

CALIFORNIA COASTAL COMMISSION

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

**MEMORANDUM**

TO: Commissioners and Interested Parties

FROM: Sherilyn Sarb/South Coast Deputy Director (Orange County)

SUBJ: **Addendum to Commission Meeting Thursday, May 8, 2008 at 8:00am**

<u>AGENDA</u>	<u>APPLICANT</u>	<u>DESCRIPTION</u>	<u>PAGE#</u>
<u>LOCAL COASTAL PROGRAM:</u>			
TH14b (DPT-MAJ-1-07)	Headlands	Ex Parte Correspondence	1-4 5-67

RECEIVED
South Coast Region

Th14b

MAY - 5 2008

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONCALIFORNIA
COASTAL COMMISSION**RECEIVED**
MAY 01 2008
CALIFORNIA
COASTAL COMMISSION

Date and time of communication: April 29th, 2008 at 1:00 pm
(For messages sent to a Commissioner
by mail of facsimile or received as a
telephone or other message, date
time of receipt should be indicated.)

Location of communication: La Valencia Hotel, 1132 Prospect St., La Jolla, CA 92037

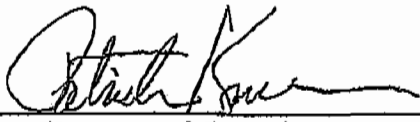
Person (s) initiating communication: Sanford Edward, Kevin Darnall and Donna Andrews

Person (s) receiving communication: Chairman Patrick Kruer

Name or description of project: The 14b - City of Dana Point LCP Amendment No. DPT-MAJ-1-07 (Headlands)

Detailed substantive description of content of communication:
(If communication included written material, attach a copy of the complete text of the written material.)
Discussed the infeasibility of the construction of the access based on civil engineering determination.

4/30/08
Date


Signature of Commissioner

If the communication was provided at the same to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the Commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION

Date and time of communication: May 5th, 2008 at 2:30 pm
(For messages sent to a Commissioner
by mail of facsimile or received as a
telephone or other message, date
time of receipt should be indicated.)

RECEIVED
MAY 05 2008
CALIFORNIA
COASTAL COMMISSION

Location of communication: Conference call

Person (s) initiating communication: Sanford Edward, Kevin Darnall and Donna Andrews

Person (s) receiving communication: Commissioner Bonnie Neely

Name or description of project: The 14b - City of Dana Point LCP Amendment No.
DPT-MAJ-1-07 (Headlands)

Detailed substantive description of content of communication:

(If communication included written material, attach a copy of the complete text of the written material.)

Gave a brief project overview and history; discussed how civil engineering, liability and safety of the stairway was deemed infeasible; the requirement that civil engineer must be licensed to make recommendations and sign off on engineering design; and City's determination that stairway was infeasible because of civil engineering and safety. Also, discussed the City's proposed alternatives to enhance public access.

5-5-08

Date

Bonnie Neely
Signature of Commissioner

If the communication was provided at the same to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

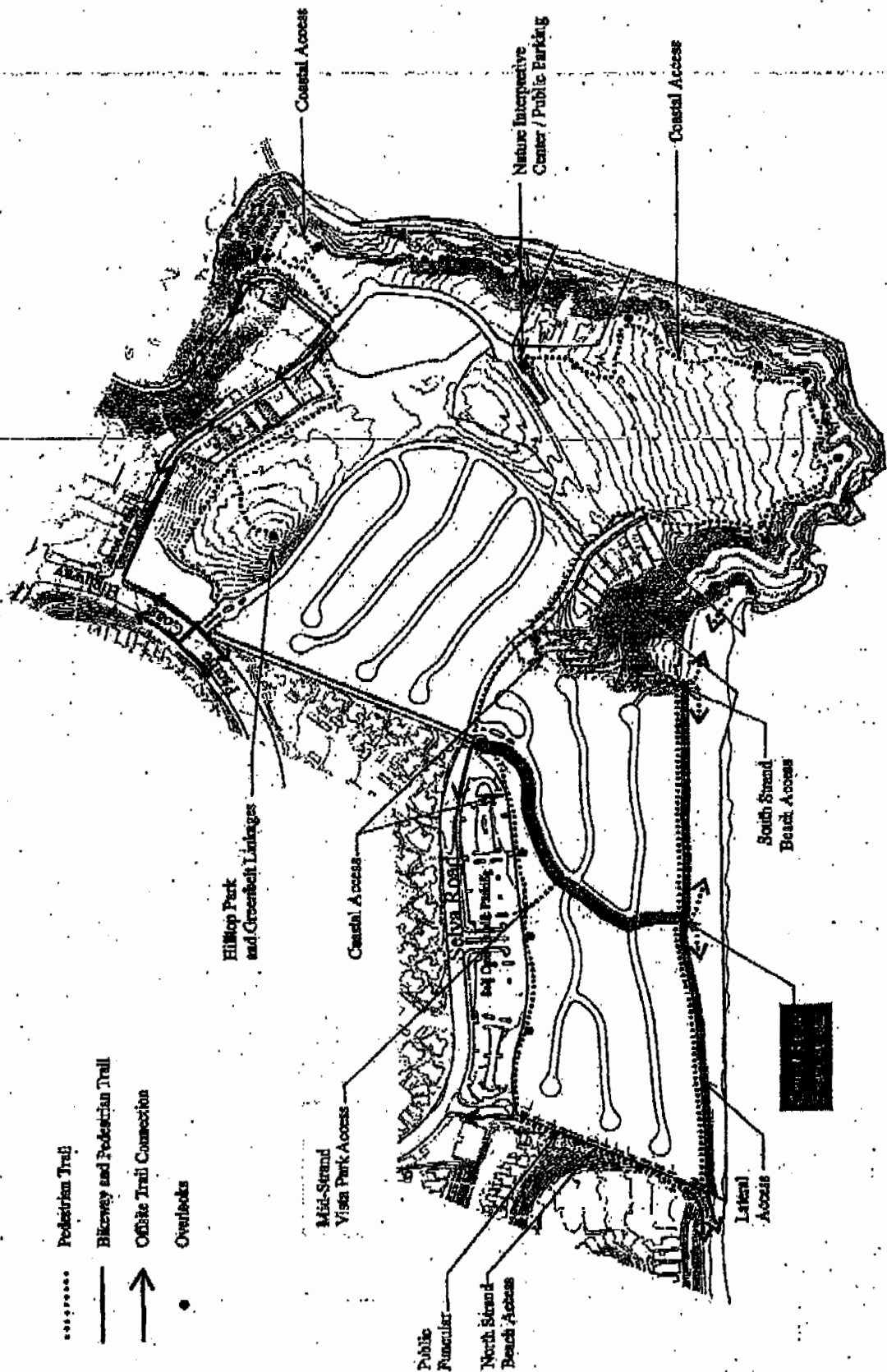
If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the Commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

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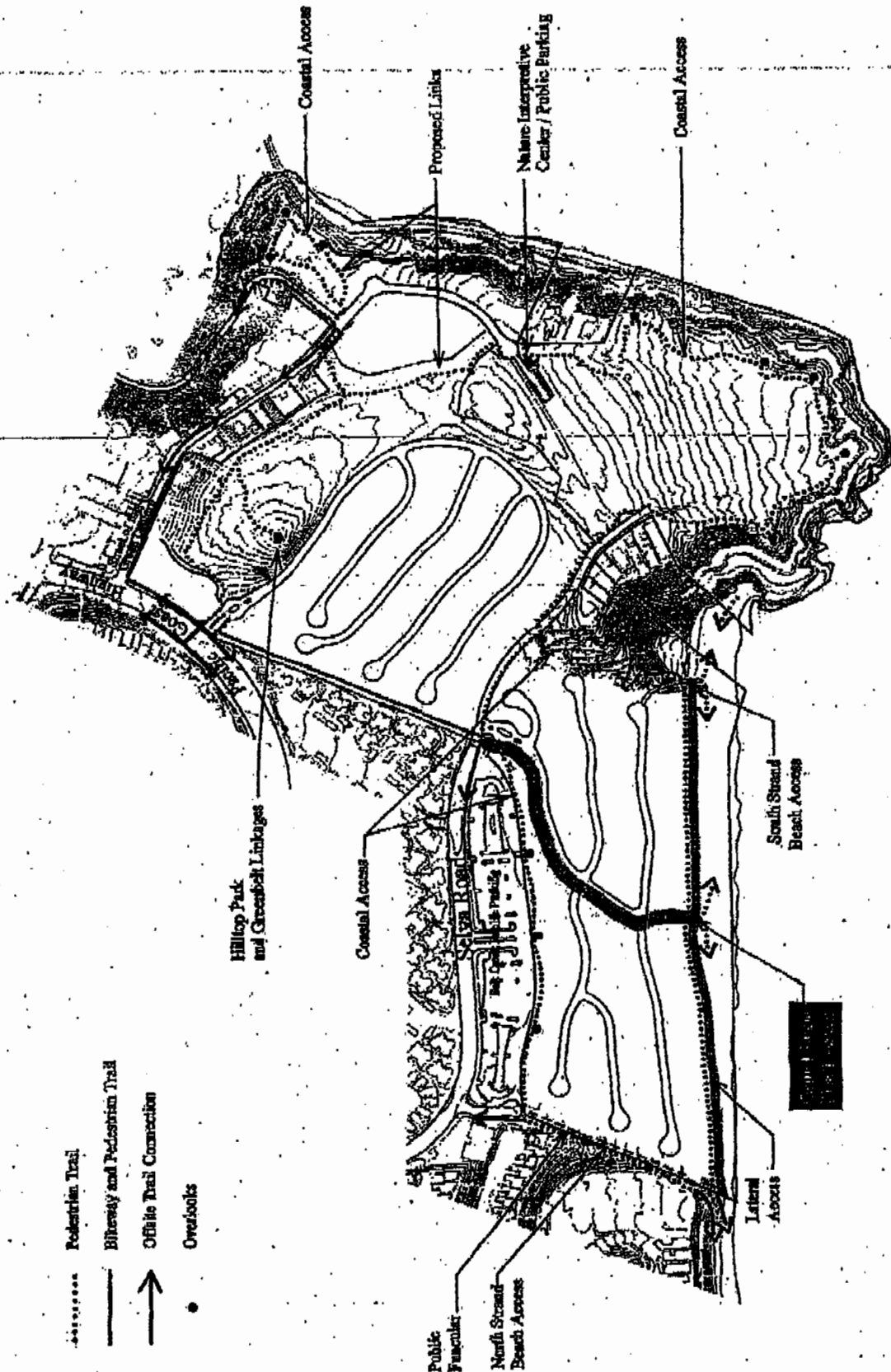
See attachment

Ex Parte Handouts

Approved Public Trail / Access Plan



Proposed Public Trail / Access Plan



SOUTH COAST DISTRICT – (Orange County) May 8, 2008

Agenda Item # 14 b. **City of Dana Point LCP Amendment No. DPT-MAJ-1-07 (Headlands).**
 RE: Amendment Proposal to Eliminate the Mid –Strand Vista Park Accessway (MSVPA)
 [Local Coastal Program Amendment LCPA07-02, General Plan Amendment GPA07-02, Coastal
 Development Permit CDP04-23(I), and Site Development Permit SDP04-69(I)]

To: California Coastal Commissioners
 From: Tom & Vonne Barnes
 Re: Elimination of the Mid Strand Vista Park Accessway

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 South Coast Region

APR 29 2008

April 25, 2008

CALIFORNIA
 COASTAL COMMISSION

Dear Commissioners,

The city of Dana Point's proposal to eliminate the Mid Strand Vista Park Accessway (MSVPA) from the Headlands project, asks the Coastal Commission for permission to violate a contract agreement that has been made between the city of Dana Point and the state of California. If approved, this permit amendment to eliminate the MSVPA, will have a significant negative impact on the public's right to direct access to the beach.

The Dana Point City Council's approval of this Local Coastal Plan Amendment is based on flawed, inaccurate, and incomplete information supplied by the developer, and subsequently drafted into Dana Point's Staff Report. This highly biased document favors the developer, and does not include or reference documents, arguments, and letters that have been submitted by the public who are opposed to the developer's plan to eliminate the MSVPA.

By approving the Local Coastal Plan Amendment, 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.

The Coastal Commission must not allow the City of Dana Point to eliminate the MSVPA from the Headlands Development and Conservation Plan. To do so, would eliminate the project's most significant direct public access route to Dana Strands Beach.

The MSVPA is Significant

Contrary to the conclusion made by the Dana Point City Council, the MSVPA is significant for direct beach access and maximum use of the Mid Strand Vista Park.

- The MSVPA provides the shortest (700 ft. or less), most direct, and only beach access from the center of the public parking lot to Central Strand Beach [see map, Exhibit A].

- 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).
- 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 (HCDP 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).

Taking away the MSVPA will deny public access because it is the shortest and only direct access to the beach from the center of the County parking lot. Elimination of the MSVPA will also deny the public maximum enjoyment of the view and recreational opportunities at the Mid Strand Vista Park.

The MSVPA Implements the Coastal Act

Eliminating the MSVPA violates the following provisions of the Coastal Act:

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

These preceding sections of the Coastal Act protect the public right of access, and if the developer and City of Dana Point are allowed to eliminate this access, they are in direct violation of the Coastal Act. Moreover, if the Coastal Commission approves this violation, the agency will be violating the Act as well.

Developer's Proposed Mitigation Violates the Contract

The EIRA specifically states that the mitigation for walling off the project, to prohibit vehicles from driving through to a drop-off point at the beach, is the funicular and the MSVPA. If either the funicular or the MSVPA is eliminated, the project must open up its roadway for public vehicular access and beach drop off. **Nothing else mitigates.** The funicular will be closed up to 203 days each year, but the MSVPA will be open 365 days each year.

Loop Trail Irrelevant to Direct Beach Access

The developer's proposal, endorsed by the city of Dana Point, to connect a loop trail and create a new hiking trail in a remote part of the project away from the beach, has nothing to do with direct beach access. These two nature/hiking trails are a different type of recreational use than the beach. These proposed trails, welcomed by nature lovers and hikers, are accessed a mile away from the beach off of the street of Green Lantern. These trails do not go to North Strand Beach, Central Strand Beach, South Strand Beach, or any beach. The proposed nature/hiking trails are irrelevant to direct beach access and they do not satisfy the land use element of the certified Coastal Development Plan.

Violation of CEQA

The California Environmental Quality Act (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. In this case, the developer proposed to: 1) eliminate the MSVPA; and 2) construct new trails through environmentally sensitive habitat areas. Both of these actions constitute substantial changes in the project. Since the city failed to comply with CEQA, the City Council had no factual basis to make an informed decision. For example, the initial Environmental Impact Report and the Dana Point City Staff Report were both inadequate because neither of them included any diagrams, measurements, renderings, grading plans, or any details about the MSVPA.

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 Dana Point Staff Report. There is no SEIR. Because the city failed to follow CEQA Guidelines the reports are flawed, incomplete, and inadequate. The MSVPA is not correctly identified as providing the most significant direct public access to the beach. Substantial evidence would have shown that the MSVPA is, in fact, more important than any of the other proposed or existing access points to the beach.

Mitigation for Walling Off the Headlands Development

The Certified Coastal Development Plan requires the Headlands Reserves LLC to construct the MSVPA, the **only** direct beach access from the center of the public parking lot, in order to mitigate the project's denial of public access to the beach. The three mitigations for walling off the project are:

1. an unimpeded bicycle/pedestrian access to the beach through the development;
2. direct access from the mid-point of the parking lot to the Central Strand Access to the beach (MSVPA);
3. a funicular to provide access when vehicular access through the development is regulated or restricted;

All of these mitigations are required in the permit in order to allow the Headlands to wall off their project. No other substitutions for these mitigations are permitted. A mitigation cannot be mitigated, which is what the developer and the City of Dana Point are trying to do. In order to eliminate #2 above (MSVPA), the developer must open up the guard gate and allow unimpeded public vehicular access to a drop-off point closest to the beach.

What the City and developer have proposed to replace the MSVPA, has nothing to do with direct access to the beach. The proposal actually directs people away from the beach, to a remote nature/hiking trail and a loop extension for another nature/hiking trail. Both of these nature/hiking trails are accessed from Green Lantern St., and neither of them go to the beach. In fact, they are approximately one mile away from the entrance to the MSVPA.

Funicular's Limitations as Mitigation

The Dana Point City Staff Report fails to accurately assess the value of the funicular. In reality, the funicular has limited use, and in no way does it equal the value of the MSVPA in providing year round direct public access to the beach. By itself, the funicular does not mitigate the walling off of the project to prohibit vehicular access to a drop off point at the public beach. Significant limitations of the funicular include:

- The funicular will be closed 203 days, or most of each year. It is only going to be open for 3 summer months of each year and some holidays. For the remaining 9 months it will only be open on weekends. The funicular will only be open approximately 162 days per year.
- The hours per day the funicular operates will also be limited.
- There is no provision to allow vehicles to drop off or pick up the handicapped or other individuals at the beach during the 9 months (203 days) when the funicular is closed.
- Compared to the MSVPA, the funicular significantly limits access to the beach. The funicular is only going to be open 3 summer months of each year, and only on weekends during the remaining 9 months for total of 162 days. This means the funicular will be closed 203 days, or most of each year.
- A major weakness of this funicular is that it is a single- car, single- track system. Most funiculars, especially those in heavy use areas, have double cars and double tracks. The advantage is two-fold: it cuts the wait time in half; it also makes it much easier and quicker to repair when one of the cars breaks down.
- When the funicular breaks down, the handicapped and general public, are required to wait three days before the guards will let them pass through the gated community to access the public beach (HDCP pp. 12, 3-19, 3-33). This three- day wait will compromise their vacation and the public will have been denied beach access.

- Other limitations include that it also has limited capacity, a wait time in line of 30 minutes, and requires that users pay a fee.

Since the funicular supplies only limited public beach access year round, it does not adequately satisfy direct public access to the beach. On the other hand, the MSVPA will provide maximum direct access to Central Strand Beach from the center of the parking lot 365 days of the year.

Flawed Dana Point City Staff Report

The Dana Point City Dana Point Staff Report is inadequate and incomplete. It does not include significant evidence to support the decision to eliminate the MSVPA. In fact, the Dana Point Staff Report has no specific data, charts, tables, engineering calculations, references, diagrams, renderings, maps, photos or statutes to justify eliminating the MSVPA.

The Dana Point Staff Report packet only includes three letters. These were written by W. Kevin Darnall, Vice-President of the Headlands, LLC and two consultants, who were also paid by the developer. The letters are vague, ambiguous, lacking in detail, and do not include any supportive facts.

For example, Darnall's letter dismisses the MSVPA as being nothing more than a "short," "not significant," "redundant", "spur" "with low utility value." He offers no proof or supportive facts for these assumptions.

The four application forms attached to his letter: General Plan Amendment, Local Coastal Plan Amendment, Specific Development Plan, and Coastal Development Plan, are filled out in an incomplete and cavalier manner. The Environmental Impact Assessment form is incomplete and imprecise. These applications, which are required by the city to be filled out in full, appear to have been basically ignored by the applicant. The application shows no thought, little explanation, and is so brief as to be almost meaningless.

Darnall's letter to Kyle Butterwick (Staff Report, Exhibit B), Community Development Director for Dana Point, misleads with the following statement: "Effectively, eliminating the stairs merely requires the public to walk a few hundred feet to the south, where the Central Strand Beach public path can still be accessed from the County public parking lot."

No Map

The Dana Point City Dana Point Staff Report failed to provide a map showing distances to alternate beach access points as well as the lengths of alternate pathways to the beach. This would have immediately shown that taking any alternative route to the beach from the center of the parking lot is a far cry from Darnall's mere "several hundred feet." Just to get to the entrance of the Central Strand Beach Access, which is located beyond and outside the south end of the ½ mile long parking lot, the public would have to walk 1000 ft. (3.33 football fields).

Since the entrance to Central Strand Beach Access is beyond the south end of the parking lot, the name "Central Strand Beach Access" is actually a misnomer. This route is not central to the County parking lot but is, in fact, south of it [see map, Exhibit A]. The Environmental Impact Report B-1 defines this route as "an access path from the southeast end of Strand Vista Park ..." (EIRA B-1). For accuracy and clarity this route should be renamed "**Southeast Strand Beach Access**."

Pedestrians who take the MSVPA direct access will be at the beach way ahead of anyone taking the southeast Central Strand Beach Access. Those using the direct access route will get to the sandy beach before Mr. Darnall can even finish walking to the entrance of the southeast Central Strand Beach Access from the center of the parking lot— let alone getting down to the beach from there.

After getting to the entrance of the southeast Central Strand Beach Access, Darnall would have to walk an additional distance of 1500 ft. (5 football fields) to get to Central Strand Beach. This adds up to a total distance of 2500 ft. (8.33 football fields) from the center of the parking lot. This is more than "merely several hundred feet." Double that to get back to the starting point and the total distance is 5, 000 ft. (16.7 football fields)!

By comparison, the MSVPA that the developer is trying to eliminate is only 60-100 feet in length. It bypasses most of the southeast Central Strand Beach Access and connects to the last section of the walkway. The rest of the walk is less than 600 ft. down a gradual slope and the total distance is only 700 feet or less. **Taking the MSVPA instead of the misnamed Central Strand Beach Access would shorten the distance to the beach by 82%.** This is hardly "not significant" as Darnall claims. He has forgotten a simple Euclidian truth: the shortest distance between two points is a straight line!

The Dana Point Staff Report, which serves as Dana Point's basis for the amendment proposal, fails to address how elimination of the MSVPA will permanently and substantially impede maximum public access to the beach. In fact, the MSVPA provides the most significant, unique, direct, access to Central Strand Beach from the center of the public parking lot [see map, Exhibit A].

Switch Back Trail is for Hikers, Not Beachgoers

There is an entrance to a Switch-Back hiking trail called the South Strand Beach Accessway, but it is even further away from the center of the parking lot than the entrance to the Central Strand Beach Accessway [see map, Exhibit A]. The entrance to the South Strand Beach Accessway is 1600 ft. (5.3 football fields) south of the center of the parking lot. It is beyond the south end of the ½ mile parking lot, and another 600 ft. down a planned extension of Selva Rd. After walking the 1600 ft. to the entrance of this hiking trail the public has to zig-zag another 1600 feet up and down the switchback trail to South Strand Beach. The total distance from the center of the parking lot to South strand Beach using this route is 3, 200 ft. (10.6 football fields). From South Strand Beach to Central Strand Beach, which is the end point of the MSVPA trail, it is another 1000 ft. Taking this route to get to Central Strand Beach is a 4, 200 ft. (14 football fields). Multiply that distance by two to get back to Darnall's starting point, which is the center

of the parking lot, and the total distance is 8,400 ft. (28 football fields)! The switch-back trail, therefore, is definitely not the shortest or most efficient way to get from the parking lot to the beach.

North Strand Beach Accessway (County Steps)

Beyond the north end of the ½ mile parking lot is the entrance to the North Strand Beach Accessway (County Steps). This route is a continuous stairway that runs from the top of the bluff all the way down to the beach. The public has used this route to get to North Strand Beach for more than 25 years. The entrance to this stairway is 1000 ft. (3.3 football fields) from the center of the parking lot. The stairway is another 900 ft. (3 football fields) to North Strand Beach. The total distance to North Strand Beach from Darnell's starting point at the center of the parking lot is 1900 ft. (6.3 football fields). From North Strand Beach to Central Strand Beach, which is the end point of the MSVPA trail, is another 1200 ft. (4 football fields). Taking this route to get to Central strand Beach is a total distance of 3100 ft. (10.3 football fields). Double that distance to get back to the center of the parking lot and the round trip is 6,200 ft. (20.7 football fields) or **1.17 miles**.

By comparison, the MSVPA short-cut route to Central Strand Beach is less than 700 ft. Instead of 900 ft. of the County Steps, the MSVPA has approximately 60-100 feet of steps. The short-cut inserts into the last section of Central Strand Beach Accessway, which provides an easy walk of less than 600 feet to Central Strand Beach [see map, Exhibit A]. Of the two routes, the MSVPA clearly provides the shortest, easiest, and most efficient direct beach access. Eliminating the MSVPA, therefore, significantly and negatively impacts the EIRA and CEQA (EIRA pps. 3-27, 3-29, 4-12, A-59, A-50, A-56, A-59; HDCP p. 4-10).

No Distances, Diagrams, Tables, Charts, Illustrations

The Dana Point Dana Point Staff Report (HDCP Figure 4.5.1) does not include relative distances (feet, yards, miles, meters, kilometers) showing the length of trails, distances between entrances to trails, alternate routes, portions of routes, or other relevant information that would make it clear that the MSVPA provides significant, substantial, and maximum public access year round.

The Dana Point Staff Report does not include any tables indicating relative times that alternate routes will take to get to the beach that would make it clear that the MSVPA provides significant, substantial, and maximum public access year round.

The Dana Point Staff Report does not include any public polls, viewpoints, statements or studies regarding what routes the public would prefer to use to get to the beach, or any statistics to back up conclusions that the public would not choose to use the MSVPA.

The Dana Point Staff Report contains no illustrations, artistic renderings, diagrams, architectural drawings, designs or any relevant description of the infrastructure of the MSVPA stairway to support their findings or recommendations.

Dana Point Planning Commission Public Hearing

John Tilton, City Architect Manager for Dana Point, set the tone of the public hearing by “trashing” the MSVPA — calling it ugly, aesthetically unattractive, unsafe, difficult to construct, difficult to use, and redundant. Tilton made all of these negative statements without any supportive visual aids, artistic renderings, drawings, architectural designs, or engineering statistical charts, to serve as a basis for such findings.

Webster’s Dictionary defines “redundant” as something that is superfluous, or that which exceeds what is normal. Public findings indicate that the MSVPA is not superfluous; it is absolutely essential to provide the public with maximum, direct, public beach access, from the center of the public parking lot. The MSVPA is the **only** direct beach accessway from the center of the ½ mile long parking lot. In fact, the MSVPA is the **only** accessway with an entrance that opens directly from the parking lot. The north entrance does not open from the parking lot and neither does the south entrance. Both of these entrances can only be accessed, by walking long distances beyond the outside borders of the parking lot (HDCP, Figure 4.5.1).

Tilton’s conclusions that the MSVPA is ugly, aesthetically unattractive, unsafe, difficult to construct, and difficult to use have no basis of support. The Dana Point Senior Planner, Erica Demkowicz, said the findings in the Dana Point Staff Report are based on the grading plans. However, when the grading plans for the MSVPA were requested pursuant to the Public Records Act, the city was unable to produce them. In fact, the city’s written response to the request says that there are no approved grading plans for the MSVPA. The senior planner also said that the Headlands applicant had not submitted any design plans, illustrations, or renderings of the MSVPA to the Planning Department. Apparently the city does not require the Applicant to provide any specific data to support Tilton’s arguments against the “ugly” MSVPA.

At the Public Hearing, members of the public displayed two large 3 x 4 ft. photographs of attractive stairways placed on slopes of nearby developments including the Montage Resort. When asked for comments and consideration of these designs, the planning commissioners made no comments or engaged in any discussion.

Over 100 members of the public appeared at the hearing—all in favor of the MSVPA. Approximately 15 people from the public signed up to speak— all in favor of the MSVPA. The only person who signed up to speak up against the stairway was Sanford Edward, the developer. He dismissed what the public had to say referring to them as “those apartment people.”

Dana Point Staff Refuses to Answer Questions

The Planning Department and City of Dana Point also refused to answer 25 basic questions [Exhibit B] that are vital in determining whether or not the MSVPA should be eliminated. For example, the first question is: “What is the distance in feet from (the) top of the current County Steps (North Strand Accessway) to the opening to the stairway (Mid Strand Vista Park Accessway) that you have proposed to eliminate?” It is reasonable to expect the city of Dana Point to provide this information to the public. It is also essential for the public to have this information to understand the public access that will be denied if the MSVPA is eliminated.

It is also in the public interest to know how far it will be to walk to entrances of other trails, how long these trails are, and just how much further it will be to walk to the same end point, which is Central Strand Beach. Since there is no map, and the city did not have the information we requested, Senior Planner Erica Demkowicz instructed us to estimate distances by using a key at the bottom of the Public Trail/Access Plan Figure 4.5.1(HCDP). The written response to the 25 questions was a letter from the Dana Point's city attorney that says the questions are not valid [Exhibit C—Rutan & Tucker, LLP dated August 24, 2007].

Closure of County Steps (North Access) and Funicular

The Dana Point Dana Point Staff Report also fails to mention that the County Steps from beyond the north end of the ½ mile long parking lot, are going to be closed to the public for a minimum of up to 1 year during their reconstruction in 2008 and 2009. The funicular, adjacent to these steps, will also be closed during the reconstruction of the steps. Closing off this beach access from the north entranceway (County Steps) is a substantial and significant impediment to direct public beach access. When the north entrance (County Steps) are closed, the public will have no choice but to use the remote, hiking, Switch-Back Trail past the south end of the parking lot.

The closure of the County Steps (North Strand Access) for rebuilding should not be done until all of the other access ways are completed. This would include the MSVPA, the southeast Central Strand Beach Access, and the funicular. To say that the Switch-Back hiking trail, which is more than 2600 feet from the north County Steps is an adequate replacement for the County Steps is absurd. To expect the public to use this remote trail for beach access for up to a year, is effectively denying the public the use of the beach.

The negative impact of closing the north entrance (County Steps) will be compounded if the MSVPA is eliminated for the following reasons: First, the MSVPA is the **only** entrance to the beach from the center of the public parking lot. Second, it is the **only** short-cut that links to the Central Strand Beach Accessway from the center of the public parking lot. Third, the MSVPA saves walking an additional 1900 ft. to get to Central Strand Beach from the center of the parking lot [see map, Exhibit A].

When the north entrance is closed, the public will have no choice but to use an entrance past the south end of the parking lot more than ½ mile away. There will be no direct access to North Strand Beach, and no direct access to Central Strand beach from either the north end or center of the public parking lot.

Three Beach Entrances Required from Parking Lot

The Dana Point Staff Report does not address the fact that there are supposed to be 3 major direct entrances to the beach from the public parking lot. The first of these major entrances is beyond the north end of the parking lot and down a stub street. This entrance has been in place for over 25 years. The other two direct entrances to the beach are new entrances that have been required by the state. One of these entrances, proposed by the Headlands Reserves LLC, is a significant distance beyond the south end of the ½ mile long parking lot; and the California Coastal Commission's Revised Findings conclude that the southern access route(s) do not

mitigate significant negative public access impacts caused by the development (EIRA, Revised Findings, <http://www.coastal.ca.gov/lb/W4a-8-2004.pdf>).

Eliminating the entrance to the beach from the center of the parking lot will also decrease public access and negatively impact public use of the planned recreational facilities that are designed to enhance the MSVPA. These facilities include, but are not limited to, the Mid-Strand Vista Park, picnic tables, scenic look-out points, rest areas, drinking fountains, benches, and monuments. All of these park and recreational facilities are planned to be in close proximity to the MSVPA, so that the public can maximize their use and enjoy a convenient, short, direct walk to Central Strand Beach (HDCP Figures 4.4.11, 4.4.13). Eliminating the MSVPA short-cut will also deprive the public of the short-cut to the scenic central public lateral access pathway across the revetment (HCDP Figures 4.415, 4.416).

The Dana Point Staff Report does not address the fact that elimination of the MSVPA from the center of a 500-space parking lot will increase parking at either the north or south end of the ½ mile long public parking lot; and the public will have to use one of the much longer alternate trails to the beach. This negative impact is inconsistent with the certified HDCP in which the goal is to “design all public beach assessways 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). This substantial decrease in providing direct public access to the beach is contrary to the: EIRA, GPA 01-02, HCDP, LCDP, 1-03, CEQA, and Coastal Act.

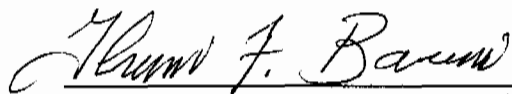
Headlands CC & R's

In order to avoid discord and costly litigation in the future, we ask the Coastal Commission to require the developer to clearly state the rights of the public to beach access in the Headlands CC & R's. Those who purchase the lots need to be informed of the existence of the MSVPA in their development. In marketing their product, the Headlands needs to show exactly where the MSVPA will be located in the development, what rights the public has to use the MSVPA, and the fact that the MSVPA cannot be closed off by the Headlands homeowners. If necessary, deed restrictions should be put on the property of the Headlands buyers to make sure that they are aware of the MSVPA. Thus far, the Headlands has failed to disclose to the buyers of the lots the existence of the MSVPA in any of their maps, brochures, or sales material. It appears that those who have purchased the lots, have not been informed of the existence of the MSVPA in their development. This needs to be immediately rectified.

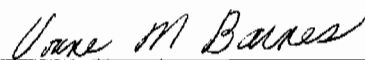
Conclusion

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, as the City of Dana Point has failed to protect the public right to direct beach access by allowing the developer, Headlands LLC, to eliminate the Mid Strand Vista Park Accessway.

The Commissioners must stop this action by requiring the developer to either build the Mid Strand Vista Park Accessway, or provide drive-in and drop-off rights to the public for beach access rights through the development, 365 days a year.

