE 03-03-10 TIME 0955

PLACE OF ARREST/CUSTODY 2810 OAKLAND LANE DATE 03-03-10 TIME 1130 OFFICER [REDACTED]

FATHER [REDACTED] (name) (address) (home ph.) (work ph.)

MOTHER [REDACTED] (name) (address) (home ph.) (work ph.)

GUARDIAN / ATTY [REDACTED] (name) (address) (home ph.) (work ph.)

CUSTODY CASES ONLY: PERSON NOTIFIED OF MINOR'S DETENTION NOTIFYING OFFICER [REDACTED]

DELIVERED TO J.H. BY [REDACTED] DATE [REDACTED] TIME [REDACTED] ADMITTED BY [REDACTED]

COMMENTS: UNCLAUDE POSSIBLE CUSTODIAL PROBLEMS

ADDITIONAL INFO FOR PROBATION PLEASE INCLUDE GANG AFFILIATION:

AFFIDAVIT: I REQUEST COMMENCEMENT OF PROCEEDINGS IN JUVENILE COURT. I DECLARE UNDER OATH THAT THE ABOVE FACTS AND THOSE CONTAINED IN THE ATTACHED REPORTS ARE TRUE.

SIGNATURE [REDACTED] PHONE 714-361-2214 EXECUTED ON 03-10 AT 90 CLAYTON, CA

TITLE DEPUTY AGENCY D.C.S.D.

NAME [REDACTED] PROBATION USE ONLY

APPROVED DATE [REDACTED] TIME [REDACTED] HCDL [REDACTED] CUST. DL. FEL [REDACTED] MISD [REDACTED]

IN CUSTODY [REDACTED] NO. ARS ATTACH [REDACTED]

COPIES [REDACTED] TO WHOM [REDACTED] STATUS [REDACTED] COURT DATE [REDACTED]

Q.D.A. DATE [REDACTED] TIME [REDACTED] INT. P.O. [REDACTED] PH [REDACTED] ASS'D F.O. [REDACTED] PH [REDACTED]

RECOMMENDED ALLEG. MINOR ADMITS TO

TYPE HEARING: ☐ DET. ☐ INT. ☐ TRIAL ☐ DISPO. TYPE PET: 601 602 NEW SUB. SUP. 117 WIC 118 WIC

AND NOTICE OF HEARING TO: ☐ PARENTS ☐ GUARDIAN ☐ ATTORNEY ☐ REQUEST WARRANT (PROB/POLICE)

P. PREVIOUSLY SENT TO DA: FILING DEADLINE ALLEG.

IT ALREADY PENDING: ALLEG. TYPE OF HEARING DATE OF HEARING

ADDITIONAL INFO FOR DA (INCLUDE PRIOR RECORD INFO. OR ATTACH CJJ/WARD CARD):

POSITION: P.O. DATE SPO APPROVAL

REFER TO DA ☐ 654 WIC ADMIN/DIV./FIELD ☐ DISMISS ☐ OTHER

REASONS OF 654 WIC / REASONS FOR DISMISSAL (INCLUDE SANCTIONS):

DATE FOR TO CLEARED

CLEARING ROUTING	INITIAL	DATE

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, HARBOR JUSTICE CENTER

DECLARATION IN SUPPORT OF ARREST WARRANT MADE UNDER 2015.5 CCP

The undersigned hereby declares, upon information and belief:

That (s)he is currently employed as a Peace Officer and Deputy for the County of Orange, California,
and has been so employed throughout this investigation.

That pursuant to his/her employment, (s)he has been assigned to investigate allegations that

did violate PC 594 (b)(1) VANDALISM

That pursuant to this assignment, your affiant has contacted witnesses, obtained their statements, and
received reports and statements prepared by others known to your affiant to be law enforcement officers, all of
which are included in a report consisting of _____ pages, which is attached hereto as Exhibit 1 and incorporated
by reference as fully set forth.

I declare under penalty of perjury that the foregoing facts and attached reports are true and correct.

DATED: 3-3-10

Orange County, California

[Signature]
Affiant's Signature

Defendant's Address: [REDACTED]

Defendant's Auto: Make _____ Model _____ License # _____

Description of Defendant: Sex M DOB 2-4-92 Race W

Height 5'11 Weight 160 Hair Brown Eyes Brown Age 18

Distinguishing Features: _____

Additional Information: _____

F0232-299.2(R-8/09)

Medical Temp. No. _____

ORANGE COUNTY JAIL
Santa Ana, California
☐ EXPEDITE BOOKING
☐ MEDICAL BOOKING
☒ NORMAL BOOKING
PRE-BOOKING RECORD

FOR JAIL USE ONLY

PLEASE PRINT OR TYPE

BOOKING NUMBER 2560 658	RECEIVING OFFICER WIGGIN'S # 0130	DATE 03-03-10/1834	SUPPLEMENTAL WARRANTS	HOW MANY
BKG STATUS <input checked="" type="checkbox"/> STREET BOOKING (F) <input type="checkbox"/> WARRANT <input type="checkbox"/> COURT ORDER <input type="checkbox"/> OTHER (SPECIFY) _____ <input type="checkbox"/> COMMITMENT				

TO BE COMPLETED BY ARRESTING OR TRANSPORTING OFFICER

PLEASE FILL IN ALL OF THE BOXES BELOW THIS LINE PRIOR TO SUBMITTING TO THE RECEIVING GUARD STATION

ARRESTING AGENCY OCSD	OLD AREA OR CONTRACT CITY DANA POINT	AGENCY CASE # 050 038724	DATE & TIME ARRESTED 3/3/10 1045 HOURS
NAME: LAST [REDACTED] FIRST [REDACTED] MIDDLE [REDACTED]			
BIRTH DATE [REDACTED]	SEX M	RACE WHITE	HEIGHT 5 11
WEIGHT 160	HAIR BROWN	EYES BROWN	STATE & COUNTRY OF BIRTH CA / USA
CITIZENSHIP U.S.A.			
JURISDICTION TRC			
WARRANT OR CASE NUMBER 10-038724		BAIL \$20,000	
CHARGE 1 R. BOMBING VANDALISM		CHARGE 4	
CHARGE 2		CHARGE 5	
CHARGE 3		CHARGE 6	

DNA

☐ DNA COLLECTED BY OFFICER **N/A** ☐ PREVIOUSLY COLLECTED ☐ NOT COLLECTED (EXPLAIN BELOW)
 EXPLAIN WHY DNA WAS NOT COLLECTED

OCCUPATION [REDACTED]	MARITAL STATUS [REDACTED]	SOCIAL SECURITY NUMBER [REDACTED]	TELEPHONE NO. [REDACTED]
SCARS, MARKS, TATTOOS, AMPERS SCAR IN THE MIDDLE OF BACK			
ADDRESS [REDACTED]		CITY SAN CLEMENTE	STATE CA
NEXT OF KIN: NAME [REDACTED]		RELATIONSHIP [REDACTED]	TELEPHONE NO. [REDACTED]
ADDRESS [REDACTED]		CITY LAGUNA HILLS	STATE CA
ZIP 92657		ZIP 92657	
ARRESTED EMPLOYER NAME [REDACTED]		BUSINESS ADDRESS [REDACTED]	
OFFICER'S ADDITIONAL INFORMATION - CHECK BOX IF YOU BELIEVE THE ARRESTEE WILL REQUIRE MEDICAL ATTENTION OR SPECIAL MANAGEMENT. <input type="checkbox"/> MEDICAL (ILL OR INJURED) <input type="checkbox"/> MENTAL <input type="checkbox"/> INTOXICATED <input type="checkbox"/> PROTECTIVE CUSTODY <input type="checkbox"/> HIGH SECURITY EXPLAIN: _____			

 ARRESTING OFFICER **R. ROETHLI** ID# **613** MANDATORY FOREIGN CONSULAR NOTIFICATION MADE PER CPC 814c
☐ YES ☐ NO ☒ N/A

PERMISSION TO USE TELEPHONE AFTER ARREST (Pursuant to Penal code Section 851.5)
 I have been given the opportunity to make three (3) FREE telephone calls within the LOCAL DIALING area, or at MY OWN EXPENSE IF OUTSIDE the Local dialing area.

RECORD OF TELEPHONE CALLS:

 Telephone calls DESIRED **1** Telephone calls COMPLETED **1**
 Location: **TRC** Date: **3-3-10** Time: **1305**
 Witnessing Officer: **M. Northcutt** ID# **613** Agency: **OCSD**
 SIGNATURE: **[REDACTED]**

**CRIME SUMMARY INFORMATION,
PROBABLE CAUSE DECLARATION AND BAIL SETTING INFORMATION**

ARRESTEE (LAST, FIRST, MIDDLE) [REDACTED]	BOOKING NO. 2560 658	OR NO. 10-038124
ADDRESS (RESIDENCE) [REDACTED]	DOB [REDACTED]	AGE 18
BOOKING CHARGES PC 594(b)(1) VANDALISM	SUPPL. HOLDS	
DATE/TIME OF ARREST WED 3-3-10 1042	JAIL EXP. DATE/TIME 03-04-20 2245	
ARRESTING AGENCY OCSO	STATION 18	ARRESTING OFFICER(S) M. NORTON LWS

FACTS ESTABLISHING ELEMENTS OF CRIME AND IDENTIFICATION OF ARRESTEE.

[REDACTED] AND A 15 YR OLD JUVENILE WERE SEEN THROWING ROCKS AND BREAKING 4" DECONITIVE SPIKES OFF OF A WINDMILL TOWER FENCE THAT LIES BETWEEN DEER PARK, WHICH OPENED 1 MONTH AGO. (12) SEVERITY OF THE SPIKES WERE BROKEN OFF OF THE FENCE AND (2) OF THE FENCE COLUMNS WERE BROKEN OFF AT ABOUT 8" BELOW THE TOP. THE PARK WAS RECENTLY COMPLETED AND THE WINDMILL WAS A MULTI-MILLION DOLLAR PROJECT. REPAIRS FOR THE DAMAGE WAS ESTIMATED AT \$1500.00. [REDACTED] WAS IN A 1999 FORD (4FNI02) AND HE WAS SEEN WITH ONE 15 YR OLD AND TWO OTHER JUVENILES. [REDACTED] AS ONE OF THE SUSPECTS, DURING AN INTERVIEW SHOW UP.

() SEE ATTACHED REPORTS, INCORPORATED HEREIN BY THIS REFERENCE.

(1) WEAPON DESCRIPTION: _____
 (2) VICTIM'S AGE: _____ VICTIM'S INJURIES: _____
 (3) VALUE OF PROP. LOSS: \$ _____ TYPE OF PROP: _____
 (4) TYPE OF NARCOTICS: _____ QTY: _____
 (5) WHOLESALE VALUE: \$ _____ STREET VALUE: \$ _____

I DECLARE UNDER PENALTY OF PERJURY, UNDER THE LAWS OF THE STATE OF CALIFORNIA, THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY INFORMATION AND BELIEF.

EXECUTED ON 3-3-10 (DATE) AT ORANGE COUNTY, CALIFORNIA, BY [REDACTED] (SIGNATURE)

ON THE BASIS OF ☐ THE OFFICER'S DECLARATION ☐ REPORTS REVIEWED, I HEREBY DETERMINE THAT THERE
☐ IS ☐ IS NOT ☐ PROBABLE CAUSE TO BELIEVE THIS ARRESTEE HAS COMMITTED A CRIME.

(DATE) (TIME) (SIGNATURE OF JUDICIAL OFFICER)

FD369-2219

White - Jail - Blue - Detention Release - Pink - Court - Goldenrod - Arresting Agency

Revised 12-15-09

PROPERTY INVENTORY RECEIPT

THIS FORM MUST BE COMPLETED ON ALL ORANGE COUNTY JAIL BOOKINGS.

SHADED AREAS ARE FOR I.R.O. USE ONLY

NAME: LAST FIRST MIDDLE DOB: [REDACTED]
ARRESTING AGENCY: OCSO COURT: HOC ARRESTING OFFICER: M. Naltunur
MONEY: \$ [REDACTED]

This form is to be completed in the presence of the arrestee. List all items by amount and color. If property is not removed, indicate RETAINED in the appropriate box. List jewelry by either yellow or white metal. Indicate color of stones only. Complete even if NO PROPERTY is received.

		YELLOW METAL		WHITE METAL	
BELT	1	EARRINGS			
KNIFE		CHARMS			
CHECKBOOK		CHECKS			
BILLFOLD		BRACELET			
GLASSES		RINGS			
KEYS	2	NECK CHAIN			
WATCH		LIGHTER			

MISCELLANEOUS PROPERTY (Bank property will NOT be accepted):

PROPERTY RELEASED:

RELEASED TO: _____ DATE/TIME: _____

ITEMS RETAINED BY ARRESTING AGENCY, (EVIDENCE OR SAFEKEEPING):

INVENTORY OFFICER: M. J. [Signature] AGENCY: OSD COURT: HO
SIGNATURE & BADGE #: [Signature] PRINT NAME F 613 DATE/TIME: 2-3-10 1213

I HAVE REVIEWED THIS INVENTORY AND IT ACCURATELY REFLECTS THE PROPERTY IN MY POSSESSION AT THIS TIME.

ARRESTEE'S SIGNATURE: X VERIFIED BY: [REDACTED]

MONEY/PROPERTY TRANSFER RECORD

TO BE COMPLETED ON ALL AGENCY-TO-AGENCY TRANSFERS/SIGNATURE INDICATES RECEIPT OF PROPERTY

RECEIVED BY: _____ AGENCY: _____ DATE/TIME: _____

DISCREPANCIES (IF ANY):

RECEIVED BY: _____ AGENCY: _____ DATE/TIME: _____

DISCREPANCIES (IF ANY):

RECEIVED BY: _____ AGENCY: _____ DATE/TIME: _____

DISCREPANCIES (IF ANY):

TO BE COMPLETED AT TIME OF RELEASE

I HAVE REVIEWED MY PROPERTY AND I ACKNOWLEDGE RECEIPT OF ALL MONEY AND ARTICLES LISTED ABOVE EXCEPT THAT PORTION THEREOF PREVIOUSLY RELEASED BY ORDER.

SIGNATURE: _____ DATE/TIME: _____

RELEASED BY: _____ AGENCY/COURT: _____

COMMENTS:

Original - File Yellow - Property Pink - Inmate Gold - Agents

— *Pharmazie* 1992, 47, 10, 697–700.

03/22/10

Page 43

Item #12

1. Copies To: Dana Point

ORIGINAL
SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 10-006602

3a. Citation No.

Priority: ☐ Yes ☒ No

SANDRA HUTCHENS, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE CPC 148(s)(1) Resist / Delay Peace Officer		4. DATE/TIME COMMITTED 1-10-10 / 1620 hours / Sunday	
5. WHERE COMMITTED Cove & Green Lantern, Dana Point Ca 92629		6. GUN 971G6	
8. INFORMANT Deputy John Gomez		9. ADDRESS/PHONE 550 N. Flower Santa Ana Ca 92703 714-647-7000	
10. VICTIM DOB		11. ADDRESS/PHONE	
12. BUSINESS ADDRESS/PHONE		13. CONTACT TIME/ADDRESS	
14. FIRM NAME OF VICTIM State of California		15. BUSINESS ADDRESS/PHONE	
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED City Park	
18. POINT OF ENTRY		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE?		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN		27. TOTAL VALUE STOLEN	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S)			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS None			
30. WITNESSES AND RESIDENCE/BUSINESS ADDRESS/PHONE			
(1) Deputy D. Mendoza		B 550 Flower Santa Ana Ca 92703 714-647-7000	
(2)			
(3)			
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BND. NBR. 2532647	
(1)		BND. NBR. 2532649	
(2)		BND. NBR. 2532646	
(3)			
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
BRAND	ARTICLE	BRAND	SERIAL NO.
Evidence: (1) Palm Cellular Phone			
33. INVESTIGATING OFFICERS		34. DATE OF REPORT	
REPORT BY Deputy John Gomez		1/10/10	

PAGE 1 OF 3

A-5-DPT-10-082
Exhibit 4
50 of 115

1. COMES TO:
Dana Point

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 10-006602

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

Narrative:

On Sunday (1-10-10), at 1620 hours, Sgt. McLemore called me on my cellular phone and told me to respond to Hill Top Park at Cove and Green Lantern, Dana Point. The [REDACTED] had reported to Sgt. McLemore that three females were trespassing outside a walking trail; in violation of DPMC 13.04.033.

Hill Top Park is owned and maintained by the city of Dana Point. There is a sign posted at the entrance to the walking trail of the park. This entrance is located at the bottom of the trail located off Green Lantern and Cove Road. The sign states "you must walk on the trail." It also has DPMC Section 13.04 posted. This indicates "it shall be unlawful for any person to leave the designated trail and trespass on protected habitat, without consent from the Natural Resources Protection Officer or Written authorization from the City Manager or designee in the Hilltop Park."

I arrived on scene and spoke with [REDACTED]. [REDACTED] told me the following: On 1-10-10, at 1613 hours, he was walking near the top of the trail with his wife [REDACTED]. They saw three females about 30' outside the walking trail, each holding a clear plastic cup containing alcohol. He identified himself as the city manager and told them they were trespassing. All three females became belligerent and began yelling profanities at him. [REDACTED] said he took a picture of the three females, while they were outside the designated walking trail. They still refused to leave and continued to yell profanities at him.

[REDACTED] requested prosecution for all three females. [REDACTED] described all three females of having dark hair. He said they were still near the top of the trail.

I walked to the top of the trail where I met three females who all had dark hair. There was no other pedestrian traffic on the walking trail upon my contact with the females. One female (later identified as [REDACTED]) had an empty clear plastic cup. Another female (later identified as [REDACTED]) was holding a cellular phone and pointing the camera lens at me. I asked her if she was recording me and she said she was. I asked the three females if they just had a verbal altercation with a city staff member. They said a "fat guy" was harassing them and they just reported the incident with the sheriff's dispatch. I explained to them the male was the [REDACTED] and he observed them trespassing. One of the females (later identified as [REDACTED]), admitted they walked out of the walking trail only because they had a lot on their minds. I told the three females they were being detained and not free to leave. I explained to them I was going to issue them a citation for trespass. At this time Deputy Mendoza arrived to assist me.

While talking with the three females, I noticed all three subjects had symptoms of alcohol intoxication. They had the odor of an alcoholic beverage on their breaths and clothes.

I asked the three females to walk down the trail to my patrol car. I explained to them I would be issued them a citation for trespass. All three females refused to walk to my car. [REDACTED] then became belligerent. She demanded proof and refused to walk down the trail. [REDACTED] and [REDACTED] followed [REDACTED] lead not to comply with my instructions and also refused to walk to my patrol car. All three began screaming that their rights were being violated. I told all three females if did not comply with my directives I would arrest them.

33. INVESTIGATING OFFICER	REPORT BY	DATE OF REPORT	APPROVED
	Deputy John Gomez	1/10/10	[Signature]

PAGE 1 OF 3

1. COPIES TO:
Dana Pold

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 10-006602

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

(CPC 148). [REDACTED] continued to be belligerent. She told Deputy Mendoza she would only walk if we allowed her to walk directly behind us. Deputy Mendoza tried to explain to her he could not follow her request. She then said she was not going and she placed her hands behind her back away from us. The other two females then said they were not going unless I showed them proof they were trespassing. I ordered all three women again to walk to my patrol car or they would be arrested. They refused and began arguing. I told them they were now being arrested obstructing a peace officer. I placed handcuffs on [REDACTED] and [REDACTED]. Deputy Mendoza handcuffed [REDACTED]. I collected a clear plastic cup [REDACTED] had in her hands. I noticed the contents she had in her cup had the odor of an alcoholic beverage.

We escorted all three women back to my patrol car. All three females continued to be belligerent. [REDACTED] then started screaming for help and threatened us with a lawsuit. [REDACTED] and [REDACTED] again followed her lead and threatened us with lawsuits.

We placed each female in the backseat of three different patrol cars. I asked [REDACTED] for her name and she refused to provide it to me. [REDACTED] then said she was pregnant. I asked [REDACTED] and [REDACTED] if [REDACTED] was pregnant and they said no. I asked [REDACTED] again if she was pregnant and this time she said no. [REDACTED] said she lied because the handcuffs were hurting her.

I spoke with [REDACTED] again. He told me the following regarding the incident. He identified himself to the women he was the [REDACTED]. He told them they were in an area that was a "protected habitat" and they need to get back on the trail. [REDACTED] was the most obnoxious and belligerent of the three. [REDACTED] replied, "fuck you. I pay taxes; you're probably a democrat and voted for Obama." [REDACTED] then she hoped he die by having a heart attack or die in a traffic accident. [REDACTED] and his wife decided to de-escalate the situation by walking away. [REDACTED] followed [REDACTED] and continued to scream at him. [REDACTED] contacted Sgt. McLemore and reported the incident.

[REDACTED] identified the three females who he saw trespass (see infield show-up forms). [REDACTED] signed a private person's arrest form for prosecution (see attached).

I looked at [REDACTED] cellular phone. I checked the photos on the phone and saw my picture. I could not determine if she recorded the incident, therefore, I collected the phone for evidence.

Deputy Northhart transported the three women to the Orange County Jails and they were booked for the listed charges.

3A. INVESTIGATING OFFICERS	REPORT BY Deputy John Gomez	DATE OF REPORT 1/10/10	APPROVED Sgt J. [REDACTED]
----------------------------	--------------------------------	---------------------------	-------------------------------

PAGE 3 OF 3

1. COPIES TO:
Dana Point

In Custody

ORIGINAL
SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 10-006602

PRIORITY: ☒ Yes
☐ No

3. ☐ INITIAL NON-CRIMINAL

4. ☐ INITIAL-CRIMINAL

5. ☒ FOLLOW-UP-CRIMINAL

6. ☐ CONTINUATION REPORT NO.

FOLLOW-UP REPORT

SANDRA HUTCHENS, SHERIFF-CORONER

7. OFFENSE CPC 148(a)(1), Resist/delay/interfere officer	8. LOCATION OF OCCURRENCE Cove Road and Green Lantern, Dana Point 92629
9. VICTIM/INFORMANT Informant: Deputy D. Mendoza #2303	10. DATE AND TIME OF OCCURRENCE 1-10-10 @ 1620 hours
	11. GRID 971G6

12. DETAILS OF OFFENSE

Details: On 1-10-10 I was dispatched to "Hilltop Park" to assist Deputy J. Gomez #2684 with trespassers inside the natural wildlife preserve in violation of Dana Point 13.04.053, trespass in natural open space areas. Hilltop Park is located at the intersection of Cove Road and Green Lantern in Dana Point.

Upon my arrival at approximately 1640 hours, I contacted Deputy Gomez at the top of the hiking trail. Deputy Gomez was talking with the three trespassers in question:

Subject #1 [redacted] a white female, 5-7 tall, 135 lbs., brown hair, brown eyes.
Subject #2 [redacted] a white female, 3-4 tall, 140 lbs., brown hair, brown eyes.
Subject #3 [redacted] a white female, 5-2 tall, 120 lbs., brown hair, hazel eyes.

Deputy Gomez was explaining why he was dispatched to the area. All three subjects appeared to be intoxicated and had the strong odor of alcohol on their breaths. They remained verbally uncooperative with Deputy Gomez throughout the duration of this incident. [redacted] appeared to be the primary agitator in by demanding to see any evidence (and video) against them before they were willing to listen or comply with Deputy Gomez. [redacted] and [redacted] made similar statements regarding their unwillingness to comply adding they wanted to see proof before they would listen to Deputy Gomez.

[redacted] remained uncooperative by yelling for assistance from (unknown name) passerby's that her rights were being violated. Deputy Gomez told all three subjects they needed to follow him to his patrol unit where they would be issued citations for trespassing in natural open areas.

Deputy Gomez instructed all three subjects to walk down the hiking path but all hesitated and yelled out loud that their rights were being violated. [redacted] refused to comply with Deputy Gomez and started to walk away in the opposite direction (away from the patrol units parked on Green Lantern). I then stood in front of [redacted] so she could not walk away. [redacted] refused to walk in front of me insisting that I walk in front of her. I told [redacted] I would not walk in front of her because it was unsafe to do so. [redacted] started to wave her hands in what appeared to be an angry manner so I brought it to the attention of Deputy Gomez. We both decided that additional safety precautions would be needed because [redacted] was clearly becoming angry and noncompliant.

Deputy Gomez and I agreed that [redacted] needed to be placed in handcuff restraints for officer safety and to deescalate hostilities. [redacted] and [redacted] also began to yell that their rights were being violated and tried to solicit support/attention from (unknown) passerby's in the area. [redacted] and [redacted] were also placed in handcuff restraints for delaying/resisting Deputy Gomez and I in the performance of our duties.

INVESTIGATING OFFICER J. Gomez #2684	REPORT BY D. Mendoza #2303	DATE OF REPORT 1/10/10	APPROVED [Signature]
---	-------------------------------	---------------------------	-------------------------

PAGE 1 OF 2

1. COPIES TO:
Dana Point

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 10-006602

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

In an attempt to deescalate the situation Deputy Gomez and I walked all three subjects down the hill towards Green Lantern. Deputy Gomez escorted [REDACTED] and I escorted [REDACTED]. Deputy T. Mangus also arrived on scene and assisted in escorting [REDACTED] down the hill.

