

CALIFORNIA COASTAL COMMISSION

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



F23a

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STAFF REPORT: APPEAL – DE NOVO

Appeal No.: A-5-DPT-17-0063

Applicant: Headlands Investments, LLC

Agents: Steven Kaufmann, McCabe & Company, Todd Stoutenborough and Antoinette Job

Location: 34075 Pacific Coast Highway, City of Dana Point, (Orange County)

Project Description: Construction of a two-story, 35,000 square foot commercial development that consists of a 57-room hotel, 52-bed hostel, a 4,000 square foot restaurant, a visitor center, and a 174-stall parking garage on a 1.6-acre vacant lot.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

On July 10, 2017, the City of Dana Point Planning Commission approved Local Coastal Development Permit CDP17-0008 for the construction of the commercial development.

On October 20, 2017, the Surfrider Foundation appealed the development on the project site approved by the City of Dana Point through Local Coastal Development Permit CDP17-0008.

On December 15, 2017, the Commission determined that the appeal raised a Substantial Issue and overturned the City of Dana Point's approval of the Local Coastal Development Permit.

This staff report is for the De Novo portion of the hearing on the appeal where the Commission will deny or approve the proposed development. The Coastal Act issues addressed by the staff recommendation relate to potential impacts and benefits to public access, recreation, scenic and visual resources, marine resources, water quality, biological resources, and geologic stability. Commission staff is recommending **APPROVAL** of the commercial development.

The proposed project includes a 52-bed hostel, a lower cost overnight visitor accommodation. In order to ensure that this use remains as a part of the development and continues to be a lower cost overnight accommodation, special conditions have been imposed: **Special Condition No. 1** requires the hostel to be open to the public prior to or concurrent with the opening of the luxury inn in Planning Area 9 (for which the hostel is required mitigation) and the hotel approved by this permit (in Planning Area 4). **Special Condition No. 2** requires the applicant to maintain and operate the hostel at a rate for low cost overnight accommodation by reviewing the cost every three years.

In order to ensure that the public is aware of the public access and recreation opportunities on and near the site, the Commission imposes **Special Condition No. 3**, which requires the applicant to submit and implement a coastal public access sign plan.

The proposed project, because of its location near the water, has potential for adverse impacts to water quality and marine resources during construction and post construction. Therefore, special conditions are imposed to minimize any impacts to water quality and marine resources the proposed project may result in: **Special Condition No. 4** requires the applicant to submit a Storm Water Pollution Prevention Plan (SWPPP); **Special Condition No. 5** requires the applicant to implement construction Best Management Practices (BMPs) to protect water quality during construction; **Special Condition No. 6** requires the applicant to submit a Construction Staging Plan; **Special Condition No. 7** requires the applicant to submit a Water Quality Management Plan (WQMP); and **Special Condition No. 8** requires submittal of a Revised Landscape Plan.

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition No. 9**, which requires the property owner record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property. The list of special conditions starts on Page 5.

The applicant agrees with the staff recommendation. The motion to carry out the staff recommendation is on Page 3.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	4
II. STANDARD CONDITIONS	4
III. SPECIAL CONDITIONS	5
IV. FINDINGS AND DECLARATIONS	11
A. PROJECT DESCRIPTION.....	11
B. STANDARD OF REVIEW	12
C. PUBLIC ACCESS.....	12
D. SCENIC AND VISUAL RESOURCES	29
E. MARINE RESOURCES/WATER QUALITY	33
F. BIOLOGICAL RESOURCES.....	38
G. GEOLOGIC STABILITY	40
H. DEED RESTRICTION	41
I. LOCAL COASTAL PROGRAM (LCP)	41
J. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	41

EXHIBITS

[Exhibit No. 1 – Location Map](#)

[Exhibit No. 2 – Project Plans](#)

[Exhibit No. 3 – Letter from Carter A. Mudge dated June 22, 2018](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. A-5-DPT-17-0063 subject to the conditions set forth in the staff recommendation.*

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

Resolution:

The Commission hereby approves Coastal Development Permit No. A-5-DPT-17-0063 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Permit Compliance.

Coastal Development Permit A-5-DPT-17-0063 authorizes the construction of a approximately 35,000 square foot commercial development that consists of a 57-room hotel, 52-bed hostel, a 4,000 square foot restaurant, a visitor center, and a 174-stall parking garage which provides required six public parking spaces for users of the Headlands public trail system. All development must occur in strict compliance with the proposal as set forth in the application, subject the special conditions. The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Opening of Hostel.

The 52-bed hostel provides mitigation for the luxury inn in Planning Area 9 (City of Dana Point CDP 04-23) and the hotel approved by this coastal development permit in Planning Area 4. The 52-bed hostel shall be constructed and open to the public prior to or concurrent with the opening of the luxury inn in Planning Area 9 and the hotel in Planning Area 4. The hostel shall be maintained and operated as a lower-cost overnight accommodation for the life of the development approved by the permit.

3. Compliance with City of Dana Point Condition Regarding Hostel Rates.

The applicant shall comply with the City of Dana Point's requirement located in City Council Resolution No. 17-10-03-03 that, prior to the City's issuance of the Certificate of Occupancy for the development approved by Coastal Development Permit A-5-DPT-17-0063, the permittee shall prepare an analysis based on the California Coastal Commission recommendations of October 26, 2016 public workshop staff report, or updated process as applicable, to determine the lower-cost overnight accommodation rate of each bed per night in the hostel. Subsequent to the issuance of the Certificate of Occupancy, the hostel operator or property owner shall update the lower-cost overnight accommodation rate per bed per night for the hostel, consistent with the most updated California Coastal Commission method of determining lower cost overnight accommodation rate, every three (3) years to ensure compliance with the HDCP and Coastal Commission requirements.

4. Coastal Public Access Sign Plan.

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the Executive Director's review and approval, two (2) sets of a coastal public access sign plan, as required below:
1. The plan shall show the location of the visitor-serving/coastal access directional sign(s) located in the following area:
 - (a) Visitor Information Center; and

- (b) Locations within the interior and exterior of the development.
- B. The permittee shall undertake development in conformance with the approved final updated plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

5. Storm Water Pollution Prevention Plan (SWPPP).

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT

AMENDMENT, the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of storm water pollution prevention plans (SWPPP) prepared and signed by licensed engineer that, at a minimum, meets the following:

The Storm Water Pollution Prevention Plan must show that permittee is properly prepared to apply site design, source control and treatment control BMP's, appropriate for the potential stormwater pollutants at this site, in order to protect coastal waters from polluted runoff generated by construction activities to the maximum extent practicable.

- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

6. Construction Best Management Practices (BMPs). The permittee shall comply with the following construction-related requirements:

- A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
- C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;

- I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- J. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

7. Construction Staging Plan.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of construction staging plans, which indicate that the construction staging area(s) and construction corridor(s) will minimize public access impacts to the coast and minimize water quality impacts to coastal waters.
 - 1. The plan shall demonstrate that:
 - (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition;
 - (b) Construction equipment, materials, or activity shall not be placed within any habitat area or within 100-feet of any drainages; and
 - (c) The construction staging area will gradually be reduced as less materials and equipment are necessary.
 - 2. The plan shall include, at a minimum, the following components:
 - (a) A site plan that depicts:
 - (1) limits of the staging area(s);
 - (2) construction corridor(s); and
 - (3) construction site; and
 - (4) location of construction fencing and temporary job trailer(s); and
 - (b) A narrative that describes and explains the plan
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

8. Water Quality Management Plan (WQMP).

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT

AMENDMENT, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of water quality management plans for the post-construction project site, prepared and signed by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The water quality management plan shall incorporate structural and non-structural Best Management Practices (BMP's) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

1. Appropriate structural and non-structural BMP's (site design, source control and treatment control) shall be designed and implemented to minimize water quality impacts to surrounding coastal waters;
2. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible;
3. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized;
4. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals;
5. All runoff from the vehicle wash station shall be collected through the proposed wash rack and sand/oil separator and discharged only through the sewer system;
6. Runoff from all roofs, walkways, driveway and parking areas shall be collected and directed through a system of structural BMP's including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMP's shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants (including trash, debris and vehicular fluids) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner;
7. Post-construction structural BMP's (or suites of BMP's) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMP's, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMP's;
8. All BMP's shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMP's shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15th and April 15th of each year and, (3) at least twice during the dry season;
9. Debris and other water pollutants removed from structural BMP's during clean-out shall be contained and disposed of in a proper manner; and
10. It is the permittee's responsibility to maintain the drainage system and the associated structures and BMP's according to manufacturer's specifications.

- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

9. Revised Landscape Plan.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of revised final landscape plans prepared by an appropriately licensed professional which demonstrates the following:
 - 1. The plans shall demonstrate that:
 - (a) All planting shall provide 90 percent coverage within ninety (90) days and shall be repeated if necessary to provide such coverage;
 - (b) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
 - (c) All landscaping shall consist of native drought tolerant on-invasive plant species native to coastal Orange County and appropriate to the habitat type. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>); and
 - (d) Only water efficient drip type irrigation shall be utilized.
 - 2. The plan shall include, at a minimum, the following components:
 - (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
 - (b) a schedule for installation of plants.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 10. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and

conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project involves the development of Planning Area 4 of the Headlands Development and Conservation Plan (HDCCP). The proposed development, as approved by the City, is the construction of a two-story, 35,000 square foot visitor serving development that includes a 57-room hotel, 52-bed hostel, a 4,000 square foot restaurant, a visitor center and a two subterranean level parking garage with 132 parking spaces ([Exhibit No. 2](#)). The proposed project will also include a Visitor Information Center as a functional kiosk within an 800 square foot area separate from the hostel incorporated within the larger 2,100 square foot public plaza area of the hotel on the street level fronting Pacific Coast Highway. The project site currently is made up of three separate parcels and as part of the proposed project is the combination of these lots into one parcel through a lot line adjustment.

The applicant is also proposing to install retaining walls at several locations adjacent to Pacific Coast Highway, along Shoreline Drive, and along the Street of the Green Lantern. These retaining walls adjacent to the public right-of-way will range in height from less than a half a foot (.5') to 4.5 feet maximum. All of these walls are associated with creating landscaped areas, supporting the structure and site improvements, or providing for required stairwells. Retaining walls along Pacific Coast Highway will range from less than a half foot to 4 feet tall at the corner of Pacific Coast Highway and Green Lantern, and all walls have landscaping. The project site has been pre-graded, through a previously approved coastal development permit, with a significant cut in the rear of the property to minimize visual impacts from the project. A retaining wall measuring 24 feet in height is proposed along this rear (cut) face and will have minimal visibility as it will be screened by the hostel structure and proposed landscaping.

The subject site is a 1.6-acre vacant lot located on the seaward side of Pacific Coast Highway in the City of Dana Point, Orange County ([Exhibit No. 1](#)). It is zoned Visitor/Recreation Commercial (V/RC) under the Headlands Development and Conservation Plan (HDCCP), a component of the City's certified Local Coastal Program (LCP). The HDCCP provides the development requirements for the Headlands area, including the subject site, known as HDCCP Planning Area 4 (PA 4). The proposed project requires a Coastal Development Permit (CDP) due to its location in the Coastal Zone and requirements from the HDCCP and the City's Master CDP (CDP 04-23) previously issued for the development of the Headlands district of the City.

As described in the HDCCP, the Headlands development project consists of three major components: 1) The residential component (a maximum of 118 single-family zoned lots); 2) the development of two Visitor/Recreation Commercial uses; and 3) the establishment of approximately 70 acres of recreation/open space along with supporting visitor recreation facilities, trails and coastal access points. At the time of approval of the Master Coastal Development Permit for the Headlands project from the City of Dana Point Planning Commission on January 19, 2005, a specific condition (No. 122) was included that required approval of separate Coastal Development Permits (CDPs) for both of the Visitor/Recreation Commercial sites (Planning Area 4 (PA 4) and Planning Area 9 (PA 9)). The proposed project

involves the development of Planning Area 4. The City will process a separate local coastal development permit for the hotel use planned for Planning Area 9.

B. STANDARD OF REVIEW

Section 30604(b) of the Coastal Act states:

(b) After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

In addition, Section 30604(c) of the Coastal Act states:

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

Therefore, the standard of review for a Coastal Commission appeal de novo hearing for a project located between the first public road and the sea, like this one, are the City's certified Local Coastal Program and the public access and public recreation policies of the Coastal Act. The Headlands Conservation Plan (HDCP), a component of the City's Local Coastal Program, was approved by the Coastal Commission on August 11, 2004, which became effectively certified in January 2005.

C. PUBLIC ACCESS

HEADLANDS DEVELOPMENT AND CONSERVATION PLAN (HDCP) LOCAL COASTAL PROGRAM (LCP) POLICIES: LAND USE PLAN (LUP)

HDCP page ii

B. The 2004 Headlands Development and Conservation Plan

The 2004 HDCP strives to balance the social, economic, and physical components of the property by establishing complementary policies that incorporate a multitude of uses and activities. The HDCP significantly reduces the amount of acreage previously designated for private development in the City General Plan and the certified Local Coastal Program. The density and intensity of development was also lowered. In turn, major portions of the 121.3 acre site will accommodate public parks, coastal trails, and open space.

The HDCP designates 68.5 acres of public parks, conservation, and open space (70.0 acres with roads) which include up to three miles of public trails and four public visitor recreation facilities. Numerous opportunities for public coastal access and public view overlooks are created. A total of 125 residential homes, a 65-90-room (key) seaside inn, with 4.4 acres of visitor recreation commercial uses are also provided for in the HDCP.

Land Use Plan (LUP) Table: “Table LU-6A “Maximum Land Uses Within the Headlands”

**Table LU-6A
 Maximum Land Uses Within Headlands**

LAND USES	MAXIMUM
Residential SF	125 dwelling units
Visitor/Recreation Commercial	35,000 sq. ft. 110,750 sq. ft. with 65-90 keys
Visitor Recreation Facilities	3,800 sq. ft.

LAND USE ELEMENT (LUE)

Land Use Element – Page 48 (new table)

Land Use Plan (LUP) Table: Table LU-6A: Maximum Land Uses Within Headlands

**Table LU-6A
 Maximum Land Uses Within Headlands**

LAND USES	MAXIMUM
Residential SF	125 dwelling units
Visitor/Recreation Commercial	35,000 sq. ft. 110,750 sq. ft. with 65-90 keys
Visitor Recreation Facilities	3,800 sq. ft.