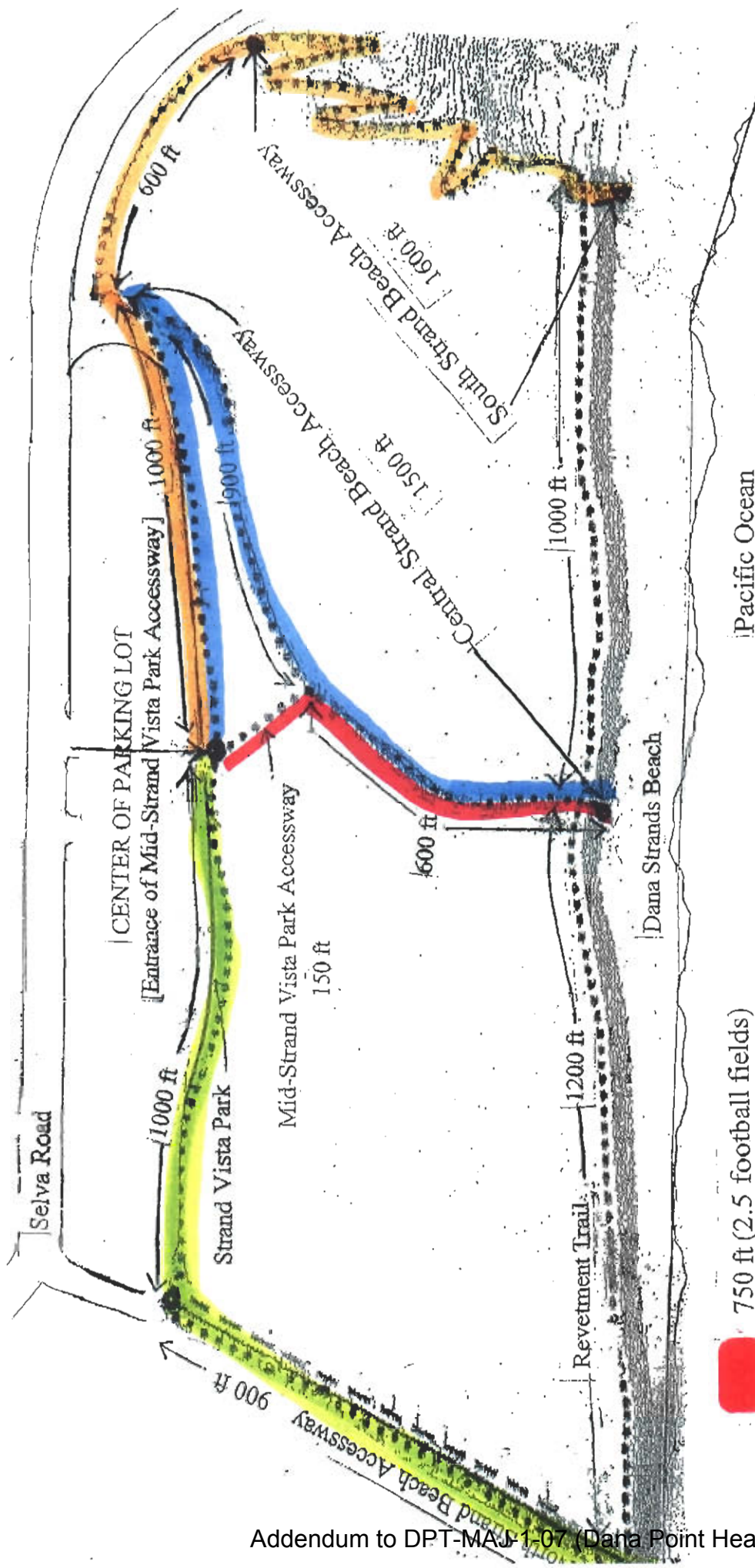


Thomas F. Barnes
13 Montilla
San Clemente, CA 92672



Vonne M. Barnes

DISTANCE TO THE BEACH FROM THE CENTER OF THE PARKING LOT (ENTRANCE OF MID-STRAND VISTA PARK ACCESSWAY)



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

Exhibit A



300 ft = 1 football field

For Erica Demkowicz

Th14b

CITY OF DANA POINT
PUBLIC RECORDS REQUEST FORM

City Clerk's Department

RECEIVED

Action Required By:

☐ City Clerk Office ☐ PW
☐ Admin. ☐ CD

The City of Dana Point ("CITY") shall, upon receipt of a request for City records, determine within ten (10) calendar days if the records are public and available within the City's records system and notify the requesting party of such determination (see California Public Records Act [Cal. Govt. Code § 6250 et seq.] for full text of this Act).

Photocopy fees: \$0.10 per page (letter/legal/taibloid size only); \$0.20 per page if photocopies from microfiche
 \$0.50 per page for faxes; \$6.00 per page for large format photocopies (copies larger than tabloid size)

Tom BARNES & Vonne BARNES

Name/Organization

13 Montello San Clemente CA

Mailing Address

949 498-6650

949 481-2468

Vonne M. Barnes

Phone Number

FAX Number

Signature

Date requested: 8-17-07 I wish to review: I wish to obtain copies: ☒ of the following records:

(Please list each document, file or record separately, and describe the specific records as completely as possible. If known, please include a limited timeframe of the documents you are seeking. If your inquiry encompasses multiple addresses, please use a separate Public Records Request Form for each address):

(1) Street Address: The Headlands HSCP Tract/Parcel No.:

Closest Cross Street:

Requested Information:

See attached list of questions.

- ① LIST of modifications CCC required Headlands to put in the project
 ② Grading & all other info about Saniclar. specifications all info - concepts / grading plan
 ③ Rendering of Central Strand accessway specifications all info - concepts / grading plan

(2) Non-Property-Related Information Requested:

- ④ Grading plan for Mid Strand Vista Park accessway.

↓ MID STRAND VISTA PARK ACCESSWAY PLANS HAVE NOT BEEN APPROVED BY THE CITY, THEREFORE ARE NOT AVAILABLE TO THE PUBLIC AT THIS TIME.

City Attorney Review:

Approved By

8-24-07

Date

Comments:

See attached letter. Questions are not valid Public Records Act requests.

Disposition of Request

For Internal Use

Documents/response provided on (Date): 8/30/07 by (check one): ☐ Mail; ☒ Pick-up; ☐ Fax

Documents Reviewed Immediately on:

Completed by: E. DEMKOWICZ / [Signature]

of Copies 99

Copy Fee: \$ 9.90

Documents Provided:

Comments: CENTRAL STRAND ACCESSWAY PLANS HAVE NOT BEEN SUBMITTED TO THE CITY, THEREFORE ARE NOT AVAILABLE TO THE PUBLIC AT THIS TIME.

Office Hours 8:00 a.m. to 5:00 p.m.

33282 Golden Lantern, Suite 203, Dana Point, CA 92629-1805 (949) 248-3500 FAX (949) 248-9920

To: City Planning Staff of Dana Point
or other responsible parties in the City
Government of Dana Point.

From: Tom Barnes
Vonne Barnes
13 Montilla
San Clemente, CA 92672
(949)498-6650
tombarnes1@cox.net

August 17, 2007

I would like specific answers to the following questions regarding the Headlands LLC project and public access:

1. What is the distance in feet from top of the current county steps (North Strand Accessway) to the opening to the stairway (Mid Strand Vista Park Accessway) that you have proposed to eliminate?
2. What is the distance in feet from the current county steps (North Strand Accessway) to the opening to the Central Strand Accessway located south of the public parking lot?
3. What is the distance in feet from the entrance to the Mid Strand Vista Park Accessway to the southern entrance to Central Strand Accessway?
4. What is the distance in feet from the entrance to the Central Strand Accessway to the entrance to the South Strand Accessway or switchback trail?
5. What is the distance in feet from the north end of the county parking lot to the entrance to the Central Strand Accessway?
6. What is the distance in feet from the public entry to the Central Strand Accessway to the sand at Central Dana Strands Beach?
7. What is the distance in feet from the juncture of the Mid Strand Vista Park Accessway to the Central Strand Accessway?
8. Will the proposed funicular be a double track or single track cog rail?
9. If it is a single track how long will it take for the funicular be loaded at the top, unloaded at the bottom, and returned to the top?
10. If the funicular is a single track and it needs repairs will the North Strand stairs be closed when it is being repaired?

11. How many days a year will the funicular be open once it is operational? Weekends?
12. What will be the fee to ride the funicular?
13. What agency or business will be in charge of operating and servicing the funicular?
14. Will the public be allowed to drive down the Central Strand Access road and deposit passengers and their beach paraphernalia at the end of the Central Strand Access road before returning to park in the public parking lot?
15. What is the total distance in feet from the middle of the Dana Strands Public Parking to the endpoint of Central Strand Accessway at the beach. The route would be as one walked from the center of the parking lot south to the entrance to Central Strand Beach Accessway and continue to follow it to the endpoint at Central Strand Beach.
16. How long will the North Strands steps be closed when the funicular is being built? And
17. What are the dates when the North Strand steps will be closed?
18. As an alternative to the stairway (Mid Strand Vista Park Accessway) did the planning staff consider an inclined elevator to connect the mid Strand area with the Central Strand Access road?
19. Is there a reason why the diagram of the Mid Strand Accessway was not included or referenced in the staff report to the Planning Commission?
20. How many hours were spent putting together the staff report that recommended eliminating the Mid Strand Vista Park Accessway?
21. How many hours did the staff spend in consultation with Headlands LLC in gathering the data to put in the staff report?
22. How many hours did the staff spend with members of the public in getting their input on the elimination of the Mid Strand Vista Park Accessway?
23. How many letters were received from the public supporting the amendment?
24. How many letters were received from the public opposing the amendment?
25. What is the name and address, e-mail, phone number/contact information of the holder of the copyright for the diagram/design/rendering of the Mid-Strand Vista Park Accessway (stairway)?

August 24, 2007

Tom and Vonne Barnes
13 Montilla
San Clemente, CA 92672


Re: Public Records Act Request

Dear Tom and Vonne Barnes,

Your City of Dana Point (the "City") Public Records Request Form requests copies of: (1) Headlands, LCC project modifications required by the California Coastal Commission; (2) funicular information, specifications, and grading plan; (3) Central Strand Accessway information, specifications, and grading plan; and (4) Mid Strand Vista Park Accessway grading plan. To the extent your request includes building plans, building plans will be disclosed according to City policy. (See Health & Safety Code § 19851.) Otherwise, the City will provide copies of the requested documents.

You also attached a list of questions to your Public Records Request Form. However, questions are not valid requests under the Public Records Act. (See Gov. Code § 6250 *et seq.*) You may ask City staff to help you identify documents relevant to your questions, but the City will not answer questions raised by a Public Records Act request.

RUTAN & TUCKER, LLP



Glen Worthington

GW

Exhibit C

APR 23 2008

CALIFORNIA
COASTAL COMMISSION

April 21, 2008

Ms. Sherilyn Sarb
Deputy Director (Orange County)
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Re: City of Dana Point LCP Amendment No. DPT-MAJ-1-07 (Headlands)

Dear Ms. Sarb:

Our family resides in the City of Laguna Niguel. We chose to make our home in Laguna Niguel several years ago because of its proximity to the ocean. Of the many beaches we have frequented, our favorite is Salt Creek Beach, at the end of Selva Road in Dana Point, otherwise known locally as the "Strand."

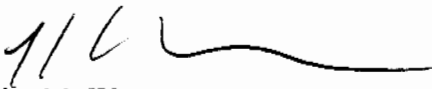
My three children and I continue to enjoy this pristine beach on almost a weekly basis. We have watched as the Headlands Development has been progressing over the past few years, and we don't mind the development with all of its improvements. We were originally excited that as a concession for developing this land, the Headlands LLC had promised to install and improve multiple points for public citizens to access Strand Beach, particularly the Mid-Strand Access.

We have now learned (via Dana Point City public documents) that the Headlands LLC is asking to eliminate this access route, in what appears to be the classic "bait and switch." The Headlands LLC is suggesting that they are giving the public equal value in terms of additional walking trails. This is nonsense. We already have access to hundreds of miles of public walking trails in Orange County. What we don't have is sufficient public beach access.

The Headlands LLC also claims that the Mid-Strand Access is not technically feasible. This is not correct. I'm neither an engineer nor a fool. But, I've watched this development progress and have witnessed the engineering feats they've attained. They can complete the route.

The Headlands LLC made a promise to the public. I expect them to keep that promise and I expect the California Coastal Commission to look out for the public's interest and hold them to their promise.

Sincerely,


John M. Wyson
27551 Country Lane Rd
Laguna Niguel, CA 92677

April 28, 2008

Dear Mr. Schwing,

The subject of this letter is the Headlands Amendment Item No. Th 14b, the Mid Strand Vista Park Accessway (MSVPA) in Dana Point, CA.

We are extremely upset that the required MSVPA stairway may not materialize! Please do not let that happen!

The people of California should never be robbed of their rightful access to the precious resource that is the coast.

Thank you.

Sincerely,

David A. Bedolla
Virginia Bedolla

David A. Bedolla
Virginia Bedolla
34150 Selva Rd. #180
Dana Point, CA
92629-3723



I'm asking
the Coastal Commission
to save the required
MSUP stairway to
preserve public access to
the beach and mine!
Sean R. Mafey

WE DO ALL STRUCTURAL WOOD REPAIRS



AMERIBUG

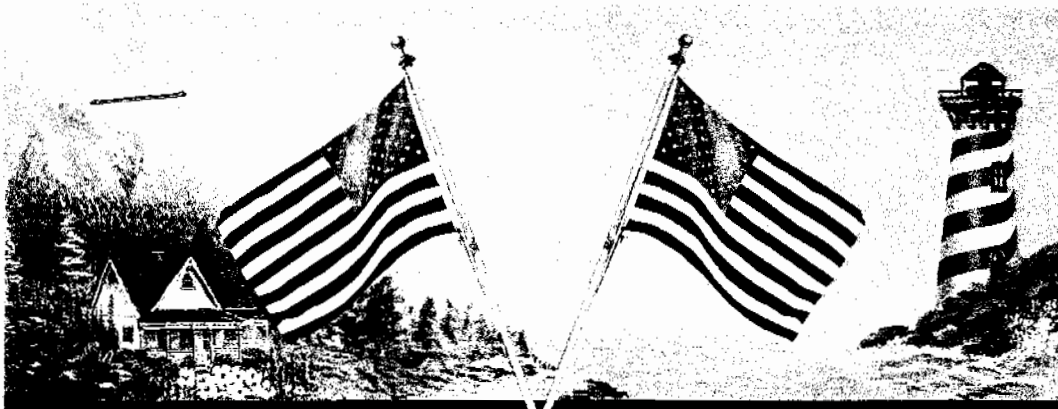
T E R M I T E

THINGS TO DO TODAY!

PLEASE KEEP A
STAIRWAY SO WE
CAN ACCESS THE BEACH.
MY MOTHER LIVES WITH
ME, IS 83 AND USES
THE ACCESS, WE NEED
ACCESS TO STRANDS BEACH
AT THE HEADLANDS.
Call now for your Free Inspection!

310-669-8324

"They're Stuck In Deep, We Kill'em Cheap"



California Coastal Comm.

Please save the MSVPA
stairway to preserve our
right to public access
to the beach.

We use that stairway
every day and we don't
want to lose it.

Thank you.

Lloyd & Helen Moss



RECEIVED
South Coast Region

Th14b

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
Attn: Headlands Amendment Item No: Th14b

I wanted to provide my input regarding the new Mid-Strand Vista stairway scheduled to be built at Salt Creek Beach. It is my understanding that Sanford Edward and the Headlands project would like to remove this requirement from the Land Use Plan. I think it would be very unfortunate if this were to occur. The Headland's project has already had a massively negative impact on the beach environment in the area because of the seawalls that have been implemented. Also, it is my understanding that the Coastal Commission approved making this a gated community because the Headlands had agreed to build 3 new beach access ways. If they don't want to build the stairway, then they should not gate the community, so that the public will have an easier time accessing the beach at Salt Creek. Removing the Mid-Strand Vista stairway will cause the areas at the North and South end of Strands Beach to overcrowd.

Thanks,
Shilpa Bhimani
Monarch Beach, CA 92629



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South Coast Region

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
Attn: Headlands Amendment Item No: Th14b

The terrain in Southern California has always provided a natural limitation for the public to access our beaches because of the cliffs and steep terrain in the area. As the years go by, the few easy to access public beaches in the area seem to get more crowded. This situation could have been alleviated, if more focus on public access had been considered when many of the beach estates up and down the coast were permitted and approved. The Coastal Commission has a clear opportunity to ensure that the public will have dramatically improved beach access to Salt Creek by enforcing the requirement for the Headland's developer to build the Mid-Strand Vista Park Accessway. I firmly believe this will help to relieve congestion at other local beaches.

Regards,
Araujo Colaco
Dana Point, CA 92629



April 27, 2008

RECEIVED Th14b
South Coast Region

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Dear Sirs,

I have been an owner of a condominium
at Niguel Beach Terrace since its
construction in 1983.

I have eagerly waited for the improvements
to the Headlands property.

The planned stairway to the beach
has been eliminated. The stairway is
called Mid Strand Vista Park Accessway
(MSVPA) please retain this stairway

The MSVPA stairway is required in exchange
for significant public rights to beach
access that the project will take away.

Sincerely,



APR 29 2008

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA. 90802-4302
Attn: Karl Schwing

Mr. Schwing,

I am writing to you regarding the Headlands Amendment Item No: Th14b. I have been an owner occupant directly across from the Headlands Development since 1993 and have no problem with the development project itself. At community meetings the developers promised to have a Mid Strand Vista Park Accessway (MSVPA) . It appears that they have reneged on this promise. I would like to see a path (walkway) for access to the mid strand beach as promised. Thank you,



Gary Epstein (and family)
34124 Selva Road #296
Dana Point, CA. 92629
(949) 489-1933

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Karl Schwing

I'm in favor of MSVPA stairway

Amendment # TH146 the headlands

IT is a public beach, not a private
beach.

Lisa Silva
Neguel beach terrace

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South Coast Region

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Attention Coastal Commission
We were promised a mid-strand stairway. I live in mgul beach terrace in the very front. I've put up with trucks w 7 AM. noise from 6:30 until 5:00 PM - dirt and more dirt for all most three years, thinking we were getting something back.

I know The headlands development could offer a alternative entrance plan, they are stating it is unsafe, but I know for a fact, that at the city council meeting, for the headland development - that alternative plans were suggested. one being like the trails at the montage hotel in Laguna beach CA. I think that the headlands doesn't want us walking through the middle of their multi-million dollar lot - soon to be homes - It's like keep out!! and they want to give us a trail, not going to the beach, which I don't care about, except it takes away from, more nature.

Thank you

Jesi Seher

Property owners of Niguel Beach Terrace, Dana Point, California, hereby oppose Local Coastal Program Amendment LCP A07-02 to the Headlands Development and Conservation plan, which would eliminate an approved public stairway known as the "Mid-Strand Vista Park Accessway". This stairway is integral entrance for public access from Niguel Beach Terrace and from the public areas of the Strand Development.)

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South Coast Region
APR 29 2008
CALIFORNIA
COASTAL COMMISSION

Name	Address	Phone or E-Mail-Optional
1 JAMES R. HAWKINS	34112 SELVA RD #330 DANA POINT	949 240 1760
2 Paul Ann NEEKER	34126 SELVA RD #500, DANA POINT	949 231 8539
3 LENA VISE	34126 SELVA RD #300 DANA POINT CA 92629	949.300 1064
4 KEN BRACKETT	34124 SELVA Rd #295 Dana Point CA 92629	949 226 7186
5 Leonard Spivak	34124 Selva Rd #295 Dana Point CA 92629	949 226 7186
6 Jani Lih	34126 SELVA Rd 302 Dana Pt CA 92629	949 493 6210
7 John Swante	34126 Selva Rd Dana Pt	949 444 8722
8 TINA CHANEY	17 MONTINECT. ALBUQUERQUE, CA 9461-391-4766	
9 Ed Ungerman	24232 PORTO ALLEGRO DANA PT	949 661-9619
KEVIN ZIMMERMAN	34108 SELVA RD #542 DP, CA 92629	949-248-2476
10 V	↓	
11 Dianne Kniffer	34128 SELVA RD 268	34128 949 267 444
12 Fred Kniffer	34128 Selva Rd 268	909 560 061
13 F. Vail	22 SURFBIRD LAKE	949-916-0325
14 David Dwyer	2030 TETON PASS ST.	619-447-7596

2
Th14b

Property owners of Niguel Beach Terrace, Dana Point, California, hereby oppose Local Coastal Program Amendment LCP A07-02 to the Headlands Development and Conservation plan, which would eliminate an approved public stairway known as the "Mid-Strand Vista Park Accessway". This stairway is integral entrance for public access from Niguel Beach Terrace and from the public areas of the Strand Development.)

		optional Email	
Name		Address	
5	PATRICIA MITCHELL	2030 Teton Pass St	MRBMAX@
5	Patricia Mitchell	El Cajon Ca 92019	Cox.net
1	Sandra Swann	Birmingham, AL 35226	
16	Caitlin Helms	Petaluma, CA 94952	
17	Matt Jackson	27876 Festivo CA 92692	
17	Alex Illingworth	"	
18	Todd Bush	"	
18	Laurie Curran	29131 Alfieri Ln 92677	
19	Dan McNeill	21162 Cedar Lane	vectorbeam
19	Mary G. Smith	31572 Via Linda DP 92624	sandank@att.net
20	Randy Brogle	34044 Sava Rd #145 DP CA	
20	Brooke Brogle	34044 Selva Rd #145	
21	Jennifer Freeman	6762 Rycroft Dr Riverside, CA	
21	Rebecca C. Dean	18890 Dallas Ave Riverside CA 92508	aflawson@yahoo.com
22	Betty Freeman	6762 Rycroft Dr Riverside CA 92506	
23	Carlos Pangel	66 EBRET LN. ALISO VIEJO 92656	
24			
25			
26			
27			
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30			

Property owners of Niguel Beach Terrace, Dana Point, California, Th14b hereby oppose Local Coastal Program Amendment LCP A07-02 to the Headlands Development and Conservation plan, which would eliminate an approved public stairway known as the "Mid-Strand Vista Park Accessway". This stairway is integral entrance for public access from Niguel Beach Terrace and from the public areas of the Strand Development.)

Optional

	Name	address	Phone or e-mail
31	Gary Epstein	34124 Selva #296	
32	Mark Miller	34102 Selva Rd 367	
33	Adrienne Beavers	495 N. Lima St, Sierra Madre	
34	John Miller	34102 Selva Rd #368 Dana Point, CA	(714) 322-4672
35	Kay Strate	34132 Selva Rd #255	949/487-0565
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Stephen R. Wayne and Nellie Alcalde-**RECEIVED**

P.O. Box 4152
Dana Point, CA 92629

Se / Const Region

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Th14b

April 25, 2008

California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Attention: Karl Schwing

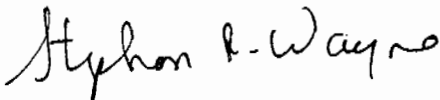
Subject: **SAVE THE CENTER STAIRWAY IN THE HEADLANDS PROJECT**
Dana Point Amendment: DPT- Maj-1-07, Item no: Th 14b

Dear Coastal Commissioners,

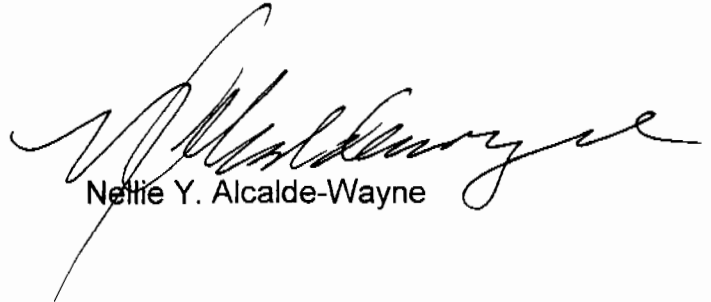
We are not able to attend the Thursday, May 8, 2008 meeting scheduled for 8:00 AM at the Marina Del Rey Hotel, 1354 Bali Way, Marina Del Rey, CA, 90292. However, let it be known we are requesting that you **"please not allow the removal of the Mid Strand Vista Park Public Access way."** Our family and the public need this short direct public access to our public beach.

Thank you for your attention to this very important matter.

Sincerely,



Stephen R. Wayne



Nellie Y. Alcalde-Wayne

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

To Whom It may Concern on the Coastal Commission

Three years ago we were promised those mid strand Vista Park Public Accessway. We were thrilled that the Coastal Commission thought enough of us to add those stairs. So I told the people do not complain, someday we will have a shortcut to the beach. We must put up with the noise, the dirt, the trucks because we will be rewarded with that shortcut to the beach in the middle of Salt Creek Beach.

Little did I know that he would tromp on us for 3 years and then pull the blanket out from under us with no feeling or even an apology and let us know he was sad he had to do it. No feelings for the little man because he is married to the daughter of one of the richest guys in California,, Mr. Chandler's daughter.

He is using the teacher's retirement money of California to develop this land but he calls us "The Apt. people" 90 people came to the first meeting of the Planning Commission in Dana Point to oppose that meeting and he said, to the city council, "No one is here tonight but the apartment people across the street." It meant nothing that the apartment people as he called us had put up with his trucks for 3 years and his noise day in and day out without a word of kindness from him.

That shortcut to the beach could easily be increased safety path. How wonderful to have have the second set of stairs which could provide an outlet in case of an earthquake tsunami, or other natural disaster. Having as many access points could be vital. By removing the mid-strand stairway, most beach goers will likely "clog" the north end of Strands beach. That can cause environmental issues, and safety issues.

I want to thank the Coast Commission for their integrity and their concern for what is fair and what is right for the citizens of California. My faith was crushed when Mr. Edward did what he did because I had supported him all the way from the very beginning and then he turned on us.

He never put this path way on his model of the completed project that he showed to future guests in his sales office. I ask the sales person why the mid strand steps were not there and he said, "They don't want you guys coming through there. They are going to have 16 million dollar homes in there" That said it all to me. I said to the sales man, "Well what does the Coastal Commission think about that and he started stuttering and all of a sudden he got real nice.

Please deny this man the right to take out that short cut. He never had any intention of putting in those steps....he just said he would to get everything approved and after 2 & ½ years he turned on us. He let us support him for so long by intentionally misleading us for his profit.

Thank you for your time in making the beaches a better place for us to visit. We love you for doing that. How much enjoyment those steps are going to bring family after family for year after year. Thank you for saving them. (I Hope)

Bill & Beth Everett, 88 Shorebreaker, Laguna Niguel, CA 92677



APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Karl Schwing
California Coastal Commission
200 OceanGate, Suite 1000
Long Beach, CA 90802-4302

Dear Mr. Schwing,

This letter is in reference to the
Dana Point Amendment: DPT- Maj-1-07
Item # Th 14b

This letter is in support of the original
agreement of the Coastal Committee to put in a
stairway to the beach from the center of the
County parking lot.

Apparently, the developer is hoping
that you will renege on your original
ruling for this needed public access.

Hopefully, you will vote in the interest
of the many locals + vacationers who looked
forward to + expected this promised access.

Thank you,

Eileen Lamer

April 26, 2008

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South Coast Region

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Attn: Headlands Amendment Item No: Th14b

Dear Coastal Commission,

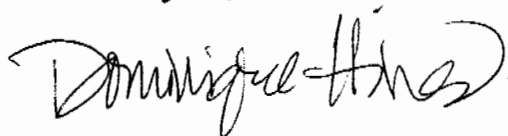
I am a Dana Point resident and frequent beachgoer at Strands Beach. I strongly urge you to keep the original plan and allow the Mid Strand Vista Park public access. Over time, Strands beach has become very popular. The north stairway is very crowded. We need the Mid Strand Accessway.

I am furious that the Headlands Reserve has the nerve to disregard the original plan and construct their development with retaining walls that restricts their design for a public stairway. The hillside construction continued prior to the City of Dana Point's hearing and prior to the Coastal Commission's hearing. Construction continued before they knew the outcome. The developer claims they cannot build such a stairway. He knew all along that this access for the public is required. He wants to eliminate the public accessway because he wants to keep his multibillion dollar community private.

Furthermore, I am concerned about the environmental impact on the Harbor Point and Hilltop Park trail that they want to redesign.

I am grateful that the Coastal Commission can consider and protect the public's interest. I have faith that you will make the right decision.

Thank you,

A handwritten signature in black ink, appearing to read "Dominique Hines". The signature is fluid and cursive, with the first name "Dominique" written in a larger, more prominent script than the last name "Hines".

Dominique Hines
Dana Point Resident

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South Coast Region

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Dear Coastal Commission,

First off, I am a supporter of the Headlands project. I think it will be a great benefit for us all and really make our community a wonderful place for people to view the beautiful rugged coastline and come for a great vacation.

I do however see the Mid-Strand access point as a real "now or never" issue that needs to be considered very carefully. And I think Mr. Edward may also want to reevaluate the potential of avoiding future community dissatisfaction if his plan doesn't fully meet the ever increasing needs of the visiting public.

Above all, this should be about handling the inevitable growing number of tourists to this spot. Let's make sure that we can get them to and from the beach with as little impact to "ALL" of the surrounding neighbors. I would predict that public flow into the area will grow 5-fold once the scenic paths around the point are open to viewers, hikers and photographers.

Some of the potential problems at the South entrance could be:

- People standing in lines to walk down the stairs.
- Overloading the entrance with people waiting for auto pick-up, such that they start hanging out on people's nearby grass banks and the steps entering their homes. Also, the trash associated with this situation.
- Excessive noise near that entrance which is closest to people's homes.
- Overloading traffic at that end of the street, where there are fewer options to navigate around.

If it is at all possible to build to the "**original capacity-handling design**" for the flow of beachgoers, then we should do it now, despite the cost. It will only cost more in the future, and this may wind up being the best insurance policy. It's always better to have too much capacity than not enough.

Let's make sure that we get this right and avoid decades of complaints hard feelings. No one wants to hear, "in retrospect, we should have just built the thing" for the next three decades.

Primary Questions/Points:

- Why was the area that would have been the Mid-strand access point graded at all? If there was to be any consideration for an access staircase or path, it seems that it would have been much easier to construct around the original configuration of the hillside. It was never anywhere as steep as it is now. It's unreasonable to assume that the rest of the site could not have been graded without carving out this section of the hillside.
- By grading this section as if there was never to be an access point, it creates at least the appearance that it was deliberately done to create the very problem that Mr. Edward says makes an access point dangerous.
- I'm sure that if there was an independent assessment performed by various contractors bidding on safely creating the access point, our citizens would be comfortable with their recommendations. If they recommend that any such entry would be inherently unsafe, hard to navigate or unsightly, then we could put the issue to rest.
- If an independent assessment determines that an entry point could have been safely constructed without Mr. Edward having graded the site so steeply, then reparations should be made. There were never any independent opinions presented at the city council or planning committee meetings.
- The Mid-strand access stairs take people to the widest part of the beach, where most people wind setting up their site. This access point will significantly reduce the distance that beachgoers will have to carry their belongings to get to the same spot.

*Thank You,**Gus Mechalas*

April 27, 2008

Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach CA 90802-4302

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South Coast Region
APR 29 2008
CALIFORNIA
COASTAL COMMISSION

RE: Headlands Amendment Item No: TH14b

Dear Mr. Schwing:

Two years ago we purchased a condo in the Nigel Beach Terrace complex. One of the reasons we chose this location was because of the Headlands Project, and the fact that we were assured that there would be beach access via the "Mid Strand Vista Park Accessway", which is located next to our condo location. Now we are told that the builder is trying to forbid public access by restricting access with walled off and guarded gates. This is unconscionable, as the builder made promises of beach access to the public in order to get his project approved.

We urge you not to allow this restriction of public rights to occur. Please vote to preserve public access to our public beach.

Thank you for your consideration of this matter.



Sandi Kossler
Nigel Beach Terrace Condo Owner
Unit 139

April 27, 2008

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

**Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach CA 90802-4302**


RE: Headlands Amendment Item No: TH14b

Dear Mr. Schwing:

Two years ago we purchased a condo in the Nigel Beach Terrace complex. One of the reasons we chose this location was because of the Headlands Project, and the fact that we were assured that there would be beach access via the "Mid Strand Vista Park Accessway", which is located next to our condo location. Now we are told that the builder is trying to forbid public access by restricting access with walled off and guarded gates. This is unconscionable, as the builder made promises of beach access to the public in order to get his project approved.

We urge you not to allow this restriction of public rights to occur. Please vote to preserve public access to our public beach.

Thank you for your consideration of this matter.



**Blaine Moss
Nigel Beach Terrace Condo Owner
Unit 139**

SOS! SAVE OUR STAIRS!

WRITE TO THE COASTAL COMMISSION TODAY

LETTERS NEED TO GET IN BY WEDNESDAY APRIL 30, 2008

Attention Homeowners, Tenants and Interested Parties:

Patricia Bury
34034 Selva Rd #14b
Dana Point
RECEIVED
South Coast Region
APR 29 2008 2629
CALIFORNIA
COASTAL COMMISSION

The Headlands Project requires a stairway going from the top and center of the public parking lot down to a sidewalk that runs along Oceanfront Lane in the Headlands Project. This short-cut takes you right to the center of the public beach. It is an easy walk and the shortest and most direct route to the beach in the entire Headlands Project.

This stairway is called the Mid Strand Vista Park Accessway (MSVPA) and there will be look-out points, and picnic tables near the entrance for all to enjoy near the top and center of Mid Strand Vista Park which runs along the bluff.

The MSVPA stairway is required in exchange for significant public rights to beach access that the project will take away. The public will be restricted from driving through to conveniently drop off people at the public beach because the project will be walled off with guarded gates. Since this significant public right of access is being taken away from the public, the project is required to put in the stairway.

WHAT YOU CAN DO

Mail a letter today to the Coastal Commission at the following:

To
Karl Schwing

California Coastal Commission

200 Oceangate, Suite 1000

Long Beach, CA 90802-4302

Attn: Headlands Amendment Item No: Th14b

The Coastal Commission Hearing is scheduled at 8 a.m. on Thursday, May 8, 2008 in Marina Del Rey. For those who cannot attend, please let your voice be heard in a short letter asking the Coastal Commission to save the required MSVPA stairway to preserve your right to public access to the beach. All letters received by April 30, 2008 will be included in the Coastal Commissioners packets to read before they vote at the public hearing.

Please Save Our Stairs!

Sincerely

Patricia Bury

RECEIVED
South Coast Region

Th14b

Karl Schwing

California Coastal Commission, APR 29 2008

200 Orange St Suite 1000

Long Beach, CA 90802

CALIFORNIA
COASTAL COMMISSION

RE: Headlands Amendment Item No: TH14b

Karl,

I am a resident at #55
Nigel Beach Terrace, 34022 Selva
Rd., Dana Point, CA 92629.

Please see the required MSVPA
Statement to preserve my right
to public access to the beach.

The beach and my easy access
to it is the main reason
I moved into Nigel Beach
Terrace.

Hear my voice on the above
Headlands Amendment Item No: TH14b.

Sincerely

Timothy Lukszo
tenant

Residing at
34022 Selva Rd.
Unit 55
Nigel Beach Terrace
Dana Point,
County of Orange,
California, 92629

April 26, 2008

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South Coast Region

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Th14b

Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Attn: Headlands Amendment Item No: Th14b

Dear Coastal Commission,

Thank you for protecting our beautiful coastline that was put here for everyone to enjoy. I want the beach access stairway at Mid Strands Vista Park to be completed. The Headlands Reserve as well as the City of Dana Point have already designed and approved the hillside with no regards to the stairway that is in the plans. They are either very arrogant or very stupid. I am not sure which one. If you have seen the stairway at San Elijo State Park in Cardiff, CA., thousands if not hundreds of thousands of people have walked up and down those stairs from the bluff tops. If they can move tons and tons of earth, I'm pretty sure they can build a stairway that will accommodate the public.

In conclusion, I want to keep the original mid Strands stairway access to the beach which is the closest route to the beach. Don't let the Headlands Reserve and the City of Dana Point make a fool out of your organization like they have with the citizens of Dana Point thinking we are so naïve that they cannot build a stairway. This is a billion dollar project!

Thank you for your consideration in this matter that will affect my children as well as their children.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Hines". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Tim Hines
Dana Point Resident

4/24/08

Karl Schuering
 California Coastal Commission
 200 Oceangate, Suite 1000
 Long Beach, CA 90802-4302

attn: Headlands Amendment
 Item No: Th14b.