Since [REDACTED] remained verbally belligerent and was walking down a steep hill, I held on to her arm to keep her from breaking away from me and to keep her from losing her balance on the steep decline to the roadway. Although no force, physical or otherwise, was used against [REDACTED] she kept yelling out loud that I was deliberately hurting her. [REDACTED] possible put unnecessary force on her own arms/wrists when she tried to turn around (handcuffed) to communicate with [REDACTED] and [REDACTED].

I could hear all three subjects make repeated comments how they were going to sue Deputy Gomez and I for false arrest. All three subjects were arrested for violation of CPC 148(a)(1) because they deliberately resisted and delayed us in the performance of our duties. Refer to initial crime report this DR by Deputy Gomez for complete details.

INVESTIGATING OFFICERS	REPORT BY	DATE OF REPORT	APPROVED
J. Gomez #2684	D. Mendoza #2303	1/10/10	[Signature]

PAGE 2

1. Copies To: Dana Point

ORIGINAL
SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 10-006602A

2a. Citation No.

Priority: ☒ Yes ☐ No

SANDRA HUTCHENS, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE DMPC 13.04.055 Trespass in Protective Habitant		4. DATE-TIME COMMITTED 1-10-10 / 1615 hours / Sunday	
5. WHERE COMMITTED Cove & Green Lantern, Dana Point Ca 92629		6. GRID 971G6	7. DATE-TIME REPORTED
8. REPORTER [REDACTED]		9. ADDRESS-PHONE 33282 Golden Lantern Dana Point Ca 92629	
10. VICTIM DOB		11. ADDRESS-PHONE	
12. BUSINESS ADDRESS-PHONE		13. CONTACT TIME-ADDRESS	
14. PREVIOUS NAME OF VICTIM City of Dana Point		15. BUSINESS ADDRESS-PHONE 949-248-3500 Business Hours	
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED City Park	
18. POINT OF ENTRY		19. WEAPON OR MEANS USED	
20. ENTRY METHOD OR MEANS USED		21. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
22. METHOD USED		23. EXACT WORDS USED BY SUSPECT	
24. WHERE WERE OCCUPANTS AT TIME OF OFFENSE?		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN		27. TOTAL VALUE STOLEN	
28. UNUSUAL OR UNUSUAL ACTIONS BY SUSPECTS			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC NO., AND ANY OTHER IDENTIFYING MARKS None			
30. WITNESSES AND RESIDENCE/BUSINESS ADDRESS-PHONE		31. SUSPECT(S) IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER	
(1) [REDACTED]		[REDACTED]	
(2) [REDACTED]		[REDACTED]	
(3) [REDACTED]		[REDACTED]	
(4) [REDACTED]		[REDACTED]	
32. DETAILS OF OFFENSE, EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS		33. INVESTIGATIONS OFFICER REPORT BY	
See original report for details.		34. DATE OF REPORT	
		35. OFFICER'S SIGNATURE [Signature]	

Medical Temp. No: _____ ORANGE COUNTY JAIL
Santa Ana, California

☐ EXPEDITE BOOKING
☐ MEDICAL BOOKING
☒ NORMAL BOOKING
PRE-BOOKING RECORD

FOR JAIL USE ONLY PLEASE PRINT OR TYPE

BOOKING NUMBER 2552649 RECEIVING OFFICER CRB DATE 1-10-10/2011 SUPPLEMENTAL WARRANTS _____ HOW MANY _____

MAG STATUS ☒ STREET BOOKING ☐ WARRANT ☐ COURT ORDER ☐ OTHER (SPECIFY) _____
☐ COMMITMENT

TO BE COMPLETED BY ARRESTING OR TRANSPORTING OFFICER
PLEASE FILL IN ALL OF THE BOXES BELOW THIS LINE PRIOR TO SUBMITTING TO THE RECEIVING GUARD STATION

ARRESTING AGENCY OCSD - Santa Ana OCSD AREA OR CONTRACT CITY OCSD AGENCY CASE 10-000602 DATE & TIME ARRESTED 1/10/10 @ 1625

NAME: LAST BURKE FIRST ALYSSA MIDDLE DAWN

BIRTHDATE 9-16-72 SEX F RACE W HEIGHT 5'4 WEIGHT 140 HAIR BROWN EYES BROWN STATE & COUNTRY OF BIRTH CALIF CITIZENSHIP US

AKA NORTH CA

JURISDICTION HJC WARRANT OR CASE NUMBER 500.03

CHARGE 1 CR 140(a) RESENT / PACEY OFFICE CHARGE 2 _____
CHARGE 3 _____ CHARGE 4 _____
CHARGE 5 _____ CHARGE 6 _____

DNA ☐ DNA COLLECTED BY OFFICER ☒ PREVIOUSLY COLLECTED ☐ NOT COLLECTED (EXPLAIN BELOW)
EXPLAIN WHY DNA WAS NOT COLLECTED MISD.

OCCUPATION _____ MARITAL STATUS _____ SOCIAL SECURITY NUMBER _____ TELEPHONE NO. _____

SCARS, MOLES, TATTOOS, AND _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

NEXT OF KIN _____ RELATIONSHIP _____

ARRESTEE EMPLOYER NAME _____ BUSINESS ADDRESS _____

OFFICER'S ADDITIONAL INFORMATION—CHECK BOX IF YOU BELIEVE THE ARRESTEE WILL REQUIRE MEDICAL ATTENTION OR SPECIAL MANAGEMENT.
☐ MEDICAL (ILL OR INJURED) ☐ MENTAL ☐ INTOXICATED ☐ PROTECTIVE CUSTODY ☐ HIGH SECURITY

EXPLAIN _____

ARRESTING OFFICER D. H. P. / J. C. ... MANDATORY FOREIGN CONSULAR NOTIFICATION MADE PER OPC 0346
☐ YES ☐ NO ☒ N/A

PERMISSION TO USE TELEPHONE AFTER ARREST (Pursuant to Penal Code Section 851.2)
I have been given the opportunity to make three (3) FREE telephone calls within the LOCAL DIALING area, or at MY OWN EXPENSE IF OUTSIDE the Local dialing area.

RECORD OF TELEPHONE CALLS:
Telephone calls DESIRED 1 Telephone calls COMPLETED 1

Location OCJ Date 1-10-10 Time 1645
Witnessing Officer M. North ID # 6133 Agency OCSD
SIGNATURE CUTLER

Form 100-106 (4) (Rev. 08)

To be completed upon a physical arrest for any misdemeanor, pursuant to Penal Code Section 853.6.

The person arrested:

1. ☐ was so intoxicated that he could have been a danger to himself or others.
2. ☐ required medical examination or medical care or was otherwise unable to care for his own safety.
3. ☐ was charged with one or more of the offenses listed in section 40302 of the Vehicle Code.
(Note Paragraphs five and eight)
4. ☐ had one or more outstanding arrest warrants issued.
5. ☐ could not provide satisfactory evidence of personal identification.
6. ☐ If released immediately would jeopardize the prosecution of the offense or offenses for which he was arrested or the prosecution of any other offenses.
7. ☐ would be reasonable likely to continue the offense or offenses, or the safety of persons or property would be imminently endangered if immediately released.
8. ☐ demanded to be taken before a magistrate or refused to sign the Notice to Appear.
9. ☐ was not released for one or more of the reasons specified in paragraphs one through eight. Specifically state reason

SYNOPSIS: (For Officer's Use Only)

1
 2
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 29
 30
 31
 32
 33
 34
 35
 36
 37
 38
 39
 40
 41
 42
 43
 44
 45
 46
 47
 48
 49
 50
 51
 52
 53
 54
 55
 56
 57
 58
 59
 60
 61
 62
 63
 64
 65
 66
 67
 68
 69
 70
 71
 72
 73
 74
 75
 76
 77
 78
 79
 80
 81
 82
 83
 84
 85
 86
 87
 88
 89
 90
 91
 92
 93
 94
 95
 96
 97
 98
 99
 100
 101
 102
 103
 104
 105
 106
 107
 108
 109
 110
 111
 112
 113
 114
 115
 116
 117
 118
 119
 120
 121
 122
 123
 124
 125
 126
 127
 128
 129
 130
 131
 132
 133
 134
 135
 136
 137
 138
 139
 140
 141
 142
 143
 144
 145
 146
 147
 148
 149
 150
 151
 152
 153
 154
 155
 156
 157
 158
 159
 160
 161
 162
 163
 164
 165
 166
 167
 168
 169
 170
 171
 172
 173
 174
 175
 176
 177
 178
 179
 180
 181
 182
 183
 184
 185
 186
 187
 188
 189
 190
 191
 192
 193
 194
 195
 196
 197
 198
 199
 200
 201
 202
 203
 204
 205
 206
 207
 208
 209
 210
 211
 212
 213
 214
 215
 216
 217
 218
 219
 220
 221
 222
 223
 224
 225
 226
 227
 228
 229
 230
 231
 232
 233
 234
 235
 236
 237
 238
 239
 240
 241
 242
 243
 244
 245
 246
 247
 248
 249
 250
 251
 252
 253
 254
 255
 256
 257
 258
 259
 260
 261
 262
 263
 264
 265
 266
 267
 268
 269
 270
 271
 272
 273
 274
 275
 276
 277
 278
 279
 280
 281
 282
 283
 284
 285
 286
 287
 288
 289
 290
 291
 292
 293
 294
 295
 296
 297
 298
 299
 300
 301
 302
 303
 304
 305
 306
 307
 308
 309
 310
 311
 312
 313
 314
 315
 316
 317
 318
 319
 320
 321
 322
 323
 324
 325
 326
 327
 328
 329
 330
 331
 332
 333
 334
 335
 336
 337
 338
 339
 340
 341
 342
 343
 344
 345
 346
 347
 348
 349
 350
 351
 352
 353
 354
 355
 356
 357
 358
 359
 360
 361
 362
 363
 364
 365
 366
 367
 368
 369
 370
 371
 372
 373
 374
 375
 376
 377
 378
 379
 380
 381
 382
 383
 384
 385
 386
 387
 388
 389
 390
 391
 392
 393
 394
 395
 396
 397
 398
 399
 400
 401
 402
 403
 404
 405
 406
 407
 408
 409
 410
 411
 412
 413
 414
 415
 416
 417
 418
 419
 420
 421
 422
 423
 424
 425
 426
 427
 428
 429
 430
 431
 432
 433
 434
 435
 436
 437
 438
 439
 440
 441
 442
 443
 444
 445
 446
 447
 448
 449
 450
 451
 452
 453
 454
 455
 456
 457
 458
 459
 460
 461
 462
 463
 464
 465
 466
 467
 468
 469
 470
 471
 472
 473
 474
 475
 476
 477
 478
 479
 480
 481
 482
 483
 484
 485
 486
 487
 488
 489
 490
 491
 492
 493
 494
 495
 496
 497
 498
 499
 500
 501
 502
 503
 504
 505
 506
 507
 508
 509
 510
 511
 512
 513
 514
 515
 516
 517
 518
 519
 520
 521
 522
 523
 524
 525

**CRIME SUMMARY INFORMATION,
PROBABLE CAUSE DECLARATION AND BAIL SETTING INFORMATION**

ARRESTEE (LAST, FIRST, MIDDLE) [REDACTED]	BOOKING NO. 2552649	OR NO. 10-006602
ADDRESS (RESIDENCE) [REDACTED] P.O. BOX 1011	DOB 4-16-72	AGE 37
BOOKING CHARGES CIC 148(a) RESIST / OBTAIN OFFICIAL PACAY	SUPPL. HOLDS CP	
DATE / TIME OF ARREST 1-10-10 12:16Z	36-HR EXP. DATE/TIME 1-12-10 10425	
ARRESTING AGENCY OCSO	STATION 18	ARRESTING OFFICER (S) GONZALEZ / 141003A

FACTS ESTABLISHING ELEMENTS OF CRIME AND IDENTIFICATION OF ARRESTEE.

ON 1-10-10 I WAS DISPATCHED TO 7410 LEE HARBOR AREA AT SCHEIC
MOVE AND CLERK CANTONMENT. THREE FAMILIAR THAT WERE STANDING IN A
RESTRICTED AREA. UPON MY ARRIVAL AT A FEMALE ONLY 16yo HUNTER
I CONTACTED DET. J. GONZALEZ & 2684 WHO WAS TALKING TO HER THREE PARTNER,
DALE OF WHICH WAS ALEXA PAVAN BURNS (DOB: 9-16-72). IN
ADDITION TO BEING VERBALLY UNCOOPERATIVE WITH DET. GONZALEZ, WHO
WAS TRYING TO EXPLAIN THEIR ACTIONS TO THEM. [REDACTED] 701P
THE OTHER TWO FAMILIAR THAT THEY DID NOT HAVE TO LISTED TO DET. GONZALEZ
BECAUSE THERE WAS NO EVIDENCE AGAINST THEM. AT THAT SUBJECT'S
DEMAND BY DET. GONZALEZ FACED MISDEMEANOR CHARGES. WHEN DET. GONZALEZ
ATTEMPTED TO ASCEND BURNS AND THE OTHER TWO PASSENGERS OUT OF
THE AREA. [REDACTED] TOLD HER OTHER TWO FRIENDS NOT TO COMPLY WITH
DET. GONZALEZ AND REFUSE TO LEAVE THE AREA. [REDACTED] WHO
PLACED HIS HANDS ON BURNS AND RESISTED OUT OF THE AREA TO OUR PATROL
12:15. ALTHOUGH THE ONLY FORCE USED AGAINST [REDACTED] WAS HOLDING HER
HAND AND HERM TO KEEP HER FROM FLEEING FROM THE STREET STAIRS PARK
SHE KNEW YET SHE DID NOT RESIST AND ASCENDING. [REDACTED]
(1) SEE ATTACHED REPORTS, INCORPORATED HEREIN BY THIS REFERENCE. [REDACTED] WAS ARRESTED
FOR VIOLATION OF CIC 148(a).

(1) WEAPON DESCRIPTION: _____
(2) VICTIM'S AGE: _____ VICTIM'S INJURIES: _____
(3) VALUE OF PROP. LOSS: \$ _____ TYPE OF PROP.: _____
(4) TYPE OF NARCOTICS: _____ QTY: _____
(5) WHOLESALE VALUE: \$ _____ STREET VALUE: \$ _____

I DECLARE UNDER PENALTY OF PERJURY, UNDER THE LAWS OF THE STATE OF CALIFORNIA, THAT THE FOREGOING IS TRUE AND CORRECT TO THE
BEST OF MY INFORMATION AND BELIEF.

EXECUTED ON 1-10-10 (DATE) AT ORANGE COUNTY, CALIFORNIA, BY [REDACTED] (SIGNATURE)

ON THE BASIS OF ☐ THE OFFICER'S DECLARATION ☐ REPORTS REVIEWED, I HEREBY DETERMINE THAT THERE
☐ IS ☐ IS NOT ☐ PROBABLE CAUSE TO BELIEVE THIS ARRESTEE HAS COMMITTED A CRIME.

(DATE) (TIME) (SIGNATURE OF JUDICIAL OFFICER)

PD309-1219

White - Jail; Blue - Detention Release; Pink - Court; Goldenrod - Arresting Agency

Revised 12-15-09

PROPERTY INVENTORY RECEIPT 10-006602

THIS FORM MUST BE COMPLETED ON ALL ORANGE COUNTY JAIL BOOKINGS.

SHADED AREAS ARE FOR ILS USE ONLY

NAME: [REDACTED] DOB: 7-16-92

ARRESTING AGENCY: OCJD COURT: 1116 ARRESTING OFFICER: J. GUMER

MONEY: \$ 2 [REDACTED]

This form is to be completed in the presence of the arrestee. List all items by amount and color. If property is not removed, indicate RETAINED in the appropriate box. List jewelry by either yellow or white metal indicate color of stone only. Circle one even if NO PROPERTY is received.

		YELLOW METAL - WHITE METAL	
BELT		EARRINGS	
KNIFE		CHARMS	
CHECKBOOK		CHECKS	
BILLFOLD		BRACELET	
GLASSES		RINGS	
KEYS		NECK CHAIN	
WATCH		LIGHTER	

MISCELLANEOUS PROPERTY (this property will NOT be accepted): none

PROPERTY RELEASED: 7

RELEASED TO: [REDACTED] DATE/TIME: 7

ITEMS RETAINED BY ARRESTING AGENCY, (EVIDENCE OR SAFEGUARDING):

INVENTORY OFFICER: [REDACTED] AGENCY: OCJD COURT: 1116

SIGNATURE & BADGE #: [REDACTED] DATE/TIME: 7

I HAVE REVIEWED THIS INVENTORY AND IT ACCURATELY REFLECTS THE PROPERTY IN MY POSSESSION AT THIS TIME.

ARRESTEE'S SIGNATURE: [REDACTED] VERIFIED BY: [REDACTED]

MONEY/PROPERTY TRANSFER RECORD

TO BE COMPLETED ON ALL AGENCY-TO-AGENCY TRANSFERS/SIGNATURE INDICATES RECEIPT OF PROPERTY

RECEIVED BY: [REDACTED] AGENCY: OCJD DATE/TIME: 7

DISCREPANCIES (IF ANY): 4411

RECEIVED BY: [REDACTED] AGENCY: OCJD DATE/TIME: 7

DISCREPANCIES (IF ANY): 4411

RECEIVED BY: [REDACTED] AGENCY: OCJD DATE/TIME: 7

DISCREPANCIES (IF ANY): 4411

TO BE COMPLETED AT TIME OF RELEASE

I HAVE REVIEWED MY PROPERTY AND I ACKNOWLEDGE RECEIPT OF ALL MONEY AND ARTICLES LISTED ABOVE EXCEPT THAT PORTION THEREOF PREVIOUSLY RELEASED BY ORDER.

SIGNATURE: [REDACTED] DATE/TIME: 7

RELEASED BY: [REDACTED] AGENCY/COURT: OCJD/1116

COMMENTS: Original - File Yellow - Property Pink - Inmate Gold - Agency

70000-410

COPIES: DANA POINT

CASE NO. 10-406602

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIAPRIORITY: ☒ YES
☐ NO

SANDRA HUTCHENS, SHERIFF-CORONER

IN FIELD SHOW-UP REPORT

OFFENSE DPM 13.04.055	LOCATION OF OCCURRENCE Cove + Green LAUREN DANA PT. CA
VICTIM CITY OF DANA POINT	DATE OF OCCURRENCE 1-10-10/1615 HRS / SUNDAY
	ORID 97166

ADMONITION OF VICTIMS AND WITNESSES:

It is requested that you look at an individual who has been temporarily detained by the Police. This person may or may not have committed the crime. It is just as important to eliminate an innocent person from suspicion, as it is to identify the person who committed the crime. You are under no obligation to identify this person. The fact that the person has been detained, may be handcuffed, seated in a Police car, or surrounded by Police Officers should not influence your decision. While viewing this individual, be aware of the possibility that the person being detained may have altered his/her appearance by using a disguise or by changing clothing since the time of the reported crime. The possibility should be considered in your final identification or elimination of the individual being detained. Please do not discuss the case with other witnesses or indicate in any way that you have or have not identified someone.

I fully understand the admonition presented to me by Officer [redacted] regarding the In Field Show-Up.

☐ Yes ☐ No**IDENTIFICATION:**

<input type="checkbox"/> I cannot identify this individual as the suspect.
<input checked="" type="checkbox"/> I can identify this individual as the suspect.

ADDITIONAL COMMENTS OF VICTIM / WITNESSES:

"YES THAT'S THE OTHER ONE"

SIGNATURE OF WITNESS: [redacted]

DATE: 1-10-10

WITNESSED BY OFFICER: [redacted]

DATE / TIME: 1-10-10 / 1730 HRS.

LOCATION OF IN FIELD SHOW-UP: Cove + Green LAUREN DANA PT. CA 92629

DATE & TIME OF IN FIELD SHOW-UP: 1-10-10 / 1730 HRS.

NAME AND DATE OF BIRTH OF PERSON VIEWED: [redacted]

INVESTIGATING OFFICERS	REPORTED BY J. GOMEZ #7684	DATE OF REPORT 1-10-10	APPROVED Sgt. J. [redacted] 2009
------------------------	-------------------------------	---------------------------	-------------------------------------

SRF 070.1

IN-FIELD SHOW-UP PROCEDURE

Even though proper In-Field Show-ups have been approved, a show-up, which is impermissibly suggestive, is still impermissible. To be sure your show-up identification will not be excluded at trial as unfair, follow these guidelines.

1. Take a detailed description of the suspect from the witness before the witness sees the detained suspect.
2. Read the Admonition Statement to the witness and have him sign the Admonition part of the report.
3. Transport the witness to the detained suspect's location.
4. Do not tell the witness any incriminating facts about the circumstances of the detention, such as - "We caught him running away", "He had your purse in his car", etc.
5. Do not offer any personal opinions about whether the detainee is, or is not, the perpetrator.
6. If safety permits, reduce the inherent suggestiveness by displaying the detainee outside the police car or without handcuffs.
7. If you have two or more witnesses, separate them before the show-up viewing, so they will be giving their independent opinion on the identification.
8. Display the detainee to the witness.
9. If possible, record the witness' exact words, such as, "That's him", "I think it's him", "I'm sure that's the guy."
10. Have the witness complete the identification and additional comments sections and sign and date the report.
11. The officer who witnessed the signature shall record the date and time of it.
12. Interview the witness about whether the suspect changed his clothing to disguise his appearance.
13. Display the weapon, vehicle or any stolen property to the witness for identification and record the witness' comments.
14. The officer shall complete the rest of the In-Field Show-Up report.
15. After the In-Field Show-Up, transport the witness back to his original location.
16. Be specific about your articulable suspicion to have detained the suspect for the show-up. Instead of saying, "He fit the description", say, "He was a white male in his twenties with dark hair, wearing blue coveralls, as described in the dispatch or broadcast, and he was approximately 1/4 mile away from the scene and within fifteen minutes of the crime."
17. Book the original In-Field Show-Up report as evidence, and attach copies of it to your report.

ORIGINAL

DR 101006602

SHERIFF'S DEPARTMENT, ORANGE COUNTY
Santa Ana, California

TO: Sandra Hutchens, Sheriff-Coroner

PEOPLE OF THE STATE OF CALIFORNIA

ORDER OF ARREST
BY
PRIVATE PERSON

vs


Defendant

You are hereby requested to take into custody the above named defendant who I have arrested, for the commission of a public offense in my presence, under authority of the Penal Code of the State of California.

I will further, in the interest of Justice, appear at the Department of the Sheriff in and for Orange County when summoned by Sheriff Investigators to swear to a complaint against said defendant, and will appear as a witness for the people in any subsequent action when my presence is necessary to the prosecution of said defendant.

I understand that having started these proceedings, I must follow through as above stated, and if I do not, I may be brought into Court by process so that the case may be properly disposed of.

Date 1-10-10 Time 1725


X _____
g PartyWitnessed:  Deputy

Witnessed: _____ Deputy

PAT 7

1. Copies To: Dana Point

In Custody

Priority: ☒ Yes ☐ No

SANDRA HUTCHENS, SHERIFF-CORONER

Def

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 09-161355

2a. Citation No.

INITIAL CRIME REPORT

3. OFFENSE CPC 602.8(a) - Trespassing		4. DATE-TIME COMMITTED 08-28-09 / 0645 hours	
5. WHERE COMMITTED Selva / Dana Strand, Dana Point		6. GRID 97116	7. DATE-TIME REPORTED
8. INFORMANT [REDACTED]		9. ADDRESS-PHONE [REDACTED]	
10. VICTIM See Box 14		11. ADDRESS-PHONE See Box 15	
12. BUSINESS ADDRESS-PHONE		13. CONTACT TIME-ADDRESS Weekdays - Box 15	
14. FIRM NAME OF VICTIM Headlands Reserve LLC		15. BUSINESS ADDRESS-PHONE 24849 Del Prado, Dana Point 92629- (949)488-8800	
16. VICTIM'S OCCUPATION RACE SEX AGE Developer		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Construction site	
18. CRIMES AGAINST PROPERTY 18. POINT OF ENTRY Fenced area		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED Hands & feet		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED Climbed over		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE? Construction workers on duty		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN To trespass		27. TOTAL VALUE STOLEN \$	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S) Suspect climbed over fence			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS 2005, Ford Ranger, truck, black, CA # 7V14762			
30. WITNESSES N/R RESIDENCE/BUSINESS ADDRESS-PHONE		[REDACTED]	
(1) [REDACTED]		[REDACTED]	
(2) [REDACTED]		[REDACTED]	
(3) [REDACTED]		[REDACTED]	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR. 2531666	
(1) [REDACTED] M W		03-11-88 5'08" 170 bro bro	
(2) [REDACTED]		BKG. NBR.	
(3) [REDACTED]		BKG. NBR.	
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	GRAND	SERIAL NO.
			MODEL NO.
			MISC. DESCRIPTION
			VALUE
33. INVESTIGATING OFFICERS Mendoza / Oliva		REPORT BY Deputy E. Oliva # 3905	
34. DATE OF REPORT 8/28/09		35. APPROVED [Signature]	

PAGE 1 OF 1

1. Copies To: Dana Point

In-Custody

Priority: ☒ Yes ☐ No

SANDRA HUTCHENS, SHERIFF-CORONER

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 09-161355A

2a. Citation No.