Land Use Element – Pages 47-48

Figure LU-6 and Table LU-6 describe the total acres and relative percentage of each land use type for the Headlands. Recreational/Open Space constitutes 71.0 gross acre of the Headlands, or 58%. Residential constitutes 45.9 acres of the Headlands, or 37.8%. Visitor/Recreational commercial will be 4.4 acres or 3.6% of the property. Public roads make up approximately 2.5 acres of the site and are accounted for in the Recreation/Open Space category.

As shown on Figure LU-6 Headlands, three Land Use designations have been established for the Headlands: Recreation/Open Space, Visitor/Recreation Commercial, and

Residential. Table LU-6, Headlands Land Use Composition, describes a percentage distribution for the three designations.

The Headlands Land Use Element promotes and implements the goals of the California Coastal Act by maximizing public access and public recreational opportunities, consistent with sound resource conservations principles.

Development of the Headlands will create significant conservation areas, public open space and parks, with multiple public coastal view opportunities and an interconnected network of public trails and coastal access...

A maximum of four visitor-serving recreational facilities consisting of a Nature Interpretive Center, Visitor Information Center, and new restrooms (2) will be integrated into the parks and open space to attract serve local and statewide visitors to the Headlands coastline. The visitor-serving recreational facilities shall be built by the developer, open to the public, and no less than two shall include educational programs relating to maritime, historical, cultural, natural resource conservation and related topics of regional and local interest. They will be connected by the integrated public trail system to the offer visitors a comprehensive experience.

LAND USE ELEMENT (LUE)

GOAL 2: ACHIEVE COMPATIBILITY AND ENHANCE RELATIONSHIPS ALONG LAND USES IN THE COMMUNITY.

Land Use Element – Page 13

Land Use Element (LUE) Policy 2.10: *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry. In the Headlands, this prioritization of uses is satisfied by the provision of visitor-serving commercial recreational development on the private lands designated for visitor-serving commercial recreational facilities on the portions of the site that adjoin Pacific Coast Highway and Street of the Green Lantern in the vicinity of existing visitor-serving commercial recreational uses. (Coastal Act/30222)*

LAND USE ELEMENT (LUE)

GOAL 5: PROVIDE FOR THE DEVELOPMENT OF THE HEADLANDS IN A MANNER THAT ENHANCES THE CHARACTER OF THE CITY AND ENCOURAGES THE PROTECTION OF THE NATURAL RESOURCES OF THE SITE.

Land Use Element (LUE), Goal 5, introductory narrative

Development of the Headlands shall occur in a comprehensive manner involving the entire approximately 121 acre site. This comprehensive approach to developing the Headlands will allow for the following project elements (herein ‘HDCP Elements’): 1) preservation, enhancement, dedication and perpetual management of all but 11.29 acres of environmentally sensitive habitat areas (ESHAs) known to be present at the Headlands; 2)

the dedication of the private portion of Strand beach to the public; 3) the construction and dedication of public parks, a public trail network throughout the Headlands, and vertical and lateral public access to and along Strand beach 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) implementation of 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) the preservation of significant landforms including the Harbor Point and Headlands bluffs and promontories and the Hilltop; and 6) the provision of lower-cost overnight accommodations (i.e. hostel) in conjunction with the construction of a luxury inn.

Land Use Element (LUE) Policy 5.4: *Assure that the height and scale of the development within the Headlands are compatible with development in the community and that the visual impact of the development from coastal areas below the project is minimized. Prohibit new development that significantly degrades public views to and along the coastline including, but not limited to, existing, enhanced or created views from the Hilltop park and greenbelt linkage, the Strand Vista Park, the Dana Point Promontory/Headlands Conservation Park and Harbor Point. (Coastal Act/30251)*

Land Use Element (LUE) Policy 5.5: *Promote the development of a mixture of land uses that may include residential, visitor-serving commercial, recreational, open space, and visitor-serving recreational and community facilities. (Coastal Act/30213, 30250)*

Land Use Element (LUE) Policy 5.6: *Require that a continuous scenic walkway or trail system be integrated into the development and conservation plan for the Headlands and that it provide connection points to off-site, existing or proposed walkways/trails, including integration with the California Coastal Trail. The alignment of the walkway and trail system shall be consistent with their depiction on Figure COS-4, Figure COS-5, and Figure COS-5a in the Conservation Open Space Element. (Coastal Act/30210, 30212)*

Land Use Element (LUE) Policy 5.8: *Provide patterns of land use and circulation in the Headlands that enhance public and private pedestrian access and circulation within the area. (Coastal Act/30250)*

Land Use Element (LUE) Policy 5.9: *Provide public trails within the Headlands. The system shall provide access to the existing sandy beach areas, including but not limited to a minimum of three (3) public accessways, and an inclined elevator/funicular, from Selva Road, through the Strand area, to the beach, and to the visitor-serving recreational and public places developed within the Headlands.*

Land Use Element (LUE) Policy 5.10: *Provide luxury visitor-serving Inn facilities and land uses scaled appropriately for the property as well as lower-cost overnight accommodations.*

Land Use Element (LUE) Policy 5.15: *Provide non-vehicle circulation throughout the Headlands by establishing an interconnected network of trails, walkways and bikeways. (Coastal Act/30252)*

Land Use Element (LUE) Policy 5.22: *Off-street parking shall be provided for all new residential and commercial development in accordance with the ordinances contained in the LCP to assure there is adequate public access to coastal resources. A modification in the minimum quantity of parking stalls required through the variance process shall not be approved. Valet parking shall not be implemented as a means to reduce the minimum quantity of parking stalls required to serve the development. Provide on-street and off-street public parking facilities strategically distributed to maximize public use and adequately sized to meet the needs of the public for access to areas designated for public recreation and public open space uses at the Headlands, as measured by the standards set forth in the City regulations. Where existing adjacent public parking facilities are presently underutilized and those facilities are also anticipated to be underutilized by projected future parking demand, use those existing adjacent public parking facilities, where feasible, to serve the needs of the public for access to areas designated for recreation and public open space uses at the Headlands. (Coastal Act/30212.5, 30252)*

Land Use Element (LUE) 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.*

Land Use Element (LUE) 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.*

Land Use Element (LUE) Policy 5.40: *The height of the 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 finished grade. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure provided they do not significantly degrade public views to and along the shoreline. Finished grades shall be set such that any structure constricted to the full height limit plus any chimneys and rooftop antennas shall not significantly degrade public views to and along the shoreline. The commercial development along Pacific Coast Highway shall have a maximum allowable height of 40 feet above existing grade, 32-35 feet above finished grade. The Seaside Inn*

development along Street of the Green Lantern/Scenic Drive shall not exceed 42 feet above the finished building pad elevation and no finished building shall be higher in elevation than 220' MSL. In no case shall more than 30% of the buildable area within the 2.8 acre site exceed the height of the adjoining ridgeline. For commercial development, minor architectural projections may exceed the height limit provided they do not significantly degrade public views to and along the shoreline.