Dana Point Amendment DPT-MAJ-1-07

Please keep the Mid Strand
 Vista Park Accessway!! Please
 make the Headlands required
 to put in the stairway. We
 can't let them take away our
 right of access.

Thank you for helping us
 and our families to enjoy
 what belongs to the public.

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South Coast Region

MAY - 2 2008

CALIFORNIA
 COASTAL COMMISSION

Sincerely,
 Rick and Shirley Johnson
 34144 Selva Rd. #207
 Dana Point, CA 92629

BRYAN & KATHLEEN GIANESIN
1278 GLENNEYRE, #288
LAGUNA BEACH, CALIFORNIA 92651
(949) 697-5757

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MAY 2 2008

CALIFORNIA
COASTAL COMMISSION

May, 1 2008

Karl Schwing

California Coastal Commission

200 Oceangate, Suite 1000

Long Beach, CA 90802-4302

Attn: Headlands Amendment Item No: Th14b

Dear Commission:

As a California attorney, I am very interested to see the Commission act to preserve the planned beach access stairs at Strands Beach. As a local owner of two properties in Niguel Beach Terrace, it is essential that you maintain the planned access for the public in this, the last of the coastal developments in Orange County. Without this portal, many may forfeit their right to conveniently access the beach. Please carefully consider your mandate to preserve and maintain "convenient" public access to this area.

Owners in the area have learned through recent events, that the City of Dana Point is merely "rubber stamping" the Headlands Projects changes without thoughtful consideration.

You really should visit the project and see what eliminating the access will do to the beach access.

Thank you. 
Bryan A. Ganesin, Attorney

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

Charlene O'Connell
4-26-08
34104 Selva Rd. #360
Dana Point, CA 92629

Karl Schwing
California Coastal Commission
200 OceanGate, Suite 1000
Long Beach, CA 90802-4302

Attn.: Headlands Amendment item No. Th14b

Dear Commissioner Schwing:

I'm asking you save the required MSVPA stairway to preserve our right to public access to the beach. This stairway is required in exchange for significant public right to beach access that the project will be taking away.

I will appreciate your attention to this matter and thank you for considering it.

Charlene O'Connell

Charlene O'Connell

I am enclosing a letter to the Commission to the Headlands Amendment item No. Th14b.

I am also enclosing a letter to the Commission to the Headlands Amendment item No. Th14b.

Thank you for your attention to this matter.

APR 29 2008

Th14b

CALIFORNIA
COASTAL COMMISSION

Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
Attn: Headlands Amendment Item No: Th14b

When the Coastal Commission approved the Headlands project, 118 lucky home owners were granted access to one of the most beautiful beaches in the United States, Salt Creek. The Coastal Commission agreed to make this a "gated community" since 3 new beach access points would be built for the public. Now, because of supposed "engineering" concerns, the Headlands developer wants to remove the Mid-Strand Vista Park Accessway. It's amazing to me, that these developers were able to morph the rugged terrain of the Headlands to allow for 118 estates, many would call it an engineering "miracle"...but they can't figure out how to build a staircase down the to the beach? Though similar staircases have been up and down the coast at the Montage Hotel, in Palos Verdes and in Santa Monica. Obviously, building the Mid-Strand Vista Park Accessway won't add to the home values at the Headlands, more likely it may negatively impact them slightly, so Sanford Edwards is doing the right thing by fighting on behalf of his constituents, the 118 future/current land owners at the Strand. But, it is the Coastal Commission duty to fight for the public and to ensure that the project stays in line with the Coastal Act. The Mid-Strand Vista Park Accessway will dramatically improve beach access for the public to one of the best beaches in the USA. I hope that you will do the right thing, and ensure that this structure is built.

Sincerely,
Jason Colaco,
Dana Point, CA 92629



May 1, 08

California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4602

Attn: Karl Schwing

Dear Karl,

It seems like a long time since all of this started and I am glad we are getting to the critical stage of finalizing the Headlands Reserve

I have attended every City of Dana Point Council meeting on this subject and I must say I felt that the decision was already reached in their mind's eye and they were presenting facts to justify their position.

This was particularly true in the case of the access in the middle of the Strand. After hiring three out of area Geological Engineers and at their instruction hundreds of tons of concrete were poured to shore up the area where the stairs will attach. At this meeting Mayor Harkey said area was so fragile that adding the stairs might bring down the entire area.

At one of the meetings Mr. Sanford Edwards got up to defend the amendment to remove the stair element from the plan. When asked about the fact that the Coastal Commission approved the plan with the stair element in it, his reply was that someone from the Commission (he didn't remember the name) drew a line in the plan at the last minute and he didn't take it seriously.

He was asked if he was against the stairs, why he didn't object to the stairs at that meeting. His response was that the meeting had gone on a long time (he mentioned 10 to 12 hours) and he was too tired to fight it.

The City Planning Commission meeting submitted that the plan for the stair access was flawed and ugly. Later there when citizen went to the planning commission office, they could not produce the maps that were discussed in the City Council Meeting.

I mention these things because I think it shows there never was intent on the part of the Headlands Reserve, (Sanford Edwards) or the City to seriously consider the Coastal Commissions' insistence on the stair access.

As a citizen of California and the United States it hurts me to see individuals trying to get out of something they agreed to in a sanctioned meeting of a State or Federal Agency and later try to dodge responsibility by coming up with after the fact reasoning for not doing so.. Saying the plan was dangerous.

I respectfully ask you to keep the stair element in the plants to assure access to the beach by the Citizens of California and its visitors.

Thank you,

Sincerely,

Bill Everett
Have a nice day.
(949)429-3466
(949)310-8809

4/28/08

Karl Schwing

California Coastal Commission

200 Oceanside, Suite 1000

Long Beach, CA

90802-4302

Attention: Headlands Amendment
stem no: Th14bRECEIVED
South Coast Region

MAY - 2 2008

CALIFORNIA
COASTAL COMMISSION

My family and I are unable to
Attend the 8am, May 8th, 2008 meeting
in Marina Del Rey.

This letter is our request to the
Coastal Commission to save the
required MSVPA stairway, and
preserve my family and I, and
general public access to our
beach at Dana Strands/Headlands.

Thank you,

Ruth Alsede
Dana Point, CA

LUDWIG DARMSTÄDTER

34006 Sella Road
Dana Point

Th14b

MR.
Karl Schwing
California Coastal Commission
200 Ocean Gate, Suite 1000
Long Beach, CA 90802-4302

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Headlands Amendment Item No. Th 14B

Dear Sir,

We are regular visitors and enjoy our stay at the apartment
we are renting every year for our vacation. It is as well a significant
advantage that the stairway is direct access to the beach. This
makes the place very attractive to us. We would like to ask that
the MSVPH stays unchanged.

Best regards

Ludwig Darmstädter
3. Wife: Helen
Marie Anne Darmstädter

MAY - 2 2008

CALIFORNIA
COASTAL COMMISSION

Diane L. Petersen
33611 Brigantine Drive
Dana Point, CA 92629
949.493.2928

April 30, 2008

Karl Schwing
Coastal Program Analyst
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

RE: City of Dana Point LCP Amendment DPT-MAJ-1-07
Dana Point Headlands Trails
Item No. Th14b

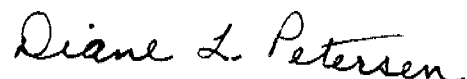
Dear Mr. Karl Schwing and Commissioners:

I own a condo at Niguel Beach Terrace, across the street from the location of the proposed stairway, and currently live near Strands Beach. I think the stairway should be constructed, as the Coastal Commission first proposed. The reasons that Headlands LLC give for not putting in the stairway seem only to be excuses because they just don't want to do it. The residents of Dana Point and all who visit this beach should have this access to Strands beach. Headlands LLC says it would be too steep, but there are many steep stairway access to many beaches, and they get a lot of use by the beach going public. I have personally used the steep stairs in the city of San Clemente, and find them to be of great benefit. I don't see how this mid strand access would be any different. It seems that the developer purposely carved away the hillside to make it even steeper, probably hoping he could then get away with not putting in the stairs.

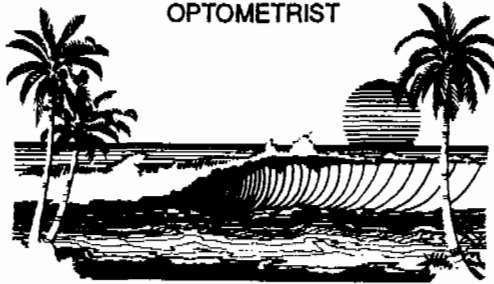
The public needs this beach access. The proposal to eliminate these stairs would make access to Strands beach very limited, with beach goers needing to walk a long, long distance.

I question why the City of Dana Point literally "rolled over" on this request from Headlands LLC to eliminate the stairs. I hope we can depend on the California Coastal Commission to make the right and appropriate decision regarding this plan.

Sincerely,



Diane L. Petersen



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CALIFORNIA
COASTAL COMMISSION

To: Mr Karl Schwinq,

Re: City of Dana Point LCP Amendment DPT-MAJ-1-07
DANA Point Headlands Trails
Item No. Th 146

Dear Ms Schwinq and Commissioners,

As a local businessman and homeowner I am distressed about the "bait and switch" tactics of Mr Sanford Edward. He initially promised a central stairs for public access to Strands Beach. He now claims the stair would be too steep and he has been able to convince the Dana Point City Council and planning committee to go along.

This central stairway is very similar to stairs leading to beaches in San Clemente and Laguna Beach. They provide access through private development to our beaches.

Please do not allow Mr. Edward to limit access to Strands Beach.

Sincerely,

William L. Petersen

April 26, 2008

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Amendment DPT-MAJ-1-07

ITEM # TH14b


Earl W. Bridwell

CALIFORNIA
COASTAL COMMISSIONOpposition to change

Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

The Mid Strand Vista Park Accessway as approved for the Headland Project allows for a short and direct route to the beach from near the center of the parking lot. To eliminate this accessway would be a disservice to the public.

Thanks for your consideration.



Bruce Yen
34036 Selva Rd Unit 108
Dana Point, CA 92629

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CALIFORNIA
COASTAL COMMISSION

April 30, 2008

Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Subject: Dana Point Amendment: DPT- Maj-1-07, Item no: Th 14b

Dear Mr. Schwing,

I would like to voice my support to the proposal to provide a stairway to the beach from the center of the county parking lot to be approved. In addition to ensuring public safety in the case of a natural disaster (tidal wave, earthquake) by allowing multiple evacuation routes to higher ground, the beach going public needs shorter access to the public beaches.

Also, should an incident at the funicular renders the main stairway inoperable or inaccessible for a period of time, the additional stairway will allow the beach going public to continue have access to the beach.

Thank you for your time and attention to this matter.

Best regards,
Bruce Yen

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Coast Region

Th14b

MAY - 5 2008

CALIFORNIA
COASTAL COMMISSION

Karl Schwing
California Coastal commission
200 Oceangate Suite 100
Long Beach CA 90802-4302

Dear Sir:

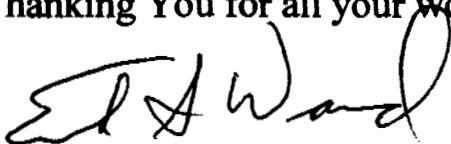
I have been a resident of Dana Point since 1977 and have seen many changes throughout these years, some good , some not so good. Since I now live across the street (Niguel Terrace) I am very concerned about any changes to the steps to the beach. I also used to live at 34001 dana Strand Road #25, which as I am sure you know is where the Headlands Project is now being built. The existing stairs are my main way to exercise and attempt to stay fit. They are placed so that I can safely exercise without getting in the way of other people enjoying the beach or view. I have never had problems with other residents or visitors, most seem to be very courteous and respectful of others .

Unfortunately I just received the (SOS) save our stairs today April 30, 2008. I have been supportive to the project since its beginning about three years ago. I would not like to see the stairs changed in any way. I understand that if nothing changes then of course nothing will change for the better or worse. In this case I believe that the Headlands project is not being realistic with the existing residents.

I will do some research and perhaps attend the Hearing in Marina Del Rey, barring any major disasters as I am a registered disaster service worker and City of Dama Point CERT (Community Emergency Response Team).

I appreciate your time and hope that the community and the Coastal Commission will make an amicable resolution to this situation.

Thanking You for all your work,



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South Coast Region

MAY - 5 2008

CALIFORNIA
COASTAL COMMISSION

TO: COASTAL COMMISSION

FROM: Chance W. Everett

SUBJECT: Attn: Headlands Amendment Item No: Th14b

Dana Point Amendment: DPT- Maj-1-07

DATE: 4-26-2008

To whom it may concern,

I am writing this letter as a person who plans on being a resident of Dana Point and maybe even a resident of Niguel Beach Terrace in the future. Currently I reside in San Diego but my parents live in Laguna Niguel and I have been following this case with much interest.

Providing access way for all people has always been a cornerstone of the American culture. I can't imagine such a long run without providing the public access to the beach. Personally I was surprised the developer was allowed to think he could get away with not providing this access way. I heard talk about "geotechnical concerns" but this is why we have engineers. If we can build the Eisenhower tunnel 50 years ago I think we can install a stairway today. If the access way is not provided this whole thing will reek of snobbery and political backroom favoritism all the while serving to push the gap being the rich and poor, IE; the properties on the beach go up and the properties just behind them go down.

In my opinion the best way to tackle the problem is build an elevator shaft and a stairwell around it or on the side of it. If cost is an issue charge one dollar for a round trip ticket on the elevator. Lets be creative and think of a workable solution but whatever we do lets not shortchange the little man or disabled vets who love our beaches.

I see myself as an outside observer and this is how things look to me.

Thanks for your time,

Chance W. Everett

Chance W. Everett

Center for Natural Lands Management

A non-profit organization for the protection and management of natural resources

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MAY 05 2008

215 West Ash Street
Fallbrook, CA 92028-2904
Phone: 760.731.7790
Fax: 760.731.7791
www.cnlm.org



Th14b

May 5, 2008

Mr. Karl Schwing
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

CALIFORNIA
COASTAL COMMISSION

Agenda #: Th14(b)
Application #: DPT-MAJ-1-07
Name: Center for Natural Lands Man.
Position: Approve with Changes

Re: City of Dana Point LCP Amendment DPT-MAJ-1-07 Dana Point Headlands Trails (S033)

Dear Mr. Schwing:

This letter is in response to the City of Dana Point's proposed Local Coastal Plan (LCP) Amendment for Dana Point Headlands trails. We have received your public hearing notice and a copy of a letter from Headlands Reserve, LLC dated April 9, 2008, to the California Coastal Commission (CCC) regarding proposed changes to the Headlands Project which affect our adjacent property (enclosed).

The Headlands Reserve, LLC April 9, 2008, letter to the CCC was likely in response to two previous formal comment letters from the Center for Natural Lands Management to the City of Dana Point regarding the proposed trail changes addressed in this LCP amendment request. We were pleased to see the diagram included with the April 9, 2008 letter, included a 6-foot high perimeter fence along the back of the hotel sight, the trail fenced with 4' high habitat fence, and a gate where the trail meets the Scenic Drive cul de sac. However, the diagram alone does not sufficiently address all of our concerns regarding the creation of a new trail within a few feet of our property. Thus, we request that the CCC clarify the term "...or fence wall combination" identified in the legend of the April 9, 2008 diagram. A fence wall combination would only be acceptable if it refers to the 6 foot high perimeter fence meeting up with the block wall along the cul de sac and then transitioning again to a 6 foot high perimeter fence. Alternatively, a fence wall combination that refers to a system where a portion of the structure is a wall and above the wall is a fence (i.e. the wall is 3 feet high and the fence is an additional 3 feet high on top of the wall) would be unacceptable because such a structure is much easier for people to bypass by climbing over it.

In addition, the following questions have yet to be answered which weigh heavily on the ability for us and the City of Dana Point to control trespass within the preserve lands.

- Is the City going to commit to opening and closing the gates at sunrise and sunset daily?
- Will there be a vehicle gate at the entrance to the Nature Center Parking area so that people cannot park in the parking lot in the evening? This is important because people

Mr. Karl Schwing
May 5, 2008

2 Th14b

currently park their vehicles in that general area in the evening and leave food trash on the ground.

- Will the 6-foot high perimeter fence along the back of the hotel tie into a gate at the trail entrance off Green lantern? We recommend a gate be included in this area and again it be locked and unlocked by the City at sunrise and sunset daily.
- Will the entire Hilltop and Center for Natural Lands Management Preserve areas be enclosed with a 6-foot high perimeter fence and/or 6-foot high wall to prevent people from easily entering the Hilltop Preserve from the commercial and hostel area at night and ultimately entering our preserve?
- The figure should be updated to include all trail fencing and perimeter fencing. For example, the figure currently does not include trail fencing and perimeter fencing along Scenic Drive.

If you have any questions regarding the contents of this letter, please contact me at 949-218-1145.

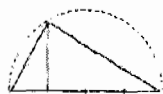
Sincerely,



Lee Ann Carranza, Preserve Manager
Center for Natural Lands Management

Enclosure

cc: Kyle Butterwick, City of Dana Point
Kevin Darnell, Headlands Reserve, LLC
David Monroe, CNLM



HEADLANDS RESERVE LLC

April 9, 2008

Mr. Karl Schwing, Supervisor
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, Ca 90802

Re: LCPA 07-02 Headlands (DPT-MAJ-01-07)

Dear Mr. Schwing:

In an effort to clarify any remaining issues associated with staff's review to the referenced Amendment, I have enclosed an exhibit that identifies the location of the fencing and gate in the vicinity of the proposed trail extension behind the hotel.

Recall that a question regarding the fence and gate was raised by the Center for Natural Lands Management ("Center") when the Amendment was being processed with the City of Dana Point. Although the proposed trail extension is outside of the Headlands Conservation Park, the Center raised a concern that the proposed extension could be a means by which a person could leave the trail and access the Conservation Park after hours. As shown on the attached exhibit, the 6 foot high wrought iron fencing for the Conservation Park, as referenced in the currently adopted Headlands Development and Conservation Plan, would extend around the cul-de-sac for Scenic Drive and meet with similar fencing along the back of the hotel site. A 6-foot high gate at the entry to the proposed trail extension at Scenic Drive would control access to the trail. In addition, as with the other trails in the project, a 4-foot high habitat fence would extend along either side the trail for its entire length.

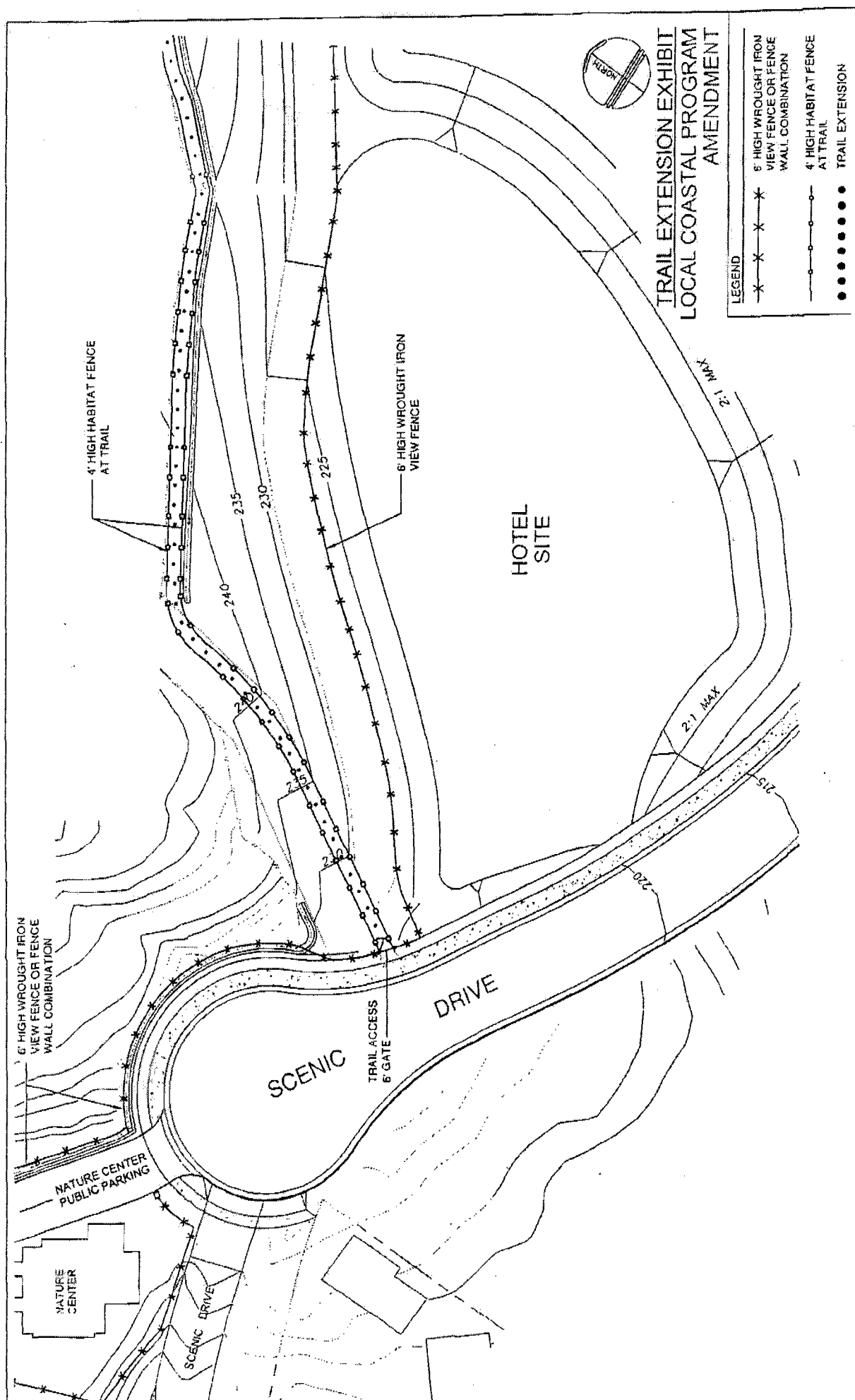
In addition, consistent with existing requirements, signage would be installed along the trail extension (and elsewhere along the trails in habitat areas) warning visitors about the presence of sensitive habitat and advising trail users to stay within the marked trail at all times.

The attached exhibit was previously provided to Kyle Butterwick, City of Dana Point to ensure the proposed detail of the fencing and gate was appropriate, which was determined to be the case. Assuming the Amendment is approved by the Coastal Commission, the fencing and gate exhibit will be included in the implementing CDP. I'm also copying this letter and attachment to Lee Ann Carranza (with the Center) who had previously sent a comment letter to the City of Dana Point. Based on our previous discussion, we anticipate that the hearing for the Amendment will be placed on the Commission's May agenda. If that changes, please let me know as soon as possible. Thank you for your consideration.

Sincerely,
Headlands Reserve LLC

W. Kevin Darnall

Cc Kyle Butterwick
Erica Demkowicz
Lee Ann Carranza



Karl Schwing

California Coastal Commission

200 Oceangate, Suite 1000

Long Beach, CA 90802-4302

RECEIVED
South Coast Region
MAY - 5 2008
CALIFORNIA
COASTAL COMMISSION

Attention Headlands Amendment Item No. TH14B

Dear Commission:

As a California citizen, I find it shocking that the city of Dana Point city council and the Planning Commission paid no attention to the citizens of Dana Point asking for that shortcut to the beach to be given to the people as it was promised and man dated 2 years earlier by the Coastal Commision. .

That short cut takes us straight through to the middle of Strand Beach, a beach that is fairly far away now. That would be such a gift of enjoyment to so many families who come here from all over the world to enjoy the Pacific Ocean and beach.. That land would not be desirable without that ocean and the ocean belongs to all the people of California. Please do a favor for the families that want a faster way to get to the beach. They will so appreciate you showing your support for the average family and not just the rich-rich.

Sincerely,



Bill Everett, 88 Shorebreaker, Laguna Niguel, CA 92677

**Kyla Jacobson
302 Ivy Glen Drive
Grapevine, Texas 76051**

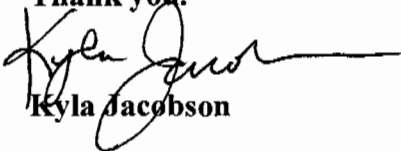
RECEIVED
MAY - 8 2008

April 30, 2008

**Karl Schwing
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
ATTN: Headlands Amendment Item No. Th14b**

**I am requesting the Commission act to preserve the the Mid Strand Vista Park
Accessway for Strand Beach as it allows for a short and convenient route to the
beach.**

Thank you.


Kyla Jacobson

CALIFORNIA COASTAL COMMISSION

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

Th14b

April 23, 2008

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director, South Coast District (Orange County)
Teresa Henry, Manager, South Coast District
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area

**SUBJECT: City of Dana Point Local Coastal Program Amendment 1-07
Dana Point Headlands**

DESCRIPTION OF LCP AMENDMENT

The amendment proposes to change the City's certified Land Use Plan and Implementation Plan effective for the Dana Point Headlands area in order to eliminate the requirement of the Mid-Strand Vista Park public accessway (an approximately 150 foot long accessway) within the Strand Vista Park (Planning Area 1) and to add approximately 600 linear feet of trail within the Hilltop Park (Planning Area 5) and 200 linear feet of trail within Harbor Point Park (Planning Area 8a), for a total of 800 linear feet of trail.

The proposed LCP amendment affects 121.3 acres of land known as the Dana Point Headlands and Strand beach. The site is located in the City of Dana Point, Orange County, immediately upcoast of Dana Point Harbor.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **DENY** the Land Use Plan Amendment, as submitted, and **APPROVE** it with suggested modifications. Furthermore, staff recommends the Commission **DENY** the Implementation Plan Amendment, as submitted, and **APPROVE** it with suggested modifications.

The Mid-Strand Vista Park public accessway was required by the Commission to be added into the original Headlands plan (i.e. a suggested modification) in it's authorization of LCPA 1-03 to improve public access. This accessway was specifically required as one of several offsets necessary to allow the developer to gate the residential development and prohibit public vehicular access into the community (public pedestrian access was required). This accessway was also one of several public benefits the Commission found were necessary to offset impacts caused by the project and to justify a finding that the proposed Headlands plan project, which has adverse impacts to ESHA, public access, and visual resources, contains a seawall that alters shoreline processes, among other impacts, to -on balance- be consistent with the Coastal Act. Similarly, the segment of trail proposed to be added within the Harbor Point Park through this amendment was required by the Commission to be eliminated (i.e. through suggested modifications) from the original Headlands plan due to adverse

Dana Point LCP Amendment 1-07
Findings

impacts upon ESHA. The proposed amendment would undo these previously imposed requirements. The proposal to add a segment of trail behind the hotel site in the Hilltop Park is a new element never before considered by the Commission.

The City and developer have argued for elimination of the Mid-Strand Vista Park Access, in part, because of perceived geotechnical and engineering difficulties. The Commission's Coastal Engineer has reviewed all of the materials prepared by the developers consultants with regard to these arguments and concluded that no clear evidence was provided that construction of the accessway would be infeasible. The City and developer have also opined that an 80-foot tall stairway would have little utility considering the other alternative accessways provided in the plan. However, 80 foot tall stairways are not unusual along the California coastline. Furthermore, the subject accessway would be the one most likely used by individuals seeking to visit the middle portion of Strand Beach. Loss of the accessway would require up to an approximately 2000 foot detour. Finally, the City staff has argued that the proposed extension of the trail in the proposed Hotel trail provides an offset to the loss of the Mid-Strand connector. However, the Mid-Strand connector and the proposed Hotel trail provide public access to completely different areas of the project site. While the proposed Hotel trail would be a positive enhancement to public access within the Headlands area, thus Commission staff are recommending its approval, the trail would not offset the loss of beach access created through elimination of the Mid-Strand connector. Thus, Commission staff are recommending against removal of the Mid-Strand connector from the plan.

Commission staff also are recommending against the change to the configuration of the trail within Harbor Point park. The existing trail alignment is hook-shaped and was intentionally fashioned without a loop by the Commission as a means of minimizing disturbance to ESHA that is present within Harbor Point park. The proposal would change that design to a loop. The Commission's biologist has reviewed that proposal and concluded that such a design would have adverse impacts to ESHA. Thus, Commission staff are recommending against that change.

The modifications suggested by Commission staff would restore the Mid-Strand Vista Park public accessway to the plan; restore the hook-shaped trail alignment in Harbor Point park; and allow for construction of the newly proposed trail in the Hilltop park.

ADDITIONAL INFORMATION

For further information, please contact **Karl Schwing** at the South Coast District Office of the Coastal Commission at: **562-590-5071**. This amendment to the City of Dana Point LCP, is available for review at the Long Beach Office of the Coastal Commission or at the Community Development Department for the City of Dana Point. The City of Dana Point Community Development Department is located at 33282 Golden Lantern, Dana Point, CA 92629. **Erica Demkowicz** is the contact person for the City's Planning Department, and she may be reached by calling **(949) 248-3588**.

I. Commission Resolutions on City of Dana Point Local Coastal Program Amendment 1-07

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

A. RESOLUTION #1 (RESOLUTION TO DENY CERTIFICATION OF THE DANA POINT LAND USE PLAN AMENDMENT 1-07, AS SUBMITTED)

Motion #1

*"I move that the Commission **CERTIFY** the City of Dana Point Land Use Plan Amendment 1-07, as submitted."*

Staff recommendation

Staff recommends a **NO** vote and the adoption of the following resolution and findings. An affirmative vote by a majority of the appointed Commissioners is needed to pass the motion.

Resolution #1

The Commission hereby **DENIES** certification of the Land Use Plan Amendment 1-07 as submitted by the City of Dana Point and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

B. RESOLUTION #2: CERTIFICATION OF LAND USE PLAN, WITH SUGGESTED MODIFICATIONS

Motion #2:

*"I move that the Commission **CERTIFY** the Land Use Plan Amendment 1-07 for the City of Dana Point if modified as suggested in this staff report."*

Dana Point LCP Amendment 1-07
Findings

Staff Recommendation To Certify Land Use Plan Amendment If Modified

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

Resolution #2 To Certify The Land Use Plan Amendment With Suggested Modifications

The Commission hereby **CERTIFIES** the City of Dana Point Land Use Plan Amendment 1-07 if modified as suggested and adopts the findings set forth below on grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan amendment if modified.

C. RESOLUTION #3 (RESOLUTION TO DENY CERTIFICATION OF THE CITY OF DANA POINT IMPLEMENTATION PLAN AMENDMENT 1-07, AS SUBMITTED.

Motion #3

*"I move that the Commission **REJECT** the City of Dana Point Implementation Plan Amendment 1-07, as submitted."*

Staff Recommendation

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution #3

The Commission hereby **DENIES** certification of the Implementation Program amendment 1-07 submitted for City of Dana Point certified LCP and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant

Dana Point LCP Amendment 1-07
Findings

adverse impacts on the environment that will result from certification of the Implementation Program Amendment as submitted.

D. RESOLUTION #4 (RESOLUTION TO APPROVE CERTIFICATION OF THE CITY OF DANA POINT IMPLEMENTATION PLAN AMENDMENT 1-07, WITH SUGGESTED MODIFICATIONS.

Motion #4

"I move that the Commission certify the Implementation Program Amendment 1-07 for the City of Dana Point if it is modified as suggested in this staff report."

Staff Recommendation

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution #4 To Certify The Implementation Program With Suggested Modifications

The Commission hereby certifies the Implementation Program Amendment 1-07 for the City of Dana Point if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. Procedural Process (Legal Standard For Review)

A. STANDARD OF REVIEW

The standard of review for land use plan amendments is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, Section 30512 states: *"(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission."*

Dana Point LCP Amendment 1-07
Background/Description of Submittal
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Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission must act by majority vote of the Commissioners present when making a decision on the implementing portion of a local coastal program.

B. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of the California Code of Regulations, a resolution for submittal must indicate whether the local coastal program amendment will require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513 and 30519. The City's resolution of submittal (Resolution No. 07-09-18-03) states that this LCP amendment will take effect upon Commission certification. If this certification is subject to suggested modifications by the Commission, this local coastal program amendment will not become effective until the City of Dana Point formally adopts the suggested modifications and complies with all the requirements of Section 13544 including the requirement that the Executive Director determine the City's adoption of the amendment to the Land Use Plan (LUP) and Implementation Program (IP) is legally adequate.

III. Background

A. AREA OF THE SUBJECT LCP AMENDMENT

The proposed LCP amendment focuses on the 121.3 acre Dana Point Headlands site (herein 'Headlands')(Exhibit 1). Topography of the site is varied and has changed since commencement of development of the site under the plan approved by LCPA 1-03.

The northern portion of the site is the location of a former trailer park on the slope/bluff face. All vestiges of the trailer park have now been removed along with grading for geologic remediation and to prepare the area for development with single family homes. The former trailer park area now being developed with homes is referred to as "the Strand." Sandy beach is located seaward of the residential development at the Strand. An existing public parking lot, the Salt Creek lot, is located at the slope/bluff top area inland of the Strand residential area. A linear public view park is presently under development inland of the Strand and seaward of the parking lot. These areas are now referenced in the LCP as Planning Areas 1 (Strand Vista Park), Planning Area 2 (Strand

Dana Point LCP Amendment 1-07
Background/Description of Submittal
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Neighborhood (Residential)), and Planning Area 3 (Strand Beach Park (Recreation Open Space)) (Exhibit 3a).

An area once referred to informally as the 'bowl' has been filled with soil exported from the Strand and is also being graded and prepared for development with single family residences. That area is now referred to as Planning Area 6 (Upper Headlands Neighborhood) in the LCP.

The highest elevation on the site is a conical hill that is approximately 288 feet above sea level (a.k.a. the 'hilltop'). This area and the ridgeline leading up to the hill is known as Planning Area 5 in the LCP (Hilltop Park and Greenbelt Linkage). This area contains coastal sage scrub (CSS) occupied by California gnatcatcher, among other sensitive wildlife and plant species and communities such as southern coastal bluff scrub. Maritime succulent scrub occurs in the hilltop area and southern needlegrass grassland occurs near the Pacific Coast Highway. This area was found by the Commission to be ESHA and is being protected and enhanced/restored. Public trails and a lookout from the hilltop are planned in this area.

Planning Areas 4 (PCH Visitor) and 9 (Resort Seaside Inn) are located adjacent to the Hilltop park and greenbelt. Both areas have been graded, but no structures have been constructed in these locations. The City recently approved a coastal development permit for a commercial development including a 40-bed hostel within Planning Area 4, pursuant to the requirements of the LCP.

Seaward of the hilltop park and seaside inn are two promontories, known as Planning Area 7 (Headlands Conservation Park) and Planning Areas 8A and 8B (Harbor Point Park). These promontories are terraces that extend seaward to coastal bluffs that are from 155 to 220 feet in height. Coastal sage scrub, southern coastal bluff scrub and southern mixed chaparral cover these promontories. These areas were found by the Commission to be ESHA. They are being preserved and enhanced/restored. A nature center and trail system with viewpoints is planned within these areas. A portion of the trail system has been constructed.