INITIAL CRIME REPORT

3. OFFENSE CPC 549 (b)(1) - Vandalism		4. DATE-TIME COMMITTED 08-28-09 / 0705 hours	
5. WHERE COMMITTED Selva / Dana Strand, Dana Point		6. GRID 971F6	7. DATE-TIME REPORTED
8. INFERMANT [REDACTED]		9. ADDRESS PHONE [REDACTED]	
10. VICTIM See Box 14		11. ADDRESS PHONE See Box 15	
12. BUSINESS ADDRESS PHONE		13. CONTACT TIME ADDRESS Weekdays - Box 9	
14. FIRM NAME OF VICTIM County of Orange		15. BUSINESS ADDRESS PHONE	
16. VICTIM'S OCCUPATION RACE SEX AGE Public Entity		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Public parking lot	
18. CRIMES AGAINST PROPERTY 18. POINT OF ENTRY		22. CRIMES AGAINST PERSONS WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE?		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN		27. TOTAL VALUE STOLEN \$	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S)			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC NO., AND ANY OTHER IDENTIFYING MARKS 2005, Ford Ranger, truck, black, CA # 7V14762			
30. WITNESS 1 NAME RESIDENCE BUSINESS ADDRESS PHONE		R B	
(1) [REDACTED]		[REDACTED]	
(2) [REDACTED]		R B	
(3) [REDACTED]		R B	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS AND BOOKING NUMBER)		BKG. NBR. 2531666	
(1) [REDACTED] 7 M W		03-11-88 5'08" 170 bro bro	
(2) [REDACTED]		BKG. NBR.	
(3) [REDACTED]		BKG. NBR.	
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	BRAND	SERIAL NO.
			MODEL NO.
			MISC. DESCRIPTION
			VALUE

Damage: 8 plants uprooted from planter

33. INVESTIGATING OFFICERS Mendoza / Oliva	REPORT BY Deputy E. Oliva # 3905	34. DATE OF REPORT 8/28/09	35. APPROVED [Signature]
---	-------------------------------------	-------------------------------	-----------------------------

PAGE 1 OF 2

1. COPIES TO:
Dana Point
In-Custody

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 09-161355B

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

Details:

On Friday, 08-28-09, at approximately 0645 hours, Deputy Mendoza and I were initially dispatched to the "Headlands Reserve" construction site located at Selva and Dana Strand in Dana Point reference trespassing.

I spoke with [REDACTED] who I've met on a prior incident of vandalism to the site. [REDACTED] is the construction manager for the development project.

[REDACTED] said he started to drive around to check the site as he started his work day. He said that two males had trespassed into the site and were next to the restrooms. [REDACTED] showed Deputy Mendoza and me the restrooms.

[REDACTED] said the two males had apparently climbed over from outside the fence and into the restroom area. It should be noted that the site is surrounded by wrought iron fencing. The fence was approximately six feet in height. Several signs, warning against trespassing, were affixed and very visible on the outside of the fence in the area by the restrooms. The signs had an interval of approximately thirty feet from each other. The signs were approximately two feet by three feet in size. The signs had a white background with blue letters. [REDACTED] said both males climbed out of the fence upon realizing that he was going to confront them. He explained that the males disappeared from his view as they ran westbound along the beach sand. It should be noted that the ocean is on the south side of the development.

[REDACTED] described the males to be in their twenties. One had brown hair and the other had blonde hair. Both were wearing shorts and "flip-flops".

At approximately 0705 hours, Deputy Mendoza and I were re-dispatched by the pedestrian beach access at Selva and Dana Strand. Sheriff's Dispatch advised that [REDACTED] was detaining one of the male trespassers from earlier.

Deputy Mendoza was already at the scene and a male was seated on the curb. The male was identified by his California license as [REDACTED] (03-11-88) and a male, identified as [REDACTED] (07-04-63), were standing nearby. [REDACTED] said that [REDACTED] was one of the trespassers from earlier.

[REDACTED] vehicle, 2005 Ford Ranger pick-up truck, was in the middle of the street. It had California plate 7V14762. Deputy Mendoza would later tow the vehicle under authority CVC 22651(h)-Driver Arrested. It was towed from the scene by A.C. Towing (180 Calle Iglesia, San Clemente-phone # 949-492-3805). See attached copy of CHP-180 form.

I found out from [REDACTED] that [REDACTED] was part of the maintenance staff which works under contract with "Headlands". [REDACTED] said that he worked for "Valley Crest Landscape" based out of Santa Ana.

33. INVESTIGATING OFFICERS	REPORT BY	DATE OF REPORT	APPROVED
Mendoza / Oliva	Deputy E. Oliva # 3905	8/28/09	[Signature]

PAGE 2 OF 5

1. COPIES TO:
Dana Point
In-Custody

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 09-161355B

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

I tried to speak with [REDACTED]. He was sweaty and he emitted bad body odor. He was wearing nothing but his swimming trunks.

[REDACTED] appeared to be under the influence of drugs. He could not seem to focus his eyes on me as I spoke to him. His demeanor alternated from being calm to agitated. He alternated back and forth from talking fast to slow. [REDACTED] talked about matters which did not make sense. There were times when he breathed very hard. I decided to handcuff [REDACTED] for safety reasons. [REDACTED] reacted seared upon seeing that I was going to handcuff him. He tried to slide away from me while being seated on the curb. [REDACTED] complied after being reassured and I placed him in the back seat of Deputy Mendoza's patrol unit.

[REDACTED] said that at approximately 0705 hours, he saw [REDACTED] in the (Dana Strand Beach) public parking lot. [REDACTED] was towards the southwest corner of the parking lot and standing just outside the construction fence line. He said that [REDACTED] even said, "Hi" to him.

[REDACTED] said as he was walking northbound on the inside of the same fence line, he saw three or four plants "flying" over the fence. [REDACTED] looked through the (chicken-wire type) fence to see what was happening. He saw [REDACTED] with an uprooted plant on one hand and he then threw the plant over the fence. [REDACTED] said he asked [REDACTED] what he was doing. [REDACTED] told him, "I hate plants." He said that [REDACTED] was uprooting the plants from a raised concrete planter form the parking lot. [REDACTED] then drove away from the parking lot and out to Selva. He then notified his supervisor and went back to work.

[REDACTED] told me that [REDACTED] pulled out seven plants called "Star Jasmine" and three plants called (similar to) "Raphalytus". [REDACTED] said that it would cost five hundred dollars to replace the plants plus labor. [REDACTED] said that even though the parking lot belonged to the County of Orange, the "Headlands" was responsible for maintaining the lot including the planters.

[REDACTED] said that he was notified by [REDACTED] supervisor, [REDACTED] that someone was pulling out plants. [REDACTED] said he immediately responded and he saw [REDACTED] by the pedestrian beach access. He said [REDACTED] walked towards him and spontaneously said, "I'll replace the plants. I'm a billionaire. I'll replace the plants." [REDACTED] said [REDACTED] was "talking jibberish" and felt that [REDACTED] was "off".

[REDACTED] took photographs of the damaged plants and planter. He saved the images on a compact disc and had copies of the photographs on a print paper. I later booked the items at Aliso Viejo Sheriff's Station as evidence.

[REDACTED] said he wanted [REDACTED] prosecuted for the trespassing. [REDACTED] signed a citizen's arrest form in my presence to have [REDACTED] arrested for the vandalism. See attached private person's arrest form.

I went back to [REDACTED], who was still in the backseat of Deputy Mendoza's unit. I told him that he was under arrest and that I was going to read him his Miranda rights. I repeatedly attempted to read [REDACTED] his rights but he would not look at me or give me a reply. He just grinned and looked away from me. [REDACTED] stuck his tongue out and made funny faces. I stopped reading the advisement. As a precautionary, I requested for Orange County Fire Department to respond and check [REDACTED] to ensure he was not having an emergency.

33. INVESTIGATING OFFICERS Mendoza / Oliva	REPORT BY Deputy E. Oliva # 3905	DATE OF REPORT 8/28/09	APPROVED [Signature]
---	-------------------------------------	---------------------------	-------------------------

PAGE 3 OF 3

1. CRIES TO:
Dana Point
In-Custody

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 09-161355B

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

medical problem. The Fire Department personnel responded and they deemed that [REDACTED] did not require emergency medical treatment.

I told [REDACTED] that I needed to move him to my patrol unit. I repeatedly asked [REDACTED] to step out of the Deputy Mendoza's unit. He stiffened his body and said he would not get out. I pulled on his left arm to get him out but he pulled away from me and raised his feet in my direction. Unknown if he was going to kick or try to jump out of the unit, I pulled my taser gun out. [REDACTED] yelled, "Please don't shoot me with the taser!" I requested over my radio to have one more deputy respond to assist in the event. [REDACTED] becomes more aggressive. Sergeant Greenwood and Sergeant Irish responded and stood by while I convinced [REDACTED] to voluntarily comply to step out of Deputy Mendoza's unit and into mine. [REDACTED] subsequently complied.

I initially transported [REDACTED] to the Dana Point City Hall to fill out his booking forms and from there transported him to the Orange County Jail in Santa Ana.

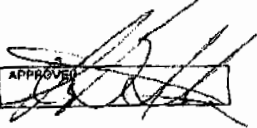
In an unrelated incident, Deputy Macias transported another arrestee who appeared to have mental problems. For safety reasons, we followed one another to the jail since our arrestees were potentially volatile.

The transportation to the jail was without incident but I notified the jail staff that Deputy Macias and I were bringing in potentially combative arrestees. Several deputies and two sergeants met us outside the Sallyport door of the arrestee intake area. After the medical triage procedure, [REDACTED] became uncooperative and he refused to walk willingly with the jail staff. He curled his body to resist and he started to scream. Deputies placed [REDACTED] in a holding cell as a booking hold because of his behavior. It took several deputies to control [REDACTED]. The jail staff recorded the incident with a video camera.

Deputy Macias' arrestee became agitated and also resisted deputies after witnessing what was occurring with [REDACTED]. The arrestee was placed in another holding cell as a booking hold.

[REDACTED] was charged with CPC 602.8(a)-Trespassing, CPC 594(b) (1)-Vandalism, and CPC 148(a) (1)-Resisting and Delaying.

I did not attempt to have [REDACTED] checked for being under the influence of drugs by a D.R.E. (drug recognition expert) because of his potentially assaultive behavior.

33. INVESTIGATING OFFICERS Mendoza / Oliva	REPORT BY Deputy E. Oliva # 3905	DATE OF REPORT 8/28/09	APPROVED 
---	-------------------------------------	---------------------------	---

PAGE 4 OF 5

DR 09, 161055

SHERIFF'S DEPARTMENT, ORANGE COUNTY
Santa Ana, California

TO: Sandra Hutchens, Sheriff-Coroner

PEOPLE OF THE STATE OF CALIFORNIA

ORDER OF ARREST
BY
PRIVATE PERSON

vs

Defendant

(3-11-88)

You are hereby requested to take into custody the above named defendant who I have arrested, for the commission of a public offense in my presence, under authority of the Penal Code of the State of California.

I will further, in the interest of Justice, appear at the Department of the Sheriff in and for Orange County when summoned by Sheriff Investigators to swear to a complaint against said defendant, and will appear as a witness for the people in any subsequent action when my presence is necessary to the prosecution of said defendant.

I understand that having started these proceedings, I must follow through as above stated, and if I do not, I may be brought into Court by process so that the case may be properly disposed of.

Date 8/28/09 Time 8:00 A.M.

X [Signature] Signature of Arresting Party

Witnessed: OLIVA, Deputy #3708

Witnessed: _____, Deputy

1. Copies To: Dana Point

In-Custody

Priority: ☒ Yes ☐ No

SANDRA HUTCHENS, SHERIFF-CORONER

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 09-161355B

2a. Citation No.

INITIAL CRIME REPORT

3. OFFENSE CPC 148 (a)(1) - Resisting / Delaying		4. DATE-TIME COMMITTED 08-28-09 / 0800 hours	
5. WHERE COMMITTED Selva / Dana Strand, Dana Point		6. GRID 971F6	7. DATE-TIME REPORTED
8. INFORMANT A/O		9. ADDRESS PHONE	
10. VICTIM See Box 14	DOB	11. ADDRESS PHONE See Box 15	
12. BUSINESS ADDRESS PHONE		13. CONTACT TIME ADDRESS Weekdays - Box 9	
14. FIRM NAME OF VICTIM State of California		15. BUSINESS ADDRESS PHONE	
16. VICTIM'S OCCUPATION Public Entity	RACE SEX AGE	17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Public street	
18. CRIMES AGAINST PROPERTY: POINT OF ENTRY		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE?		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE -- TYPE PROPERTY TAKEN		27. TOTAL VALUE STOLEN \$	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S)			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS 2005, Ford Ranger, truck, black, CA # 7V14762			
30. WITNESSES AND RESIDENCE/BUSINESS ADDRESS-PHONE		R	
(1) Deputy D. Mendoza		B 11 Journey, Aliso Viejo CA 92656	949-425-1800
(2)		R	
(3)		B	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR. 2531666	
(1)		W 03-11-48 5'08" 170	bro bro
(2)		BKG. NBR.	
(3)		BKG. NBR.	
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
NAME	ADDRESS	SEX	RACE
DOB	HT	WT	HAIR
EYES			
QUAN.	ARTICLE	BRAND	SERIAL NO.
MODEL NO.	MISC. DESCRIPTION	VALUE	

33. INVESTIGATING OFFICERS

Mendoza / Oliva

REPORT BY

Deputy E. Oliva # 3905

34. DATE OF REPORT

8/28/09

35. APPROVED

PAGE 1 OF 3

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
VEHICLE REPORT
P 180 (Rev. 2-89) OPI 051

NOTE: CIP, 180 IS FURNISHED TO ALL PEACE
OFFICERS BY THE CALIFORNIA HIGHWAY PATROL.

PORT OF DEPARTMENT		LOCATION CODE	DATE / TIME OF REPORT	NOTICE OF STORED VEHICLE DELIVERED PERSONALLY	FILE NO.
OCSO - DATA POINT		97185	8-28-09	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	09-161355
LOCATION TOWED / STOLEN FROM		ODOMETER READING	VIN CLEAR IN SYSTEM	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DATE / TIME DISPATCH NOTIFIED
SALVA + PCA - DATA POINT		64737	VIN CLEAR IN SYSTEM	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	LOG NO.
YEAR	MAKE	MODEL	BODY TYPE	COLOR	LICENSE NO.
05	FORD	FARGRE	PIU	BLK	7V14762
VEHICLE IDENTIFICATION NO.			EMERGENCY NO.	VALIDATION BY <input checked="" type="checkbox"/> OFFICER <input type="checkbox"/> OWNER	
1R1YR1HUS5PLA979151				<input type="checkbox"/> 0-300 <input type="checkbox"/> 301-400 <input checked="" type="checkbox"/> 4001+	
REGISTERED OWNER			LEGAL OWNER		

REGISTERED OWNER: [REDACTED]
LEGAL OWNER: [REDACTED]

☒ STORED ☐ IMPOUNDED ☐ RELEASED ☐ RECOVERED - VEHICLE / COMPONENT

TOWING / STORAGE CONCERN (NAME, ADDRESS, PHONE) STORAGE AUTHORITY / REASON

A/C TOWING 180 CHAS DELACROIX, SAN CLEMENTE 22651 (H)

TOWED TO / STORED AT (449) 492-3805

CONDITION	YES	NO	ITEMS	YES	NO	ITEMS	YES	NO	ITEMS	YES	NO	THREE / VEHICLE	CONDITION
WRECKED	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SEAT (FRONT)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REGISTRATION	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CAMPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	LEFT FRONT	OK
BURNED HULK per 431(c) VC	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SEAT (REAR)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ALT. GENERATOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VEHICLE AS LOAD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RIGHT FRONT	
VANDALIZED	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RADIO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BATTERY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	FIREARMS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	LEFT REAR	
ENG. / TRANS. STRIP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TAPE DECK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DIFFERENTIAL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OTHER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RIGHT REAR	
MISC. PARTS STRIP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TAPES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TRANSMISSION	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPARE	
TV METAL STRIP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OTHER RADIO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	AUTOMATIC	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	HUB CAPS	
SURGICAL STRIP per 401(c) VC	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IGNITION KEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MANUAL	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPECIAL WHEELS	

RELEASE VEHICLE TO: ☒ IND OR AGENT ☐ AGENCY HOLD ☐ 22450.1 VC

NAME OF PERSON / AGENCY AUTHORIZING RELEASE LD. NO. DATE

SIGNATURE OF PERSON AUTHORIZING RELEASE

SIGNATURE OF PERSON TAKING POSSESSION

☐ STOLEN VEHICLE / COMPONENT ☐ EMBEZZLED VEHICLE ☐ PLATE(S) REPORT

DATE / TIME OF OCCURRENCE DATE / TIME REPORTED NAME OF REPORTING PARTY (RP) DRIVER LICENSE NO. / STATE

LAST DRIVER OF VEHICLE DATE / TIME ADDRESS OF RP TELEPHONE OF RP

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNATURE OF PERSON MAKING REPORT

REMARKS (LIST PROPERTY, TOOLS, VEHICLE DAMAGE, ARRESTS) PCN: 3730924002903

DRIVER'S NAME ARRESTED / SECTION REPORTED BY # 2307 CARGO / TYPE VALUE \$

[REDACTED] YES ☐ NO ☒ 16594 D. MENDOZA YES ☒ NO ☐ BILL OF LADING ATTACHED

DAMAGE: NONE - DIRTY

INVENTORY: MISC. CLOTHING ITEMS IN CAR AREA

DETAILS: DRIVER ARRESTED AT ABOVE LOCATION FOR

VANDALISM. DRIVER TRANSFERRED TO DCJ

FRONT LEFT SIDE RIGHT SIDE REAR TOP

SIGNATURE OF OFFICER TAKING REPORT LD. NO. SUPERVISOR REQUIRED NOTICES SENT TO REGISTERED AND LEGAL OWNERS PER 22452 VC

DATE NOTIFIED

YES ☐ NO ☒

03/01/09 05:02:50

HMD 0036

H

IH

RE: CHA. [REDACTED] DATE:20090901 TIME:05:02:50

ATTN:EBARGARAYJ,CSS, 09-161355

NO HIT BUREAU OF CRIMINAL IDENTIFICATION FILES

* * * * * END OF MESSAGE * * * * *

ORIGINAL

1. Copies To: DANA POINT
GRAFFITISHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA2. Case No.
09-155058
2a. Citation No.Priority: ☐ Yes ☒ No

SANDRA HUTCHENS, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE <u>CPC 594(a)(2) VANDALISM</u>		4. DATE/TIME COMMITTED <u>BETWEEN 8-18-09 1830 Thru 8-19-09 0600</u>	
5. WHERE COMMITTED <u>34352 DANA STRANDS DANA POINT</u>		6. GRID <u>437</u>	7. DATE/TIME REPORTED <u>4715</u>
8. INFORMANT [REDACTED]		9. ADDRESS-PHONE [REDACTED]	
10. VICTIM DOB		11. ADDRESS-PHONE	
12. BUSINESS ADDRESS-PHONE		13. CONTACT TIME-ADDRESS	
14. FIRM NAME OF VICTIM <u>HEADLANDS RESERVE SAME BOX #5</u>		15. BUSINESS ADDRESS-PHONE <u>949-254-2852 ANY TIME</u>	
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED <u>CONSTRUCTION SITE / BOARDWALK</u>	
18. POINT OF ENTRY <u>N/A</u>		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED <u>SPRAY PAINT</u>		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED <u>GRAFFITI</u>		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE? <u>AWAY FROM BOARDWALK</u>		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN <u>DAMAGE PROPERTY - NONE</u>		27. TOTAL VALUE STOLEN <u>\$ 0</u>	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S) <u>SUSPECT(S) SPRAY PAINTED WALL</u>			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS <u>UNKNOWN</u>			
30. WITNESSES AND RESIDENCE/BUSINESS ADDRESS-PHONE			
(1) Unknown		R	
(2)		R	
(3)		R	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR.	
(1) Unknown		BKG. NBR.	
(2)		BKG. NBR.	
(3)		BKG. NBR.	
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	BRAND	SERIAL NO.
	DAMAGE: 2' X 30' GRAFFITI READ, "DIE STRAND FUCK MILLIONAIRES."		
33. INVESTIGATING OFFICERS		34. DATE OF REPORT	35. APPROVER
REPORT BY <u>DEPUTY J. GOMEZ #2684</u>		<u>8-19-09</u>	<u>Sgt J. Cuyun</u>
SHP 010		PAGE 1 OF 2	

page 1 of 2

1. COPIES TO: DANA POINT

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 09-155058

SANDRA HUTCHENS, SHERIFF - CORONER

REPORT CONTINUATION

NARRATIVE:

ON WEDNESDAY (8-19-09), AT 1600 HOURS, I WAS DISPATCHED TO THE HEADLANDS RESERVE CONSTRUCTION SITE AT 34352 DANA STRANDS, DANA POINT, REFERENCE A VANDALISM REPORT.

THE INFORMANT (REDACTED) IS THE (REDACTED) WHO TOLD ME THE FOLLOWING: ON 8-18-09, AT 1830 HOURS, HE LEFT THE CONSTRUCTION SITE. ON 8-19-09, AT 0600 HOURS, HE RETURNED AND SAW GRAFFITI ON THE BOARDWALK WALL. THE GRAFFITI READ, "THE STRAND FOLK MILLIONAIRES."

(REDACTED) SAID THE GRAFFITI WAS IN THE PROCESS OF BEING CLEANED UP BY HIS STAFF.

(REDACTED) DESIRED PROSECUTION AND I GAVE HIM MY BUSINESS CARD WITH CASE NUMBER FOR FUTURE REFERENCE.

33. INVESTIGATING OFFICERS	REPORT BY	DATE OF REPORT	APPROVED
DEPUTY J. GOMEZ #2684	8-19-09		Sgt J. [Signature]

PAGE 2 OF 2

page 2 of 2

1. Copies To: Dana Point

ORIGINAL

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 09/136043

2a. Citation No.

Priority: ☐ Yes ☒ No

SANDRA HUTCHENS, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE CPC 594 Vandalism		4. DATE/TIME COMMITTED 7-22-09 at about 1200 and 1300 hours	
5. WHERE COMMITTED Hedland's Reserve, PCH @ Selva DP, 92629		6. GRID 971F6/136	7. DATE/TIME REPORTED
8. INFLICTANT [REDACTED]		9. ADDRESS/PHONE [REDACTED]	
10. VICTIM DOB [REDACTED]		11. ADDRESS/PHONE [REDACTED]	
12. BUSINESS ADDRESS/PHONE #9 (949) 488-8800		13. CONTACT TIME-ADDRESS 0900-1700 #9	
14. FIRM NAME OF VICTIM Hedland's Reserve LLC		15. BUSINESS ADDRESS/PHONE #9 (949) 488-8800	
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Construction Site	
18. POINT OF ENTRY Opened gate		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED Spray paint		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED Sprayed paint on the concrete		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE? Away		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN To deface property - none		27. TOTAL VALUE STOLEN \$0.00	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S) Vandalized a construction site			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO. AND ANY OTHER IDENTIFYING MARKS Unknown			
30. WITNESSES R/O RESIDENCE/BUSINESS ADDRESS/PHONE		H B	
(1) Unknown		H B	
(2)		H B	
(3)		H B	
31. SUSPECT(S) IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER		BKG. NBR.	
(1) Unknown		BKG. NBR.	
(2)		BKG. NBR.	
(3)		BKG. NBR.	
NAME		ADDRESS SEX RACE DOB HT. WT. HAIR EYES	
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN. LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	BRAND	SERIAL NO. MODEL NO. MISC. DESCRIPTION VALUE
Damage: unknown scribbling (graffiti) on concrete area of construction site, at the bottom of the stairs leading toward the beach			
Approximately seven broken sprinkler heads to grass area on construction site			
Details: On 7-24-09 at about 0900 hours, I responded to the Headland's Reserve construction site regarding a vandalism report. I met with Construction Foreman [REDACTED]. He told me someone sprayed graffiti on a concrete area at the bottom of the stairs that lead to the beach. [REDACTED] also told me someone			
33. INVESTIGATING OFFICERS		REPORT BY Deputy E. Macias #873	34. DATE OF REPORT 7/24/09
		35. APPROVED Sgt. Carpenter	

PAGE 1 OF 2

1. COPIES TO:
Dana Point

2. CASE NO. 09/136043

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

broke some sprinkler heads to a grassy area (by Selva and PCH) within the construction site. [REDACTED] said he took a photograph of the graffiti prior to having it removed. He showed me the picture of the graffiti but neither one of us were able to decipher the graffiti. [REDACTED] told me the sprinkler heads had been replaced prior to my arrival. He said he would email a photo of the graffiti to the case investigator. [REDACTED] told me he needed a case number for this incident to be reimbursed for damage.

I provided him with a business card and case number for this incident. I did not request the Sheriff's identification bureau respond to collect any physical evidence.