Land Use Element (LUE) Policy 5.44: *New development of a luxury overnight visitor-serving inn within the Headlands shall only be developed in conjunction with a component of lower cost overnight visitor accommodations (e.g. hostel) as either part of the project or elsewhere within a visitor recreation commercial area within the Headlands. The lower-cost overnight accommodations shall consist of no less than 40 beds and shall be available for use by the general public prior to or concurrent with the opening of the inn.*

Land Use Element (LUE) Policy 5.45: *Overnight visitor serving accommodations within the Headlands shall be open to the general public. Overnight accommodations shall not be converted to exclusively private uses or private membership club. Fractional ownership of the luxury inn may be authorized except that during the peak season (Memorial Day weekend to Labor Day weekend) the reservation of rooms/suites by fractional owners shall be limited to no more than 50 percent of the total rooms/suites approved for the luxury inn.*

Land Use Element – Page 35

Visitor/Recreation Commercial: *The Visitor/Recreational Commercial designation includes primarily visitor-serving uses, such as restaurants, resort uses, such as hotels and motels, commercial, recreation specialty and convenience retail goods and services, auto service businesses, open space/recreational uses and community public facilities. Other supporting uses include conference facilities and cultural uses, such as museums and theaters. The average intensity of development for hotels is a floor area ratio of .75:1 and the maximum intensity of development of hotels is a floor area ratio of 1.5:1. The standard intensity of development for other uses is a floor area ratio of 0.5:1.*

URBAN DESIGN ELEMENT (UDE)

Urban Design Element – Page 26-27

The Blufftop Trail, or other system of trails and open space linkages, which will eventually provide a connection from the Headlands to Doheny State Beach, is an excellent example of the desired concept.

In addition to completion of the City's bikeway system, more pedestrian walks and trails need to be developed, and the pedestrian environment improved in key locations.

Opportunities for pedestrian improvements include:

- *Complete the trail between the Headlands and Doheny State Beach, and extend the trail northward from Strand Beach to Salt Creek Beach Park and the regional trail system along the Salt Creek Basin.*

- *Develop a pedestrian trail system on the Headlands that connects the parks, open space, and conservation areas planned for the property as detailed in the Headlands Specific Plan or PDD> Such trails shall provide opportunities to coastal views an access. The trail system shall constitute the Blufftop Trail component for the Headlands.*

CONSERVATION OPEN SPACE ELEMENT (COSE)

Conservation Open Space Element (COE) Policy 3.12: *In the context of any specific project application that provides all of the HDCEP elements and only in conjunction with a requirement that the plan can be completed as a whole, a maximum of 6.5 acres of ESHA may be displaced along the slope s of the bowl to accommodate the development within the owl, an d a maximum of 0.75 acres of ESHA located on the Strand bluff face at the southerly boundary of the Strand may be displaced to accommodate development within the Strand. The amount of ESHA permitted to be displaced may be increased as necessary to accommodate construction of a 65-90 room inn, scaled appropriately to the property, within Planning Area 9 provided that lower-cost visitor overnight accommodations are provided consistent with Land Use Element 5.44. The maximum impacts to ESHA identified in this policy do not pertain to or limit vegetation removal necessary to construct and maintain public trails as identified on Figure COS-4.*

Headlands Development and Conservation Plan (HDCEP) Local Coastal Program (LCP) Policies: Implementation Plan (IP)

Implementation Plan (IP) Section: “3.4 Development Regulations/B. Visitor/Recreation Commercial Zoning District/5.

3.4 DEVELOPMENT REGULATIONS

B. Visitor/Recreation Commercial Zoning District

3. Measurement of Building Height and Maximum Stories

The measurement and height criteria for V/RC buildings shall be as provided in Chapter 9.05.110 except as follows. Building height is defined as the vertical distance, measured from the interior of the building, by which the uppermost portion of the roof extends above either of the following: (i) finished floor, (ii) the finished pad elevation immediately adjoining the structure, or (iii) the ceiling of uppermost level of the basement or subterranean parking structure, whichever is lower.

The site on which the structure is located may have a single or multiple finish pad elevation. Building height shall not be measured from existing grade or natural grade. Figure 3.4.3, Measurement of V/RC Building Height, depicts these measurement criteria.

4. Maximum Intensity of Development

The City General Plan and Section 9.05.210 of the City zoning code permit a maximum Floor Area Ratio (FAR) of 1.75 for commercial projects, which represents an increase above the standard FAR. Projects receive the higher level FAR by demonstrating exceptional design and quality, and by providing public amenities. The HDCP establishes the visitor serving commercial in Planning Area 4 at .57 FAR; Planning Area 9 has a .91 FAR. Both FARs are slightly above the standard levels but significantly below the 1.75 FAR maximum. Provisions contained within this Section 3.0 and Section 4.0 Development Guidelines, qualify for the increased FAR by providing project-wide design standards, architectural guidelines, numerous public recreation facilities, public art, and land use controls designed to create an exceptional project. Each V/RC Planning Area incorporates courtyards, fountains, landscaping, seating areas, public viewing areas, or other amenities that promote a pedestrian environment. The project also includes amenities such as bicycle racks or lockers that reduce dependence on the automobile and encourage alternate forms of transportation.

5. *Development Requirements for Planning Area 4*

Development of Planning Area 4 shall include the following uses regardless of other development that will occur there:

- a) *A 40-bed hostel and Visitor Information Center. The hostel will serve as a lower-cost overnight visitor accommodation and will include a Visitor Information Center that shall provide detailed maps and other information regarding trails, overlooks, open space, parks, beaches and public access thereto, public parking facilities, and other visitor serving recreational and commercial facilities present at the Headlands and in the City of Dana Point and vicinity. Other information may also be provided regarding the biological, historical and cultural aspects of the Headlands, City of Dana Point and vicinity. The hostel and Visitor Information Center shall be constructed and open to the public in accordance with the phasing requirement identified in Section 3.7.C.6. Development Phasing Plan. The Visitor Information Center may be incorporated into the hostel, provided that it is clearly available for use by the general public separate from the hostel. If separate from the hostel, the Visitor Information Center shall consist of a minimum of 800 sq. ft.*
- b) *Six (6) public parking spaces in Planning Area 4 to serve open space visitors shall be required over and above the parking required as part of the V/RC uses in Planning Area 4. The six parking spaces shall serve visitors intending to utilize the public open space in the project. The parking shall be constructed in accordance with the phasing requirements identified in Section 3.7.C.6 Development Phasing Plan.*

Implementation Plan (IP) Policy: “3.5 General Development Standards All Districts/A. Access, Parking and Loading”

3.5 GENERAL DEVELOPMENT STANDARDS ALL DISTRICTS

A. Access, Parking and Loading

1. *Access, parking and loading regulations within this HDCP shall be provided in Chapter 9.35 of the Zoning Code except for the following:*

...

In addition, six parking spaces in Planning Area 4, accessible from Pacific Coast Highway, shall be provided to exclusively serve open space visitors. The six parking spaces shall be in excess of those necessary to serve the V/RC uses in Planning Area 4 and shall be constructed concurrent with the development of V/RC improvements in Planning Area 4.

Implementation Plan (IP) Section: “3.7 Development Review Process/C. Discretionary Approvals and Permits/6. Development Phasing Plan”

3.7 DEVELOPMENT REVIEW PROCESS

C. Discretionary Approvals and Permits

6. *Development Phasing Plan*

...

The 40-bed hostel shall be constructed and open to the public prior to or concurrent with the opening of the luxury inn in Planning Area 9.

...

The Visitor Information Center in Planning Area 4 shall be constructed and open to the public concurrent with the opening of any other commercial development within Planning Area 4.

The six (6) public parking spaces in Planning Area 4 to serve open space visitors shall be constructed and open to the public prior to or concurrent with the opening of any other commercial development within Planning area 4.