Dana Point Marine Life Refuge and the Niguel Marine Life Refuge lie immediately offshore of the Headlands site. Doheny Marine Life Refuge lies to the south. These refuges have been so designated due to the high quality of the marine resources that occur there.

B. CURRENT SUBMISSION

On January 11, 2008, staff for the South Coast District of the Coastal Commission received documentation to file as complete City of Dana Point Local Coastal Program Amendment (LCPA) 1-07. This LCP Amendment affects the City's certified Land Use Plan and Implementation Plan. It proposes to amend the City's certified Land Use Plan

Dana Point LCP Amendment 1-07
Background/Description of Submittal
Findings

and Implementation Plan effective for the Dana Point Headlands area in order to eliminate the requirement of the Mid-Strand Vista Park public accessway (an approximately 150 foot long accessway) within the Strand Vista Park (Planning Area 1) and to add approximately 800 linear feet of trail within the Harbor Point Park (Planning Area 8A) and Hilltop Park (Planning Area 5).

The Mid-Strand Vista Park public accessway was required by the Commission to be added into the original Headlands plan (i.e. a suggested modification) in its authorization of LCPA 1-03 to improve public access. This accessway was specifically required as one of several offsets necessary to allow the developer to gate the residential development and prohibit public vehicular access into the community (public pedestrian access was required). This accessway was also one of several public benefits the Commission found were necessary to offset impacts caused by the project and to justify a finding that the proposed project, which has adverse impacts to ESHA, public access, and visual resources, contains a seawall that alters shoreline processes, among other impacts, to -on balance- be consistent with the Coastal Act. Similarly, the segment of trail proposed to be added within the Harbor Point Park was required by the Commission to be eliminated (i.e. through suggested modifications) from the original Headlands plan due to adverse impacts upon ESHA. The proposed amendment would undo these previously imposed requirements. The proposal to add a segment of trail behind the hotel site in the Hilltop Park is a new element never before considered by the Commission.

The Strand Vista Park (Planning Area 1) is planned as a linear-shaped public view park, with a trail along its length perpendicular to the shoreline that has coastal/ocean views, as well as several nodes with picnic areas and benches. An existing public parking lot, the Salt Creek Parking Lot is located inland of the view park. The park and public parking lot are approximately 1,300 feet long (more than 400 yards long or 4 football fields). Thus, multiple access points to the beach are planned to be provided along the length of the park. Under the existing plan there are four access points -including the subject Mid-Strand Vista Park public accessway- that merge into three access corridors that lead from the Strand Vista Park to the sandy beach. There is an access point at the northerly end of the Strand Vista Park, known as the North Strand Beach Access that is comprised of a stairway and public funicular (inclined elevator) to the beach. There are also the Central Strand Beach Access and the South Strand Beach Access. The entry point to the Central Strand Beach access is at the southerly end of Strand Vista Park and the parking lot, adjacent to the planned private gated roadway that provides vehicular access to the Strand Residential area. The entry point to the South Strand Beach access is located about 500 feet further south of the southerly end of the Strand Vista Park and parking lot.

The subject Mid-Strand Vista Park public accessway would be located within Planning Area 1 (Strand Vista Park) and was envisioned as a public access connector between the mid-point of the vista park and parking lot to the planned Central Strand Beach accessway. The Central Strand Beach access descends from the southerly area of the

Dana Point LCP Amendment 1-07
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Salt Creek Parking Lot, winding in a northerly direction through Planning Area 2 (Strand Neighborhood Residential), following a roadway, and then curves west where it leads to the sandy beach in Planning Area 3 (Strand Beach Park). The proposed amendment would remove the Mid-Strand Vista Park public accessway from the plan. This would eliminate more direct beach access from the mid-point of the vista park and parking lot and force all beachgoers to use the access points at the extreme northerly and southerly ends of the vista park that are more than 400 yards apart.

The proposed LCP amendment would also change the configuration of a trail that would be located within the Harbor Point Park (Planning Area 8a). The configuration currently required in the LCP is essentially a hook-shaped trail system that offers views of the harbor and Pacific Ocean, but which has a dead-end. This hook-shaped trail configuration was chosen by the Commission over a loop configuration as a means of minimizing disturbance to vegetation and in order to minimize disturbance to sensitive wildlife. The loop configuration would expose a larger swath of habitat area to disturbance by trail users than the hook-shaped configuration. The proposed LCP amendment would change the hook-shaped trail configuration back to a loop trail.

Finally, the proposed LCP amendment would add a new trail segment within the Hilltop Park (Planning Area 5) behind the seaside inn site (Planning Area 9). The new trail segment would provide a more direct connection between the planned nature center and public parking area to be located at the terminus of Scenic Drive and the public overlook planned at the summit of the hill in the Hilltop Park and Greenbelt. Under the current trail configuration, Nature Center visitors wanting to utilize the overlook on the hilltop would need to travel along a sidewalk that descends a steep incline along Scenic Drive and goes around the hotel site to a trail accessed from Street of the Green Lantern that ascends the steep hillside on the opposite side of the hotel site and ultimately leads to the hilltop lookout. The proposed trail segment would bypass this lengthy detour around the hotel and avoid the steep descent and re-ascent necessary to use the current trail design. The new trail segment would offer trail users intermittent views toward the harbor and ocean over the planned hotel in Planning Area 9.

The proposed amendment effectuates the changes described above by deleting or altering policy language, narrative description, and various graphics and tables in both the Land Use Plan (Exhibit 4) and Implementation Plan (Exhibit 5), as appropriate.

C. HISTORY OF CERTIFICATION OF CITY OF DANA POINT

Dana Point is a shoreline community in southern Orange County (Exhibit 1). Prior to the City of Dana Point's incorporation in 1989, the Commission approved the segmentation of formerly unincorporated Orange County's coastal zone into the Capistrano Beach, Dana Point, Laguna Niguel, and South Laguna segments. Following the City's incorporation in 1989 all of the geographic areas covered by the former Orange County LCP segments of Capistrano Beach, Dana Point, and Laguna Niguel

Dana Point LCP Amendment 1-07
Background/Description of Submittal
Findings

were included within the city limits of the new City of Dana Point. In addition, a portion of the South Laguna segment was within the new City's boundary. The City combined the Capistrano Beach and Dana Point segments, and the portion of the South Laguna segment within its jurisdiction, into one certified LCP segment. After some minor modifications, the City then adopted the County's LCP documents as its first post-incorporation LCP. On September 13, 1989, the Commission approved the City's post-incorporation LCP. Meanwhile, the City did not adopt the LUP which had been certified as the Laguna Niguel segment (which contained the area known as the Strand). In order to differentiate between the new City of Laguna Niguel (which was also incorporated in 1989) and the Laguna Niguel planning area (which was within the new City of Dana Point and not within the new City of Laguna Niguel), the Laguna Niguel LUP planning area was re-named 'Monarch Beach'.

Since initial certification of the City's LCP, the City has taken steps to consolidate the LCP documents and update those documents to reflect the current needs of the City. The first step involved certification of a new land use plan (LUP) and implementation plan (IP) for the Monarch Beach area of the City under LCP Amendment 1-96. This action adopted, with modifications, a new Land Use Plan ("LUP") component consisting of three elements of the City's General Plan: Land Use, Urban Design, and Conservation/Open Space¹. The implementing actions component of the LCP for the Monarch Beach area is the City's Zoning Code, as changed according to modifications suggested by the Commission (herein referred to as the '1996 LCP'). There is also a specific plan certified for Monarch Beach. When the Monarch Beach area was certified, the City chose to whitehole an area upcoast of the Dana Point Headlands known as 'the Strand'. Thus, the Strand remained uncertified.

The second step involved updating the Capistrano Beach area and incorporating it into the 1996 LCP. Similar to LCPA 1-96, LCPA 1-98 adopted the 1996 LCP comprised of the LUP that consists of the three elements of the City's General Plan and the IP consisting of the City's zoning code. The City adopted the modifications to the LUP and IP suggested by the Commission. The modified LCP for Capistrano Beach was effectively certified on July 13, 1999.

In 2004-2005, the Commission reviewed and approved LCPA 1-03, which amended the Dana Point Local Coastal Program (LCP) to certify the Dana Strand area and replace the 1986 Dana Point Specific Plan LCP as it pertains to the remainder of the 121.3 acre Dana Point Headlands project site with the LCP that consists of the City's 1996 Zoning Code and the Land Use Element, Urban Design Element, and Conservation/Open Space Element of the City's General Plan and amended those documents, through the Headlands Development Conservation Plan (HDCP) to, among other things, authorize creation of a Planned Development District for the site to authorize development of 125 single family residential lots, a maximum of 110,750 square feet of visitor serving

¹ Certain sections and policies within these documents that pertained to areas that were not being updated/re-certified were excluded from the certification. Among the areas excluded were the policies associated with the Dana Point Headlands, the harbor and the town center areas.

Dana Point LCP Amendment 1-07
Background/Description of Submittal
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commercial land use including a 65-90 room inn, a 35,000 square foot commercial site with visitor information center and 40-bed hostel and 68.5 acres of public parks, coastal trails and open space, and a funicular to serve Strand beach. The Commission's approval of the plan was subject to litigation that was ultimately dismissed by the court. According to the City, development commenced in April 2005.

Those certified portions of the City that have not been updated remain controlled by the former County LCP documents that the City adopted when it incorporated. The City continues to incrementally update these areas to bring them into the 1996 LCP. The areas that remain to be updated are the town center and surrounding neighborhoods and the harbor (all of which are within the former County LCP segment known as the 'Dana Point Specific Plan Local Coastal Program', a.k.a. the '1986 LCP'). Separate LCP amendments are pending for the town center (excluding the surrounding neighborhoods) and the harbor.

IV. Summary of Public Participation

The City Planning Commission held a public hearing for the proposed LCP amendment on August 14, 2007, and the City Council held a public hearing for the proposed LCP amendment on September 18, 2007. This LCP amendment request is consistent with the submittal requirements of the Coastal Act and the regulations which govern such proposals (Sections 30501, 30510, 30514 and 30605 of the Coastal Act, and Sections 13551, 13552 and 13553 of the California Code of Regulations).

V. Land Use Plan/Implementation Plan Suggested Modifications

Suggested Modifications: The Commission certifies the following, with modifications as shown. Language as submitted by City of Dana Point is shown in straight type. Language recommended by the Commission for deletion is shown in ~~double line-out~~. Language proposed to be inserted by the Commission is shown double underlined.

Revisions to the policies, made through suggested modifications, in certain circumstances may make the background narrative obsolete. Descriptive narrative no longer consistent with the policies will need to be revised by the City to conform the narrative of any associated policy that has been revised through suggested modifications as part of the submission of the final document for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

Organizational Notes: The addition of new policies or the deletion of policies (as submitted) will affect the numbering of subsequent LCP (Land Use Plan and Implementation Plan) policies when the City of Dana Point publishes the final LCP incorporating the Commission's suggested modifications. This staff report will **not** make

Dana Point LCP Amendment 1-07
Suggested Modifications

revisions to the policy numbers. The City will make modifications to the numbering system when it prepares the final LCP for submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

**A. SUGGESTED MODIFICATIONS TO COASTAL LAND USE PLAN
CONSISTING OF THE LAND USE ELEMENT (LUE), URBAN DESIGN
ELEMENT (UDE), AND CONSERVATION OPEN SPACE ELEMENT
(COSE):**

1. Global Change: Restore all policy language, text and graphics related to and/or depicting the Mid-Strand Vista Park public accessway as they existed prior to this amendment request 1-07.
2. Global Change: Restore all policy language, text and graphics related to and/or depicting the hook-shaped trail in Harbor Point Park; delete all references to a loop-trail in this same location.
3. Add New Land Use Element policy to section on Dana Point Headlands, as follows (see footnote² for policies referenced in this modification): Notwithstanding the

² Land Use Element Policy 5.37: A trail offer of dedication shall be required in new development where the property contains a LCP mapped trail alignment or where there is substantial evidence that prescriptive rights exist. An existing trail which has historically been used by the public may be relocated as long as the new trail alignment offers equivalent public use. Both new development and the trail alignment shall be sited and designed to provide privacy for residents and maximum safety for trail users.

Land Use Element Policy 5.42: The public parks, open space and public trail network shall be offered for dedication and/or conveyed by the landowner/developer to the appropriate public agency or non-profit entity concurrent prior to or with the recordation of the first land division/Final Map(s). The first land division shall encompass the entire 121.3 acre site and shall fully expunge all development rights that may exist within the identified public parks, open space and public trail network that may have existed under

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requirements of Land Use Element Policies 5.37 and 5.42 and Conservation Open Space Element Policy 6.9, the trail segment depicted on Figure COS-4 located along the interface of the Hilltop Park and Greenbelt (Ridgeline) and the Visitor Serving Commercial Area planned for a luxury seaside inn that provides a pedestrian trail connection from Scenic Drive to the trail system that leads to the lookout on the hilltop, shall be considered optional.

B. SUGGESTED MODIFICATIONS TO IMPLEMENTATION PROGRAM:

4. Global Change: Restore all policy language, text and graphics related to and/or depicting the Mid-Strand Vista Park public accessway as they existed prior to this amendment request 1-07.
5. Global Change: Restore all policy language, text and graphics related to and/or depicting the hook-shaped trail in Harbor Point Park; delete all references to a loop-trail in this same location.
6. Modify Section 3.7 (C)(6) (Development Phasing Plan), as follows:

any prior land division. All approved public park, open space and public trail network improvements and amenities shall be constructed by the landowner/developer and shall include all such public parks, open spaces, public trails and associated improvements and amenities described in the HDCP. All approved public park and open space improvements and amenities shall be completed and the facilities open to the public for public use prior to the residential certificate of occupancy or final inspection for the first to be completed residential property.

Conservation Open Space Element Policy 6.9: As contemplated in the Headlands Development and Conservation Plan, the Headlands area shall be developed as a unified project, with one exception provided at the end of this policy. The first application for land division within the Headlands seeking development pursuant to the Headlands Development and Conservation Plan shall encompass the entire approximately 121 acre Headlands area and shall include a proposal to cause the expungement of any preceding land division within said area, the dedication of all land therein containing ESHA excepting those areas identified in Conservation Open Space Element Policy 3.12 in such a manner as to ensure that the property is conserved in perpetuity as open space, and the dedication of all parks, beaches and accessways identified in this LCP at the Headlands to the City, County or other willing public agency or non-profit entity in such a manner as to ensure their use in perpetuity for public purposes. The one exception to this requirement shall be that, prior to the wholesale re-division of the 121-acre Headlands area, the landowner may apply for, and the City may approve, any lot merger, lot line adjustment, or other land division necessary to enable the landowner to separate out and transfer approximately 27 acres of land on the Headlands promontory, provided that any such approval is conditioned on the requirement that the area so separated is irrevocably deed restricted as conserved open space in conjunction with the land division and is thereafter dedicated in a manner that ensures that it is conserved in perpetuity as conserved open space, in which case the requirement in the preceding sentence shall apply only to the remainder area of the Headlands.

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Development shall comply with the following development phasing plan: Development of the Headlands shall occur in a comprehensive manner involving the entire approximately 121 acre site. The allowance for impacts to up to 11.29 acres of environmentally sensitive habitat area (excluding public trails) and the allowances relative to the construction of new development in the Strand that is reliant upon significant landform alteration and a shoreline protective device shall only be allowed in the context of a project that: 1) preserves, enhances, dedicates and perpetually manages all but 11.29 acres of environmentally sensitive habitat areas (ESHAs) known to be present at the Headlands; 2) dedicates the private portion of Strand beach to the public; 3) constructs and dedicates the public parks and public trail network described in this HDCP including realigning the existing revetment an average 5 feet landward or easterly than the existing alignment, implementation of a program to retrieve debris from the beach that impedes public access, and constructing a new lateral public access trail on top or landward of the revetment and seaward of the entire length of the Strand residential development; 4) implements extensive water quality management best management practices, including but not limited to the construction and maintenance of structural best management practices to treat off-site and on-site run-off; 5) preserves landforms including the Harbor Point and Headlands bluffs and promontories and the Hilltop; and 6) provides lower-cost overnight accommodations (i.e. hostel) in conjunction with the construction of a luxury inn.

The public parks, open space and public trail network shall be offered for dedication and/or conveyed by the landowner/developer to the appropriate public agency or non-profit entity concurrent with the recordation of the first land division/Final Map(s). The first land division shall encompass the entire 121.3 acre site and shall fully expunge all development rights that may exist within the identified public parks, open space and public trail network that may have existed under any prior land division. The one exception...[no intervening changes]

The public parks, open space and public trail network improvements and amenities, including the Nature Interpretive Center and public parking, shall be constructed and open to the public prior to the opening of the luxury inn in Planning Area 9....[no intervening changes]...

...All approved public park, open space and public trail network improvements and amenities, including the Nature Interpretive Center and public parking, shall be constructed by the landowner/developer and shall include all such public parks, open spaces, public trails and associated improvements and amenities described in the HDCP....[no intervening changes]

Notwithstanding the requirements of this section, the trail segment depicted on Figure 4.5.1 (among other figures), located within Planning Area 5 along the interface of the Hilltop Park and Greenbelt and Planning Area 9 (Resort Seaside Inn) that provides a pedestrian trail connection from Scenic Drive to the trail system that leads to the lookout on the hilltop, shall be considered optional.

...[no intervening changes]...

VI. Findings for Denial of the City Of Dana Point's Land Use Plan Amendment, as submitted

The Commission hereby finds and declares as follows. The following pages contain the specific findings for denial of the City of Dana Point Land Use Plan Amendment, as submitted.

A. SHORELINE AND COASTAL RESOURCE ACCESS

Coastal Act Sections 30210 through 30214 are the predominant policies that will be used to evaluate the conformance of the LUP amendment request with the access requirements within the Coastal Act. Sections 30210 through 30214 of the Coastal Act establish, among other things, that public coastal access opportunities must be maximized, that development must not be allowed to interfere with certain rights of public access, that public facilities must generally be distributed throughout the City's coastal zone, that lower cost visitor serving opportunities must be protected and encouraged, and that public access can be regulated in terms of time, place, and manner. Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast.

The proposed LUP amendment contemplates changes to public access to the coast in a variety of ways. First, the proposed amendment would add a new public trail segment behind the planned hotel within the Hilltop park to the plan (herein 'hotel trail'). Second, the amendment would change the design of the trail within the Harbor Point park from a hook-shaped trail to a loop trail (herein 'loop trail'). Both of these changes can be found consistent with the public access policies of the Coastal Act because they do expand opportunities for public access. However, as described in the ESHA findings below, there are certain design requirements related to the hotel trail needed to assure conformance with Section 30240 of the Coastal Act; and the loop trail design cannot be found consistent with Section 30240 of the Coastal Act. Finally, the request to remove the Mid-Strand Vista Park accessway (herein 'Mid-Strand connector') from the plan cannot be found consistent with the coastal access policies of Chapter 3 of the Coastal Act.

The Mid-Strand connector trail was previously required by the Commission to be incorporated into the Headlands plan in order to offset adverse public access impacts caused by the project and it was considered to be one of a package of elements the Commission found was necessary to find the Headlands Development Conservation Plan (certified under Dana Point LCP Amendment No. 1-03)(herein 'Headlands plan') to be –on balance- consistent with the Coastal Act. The Headlands plan includes allowances for a residential subdivision –located seaward of the first coastal roadway- that is gated to public vehicular traffic. Typically, the Commission requires that such residential areas have publicly accessible streets (both vehicular and pedestrian access) so that, among other reasons, members of the public have opportunities to park

reasonably close to the beach. However, in this case, the Commission allowed the Strand residential area to be closed to public vehicular access for a variety of reasons outlined in more detail in the Commission's findings for approval of the Headlands plan. The Mid-Strand connector trail was one of several features in the plan that were meant to offset the adverse impacts of gating the Strand residential area. The Commission recognized that several access points and corridors through the Strand residential area were necessary to assure that public access facilities were adequately distributed along the coastline. Specifically, the Mid-Strand connector was included in the plan so that the public would have more direct access to the sandy beach from the mid-point of the Strand Vista park and the Salt Creek parking lot. Without such connector the public use and access to the beach would be concentrated in the most northerly or southerly areas of the Strand Vista park, which would not adequately distribute access facilities along the coast.

In direct contradiction of the Commission's previous findings, and the City's own findings when it adopted the Headlands plan with the Commission's suggested modifications, the City has now concluded that the Mid-Strand connector is not necessary for public access and would have low utility to the public due to the 80 foot vertical distance between the top and foot of the stairs. The City and developer (Headlands Reserve LLC) have also argued that the Mid-Strand connector is not feasible to construct from an engineering standpoint³. As described in more detail below, the Commission rejects these conclusions and re-affirms the need for the Mid-Strand connector trail.

The Mid-Strand connector trail would provide a connection from the Mid-Strand Vista Park located at the top of slope/bluff overlooking the Strand residential area and the sandy beach and ocean, to an access corridor (Central Strand Access) that passes by the toe of slope described next. Construction of the Strand residential development resulted in excavation and export of approximately 1 million cubic yards of soil from the Strand area. That excavation created a near vertical, approximately 80 foot tall slope near the top of the slope. That vertical slope is retained by a system of caissons, compacted earth, and mechanically stabilized earthen walls (i.e. loffelstein walls). There is a roadway internal to the residential subdivision at the toe of this 80 foot tall slope. The Central Strand Access runs along the side of this roadway. The Mid-Strand connector would need to be constructed in a manner that descends this steep slope from the vista park at the top of the slope to the Central Strand Access that ultimately goes to the beach.

The City and developer have submitted analyses by engineering consultants (Stantec and AMEC) which argue that construction of a stairway that descends the 80-foot tall slope would involve unacceptable risk (see Exhibit 6). AMEC, in its letter dated November 15, 2006, makes the following statement: "On the basis of AMEC's review, construction of the proposed stairway/wall system to provide a secondary access in the

³ Neither of these arguments is contained in the findings made by the City Council in its resolutions of adoption and submittal of the LCPA to the Commission. The resolutions only contain generic findings of consistency with the Coastal Act, General Plan, and CEQA. These arguments are only contained in the City staff report and a letter and other materials submitted to the Commission with the amendment request.

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South-Central Strand area will require an unacceptable level of risk associated with potential instability/deformation of the required temporary slope/excavations. Elimination of the stairway spur will substantially reduce the risk associated with completion of this portion of the construction and specific details of an MSE wall-only slope design for this area are currently being prepared. Implementation of an MSE wall-only slope design will not affect the configuration of the primary Central Strand Accessway and will allow construction in this area to be completed in a much safer, efficient and timely manner.” These conclusions were made without looking at alternatives that would maintain adequate slope stability. No analysis was made of the safety of installing a stairway or other access structure once the stabilization structures were already constructed.

Commission staff encouraged the City and developer to look into alternatives that would address the stability concerns raised by the engineering consultants. Two alternatives were submitted by the City (see Exhibit 7) which the City dismissed because the landing point of one of the alternatives was only 220 feet away from the Central Strand access and the other involved changes to the Mechanically Stabilized Earth wall the City determined to be unacceptable. No engineering studies accompanied this alternatives analysis.

The Commission’s Coastal Engineer has reviewed all of the materials prepared by the developers consultants that were submitted to Commission staff. Her review and conclusions state, in part, “...the provided information merely outlines the current technical challenges to inclusion of the required stairway access. This does not provide clear evidence that the stairway construction would go from being difficult to being infeasible. In addition, such a situation would call into question the feasibility of the other development that is proposed for the site and whether the access roads and downslope development still can achieve an adequate level of safety for construction and for the long-term conditions. In summary, the applicant has not provided sufficient information to support a recommendation to delete an important public access amenity from the approved plans.”

The City and developer have also opined that an 80-foot tall stairway⁴ would have little utility considering the other alternative accessways provided in the plan. Arguments have been made that the North stairway and adjacent funicular and Central Strand Accessway will provide easier access for the public, thus, the Mid-Strand connector wouldn’t be used. Neither of these arguments provides a compelling reason to eliminate an access point required by the Commission to offset the gating of the residential development and other impacts caused by the project.

The North Strand Access is comprised of a series of stairs and small landings covering a distance of at least 800 feet from the parking lot to the beach (Exhibit 3b). The access point to these stairs and the adjacent funicular are about 600 feet north of the planned access point to the Mid-Strand connector. The combined travel distance from the mid-

⁴ Public stairways to the beach around 80-feet high are not unusual along the California coastline where coastal bluffs occur (e.g. Thousand Steps Beach, Laguna Beach; Grandview, Encinitas; Tide Beach Park, Solana Beach).

point of the Strand Vista Park and parking lot, to the North Strand Access down to the beach would be 1400 feet (i.e. $\frac{1}{4}$ mile). Add an addition 600 feet to the walk (total of 2000 feet) if the beachgoer intended to utilize the same portion of the beach they would have reached by using the Mid-Strand connector. The access point to the Central Strand Access is about 600 feet south of the Mid-Strand connector. That accessway will follow along the side of the main roadway that will be used by residents of the Strand to reach their homes. That accessway will be comprised of a continuous, approximately 1,100 foot long incline of which at least 600 feet are comprised of a steep incline needed to descend/ascend the uppermost portion of the access near the parking lot. Total distance would be at least 1700 feet (i.e. more than $\frac{1}{4}$ mile). By comparison, the Mid-Strand connector would be comprised of a stairway that descends the 80 foot slope, followed by a 450 foot walk along the most gentle portion of the Central Strand incline. While the health benefits of walking longer distances over an incline shouldn't be discounted, equipment laden beachgoers will certainly be discouraged from using the central portion of the Strand parking lot and the central portion of the Strand Beach if they must travel the extra distance that would be avoided through implementation of the Mid-Strand connector.

Finally, the City staff has argued that the proposed extension of the trail in the proposed Hotel trail provides an offset to the loss of the Mid-Strand connector. The City has argued that the two trails are comparable in cost⁵. However, the Mid-Strand connector and the proposed Hotel trail provide public access to completely different areas of the project site. The Mid-Strand connector will provide public access to Strand Beach. The Hotel trail will provide a new trail connection within Hilltop park, an open space area which has no beach access. While the proposed Hotel trail would be a positive enhancement to public access within the Headlands area, the trail would not offset the loss of beach access created through elimination of the Mid-Strand connector.

Thus, the proposed LUP amendment must be denied because it is inconsistent with the public access and recreation policies of the Coastal Act.

B. ENVIRONMENTALLY SENSITIVE HABITAT

In its action on the Headlands plan LCP amendment (1-03), the Commission found that Harbor Point Park, among other areas within the Headlands plan, contains Environmentally Sensitive Habitat Area (ESHA). Those findings are summarized below and the complete findings regarding ESHA in support of LCPA 1-03 are incorporated as if fully set forth herein. The proposed amendment would change the hook-shaped trail at Harbor Point Park into a loop trail. That loop trail would cause additional disturbance to ESHA which renders the proposal inconsistent with the Chapter 3 policies of the Coastal Act, as submitted.

⁵ Although the City has submitted information on the cost of the trails (see Exhibit 8), the Commission has not been provided with independent information to verify whether the costs are, in fact, comparable.

Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values and only uses dependent on those resources be allowed within those areas. Section 30240 also requires that development adjacent to environmentally sensitive habitat areas plus parks and recreation areas will be sited and designed to prevent impacts that would significantly degrade those areas and should be compatible with the continuance of those habitat and recreation areas.

Environmentally sensitive habitat areas are defined in Section 30107.5 of the California Coastal Act as follows:

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

1. LOCATION OF ESHA ON THE HEADLANDS SITE

Fourteen special-status plant species have been identified on the Headlands site over time, including but not limited to Blochman's dudleya, Coulter's saltbush, Nuttall's scrub oak, Cliff spurge, Vernal barley, California box-thorn, Woolly seablight, Western dichondra, Small flowered microseris, Cliff malocothrix, Palmer's grappling hook, Golden rayed pentacheata, and California groundsel. Not all of these special status plants have been observed during each plant survey. Floristically, this site is more diverse than sage-scrub found in most locales in the region. Coastal sites with this much diversity are uncommon. The unusually large number of special status plant species observed on this site over time is an indication of the unique nature of this setting. More rare plants are known from the Dana Point Headlands than from Crystal Cove State Park, which is 20 times the size.

Seven special status wildlife species have been observed on the Headlands property over time, as follows: California gnatcatcher (Federally threatened), Pacific pocket mouse (Federally endangered), Cactus wren (State Species of Concern), Orange throated whiptail (State Species of Concern), San Diego woodrat (State Species of Concern), Coronado skink (State Specie of Concern), White-tailed kite (Fully protected), Quino checkerspot butterfly (Federally endangered). Of particular interest, is the presence of the federally protected California gnatcatcher and Pacific pocket mouse.

Native plant communities on the Headlands site include, CSS, southern coastal bluff scrub, southern mixed chaparral, and disturbed southern needlegrass grassland. In addition there are disturbed areas and ornamental plantings. Four of these plant communities are highly threatened; coastal bluff scrub, Diegan coastal sage scrub, maritime succulent scrub and needlegrass grassland. These habitats are inherently rare and/or perform important ecosystem functions at the Headlands site by providing habitat for two federally listed wildlife species and up to thirteen special status plant

species. Furthermore, these habitat areas are easily disturbed and degraded by human activity. As such, these areas constitute ESHA pursuant to the Coastal Act.

Using Coastal Act standards for determining ESHA, the Headlands plan LCP area contained approximately 49 acres of ESHA. Under LCPA 1-03, the Commission approved impacts to approximately 11.29 acres of ESHA to accommodate development. Limited additional impacts were allowed for public trails as long as those effects were offset through restoration.

2. LUP EFFECTS ON ESHA, AS SUBMITTED

According to a biological analysis submitted by the City (See Exhibit 10, Biological Assessment of Proposed Public Trail Extensions at Hilltop and Harbor Point Parks dated July 26, 2007 by URS Corporation, Patrick Mock, Ph.D.) the approximately 600 foot long Hotel trail extension would be located in an area previously cleared of vegetation pursuant to the CDP issued by the City, and is planned as a fuel modification zone for the hotel site. A small segment, approximately 60 feet of the 600 foot trail extension, would be located in an area planned for revegetation. Thus, construction of this trail will not have a direct impact on existing ESHA. However, it will slightly reduce the quantity of land area that would be revegetated and it would be located adjacent to existing ESHA. The Commission's biologist has reviewed the URS biological assessment (Exhibit 11), among other materials submitted by the City and developer, and came to the following conclusions "*... A trail extension in this area would provide a better natural history experience to visitors and provide more attractive views. If the trail along the eastern side of the property, including this extension, is immediately adjacent to the break in slope above the hotel and residences and is separated from the habitat areas by a dog-proof fence, it is unlikely that there will be significant adverse impacts to the ESHA.*" Materials submitted by the developer indicate the trail would be constructed immediately adjacent to the break in slope above the hotel. Furthermore, the existing LCP contains provisions for appropriate habitat fencing along all trails.

The proposal also includes an approximately 200 foot long extension of the trail in Harbor Point park. That trail extension would turn the existing hook-shaped trail configuration into a loop trail. The existing hook-shaped trail configuration was instituted as a requirement of the Commission's approval of LCP amendment 1-03 which approved the Headlands plan. According to the biological assessment by URS, the proposed trail extension would follow the alignment of an informal footpath trodden through use. Some revegetation of that area has commenced and some of the vegetation planted in that effort would need to be relocated out of the trail alignment. The biological assessment concludes that the extended trail "*...will not impact any known locations for sensitive species and the alignment for the trail does not create any direct or indirect biological impacts not previously evaluated in the FEIR.*" The Commission's biologist has reviewed the URS biological assessment, among other materials submitted by the City and developer, and came to the following conclusions "*... This [the loop trail] would needlessly increase disturbance within sensitive habitat and effectively create an island of habitat surrounded by a trail. I recommend that this*

alteration not take place." Thus, the Commission finds the proposed change of the trail alignment in Harbor Point park from a dead-end, hook-shaped configuration to a loop trail cannot be found consistent with Section 30240 of the Coastal Act.

Finally, the proposal to remove the Mid-Strand connector does not appear to have any natural resource implications.

Thus, the proposed LUP amendment would be inconsistent with Section 30240 of the Coastal Act.

VII. Findings for Approval of the City of Dana Point's Land Use Plan Amendment, If Modified

The findings for denial of the Land Use Plan amendment, as submitted, are hereby incorporated as if fully set forth herein.

A. SHORELINE AND COASTAL RESOURCE ACCESS - NECESSARY MODIFICATIONS TO THE PROPOSED LAND USE PLAN AMENDMENT

As described in detail in the findings for denial of the Land Use Plan amendment, as submitted, the proposed amendment would eliminate the Mid-Strand connector, extend a trail in the Hilltop park (Hotel trail), and extend a trail in Harbor Point park to create a loop. The Commission has denied the amendment request as submitted because the elimination of the Mid-Strand connector with significantly, adversely impact public access to the coast and would be inconsistent with the public access policies of Chapter 3 of the Coastal Act. However, if the amendment were modified to retain the Mid-Strand connector, the Commission could find the addition of the Hotel trail to the plan to be consistent with the public access policies of the Coastal Act. Therefore, the Commission imposes Suggested Modification 1 which requires the City to restore all policy language, text and graphics related to and/or depicting the Mid-Strand Vista Park public accessway as they existed prior to this amendment request 1-07.

As proposed, the amendment would add the Hotel trail to the plan. The existing LUP contains several policies, such as Land Use Element policies 5.37 and 5.42, and Conservation Open Space Element policy 6.9, which mandate the provision of the entire trail network in the Headlands plan upon commencement of any development within the plan. Those provisions were put in place through LCP amendment 1-03 because the Commission found that those elements were necessary in order for it to find the Headlands plan, on balance, to be consistent with the Coastal Act. The proposed Hotel trail is an addition to the plan that was not previously contemplated nor deemed to be necessary for the Commission to find the project, on balance, to be consistent with the Coastal Act. Thus, the Hotel trail would be an added amenity that while certainly being consistent with the public access policies of the Coastal Act, would not be an element required by the Commission to consider the Headlands plan, as a whole, consistent with the Coastal Act. Thus, the Commission inserts Suggested Modification 3, which is a policy to clarify that the mandatory language in the above-named policies does not apply to the Hotel trail.

The proposed loop trail configuration has been denied due to inconsistencies with Section 30240 of the Coastal Act.

Certain issues were raised by the proposed LUP relative to public access that needed to be addressed. Through suggested modifications, the Commission has resolved the

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issues raised. Therefore, the Commission finds the amendment proposal, with modifications, is consistent with the public access policies of Chapter 3 of the Coastal Act.