33. INVESTIGATING OFFICERS	REPORT BY Deputy E. Macias #873	DATE OF REPORT 7/24/09	APPROVED <i>Sgt. J. Carmona</i>
----------------------------	------------------------------------	---------------------------	------------------------------------

PAGE 2 OF 2

1. Copies To: Dana Point

2. Case No. 09/072257

COPY

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2a. Citation No.

Priority: ☐ Yes ☒ No

ANDRA HUTCHENS, SHERIFF-CORONER

INITIAL CRIME REPORT

OFFENSE CPC 487 - Grand Theft		4. DATE-TIME COMMITTED Between Wed. 4-22-09 2100 and Thurs. 4-23-09 0500																																																							
5. WHERE COMMITTED Selva Rd. / Dana Strand Rd.		6. GRID 971F7	7. DATE-TIME REPORTED																																																						
8. INFORMANT [REDACTED]		9. ADDRESS PHONE [REDACTED]																																																							
10. VICTIM [REDACTED]		11. ADDRESS PHONE [REDACTED]																																																							
12. BUSINESS ADDRESS PHONE		13. CONTACT TIME ADDRESS																																																							
14. FIRM NAME OF VICTIM Headlands Reserve LLC		15. BUSINESS ADDRESS PHONE 24849 Del Prado, Dana Point 488-8800																																																							
16. VICTIM'S OCCUPATION RACE SEX AGE Land Development		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED South beach access pedestrian walkway off Selva Rd.																																																							
ON ALL APPLICABLE FELONIES, MISD., SEX AND THEFTS	18. CRIMES AGAINST PROPERTY: POINT OF ENTRY Selva Rd. / Beach		22. WEAPON OR MEANS USED																																																						
	19. INSTRUMENT OR MEANS USED Hands.		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE																																																						
	20. METHOD USED Damaged / Stole		24. EXACT WORDS USED BY SUSPECT																																																						
	21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE? Unknown		25. FORCE OR METHOD USED																																																						
	26. APPARENT MOTIVE - TYPE PROPERTY TAKEN To damage and permanently deprive - Sprinklers		27. TOTAL VALUE STOLEN \$3,000.00																																																						
	28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S) None																																																								
	29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS Unknown																																																								
	30. WITNESSES A/B RESIDENCE/BUSINESS ADDRESS PHONE																																																								
	(1) Unknown																																																								
	(2)																																																								
(3)																																																									
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR.																																																							
(1) Unknown		BKG. NBR.																																																							
(2)		BKG. NBR.																																																							
(3)		BKG. NBR.																																																							
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NAME</th> <th>ADDRESS</th> <th>SEX</th> <th>RACE</th> <th>DOB</th> <th>HT.</th> <th>WT.</th> <th>HAIR</th> <th>EYES</th> </tr> </thead> <tbody> <tr> <td colspan="9">32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS</td> </tr> <tr> <th>QUAN.</th> <th>ARTICLE</th> <th>BRAND</th> <th>SERIAL NO.</th> <th>MODEL NO.</th> <th>MISC. DESCRIPTION</th> <th>VALUE</th> <th colspan="2"></th> </tr> <tr> <td>Damages: 6</td> <td>Sprinklers</td> <td>Rain Bird</td> <td>5000 Plus</td> <td></td> <td>Gear driven fixed 6" with pipes and rebar.</td> <td>\$600.00</td> <td colspan="2"></td> </tr> <tr> <td>Loss:</td> <td>24 Sprinklers</td> <td>Rain Bird</td> <td>5000 Plus</td> <td></td> <td>Gear driven fixed 6" and damaged pipes</td> <td>\$2,400.00</td> <td colspan="2"></td> </tr> <tr> <td colspan="6" style="text-align: right;">Total Loss:</td> <td>\$3,000.00</td> <td colspan="2"></td> </tr> </tbody> </table>				NAME	ADDRESS	SEX	RACE	DOB	HT.	WT.	HAIR	EYES	32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS									QUAN.	ARTICLE	BRAND	SERIAL NO.	MODEL NO.	MISC. DESCRIPTION	VALUE			Damages: 6	Sprinklers	Rain Bird	5000 Plus		Gear driven fixed 6" with pipes and rebar.	\$600.00			Loss:	24 Sprinklers	Rain Bird	5000 Plus		Gear driven fixed 6" and damaged pipes	\$2,400.00			Total Loss:						\$3,000.00		
NAME	ADDRESS	SEX	RACE	DOB	HT.	WT.	HAIR	EYES																																																	
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS																																																									
QUAN.	ARTICLE	BRAND	SERIAL NO.	MODEL NO.	MISC. DESCRIPTION	VALUE																																																			
Damages: 6	Sprinklers	Rain Bird	5000 Plus		Gear driven fixed 6" with pipes and rebar.	\$600.00																																																			
Loss:	24 Sprinklers	Rain Bird	5000 Plus		Gear driven fixed 6" and damaged pipes	\$2,400.00																																																			
Total Loss:						\$3,000.00																																																			
33. INVESTIGATING OFFICERS Deputy J. Pelayo #3716		34. DATE OF REPORT 4/23/09																																																							
		35. APPROVED [Signature]																																																							

PAGE 1 OF 2

COPIES TO:
Dana Point

COPY

2. CASE NO. 09/072257

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

ANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

On Thursday 4-23-09 at 1145 hours, I contacted Construction Manager [REDACTED] at the Headlands Project construction site. [REDACTED] said someone had damaged the sprinkler system along the south Selva pedestrian beach access trail between Wed. 4-22-09 2100 hours and Thurs. 4-23-09 0500 hours. [REDACTED] said 30 sprinkler heads with attached pipes and rebar were damaged. Out of those 30, about 24 sprinkler heads were screwed off and stolen. [REDACTED] took pictures of the affected area and had the walkway cleaned from the mud runoff. [REDACTED] desired prosecution for the damages and the loss. I gave him a business card with this report number.

I later booked the disc with photos and affected area sketch map into Sheriff's evidence.

33. INVESTIGATING OFFICERS	REPORT BY Deputy J. Pelayo #3716	DATE OF REPORT 3/3/09	APPROVED
----------------------------	-------------------------------------	--------------------------	----------

PAGE 2 OF 2

1. Copies To: Dana Point

ORIGINAL
SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No 09-029451

2a. Citation No.

Priority: ☐ Yes ☒ No

SANDRA HUTCHENS, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE CPC 594(a)(1) Vandalism		4. DATE-TIME COMMITTED 2-15-09/1600 - 2400 hrs	
5. WHERE COMMITTED Whitewater Dana Point CA 92629		6. GRID 971E6/135	7. DATE-TIME REPORTED
8. INFORMANT Same as Box # 10		9. ADDRESS-PHONE Same as Box # 11	
10. VICTIM DOB 9-16-52		11. ADDRESS-PHONE	
12. BUSINESS ADDRESS-PHONE		13. CONTACT TIME-ADDRESS Mon - Fri on cell (714) 448-9835	
14. FIRM NAME OF VICTIM		15. BUSINESS ADDRESS-PHONE	
16. VICTIM'S OCCUPATION RACE SEX AGE Contractor W M 56		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Residential Area - Construction area	
18. POINT OF ENTRY Unknown		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED Unknown		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED Broken window		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE? Off site		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN Damage Property		27. TOTAL VALUE STOLEN \$200.00	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S) Unknown subjects entered home under construction and broke a window that was not installed			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS Unknown			
30. WITNESSES R/R RESIDENCE/BUSINESS ADDRESS-PHONE		R	
(1) Unknown		B	
(2)		R	
(3)		B	
(4)		R	
(5)		B	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR.	
(1) Unknown		BKG. NBR.	
(2)		BKG. NBR.	
(3)		BKG. NBR.	
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	BRAND	SERIAL NO.
Damage: (1) oval shaped window with wood frame broken estimated value at \$200.00			
33. INVESTIGATING OFFICERS		REPORT BY M. Johnson #1546	34. DATE OF REPORT 2/16/09
35. APPROVED		36. APPROVED	

PAGE 1 OF 2

1 COPIES TO:
Dana Point

2. CASE NO. 09-029451

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

On Monday 2-16-09 I was working patrol in the City of Dana Point. At about 1000 hours I was sent to [REDACTED] reference a possible vandalism report. I arrived at about 1015 hours and contacted the victim [REDACTED] at the residence. [REDACTED] told me that someone entered this residence that is under construction and broke a window.

[REDACTED] told me that his construction crew had been at the residence on Saturday. The window that was broken had not yet been installed and was lying on a stack of dry wall in the main living area of the first floor of this residence. The window had been broken. No object was located that could have broken the window. No other damage was noted. Plache estimated the replacement cost of the window at \$200.00.

This residence is still in the framing portion of construction. Some of the windows had been installed. There is an 8 foot chain link fence surrounding the construction site. No forced entry was noted. No evidence was located at the scene.

I gave [REDACTED] a business card with this case number for his reference.

33. INVESTIGATING OFFICERS	REPORT BY M. Johnson #1546	DATE OF REPORT 2/16/09	APPROVED <i>[Signature]</i>
----------------------------	-------------------------------	---------------------------	--------------------------------

PAGE 2 OF 2

1. COPIES TO
Dana Point

ORIGINAL
SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 09/029451

PRIORITY: ☐ Yes☒ No3. ☐ INITIAL NON-CRIMINAL4. ☒ INITIAL CRIMINAL5. ☐ FOLLOW-UP CRIMINAL6. ☐ CONTINUATION REPORT NO.

FOLLOW-UP REPORT

SANDRA HUTCHENS, SHERIFF-CORONER

7. OFFENSE Information Report	8. LOCATION OF OCCURRENCE Headlands Project, Selva / Dana Strand - Dana Point	
9. VICTIM/INFORMANT Dep. J. Pelayo #3716	10. DATE AND TIME OF OCCURRENCE Bet. Sat. 2-14-09 1400/Tue. 2-17-09 0700	11. GRID 971F6

12. DETAILS OF OFFENSE:

On Tuesday 2-17-09 at 0710 hours, I was dispatched to the Headlands Project at Selva Rd. and Dana Strand. I contacted Project Manager [REDACTED] who said Dep. Johnson had taken a vandalism report the day prior (DR# 09/029451) reference some broken windows. Today (2-17-09) at 0700 hours, [REDACTED] noticed additional damages from the vandalism. He noticed 3 broken light fixtures at the new restrooms along the trolley rail between Dana Strand and the beach. [REDACTED] said they were not noticed yesterday because nobody worked on the restrooms because of the rain.

I took pictures of the three broken light fixtures. [REDACTED] estimated the damages to the fixtures at about \$1,000.00. I told [REDACTED] I was going to add these damages to report DR# 09-029451.

The disc with photos was later booked into evidence at the Aliso Viejo sub-station.

INVESTIGATING OFFICERS	REPORT BY Dep. J. Pelayo #3716	DATE OF REPORT 2/17/09	APPROVED <i>Sgt. J. Carpenter</i>
------------------------	-----------------------------------	---------------------------	--------------------------------------

FORM 104-3

PAGE 1 OF 1

1. Copies To: Dana Point

ORIGINAL
SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 09/003104

2a. Citation No.

Priority: ☐ Yes ☒ No

SANDRA HUTCHENS, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE CPC 594(a)(1)- Vandalism		4. DATE-TIME COMMITTED Between 12-21-08/1000 and 12-26-08/1000				
5. WHERE COMMITTED Ocean Front Lane, Dana Point 92629		6. GRID 971P6	7. DATE-TIME REPORTED			
8. INFORMANT		9. ADDRESS-PHONE				
10. VICTIM		11. ADDRESS-PHONE				
12. BUSINESS ADDRESS-PHONE		13. CONTACT TIME-ADDRESS				
14. FIRM NAME OF VICTIM Headlands Reserve LLC		15. BUSINESS ADDRESS-PHONE 24849 Del Prado, Dana Point 92629 (949)489-1135				
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Beach access trail through Headlands construction project				
18. POINT OF ENTRY Beach Access Trail		22. WEAPON OR MEANS USED				
19. INSTRUMENT OR MEANS USED Red spray paint		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE				
20. METHOD USED Sprayed paint		24. EXACT WORDS USED BY SUSPECT				
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE? Unknown		25. FORCE OR METHOD USED				
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN To deface property		27. TOTAL VALUE STOLEN \$500.00				
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S) None						
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, I.C. NO., AND ANY OTHER IDENTIFYING MARKS Unknown						
30. WITNESSES AND REFERENCE/BUSINESS ADDRESS-PHONE		R				
(1) Unknown		B				
(2)		R				
(3)		B				
(4)		R				
(5)		B				
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR.				
(1) Unknown		BKG. NBR.				
(2)		BKG. NBR.				
(3)		BKG. NBR.				
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS						
QUAN.	ARTICLE	BRAND	SERIAL NO.	MODEL NO.	MISC. DESCRIPTION	VALUE
	Damages: 1-"Greed" written with red spray paint on two stay on trail signs.					\$300.00
	2-"Rocks go home" and "Beat it spongers" written with grey crayon on trail Concrete floor near entrance from Selva.					\$75.00
	3-"Greed" written with red spray paint on trail concrete floor.					\$75.00
	4-"Strand" written one time with red spray paint onto green screen of fencing at Strands Beach parking lot.					\$50.00
33. INVESTIGATING OFFICERS		REPORT BY Deputy J. Pelayo #3716		34. DATE OF REPORT 1/6/09		APPROVED Sgt. J. Lopez

PAGE 1 OF 2

1. COPIES TO:
Dana Point

2. CASE NO. 09/003104

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

SANDRA HUTCHENS, SHERIFF-CORONER

REPORT CONTINUATION

On Tuesday 1-6-09 at 0850 hours, I was dispatched to the Headlands Project area at Ocean Front Rd. reference a vandalism. I contacted assistant project manager [REDACTED] who said she needed a police report for a vandalism that was brought to her attention by [REDACTED] with Dana Point City Code Enforcement. A citizen notified the Graffiti Hot-Line of the incident and [REDACTED] responded to the area and took pictures.

I saw the pictures and walked through the affected area which was the Headlands Project beach access trail off of Selva Road. I saw on the concrete floor near the beginning of the trail "Rocks go Home" and "Beat it Spongers" written with grey crayon. I saw "Greed" written with red spray paint on two "Stay on Trail" signs and on the concrete trail floor. I also saw "Strand" written with red spray paint onto the green screen of the fence surrounding one side of Strands Beach Parking lot.

[REDACTED] desired prosecution for the vandalism. I gave her a business card with this report number.

I spoke to [REDACTED] and she said the informant for the graffiti was a [REDACTED] who left a message on the Hot-Line.

I contacted Yord on Wed. 1-7-08 and she said she walks the beach access trail frequently. There was no graffiti when she walked on the trail on Sunday 12-21-08 at about 1000 hours. When she returned to the trail on Friday 12-26-08 at about 100 hours, she noticed the red graffiti.

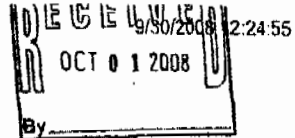
I submitted the pictures to investigations at the Aliso Viejo sub-station for evidence.

33. INVESTIGATING OFFICERS	REPORT BY Deputy J. Pelayo #3716	DATE OF REPORT 1/6/09	APPROVED Sgt. J. [Signature] 2009
----------------------------	-------------------------------------	--------------------------	--------------------------------------

PAGE 2 OF 2



VICTIM/WITNESS ASSISTANCE PROGRAM
HARBOR JUSTICE CENTER/ LAGUNA NIGUEL
30143 CROWN VALLEY PARKWAY
LAGUNA NIGUEL, CA 92677
949-249-5037



HEADLANDS CASE NUMBER: 08SM02679
24849 DEL PRADO DEFENDANT: [REDACTED]
ATTN: THOMAS ARCONTI INCIDENT DATE: 07/30/2008
DANA POINT, CA 92629 POLICE REPORT NO: 08-144304
DEAR: HEADLANDS RE: VANDALISM

Indicate here if there is no loss _____, or here if you do not desire restitution _____. If you have filed an application with the California Victim Compensation and Government Claims board, please provide the claim number. _____

To forego completing this questionnaire on the reverse side, please sign and date, and return to the address shown above. Thank you. Sign: _____ Date: _____

As part of a probation order, the Court ordered the above named defendant to our department to pay restitution. The police report indicates you were a victim in this case. You may be eligible to receive reimbursement for your loss through restitution. If so, our office will forward the defendant's payments to you in the form of money orders or cashier's checks. The defendant may make monthly payments during the term of his/her probation.

Please complete and return this Restitution Questionnaire by 10/30/2008. You must enclose copies of bills, receipts, or estimates for necessary repairs or services. If you are seeking reimbursement for future repairs, you must obtain and provide our office with three estimates for each repair. If you request restitution for medical services, your doctor must provide written verification that the treatment was related to the crime. If you are requesting restitution for lost wages, your employer must provide written verification, on company letterhead, stating how many days you missed and the amount of your lost earnings (net loss). In addition, you must provide us with a copy of your most recent pay stub. Please provide complete answers in the insurance portion of the questionnaire, even if no claim is, or will be, filed. Our office will retain your completed questionnaire as an official document of loss.

You may elect to proceed civilly and seek the assistance of an attorney, or you may wish to contact your local small claims court. If you receive collection from a civil judgement, you cannot re-collect through Victim Witness Assistance Program.

Please respond by the date listed above to ensure that your statement is fully considered by our department and the Court. Include the defendant's name and case number on all correspondence. It is in your best interest to notify us of any mailing address changes.

Sincerely,

Restitution Department



VICTIM/WITNESS ASSISTANCE PROGRAM
HARBOR JUSTICE CENTER/ LAGUNA NIGUEL
30143 CROWN VALLEY PARKWAY
LAGUNA NIGUEL, CA 92677
949-249-5037

9/30/2008 12:24:55

Defendant: ZACHARY ASBURY

Case Number: 08SM02679

RESTITUTION QUESTIONNAIRE

Victim's Name _____ Home Phone: _____
Address _____ Work Phone: _____
Zip _____ Other Phone: _____

Note: You may attach additional pages if needed.

LIST ALL BILLS INCLUDED (attach a copy of each)

Bill From: _____	Phone _____	Amount \$ _____
Explanation _____		
Business _____	Phone _____	Amount \$ _____
Explanation _____		
Business _____	Phone _____	Amount \$ _____
Explanation _____		

LIST ALL BILLS INCLUDED (attach 3 estimates for each repair)

Explanation _____		
Business _____	Phone _____	Amount \$ _____
Business _____	Phone _____	Amount \$ _____
Business _____	Phone _____	Amount \$ _____

YOUR INSURANCE INFORMATION:

Insurance Company _____ Policy # _____
Name on claim _____ Claim # _____ your deductible \$ _____
Phone _____ Address _____
Amount of claim presented? _____ Amount Insurance Company paid? _____
Name of Adjuster _____ Check here _____ If you are not going to present a claim to your insurance company.

OTHER INSURANCE INFORMATION:

Please list any other insurance companies you are in contact with as a result of the crime.
Insurance Company _____ Policy # _____
Name on claim _____ Claim # _____ your deductible \$ _____
Phone _____ Address _____
Amount of claim presented? _____ Amount Insurance Company paid? _____

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD INFORMATION:

Have you filed a Crime Victim Compensation Claim? _____ No _____ Yes _____
If yes, what is the claim number? _____

CIVIL ACTION INFORMATION:

Do you have a civil action pending? _____ Have you received a settlement? _____ Amount \$ _____

TOTAL LOSS

Please state your total out-of-pocket loss \$ _____ and explain below how you arrived at this figure.
Explanation (You may add pages if needed): _____

THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGNED: _____

DATE: _____

We have people daily trying to enter the Headlands property just to look at the buildings, landscaping, and views. If it wasn't for the presence of the CPS Security guard we would have a lot more trouble. CPS escorts many persons off of the property and has to chase them down to do so. This could be a potential problem when we have residents/occupants. Orange County Sherriff is called out, but usually arrives as the perpetrators are racing off of the property.

At night we have had security breeched many times as soon as it gets dusk. So we have a roving Security guard that escorts many trespassers off the property and has had to call the Sherriff on numerous occasions. The night guard cannot be everywhere at once. This could be a potential problem if the Headlands property is accessible after the sun sets.

✓ Three people in March, 2008 talked one of the contractor's subs into driving them down and onto the property. The CPS guard escorted them off the property, the Contractor was notified and the sub was fired.

We have several incidents of dirt bike riders being escorted off the property after they have taken a joy ride. We have many realtors who race by the gate guards and are chased down and escorted off the property.

The trailer was covered with graffiti in February 2008, which was a costly repair academy

ORIGINAL
SHERIFF DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

1. Copies To: Dana Point

2. Case No. 07-059359

2a. Citation No.

Priority: ☐ Yes ☒ No

MICHAEL S. CARONA, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE CPC 594(e)(1) - Vandalism		4. DATE-TIME COMMITTED Between 3-30-07/0900 Hrs. and 3-31-07/0400 Hrs.	
5. WHERE COMMITTED Selva Rd. @ Dana Strand Rd.		6. GRID 971F6	7. DATE-TIME REPORTED
8. INFORMANT [REDACTED]		9. ADDRESS-PHONE [REDACTED]	
10. VICTIM [REDACTED]	DOB [REDACTED]	11. ADDRESS-PHONE [REDACTED]	
12. BUSINESS ADDRESS-PHONE [REDACTED]		13. CONTACT TIME-ADDRESS [REDACTED]	
14. FIRM NAME OF VICTIM Headlands Reserve LLC		15. BUSINESS ADDRESS-PHONE 24849 Del Prado, Dana Point CA 92629 / (949)489-1135	
16. VICTIM'S OCCUPATION Corporation	RACE [REDACTED]	SEX [REDACTED]	17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Construction site
18. POINT OF ENTRY		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OFFENSE?		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN		27. TOTAL VALUE STOLEN \$	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S)			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS			
30. WITNESSES RB RESIDENCE/BUSINESS ADDRESS-PHONE		R	
(1) Unknown		R	
(2)		R	
(3)		R	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR	
(1) Unknown		BKG. NBR	
(2)		BKG. NBR	
(3)		BKG. NBR	
NAME	ADDRESS	SEX	RACE DOB HT. WT. HAIR EYES
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN. LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	BRAND	SERIAL NO. MODEL NO. MISC. DESCRIPTION VALUE
33. INVESTIGATING OFFICERS		REPORTED BY W. Robb #5059	34. DATE OF REPORT 4-4-07

SHF 010 (05/99)

page 1 of 2

DR. No. 07-059359

REPORT CONTINUATION - NARRATIVE

Damage: The black mesh attached to the chain link fence had been painted on in nine separate areas. Estimated Value: Unknown

Narrative:

On 3-31-07 at about 1230 hours, I was dispatched to the construction site at Selva Rd. and Dana Strand Rd., reference a vandalism report. When I arrived, I met the informant, [REDACTED], at the guard shack on the construction site. [REDACTED] was one of the security guards assigned to that construction site.

[REDACTED] told me that on 3-31-07 at about 0400 hours, as he walked the perimeter of the construction site, he noticed graffiti on the fence that surrounds the site. The graffiti was on the North side of the fence and at the North end of the construction site. The graffiti had been painted with white paint on the black mesh that was attached to the temporary chain link fence. The graffiti was illegible, but it appears that the same thing had been painted on nine different spots on the fence. [REDACTED] told me that the last time he saw that area of the fence was on 3-30-07 at about 0900 hours. There was no graffiti on the fence at that time. [REDACTED] did not know who painted the graffiti on the fence. He did not know how much it would cost to replace the black mesh that had been painted on.

I gave [REDACTED] a business card with the case number on it reference this incident.

INVESTIGATING OFFICERS

REPORTED BY
W. Robb #5059DATE OF REPORT
4-4-07

page 2 of 2

1. Copies To: Dana Point / TWEG

ORIGINAL
SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 07-048765

2a. Citation No.

Priority: ☐ Yes ☒ No

MICHAEL S. CARONA, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE CPC 594(a)(2) Vandalism		4. DATE-TIME COMMITTED Between 3-15-07 / 2000 hrs thru 3-16-07 / 0715 hrs	
5. WHERE COMMITTED 34352 Dana Strand Dana Point Ca 92629		6. GRID 971F6/137	7. DATE-TIME REPORTED
8. INFORMANT [REDACTED]		9. ADDRESS-PHONE [REDACTED]	
10. VICTIM DOB	11. ADDRESS-PHONE		
12. BUSINESS ADDRESS-PHONE		13. CONTACT TIME-ADDRESS	
14. FIRM NAME OF VICTIM Headlands Reserve LLC / Sec box #9.		15. BUSINESS ADDRESS-PHONE 714-742-0138	
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Construction Site	
18. POINT OF ENTRY N/A		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED Spray paint		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED Spray painted walls, signs, and fences		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE? Away from construction site		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN Damage property / None		27. TOTAL VALUE STOLEN \$0.00	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S) Suspect(s) are upset over construction site to headlands			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS Unknown			
30. WITNESSES P/R RESIDENCE/BUSINESS ADDRESS PHONE		R B	
(1) Unknown		R B	
(2)		R B	
(3)		R B	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR.	
(1) Unknown		BKG. NBR.	
(2)		BKG. NBR.	
(3)		BKG. NBR.	
NAME		ADDRESS SEX RACE DOB HT. WT. HAIR EYES	
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	BRAND	SERIAL NO. MODEL NO. MISC. DESCRIPTION VALUE
Damage:			
1. Spray paint, "Save Strands Free"			
2. Spray paint, "Save Strands"			
3. Spray paint, "Free"			
4. Spray paint, "Free!"			
5. Spray paint, "Free Save" (there was other graffiti, but unable to make out wording)			
6. Spray paint, "Save Strands"			
33. INVESTIGATING OFFICER		REPORT BY John Gomez #2684	34. DATE OF REPORT 3/16/07
		35. APPROVED <i>[Signature]</i>	

PAGE 1 OF 2

1. COPIES TO:
Dana Point / TWEO

2. CASE NO. 07-048765

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

MICHAEL S. CARONA, SHERIFF-CORONER

REPORT CONTINUATION

7. Spray paint of graffiti (unable to make out wording)
8. Spray paint of graffiti (unable to make out wording)
9. Spray paint of graffiti (unable to make out wording)
10. Spray paint, "Fuck This" on sign
11. Spray paint, "Fuck This" on sign

Evidence: (10) Photographs of graffiti taken by informant

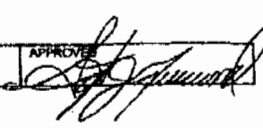
Narrative:

On Friday (3-16-07), at 1015 hours, I was dispatched to the Headlands construction site at 34352 Dana Strands, Dana Point, reference a vandalism report.