Implementation Plan (IP) Section: “4.3 Planning Areas”

4.3 PLANNING AREAS

Planning Area 4: PCH Visitor/Recreation Commercial (Visitor/Recreation Commercial)

PCH and the Street of the Green Lantern border the 1.6-acre Planning Area 4. This Visitor/Recreation Commercial area complements the adjacent City Town Center, and will attract coastal visitors by providing a variety of commercial and office uses including a Visitor Information Center and can comprise one or more buildings. A maximum of 35,000 square feet will be developed, limited to two stories. The first floor will be limited to retail commercial uses including the Visitor Information Center. Additionally, the second floor can support retail commercial and professional office uses.

Planning Area 9: Resort Seaside Inn (Visitor/Recreation Commercial)

This 2.8-acre site provides a maximum 65-90-room (keys), luxury Seaside Inn, with a public restaurant, amenities and accessory uses. The site fronts the Street of the Green Lantern and Scenic Drive, and complements existing, off-site commercial facilities, such as the Charthouse Restaurant. The site offers dramatic ocean and harbor views. The location, adjacent to the Harbor Point Park, lends itself to public and private functions, encouraging coastal access.

Implementation Plan (IP) Policy “4.6 CIRCULATION PLAN/A. PCH/”A” Street”

4.6 CIRCULATION PLAN

A. PCH/”A” Street

Access to the project site from PCH will occur at “A” Street. “A” Street provides primary access to Planning Area 4, PCH V/RC, and Planning Area 6, Upper Headlands Residential. The new intersection shall be constructed by the developer prior to issuance of the first building permit for Planning Area 4 or 6. The proposed intersection will be designed such that the north-bound traffic on PCH can have a continuous green light and not be required to stop for north-bound left turns out of the project. The Developer shall improve the portions of PCH that front the project site to its ultimate design as a major arterial (100-foot ROW). CalTrans requires an encroachment permit to be approved prior to construction. The intersection is projected to meet warrants for a traffic signal.

IP Policy “4.12 DESIGN GUIDELINES/E. Design of the PCH/Visitor Recreation Commercial”

4.12 DESIGN GUIDELINES

E. Design of the PCH/Visitor Recreation Commercial

- *Create continuous pedestrian activity along the sidewalk edge. Avoid blank walls and other empty spaces along sidewalk frontages.*
- *Parking shall be located to the rear of the building using secondary street access.*
- *A strong relationship to the native landscape shall be portrayed through the use of material and color. Materials such as brick, stone, wood, and stucco are suitable.*

- *Simple color schemes with no more than three colors are recommended. Non-reflective surfaces shall be utilized.*

Implementation Plan (IP) Table: “Table 3.3.1 Land Use Statistical Summary”

**TABLE 3.3.1
 LAND USE
 STATISTICAL SUMMARY**

Land Use	Acres	Planning Area	Maximum
RECREATION OPEN SPACE (REC/OS)	9.9	1	
	5.4	3	
	15.1	5	
	4.3	8A	
SUBTOTAL REC/OS	34.7		
CONSERVATION OPEN SPACE (CONS/OS)	27.9	7	
	6.1	8B	
SUBTOTAL CONS/OS	34.0		
VISITOR/RECREATION COMMERCIAL (V/RC)	1.6	4	35,000 sq. ft.
	2.8	9	110,750 sq. ft.
	4.4		(65-90 Keys)
SUBTOTAL V/RC			145,750 sq. ft. (85-90 keys)
RESIDENTIAL (RES)	25.7	2	75 lots
	20.2	6	50 lots
SUBTOTAL RES	45.9		125 lots
PUBLIC R.O.W.	2.5	1, 6, 8A	
TOTAL ACREAGE	121.3		

Implementation Plan (IP) Table 3.3.2: “Table 3.3.2 Visitor Recreational Facility Statistical Summary”

**TABLE 3.3.2
 VISITOR RECREATIONAL FACILITY
 STATISTICAL SUMMARY**

Public Facility	Planning Area	Maximum
Nature Interpretive Center	8A	2,000 sq. ft.
Public Restrooms/Showers ¹	1	2 x 500 sq. ft.
Visitor Information Center	4	800 sq. ft.

All proposed public visitor facilities shall include public restrooms and public drinking fountains, open to the public at hours to be determined by the appropriate public agency.

¹ **Public restrooms and showers shall be constructed at both the north and south ends of Planning Area 1 above Strand Beach.**

Implementation Plan (IP) Table 3.4.3 “Allowable Uses in V/RC Districts”

**TABLE 3.4.3
 ALLOWABLE USES IN V/RC DISTRICTS**

LAND USES	Planning Area 4	Planning Area 9
Bed and Breakfast Inn	P	P
Caretaker’s Residence	X	P ¹
Clinical Services		
• On the second floor, or above or below street level	P	P ¹
• Street Level	X	P ¹
Commercial Antennas	C*	C*
Commercial Entertainment Uses	X	C ¹
Commercial Recreation Uses	P	P ¹
Cultural Uses	P	P ¹
Day Care Centers	C	C ¹
Drinking Establishments	X	P/C*
Educational Uses	P	C ¹
Food Service Uses, Specialty	P	A
Fractional Ownership	p ²	p ²
Furniture Store	C	X
Hostel	P	X
Hotel	P	P
Live Entertainment Uses	X	C* ¹
Marine Uses	P	X
Massage Establishments	C*	C* ¹
Membership Organizations		
• On the second floor, or above or below street level	C	X
• Street Level	X	X
Open Space	P	P
Personal Service Uses	P	A
Photographic, Reproduction and Graphic Service Uses	P	X

Continued

TABLE 3.4.3
ALLOWABLE USES IN V/RC DISTRICTS
 (Continued)

LAND USES	Planning Area 4	Planning Area 9
Professional Office Use		
• On the second floor, or above, or below street level	P	A
• Street Level	X	A
Recreational Uses	A	A
Restaurant	P	P ¹
Restaurant, Take-Out	X	X
Restaurant, Walkup	X	C ¹
Retail Sales Uses	P	A
Temporary Uses	T*	T*
Video Arcades or Game Rooms	X	C ¹
Visitor Information Center	P	X

LEGEND:

P = Permitted Use

P* = Permitted Use subject to special use standards (see Chapter 9.07 of the Zoning Code).

C = Conditional Use

C* = Conditional Use subject to special use standards (see Chapter 9.07 of the Zoning Code).

T = Temporary Use

T* = Temporary Use subject to special use standards (see Chapter 9.39 of the Zoning Code).

X = Prohibited Use

A = Accessory Use

¹ Allowable uses only if constructed in conjunction with the Seaside Inn

² Prior to the sale of the first Fractional Ownership interest, the property owner shall execute an agreement with the City to provide on-going compensation from the Fractional Ownership uses equivalent to the Transient Occupancy Tax effective for hotel uses. In Planning Area 4, this requirement shall only apply to Fractional Ownership uses associated with lodging.