**B. ENVIRONMENTALLY SENSITIVE HABITAT - NECESSARY
MODIFICATIONS TO THE PROPOSED LAND USE PLAN AMENDMENT**

As described in detail in the findings for denial of the Land Use Plan amendment, as submitted, the proposed amendment would extend a trail in the Hilltop park (Hotel trail), and extend a trail in Harbor Point park to create a loop. The Commission has denied the amendment request as submitted, in part, because the establishment of a loop trail in Harbor Point park would significantly, adversely impact Environmentally Sensitive Habitat Area and would be inconsistent with Section 30240 of the Coastal Act. However, if the amendment were modified to restore the trail in Harbor Point park to the hook-shaped configuration originally approved by the Commission in LCP amendment 1-03, the Commission could find the amendment request consistent with Section 30240 of the Coastal Act. Thus, the Commission imposes Suggested Modification 2.

The Commission also finds the proposed amendment to add the Hotel trail extension within Harbor Point park to be consistent with Section 30240 of the Coastal Act. Construction of this trail will not have a direct impact on existing ESHA. The Commission's biologist has recommended that the trail be constructed immediately adjacent to the break in slope above the hotel, which maximizes the trail setback from existing ESHA and still affords public view opportunities. The trail is proposed in the recommended location. Furthermore, the existing LCP contains provisions for appropriate habitat fencing along all trails.

Therefore, with modifications, the Commission finds the proposed land use plan amendment to be consistent with Section 30240 of the Coastal Act.

VIII. Findings for Denial of the City's Implementation Program Amendment, as Submitted

The Commission hereby finds and declares as follows. Below are the specific findings for denial of the City of Dana Point Implementation Program Amendment, as submitted.

The standard of review for amendments to the Implementation Plan of a certified LCP is whether the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP).

A. SHORELINE AND COASTAL RESOURCE ACCESS

The Commission has implemented changes to the coastal land use plan to assure the Commission can find the proposal is consistent with the public access requirements of Chapter 3 of the Coastal Act. These changes include 1) restoring the Mid-Strand connector trail to the public access trail plan; and 2) clarifying that the proposed Hotel trail extension is an optional, rather than mandatory, element of the Headlands plan. The amended IP, as submitted, includes elimination of the Mid-Strand connector trail and requires the Hotel trail extension as a mandatory element. Thus, the amended IP, as submitted, does not carry out the LUP, as modified per the suggested modifications. Thus, the IP, as submitted, must be denied.

B. ENVIRONMENTALLY SENSITIVE HABITAT

The LUP findings describe in detail the deficiencies of the LCP amendment with respect to Section 30240 of the Coastal Act. The Commission has modified the LUP such that it can find the LUP amendment consistent with the Coastal Act. In summary, those changes are to eliminate the proposed change to the trail at Harbor Point park to a loop trail. The amended IP, as submitted, requires the trail at Harbor Point park to be a loop trail. Thus, the amended IP, as submitted, does not carry out the LUP, as modified per the suggested modifications. Thus, the IP, as submitted, must be denied.

IX. Findings for Approval of the City's Implementation Program Amendment, as Modified

The findings for denial of the Implementation Plan amendment as submitted are incorporated as if fully set forth herein.

A. SHORELINE AND COASTAL RESOURCE ACCESS - NECESSARY MODIFICATIONS TO THE PROPOSED IMPLEMENTATION PLAN AMENDMENT

The proposed IP amendment includes the addition of the Hotel trail extension that is a benefit to public access at the Headlands. However, certain changes to the IP are necessary to assure adequate implementation of the LUP, as modified. These changes are to restore all policy language, text and graphics related to and/or depicting the Mid-Strand Vista Park public accessway as they existed prior to this amendment request 1-07. In addition, the Commission is clarifying that the Hotel trail is considered optional. Thus, the Commission requires Suggested Modifications 4 and 6. As modified, the Commission finds the IP amendment to be adequate to implement the LUP, as modified.

B. ENVIRONMENTALLY SENSITIVE HABITAT - NECESSARY MODIFICATIONS TO THE PROPOSED IMPLEMENTATION PROGRAM AMENDMENT

The LUP findings describe in detail the deficiencies of the LCP amendment with respect to Section 30240 of the Coastal Act. The Commission has modified the LUP such that it can find the LUP amendment consistent with the Coastal Act. In summary, those changes are to eliminate the proposed change to the trail at Harbor Point park to a loop trail. The proposed amended IP has been denied because it does not carry out the LUP amendment, as modified. However, if the IP were amended to restore all policy language, text and graphics related to and/or depicting the hook-shaped trail in Harbor Point Park and to delete all references to a loop-trail in this same location, the Commission could approved the IP amendment. Thus, the Commission imposes Suggested Modification 5. As modified, the Commission finds the IP amendment to be adequate to implement the LUP, as modified.

X. Consistency with the California Environmental Quality Act

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. Additionally, the Commission's Local Coastal Program review and approval procedures have been found by the Resources Agency to be functionally equivalent to the environmental review process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an environmental impact report for each local coastal program submitted for Commission review and approval. Nevertheless, the Commission is required when approving a local coastal program to find that the local coastal program does conform with the provisions of CEQA.

The proposed LCP amendment has been found not to be in conformance with Coastal Act Policies regarding public access and protection of environmentally sensitive habitat areas. Thus, the LCP amendment, as submitted, is not adequate to carry out and is not in conformity with the policies of Chapter 3 of the Coastal Act. Furthermore, the proposed LCP amendment would result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act. To resolve the concerns identified suggested modifications have been made to the City's Land Use Plan. Without the incorporation of these suggested modification; the LCPA, as submitted, is not adequate to carry out and is not in conformity with the policies of Chapter 3 of the Coastal Act. The suggested modifications minimize or mitigate any potentially significant environmental impacts of the Land Use Plan Amendment. As modified, the Commission finds that approval of the Land Use Plan amendment will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

Relative to the Implementation Program, the Commission finds that approval of the Implementation Program, as submitted, will result in significant adverse environmental impacts under the meaning of CEQA. To resolve the concerns identified suggested modifications have been made to the City's Implementation Plan. Without the incorporation of these suggested modification; the Implementation Plan amendment, as submitted, is not adequate to carry out and is not in conformity with the policies of Land Use Plan, as modified by the suggested modifications. The suggested modifications minimize or mitigate any potentially significant environmental impacts of the Implementation Plan Amendment. As modified, the Commission finds that approval of the Implementation Plan amendment will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

Given the proposed suggested modifications, the Commission finds that the City of Dana Point Local Coastal Program Amendment 1-07, as modified, will not result in significant unmitigated adverse environmental impacts under the meaning of the CEQA.

Dana Point LCP Amendment 1-07
CEQA

Further, future individual projects will require coastal development permits issued by the City of Dana Point. Throughout the coastal zone, specific impacts associated with individual development projects are assessed through the coastal development permit review process; thus, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no feasible alternatives within the meaning of CEQA that would reduce the potential for significant adverse environmental impacts.

XI. List of Exhibits/Substantive File Documents

Exhibit #	Description
1	Project Location
2	Resolution of Submittal and Resolution of Adoption
3a	Existing LCP - Land Use Planning Areas
3b	Existing LCP - Public Trail System
4	Proposed LUP Amendment
5	Proposed IP Amendment
6	Stantec-AMEC Letters
7	Alternative Configurations for Mid-Strand Connector Trail
8	Comparison of Costs of Construction of Mid-Strand Connector trail with proposed Hotel trail
9	Memo by Lesley Ewing
10	Biological Analysis by Pat Mock
11	Memo by Dr. John Dixon

Substantive File Documents

Note: All documents cited throughout the report and in Commission staff memorandum, whether or not listed below, should be considered substantive file documents as well.

AMEC. 2006a. Summary of Supplemental Geotechnical Recommendations, Attention: Mr. Tom Arconti/Mr. Jim Kopplin dated 18 August 2006; Job No. 5-212-400100.

AMEC. 2006b. Geotechnical Recommendations Temporary Backcut and Shoring Wall South Central Strand Area, Submitted to Headlands Reserve, LLC dated 28 August 2006; Job No. 5-212-400100.

AMEC. 2006c. Supplemental Geotechnical Recommendations, Attention: Mr. Tom Arconti/Mr. Jim Kopplin dated 7 September 2006; Job No. 5-212-400100.

AMEC. 2006d. Construction Constraints and Associated Risk Proposed Stairway/Wall Construction Central Strand Accessway Stairway Spur South-Central Strand Area Headlands Project Dana Point, California, Attention Mr. Kevin Darnall (Headlands Reserve LLC) dated November 15, 2006; Job No. 5-212-400100

California Coastal Commission. 2008a. Memorandum from Dr. John Dixon to Karl Schwing regarding Trail system at Dana Point Headlands dated April 18, 2008

California Coastal Commission. 2008b. Memorandum from Lesley Ewing to Karl Schwing regarding Request to Delete Central Strand Stairway from LCPA 07-02 dated April 22, 2008.

Dana Point LCP Amendment 1-07
Exhibits/Substantive File Documents

California Coastal Commission. 2004. Adopted Findings in support of approval of Local Coastal Program Amendment 1-03, with modifications. Adopted August 11, 2004.

City of Dana Point. 2007a. Resolution of Submittal No. 07-09-18-03 and Resolution of Adoption 07-09-18-02.

City of Dana Point. 2007b. Letter from Kyle Butterwick to S. Sarb (CCC) re: "Local Coastal Program Amendment LCPA07-02 for the Headlands Development and Conservation Plan" dated October 1, 2007.

City of Dana Point. 2008a. Letter from Kyle Butterwick to K. Schwing (CCC) with attachments describing two alternatives to the Mid-Strand Vista Park accessway dated November 13, 2007.

City of Dana Point. 2008b. Letter from Doug Chotkeyvs to S. Sarb (CCC) with attachments regarding cost comparison.

Headlands Reserve LLC. 2007. Letter from Kevin Darnall to K. Butterwick (City of Dana Point) re: "Headlands Development and Conservation Plan ("HDGP") Amendment; General Plan Amendment ("GPA"); Local Coastal Plan Amendment ("LCPA"); Coastal Development Permit ("CDP") Amendment." dated June 28, 2007.

Headlands Reserve LLC. 2008a. Letter from Kevin Darnall to K. Schwing (CCC) with attached exhibit depicting cross section of Hotel trail and hotel site dated January 10, 2008.

Headlands Reserve LLC. 2008b. Letter from Kevin Darnall to K. Schwing (CCC) with attached exhibit depicting Hotel trail fencing dated April 9, 2008.

Stantec. 2006. Letter regarding Central Stairs and Spur Access from Paul Carey to Headlands Reserve LLC dated December 8, 2006.

URS. 2007. Memorandum to K. Darnall (Headlands Reserve LLC) re: "Biological assessment of proposed public trail extensions at Hilltop and Harbor Point parks" by Pat Mock, Ph.D. dated July 26, 2007.



Vicinity Map

RESOLUTION NO. 07-09-18-03

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT,
CALIFORNIA, REGARDING LOCAL COASTAL PROGRAM AMENDMENT
LCPA07-02 AND REQUESTING CERTIFICATION BY THE CALIFORNIA
COASTAL COMMISSION**

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Dana Point Planning Commission on August 14, 2007, held a public hearing to consider the adoption of Dana Point Local Coastal Program Amendment LCPA07-02 and recommended its approval to the City Council; and

WHEREAS, the City Council, after giving notice as prescribed by law, held a public hearing on September 18, 2007, regarding the proposed Dana Point Local Coastal Program Amendment LCPA07-02, and the City Council finds that the proposed amendment is consistent with the Dana Point General Plan, the Local Coastal Program and the California Coastal Act; and

WHEREAS, the City Council of the City of Dana Point certifies that it intends to implement the Local Coastal Program in a manner fully consistent and in conformance with the California Coastal Act; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

Section 1. That the above recitals are true and correct and incorporated herein.

Section 2. That the Dana Point City Council approved Dana Point Local Coastal Program Amendment LCPA07-02 pursuant to Resolution 07-09-18-02. LCPA07-02 pertains to the Headlands Development and Conservation Plan which includes the amendments to the Land Use Element, Urban Design Element, Conservation and Open Space Element as well as various tables and figures as outlined in General Plan Amendment GPA07-02 and LCPA07-02. A copy of Resolution 07-09-18-02 approving LCPA07-02 with the specific content of the proposed amendment is attached hereto as Exhibit A and is incorporated herein by this reference as though fully set forth herein.

Section 3. That the California Coastal Commission is hereby requested to consider, approve and certify Dana Point Local Coastal Program Amendment LCPA07-02 which amends the 2004 Headlands Development and Conservation Plan.

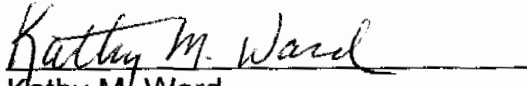
Section 4. That pursuant to Section 13551(b) of the Coastal Commission Regulations, Dana Point Local Coastal Program Amendment LCPA07-02 will automatically take effect immediately upon California Coastal Commission approval, as provided in Public Resources Code Section 30512, 30513 and 30519.

Section 5. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 18th day of September, 2007.


DIANE HARKEY, 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 Resolution No. 07-09-18-03 was duly adopted and passed at a regular meeting of the City Council on the 18th day of September, 2007, by the following roll-call vote, to wit:

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

NOES: None

ABSENT: Council Member Bishop


KATHY M. WARD
CITY CLERK

Exhibit: A – Resolution No. 07-09-18-02 approving GPA07-02 and LCPA07-02

RESOLUTION NO. 07-09-18-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT GPA 07-02, WHICH AMENDS THE GENERAL PLAN LAND USE ELEMENT, URBAN DESIGN ELEMENT, CONSERVATION AND OPEN SPACE ELEMENT AS WELL AS VARIOUS TABLES AND FIGURES AND SUBMISSION OF GPA 07-02 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA07-02 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

Applicant: Headlands Reserve LLC

The Planning Commission of the City of Dana Point does hereby resolve as follows:

WHEREAS, on July 9, 1991, the City of Dana Point ("City") adopted its General Plan; and

WHEREAS, the City adopted the 1996 Local Coastal Program which was certified by the California Coastal Commission ("Coastal Commission"); and

WHEREAS, the City adopted the Headlands Development and Conservation Plan ("HDCP") that included in part General Plan Amendment GPA 01-02 and Local Coastal Plan Amendment LCPA 01-02, that amended the City's General Plan and Local Coastal Program for the Headlands Property; and

WHEREAS, the City has prepared and certified a Final Environmental Impact Report (SCH#2001071015) ("FEIR") for the HDCP and an Addendum ("Addendum") thereto, which was previously reviewed and approved by the City; and

WHEREAS, the City may amend all or part of an adopted General Plan to promote the public interest up to four times during any calendar year pursuant to Government Code Section 65358; and

WHEREAS, the City adopted a Local Coastal Program for the Headlands Property, which was certified by the Coastal Commission and which may be amended in whole or in part; and

WHEREAS, the General Plan Amendment GPA 07-02 ("GPA") is the second General Plan Amendment processed for 2007; and

WHEREAS, the GPA would make changes to the Land Use Element, Urban Design Element, and Conservation and Open Space Elements of the General Plan; and

WHEREAS, the GPA is internally consistent with other elements of the General Plan; and

EXHIBIT 'A'

WHEREAS, the preparation and adoption of the Local Coastal Program Amendment 07-02 ("LCPA") is statutorily exempt from the California Environmental Quality Act pursuant to Section 21080.9 of the Public Resources Code; and

WHEREAS, the Planning Commission did on August 14, 2007 hold a duly noticed public hearing as prescribed by law to consider the General Plan Amendment and Local Coastal Program Amendment; and

WHEREAS, the City Council did on September 18, 2007 hold a duly noticed public hearing as prescribed by law to consider the General Plan Amendment and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to GPA07-02 and LCPA07-02; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

- A. That the above recitations are true and correct;
- B. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- C. That the GPA is in the public interest;
- D. That the LCPA is consistent with, and will be implemented in full conformity with the California Coastal Act ("Coastal Act");
- E. That the City Council has previously reviewed and recommended approval of the Addendum, Statement of Overriding Considerations, and revised Mitigation Monitoring and Reporting Program as part of the FEIR;
- F. That the FEIR and Addendum for the HDCP is complete and adequate for the consideration of the GPA because (1) the GPA does not result in any new significant effects or a substantial increase in the severity of significant effects identified in the FEIR and Addendum; (2) no substantial changes in circumstances since certification of the FEIR and Addendum have occurred that would result in any new significant effects or a substantial increase in the severity of significant effects identified in the FEIR and Addendum; or (3) no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the FEIR and Addendum were certified shows any of the conditions described in Section 15162(a)(3)(A) through (c) of the CEQA Guidelines exists;

G. That the City Council adopts the following findings:

1. That the public and affected agencies have had ample opportunity to participate in the LCPA process and that proper notice in accordance with the Coastal Act amendment procedures has been followed.
2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act and that the GPA is consistent with the Coastal Act policies that encourage coastal access and preservation of coastal and marine resources.
3. That the Land Use Plan as amended by the GPA is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act and that the Implementation Program as amended by the GPA is in conformance with and adequate to implement the Land Use Plan.
4. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind locations, and intensity of land and water uses and that any proposed development, including the GPA and LCPA, will be reviewed for compliance with the City's Local Coastal Program and (in addition) for proposed development located within the Coastal Commission's appeal area, the public access policies of the Coastal Act.
5. That the proposed amendment(s) are reflected in the Land Use Plan, HDCP and Zoning Code and the applicable sections are being amended accordingly to be consistent with state law.
6. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA.
7. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan.

H. That the City Council recommends the following in the Resolution:

1. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
2. That the City include an exact description of the nature of the amendment and the nature of the proposed changes as reflected in Exhibit A.

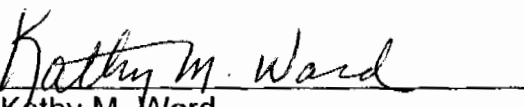
3. The City certifies that the Land Use Plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
 4. The City certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan and the HDCP.
 5. The Resolution of the City Council specifies that Local Coastal Program Amendment LCPA07-02 be submitted to the Coastal Commission for certification.
- I. That the amendments to the City's General Plan as shown in Exhibit "A" of this Resolution, attached hereto and incorporated herein by this reference.
 - J. That the currently adopted 2004 Local Coastal Program for the Headlands Property, as reflected in the HDCP, be amended as shown in Exhibit "A".

The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 18th day of September, 2007.


DIANE L. HARKEY, 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 Resolution No. 07-09-18-02 was duly adopted and passed at a regular meeting of the City Council on the 18th day of September, 2007, by the following roll-call vote, to wit:

AYES: Council Members Anderson, Bishop, Mayor Pro Tem Bartlett, and
Mayor Harkey

NOES: None

ABSENT: Council Member Bishop

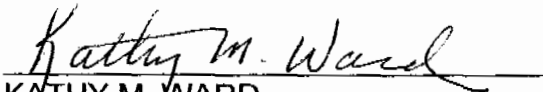

KATHY M. WARD
CITY CLERK

Exhibit: A – Amendments to the City's General Plan and the adopted 2004 Local Coastal Program for the Headlands property (Headlands Development and Conservation Plan)

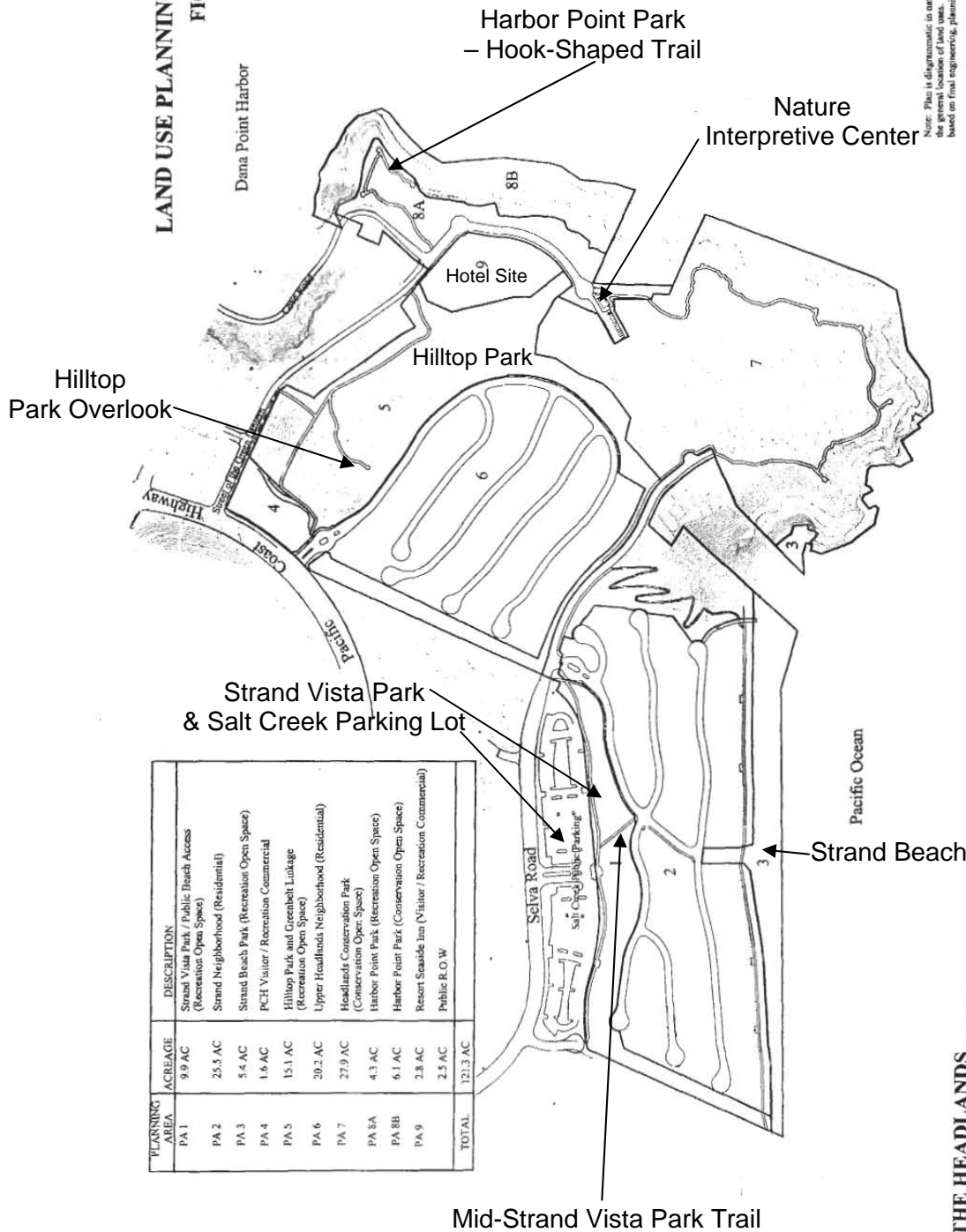
EXHIBIT "A"

The proposed GPA and LCPA will result in changes to the following items listed below:

- Policy 5.35 – change text on page 12 of HDCP
- Figure LU-6 – The Headlands
- Figure UD-2 – Existing and Proposed Open Space;Walkway/Bike/Trail Opportunities
- Table COS-4 – page 57 in HDCP
- Figure COS-4 - Existing and Proposed Open Space;Walkway/Bike/Trail Opportunities
- Figure COS-5a – Headlands Coastal View Opportunities
- Figure 3.3.1 – Land Use Plan
- Table 3.4.5 – Recreation Open Space and Conservation Open Space Designations
- Text on page 4-9 of the HDCP
- Figure 4.3.1 – Land Use Planning Areas
- Figure 4.4.1 – Park and Open Space Plan
- Figure 4.4.2 – Headlands Conservation Park Conceptual Plan
- Figure 4.4.8 – Harbor Point Park Conceptual Plan
- Text on page 4-32 of HDCP
- Figure 4.4.10 – Strand Vista Park Public Beach Access Conceptual Plan
- Text on page 4-34 of HDCP
- Text on page 4-45 of HDCP
- Figure 4.5.1 – Public Trail/Access Plan
- Figure 4.5.2 – Coastal Access Plan
- Figure 4.5.3 – Coastal View Opportunities
- Table 4.5.4 – Strand Vista Park/Public Access (9.9 Acres) Public Access Program Guidelines
- Figure 4.12.6 – Conceptual Wall and Fencing Plan
- Figure 4.13.1 – Existing ESHA to be Conserved
- Table 5.1 – Coastal Public Access Policies Summary

- Amending approved landscape concept plans for Headlands Conservation and Harbor Point Parks
- Amending approved landscape concept plans for Strand Residential

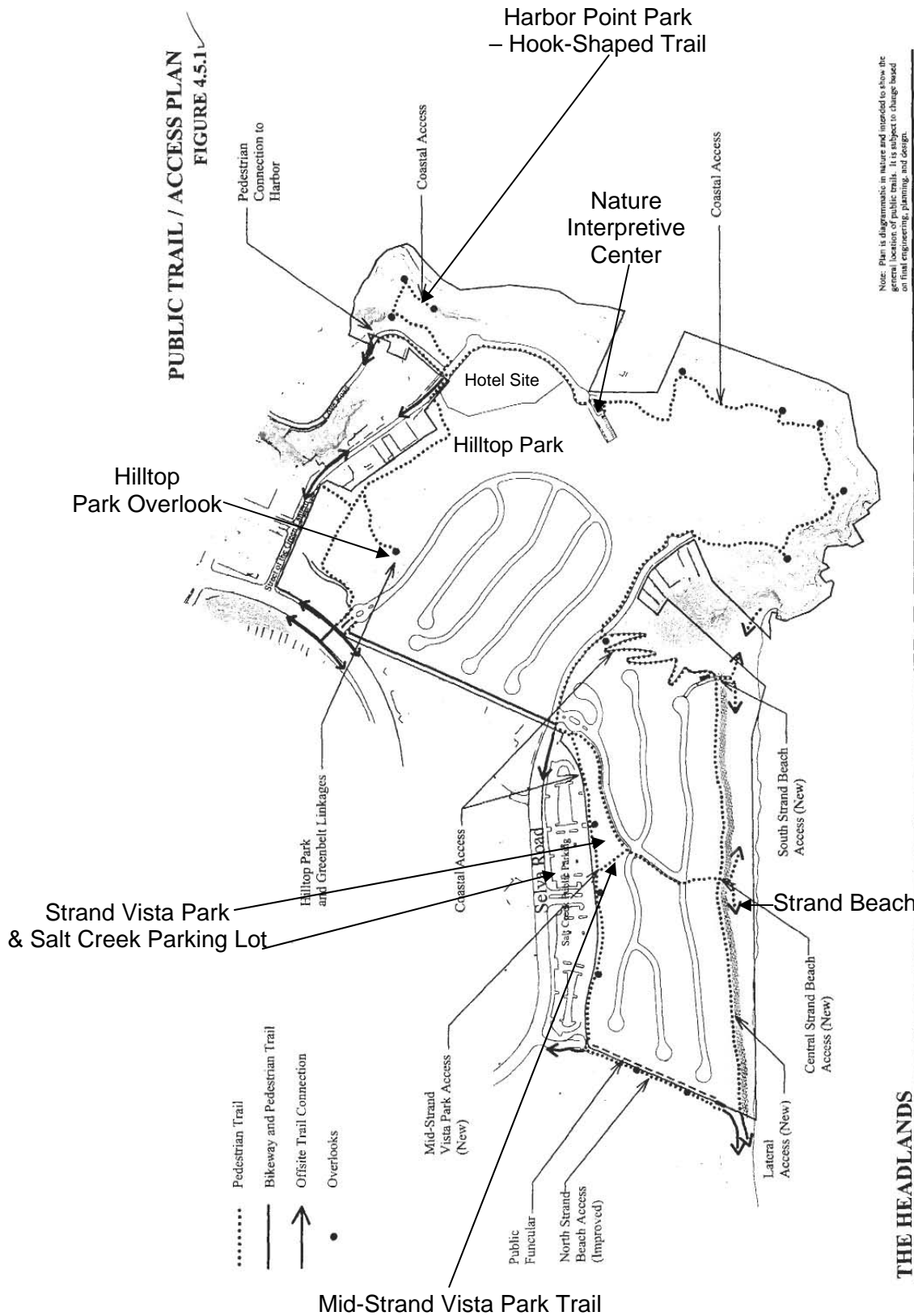
LAND USE PLANNING AREAS
FIGURE 4.3.1



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



Existing Trail Configuration in LCP

EXHIBIT#3b

Page 1 of 1

Application Number:

DPT- MAJ-1-07



California Coastal
Commission

- ✓ **Policy 5.30:** Land divisions, including lot line adjustments, shall be permitted only if all proposed parcels intended for development can be demonstrated to be safe from flooding, erosion, and geologic hazards and that development can be constructed consistent with all policies of the LCP. The creation of parcels not intended for development shall only be allowed in conjunction with the recordation of a deed restriction on any such parcels to prevent development and the dedication of such parcels to a public agency and/or non-profit entity in such a manner as to ensure that the property is conserved in perpetuity as open space. (Coastal Act/30253)
- ✓ **Policy 5.31:** Recreation and access opportunities at public beaches and parks at the 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 use 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)
- ✓ **Policy 5.32:** Temporary events shall minimize impacts to public access, recreation and coastal resources. A coastal development permit shall be required for temporary events that meet all of the following criteria: 1) held between Memorial Day and Labor Day; 2) occupy any portion of a public sandy beach area; and 3) involve a charge for general public admission where no fee is currently charged for use of the same area. A coastal development permit shall also be required for temporary events that do not meet all of these criteria, but have the potential to result in significant adverse impacts to public access and/or coastal resources. (Coastal Act/30212)
- ✓ **Policy 5.33:** New public beach facilities shall be limited to only those structures necessary to provide or enhance public recreation activities. No development shall be permitted on sandy public beach areas, except that lifeguard stations, small visitor serving concessions, restrooms, trash and recycling receptacles, and improvements to provide access for the physically challenged may be permitted when there is no less environmentally damaging feasible alternative and the development is sited and designed to minimize adverse impacts to public access, visual resources and sensitive environmental resources. (Coastal Act/30221, 30240, 30250, 30251, 30253)
- ✓ **Policy 5.34:** The implementation of restrictions on public parking along Selva Road, Street of the Green Lantern, and Scenic Drive that would impede or restrict public access to beaches, trails or parklands, (including, but not limited to, the posting of "no parking" signs, red curbing, physical barriers, and preferential parking programs) shall be prohibited except where such restrictions are needed to protect public safety and where no other feasible alternative exists to provide public safety. Where feasible, an equivalent number of public parking spaces shall be provided nearby as mitigation for impacts to coastal access and recreation.
- ✓ **Policy 5.35:** Except as noted in this policy, gates, guardhouses, barriers or other structures designed to regulate or restrict access shall not be permitted upon any street (public or private) within the Headlands where they have the potential to limit, deter, or

prevent public access to the shoreline, inland trails, or parklands. In the Strand residential area, gates, guardhouses, barriers and other structures designed to regulate or restrict public vehicular access into the residential development may be authorized provided that 1) pedestrian and bicycle access from Selva Road and the County Beach parking lot through the residential development to the beach remains unimpeded; 2) ~~a public access connection is provided that gives direct access from approximately the mid-point of the County Beach parking lot to the Central Strand Access;~~ and 3) an inclined elevator/funicular providing mechanized access from the County Beach parking lot to the beach is constructed, operated and maintained for public use for the duration of the period that public vehicular access through the residential subdivision is regulated or restricted.

Policy 5.36: Where an inclined elevator/funicular is provided in accordance with Land Use Element Policy 5.35, the facility shall be open to the public every day beginning Memorial Day weekend through Labor Day weekend, and on holidays and weekends the remainder of the year, with additional days of operation as necessary to meet demand. If necessary, a fee may be charged for use of the inclined elevator/funicular to recover costs of operation and maintenance, however, that fee (round-trip) shall not exceed the regular cash fare for a single ride on a local route upon a public bus operated by the Orange County Transportation Authority.

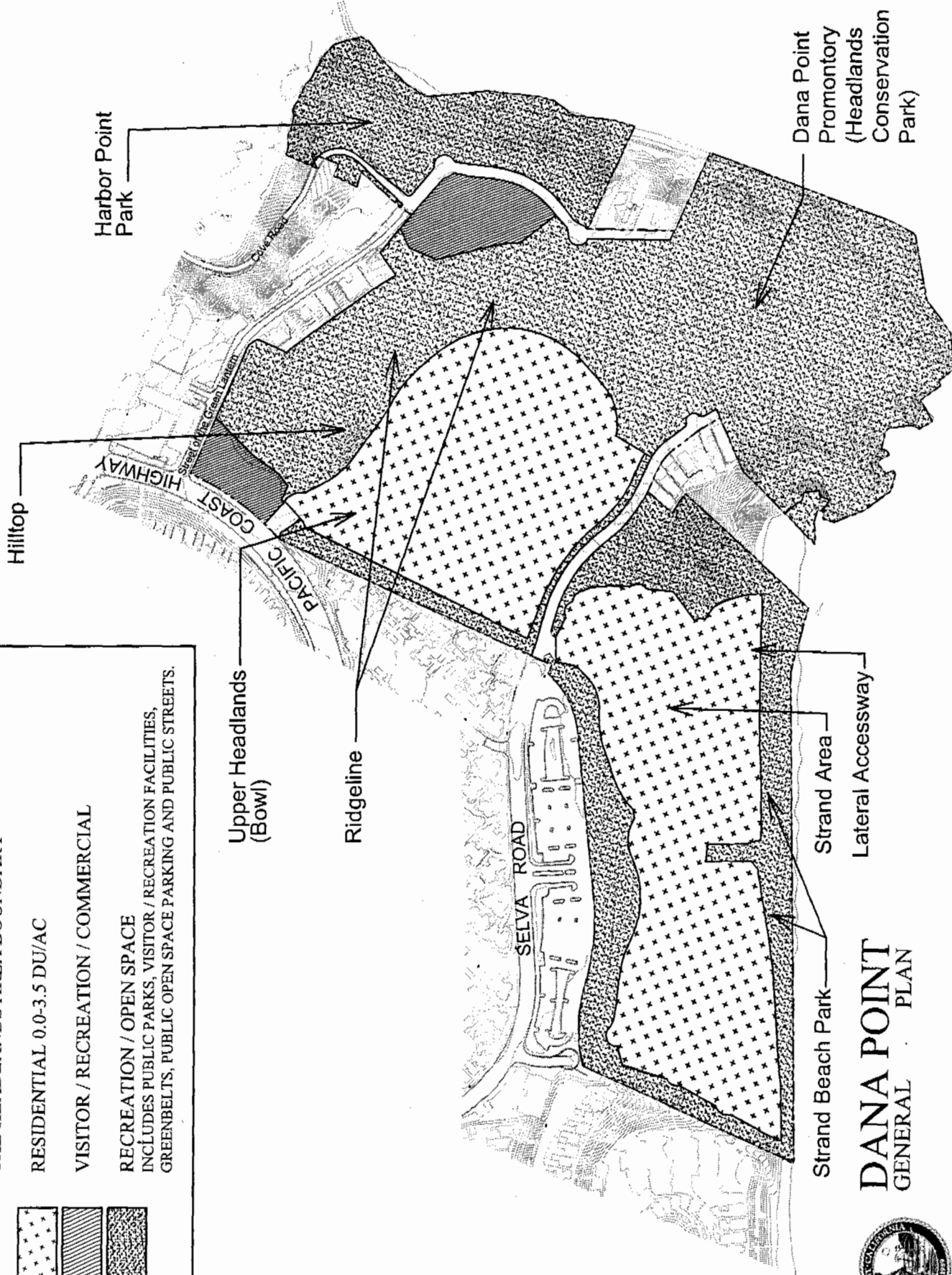
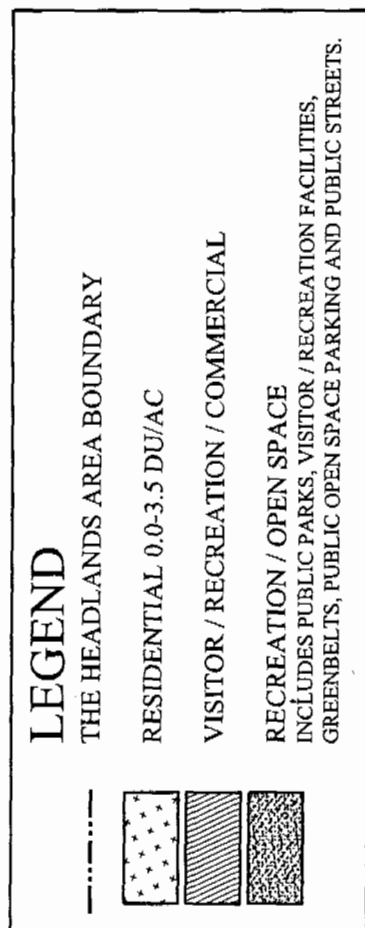
Policy 5.37: A trail offer of dedication shall be required in new development where the property contains a LCP mapped trail alignment or where there is substantial evidence that prescriptive rights exist. An existing trail which has historically been used by the public may be relocated as long as the new trail alignment offers equivalent public use. Both new development and the trail alignment shall be sited and designed to provide privacy for residents and maximum safety for trail users.