The informant [REDACTED] and told me the following: On 3-15-07, at 2000 hours, he left the worksite. On 3-16-07, at 0715 hours, he was driving on Pacific Coast Highway in front of the worksite and discovered graffiti on a sign his company displayed there. He drove into the worksite and discovered more graffiti scattered throughout the work area.

There was graffiti on a concrete beach walk, stairwell leading to beach and two signs owned by the company. Most of the graffiti was done with blue paint, but two locations also had red paint. I did not find anything that the suspect(s) left behind.

[REDACTED] told me he did not see who conducted the graffiti, but desired prosecution. I gave [REDACTED] my business card with case number for future reference.

INVESTIGATING OFFICERS	REPORT BY John Gomez #2684	DATE OF REPORT 3/16/07	APPROVED 
------------------------	-------------------------------	---------------------------	--

PAGE 2 OF 2

Copies To: Dana Point / TWEG

ORIGINAL
SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 07-035294

2a. Citation No.

Priority: ☐ Yes ☒ No

MICHAEL S. CARONA, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE CPC 594 Vandalism		4. DATE-TIME COMMITTED Between 2-22-07 / 1700 hrs thru 2-23-07 / 1200 hrs	
5. WHERE COMMITTED 34352 Dana Strand Dana Point Ca 92629		6. GRID 971FG/137	7. DATE-TIME REPORTED
8. INFORMANT		9. ADDRESS PHONE	
10. VICTIM DOB		11. ADDRESS PHONE	
12. BUSINESS ADDRESS PHONE		13. CONTACT TIME-ADDRESS	
14. FIRM NAME OF VICTIM Headlands Reserve LLC. See box #9		15. BUSINESS ADDRESS PHONE 714-742-0138	
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Concrete Boardwalk	
18. POINT OF ENTRY N/A		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED Spray paint		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED Tagged wall		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE? Away from area		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN Damage property / None		27. TOTAL VALUE STOLEN \$0.00	
28. UNUSUAL OR UNUSUAL ACTIONS BY SUSPECT(S) Suspect(s) tagged new development			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS Unknown			
30. WITNESSES / R/R RESIDENCE/BUSINESS ADDRESS PHONE		R	
(1) Unknown		B	
(2)		R	
(3)		R	
(4)		B	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR.	
(1) Unknown		BKG. NBR.	
(2)		BKG. NBR.	
(3)		BKG. NBR.	
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	BRAND	SERIAL NO.
Damage: Spray Painted (tagged) on Wall.			
33. INVESTIGATING OFFICERS		34. DATE OF REPORT	35. APPROVED
REPORT BY Deputy John Gomez		2/24/07	Sgt. J. LEMORE

PAGE 1 OF 2

1. COPIES TO:
Dana Point / TIVEG

2. CASE NO. 07-035294

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

MICHAEL S. CARONA, SHERIFF-CORONER

REPORT CONTINUATION

Narrative:

On Saturday (2-24-07), at 1100 hours, I was dispatched to the Headlands Development at 34352 Dana Stands, Dana Point, reference a vandalism report.

The informant [REDACTED] and told me the following: On 2-22-07, at 1700 hours, his employees left the worksite. On 2-23-07, at 1200 hours, his employees returned to the site and discovered tagging on the concrete boardwalk.

[REDACTED] told me his company is currently building homes on the Headlands and had prior vandalism incidents from environmentalists who are upset over the new development. [REDACTED] does not know who tagged the boardwalk, but desired prosecution.

I looked at the damage. The suspect(s) used gold spray paint and tagged three separate areas of the boardwalk. I was not able to make out what the tagging stated, but believed it had something to do with the new development on the Headlands.

Arconti provided me copies of the damage (see attached). I gave [REDACTED] my business card with case number for future reference.

INVESTIGATING OFFICERS	REPORT BY Deputy John Gomez	DATE OF REPORT 2/24/07	APPROVED [Signature]
------------------------	--------------------------------	---------------------------	-------------------------

PAGE 2 OF 2

3-30-07

SHERIFF-CORONER DEPARTMENT
COUNTY OF ORANGE☐ P.O. Box 449, Santa Ana, CA 92707☒ 11 Jeuney, Aliso Viejo, CA 92656

Should additional information develop concerning your losses, please send this information, in writing, to the address indicated above. Please include your name, address and this Case # 42-05859. To assist us in recovering your property, please submit a detailed description to include the following information: item, quantity, serial and model numbers, color, special identifying marks or characteristics and the value.

MICHAEL S. CARONA, SHERIFF-CORONER

By M. S. Carona

F0680-226.3 (Rev. 03/99)

1. Copies To: Dana Point

ORIGINALSHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 06-215193

2a. Citation No.

Priority: ☐ Yes ☒ No

MICHAEL S. CARONA, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE P.C. 594 (b)(1) Vandalism		4. DATE-TIME COMMITTED Btw 11/3/06 at 1800 & 11/04/06 at 0800 hours	
5. WHERE COMMITTED The Headlands, 33900 blk of Selva Rd Dana Point		6. GRID 971F6	7. DATE-TIME REPORTED
8. SUSPECT [REDACTED]		9. ADDRESS-PHONE [REDACTED]	
10. VICTIM DOB [REDACTED]		11. ADDRESS-PHONE [REDACTED]	
12. BUSINESS ADDRESS-PHONE		13. CONTACT TIME-ADDRESS	
14. FIRM NAME OF VICTIM The Strand at Headlands		15. BUSINESS ADDRESS-PHONE 33971 Selva Rd #100 D.P. 949/487-2500	
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED New land development project/The Headlands	
18. POINT OF ENTRY		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METHOD USED		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE?		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN		27. TOTAL VALUE STOLEN \$	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S)			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS			
30. WITNESSES FOR RESIDENCE/BUSINESS ADDRESS-PHONE		R	
(1) Unknown		B	
(2)		R	
(3)		B	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR.	
(1) Unknown		BKG. NBR.	
(2)		BKG. NBR.	
(3)		BKG. NBR.	
NAME		ADDRESS	
SEX		RACE	
DOB		HT.	
WT.		HAIR	
EYES			
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	BRAND	SERIAL NO.
			MODEL NO.
			MISC. DESCRIPTION
			VALUE
Evidence: 1 disk containing 17 digital photos booked at the Aliso Viejo Station			
33. INVESTIGATING OFFICERS		34. DATE OF REPORT	
REPORT BY Deputy C. Geary 4998		11/4/06	
		35. APPROVED SGT JNKLEMORE	

PAGE 1 OF 2

1. COPIES TO:
Dana Point

2. CASE NO. 06-215193

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

MICHAEL S. CARONA, SHERIFF-CORONER

REPORT CONTINUATION

On November 4, 2006 at approximately 0935 hours, I was dispatched to the Headlands Reserve at the 37900 block of Selva Rd. in Dana Point reference a vandalism report. When I arrived I spoke to he informant, [REDACTED] for The Strand at Headlands project. [REDACTED] told me when he came to work this morning he noticed the security camera in the closed parking lot had been cut down. [REDACTED] also said there was some graffiti on the main construction signs located on Pacific Coast Highway and Green Lantern. [REDACTED] showed me pictures of the graffiti which said "Fuck this" because he had covered the graffiti. While I was talking to [REDACTED], a construction worker told me there was also graffiti down by the beach and guided me to it.

Down on the beach there is a new 600-foot boardwalk with a 4-foot cement wall adjacent to the boardwalk. Approximately 425-feet of the wall are covered with graffiti which was done in black and blue paint. The graffiti had numerous statements such as "Earth Liberation, Leave it alone, t.l.c., resist this shit, act out, fight back, destroy this development, fuck Sanford Edward." There were other comments and symbols which were documented in the digital photos taken at the scene.

I also observed the surveillance camera which was cut down. I took digital photos of damaged camera and booked them into evidence.

While I was at the construction site, [REDACTED] who is in charge of the project, arrived at the scene. [REDACTED] said the FBI has already been working with them and he would notify them on Monday.

INVESTIGATING OFFICERS	REPORT BY	DATE OF REPORT	APPROVED
	Deputy C. Geary 4998	11/4/06	SGT JINGLEMORE

PAGE 2 OF 2

1. Report To: Dana Point
TEW6

ORIGINAL

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 06-005538

2a. Citation No.

Priority: ☐ Yes ☒ No

MICHAEL S. CARONA, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE CPC 594 Vandalism		4. DATE/TIME COMMITTED Bet. Friday 1-6-06/1800 to Saturday 1-7-06/1130	
5. WHERE COMMITTED 24200 Selva Rd., Dana Point, CA 92626		6. GRID 971F9/136	7. DATE/TIME REPORTED
8. INFORMANT [REDACTED]		9. ADDRESS/PHONE [REDACTED]	
10. VICTIM Box 14		11. ADDRESS/PHONE Box 15	
12. BUSINESS ADDRESS/PHONE		13. CONTACT TIME/ADDRESS Mon-Fri 0700-1700 Box 15	
14. FIRM NAME OF VICTIM Headlands Reserve LLC		15. BUSINESS ADDRESS/PHONE 24200 Selva Rd. Dana Point (949) 488-8800	
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Headlands Reserve LLC development project site	
18. POINT OF ENTRY		22. WEAPON OR MEANS USED	
19. INSTRUMENT OR MEANS USED		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
20. METH-OD USED		24. EXACT WORDS USED BY SUSPECT	
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE?		25. FORCE OR METHOD USED	
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN		27. TOTAL VALUE STOLEN \$	
28. UNIQUE OR UNUSUAL ACTIONS BY SUSPECT(S)			
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO. AND ANY OTHER IDENTIFYING MARKS			
30. WITNESSES AND RESIDENCE/BUSINESS ADDRESS/PHONE		R	
(1) Unknown		R	
(2)		R	
(3)		R	
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR.	
(1) Unknown		BKG. NBR.	
(2)		BKG. NBR.	
(3)		BKG. NBR.	
NAME		ADDRESS	SEX RACE DOB HT. WT. HAIR EYES
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS			
QUAN.	ARTICLE	BRAND	SERIAL NO. MODEL NO. MISC. DESCRIPTION VALUE
DAMAGED PROPERTY:			
Project fencing and restroom stall door			
33. INVESTIGATING OFFICERS		REPORT BY S. Meier #3204	34. DATE OF REPORT 1/9/06

PAGE 1 OF 2

1. COPIES TO:
Dana Point

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. CASE NO. 06-005538

MICHAEL S. CARONA, SHERIFF-CORONER

REPORT CONTINUATION

NARRATIVE:

On Monday 1-9-06 at approximately 1010 hours, I was dispatched to 24200 Selva Rd regarding a report of vandalism at the Headlands Reserve construction site. I spoke the [REDACTED] of construction, [REDACTED] for the developer Headlands Reserve LLC. The Headlands Reserve project is controversial and has been subjected to numerous acts of vandalism.

Sometime between Friday 1-6-06/1800 to Saturday 1-7-06/1130, unknown suspects graffiti approximately 100 feet of the perimeter chain-link fence and a restroom stall door. The suspects used white spray paint. [REDACTED] gave me eight color photographs of the graffiti. The Graffiti on the beach fencing read, "EARTH LIBERATION, tear down the fences, tear down the wall."

I gave [REDACTED] my business card with the case number. I collected and booked the eight printed photographs into evidence at the Sheriff's Aliso Viejo Station.

33. INVESTIGATING OFFICERS

REPORT BY
S. Meier #3204

DATE OF REPORT
1/9/06

APPROVED

[Signature]

PAGE 2 OF 2

1. Copies To: Dana Point

ORIGINAL
SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 05-197624

2a. Citation No.

Priority: ☐ Yes ☒ No

MICHAEL S. CARONA, SHERIFF-CORONER

INITIAL CRIME REPORT

3. OFFENSE P.C. 594 Vandalism		4. DATE-TIME COMMITTED Between 10-6-05 / 10-7-05	
5. WHERE COMMITTED Dana Strands / Selva, Dana Point		6. GRID 971	7. DATE-TIME REPORTED
8. INFORMATION		9. ADDRESS-PHONE	
10. VICTIM	DOB	11. ADDRESS-PHONE	
12. BUSINESS ADDRESS-PHONE		13. CONTACT TIME-ADDRESS	
14. FIRM NAME OF VICTIM Headlands Reserve LLC		15. BUSINESS ADDRESS-PHONE #9	
16. VICTIM'S OCCUPATION RACE SEX AGE		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Development project site	
18. CRIMES AGAINST PROPERTY		19. CRIMES AGAINST PERSONS	
20. ENTRY		21. WEAPON OR MEANS USED	
22. INSTRUMENT OR MEANS USED		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE	
24. METHOD USED		25. EXACT WORDS USED BY SUSPECT	
26. WHERE WERE OCCUPANTS AT TIME OF OFFENSE?		27. FORCE OR METHOD USED	
28. APPARENT MOTIVE - TYPE PROPERTY TAKEN		29. TOTAL VALUE STOLEN	
30. UNUSUAL OR UNUSUAL ACTIONS BY SUSPECT(S)		31. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS	
32. WITNESSES W/ RESIDENCE/BUSINESS ADDRESS-PHONE		33. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)	
(1) Unknown		(1) Unknown	
(2)		(2)	
(3)		(3)	
34. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS		35. APPROVED	
<p>Details: On 10-7-05 at 1145 hours, I met with informant [redacted] at the Headlands development project site off Dana Strand road. [redacted] is the [redacted] of construction for the company. Sometime during the previous night, an unknown suspect using white spray-paint wrote the following graffiti on the outside of the perimeter fence: "Values?", "Fuck Greed" and "Fuck development". The section of fence is directly adjacent to the public stairs leading to Strands beach. [redacted] said that due to the controversy over the project, the company is reporting all vandalism to the site.</p>		<p>36. DATE OF REPORT 10/8/05</p>	
37. INVESTIGATING OFFICERS REPORT BY R. Hassett #717		38. APPROVED [Signature]	

PAGE 1 OF 1

1. Copies To: Dana Point

ORIGINAL

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

2. Case No. 05-160143

2a. Citation No.

Priority: ☐ Yes ☒ No

MICHAEL S. CARONA, SHERIFF-CORONER

INITIAL CRIME REPORT

1. OFFENSE CPC 594(b)(1) Vandalism		4. DATE-TIME COMMITTED Sunday, 08-15-05 / Unknown						
5. WHERE COMMITTED 23920 Selva Road, Dana Point CA 92629		6. GRID 971F6	7. DATE-TIME REPORTED					
8. INFORMANT [REDACTED]		9. ADDRESS-PHONE [REDACTED]						
10. VICTIM See Box #14	DOB	11. ADDRESS PHONE See Box #15						
12. BUSINESS ADDRESS-PHONE		13. CONTACT TIME-ADDRESS						
14. FIRM NAME OF VICTIM Headlands Reserve LLC		15. BUSINESS ADDRESS-PHONE 24849 Del Prado, Dana Point 92629, 714-742-0138						
16. VICTIMS OCCUPATION RACE SEX AGE Private Entity		17. TYPE OF PREMISES OR LOCATION WHERE OFFENSE WAS COMMITTED Beachfront property						
18. POINT OF ENTRY Unknown		22. WEAPON OR MEANS USED						
19. INSTRUMENT OR MEANS USED Blue and white spray paint		23. VICTIM'S ACTIVITY AT TIME OF OFFENSE						
20. METHOD USED Graffiti		24. EXACT WORDS USED BY SUSPECT						
21. WHERE WERE OCCUPANTS AT TIME OF OFFENSE? N/A		25. FORCE OR METHOD USED						
26. APPARENT MOTIVE - TYPE PROPERTY TAKEN To cause permanent damage		27. TOTAL VALUE STOLEN \$						
28. UNUSUAL OR UNUSUAL ACTIONS BY SUSPECT(S) None								
29. VEHICLE USED BY SUSPECT(S) YEAR, MAKE, BODY TYPE, COLOR, LIC. NO., AND ANY OTHER IDENTIFYING MARKS Unknown								
30. WITNESSES NAB RESIDENCE/BUSINESS ADDRESS-PHONE		R						
(1) Unknown		B						
(2)		R						
(3)		B						
31. SUSPECT(S) (IF ARRESTED, NAME, ADDRESS, AND BOOKING NUMBER)		BKG. NBR.						
(1) Unknown		BKG. NBR.						
(2)		BKG. NBR.						
(3)		BKG. NBR.						
NAME	ADDRESS	SEX	RACE	DOB	HT.	WT.	HAIR	EYES
32. DETAILS OF OFFENSE: EVIDENCE COLLECTED, DESCRIPTION AND VALUE OF PROPERTY TAKEN, LIST ADDITIONAL WITNESSES AND SUSPECTS								
QUAN.	ARTICLE	BRAND	SERIAL NO.	MODEL NO.	MISC. DESCRIPTION	VALUE		
33. INVESTIGATING OFFICERS Thomas		REPORT BY Deputy M. Thomas		34. DATE OF REPORT 8/16/05		35. APPROVED S.A.P.W.		

PAGE 1 OF 2

1. COPIES TO:
Dana Point

2. CASE NO. 05-160143

SHERIFF'S DEPARTMENT
ORANGE COUNTY
SANTA ANA, CALIFORNIA

MICHAEL S. CARONA, SHERIFF-CORONER

REPORT CONTINUATION

On Monday, 08-15-05 at about 1525 hours, I was dispatched to a vandalism report at the dead end of Dana Strand at Selva Road. At the dead end of Dana Strand is a gate which provides access to The Headlands Wildlife Preserve. This preserve is about 50 acres of land and is currently under construction for a new housing community. This property is enclosed by a 6 foot tall green fence. We have taken several vandalism reports in this area due to environmentalist groups not wanting the preserve to be developed.

I spoke to the [REDACTED] of Construction of the Headlands, [REDACTED] and he led me to the west fence of the property. This fence blocks the Headlands property from the public beach. On about 40 feet of the fence there was graffiti spray painted with blue and white paint. The graffiti was spray painted in 3 sections. The first section on the far left had the letters "RELEK" painted in block style writing. The letters in this section were about 5 1/2 feet tall. The middle section had the words "Now we're both illegal" spray painted on it. The letters in this section were about 3 feet tall painted in cursive style writing. The far right section had the letters "ALKA" painted in block style writing. The letters in this section were about 6 feet tall.

[REDACTED] told me Sunday, 08-14-05 at about 1230 hours, there were several construction workers working at the Headlands and they told him the graffiti was not there at that time.

I gave [REDACTED] a business card with the case number on it. I contacted Investigator Kirby who is in charge of investigating all vandalism as well as other crimes associated with the Headlands project. I also contacted Sheriff's Identification who responded to the scene and took photographs.

INVESTIGATING OFFICERS DOMAS	REPORT BY Deputy M. Thomas	DATE OF REPORT 8/16/05	APPROVED [Signature]
---------------------------------	-------------------------------	---------------------------	-------------------------

PAGE 2 OF 2

SUPPORTING DOCUMENT E**HEADLANDS POLICE CALL AND POLICE REPORT SUMMARY**

DATE	TIME	LOCATION	DESCRIPTION	CALL/REPORT
03/08/10	10:30 am	Cove Road and Green Lantern	Asst – Citizen Assist	Call
03/06/10	4:38 pm	Green Lantern	Suspicious Persons and Circumstances	Call
03/06/10	10:16 am	Dana Strand Road	Assist Outside Agency	Call
03/05/10	11:57 pm	Green Lantern	Burglary Alarm	Call
03/03/10	9:57 am	Selva and Pacific Coast Hwy	Vandalism	Police Report
02/28/10	4:11 pm	Dana Strand Road	Assist Outside Agency	Call
02/26/10	6:34 pm	Green Lantern	Burglary Alarm	Call
02/25/10	1:37 am	Scenic Drive and Cove Road	Suspicious Vehicle	Call
02/23/10	7:30 pm	Scenic Drive and Marguerite Ave	GB – general broadcast	Call
02/23/10	12:18 pm	Dana Strand and Selva	Traffic Stop	Call
02/20/10	11:25 am	Dana Strand Road	Vandalism Report	Call
02/19/10	12:04 pm	Green Lantern and Cove Road	Warrant Arrest	call
02/19/10	7:17 am	Green Lantern	Keep the Peace	Call
02/17/10	5:35 pm	Green Lantern and Scenic Drive	Trespassing	Call
02/16/10	7:25 pm	Green Lantern	N/A	Call
02/15/10	10:48 pm	Green Lantern	Suspicious Persons and Circumstances	Call
02/15/10	2:33 pm	Dana Strand Road	Hit and Run Parked Car Report	Call
02/15/10	12:46 pm	Dana Strand Road	Disturbance	call
02/15/10	1:52 am	Cove Island Place	Keep the Peace	Call
02/13/10	4:42 pm	Dana Point Harbor Drive and Cove Road	Vandalism in Progress	Call
02/12/10	10:00 pm	Dana Strand Road and Selva	Vandalism Report	Call
02/12/10	5:36 pm	Green Lantern and Pacific Coast Hwy	Trespassing	Call
02/10/10	8:38 am	Dana Strand Road	Municipal Code Violations	Call
02/08/10	2:39 am	Dana Point Harbor Drive and Cove Road	Traffic Stop	Call
02/06/10	11:51 am	Dana Point Harbor Drive and Cove Road	Suspicious Persons and circumstances	Call

1346/022390 0031
1075182 G1 #03/16/10

-1-

HEADLANDS POLICE CALL AND POLICE REPORT SUMMARY

DATE	TIME	LOCATION	DESCRIPTION	CALL/REPORT
02/03/10	2:22 pm	Scenic Drive and Marguerita Ave	Trespassing	Call
02/02/10	9:58 pm	Dana Point Harbor Drive and Cove Road	Suspicious Vehicle	Call
01/25/10	10:29 pm	Dana Strand Road	Suspicious Person in Vehicle	Call
01/25/10	9:51 pm	Scenic Drive and Marguerita Ave	Suspicious Person in Vehicle	Call
01/23/10	5:52 pm	Selva Road and Dana Strand Road	Event -- Special Event	Call
01/23/10	1:53 pm	Selva Road and Dana Strand Road	Asst -- Citizen Assist	Call
01/17/10	7:44 am	Dana Strand Road and Selva Road	FWUP -- Follow up report	Call
01/16/10	3:40 pm	Dana Strand Road and Selva Road	Asst -- Citizen Assist	Call
01/10/10	4:20 pm	Cove and Green Lantern	Trespassing; Resisting Arrest	Police Report
01/10/10	3:26 pm	Scenic Drive and Green Lantern	PTCK -- Patrol Check	Call
01/04/10	3:54 pm	Scenic Drive and Cove Drive	Illegally Parked Vehicle	Call
01/03/10	9:00 pm	Dana Strand Road	Suspicious Vehicle	Call
01/03/10	2:50 pm	Green Lantern and Scenic Drive	Trespassing	Call
01/02/10	9:00 am	Dana Strand Road	Disturbance	Call
01/01/10	10:41 pm	Scenic Drive	Trespassing	Call
12/29/09	9:09 pm	Dana Strand Road	Suspicious Person in Vehicle	Call
12/29/09	2:03 pm	Scenic Drive and Marguerita Ave	Suspicious Person and Circumstances	Call
12/18/09	N/A	N/A	Vandalism (broken window at gate)	Police report
12/15/09	4:44 pm	Scenic Drive	Burglary Alarm -- Residence	Call
12/13/09	8:29 am	Scenic Drive and Green Lantern	Traffic Accident	Call
12/13/09	8:28 am	Scenic Drive	Medical Aid (relating to accident)	Call
11/30/09	9:16 am	Dana Strand Road	Abandoned Vehicle	Call
11/22/09	1:22 am	Dana Strand and Selva Road	Traffic Stop	Call
11/06/09	7:55 am	Dana Strand and	Traffic Stop	Call