Implementation Plan (IP) Table: “Table 3.4.4 Development Standards for V-RC Districts”

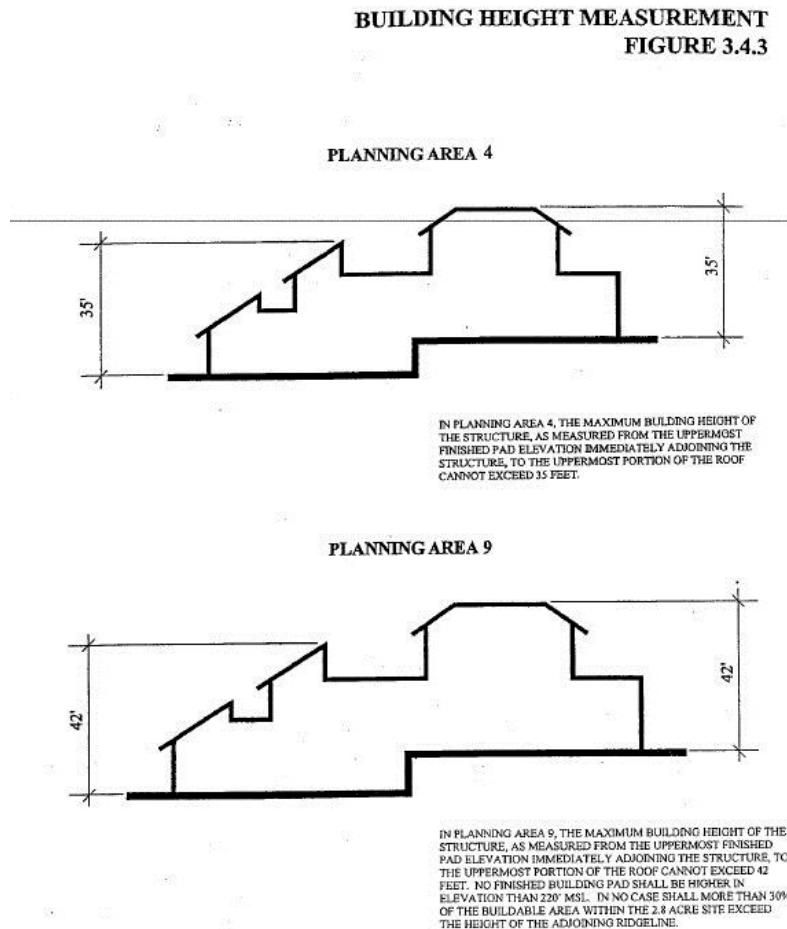
**TABLE 3.4.4
 DEVELOPMENT STANDARDS FOR V/RC DISTRICTS**

Land Uses	Planning Area 4	Planning Area 9
(a) Minimum Lot Size	5,000 sq. ft	15,000 sq. ft.
(b) Minimum Lot Width	60-feet	80-feet
(c) Minimum Lot Depth (measured at building set-back lines).	60-feet	80-feet
(d) Maximum Lot Coverage	60%	60%
(e) Maximum Height*	31-35-feet 2 stories	42-feet** 3 stories
(f) Maximum allowable gross floor area	35,000 sq. ft.	110,750 sq. ft.
(h) Setback From Ultimate Public Street R/W Line	10-feet	10-feet
(i) Minimum Side Yard Setback		
Interior Side	10-feet	10-feet
Street Side	10-feet	10-feet
(j) Minimum Rear Yard Setback		
Standard	10-feet	10-feet
Adjacent to Alley or Street	10-feet	10-feet
(k) Minimum Landscape Coverage	20%	20%
(l) Minimum Building Separation	10-feet	10-feet

* This is a maximum potential structural height. This maximum shall be reduced on a case-by-case basis where necessary to assure that public views, as identified on Figure 4.5.3 (Coastal View Opportunities) in Section 4.5 of the Development Guidelines, to and along the shoreline are not significantly degraded.

** The Seaside Inn development along Street of the Green Lantern/Scenic Drive (Planning Area 9) shall not exceed 42 feet above the finished building pad elevation and no finished building pad shall be higher in elevation than 220' MSL. In no case shall more than 30% of the buildable area within the 2.8 acre site exceed the height of the adjoining ridgeline.

Implementation Plan (IP) Figure: “Figure 3.4.3 Building Height Measurement”



**THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN**

COASTAL ACT PUBLIC ACCESS POLICIES

Section 30210 of the Coastal Act states, in pertinent part:

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.

Section 30211 of the Coastal Act states, in pertinent part:

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.

1. Visitor-Serving Commercial Uses

The proposed project includes the construction of a two-story, 35,000 square foot visitor serving development, the Wave Resort, that includes a 57-room hotel, a 52-bed hostel, a 4,000 square foot restaurant, a visitor center and a two subterranean level parking garage with 132 parking spaces on the project site known as PA 4 in the HDCP. The hostel, hotel, restaurant and visitor center which are all types of visitor-serving commercial uses. The HDCP allows a maximum lot coverage of 60%; a floor area ratio of 0.57, and a maximum allowable gross floor area of 35,000 square foot, which the proposed project adheres to. While a luxury hotel use is allowed on PA 9, which is not part of the proposed project, the HDCP does not restrict the Headlands area from having more than one hotel, a visitor-serving recreation use. Thus, the proposed hotel use located on PA4 is consistent with the HDCP. In addition, the HDCP requires a 40-bed hostel on PA 4, in order to provide lower-cost overnight accommodations in the area in conjunction with a luxury hotel use in PA 9.

The HDCP requires that the proposed hostel provide a minimum of 40 beds, serve as a lower cost overnight visitor-accommodation, include a Visitor Information Center unless separate from the hostel, and be constructed and open to the public prior to or concurrent with the opening of a hotel on PA 9. As stated, the proposed project does not include development of the hotel on PA 9. The hostel has been designed to be consistent with the policies of the HDCP as the hostel will provide low cost overnight accommodation through the provision of 52 hostel beds (more than the 40-bed minimum) to the public and be opened to the public prior to or concurrent with the opening of the hotel on PA 9 as required by the HDCP. The hostel will have a separate entry for the facility off of Green Lantern, and is proposed to be two-stories.

By providing low cost affordable accommodations through this hostel use, public access opportunities are enhanced for the public to enjoy the coast. In order to ensure that the proposed hostel is available and open to the public prior to or concurrent with the opening of the hotel on PA 9, as well as the proposed hotel on PA 4, the Commission imposes **Special Condition No. 2**, which requires that the hostel be available and open to the public prior to or concurrent with the opening of the hotel on PA 9 and PA 4.

The 52 bed hostel will provide for low cost affordable overnight accommodations as mitigation for the hotel rooms for the luxury hotel to be located on PA 9 and for the hotel in PA 4. Using information from the two California Coastal Commission (CCC) workshops regarding lower-cost overnight accommodation led by Commission Staff in 2014 and 2016, the City used the guidance from the CCC workshops that suggests that hotel projects should provide/mitigate at a rate of 25% of the total number of guest rooms, meaning that for every 100 market rate rooms provided 25 affordable units should be provided onsite. Using the total number of hostel beds proposed as the amount of affordable units provided onsite; the hostel will be mitigating the two headland hotel projects at a rate of 35% which is above 25%. This 52-bed hostel serves as mitigation for the two high cost hotels now planned in the Headlands development

Based on Coastal Commission guidance (CCC public workshop staff report dated October 26, 2016) the City analyzed and determined the lower-cost overnight accommodation rate for the proposed hostel. Utilizing the CCC's methodology, the current rate would be set at \$51.86 per

night per bed. To ensure the lower-cost overnight accommodation rate accurately reflects current market conditions, the City had imposed a special condition that requires the applicant, at the time of Certificate of Occupancy, to provide an updated analysis consistent with the Coastal Commission guidance from the October 26, 2016 staff report or any subsequent guidance update. Additionally, after the initial rate is established, the applicant/ hostel operator will be required to update the rate and adjust the rate accordingly every three years based on market conditions and report any adjustments to the Community Development Department to ensure compliance. In order to ensure that the hostel rate gets appropriately analyzed routinely, the Commission imposes **Special Condition No. 3**, which requires the applicant to maintain and operate the hostel at a rate for low cost overnight accommodation by reviewing the cost every three years.