Policy 5.38: If as a condition of a permit an easement is required to be dedicated for public use of a trail the opening of the trail shall only be required after a public agency or private association has accepted the offer of dedication and agreed to open, operate, and maintain the trail. New offers to dedicate public trail easements shall include an interim deed restriction that 1) states that the terms and conditions of the permit do not authorize any interference with prescriptive rights, in the area subject to the easement prior to acceptance of the offer and, 2) prohibits any development or obstruction in the easement area prior to acceptance of the offer.

Policy 5.39: A uniform signage program that provides clear and conspicuous notice shall be developed and utilized to assist the public in locating and recognizing trail access points, parks, open spaces, parking areas, and other visitor recreational amenities. In areas containing sensitive habitat or safety hazards, signs shall be posted with a description of the sensitive habitat or safety hazard and limitations on entry to those areas.

Policy 5.40: The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height for the residential development in the Strand shall be 28 feet above finished grade, and at the upper Headlands shall be 18 feet above

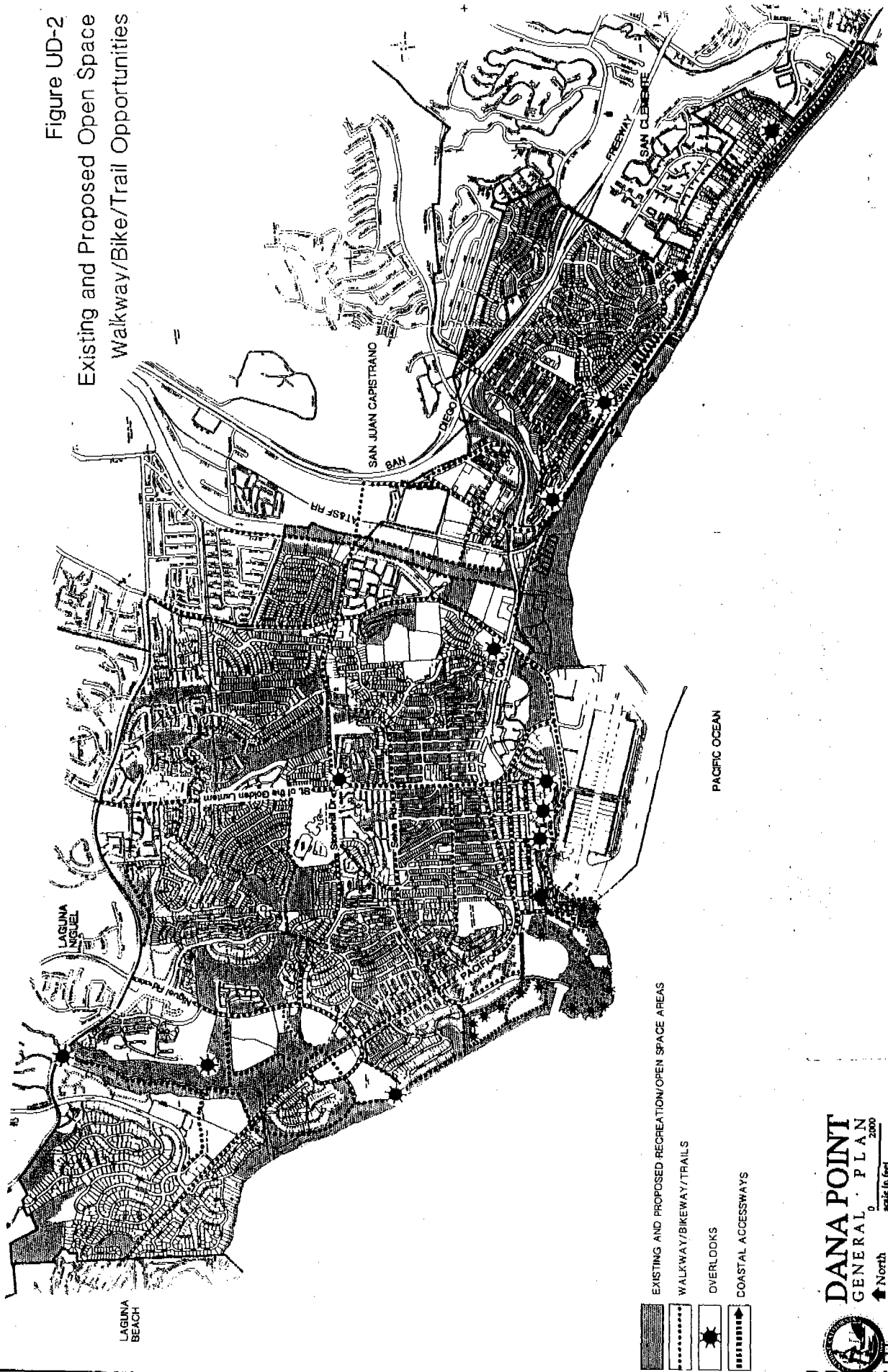
**Figure LU-6
The Headlands**



DANA POINT
GENERAL PLAN



Figure UD-2
Existing and Proposed Open Space
Walkway/Bike/Trail Opportunities



DANA POINT
GENERAL PLAN
North
Scale: 0 to 2000 feet

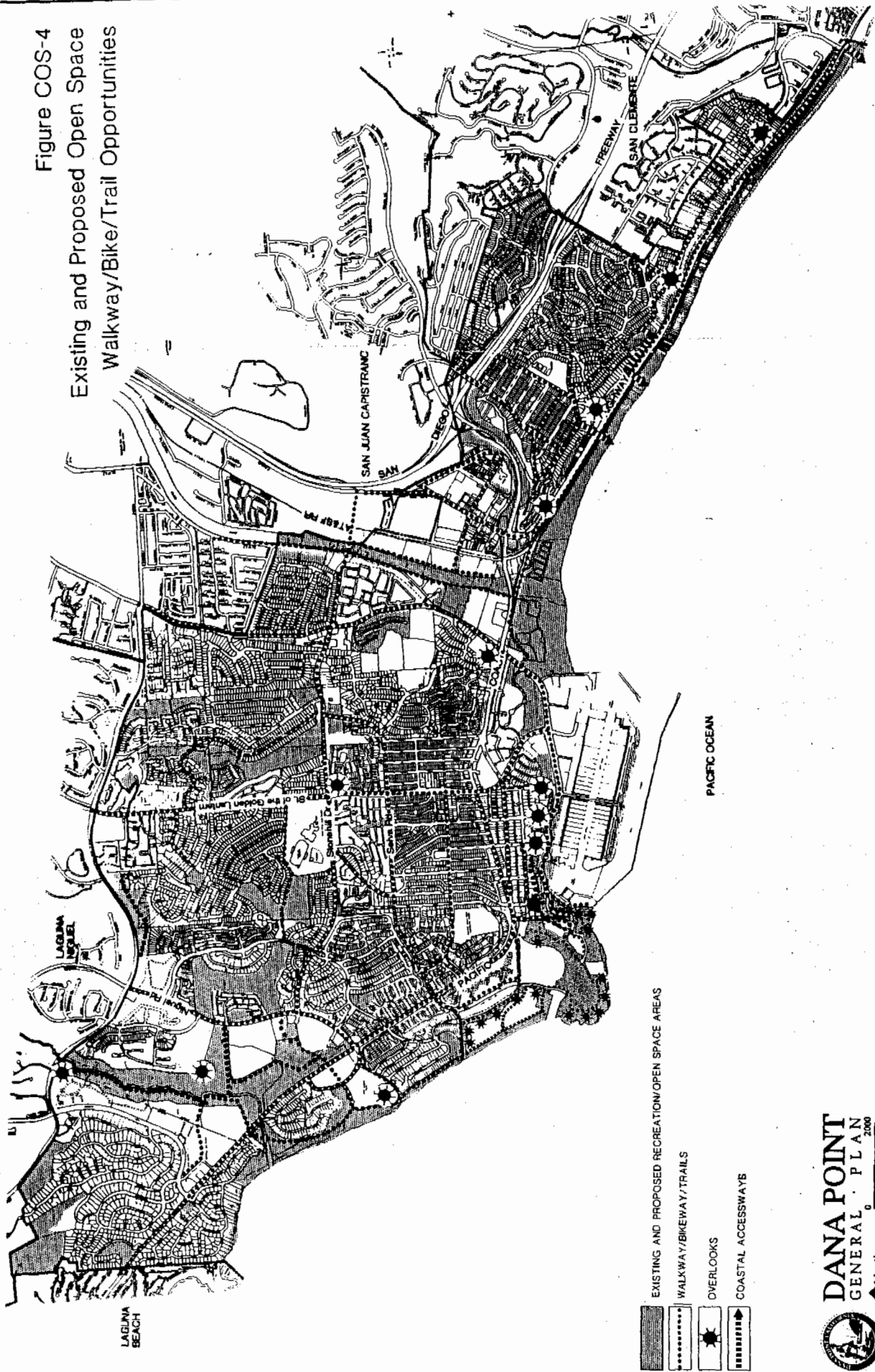


Table COS 4 - Page 32

<u>OTHER RECREATION SPACES:</u>			
Camino del Estrella Overlook	Upgrade of existing facility; no net new acreage	Camino de Estrella	Telescope; benches
Dana Hills Tennis Center	Upgrade of existing facility; no net new acreage	Calle de Tennis	Tennis Courts
Open Space Areas A-E	5.22	Monarch Beach Resort	To be determined
Headlands Conservation Park—Conservation Open Space	27.9 acres	The Dana "Point" promontory area. Falls on either side of existing Marguerita Road.	Preservation and conservation of native species, coastal bluffs and rocky beaches. Public safety fencing and security for biotic resources. Limited public access, signage, bluff top trails and lookouts.
Strand Vista Park—Recreational Open Space	9.9 acres	Seaward of the County Strand Beach parking lot.	Linear park with unobstructed scenic overlooks to and along the ocean per Figure COS-5a, public trails, seating, landscape and hardscape features. Includes the North, Mid-Strand Vista Park Access and South Strand Beach Access.
<ul style="list-style-type: none"> North Strand Beach Access 		Existing stairway from the County Strand Beach parking lot to the beach at the north boundary.	Reconstruct access to provide overlooks, resting points, landscape features. Restroom/showers above the beach. Funicular to provide mechanized beach access assistance.
<ul style="list-style-type: none"> Mid-Strand Vista Park Access 		Runs from approximately the middle of Strand Vista Park to a connection with the Central Strand Beach Access at the intersection of the first cul-de-sac street.	
<ul style="list-style-type: none"> South Strand Beach Access 		Between County Strand Beach parking lot and the existing residential enclave to the south.	Meandering trail to beach, overlooks, public safety fencing, emergency access to beach. Restroom/showers above the beach.

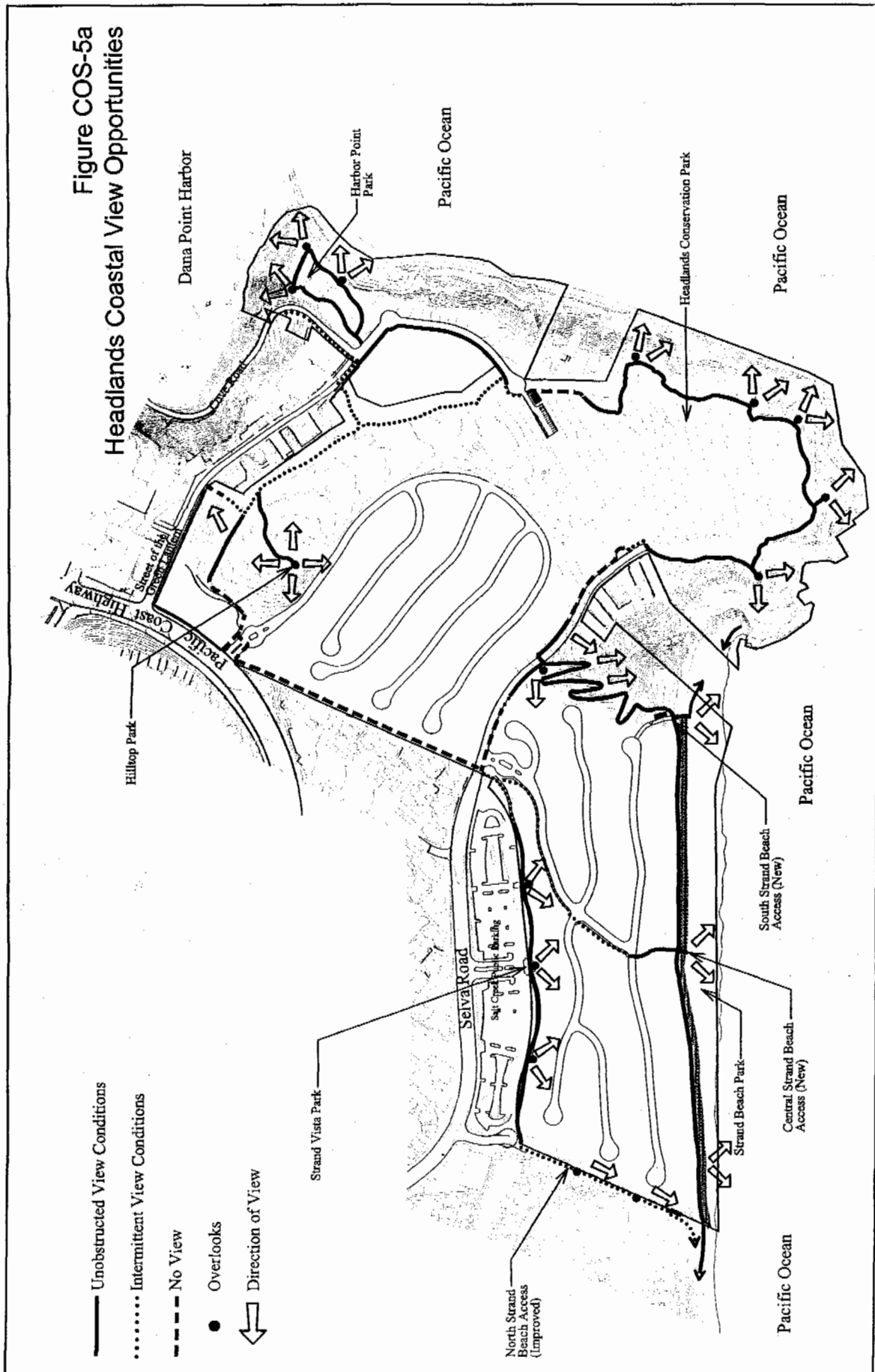
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Figure COS-4
Existing and Proposed Open Space
Walkway/Bike/Trail Opportunities

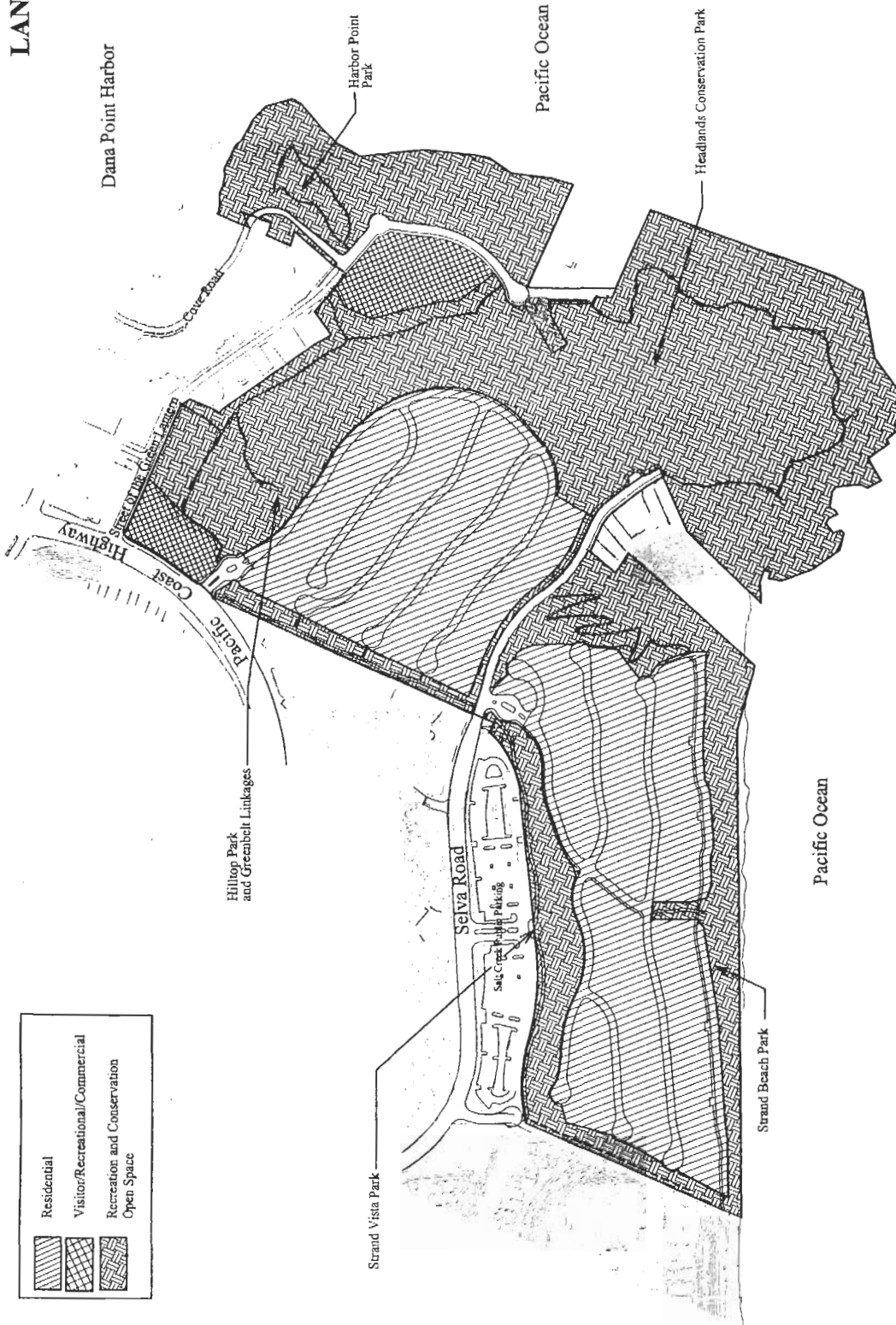


DANA POINT
GENERAL PLAN
2000
North
scale in feet

Figure COS-5a
Headlands Coastal View Opportunities



LAND USE PLAN
FIGURE 3.3.1



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

TABLE 3.4.5

**RECREATION OPEN SPACE AND
CONSERVATION OPEN SPACE DESIGNATIONS**

PLANNING AREA	LAND USE	LOCATION AND DESCRIPTION
Planning Area 1	REC/OS	West of the existing Orange County public parking lot on Selva Road. Consists of at least 9.9 acres, uses include Strand Vista Park, North Strand Beach Access ¹ (Improved), Mid Strand Vista Park Access (New) , Central Strand Beach Access (New), South Strand Beach Access (New), Strand Beach Park Lateral Accessway (New), and as set forth below, a funicular, and open space parking.
<ul style="list-style-type: none"> Strand Vista Park 	REC/OS	Located adjacent to and seaward of the existing Orange County public parking lot. The park connects to Selva Road, and the North, Mid Strand Vista Park , Central and South Beach Access paths, overlooking the ocean from an elevation of 160-feet above the mean sea level, as more fully described in Section 4.4, Parks and Open Space Plan. The park provides coastal access, and direct links to the HDCP integrated public 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-utilized year round.
<ul style="list-style-type: none"> North Strand Beach Access (Improved) 	REC/OS	Including and adjacent to the existing offsite Orange County Strand Beach access. The existing, steep, narrow path shall be improved by incorporating additional land to widen and provide rest and landing areas and coastal view overlooks. If any gates, guardhouses, barriers or other development designed to regulate or restrict public vehicular access are approved for Planning Area 2, a funicular (inclined elevator) shall be built parallel to the North Strand Beach Access and convey passengers from Strand Vista Park to a ramp to the beach. The developer shall also construct new restroom and shower facilities near Strand Beach.
<ul style="list-style-type: none"> Mid Strand Vista Park Access (New) 	REC/OS	Located approximately in the middle of the park, this access leads from the trail located in Strand Vista Park and intercepts the Central Strand Beach Access at the intersection of the first residential cul-de-sac.

4.3 PLANNING AREAS

The project site contains nine planning areas as illustrated on Figure 4.3.1, Land Use Planning Areas. The planning areas provide a combination of recreation and open space parks, conservation open space, visitor/recreation commercial and residential uses. Section 3, Planned Development Zoning District, establishes the maximum level of intensity and development for each planning area. The nine planning areas are more generally described as follows:

Planning Area 1: Strand Vista Park/Public Beach Access (Recreation Open Space).

The Strand Vista Park, 9.9 acres, is located adjacent to and seaward of the existing County public parking lot. The park overlooks the Pacific Ocean from an elevation of approximately 160-feet, providing significant new coastal access and recreation opportunities. The park forms a major component of the integrated trail system designed to link Strand Beach, four additional parks, the open space, and conservation areas. The park plans are detailed in Section 4.4, Park and Open Space Plan.

The North Strand Beach Accessway (improved) will be integrated into the off-site County owned beach access. The existing County stairway is narrow with limited views. The North Strand Beach Access will widen and enhance the stairway, and establish two public view overlooks, providing ocean and coastal views. The developer will construct restroom and shower facilities adjacent to the pathway above Strand Beach.

If gates, guardhouses, barriers or other development designed to regulate or restrict public vehicular access are approved for Planning Area 2, those regulations or restrictions shall only be allowed in conjunction with the construction, operation and maintenance of a public funicular in Planning Area 1, parallel to the North Strand Beach Access, providing mechanized public access from the County beach parking lot to the beach.

~~The Mid-Strand Vista Park Access (New) leads from the trail in approximately the center of the park and connects to the Central Strand Beach Access at the intersection of the first residential cul-de-sac street.~~

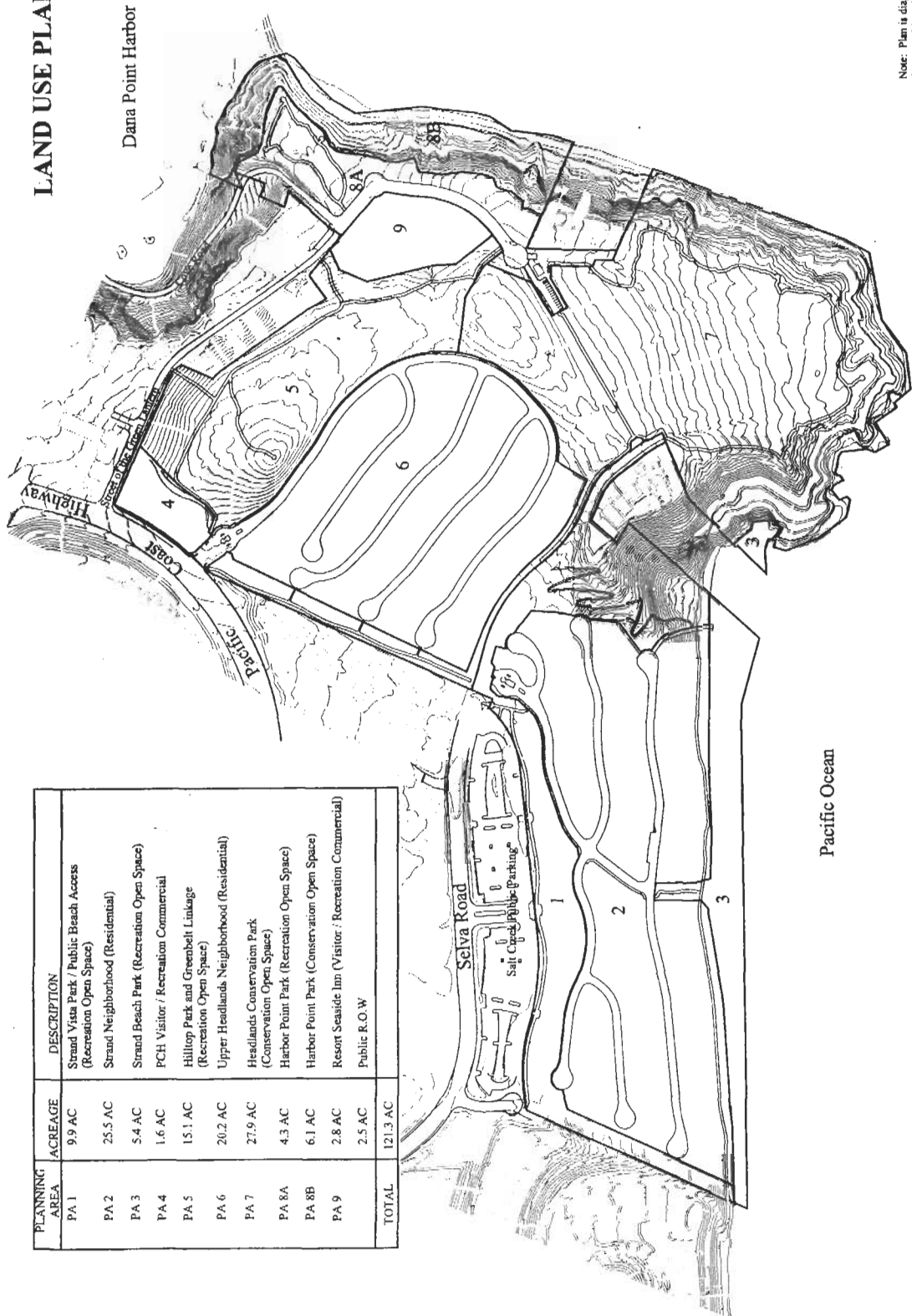
The Central Strand Beach Access (new) creates direct public access from the Strand Vista Park to Strand Beach. This access traverses through the Strand Residential neighborhood in Planning Area 2.

The South Strand Beach Access (new) establishes direct access to the south Strand Beach, opening a significant area of the site fenced-off from public use. The pathway incorporates a public overlook and rest/landing areas, providing unobstructed ocean and coastline views.

Planning Area 2: Strand Neighborhood (Residential)

The 25.7-acre Planning Area 2 allows a maximum 75 single-family homes on single-loaded streets, terraced for views. The homes will be a maximum of two stories. This area formerly contained the 90-unit mobile home park. The community may be gated to control vehicle access provided the mitigation measures outlined below are implemented.

LAND USE PLANNING AREAS FIGURE 4.3.1



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

PARK AND OPEN SPACE

Dana Point Harbor

Legend:

- Public Trail/Access System
 - Public Funicular
 - Offsite Trail Connection
 - Overlooks
 - Visitor/Recreation Facilities
 - Recreation Open Space
 - Conservation Open Space

Map Labels:

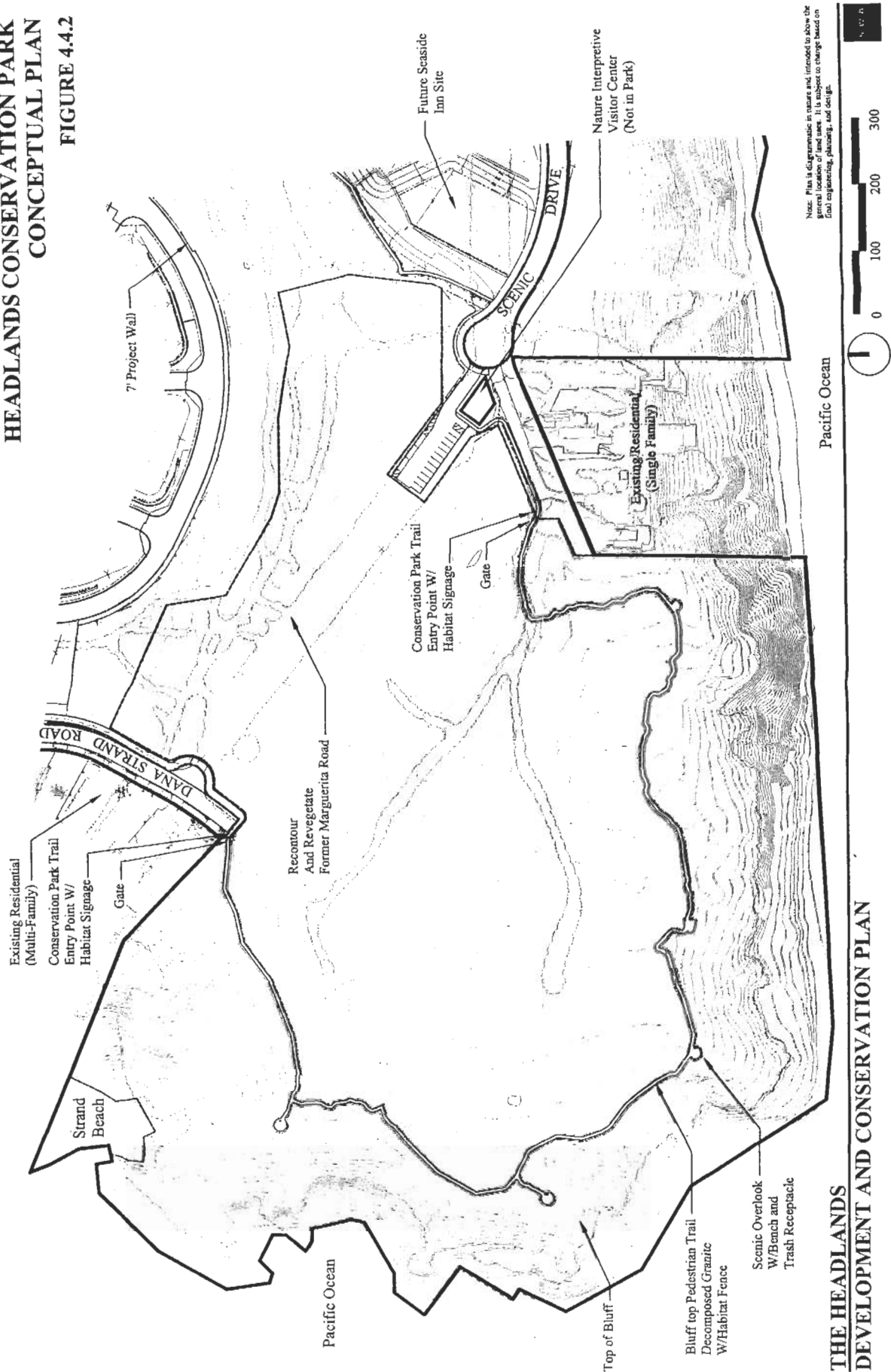
- PCH Commercial
- Highway 101
- Pacific Coast Highway
- Hilltop Park and Greenbelt Linkages
- Beach Access
- Strand Vista Park
- Selva Road
- North Strand Beach Access (Improved)
- Public Funicular
- North Strand Beach Restrooms and Shower
- South Strand Beach Access (New)
- South Strand Beach Restrooms and Shower
- Central Strand Beach Access (New)
- Strand Beach Park
- Shoreline Protection Access (New)
- Existing Residences
- Nature Interpretive Visitor Center
- Existing Residences
- Headlands Conservation Park
- Pacific Ocean

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.