2346/022390.0031
1075182.01 03/16/10

-2-

HEADLANDS POLICE CALL AND POLICE REPORT SUMMARY

DATE	TIME	LOCATION	DESCRIPTION	CALL/REPORT
		Selva Road		
10/29/09	2:45 pm	Cove Drive and Scenic Drive	Suspicious Vehicle	Call
10/29/09	4:14 am	Cove Drive and Scenic Drive	Drunk Driving (car over cliff)	Call
10/27/09	12:08 am	Dana Strand and Selva Road	Suspicious Person and circumstances	Call
10/10/09	9:24 am	Dana Strand Road	Disturbance	Call
10/09/09	5:44 pm	Dana Strand and Selva Road	N/A	Call
10/07/09	4:16 pm	Green Lantern and Cove Drive	Misdemeanor Narcotics Violations (3 cited)	Call
10/04/09	9:23 am	Dana Strand Road	Suspicious persons and circumstances	Call
10/02/09	11:01 pm	Dana Strand Road	Asst - Citizen Assist	Call
09/18/09	1:08 pm	Dana Strand Road	Petty Theft	Call
09/17/09	1:36 am	Dana Strand Road	Disturbance	Call
09/09/09	12:09 pm	Dana Strand and Selva Road	Burglary	Call
08/30/09	6:58 pm	Dana Strands Parking Lot	N/A	Call
08/30/09	5:09 pm	Dana Strand Road	Disturbance	Call
08/30/09	10:06 am	Dana Strand Road	Suspicious person and circumstances	Call
08/28/09	6:45 pm	Dana Strand and Selva Road	Trespassing, vandalism, and resisting arrest	Police report
08/28/09	1:16 pm	Dana Strand and Selva Road	Follow up report	Call
08/28/09	7:14 am	Dana Strand and Selva Road	Trespassing	Call
08/25/09	7:42 am	Dana Strand and Marguerita	Foot patrol	Call
08/23/09	3:57 pm	Dana Strand and Selva Road	N/A	Call
08/19/09	3:53 pm	Dana Strand Road	N/A	Call
08/18/09	6:30 pm - 6:00 am	Dana Strands Road	Vandalism (graffiti)	Police report
08/17/09	1:03 pm	Dana Strand Road	Information request	Call
08/16/09	2:56 pm	Dana Strand Road	Disturbance	Call
08/15/09	1:20 am	Dana Strand and Selva Road	Misdemeanor Narcotics Violation	Call
08/14/09	9:14 am	Dana Strand Road	Asst - Citizen	Call

2346/022190-0031
1075182 01 A03/16/10

-3-

HEADLANDS POLICE CALL AND POLICE REPORT SUMMARY

DATE	TIME	LOCATION	DESCRIPTION	CALL/REPORT
			Assist	
08/14/09	8:29 am	Dana Strand Road	Disturbance – Mechanical	Call
08/03/09	7:54 pm	Dana Strand and Selva Road	Trespassing	Call
07/30/09	8:54 pm	Dana Strand Road	N/A	Call
07/28/09	9:35 pm	Scenic Drive	Firework Violation	Call
07/24/09	8:45 am	Dana Strand Road	Vandalism Report	Call
07/22/09	8:35 pm	Dana Strand Road	Drunk in Public	Call
07/22/09	12:03 am	Dana Strand and Selva Road	Suspicious person in vehicle	Call
07/22/09	12:00pm – 1:00 pm	Headlands Reserve (PCH and Selva Road)	Vandalism (graffiti)	Police report
07/20/09	2:08 am	Dana Strand Road	Suspicious person and circumstances	Call
07/18/09	2:33 am	Dana Strand and Selva Road	Trespassing	Call
07/17/09	5:17 pm	Dana Strand Road	Disturbance	Call
07/10/09	9:21 pm	Dana Strand and Selva Road	Trespassing	Call
07/10/09	5:26 pm	Dana Strand and Selva Road	Trespassing	Call
07/04/09	1:29 pm	Dana Strand and Selva Road	Suspicious person and circumstances	Call
06/29/09	3:49 pm	Dana Strand and Selva Road	Trespassing	Call
06/28/09	11:30 pm	Dana Strand and Selva Road	Suspicious person and circumstances	Call
06/28/09	2:27 pm	Marguerita Ave and Scenic Drive	Illegally Parked Vehicle	Call
06/26/09	10:07 pm	Dana Strand and Selva Road	Suspicious person and circumstances	Call
06/15/09	10:55 pm	Dana Strand Road	Foot patrol	Call
06/15/09	8:04 pm	Dana Strand Road	Vandalism Report	Call
06/15/09	12:24 pm	Marguerita Ave and Scenic Drive	Disturbance	Call
06/13/09	11:09 am	Dana Strand Road	Battery	Call
06/11/09	2:57 pm	Marguerita Ave and Scenic Drive	Suspicious Person and Circumstances	Call
06/06/09	6:58 am	Dana Strand Road	Disturbance	Call
06/02/09	10:41 pm	Scenic Drive	Suspicious Person in Vehicle	Call
06/02/09	10:28 pm	Dana Strand Road	Disturbance – Auto Involved	Call
05/26/09	5:54 pm	Marguerita Ave	Suspicious Person	Call

2346/022890-0031
1075182.01 #03/16/10

-4-

HEADLANDS POLICE CALL AND POLICE REPORT SUMMARY

DATE	TIME	LOCATION	DESCRIPTION	CALL/REPORT
05/26/09	7:24 am	and Scenic Drive Dana Strand and Selva Road	In Vehicle Illegally parked vehicle	Call
05/24/09	1:20 pm	Dana Strand and Selva Road	Trespassing	Call
05/20/09	9:00 am	Dana Strand Road	Suspicious Person in Vehicle	Call
05/14/09	5:32 pm	Ocean Front Lane and Dana Strand Road	N/A	Call
05/01/09	9:13 am	Dana Strand and Selva Road	Vandalism Report	Call
04/23/09	11:26 am	Dana Strand and Selva Road	Vandalism report	Call
04/22/09 - 04/23/09	9:00 pm - 5:00 am	Dana Strand and Selva Road	Grand theft, vandalism	Police report
04/19/09	6:34 pm	Dana Strand and Selva Road	Traffic accident - non injury	Call; police report
04/18/09	2:33 pm	Dana Strand Road	Trespassing	Call
04/18/09	1:58 pm	Dana Strand Road	Illegally Parked Vehicle	Call
04/12/09	3:31 pm	Dana Strand Road	Suspicious person and circumstances	Call
04/10/09	9:58 pm	Marguerita Ave and Scenic Drive	Suspicious Person and Circumstances	Call
04/06/09	5:16 pm	Dana Strand Road	Disturbance	Call
04/05/09	7:02 pm	Dana Strand and Selva Road	Vehicle Code Violation	Call
04/05/09	12:39 pm	Dana Strand and Selva Road	Hit and run parked car	Call
03/31/09	1:20 am	Dana Strand and Selva Road	Traffic stop	Call
03/23/09	11:30 am	Dana Strand Road	Suspicious person and circumstances	Call
03/17/09	2:22 pm	Shoreline Drive and Dana Strand Road	N/A	Call
03/14/09	11:02 am	Dana Strand Road	Welfare check	Call
03/08/09	6:39 pm	Scenic Drive	Trespassing	Call
03/07/09	4:06 pm	Scenic Drive	Trespassing	Call
03/07/09	10:37 am	Dana Strand and Selva Road	Assist - Outside agency	Call
03/04/09	9:21 pm	Dana Strand and Selva Road	Traffic stop	Call
03/04/09	7:58 am	Dana Strand and Selva Road	Vandalism report	Call

2346/022390.0031
1075182.01 s03/16/10

-5-

HEADLANDS POLICE CALL AND POLICE REPORT SUMMARY

DATE	TIME	LOCATION	DESCRIPTION	CALL/REPORT
03/02/09	11:38 pm	Dana Strand and Selva Road	Suspicious person in vehicle	Call
02/28/09	1:24 am	Marguerita Ave and Scenic Drive	PTCK - Patrol Check	Call
02/28/09	12:55 am	Scenic Drive and Marguerita Ave	Suspicious Person in Vehicle	Call
02/19/09	5:33 pm	Dana Strand and Selva Road	Indecent exposure	Call
02/14/09 - 02/17/09	2:00 pm - 7:00 am	Dana Strand and Selva Road	Vandalism (restrooms and home)	Police report
02/15/09	4:00 pm - 12:00 pm	Whitewater Road	Vandalism (home)	Police report
12/21-12/26/08	10:00 am - 10:00 am	Ocean Front Lane	Vandalism (graffiti)	Police report
03/08/08	N/A	N/A	Trespassing	Police report
02/08/08	N/A	N/A	Vandalism (graffiti)	Police report
03/30/07 - 03/31/07	9:00 am - 4:00 am	Dana Strand and Selva Road	Vandalism (graffiti)	Police report
03/15/07 - 03/16/07	8:00 pm - 7:00 am	Dana Strand Road	Vandalism (graffiti)	Police report
02/22/07 - 02/23/07	5:00 pm - 12:00 pm	Dana Strand Road	Vandalism (graffiti)	Police report
11/03/06 - 11/04/06	6:00 pm - 8:00 am	Selva Road	Vandalism (graffiti)	Police report
01/06/06 - 01/07/06	6:00 pm - 11:30 am	Selva Road	Vandalism (graffiti)	Police report
10/06/05 - 10/07/05	N/A	Selva Road	Vandalism (graffiti)	Police report
08/15/05	N/A	Selva Road	Vandalism (graffiti)	Police report

2346/022390-0031
1075182.01 #03/16/10

-6-

SUPPORTING DOCUMENT F

Central Accessway Beach Gate



North Strand Access and Funicular Station



South Strand Switchback Trail



SUPPORTING DOCUMENT G

**GENERAL PLAN AMENDMENT
GPA: 01-02**

and

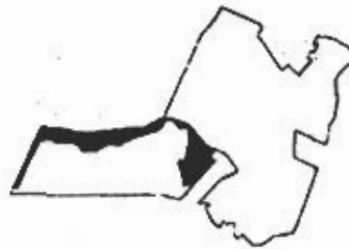
**LOCAL COASTAL PROGRAM AMENDMENT
LCPA: 01-02**

September 22, 2004
Clarifications Added

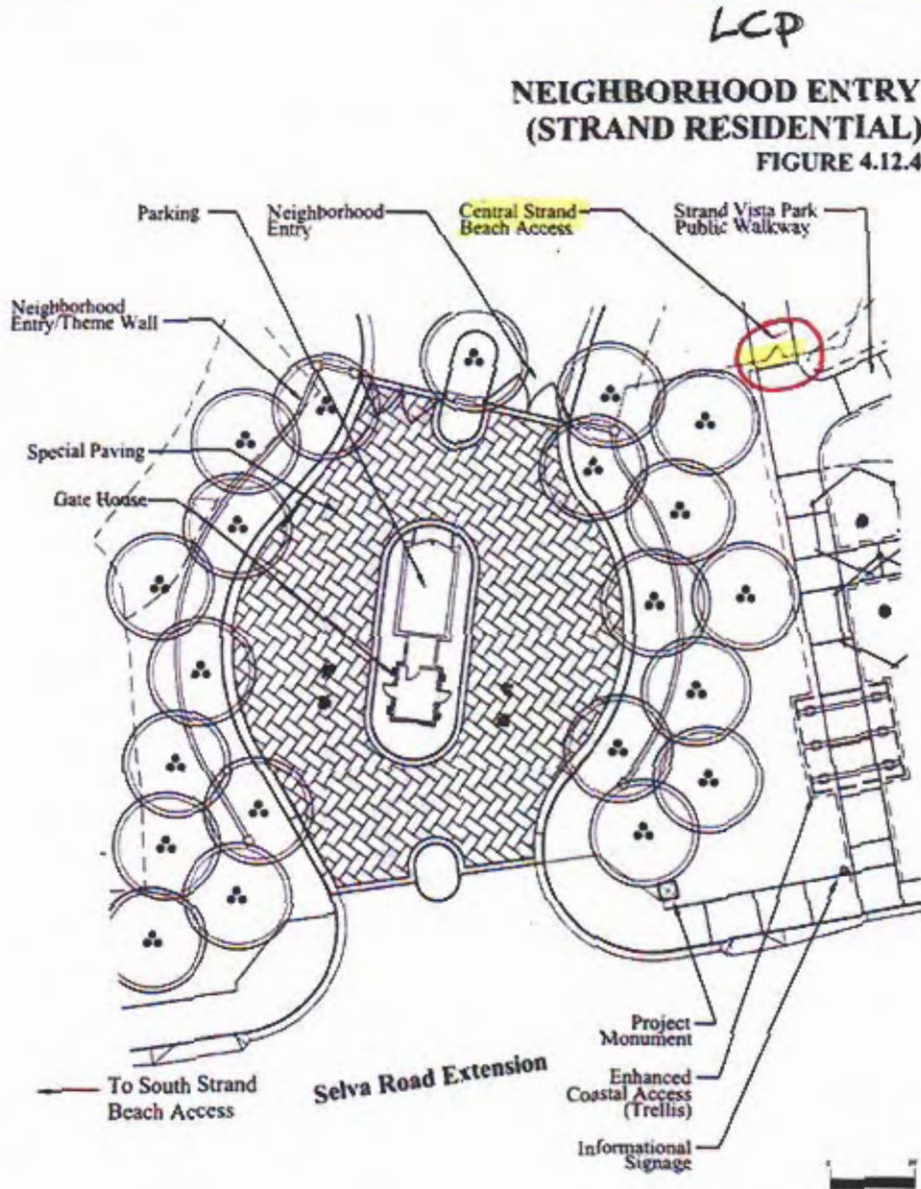
Note: LCPA: 01-02 consists only of the following elements of the General Plan: Land Use Element, Urban Design Element, and Conservation and Open Space Element.

HEADLANDS DEVELOPMENT AND CONSERVATION PLAN
Section 4.0 Development Guidelines

TABLE 4.5.4
STRAND VISTA PARK/PUBLIC ACCESS (9.9 ACRES)
PUBLIC ACCESS PROGRAM GUIDELINES



1. Public and coastal access shall be established by a series of public trails and overlooks west of the existing County parking lot, connecting to the Public Trail system and Strand Beach as established in the HDCP.
2. The public trails and overlooks in the Strand Vista Park shall be open to the public year-round. The City will determine hours of operation.
3. The view overlooks shall provide seating, interpretive signage, public art, or other relevant information as determined by the City.
4. The Strand Vista Park shall include active recreation uses that complement the public trail and overlooks, such as landscaped seating areas, picnic facilities, kiosks, and other amenities that may be appropriate for coastal viewing and related public activities.
5. The Strand Vista Park shall include five vertical public beach access pathways—South Strand Beach Access, Mid-Strand Vista Park Access, Central Strand Beach Access, North Strand Beach Access, and if gates, guardhouses, barriers or other development designed to regulate or restrict public access are approved for Planning Area 2, a public funicular (inclined elevator). Lateral coastal access shall be provided along the top or landward of the shoreline protective device seaward of the Strand residential development.
6. The Strand Vista Park proposes two public visitor recreation facilities (restroom and shower facilities) to be constructed by the Landowner/Developer as part of the North and South Strand Beach Access, just above Strand Beach.
7. Parking shall be accommodated in the adjacent County public parking lot and on Selva Road.
8. Appropriate signage identifying the location of public coastal accessways will be displayed in conspicuous locations.

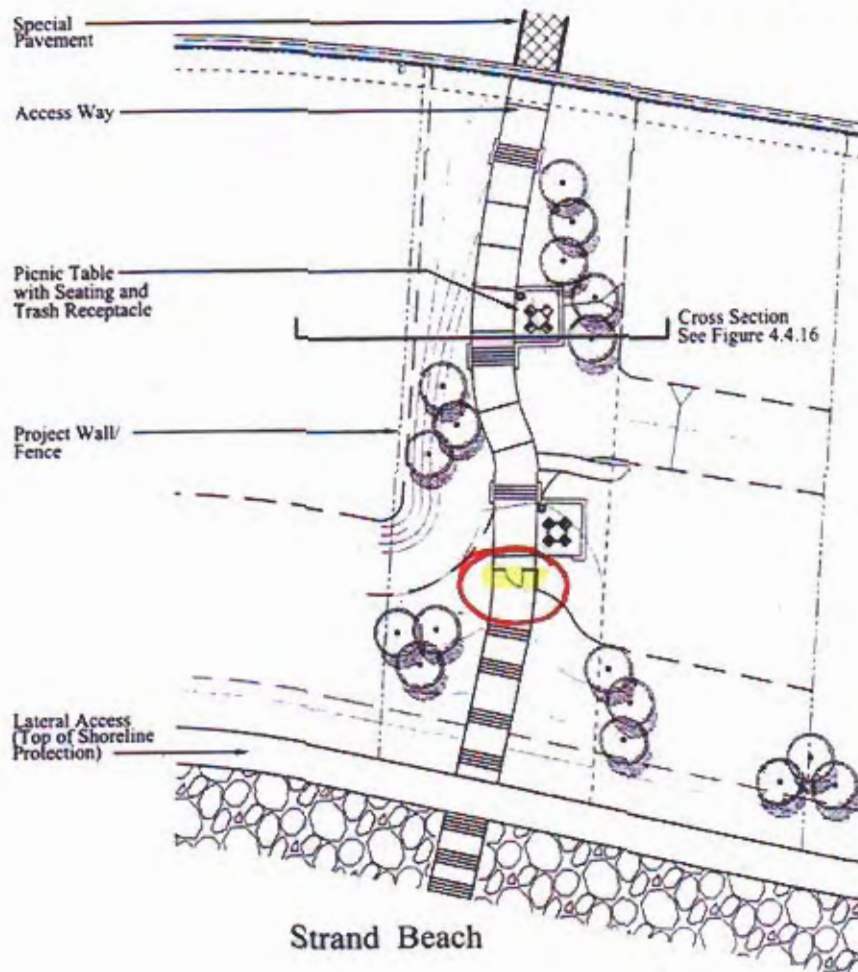


THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN

Note: Plan is diagrammatic in nature and intended to show the general location of land uses. It is subject to change based on final engineering, planning, and design.

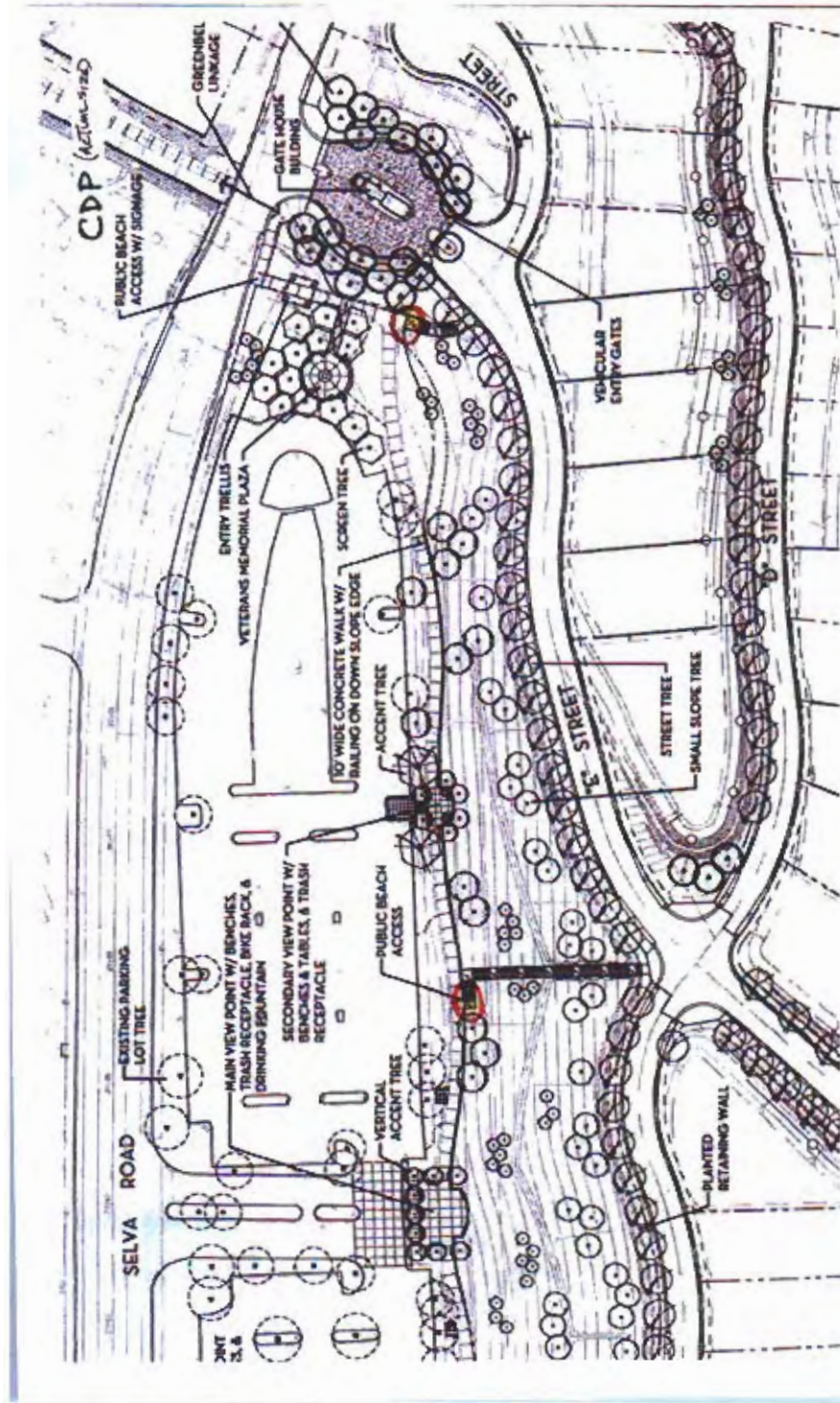
LCP

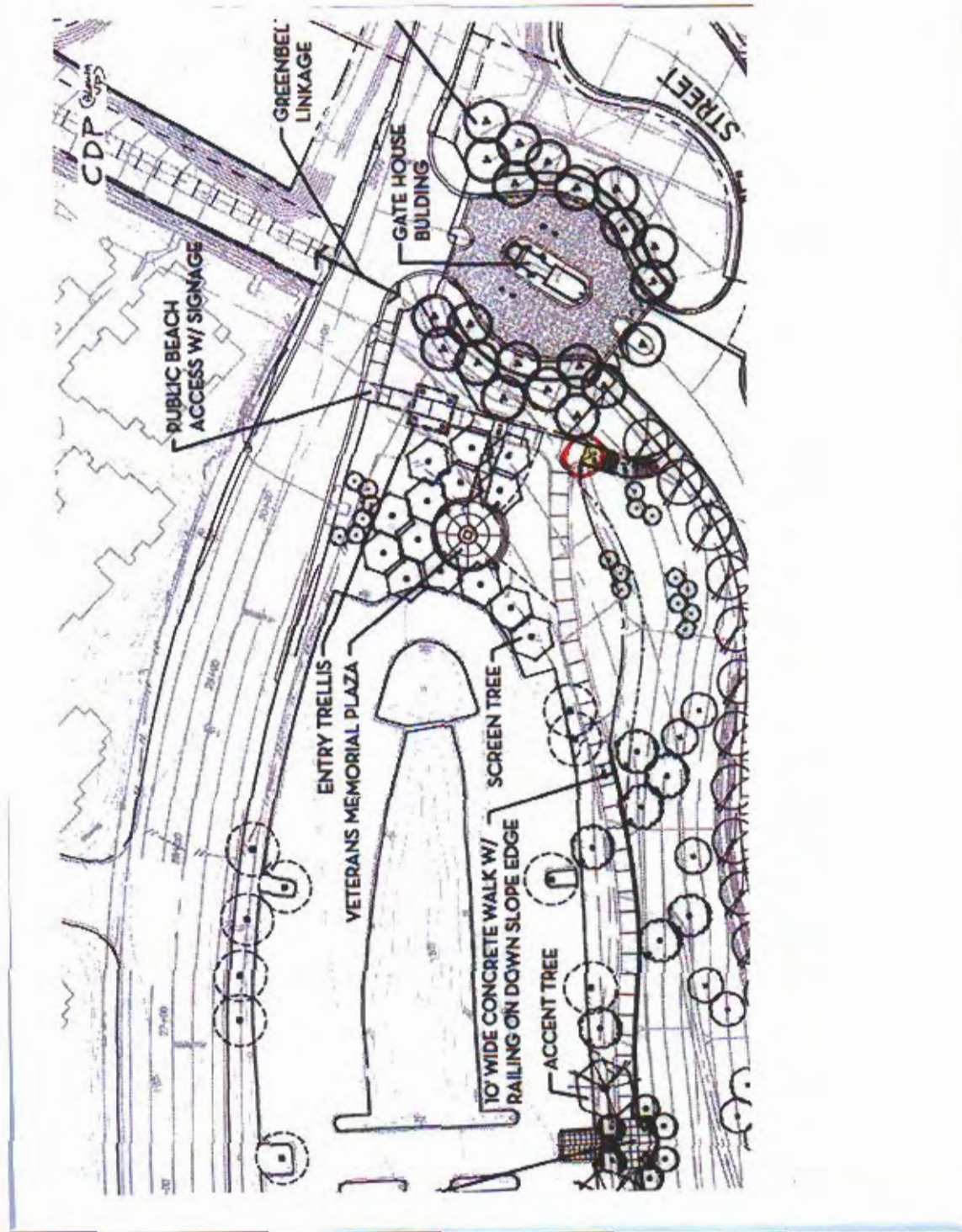
**CENTRAL STRAND BEACH ACCESS
CONCEPTUAL PLAN
FIGURE 4.4.15**