The proposed project will include a Visitor Information Center as a functional kiosk within an 800 square foot area separate from the hostel incorporated within the larger 2,100 square foot public plaza area of the hotel on the street level fronting Pacific Coast Highway. The Visitor Information Center will be designed to utilize interactive technology providing coastal, visitor-serving, educational, historical, cultural, and general event information, and will also provide seating for visitors. Access information will be made available at the Visitor Information Center and the hotel will provide direct access to the parking area, which provides HDCP required six parking spaces for the trail system where direct access to the trailhead is located adjacent to the site on Shoreline Drive which leads to the Strand Access Point and beach, and additional access via an 8-foot wide sidewalk on Green Lantern. The Visitor Information Center will enhance public access opportunities by providing the public a place where access information is available.

The applicant has stated that directional signage to the trails associated for public use have been installed in the area outside of the project site which clearly identifies the paths meant to provide public access. However in order to ensure that the public is aware of the nearby and adjacent public access opportunities from the project site, a public access sign plan is necessary. Currently at this time, no such plan has been provided. Thus, the Commission imposes **Special Condition No. 4**, which requires the applicant to submit a coastal public access sign plan identifying the location of the visitor-serving/coastal access directional signage.

2. Parking

Based upon the City's Zoning Code, 129 parking spaces are required for the project (57 parking spaces for the hotel, 40 parking spaces for the restaurant, 19 parking spaces for the restaurant deck Dining, 7 parking spaces for the hostel (*see* discussion below regarding the "requirement" of 7 parking spaces for the hostel) and 6 parking spaces for Open Space Visitors). The applicant is proposing 130 standard parking spaces, so the number of standard parking spaces exceeds the amount of parking required by the LCP. The project also incorporates a total of 44 tandem parking spaces, which can be used by employees, hotel guests, visitors, patrons and trail visitors. The use of tandem parking is appropriate for this type of visitor serving use as it has fluctuating parking demands. Thus, a grand total of 174 parking spaces (130 standard parking spaces + 44 tandem parking spaces = 174) will be provided on site, which is 45 parking spaces over the required amount (129 parking spaces) or 35% over the required amount.

Within these 130 standard parking spaces, 7 are proposed specifically to meet the demands of the hostel use. The HDCP refers back to the City's Zoning Ordinance for parking standards;

however, there are no parking standards for a hostel. In order to determine the appropriate number of parking spaces for the hostel, the City indicated that it did three things to determine the parking necessary for the hostel: 1) the City looked at uses in the parking section of the Zoning Ordinance that are similar in function to a hostel use, like a bed and breakfast use; 2) the City looked at the previous approval of a hostel use on the site approved by the City that required 7 parking spaces (the approval was not appealed but has expired and is no longer valid); and 3) the City contacted hostels from Los Angeles to San Diego and determined that the vast majority had fewer than 7 on-site parking spaces or no parking at all. According to the surveyed hostel operators, most people do not arrive at their facilities by private vehicle, as public transportation is the more common method of travel for hostel visitors. The City also determined that the parking requirement for hostels more closely resembles the requirement for a Bed and Breakfast, which is 1 space per guest room, plus 2 additional spaces. Parking was thus calculated on the basis of 1 space per guestroom for 5 guestrooms (at the time, the City counted five rooms in the hostel), plus 2 additional spaces, for a total of 7 parking spaces.

The project as a whole provides a total of 174 on-site parking spaces, which is 45 more spaces than required by the LCP, according to the City. The applicant has stated that a Parking Management Plan for the utilization of the tandem and valet parking will also be implemented in order to manage on-site parking so that the maximum number of vehicles can be accommodated in the parking garage. A Tandem Parking Program will be implemented as well that includes provisions for periodic monitoring and reporting to identify any issues associated with the program and to adjust the program as necessary to address any such issues. Therefore, the project provides more parking than required and provides an ample amount of additional parking if necessary for the hostel use, whose parking was calculated, based on a similar use (Bed and Breakfast) and based on a previous hostel approval onsite and parking required for similar hostel developments in Southern California and is thus consistent with the HDCP.

Conclusion

As conditioned, the Commission finds that the proposed project is consistent the public access protection policies of the City's LCP. The proposed project, as conditioned, is also consistent with the public access and recreation policies of the Coastal Act.

D. SCENIC AND VISUAL RESOURCES

HEADLANDS DEVELOPMENT AND CONSERVATION PLAN (HDCP) LOCAL COASTAL PROGRAM (LCP) POLICIES: LAND USE PLAN (LUP)

LAND USE ELEMENT (LUE)

GOAL 5: PROVIDE FOR THE DEVELOPMENT OF THE HEADLANDS IN A MANNER THAT ENHANCES THE CHARACTER OF THE CITY AND ENCOURAGES THE PROTECTION OF THE NATURAL RESOURCES OF THE SITE.

Land Use Element (LUE) Policy 5.13: *Create new public view and coastal access opportunities by establishing additional public shoreline access, an integrated, on-site public trail system, and coastal recreational facilities. (Coastal Act/30212, 30222, 30251)*

Land Use Element (LUE) Policy 5.23: *Enhance the visual quality of the Headlands by providing high quality development with appropriate landscaping. (Coastal Act/30251)*

Land Use Element (LUE) Policy 5.26: *Zoning and development regulations shall detail the location and extent of public coastal view opportunities (i.e. unobstructed view, intermittent view or no view) that will be established for designated public open space and trail areas which shall, at minimum, conform with the public view opportunities identified on Figure COS-4, Figure COS-5, and Figure COS-5a in the Conservation Open Space Element. (Coastal Act/30251).*

Land Use Element (LUE) Policy 5.27: *Maximum building heights for each zoning district shall be established that prevent significant adverse impacts to public views to and along the coast from, at minimum, the public view opportunities identified on Figure COS-4, Figure COS-5, and Figure COS-5a in the Conservation Open Space Element. Applications for land divisions and/or grading shall establish finished grades such that structures constructed to the maximum building heights identified for each zoning district shall not significantly adversely impact the public views identified in this policy (Coastal Act/30251)*

Land Use Element (LUE) Policy 5.28: *Submittals for tentative tract maps and coastal development permits for development proposed within any public viewshed identified on Figure COS-4, Figure COS-5, and Figure COS-5a in the Conservation Open Space Element, shall include a visual impact analysis to demonstrate that the public coastal view opportunities designated pursuant to Policy 5.26 shall be established and maintained. (Coastal Act/30251)*

Land Use Element (LUE) Policy 5.29: *New development shall include an inventory of the plant and animal species present on the project site. If the initial inventory indicates the presence or potential for sensitive species or habitat on the project site, a detailed biological study shall be required. New development within or adjacent to ESHA shall include a detailed biological study of the site. Any coastal development permit application for the Headlands submitted on or prior to two years from the date of effective certification of LCP Amendment 1-03 by the Coastal Commission, shall utilize the ESHA delineation (for upland habitat purposes) identified by the California Coastal Commission in its January 2004 approval, with suggested modifications, of the HDCP and not require additional species surveys; for applications submitted thereafter an updated or new detailed biological study shall be required. (Coastal Act/30240)*

Land Use Element (LUE) 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 finished grade. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure provided they do not significantly degrade public views to and along the shoreline. Finished grades shall be set such that any structure constructed to the full height limit plus any chimneys and rooftop antennas shall not significantly degrade public views to and along the shoreline. The*

commercial development along Pacific Coast Highway shall have a maximum allowable height of 40 feet above existing grade, 32-35 feet above finished grade. The Seaside Inn development along Street of the Green Lantern/Scenic Drive shall not exceed 42 feet above the finished building pad elevation and no finished building pad shall be higher in elevation than 220' MSL. In no case shall more than 30% of the buildable area within the 2.8 acre site exceed the height of the adjoining ridgeline. For commercial development, minor architectural projections may exceed the height limit provided they do not significantly degrade public views to and along the shoreline.