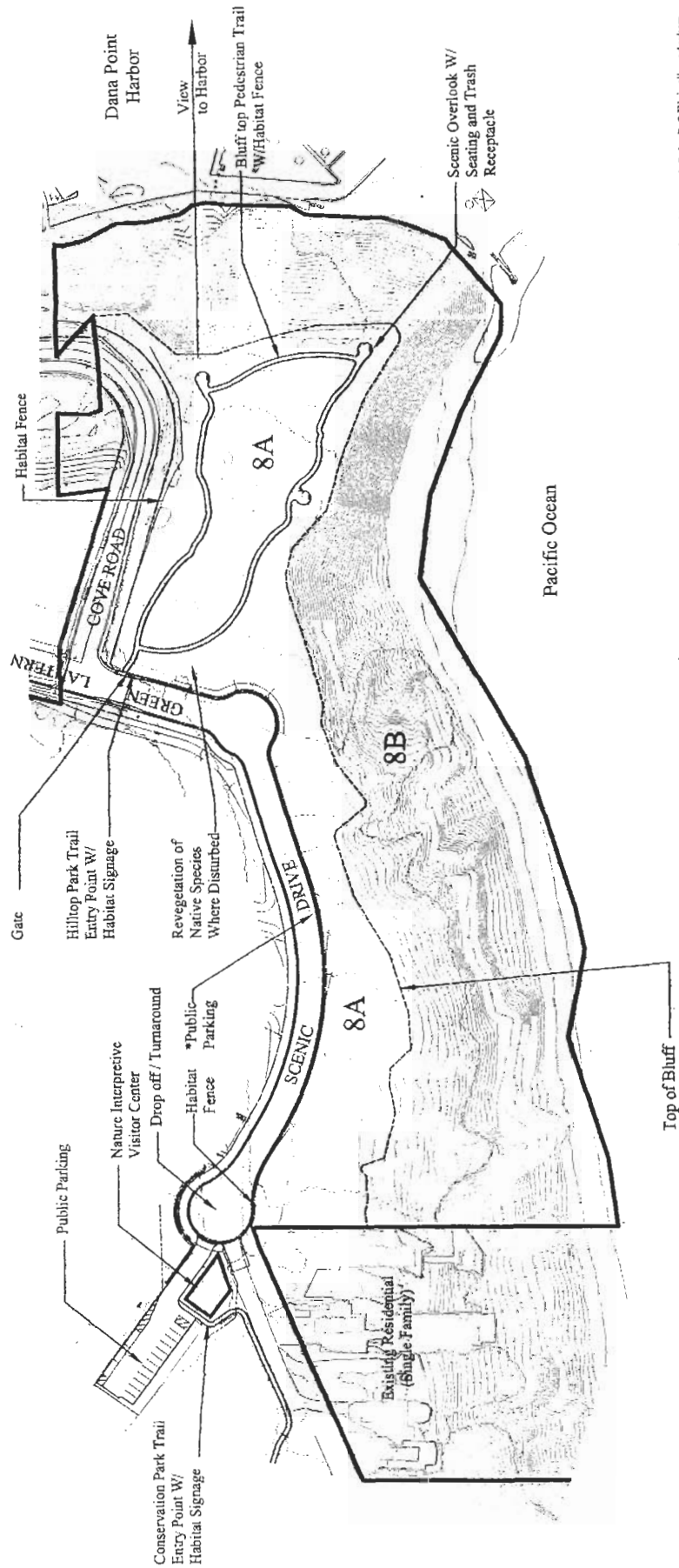
THE HEADLANDS

HEADLANDS CONSERVATION PARK CONCEPTUAL PLAN FIGURE 4.4.2



THE HEADLANDS DEVELOPMENT AND CONSERVATION PLAN

HARBOR POINT PARK CONCEPTUAL PLAN
FIGURE 4.4.8



* Public parking within Seismic Drive R.O.W. is allowed where impacts to ESHA are avoided.

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

1

Construct a new restroom and outdoor shower facility at the base of the stairs immediately above Strand Beach. If gates, guardhouses, barriers or other development designed to regulate or restrict public access are approved for Planning Area 2, those regulations or restrictions shall only be allowed in conjunction with the construction, operation and maintenance of a public funicular (inclined elevator) in Planning Area 1, parallel to the North Strand Beach Access, providing mechanized public access from the County beach parking lot to the beach.

~~Create the Mid Strand Vista Park Access as a new public path leading from the trail in approximately the middle of the park, to the Central Strand Beach Access at the intersection of the first residential cul-de-sac street.~~

Create the Central Strand Beach Access as a new public path to Strand Beach, conveniently located within the Strand Vista Park, near the entry to the Strand Residential neighborhood (Planning Area 2). The entry of the Central Strand Beach Access shall be designed to encourage public use, i.e., architectural elements shall be incorporated into the entry to distinguish it and appropriate signage announcing the presence and encouraging use of the access by the public shall be posted. The Central Strand Beach Access shall provide direct access to Strand Beach, opening a portion of the property currently fenced and restricted from public use.

Construct the South Strand Beach Access to provide additional access to Strand Beach. Create new coastal view opportunities by establishing a public overlook area adjacent to the Selva Road entry, and by integrating rest/landing areas into the "switchback" public access trail. The South Strand Beach Access will provide direct access to the beach, opening a portion of the property currently fenced and restricted from public use. Construction of this walkway implements the coastal access identified in the Certified Dana Point Local Coastal Program. Construct a new restroom and outdoor shower facility above Strand Beach.

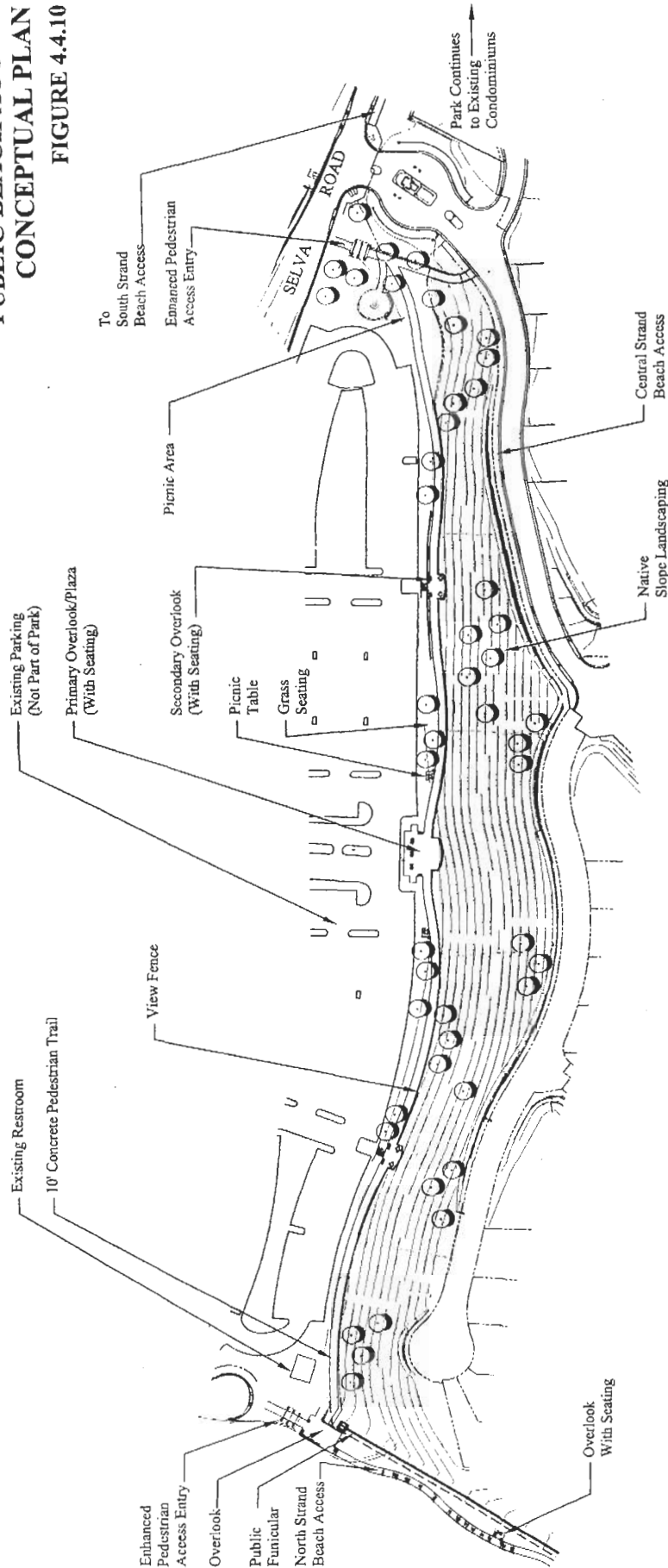
Program

Intensity of Use: Recreation—Moderately high. Multiple recreation activities permitted.

Level of Development: Moderately high. Multiple public trails, overlooks, rest areas, visitor recreation facilities (public restrooms and showers), funicular, public art, coastal access pathways. The facilities shall be sited in locations that avoid the degradation of environmentally sensitive habitat areas located on the Strand bluff face in the vicinity of the South Strand Beach Access.

Proposed Uses: Walking, bicycling, hiking, jogging, picnicking, restroom, and shower facilities. Coastal access and view opportunities.

STRAND VISTA PARK PUBLIC BEACH ACCESS CONCEPTUAL PLAN FIGURE 4.4.10



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

Program Elements: Drought tolerant landscape materials with appropriate transitions to native materials at the south end. Vegetation on the bluff face south of the Strand residential and seaward of the Selva Road extension shall be solely native vegetation appropriate to the habitat type. Pedestrian/bicycle access pathways. Scenic overlooks. Visitor recreational facility. Interpretive informational signage. Public art. Vertical and lateral coastal access. Safety fencing, view fencing.

Site Features

- A meandering 10' wide concrete pedestrian trail shall be constructed within the linear park. As appropriate, the trail shall be grade separated, with approximately a five-foot difference in elevation between the trail and parking lot. See Figure 4.4.11, Strand Vista Park Prototypical Trail Section.
- Pedestrian plazas/overlooks shall consist of enlarged paved areas, appropriate metal view fencing, with a minimum of two benches, a picnic table, and a trash receptacle. If necessary, retaining walls adjacent to the trails or overlooks shall be constructed of appropriate, durable materials that blend with the setting. See Figure 4.4.12, Strand Vista Park Conceptual Overlooks.
- The existing County public beach access shall be improved as the North Strand Beach Access. Two overlooks providing coastal views, rest/landing areas shall be incorporated into the trail design. Benches shall be provided at each overlook. The access shall be enhanced through new landscaping and related amenities to integrate it with Strand Vista Park. See Figure 4.4.13, North Strand Beach Access Cross-Section. If gates, guardhouses, barriers or other development designed to regulate or restrict public access are approved for Planning Area 2, those regulations or restrictions shall only be allowed in conjunction with the construction, operation and maintenance of a public funicular (inclined elevator) in Planning Area 1, parallel to the North Strand Beach Access, providing mechanized public access from the County beach parking lot to the beach. Signs located at the boarding area of the funicular and visible from vehicles traveling on Selva Road shall indicate the hours of operation, any fee, and notice that if the funicular is out of service for more than 3 consecutive scheduled operating days, public vehicular access through Planning Area 2 for passenger drop-off shall be available during the period of service outage.
- Two visitor recreation facilities consisting of new restrooms and shower facilities shall be constructed at the base of the North Strand Beach Access and the South Strand Beach Access, above Strand Beach. As necessary, fencing shall be provided.
- ~~The Mid Strand Vista Park Access shall consist of an 8' wide concrete walkway and shall be constructed in approximately the middle of the park, from the park trail to a connection with the Central Strand Beach Access at the intersection of the first residential cul-de-sac street.~~

4.5 PUBLIC TRAIL/ACCESS PLAN

The Public Trail/Access Plan provides a comprehensive system that accommodates pedestrians, bicycles, and visiting members of the public at various locations. The public trail system is illustrated in Figure 4.5.1, Public Trail/Access Plan. The major components of the system include pedestrian trails, bikeways/pedestrian trails, vertical and lateral coastal access pathways, and overlooks. The Public Trail/Access Plan links the five major parks, the five proposed visitor recreation facilities, and provides numerous coastal access and public view opportunities. The extensive coastal access is further illustrated on Figure 4.5.2, Coastal Access Plan.

A. Public Trail/Access Description

The Public Trail/Access Plan shall include approximately three miles of improved pathways. Pedestrian trails shall be constructed as noted in the applicable section of this HDGP using materials such as decomposed granite. Public safety fencing, where appropriate, may be constructed adjacent to the public trail system. Bikeways will be a combination of Class I and Class III designations. All proposed visitor recreation facilities shall be located in close proximity to the Public Trail Plan. The Public Trail/Access Plan includes the North, ~~Mid-Strand Vista Park~~, Central and South Strand Beach pathways, and the pathway paralleling Strand Beach along the top or landward of the shoreline protective device.

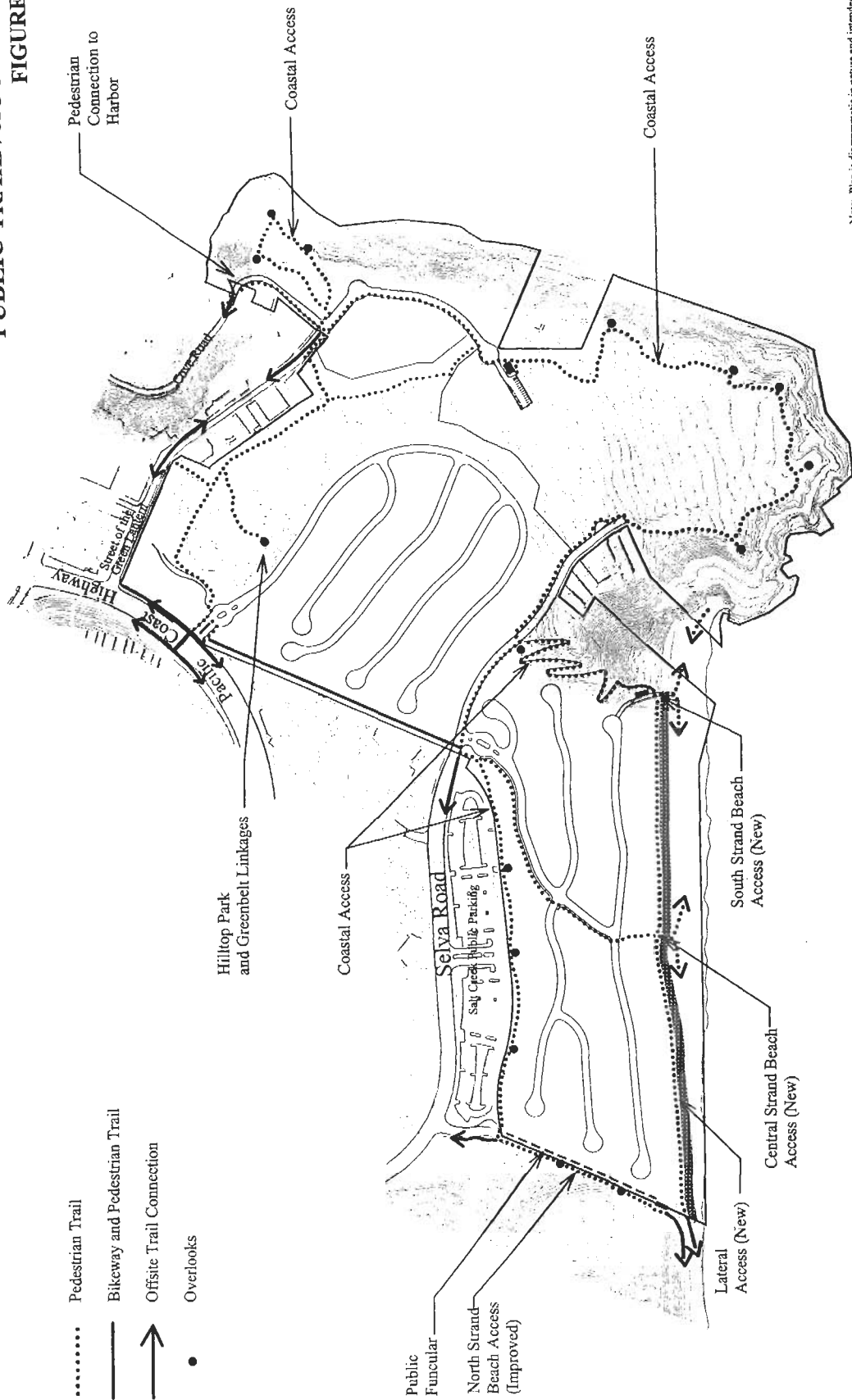
B. Public Access Program Guidelines

Public access program guidelines have been established for each of the five public parks. The guidelines complement the park design criteria set forth in Section 4.4, Parks and Open Space Plan. Tables 4.5.1 to 4.5.5, which follow, outline the public access program guidelines for each.

C. Coastal View Opportunities

The Public Trail/Access Plan also establishes a number of dramatic public coastal view opportunities. The plan does so by locating trails and overlooks on vantage points and close to the coastline. Figure 4.5.3, Coastal View Opportunities, highlights those areas that shall establish permanent public coastal views and scenic overlooks.

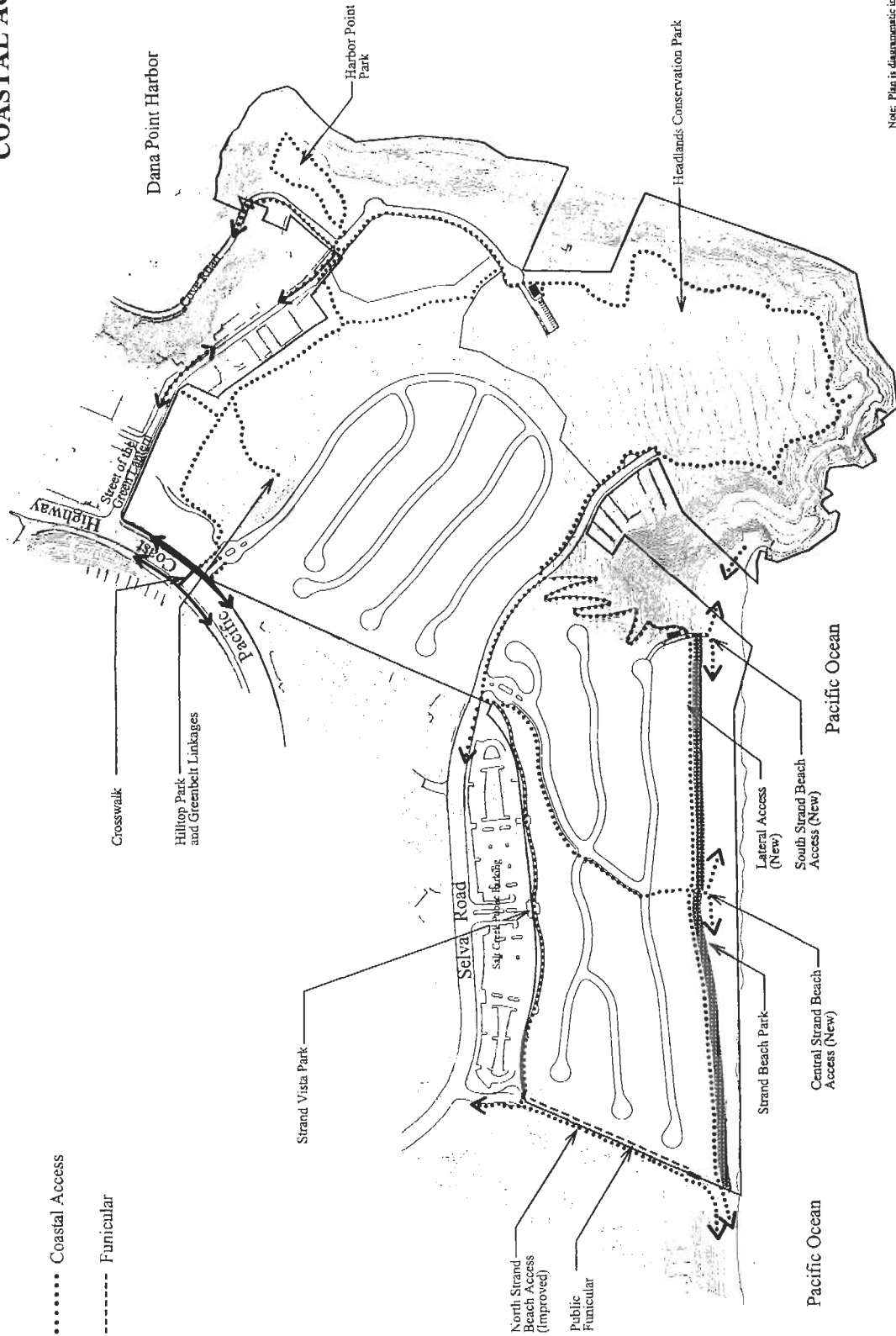
PUBLIC TRAIL / ACCESS PLAN
FIGURE 4.5.1



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

THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN

COASTAL ACCESS PLAN
FIGURE 4.5.2

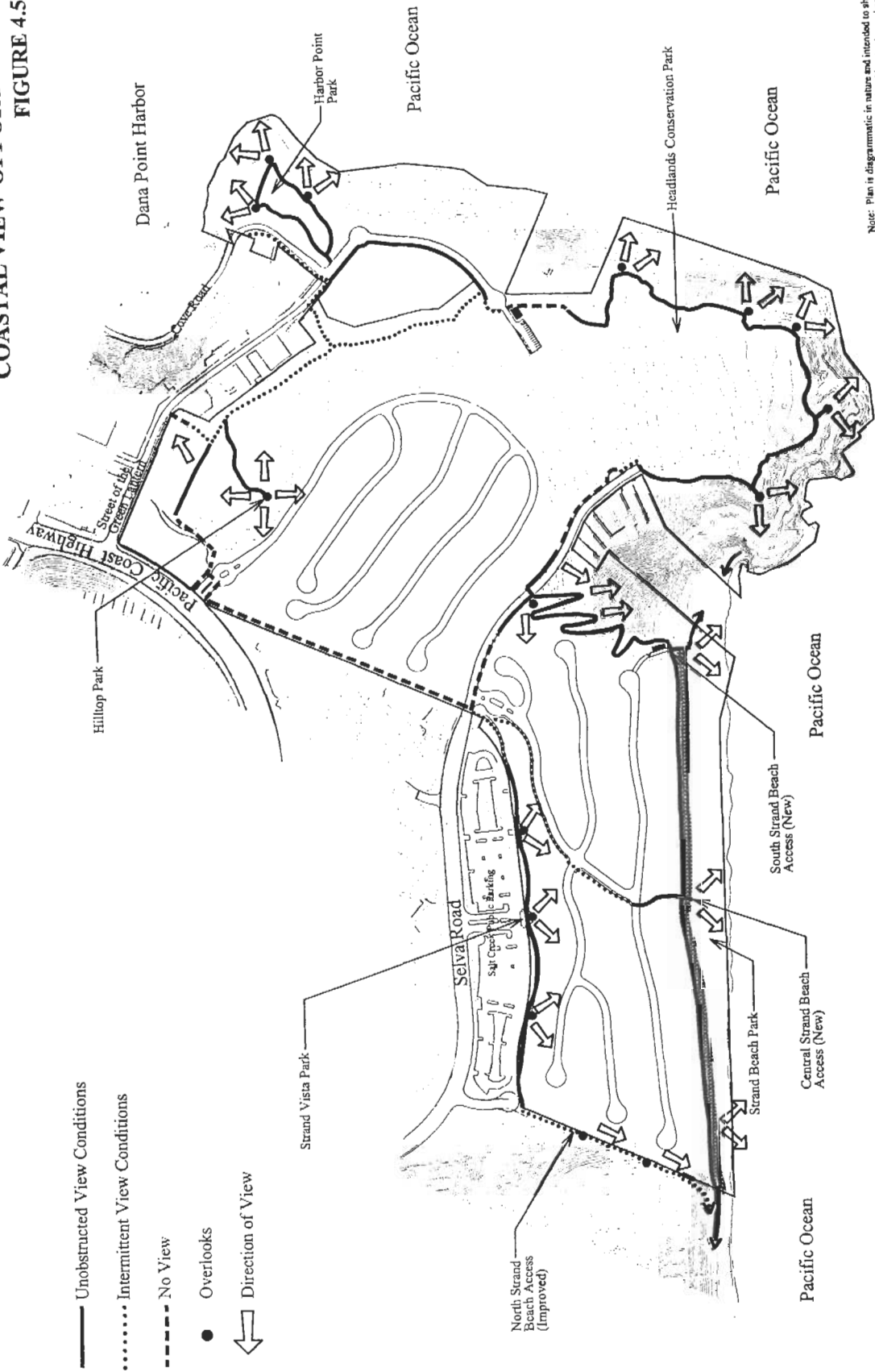


Note: Plan is diagrammatic in nature and intended to show the general location of land uses. It is subject to change based on final engineering, planning, and design.



THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN

COASTAL VIEW OPPORTUNITIES
FIGURE 4.5.3



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.



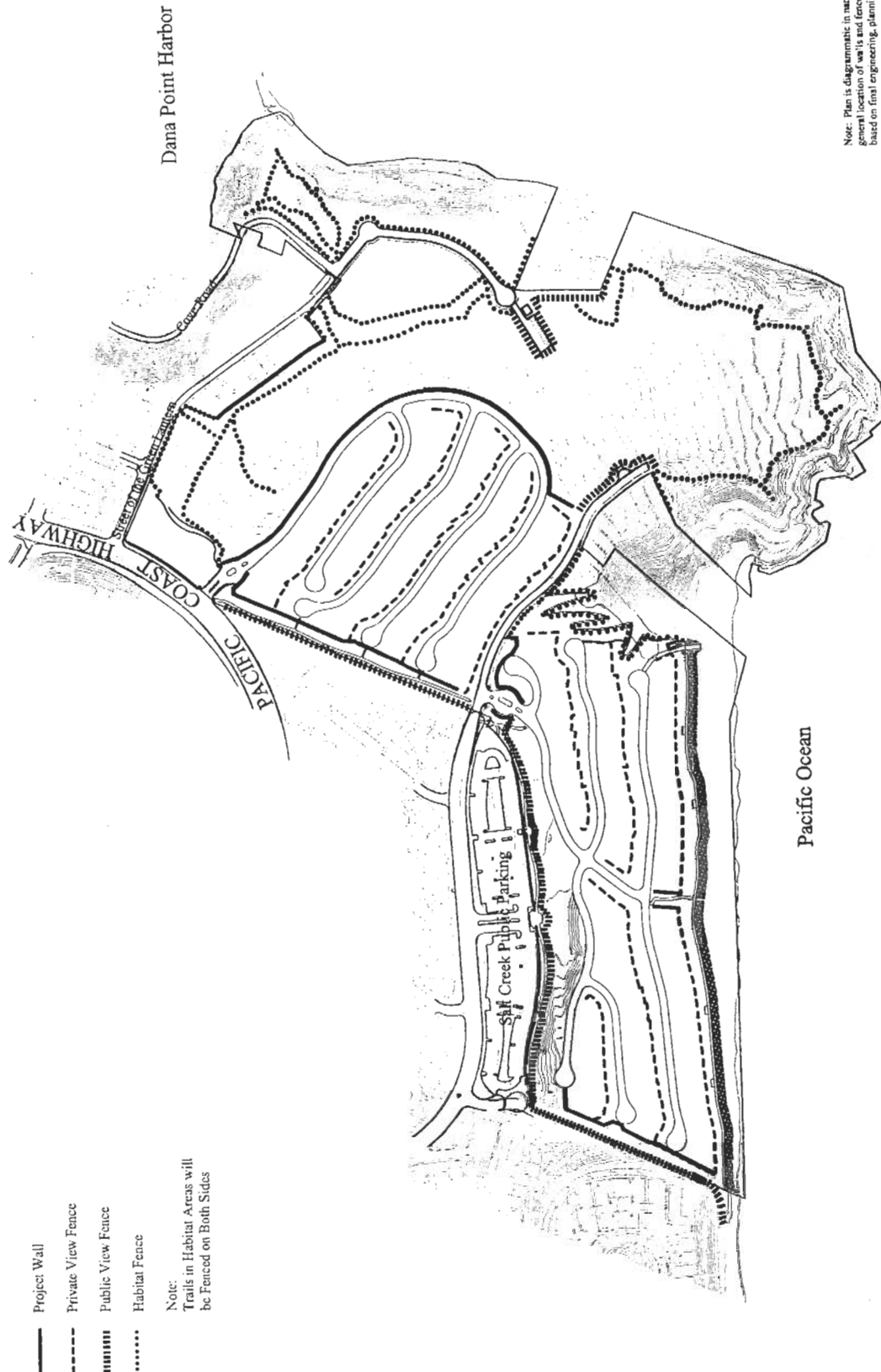
THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN

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

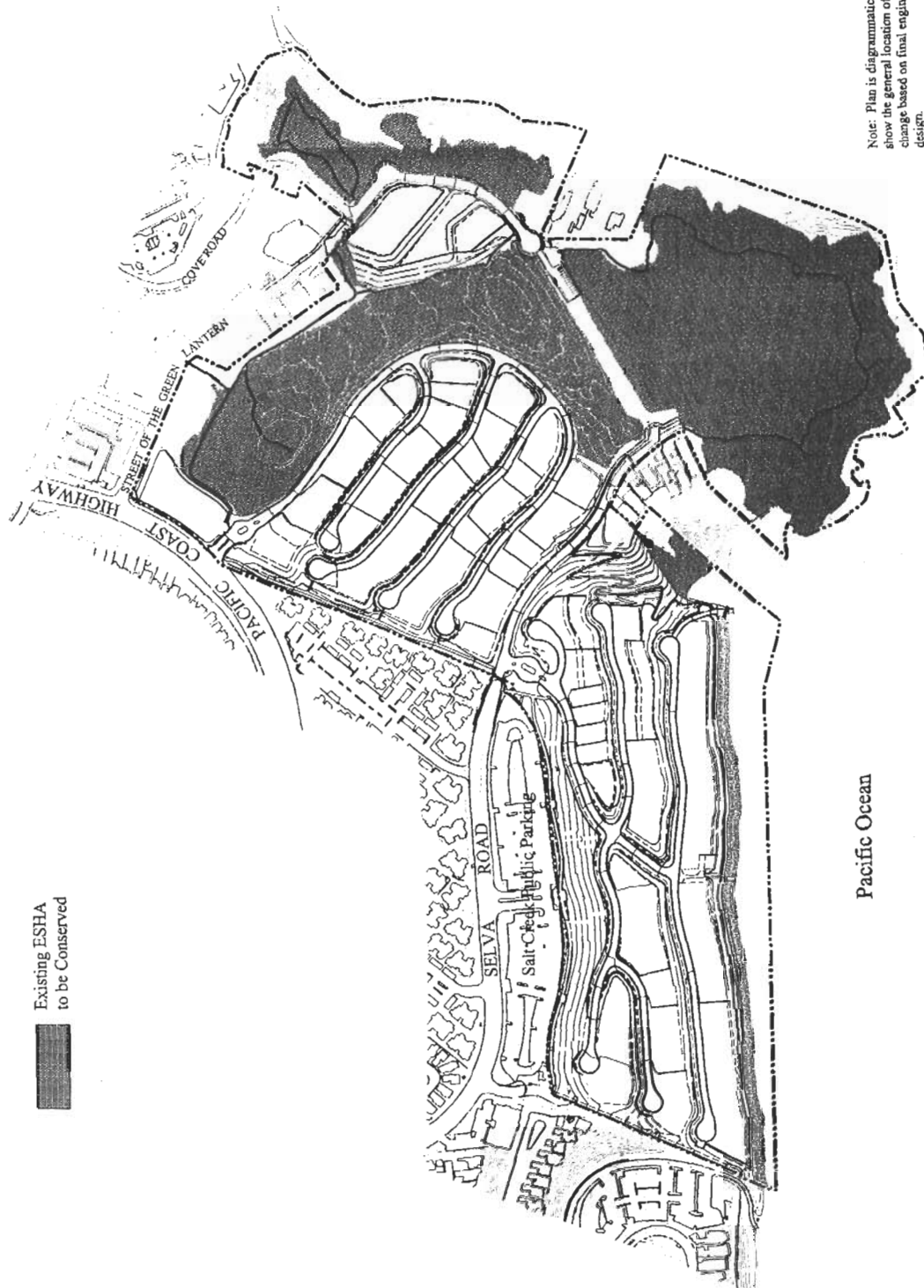


1. Public and coastal access shall be established by a series of public trails and overlooks west of the existing County parking lot, connecting to the Public Trail system and Strand Beach as established in the HDCP
2. The public trails and overlooks in the Strand Vista Park shall be open to the public 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 <u>four</u> 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.

CONCEPTUAL WALL AND FENCING PLAN
FIGURE 4.12.6



EXISTING ESHA TO BE CONSERVED
FIGURE 4.13.1



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

THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN

TABLE 5.1

COASTAL PUBLIC ACCESS POLICIES SUMMARY

Coastal Act Policies	Implementation Method of the HDCP
<p>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. Coastal Act § 30210.</p>	<p>The HDCP's public access program provides for the dedication or conveyance of 68.5 acres of public open space, a majority of which borders the coastal edge or shoreline. Access and recreational opportunities include three miles of public trails, five public parks, five proposed public visitor recreational facilities, and 23 individual plan components related to coastal access. Included among these components are three beach access paths, emergency vehicle access to Strand Beach, scenic overlooks, informational kiosks, picnic and resting facilities, coastal view areas, public monuments, public parking, bicycle storage facilities, coastal bluff trails, visitor recreational facilities, informational and directional signage, public art, public infrastructure, and an integrated greenbelt and buffer system. The integrated public trail system maximizes public access to numerous coastal areas, currently unavailable to the public including the entire coastal bluff area that stretches nearly a mile in length. Fencing and signage will provide, as necessary, public safety and protect sensitive resources.</p>
<p>Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Coastal Act § 30211.</p>	<p>The project will not interfere with the public's right of access. The privately owned 5.4 acre Strand Beach will be offered for dedication to the County of Orange to maximize public access to coastal resources as well as to the adjacent Salt Creek County Beach. If the County doesn't accept the offer, Strand Beach will be dedicated to the City of Dana Point or other appropriate governmental agency. The existing, off-site accessway to Strand Beach (North Strand Beach access) will be rebuilt to add scenic overlooks and public restrooms. Three <u>Two</u> additional pedestrian accessways (Central Strand Beach Access, Mid Strand Vista Park and South Strand Beach Access), and a public funicular (inclined elevator) to the Strand Beach Park will be provided. Currently, no public access to the coastal bluff top occurs onsite. The project 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.</p>
<p>Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the</p>	<p>The HDCP Circulation Plan consists of an on-site circulation system that provides public access, including numerous onsite pedestrian and bicycle access points, to the shoreline from the nearest public</p>



Stantec

December 8, 2006

Headlands Reserve, LLC
24849 Del Prado Avenue
Dana Point CA 92629

Dear Sanford Edward:

Reference: Dana Point Headlands - Central Stairs and Spur Access

As requested by the City of Dana Point, I have looked into the possibility of replacing the MSE walls that support the central stair spur access with a conventional wall. The walls are needed to build the approximate 120 foot access spur that ties into the larger, approximate 1,200 foot Central Strand Accessway. This feasibility analysis is limited to the Central Strand "spur" section, which bisects the manufactured 2:1 slope on the eastern edge of the property. This analysis does not pertain to the larger Central Strand Accessway, which is not effected by the below noted safety issues. In conversations with both Scott Kerwin, project geologist, and Thomas Fischetti, project structural engineer, construction of a conventional structural wall to support the Access Spur does not appear to be a feasible alternative for this location.

The biggest obstacle is the complexity of the wall. The maximum exposed height of the wall would be approximately 24 feet, which is considerably higher than the largest free standing wall height of 7 feet. Based on design parameters that have been used for other walls on the site, Thomas estimates that the footing for this wall would be 22 to 24 feet wide, and 2 to 3 feet thick. Even at that size, there would be safety concerns related to rotation of the wall, given the sloping surcharge, and the nature of the existing soils behind the remedial excavation. As you know, the existing soils behind the remedial excavation are on property owned by the County of Orange, beneath a 32-year old public parking lot.