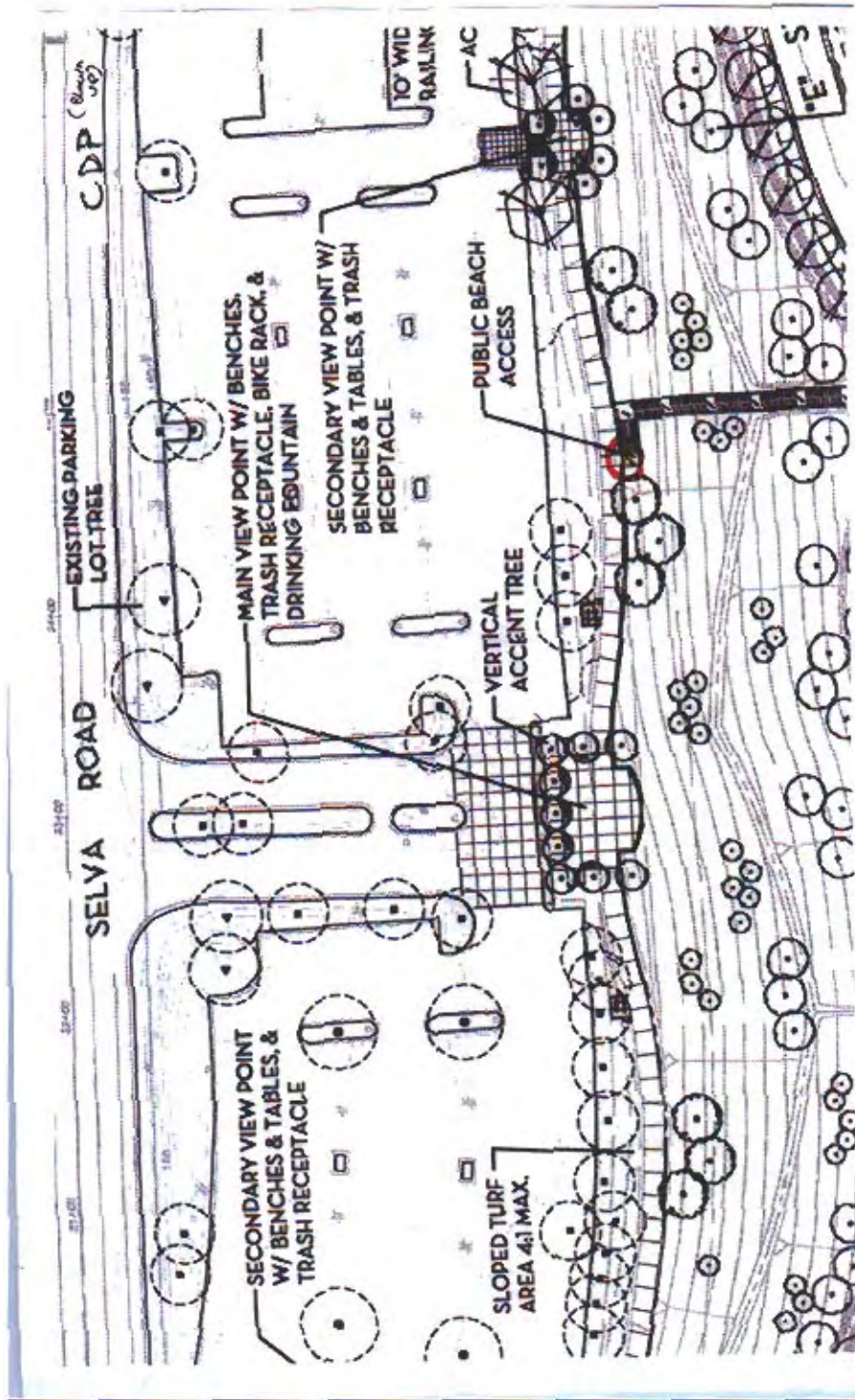


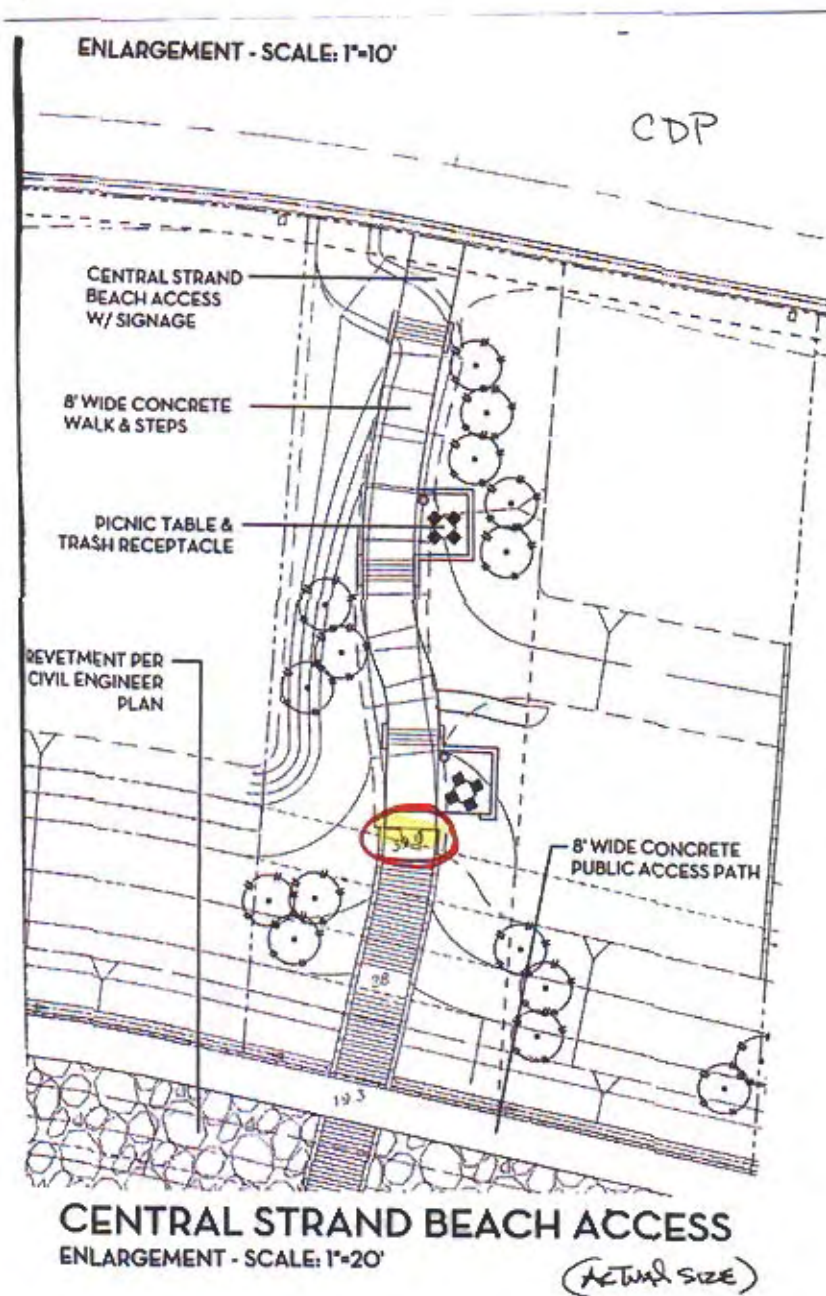
Note: Plan is diagrammatic in nature and intended to show the general location of land uses. It is subject to change based on final engineering, planning, and design.

**THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN**

SUPPORTING DOCUMENT H







CALIFORNIA COASTAL COMMISSION

South Coast Region

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 590-5084

APR 6 2010

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Coastal Commissioners Bloom and Wan

Mailing Address: 200 Oceangate, Ste. 1000

City: Long Beach

Zip Code: 90802

Phone: 562-590-5071

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Dana Point

2. Brief description of development being appealed:

Implementation of operational hours and installation of enforcement devices including gates and signs that restrict public access to public parks, accessways and beaches

3. Development's location (street address, assessor's parcel no., cross street, etc.):

In the Vicinity of Strand Vista Park, incl. South Strand Switchback Trail, Mid-Strand Beach Access, Central Strand Beach Access, and Strand Beach Park, Dana Point Headlands, Dana Point (Orange County)

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial
☒ Exemption

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-5-DPT-10-082

DATE FILED:

April 6, 2010

DISTRICT:

South Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: March 22, 2010

7. Local government's file number (if any): Urgency Ordinance

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

On March 22, 2010, the City Council of the City of Dana Point approved an "urgency ordinance" to establish operational hours and to install enforcement devices including gates and signs that restrict public access to public parks, accessways and beaches in the vicinity of Strand Vista Park, incl. South Strand Switchback Trail, Mid-Strand Beach Access, Central Strand Beach Access, and Strand Beach Park, at the Dana Point Headlands. The City has not approved a local coastal development permit, or permit amendment, in conjunction with its approval of the urgency ordinance. In its action, the City took the position that this establishment of closing times and the installation of 'enforcement devices' is exempt from coastal development permit requirements because the City found these actions to be 'nuisance abatement'. This action cannot go unchallenged as the establishment of restrictive hours and placement of gates across public accessways is inconsistent with the Coastal Act and the certified LCP; and the loss of these accessways' usefulness renders the entire Headlands development to be inconsistent with the Coastal Act.

Pursuant to Section 9.27.010 of the City of Dana Point Zoning Code (Title 9), a coastal development permit, subject to the standards of the specific zoning designation, is required for all "development" within the Coastal Overlay ("CO") District. "Development" is defined in Section 9.75.040 of the City's zoning code as:

Development, Coastal — the placement or erection, on land, in or under water, 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 recreational 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 of harvesting 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 provision of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (emphasis added)

Implementation of the urgency ordinance approved by the City Council would have the effect of "changing the intensity of use of water, or of access thereto" because it limits access to the beach. In addition, the installation of 'enforcement devices' such as gates and signs is "the placement or erection, on land...of any solid material or structure...", so it too is development. Thus, the installation of gates on public coastal accessways, closure of the beach accessways through establishment of hours of operation by ordinance, and installation of signs displaying the hours of closure of accessways meets the definition of development as defined in the City's certified LCP. The above-mentioned gates and signs which limit or restrict public beach access are: 1) located within the CO

District; 2) are not authorized by Coastal Development Permit ("CDP") No. 04-23 (or any other coastal development permit) and; 3) are not exempt. Therefore, they constitute development under the Coastal Act and the City's local coastal program ("LCP") and require a coastal development permit or an amendment to CDP No. 04-23. Pursuant to Coastal Act Section 30625(a), the City's claim of exemption is appealable to the Coastal Commission.

Moreover, the effects on public access arising from implementing the ordinance must be considered. The standard of review for all development located between the sea and the first public road paralleling the sea includes the public access and recreation policies of the Coastal Act. Coastal Act Section 30210 states:

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

Further, Coastal Act Section 30212.5 states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

The Coastal Act includes Sections 30220, 30221, and 30223 which promote public recreational opportunities. The gates and hours of operation adversely impact, rather than maximize, public access.

The City has asserted that the hours of operation it has set, at 8:00 am to 5/7:00 pm (depending on the season), are necessary because the presence of public accessways in a residential community creates significant safety issues. The mere presence of a public accessway in a residential neighborhood is not a public safety issue. There are many such accessways in residential neighborhoods along the California coast that present no more of a safety issue than accessways located in non-residential areas. If free of view obstructing vegetation, the accessways are accessible to monitoring from multiple vantage points during daylight hours, and if adequately lit, at all hours. In addition, these hours prevent the public from gaining access to State tidelands via these accessways even during daylight hours, which can be as early as 5am and as late as 9pm during some times of the year. In fact these hours are far more restrictive even than the hours listed on the sign for Strand Vista Park, which are 6am to 10pm.

The proposed signage prohibits public use of the Mid-Strand Vista Park Accessway earlier than the other vertical accessways in the project area but includes a sign indicating that alternative vertical access (free funicular) exists 200 yards away. However, that signage neglects to inform the public of the fact that the funicular is open only on weekends and holidays nine months of the year. In addition, the signage for the funicular is misleading in that it suggests beach access is limited to the hours of the funicular. In summary, the combination of gates, hours of operation and signage proposed by the City does not maximize public access opportunities, as required by the certified LCP and the Coastal Act.

The proposed hours of operation limit public access to a greater degree than anticipated or allowed by the policies of the certified LCP and the public access and recreation policies of the Coastal Act and should not be permitted. Nor are the hours consistent with public access policies of the Headlands Development and Conservation Plan, including Section 4.4, which specifies that trails will maximize public coastal access.

The precedent set by legitimizing the subject use of the nuisance declaration and abatement process is a significant concern due to the fact that the conditions the City declares to be a "nuisance" can exist at any public accessway or recreational area. The appropriate response is additional enforcement; not a limitation of the general public's ability to access the shoreline. In this particular case, the unlawful behavior the City declares to

be a nuisance through the Headlands property may exist now or could potentially increase in the area of the north and south beach accessways where the public will be directed as a result of the proposed limitations on use of the Central and Mid- Strand Beach accessways. The cumulative effect of this approach could lead to overuse by the public of a single recreational area inconsistent with Section 30212.5 and all public access and recreational policies of the Coastal Act.

Moreover, the gates are inconsistent with the access policies of the HDCP. HDCP Section 3.4.A.6 expressly prohibits gates or other development in Planning Areas 2 and 6 that restrict public pedestrian and bicycle access. Section 3.4.A.6 reads in pertinent part:

Gates, guardhouses, barriers or other development designed to regulate or restrict public access shall only be allowed in conjunction with a public funicular in Planning Area 1 providing mechanized public access from the County beach parking lot to the beach. Only public vehicular access may be restricted. Public pedestrian and bicycle access shall not be restricted. [underlining added for emphasis]

All development must be consistent and comply with the requirements of the HDCP. The gates are clearly inconsistent with the HDCP.

In addition to the effects on public access and recreation created by implementing the ordinance, the City's use of its nuisance abatement powers in this circumstance goes beyond the usual type and approach to nuisance abatement and far exceeds the steps that ought to be taken to address the behavioral concerns of just a few individuals that it has identified. The City of Dana Point already has ordinances in place to address unlawful behavior and has the ability to enforce those ordinances. Mere public use of the accessways is not unlawful behavior nor is the presence of the public *en route* to the beach a "nuisance". In areas where there are demonstrated problems, alternatives to closure to address the problem need to be considered. If there are no feasible alternatives to closure, then, in order to maximize public access, the accessways and parks that are closed must be limited to only those where valid public safety concerns are demonstrated. The hours of closure must be minimized and the duration of time that the closure is in place should also be minimized; perhaps for just a "pilot" period after which the need for such closure would be revisited. Finally, appropriate mitigation must be provided for any closures that are ultimately allowed. The coastal development permit provides the process to address these issues and provide a more even handed approach to assure that accessway and park closures are only allowed for legitimate public safety reasons and are not excessively restrictive, thus ensuring maximum public access as required by the Coastal Act and the City's certified LCP.

Gates and restrictive access hours on dedicated public accessways are contrary to the public access requirements of the LCP and the Coastal Act. The local coastal program expressly prohibits gates or other development designed to restrict public access through public accessways to Strand Beach. The presence of gates on these accessways is contrary to the public access improvement goals of both the Coastal Act and the Local Coastal Program. Both a local coastal program amendment and coastal development permit would be needed to authorize such gates.

Finally, the City's action to impose very restrictive hours on public use of the accessways and construction of gates at the Headlands undermines the very basis on which the Commission found the Headlands Development Conservation Plan (HDCP), and the development it describes, to be approvable under the Coastal Act. The development contemplated in that plan, and ultimately approved by the City and built by the developer, was found to be inconsistent with the Coastal Act in a number of ways (see Revised Findings adopted in August 2004 in support of the Commission's approval of the HDCP). The Commission found it could approve the HDCP only by invoking the conflict resolution provisions of the Coastal Act (see PRC §§ 30007.5 and 30200(b)). The coastal accessways that are being gated/restricted by the City, are the very same accessways that the Commission found to be a substantial benefit of the development and contributed to the HDCP and the development it described as being "...on balance ... the most protective of significant coastal resources..." Thus, the restrictions the City has placed on these accessways calls into question the consistency of the entire Headlands development

with the Coastal Act.

In sum, this appeal is filed on two bases: first - the action taken by the City Council to implement the urgency ordinance constitutes non-exempt development as defined in both the Coastal Act and in the City's certified LCP, and so requires approval of a coastal development permit; and second - public access is not maximized thus, the proposed development as approved by the City is inconsistent with the public access and recreation policies of the Coastal Act and the City's certified LCP.

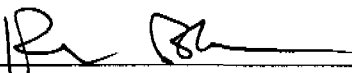
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: 
Appellant or Agent

Dated: 4/6/10

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Dated: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

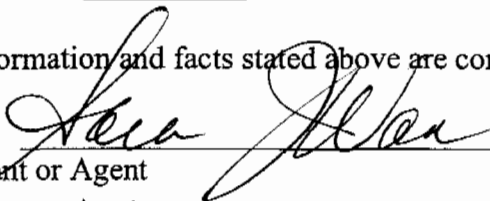
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: 
Appellant or Agent

Dated: 4/6/10

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Dated: _____

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



October 20, 2009

Mr. Brad Fowler
Director of Public Works and Engineering Services
City of Dana Point
Public Works & Engineering
33282 Golden Lantern
Dana Point, CA 92629

Re: DANA POINT HEADLANDS
Local CDP No. CDP04-23
Summary of Reconnaissance Survey of Improvements on 10/7/09

Dear Mr. Fowler:

On October 7, 2009, Commission staff, including myself and Mr. Andrew Willis, met with you at the site of the Dana Point Headlands project, approved pursuant to City of Dana Point Master Coastal Development Permit No. CDP04-23. We met, at your invitation, for a reconnaissance level survey of the public improvements that, pursuant to the Local Coastal Program and CDP, are required to be constructed by the developer and ultimately managed by a public entity. I would like to take this opportunity to thank you for the invitation and for meeting with us. We are pleased to see the progress toward completion of the parks, trails, and beach accesses, the funicular, nature interpretive center, and the ongoing habitat restoration efforts. We look forward to the opening of these public benefits which will be enjoyed by so many who recreate along our coastline. However, at the same time, we do have some concerns with the state of some of the improvements and believe the conditions now present will have a long lasting adverse impact to coastal access and resources if they are not corrected. Therefore, this letter also serves to memorialize staff's observations during our meeting and some additional issues staff has identified.

For the sake of completeness, let me also document the circumstances under which we met and those we encountered during our visit. As indicated by you, we observed completed or nearly completed public facilities at the site. We did not seek to conduct, or allow time for, a complete review of all public facilities on the entire site. In addition, we did not review City-approved project plans in conjunction with this meeting. This was, instead, a reconnaissance-level observation of some of the public facilities at the site regarding which you asked staff to identify any concerns that we saw during the site visit.

Commission staff met with you at the top of the North Strand Beach Access stairs, from which we proceeded down the steps to the landing point of the funicular. Access to and use of the funicular or its related facilities was not available at that time as final engineering certification had yet to be completed. From there we walked along the Strand Vista Park, observing conditions in the park from the Salt Creek Parking lot as access into the park was not available due to construction fencing and the absence of any construction personnel to provide entry. We were ultimately able to gain access into Strand Vista Park through an unlocked construction fence at the mid-point of the park, where we proceeded to its easterly end, observing the entry point to the Mid-Strand Vista Park Access and the Central Strand Beach Access, along the way, and ultimately ended that walk at the 'Veteran's Memorial' park. We then went by vehicle to the end of the newly constructed extension of Selva Road that leads to both the entry point to the South Strand Beach Access and the entry to the westerly end of the Headlands Conservation Park loop trail. From there we headed over to the terminus of Scenic Drive, stopping along the way to look at the entry to the steps leading from Green Lantern to the Hilltop Park. We concluded our meeting at the terminus of Scenic Drive in the cul de sac adjacent to the Interpretive Center building and parking lot at the Headlands Conservation Park. These facilities were closed and gated at the time and we did not gain entry to any trails, the parking lot, or the interpretive center.

Following is a summary of the issues we identified with regard to those public facilities we viewed on October 7th and some additional issues that have come to our attention after reviewing our photographs from the site visit and the requirements of the LCP:

1. **Obstruction of Public Views Along the North Strand Beach Access Stairs and the southerly end of the Strand Vista Park.** During our site visit, we observed several rows of vegetation planted along the length of the North Strand stairs that obstruct public views of the ocean and Dana Point Headlands from the stairs. Similarly, there is vegetation planted seaward of the Strand Vista Park walkway at its southerly end that obstructs public views of the ocean and Headlands. For the most part, there is no ocean view with the vegetation planted. Where views are not completely obstructed, it appears that such views will ultimately be obstructed once the vegetation fills in some more. There are numerous policies in the LCP requiring the protection and enhancement of public views to and along the ocean, and of significant landforms like the Dana Point Headlands. There are also very specific narrative, policies and graphics discussing the planned improvement of views from the North Strand stairs and from the Strand Vista Park area. For example, the LCP contains a map, Figure 4.5.3 (Coastal View Opportunities) that describes in detail the view conditions that are required along the North Strand access and the southerly end of the Strand Vista Park access (Planning Area 1), among other locations. In these areas, Figure 4.5.3 shows that views are to be "intermittent", as opposed to "unobstructed" or "no view", in recognition of the fact that homes constructed in the South Strand residential area (Planning Area 2) would create some view obstructions of the ocean and Headlands. The vegetation currently planted along these areas creates a "no view" condition.

During our site visit you argued that "intermittent" views could mean "no view" in those locations if one 'averaged' in the 'unobstructed' views that were present elsewhere along the Strand Vista Park access. We don't believe such interpretation is reasonable. There are three distinct view condition categories in the LCP: 'unobstructed view', 'intermittent view', and 'no view'. Had the Commission decided it was appropriate to obstruct views along the southerly part of the Strand Vista Park access, it would have applied the 'no view' category instead of the 'intermittent view' category.

Therefore, we believe the vegetation planted along these areas is not compliant with the requirements of the LCP, or the CDP which incorporates the provisions of the LCP. Vegetation should be removed or replaced with vegetation that grows low to the ground, such that individuals using these accessways have the best possible view of the ocean and Dana Point Headlands. If there is a desire to screen the homes with vegetation, this preferably should be accomplished with landscaping on the residential lots and could be reviewed by the City in conjunction with its review of landscape plans for those properties. If that screening isn't adequate, in places where the 'intermittent view' category applies, some vegetation could be used where it will screen views of homes, but only where this can be done without adversely impacting public views of the ocean and Headlands.

2. **Gates & Hours of Operation at the Entryway to the Mid-Strand, Central Strand, and South Strand Beach accessways.** During our site visit we observed that gates had been installed at the entry points to the Mid-Strand and Central Strand beach accessways. Signs posted at the entry state that the hours the public may use these accessways are 8am to 7pm May through September, and 8am to 5pm October through April. You stated that the gates would be locked/opened with a time lock mechanism. In addition, there is a sign indicating 'trail hours' of 7am to Sunset at the South Strand Beach Access and you indicated the City's intent to install a gate at the entry to the South Strand Beach Access if one can be devised that is resistant to vandalism.

Gates and restrictive access hours on dedicated public accessways are contrary to the public access requirements of the LCP and the Coastal Act. The local coastal program expressly prohibits gates or other development designed to restrict public access except in conjunction with the funicular. Furthermore, there is nothing in the City-issued CDP that authorizes gates on the public access entryways. Again, the presence of gates on these accessways is contrary to the public access improvement goals of both the Coastal Act and the Local Coastal

Program. Both a local coastal program amendment and coastal development permit would be needed to authorize such gates. It is Commission staff's position that, based on the inconsistency of such gates with the Coastal Act, it is not likely such gates would be approved by the Commission. In any event, until, authorized, the gates must be removed.

Furthermore, the coastal permit for the Headlands development which was approved by the City and subject to appeal by the Commission did not authorize the establishment of hours of operation for the accessways. The hours identified at the Mid and Central Strand accessways, 8am to 5/7pm, prevent the public from gaining access to State tidelands via these accessways even during daylight hours, which can be as early as 5am and as late as 9pm during some times of the year. In fact these hours are far more restrictive even than the hours listed on the sign for Strand Vista Park, which are 6am to 10pm. We recognize that the LCP states that the City will determine hours of daily operation for the facilities it will own in the Headlands project area. However, it is Commission staff's position that the proposed hours of operation limit public access to a greater degree than anticipated or allowed by the policies of the certified LCP and the public access and recreation policies of the Coastal Act and should not be permitted. Establishment of such a restriction on public access is a change in intensity of use and access to the water and requires a coastal permit.

Again, the City-issued coastal permit did not authorize the establishment of hours of operation that restrict the public's ability to gain access to the coast seaward of the Headlands development. In addition, the LCP specifically prohibits the residential development from being a gated community for similar reasons. Preferably, there should be no restriction on the hours of operation on a coastal accessway. People wish to access the beach, which there are State tidelands, at all hours for walking, fishing, scuba diving and other such activities. Limiting the operating hours of beach accessways limits public beach access. At this stage, these limitations need to be removed since there is no coastal permit authorizing them. If the City wishes, it may seek a coastal permit for the establishment of hours of use though Commission staff is not encouraging the establishment of such hours.

You stated a concern about safety and a need for lighting to make the accessways safe at night. If this is a concern, then the developer should install the required lighting. However, such lighting should be minimized and directed downward and away from sensitive habitat areas. All applicable coastal permit requirements should be followed.

3. **Public coastal access signage in Planning Area 2.** A comprehensive sign program is a requirement of the LCP. We note that the signs at the Mid and Central Strand accessways, which pass through Planning Area 2, state that coastal access is "limited to sidewalk" and "no trespassing beyond public sidewalk". First, this restriction is confusing and misleading, especially considering the lack of public access signage (e.g. directional signs) within the lower residential area. It is necessary for the public to leave the sidewalk and cross two streets to reach the access point to the beach. Furthermore, this is contrary to LCP requirements which state that "[o]nly public vehicular access may be restricted" in Planning Area 2, if a funicular is installed and operating. The LCP says that "Public pedestrian and bicycle access shall not be restricted" in Planning Area 2 (and 6) (see Section 3.4.A.6, page 3-19). Thus, signs which limits access to the sidewalk only restrict public access in a manner that is contrary to the LCP. These signs should be removed and may be replaced only if coupled with directional public access signage that makes clear where the public is allowed and also protects private property within the Headlands.
4. **Screen wall at the lower restroom/funicular station at the North Strand Stairs.** Near the bottom of the North Strand Stairs, where a new restroom and funicular station were constructed, we pointed out the public view obstructions created by a wall newly installed in the vicinity of the new showers. You explained that the screen wall was necessary to create visual separation between the restroom facilities and the adjacent nearby home site. If screening is necessary, ideally that screening would be located on the home site where public view blockage would be minimized instead of at the North Strand stairs where public view blockage is most extreme. Vegetation in lieu of a wall would also be preferable (planted on the home site). Furthermore, it appears that the wall that was installed obstructs more public view than is

necessary to create a visual separation between the restroom and the home site. If the wall is retained, it ought to be stepped/lowered and/or removed in the areas nearest to the steps where a visual separation is not necessary. Thus, we request that the City revisit the need for this wall for screening purposes and look at alternative methods for creating visual separation between the restroom/funicular and the adjacent home site that minimize/avoid public view impacts.

As you explained in the field, we recognize the City's actions to allow the installation of vegetation and a wall which blocks public views and the identified access limitations were undertaken to address privacy issues and perceived safety concerns. Similar arguments are often made in other areas along our coast where privacy is a concern. However, these actions which favor a few individuals to the detriment of the many members of the public who wish to gain access to the State tidelands is inconsistent with the Coastal Act and the Commission's certification of the LCP which applies to this area. We don't believe the vegetation, gates, and signs that are at issue in this letter are either authorized by a coastal permit or consistent with the local coastal program. Development undertaken without a valid coastal permit constitutes a violation of the Coastal Act and the certified LCP. We hope that you will address these issues immediately so that the public may fully realize all the benefits it was promised when the Headlands project was approved. Also, we have exchanged some correspondence regarding vegetation clearance within ESHA at the Hilltop Park. We will address that with you as a separate matter.

Again, thank you for taking the time to meet with us to review site conditions. Please let me know if you have any questions, or wish to discuss further.

Sincerely,



Karl Schwing
Supervisor, Regulation & Planning

Cc: Kyle Butterwick, City of Dana Point
Sanford Edward, Headlands Development LLC
Andrew Willis, CCC
Teresa Henry, CCC
Sherilyn Sarb, CCC
Chris Pederson, CCC

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT**

November 20, 2009

Kyle Butterwick
Community Development Director
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Violation File Number: V-5-09-026

Property location: Dana Point Headlands - Strand Beach accessways
City of Dana Point, County of Orange

Unpermitted Development: Placement of gates and signs restricting public beach access; establishment of "hours of operation" limiting public beach access.

Dear Mr. Butterwick:

I am in receipt of your letter dated November 5, 2009 in response to Karl Schwing's October 20, 2009 letter. I am writing to address the issue of the gates, signs, and establishment of hours of operation of the accessways discussed in the two above-mentioned letters.

As detailed in Mr. Schwing's letter, our staff has confirmed that the placement of gates and signage has occurred on property owned by the City of Dana Point at the Mid-strand and Central Strand Beach Accessways and that signage has been placed at the South Strand Beach Access. The subject gates and signs (the signs establish "hours of operation") restrict public access to the beach at these locations which are located within the Coastal Zone and the City's Coastal Overlay (CO) District.

Pursuant to Section 9.27.010 of the City of Dana Point Zoning Code (Title 9), a coastal development permit, subject to the standards of the specific zoning designation, is required for all "development" within the Coastal Overlay District. "Development" is defined in Section 9.75.040 of the City's zoning code as:

Development, Coastal — the placement or erection, on land, in or under water, 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 recreational 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 of harvesting 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 provision of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (emphasis added)

The above-mentioned gates and signs which limit or restrict public beach access are: 1) located within the CO District; 2) are not authorized by Coastal Development Permit ("CDP") No. 04-23 (or any other coastal development permit) and; 3) are not exempt. Therefore, they constitute development under the Coastal Act¹ and the City's local coastal program ("LCP") and require a coastal development permit or an amendment to CDP No. 04-23. Any development activity conducted in the Coastal Zone/CO District without a valid coastal development permit which requires a permit, as does this activity, constitutes a violation of the Coastal Act and the City's LCP.

In addition, Section 9.27.030 of the City's zoning code states:

In addition to the development standards for the base zoning districts described in Chapters 9.09-9.25, the following standards apply to all applicable projects within the CO District.

(a) Coastal Access.

(1) The purpose of this section is to achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act; to implement the public access and recreation policies of Chapter 3 of the Coastal Act; and to implement the certified land use plan of the Local Coastal Program which is required by Section 30500(a) of the Coastal Act to include a specific public access component. In achieving these purposes, the provisions of this subsection shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution.

In your letter to Mr. Schwing, you assert that the City's LCP authorizes the City to determine hours of operation. Just to clarify, the LCP identifies standards by which to review a request for a permit, and is not a permit itself. In fact, the City's LCP requires a coastal development permit for all development within the CO District. Therefore, a coastal development permit is required in order to authorize the development at issue here.

¹ The Coastal Act is codified in sections 30,000 to 30,900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated. A-5-DPT-10-082

In addition, the presence of language in the LCP indicating that the City may determine hours of operation does not also imply that the City may erect gates to enforce those hours - the City of Dana Point has numerous parks with hours of operation that are not gated -, nor does it somehow exempt such development from the application of Coastal Act and LCP policies, including those pertaining to public access, and the concomitant permit requirements. In fact, as described further below, the construction of gates to obstruct pedestrians from public accessways in the subject locations is expressly prohibited in the City's LCP.

You also state that you have set the hours of operation at 8:00 am to 5/7:00 pm (depending on the season) because the presence of public accessways in a residential community creates significant safety issues. The mere presence of a public accessway in a residential neighborhood is not a public safety issue. As you are no doubt aware, there are many such accessways in residential neighborhoods along the California coast that present no more of a safety issue than accessways located in non-residential areas. If free of view obstructing vegetation, the accessways are accessible to monitoring from multiple vantage points during daylight hours, and if adequately lit, at all hours. In addition, the hours you have set - which don't even include all daylight hours - are much more restrictive than the hours the City uses at other City-owned facilities. Nor are the hours consistent with public access policies of the Headlands Development and Conservation Plan, including Section 4.4, which specifies that trails will maximize public coastal access.

Therefore, in order to resolve this violation and reduce the possibility of further enforcement action by the Coastal Commission, we ask that you remove the above-mentioned gates and signs. If, at a later date you wish for gates and/or signs to be installed that restrict public access, you would first need to obtain authorization for them through issuance of a coastal development permit (or by amending CDP No. 04-23). If you choose to authorize the gates and signs through the coastal development permitting process, an amendment to the City's LCP will also be required as Section 3.4.A.6 of the Headlands Development and Conservation Plan (part of the City's certified LCP) expressly prohibits gates or other development that restrict public pedestrian and bicycle access. As Mr. Schwing advised you in his letter, because the gates and signs appear to be inconsistent with the public access policies of the Coastal Act and the City's LCP, it is not likely that Commission staff would recommend approval of the subject gates, signs, and hours of operation by the Coastal Commission (which would review the issue in an LCP amendment and/or likely hear the matter on appeal) as currently configured and/or proposed. We would therefore prefer to work with you to address the situation in a way which is consistent with the LCP and Coastal Act.

Please note that Mr. Schwing raised some additional issues in his letter regarding view obstruction and there are other ongoing issues that have been previously identified relative to sensitive habitat clearance elsewhere on the site. That is not the subject of this letter, but resolution of those issues remains important. We urge you to continue to work with staff to resolve those issues and appreciate your cooperation.

While we remain confident that this matter can be resolved amicably and strongly prefer to do so, please be advised that Public Resources Code Section 30810(a)(3) authorizes
A-5-DPT-10-082
EXHIBIT 7
3 of 4

the Commission to issue a cease and desist order to enforce any requirement of a certified LCP if the local government is a party to the violation (as in this instance where the City owns the property upon which the Coastal Act violation is located and operates the subject gated accessways). Please contact me by **December 7, 2009** regarding how the City intends to resolve this matter.

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me at (562) 590-5071. We look forward to speaking with you and resolving this matter in the near future.

Sincerely,



Andrew Willis
District Enforcement Analyst

CC: Sherilyn Sarb, Deputy Director, CCC
Lisa Haage, Chief of Enforcement, CCC
Karl Schwing, Orange County Planning Supervisor, CCC
Alex Helperin, Staff Counsel, CCC
Teresa Henry, District Manager, CCC
N. Patrick Veesart, Enforcement Supervisor, CCC
Christopher Pederson, Deputy Chief Counsel, CCC

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



March 4, 2010

Kyle Butterwick
Community Development Director
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Violation File Number: V-5-09-026

Property Location: Dana Point Headlands - Strand Beach accessways
City of Dana Point, County of Orange

Unpermitted Development: Placement of gates and signs restricting public beach access; establishment of "hours of operation" limiting public beach access.

Dear Mr. Butterwick:

Thank you (and City staff) for taking time to meet with Commission staff Sherilyn Sarb, Karl Schwing, Teresa Henry, Pat Veesart and myself on February 18th, to discuss the gates, signage, and hours of operation at the site of the Dana Point Headlands project. We appreciate your time and efforts and hope that we can resolve this quickly and amicably. As you know, we are concerned that the unpermitted gates, signs, and posted hours of operation at issue are restricting public access opportunities to the coast. You'll remember that public access was a critical component of the Commission's certification of the LCP which includes the Headlands Development and Conservation Plan ("HDCP") and the subsequent approval of the project by the City pursuant to Coastal Development Permit No. 04-23. We understand and appreciate that the subject restrictions on public access might be originating from pressure on the City to address perceived public safety issues. However, as we explained, the gates, signs, and hours of operation require authorization through the coastal development permitting process. Thus, we would like to work with the City to achieve a mutually acceptable resolution that addresses both public safety and public access to the coast through that process. Based on discussions during our February 18th meeting, we are optimistic that we can reach such a resolution.

At our February 18th meeting, we discussed the unpermitted development at issue, which is described in more detail below, including installation of gates on public coastal accessways, closure of the beach accessways through establishment of hours of operation by ordinance, and installation of signs displaying the hours of closure. Hours of closure have been established for the Mid-Strand Vista Park Access, Central Strand Beach Access, Strand Beach Park Lateral Access, and South Strand Beach Access. Gates and signage displaying the hours of closure are

installed at the Mid-Strand and Central Strand accesses. Signage displaying the hours of closure is installed at the North Strand Beach Access, Strand Beach Park Lateral Access, and South Strand Beach Access.

The gates on the accessways are not authorized by a valid coastal development permit and are expressly prohibited by the HDCP. In addition, the hours of closure of the accessway, as well as the signs displaying the closures, are also unpermitted and apparently inconsistent with the public access protection policies of the HDCP and Coastal Act. In order to resolve this matter, we are requesting that the City remove the gates and replace the signs displaying the hours of closure with public access signage that does not display hours of closure. We would be glad to work with the City through the coastal development permit process to establish hours of operation that effectively address proven public safety issues and maximize public access to the coast.

We also discussed issues with existing signage installed on the accessways that is confusing and misleading, and by staff's own observations, is hindering access. Finally, we briefly discussed vegetation at the overlooks on the North Strand Beach Access that is obstructing views of the coast; I will address this issue under separate cover.

Access Closures and Signage

In authorizing the Dana Point Headlands project, and the subject beach accessways, Coastal Development Permit ("CDP") No. 04-23 does not establish hours of closure for the accessways; under the terms of the CDP then, the hours during which the public may enter the beach accessways are unrestricted. The ordinance establishing hours of operation for the accessways, and the signage displaying the hours, close the Mid-Strand and Central Strand, and South Strand Beach Accesses to the public, from 5 or 7pm to 8am, depending on the season, and sunset to 7am, respectively. The Strand Beach Park Lateral Access is closed from sunset to sunrise. Each of these accessways individually and separately provides access to the beach and coast. The ordinance and signage thus restrict public access to the coast.

As noted in our previous correspondence with the City of Dana Point, pursuant to Section 9.75.040 of the City's zoning code, the definition of "development" includes a "change in the intensity of use of water, or of access thereto." Therefore, the ordinance and signage restricting access to the coast constitute development. All development within the Coastal Overlay District that is not otherwise exempt requires a CDP pursuant to Zoning Code Section 9.27.010. The closure of the accessways and the signs depicting the closures: 1) constitute development, 2) are located within the Coastal Overlay District, 3) are not authorized by CDP No. 04-23 (or any other CDP), and 4) are not exempt.

You asserted at our February 18th meeting that Table 4.5.4, entitled "Strand Vista Park/Public Access Guidelines," of the Headlands Development and Conservation Plan ("HDCP") authorizes the beach access closures. Item 2 of Table 4.5.4 states "The public trails and overlooks in the Strand Vista Park shall be open to the public year-round. The City will determine hours of operation." As noted above, establishing hours of operation constitutes development and all development within the Coastal Overlay District requires a CDP. The HDCP is not a CDP, and no provision of the Coastal Act, the HDCP, or any other section of the City Local Coastal

Program ("LCP"), provides for authorization of development solely through certification of an LCP.

Instead, LCPs are planning tools that set policies concerning development. The definition of an LCP, found in Coastal Act Section 30108.5, describes an LCP as a bundle of documents for implementing the provisions and policies of the Coastal Act at the local level. Within the LCP's bundle of documents, there may be documents, such as a land use plan ("LUP"), that are sufficiently detailed to provide specific standards of review for development within the LCP area; an LUP is defined in relevant part within the Coastal Act as, "the relevant portion of a local government general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies, and where necessary, a listing of implementing action." Section 30108.5. As noted above, all development that is not otherwise exempt requires a CDP in order to ensure consistency with these detailed policies of the LCP. The process to ensure a proposed development's consistency with these detailed policies of the LCP is the coastal development permit process, hence, the requirement in the City's LCP for all development to be authorized by a CDP.

Here, the LCP provisions at issue are the "guidelines" in Item 2 of Table 4.5.4. The guidelines identify the City as the managing entity of the Mid-Strand, Central Strand, Strand Beach Park, and South Strand Beach Accesses, as opposed to the County or a non-profit, which the HCP identifies as the managing entities of the North Strand Beach Access and Headlands Conservation Park, respectively. As explained above, these guidelines do not authorize development. Rather, the guidelines provide a standard of review, together with LCP policies that require maximizing public access, particularly HDCP Section 4.4, which specifies that trails will maximize public coastal access, for any proposed development affecting the accessways, such as establishing hours of closure. Staff emphasized at our meeting that we believe the closures and signage are inconsistent with the public access policies of the LCP and Coastal Act that provide for maximizing public access because the access closures and signage prohibit access even during daylight and twilight hours.

Beach Access Gates

The gates erected at the entrances to the beach accessways clearly constitute development; "development" is defined in Section 9.75.040 of the City's zoning code, in relevant part as "the placement or erection, on land, in or under water, of any solid material or structure." You have referred staff to an unidentified icon in the location of the subject gates on the approved Headlands project plans, asserting that the icon is an indication of approval of the gates. The icon is not identified on the plans as a symbol for gates. In contrast, on the same project plans where gates are consistent with the HDCP and were authorized by CDP 04-23, namely, at the entrances to trails within the Headlands Conservation Park to reduce impacts to ESHA, gates are specifically identified and labeled.

Moreover, the gates are inconsistent with the access policies of the HDCP. HDCP Section 3.4.A.6 expressly prohibits gates or other development in Planning Areas 2 and 6 that restrict public pedestrian and bicycle access. Section 3.4.A.6 reads in pertinent part:

Gates, guardhouses, barriers or other development designed to regulate or restrict public access shall only be allowed in conjunction with a public funicular in Planning Area 1 providing mechanized public access from the County beach parking lot to the beach. Only public vehicular access may be restricted. Public pedestrian and bicycle access shall not be restricted. [underlining added for emphasis]

General Condition No. 3 of CDP 04-23 requires all development to be consistent and comply with the requirements of the HDCP. Since the gates are inconsistent with the HDCP, they could not be validly authorized by the CDP.

Existing Signage

During our visit to the site, staff noted several signs on the project site that may have the unintended effect of restricting public access:

- 1) Signs at the top and foot of the North Strand Beach Access displaying the hours of operation of the funicular read: beach access hours 8am to 5pm. This may give the public the mistaken impression that access to the beach is limited to 8am to 5pm. The signs should be clear that the hours listed on the signs are solely the hours of operation of the funicular.
- 2) Signs labeled "Alternate Public Beach Access" recently installed at the Mid-Strand and Central Strand Beach Accesses direct the public to alternative accessways to the north and south of the Strand Vista Park "when gate is closed", but do not identify that beach access is available at the Mid-Strand and Central Strand Beach Accesses at all other times. While on site, staff witnessed two members of the public mistakenly interpret one of these signs to mean that no beach access was available at the Central Strand Beach Access, where the sign in question was located, even though the gate was open. This mistaken impression could be counteracted by replacing the sign with a map of all the available accessways on the site, including, but not limited to the Mid-Strand and Central Strand Beach Accesses, along with removal of the gates as discussed above.
- 3) Another sign at the Mid-Strand Beach Access reads: Public Beach Access, Free Inclined Elevator, 200 Yards (an arrow points towards the funicular). This sign suggests the public access is only located at the funicular, instead of at the Mid-Strand, Central Strand, and South Strand Beach Accesses.
- 4) A sign located at the foot of the Mid-Strand access directs the public to remain on the sidewalk, however, there is no sidewalk in this location. Depicting the course of the accessway with the familiar "barefeet" public access icon used to identify accessways in California may be more appropriate in this location.
- 5) A sign on the landward side of the fence at the foot of the Central Strand Beach Access states access is restricted to the sidewalk. This gives the false impression that access is restricted to the Strand Beach Park Lateral Access. However, as you know, the entirety of Strand Beach Park, including at the foot of the Central Strand Beach Access, is a public beach.


Signs, such as those listed above, erroneously mislead the public to believe public access is unavailable or restricted and these signs should be removed. The City is authorized through the

CDP to install signage that details public access availability, although as detailed above, signs that establish hours of closure of accessways or restrict public access are unpermitted. Thus, replacement signs that make clear the public access opportunities that are available may not require a CDP if they do not restrict public access; however, we would like the opportunity to coordinate with City staff regarding the signage that may be acceptable to accurately direct public use of these accessways to the beach. As indicated, signage which establishes hours for access and/or beach use would require a CDP.

As we have noted in prior communications, any development activity conducted in the Coastal Zone/CO District without a valid CDP which requires a permit, as does the subject installation of gates on public coastal accessways, closure of the beach accessways through establishment of hours of operation by ordinance, installation of signs displaying the hours of closure of accessways, and installation of signs that deter access by misrepresenting the available public access opportunities, constitutes a violation of the Coastal Act and the City's LCP. While we remain confident that this matter can be resolved amicably and strongly prefer to do so, please be advised that Public Resources Code Section 30810(a)(3) authorizes the Commission to issue a cease and desist order to enforce any requirement of a certified LCP if the local government is a party to the violation (as in this instance where the City owns the property upon which the Coastal Act violation is located and operates the subject gated accessways). In order to resolve this matter, we are requesting that the City remove the gates and replace the signs displaying the hours of closure with public access signage that do not display hours of closure by **April 2, 2010**. Please contact me by **March 19, 2010** regarding how the City intends to resolve this matter.

Thank you for your attention to this matter and for taking the time to meet with us onsite. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me at (562) 590-5071. We look forward to working with you and your staff to resolve this matter in the near future.

Sincerely,



Andrew Willis
District Enforcement Analyst

cc: Sherilyn Sarb, Deputy Director, CCC
Lisa Haage, Chief of Enforcement, CCC
Karl Schwing, Orange County Planning Supervisor, CCC
Alex Helperin, Staff Counsel, CCC
Teresa Henry, District Manager, CCC
N. Patrick Veasart, Enforcement Supervisor, CCC
Christopher Pederson, Deputy Chief Counsel, CCC

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



March 22, 2010

City Council
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Re: Urgency Ordinance Declaring the Existence of Public Nuisance Conditions In the Vicinity of Strand Vista Park, Dana Point Headlands

Dear Honorable Mayor and Members of the City Council:

Commission staff was disappointed to learn today of the scheduled hearing this evening on the City's consideration of an urgency ordinance to declare the existence of public nuisance conditions in the vicinity of Strand Vista Park and the Dana Point Headlands. The ordinance orders the imposition of unnecessarily strict hours of closure and placement of gates to obstruct public access to the beach via several public accessways that were recently constructed pursuant to the Dana Point Headlands Conservation Plan. Commission staff has reviewed the City's staff report and rationale for adopting this ordinance and find that this is an unfortunate effort to circumvent the requirements of the California Coastal Act. We urge the City Council to uphold its responsibility to protect and enhance public coastal access and deny adoption of the proposed urgency ordinance.

The City was recently notified by Commission staff that certain hours of operation and gates constructed on coastal accessways that were built as part of the Dana Point Headlands project were not lawfully implemented. Commission staff advised City staff of the procedures that would need to be followed in order for it to gain approval. Commission staff also offered to work with the City to process the required coastal development permit(s) and local coastal program amendments, as necessary in compliance with the Coastal Act requirements. Instead, City staff is recommending that the Council exercise its nuisance abatement powers to circumvent those requirements based on inconclusive evidence that a public nuisance exists.

City staff has attached copies of police reports which it says support the need for the nuisance declaration at the Strands Vista Park area. Although we have not had time to fully review and comment on the City's staff report, Commission staff has reviewed the police reports and it is clear they do not provide adequate support for a claim of public nuisance with respect to use of the public accessways. Almost all of the reports have to do with the construction phase of the project and involve graffiti or other damage to perimeter construction fencing, and/or occurred during the day time; not one of the events would be addressed by the proposed gating of public accessways that City staff now insists is necessary to abate a nuisance. In addition, these activities can be controlled through enforcing existing law.

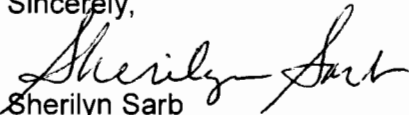
If construction-phase vandalism is an ongoing problem, Commission staff is willing to work with the City on interim measures targeted at addressing the unlawful activity related to construction. Furthermore, if the deadline for the City to respond to the unpermitted development Commission staff identified in its prior letters is contributing to the determination that a public nuisance exists, Commission staff is willing to work with the City to identify a new deadline that provides the City adequate time to address the problem. However, the solutions proposed by City staff are not acceptable.

Strands Vista Park Nuisance Declaration
Page 2 of 2

The California Coastal Act contains an acknowledgement that local governments possess the power to abate public nuisances and that nothing in the Coastal Act infringes on a local governments exercise of that power. However, that power should not be abused in order to circumvent the requirements of the Coastal Act and the City's own certified Local Coastal Program. When the City was granted a certified Local Coastal Program, the State and the Coastal Commission entrusted the City to uphold the requirements of the Coastal Act, including but not limited to those provisions regarding the protection and enhancement of public coastal access.

Commission staff believes the exercise of nuisance abatement at this juncture is a misuse of the nuisance abatement power, a breach of the trust that the State placed with the City, and will lead to unacceptable impacts on public coastal access. Coastal Act Section 30210 requires maximum access to be provided consistent with public safety needs and the need to protect public rights, rights of private property owners and natural resource areas from overuse. We believe through the coastal development permit process, hours of use may legally be established for these accessways consistent with the Coastal Act. Therefore we, again, urge the City Council to deny the urgency ordinance as an improper means to achieve the City's goals. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Sherilyn Sarb", written over the printed name.

Sherilyn Sarb
Deputy Director
South Coast Area Office (Orange County)