Given the above noted safety concerns associated with a conventional wall, another alternative would be to look at a tie-back wall, similar to what is proposed for the lift station. The difficulty here is that the permanent tiebacks need to be long enough to be founded in competent material behind the expected failure plane. As evidenced by the surface cracking in the Orange County public parking lot, this would likely require tie-backs that are several hundred feet long, and extend well off site. Again, this would pose significant safety issues, as the ultimate tie-back area would be in those very County lands that have exhibited cracks and the potential for failures in the past.

December 8, 2006

Page 2 of 2

Reference: Dana Point Headlands - Central Stairs

Another important safety factor is the timing it would take to implement any alternative design strategy. Scott Kerwin has mentioned that he is concerned with the amount of time that the remedial slopes on the eastern portion of the property are exposed and the effect on the temporary stability of that slope. According to Kerwin, a prolonged exposure will result in a decreased stability in an area where the developer, Headlands Reserve LLL, has already spent in excess of \$7,000,000 implementing additional remediation measures associated with stabilizing this portion of the property, i.e., the 800 foot eastern shoring wall. Based on the above conditions and accompanying factors, I feel that redesigning this location to replace the MSE wall with a conventional retaining wall at this point in the design/construction process is not a feasible alternative.

If you have any questions concerning this information, please let me know.

Sincerely,

STANTEC CONSULTING INC.



Paul S. Carey, PE
Sr. Project Manager
Tel: (909) 390-8880
Fax: (909) 390-8885
paul.carey@stantec.com

- c. Scott Kerwin - AMEC
- Thomas Fischetti - Noble Consultants
- Carver Chiu - Stantec
- Douglas Chotkevys, City Manager
- Brad Folwer, Public Works Director

tkc z:\headlands\central stair letter.doc



November 15, 2006
Job No. 5-212-400100

Headlands Reserve LLC
24849 Del Prado Avenue
Dana Point, California 92629

Attention: Mr. Kevin Darnall

**Re: Construction Constraints And Associated Risk
Proposed Stairway/Wall Construction
Central Strand Accessway Stairway Spur
South-Central Strand Area
Headlands Project
Dana Point, California**

1 INTRODUCTION

As requested, AMEC Earth & Environmental, Inc. (AMEC) prepared this brief summary regarding the constraints and level of risk associated with the proposed stairway/wall construction required to install a proposed stairway spur that will provide a secondary access to the primary Central Strand Accessway. The proposed stairway spur is integrated with a system of Mechanically Stabilized Earth (MSE) walls, as shown on the final shop drawings/design plans for "MSE Retaining Wall A" that were prepared by Terracon and are dated August 9, 2006. Reference is also made to AMEC's reports dated August 18, 2006, August 28, 2006 and September 7, 2006 that provide supplemental geotechnical recommendations in the subject backcut/temporary slope area to address ground deformation and cracking in the adjoining Orange County parking lot.

2 BACKCUT/TEMPORARY SLOPE CONDITIONS

The existing backcut in the subject area consists of a temporary shoring wall along the property line with an exposed vertical height of approximately 25 feet and a descending 2:1 (horizontal:vertical) cut slope with a height of about 65 feet to the base of the proposed stairway/wall construction. The overall height of the temporary slope and shoring wall during stairway/wall construction will, therefore, be on the order of about 90 feet. The subject construction area is located below the northerly limits of a long arcuate crack in the pavement of the adjoining Orange County parking lot that was first observed in August 2006 during previous excavation of the 2:1 backcut in that area (see AMEC, August 18, 2006). Subsequent construction of the portion of the compacted fill beneath the proposed stairway/wall area and installation of recommended concrete insert reinforcement in the slope will provide adequate stability (i.e., a minimum Factor of Safety of 1.2) for the existing temporary 2:1 backcut and shoring wall slope (see AMEC, August 18, 2006). The backcut configuration, shoring wall, observed cracks in the parking lot and proposed stairway/wall construction area are shown on an excerpt of AMEC's Geotechnical Design Plan that is attached following the text.

AMEC Earth & Environmental, Inc.
1290 North Hancock Street, Suite 102
Anaheim, California
USA 92807-1924
Tel (714) 779-2591
Fax (714) 779-8377

www.amec.com

STANTEC-AMEC LTRS

**Exhibit 6
Page 3 of 5
DPT-MAJ-1-07**

3 PROPOSED STAIRWAY/WALL CONSTRUCTION

The proposed stairway must be integrated with a relatively high/large MSE wall system because of spatial constraints along the relatively steep landward or easterly portion of the Strand area that lies adjacent to the Orange County public parking lot. The proposed stairway requires construction of two essentially parallel wall segments with heights of about 25 feet and an intervening stairwell that is about 7 feet wide. The MSE walls are supported by geogrid reinforcement that extends in horizontal layers behind a masonry block wall face. The height of the walls and configuration of the stairway in the subject area requires horizontal geogrid layers that extend 43.5 feet behind the inside wall face. When these grid lengths are combined with the width of the intervening stairwell and outside wall face, a level construction area extending more than 50 feet behind the outside wall face will be required to construct the stairway. AMEC's plots of the grid lengths from Terracon's final shop drawings in the stairway area indicate that this construction area will require excavation of an approximately 18-foot high vertical face in the toe area of the temporary backcut. A vertical cut of this height, or an oversteepened cut slope with a much greater height at the toe of the backcut, would not be locally stable and would also result in a Factor of Safety for the overall slope that is significantly less than the previously calculated minimum of 1.2. Similar construction/stability constraints would be applicable to the proposed stairway/wall construction at any location across the south-central portion of the Strand area.

The upper portion of the MSE wall system must also be integrated with a system of conventional retaining walls to form the stairwell and stairway. Integration of the stairway and conventional retaining wall structures with the MSE walls, and the associated construction sequencing, will be difficult to implement from a safety perspective for reasons briefly outlined below. Construction of the proposed stairway will be a relatively complex process and will require close cooperation and sequencing of at least two separate contractors (i.e., the MSE wall contractor and another contractor to incrementally set forms, install reinforcing steel and pour concrete for the stairway and conventional retaining walls). Similar construction efforts completed to date for the project suggest that construction of the stairway/wall area, even if feasible, would require several additional months to complete.

4 RISK ASSOCIATED WITH PROPOSED STAIRWAY/WALL CONSTRUCTION

As briefly discussed above, the height and steepness of the slot-cut excavation required to accommodate the planned geogrid lengths will produce a potentially unstable configuration. This is particularly critical from a safety standpoint because of the type of hand work that is required to install the geogrid reinforcement and the associated drainage systems at the back of the reinforced backfill zone. The extended period of time that would be required to complete the stairway/wall construction also significantly increases the risk of potential problems associated with instability/deformation of the temporary excavation/backcut in this area.

5 CONCLUSIONS AND CLOSURE

On the basis of AMEC's review, construction of the proposed stairway/wall system to provide a secondary access in the South-Central Strand area will require an unacceptable level of risk associated with potential instability/deformation of the required temporary slope/excavations.



Elimination of the stairway spur will substantially reduce the risk associated with completion of this portion of the construction and specific details of an MSE wall-only slope design for this area are currently being prepared. Implementation of an MSE wall-only slope design will not affect the configuration of the primary Central Strand Accessway and will allow construction in this area to be completed in a much safer, efficient and timely manner.

This report has not been prepared for use by parties other than Headlands Reserve LLC or their designated representatives, or for projects other than that described in the preceding text. This document may not contain sufficient information for other parties or other purposes. This report has been prepared in accordance with generally accepted geotechnical practices and makes no other warranties, either express or implied, as to the professional advice or data included.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Douglas Dahncke", written in a cursive style.

Douglas Dahncke
Senior Engineer
DD/STK/dc

A handwritten signature in dark ink, appearing to read "S.T. Kerwin", written in a cursive style.

Scott T. Kerwin
Associate Engineering Geologist

Encl.: Geotechnical Design Plan Excerpt

c: Mr. Kevin Darnall, Addressee (6)



November 13, 2007

Mr. Karl Schwing
Supervisor, Regulation & Planning
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, Ca 90802

RECEIVED
South Coast Region
NOV 14 2007
CALIFORNIA
COASTAL COMMISSION

RE: LOCAL COASTAL AMENDMENT LCPA07-02

Dear Mr. Schwing:

The City is in receipt of your October 18, 2007 letter which requested additional materials and/or information be provided for the referenced application. In response to your request, the following materials are enclosed: Two copies of the AMEC reports dated August 18, 2006, August 28, 2006 and September 7, 2006 and the Terracon plan for "MSE Wall A", dated August 9, 2006. Relative to the requested diagram to accompany AMEC's letter of November 15, 2006, please refer to Section A-6.6 as shown on Plate II of the enclosed August 18, 2007 AMEC report.

Two additional Mid-Strand Accessway alternative alignments prepared by Stantec Engineering are enclosed. Alternative "A" was designed as an ADA compliant ramp similar to the beach access ramp at the Montage Hotel in Laguna Beach. The resulting ramp is over 1,300 feet in length and like the two alternative designs previously addressed in Stantec's letter of December 8, 2006, the primary design constraint is the inherent conflict with the 25 foot high MSE wall at E Street and the associated geogrid reinforcement for the wall. To avoid the MSE wall conflict, the Alternative "B" alignment was designed as a combination stair and ramp to bypass the MSE wall. As shown on Alternative "B", although the stair and ramp avoids the MSE wall and is shorter in length than Alternative "A", it exits onto E Street only about 220 feet from the Central Strand Beach Accessway entrance at Selva Road. This design also requires an undesirable 520-foot long retaining wall in order to build the ramp into the slope. Thus, from the City's perspective, this alternative offers no meaningfully increased public access than that already provided by the Central Strand Beach Accessway, which remains in place.

Finally, as requested in your letter of October 18, 2007, a revised mailing list is enclosed for the known interested parties. In conjunction with this response letter we would like to schedule a meeting with staff, the property owner and City personnel at your earliest convenience. Erica Demkowicz, Senior Planner will follow up with you to make arrangements for the meeting. Please feel free to contact Erica Demkowicz at (949) 248-3588 or myself at (949) 248-3567 should you have any questions.

Sincerely,


Kyle Butterwick
Director of Community Development

Enclosure(s)

C: Doug Chotkevys, City Manager
Erica H. Demkowicz, AICP Senior Planner
Kevin Darnall, Headlands Reserve LLC

Harboring the Good Life

ALTERNATIVE "A"

5% ADA COMPLIANT RAMP
RAMP LENGTH = 1310 L.F.

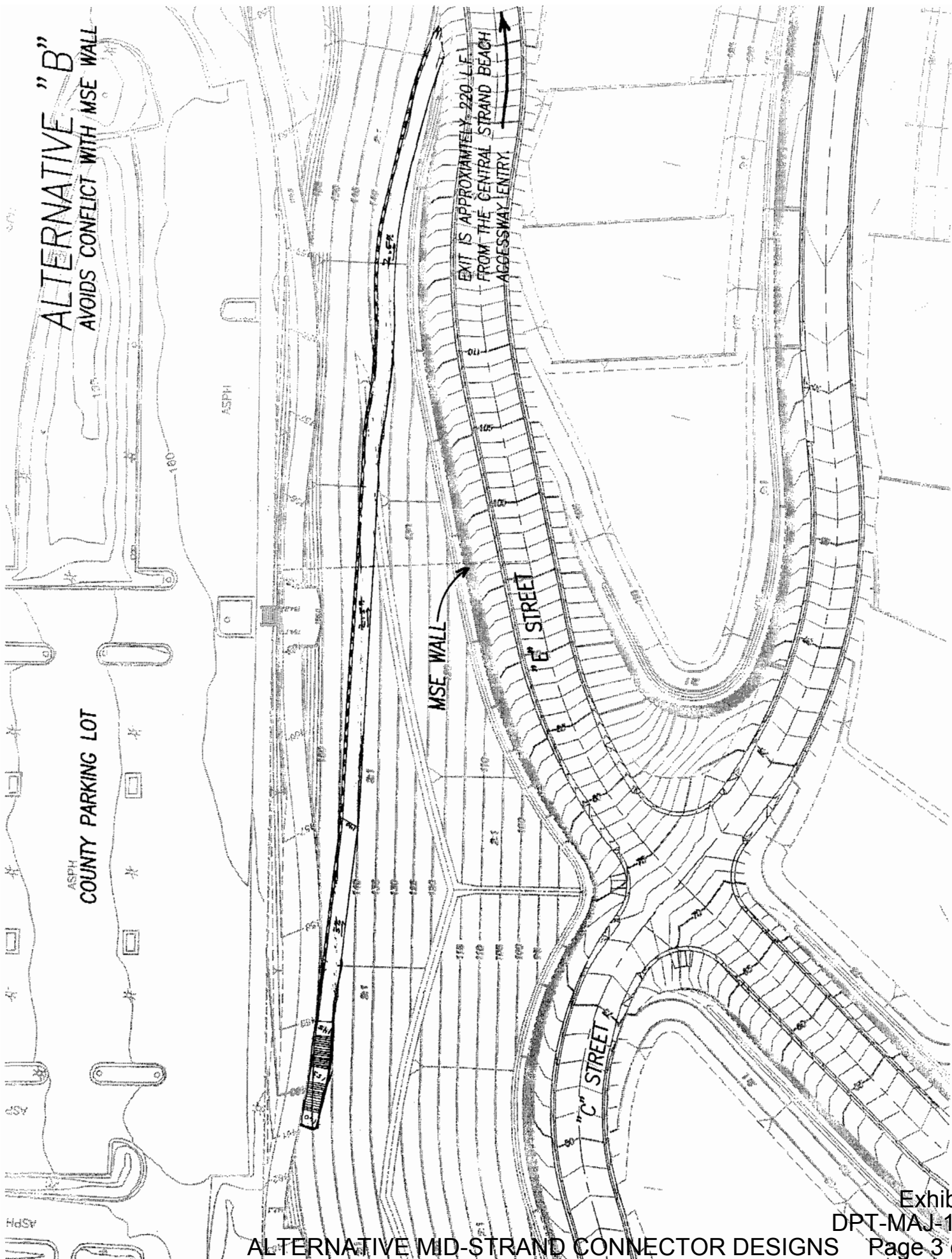
COUNTY PARKING LOT

MSE WALL

OCEANFRONT LANE

BEACH VIEW AVENUE

ALTERNATIVE "B"
AVOIDS CONFLICT WITH MSE WALL





HEADLANDS RESERVE LLC

April 3, 2008

Mr. Doug Chotkevys
City Manager
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

RE: Comparative Costs Analysis for Public Improvements

Dear Doug,

We are writing to clarify the relative costs associated with the Mid-Strand Vista Park Assess and the proposed Public Trail extension and Environmental Designs associated with the Nature Interpretive Center. As we've pointed out, at the City public hearing Brad Fowler, Director of Public Works, provided the City Council with a seat of the pants cost estimate for the Mid-Strand Vista Park of \$1,000,000 to \$2,000,000.

For the record, the Mid-Strand Vista Park stairs are approximately 140 feet. Mr. Fowler's estimate is grossly overstated. For example, the cost for the 2,100 ft. revetment, which included an 18' x 12' wall of 2-6 ton boulders, an 8' wide concrete public path (both of which extended the entire 2,100 linear foot length), and a 40' concrete stairway was \$1,258,000.

Although the Mid-Strand stairs later proved to be infeasible to build, our cost estimates were significantly lower. We have included an estimate we received from Orange Coast Masonry Acquisition Corporation, dated July 24, 2007, in the amount of \$247,000. It is important to note that the estimate is qualified by the assumption that the engineered design was feasible to construct.

We have also included two estimates for the proposed Public Trail extension and the Environmental Design changes to the Nature Interpretive Center that your staff requested. Nature Image estimated the cost to construct the proposed Public Trails at \$129,453. R.J. Schwinn Associates, Inc. estimated the cost of the "green" design upgrades at \$88,097.

In conclusion, the cost of the Mid-Strand stairs of \$247,000 is demonstrably lower than the estimate provided to the City Council, and it compares very favorably with the \$217,550 total cost of the proposed public amenities that would otherwise not be built.

RECEIVED

2008 APR -3 P 3:30

CITY OF DANA POINT

RECEIVED
South Coast Region

APR 8 - 2008

CALIFORNIA
COASTAL COMMISSION

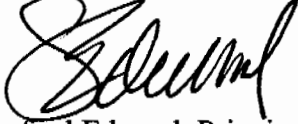
Mr. Doug Chotkevys
April 3, 2008
Page 2

We trust that the City has confirmed with the Coastal Commission staff that the Headlands LCP amendment is the top priority moving forward. This seems fair and equitable given that we are very close to actually delivering these public amenities that were approved in January 2004. We look forward to attending the Coastal Commission meeting in May.

Please give us a call if you have any questions related to this issue.

Sincerely,

Headlands Reserve LLC

A handwritten signature in black ink, appearing to read "Sanford Edward", written over the printed name.

Sanford Edward, Principal

SE/db
Enclosures



natures image

20472 Crescent Bay Dr. Suite 102
Lake Forest, CA 92630
Phone: (949) 454-1225
Fax: (949) 454-1215

March 20, 2008

Company: Headlands Reserve LLC
ATTN: Kevin Darnell

RE: Dana Point Headlands Trail Extension & Fencing

PROPOSAL

Task	Unit	Qty	Unit Cost	Total
DG Trail and Fence Installation	LS	1	\$129,453.09	\$129,453.09
				Total: \$129,453.09

(Please See Attached Breakdown)

Inclusions: Mobilization, trail clearing/grading, installation of Geo-textile liner, redwood headers/stakes, 2" X 4' wide Class 2 aggregate base, 2" X 4' wide layer of stabilized DG, compaction of DG trail surface, four wire fence along trail sides (epoxy primed & painted forest green), and two gates.

Exclusions: Additional mobilizations, grading, biological monitoring or reporting, electrical work, erosion control or repair of erosion control, jute netting, coir fabric, straw wattles, BMP installation and/or maintenance, photos, plant purchase, plant guarantee, plant protection, rip rap, ripping, retention, reseeding, seed germination guarantee, silt fencing, site protection, straw blowing, surveying, flagging of boundaries, soil samples or testing, traffic control, cost of water, water meter, repair due to acts of God, war, vandalism or neglect/damage by Owner or others, permits, bonds, waivers of subrogation and additional insurance endorsements. Any items not specifically mentioned in the Inclusions above.

Notes: Assume easy vehicle/equipment access. Assume work starting in May 2008, if not bid price will increase. Natures Image, Inc. is a non-union company. Items not specified in this bid are neither implied nor included. Need fully executed contract 7 days prior to start of work. This proposal shall become an addendum to any contract with the terms set forth in this addendum which shall supersede any conflicting terms in any other contract documents.

Bid Price: Good for 30 days

Terms: Net 30 days

Thank you for the opportunity to bid.
Sincerely,
NATURES IMAGE, INC.

Daniel Slinger
Estimator

Client Signature: _____
Date: _____

Cost-Comparison

Exhibit 8
DPT-MAJ-1-07
Page 3 of 8

Dana Point Headlands Trail Extension & Fencing

<u>Description</u>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total Cost</u>
Mobilization	1	LS	\$ 5,160.00	\$ 5,160.00
Clearing/Disposal	825	LF	\$ 3.34	\$ 2,755.50
Level/Export	825	LF	\$ 2.10	\$ 1,732.50
Installation of Trail Headers	825	LF	\$ 8.25	\$ 6,806.25
Geotextile Liner	825	LF	\$ 7.82	\$ 6,451.50
DG/Aggregate Base Installation	825	LF	\$ 26.60	\$ 21,945.00
Compaction	825	LF	\$ 2.00	\$ 1,650.00
48" Fence Installation & Paint	1650	LF	\$ 28.48	\$ 46,996.95
Gates	2	EA	\$ 325.00	\$ 650.00

Subtotal	\$ 94,147.70
Prevailing Wage Extra	\$ 23,536.93
Total	\$ 117,684.63
Contingency (10%)	\$ 11,768.46
Project Total	\$ 129,453.09

R. J. SCHWINN ASSOCIATES, INC.
GENERAL CONTRACTORS

Page 1

March 28, 2008

Headlands Reserve, LLC
Kevin Darnall
24849 Del Prado
Dana Point, Ca 92629

Re: Headlands Interpretive Center- Energy and Resource Conservation

Dear Kevin,

Here is a cost comparison regarding energy and resource conservation for the Interpretive Center:

1. Insulation	
A. Standard R-19	\$890.00
B. Upgraded R-21 Blown In	\$2,000.00
Cost of Upgrade	\$1,110.00
2. HV/AC Air Filtration Hepa Type Honeywell F100 A	\$850.00
3. Framing Lumber	
Conventional	
A. Douglas Fir	\$24,120.00
B. Plywood	\$560.00
Engineered Lumber	
A. O.S.B Foil backed plywood	\$910.00
B. Timber Strand	\$42,210.00
Additional Cost of Engineered Lumber	\$18,440.00
4. Sola Tubes	
(6) 14" Diameter	\$4,200.00

233 Via Malaga San Clemente, Ca 92673
Ph: (949) 683-2889 Fax: (949) 218-6910
Email: rjschwinn@hotmail.com CA lic. #861593

R. J. SCHWINN ASSOCIATES, INC.
GENERAL CONTRACTORS

Page 2

5. Windows/ Exterior Doors

A. Standard Glazing Clear Glass	\$9,617.00
B. Upgrade Aluminum Clad Low-E Glazing 5/8" Insulshield	\$13,117.00

Additional Cost of Upgrade **\$3,500.00**

6. Plumbing Fixtures- Standard

A. Toilets 1.3 gpf (2)	\$1,000.00
B. Faucets 2.0 gpf (2)	\$700.00

Plumbing Fixtures- High Efficiency

A. Toilets 1.1 gpf with touchless toilet valve (2)	\$2,600.00
B. Faucets 2.0 gpf with electric eye (2)	\$1,680.00

Additional Cost of Upgrade **\$2,580.00**

7. Electrical Solar PV System

A. Helio Power Mitsubishi PV-MF 185MF5	
System Cost	\$47,158.51
Electrical Engineering	\$1,750.00
Maintenance hose bib installed	\$500.00

Total System Cost **\$49,408.51**

Total cost for implementing energy and conservation resources as outlined in items 1-7 above:

	\$80,088.51
10% contingency:	\$8,008.85
Total Cost:	\$88,097.36

The above costs are based on estimates and could vary depending upon designs, models, and upgraded features.

If you have any questions, please contact me.

Russ Schwinn

233 Via Malaga San Clemente, Ca 92673
Ph: (949) 683-2889 Fax: (949) 218-6910
Email: rjschwinn@hotmail.com CA lic. #861593



PROPOSAL

ORANGE COAST MASONRY ACQUISITION CORPORATION

■ 601 North Batavia
Orange, California 92868
State License #783997

■ (714) 538-4386
(714) 538-5146 FAX
(714) 627-2177 SALES

DATE JULY 24, 2007
Proposal # 6872-53

THE HEADLANDS RESERVE LLC
24849 DEL PRADO
DANA POINT, CA. 92629
Attention: THOMAS ARCONTI
Phone/Fax: (949)489-1135 / (949)489-5547

The Headlands Reserve
Tract# 16331
DANA POINT

MID-STRAND STAIRWAY

1 EA	STAIRWAY LOCATED AT UPPER PARKING LOT DOWN TO STREET INTERSECTION: 8' WIDE WITH LANDING.	\$ 247,000.00	\$ 247,000.00
			\$ 247,000.00

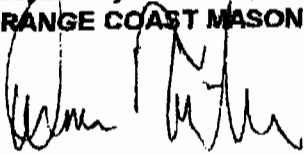
NOTES:

- 1 Assumes original design is feasible to construct.
- 2 All work to be field measured for invoicing.
- 3 Proposal pricing as based on minimum move-ins of \$2500.00 worth of work. Should short crew days be required to accommodate actual production schedule, reimbursement for extra hours or move-ins may be necessary.
- 4 PRICES ARE BASED ON USING TAN SLUMPSTONE, 4500 PSI CONCRETE
- 5 Grades to be within 1/10 foot (2") of finish grade, otherwise tractor and operator will be provided at a cost of \$85.00 per hour.
- 6 Any rock or material that cannot be removed by normal excavation methods will be billed as extra work.
- 7 If pumping of concrete footing is required because of restricted access, an additional \$21.00 per cubic yard will be billed.
- 8 Excludes engineering, permits and inspection fees.
- 9 Adequate accessibility is required for delivery and stocking of materials.
- 10 Water and power to be provided within reasonable access by DEVELOPER
- 11 Retention payment is due and payable 35 days after completion and acceptance of our work, otherwise interest will be added at 18% per year or 1 1/2% per month.
- 12 Any special order item requires a 75% deposit before item can be ordered.

The above prices are valid for 30 days and only when notes are accepted as part of the contract, otherwise, prices are subject to renegotiation. All material is guaranteed to be as specified, and the above work to be performed in accordance with the draw

Any alteration or deviation from the above specifications involving extra costs, will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond

Respectfully submitted,
ORANGE COAST MASONRY ACQ. CORP.

A handwritten signature in black ink, appearing to read 'Daniel Treiber', written over the company name.

Daniel Treiber
Sales Director

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



M E M O R A N D U M

FROM: John Dixon, Ph.D.
Ecologist

TO: Karl Schwing

SUBJECT: Trail system at Dana Point Headlands

DATE: April 18, 2008

Documents reviewed:

Mock, P. (URS). July 26, 2007. Memorandum to K. Darnall (Headlands Reserve LLC) re: "Biological assessment of proposed public trail extensions at Hilltop and Harbor Point parks."

Darnall, K. June 28, 2007. Letter to K. Butterwick (City of Dana Point) re: "Headlands Development and Conservation Plan ("HDCP") Amendment; General Plan Amendment ("GPA"); Local Coastal Plan Amendment ("LCPA"); Coastal Development Permit ("CDP") Amendment."

Butterwick, K. October 1, 2007. Letter to S. Sarb (CCC) re: "Local Coastal Program Amendment LCPA07-02 for the Headlands Development and Conservation Plan."

Three alterations to the approved trail system at Dana Point Headlands have been proposed. First, it is proposed to remove the stairway known as the "Mid-Strand Vista Park Accessway." This change does not appear to have any natural resource implications. Second, it is proposed to extend the public trail in Hilltop Park. Currently the trail stops next to the proposed hotel and exits the park via a set of stairs to Green Lantern Street. The proposed extension would continue behind the hotel and terminate on Scenic Drive close to the public parking area. A trail extension in this area would provide a better natural history experience to visitors and provide more attractive views. If the trail along the eastern side of the property, including this extension, is immediately adjacent to the break in slope above the hotel and residences and is separated from the habitat areas by a dog-proof fence, it is unlikely that there will be significant adverse impacts to the ESHA. The third proposed alteration to the trail system is to convert the one-way trail to bluff overlooks in Harbor Point Park to a loop trail. This would needlessly increase disturbance within sensitive habitat and effectively create an island of habitat surrounded by a trail. I recommend that this alteration not take place.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



April 22, 2008

TO: Karl Schwing, South Coast Supervisor
FROM: Lesley Ewing, Sr. Coastal Engineer
SUBJECT: Request to Delete Central Strand Stairway from LCPA 07-02

On March 12, 2008, I visited the Dana Point site and the area where the Central Strand Stairway is to be located. In addition, I have reviewed the following material related to the proposed stairway deletion:

- AMEC, 18 August 2006; Job No. 5-212-400100, Summary of Supplemental Geotechnical Recommendations, Attention: Mr. Tom Arconti/Mr. Jim Kopplin
- AMEC, 28 August 2006; Job No. 5-212-400100, Geotechnical Recommendations Temporary Backcut and Shoring Wall South Central Strand Area, Submitted to Headlands Reserve, LLC.
- AMEC, 7 September 2006; Job No. 5-212-400100, Supplemental Geotechnical Recommendations, Attention: Mr. Tom Arconti/Mr. Jim Kopplin
- City of Dana Point, October 1, 2007, Local Coastal Program Amendment LCPA07-02 for the Headlands Development and Conservation Plan.

There has been a request to delete the central strand stairway for the proposed development project due to the "technical infeasibility and public safety issues associated with geologic conditions in the adjoining County parking lot." There are letters from the project civil engineer and the project geotechnical engineer that reiterate the technical difficulties of including the stairway in the construction effort and note that the inclusion of the stairway "will require an unacceptable level of risk associated with potential instability/deformation of the required temporary slope/excavations. (letter from Scott Kerwin, November 15, 2006, page 2)" There are no comparison of the risk for the temporary shoring with and without the stairway system, nor does there seem to be any analysis of the option that the stairs could be installed once the shoring system is completed.

The Geotechnical Review and Evaluation Plate II, revised 8/28/2006 shows the proposed stairway, but there are no details of the stair design that show the added constraints that would develop if the proposed stairs were to be installed. There is also a possible switchback trail or a cross slope trail that both seem feasible as alternatives to the proposed stairs, but these were rejected as options since they would converge close to the proposed trail site and thus seem somewhat redundant to the applicant. Either trail option might be useful if the applicant does provide evidence that the proposed stairs are no longer feasible. However, the provided information merely outlines the current technical challenges to inclusion of the required stairway access. This does not provide clear evidence that the stairway construction would go from being difficult to being infeasible. In addition, such a situation would call into question the feasibility of the other development that is proposed for the site and whether the access roads and downslope development still can achieve an adequate level of safety for construction and for the long-term conditions. In summary, the applicant has not provided sufficient information to support a recommendation to delete an important public access amenity from the approved plans. Also, nothing from the site inspection identified constraints to the stairway that would preclude its safe installation.

MEMO BY LESLEY EWING

EXHIBIT# 9

Page 1 of 1

Application Number:

DPT-MAJ-1-07



California Coastal
Commission

Date: July 26, 2007

To: Kevin Darnall

From: Patrick Mock, Ph.D., URS Sr. Biologist

Subject: **Biological Assessment of Proposed Public Trail Extensions at Hilltop and Harbor Point Parks**

Overview

URS biologists have been involved on the Dana Point Headlands project since 1998, and have undertaken extensive and numerous biological assessments of the site, particularly in native habitat areas including Hilltop Park and Harbor Point Park, for the past nine years. In June and July 2007, URS biologists walked the alignments for the proposed trail extensions and conducted an evaluation of the area where the trails are proposed to be aligned.

The attached Figure shows the location of the public trail extensions for Hilltop and Harbor Point Parks. Also shown on this Figure is a base aerial photograph of the site conditions including, sensitive species, graded areas and existing improvements. Native vegetation in both Hilltop and Harbor Point Parks is predominately Coastal Sage Scrub ("CSS"), although the previous biological evaluation completed for the *Headlands Development and Conservation Plan Environmental Impact Report* ("FEIR") (LSA 2002) and the *Habitat Management and Monitoring Plan for Dana Point Headlands Biological Open Space* ("HMMP"; URS 2005a), determined that there were extensive areas of prior disturbance and non-native vegetation, that resulted in degradation of these habitat areas. Superimposed on the Figure are the disturbed areas previously determined to require restoration and revegetation, through either the creation or enhancement of habitat, including the removal of non-native invasive vegetation and the seeding and planting of CSS plants and temporary irrigation in most areas (*Onsite Mitigation and Revegetation Plan for the Headlands*; URS 2005b). Due to the presence of CSS and various sensitive species utilizing the habitat areas, much of both Hilltop and Harbor Point Parks were designated as an Environmentally Sensitive Habitat Area ("ESHA") by the California Coastal Commission. The FEIR analysis of impacts from the project included a more extensive public trail system than was ultimately approved by the Coastal Commission. The FEIR biological evaluation included trail links in essentially the same locations as the trail extensions proposed by the current application. As part of impact minimization, wherever possible, the proposed trail has been aligned into areas of previous disturbance, typically areas called out for creation or enhancement of habitat or for fuel modification pursuant to prior approvals and plans (URS 2005b).

Hilltop Park

The current design for the Hilltop Park public trail as approved, begins at Planning Area 4 (PCH Commercial) and extends to the southeast along the lower east-facing side of the ridgeline to just short of Planning Area 9 (Hotel), ending at the Street of the Green Lantern, via a staircase. A portion of the current trail extends to the highest elevation of the Headlands project, the "Hilltop" at elevation 287'. The proposed trail extension would continue the public trail to the southwest above the Hotel site, just over 600 feet and terminate at the public sidewalk on Scenic Drive, near the entry to the Headlands Nature Interpretive Center and open space public parking lot. The new trail segment is sited mostly through the planned fuel modification zone of the hotel site, within an

area previously cleared pursuant to CDP 04-23, with only a short segment (about 60 feet) that passes through an area planned for revegetation to connect to the previously approved trail for Hilltop Park. As shown on the attached Figure, the added trail segment will not impact any known locations for sensitive species and the alignment for the trail does not create any direct or indirect biological impacts not previously evaluated in the FEIR. Site conditions within the adjacent biological open space are the same or improved compared to the FEIR analysis due to the active habitat restoration program that is ongoing.

Harbor Point Park

The current design for the Harbor Point Park public trail as approved, begins at the intersection of Scenic Drive and Cove Road and extends to the east to the bluff-top above Dana Point Harbor. It then follows the bluff to the south and west, resulting in a fish-hook shape that terminates without linking to another trail segment or public right-of-way. The proposed public trail extension would create a loop trail, connecting back to Scenic Drive via a 200 feet extension from the current terminus as approved. The new trail segment passes along the alignment of an existing informal trail, through an area of prior disturbance that is planned for habitat enhancement and restoration currently underway. There are sufficient gaps between shrubs that only five recently planted shrubs will need to be removed or relocated in order to accommodate the new trail segment. Virtually no intact, previously existing CSS vegetation would be disturbed for the proposed trail extension. Regarding wildlife movement, the open post and cable design for the trail fencing will not impede the free movement of animals within the park. One added benefit of the proposed trail extension loop is that people utilizing the trail will be able to proceed back to Scenic Drive without doubling back across the same segment of trail, minimizing potentially chronic impacts to the trail segment and adjoining habitat. The trail alignment is setback from the bluff edge approximately 25 feet for public safety purposes. As shown on the attached Figure, the added trail segment will not impact any known locations for sensitive species and the alignment for the trail does not create any direct or indirect biological impacts not previously evaluated in the FEIR. Site conditions within the biological open space are the same or improved compared to the FEIR analysis due to the active habitat restoration program that is ongoing.

Conclusion

This assessment is consistent with the impact analysis presented in the FEIR. No new direct or indirect impacts to biological resources are anticipated. No additional mitigation measures are necessary.

References

- LSA. 2002. *Headlands Development and Conservation Plan Final Environmental Impact Report*
- URS Corporation. 2005a. *Habitat Management and Monitoring Plan for Dana Point Headlands Biological Open Space.*
- URS Corporation. 2005b. *Onsite Mitigation and Revegetation Plan for the Headlands.*

Attachments: Figure

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
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M E M O R A N D U M

FROM: John Dixon, Ph.D.
Ecologist

TO: Karl Schwing

SUBJECT: Trail system at Dana Point Headlands

DATE: April 18, 2008

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