Land Use Element (LUE) Policy 5.41: *Signs shall be designed and located to minimize impacts to visual resources. Signs approved as part of commercial development shall be incorporated into the design of the project and shall be subject to height and width limitations that ensure that signs are visually compatible with surrounding areas and protect scenic views. Roof signs, pole signs, projecting signs shall not be permitted.*

URBAN DESIGN ELEMENT (UDE)

Urban Design Element – Page 15-16

The landforms of the Dana” Point” promontory and coastal bluffs are the most prominent natural features of the City. They are visible from the region’s coastline and coastal hillsides from a distance up to 30 miles. Public views from the public pedestrian access to the bluffs shall be established as they will become significant public resources and enhance the natural setting of Dana Point.

The following Urban Design policies and concepts will guide the development of the Headlands and shall be used as a standard of review for Local Coastal Program purposes:

- *Limit alteration of existing topography of the Headlands to accommodate a development program consistent with the General Plan and Headlands Specific Plan or PDD.*
- *Require setbacks of buildings and site improvements from the bluff faces, as set for the in the policies of the General Plan/Local Coastal Program Land Use Plan and the Specific Plan or PDD, which will ensure public and structural safety, consistent with detailed and site specific geotechnical report recommendations.*
- *Encourage building forms that maintain a low profile and tat are visually integrated with the landforms.*
- *The significance of and treatment of existing ridges, knolls, canyons and vegetation on the Headlands and bluffs shall be determined in the Headlands Specific Plan or PDD.*
- *Require all private development and public improvement proposals which have potential to impact public views of the Headlands and bluffs to submit detailed studies of view impacts. All development along the City’s coastline, as well as*

several locations in the Dana Point Town Center and Monarch Beach areas, have the potential to affect public views of the Headlands and bluffs.

- *Encourage public access to coastal resources by developing Visitor/Recreation Commercial facilities and Recreation/Open space areas (Including visitor-serving recreational facilities) that provide direct linkages to public parks, open space, the coastline, and the Strand Beach.*

Urban Design Element – Page 58

The Headlands

The Dana “Point” portion of the Headlands is one of the most significant landforms in the City. The primary Urban Design goal shall be to preserve the Dana “Point” area, including its coastal bluffs, and develop a coastal trail system on the plateau that rises approximately 180-215 feet above the Pacific to create extraordinary public view opportunities. As stated in the Land Use element, it is this area of the property – the Dana “Point,” the coastal bluffs, and the coastal plateau – that is commonly referred to as the “Headlands.” Urban Design objectives for development on the Headlands are:

- *Create public open space amenities, walkways, and a trail system within the Headlands that can ultimately be connected to the Blufftop Trail to the south, and the Salt Creek Beach Park to the north.*
- *Preserve the relative height and visual prominence of the ridge top and designate the hilltop area near Pacific Coast Highway for public park, public trail, and permanent open space uses.*
- *Develop a landscaped open space corridor consistent with existing corridors along Pacific Coast Highway.*
- *Future buildings on the Headlands should be carefully integrated with surrounding development and maintain a visual profile that limits disruption of public ridgeline views from Dana Point Harbor and public parks.*
- *Emphasize a creative use of appropriate materials when designing public facilities, such as visitor-serving recreational facilities trails and walkways.*
- *Drought tolerant and non-invasive species shall be utilized throughout the project site. Native species shall be utilized in all areas, including the South Strand Vista Park area designated for habitat revegetation, with the exception of the following: the Seaside Inn, PCH Commercial, residential lots, Home Owners Association (“HOA”) maintained common areas and slopes (residential plan areas only) and the remainder of Strand Vista Park not reference above.*
- *Provide a strong connection with the ocean through the inclusion of coastal access and ocean view preservation.*
- *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.*

A large hill that is taller than the proposed development is located at the rear of the development and the project has been designed so that it contours with the natural slope in order to reduce the overall massing and scale of development and to be at or below the maximum height limit. The proposed project fronts Pacific Coast Highway, which is designated as a scenic highway, but there are no specific public views identified in this particular stretch. The proposed retaining walls are located behind the building and obscured from view. While no views may be specifically identified, nonetheless, the project has been designed so follow the natural slope of the area and thus will not obstruct any public views from the designated scenic highway.

The HDCP allows a maximum height of 31-35 feet with a maximum of two stories [levels]. The project site is not flat and there is an approximately twenty-foot grade difference between the north and south ends of the site, so there are varying finished pad elevations on the site, and two subterranean levels (not stories) for the parking garage. The City-approved development includes no more than two stories above any basement level in any location, and the development does not exceed the 35-foot height limit and is thus consistent with the HDCP.

Where the building might appear to be a four-level structure (as viewed from the corner of the Street of the Green Lantern and Pacific Coast Highway), it is actually a two-story portion of the structure set behind another lower two-story portion of the structure that has a much lower grade/elevation. So while there are multiple levels in the structure, at no point are there more than two stories stacked above the basement levels (which are not stories). The building has been designed so that there are no more than two stories stacked on top of the basements, even at the entry points into the subterranean parking garage.

Conclusion

As conditioned, the Commission finds that the proposed project is consistent the scenic and visual resource policies of the City's LCP.

E. MARINE RESOURCES/WATER QUALITY HEADLANDS DEVELOPMENT AND CONSERVATION PLAN (HDCP) LOCAL COASTAL PROGRAM (LCP) POLICIES: LAND USE PLAN (LUP)

LAND USE ELEMENT (LUE)

GOAL 4: ENCOURAGE THE PRESERVATION OF THE NATURAL ENVIRONMENTAL RESOURCE OF THE CITY OF DANA POINT.

Land Use Element (LUE) Policy 4.4: *Preserve, maintain, enhance, and where feasible restore marine resource areas and coastal waters. Special protection shall be given to areas and species of special biological or economic significance. Sustain and where feasible restore general water quality and biological productivity as necessary to maintain optimum populations of marine organisms and for the protection of human health. (Coastal Act 30230)*

LAND USE ELEMENT (LUE)

GOAL 5: PROVIDE FOR THE DEVELOPMENT OF THE HEADLANDS IN A MANNER THAT ENHANCES THE CHARACTER OF THE CITY AND ENCOURAGES THE PROTECTION OF THE NATURAL RESOURCES OF THE SITE.

Land Use Element (LUE) Policy 5.24: *Protect the quality of coastal waters and human health by minimizing the potential for harmful impacts from storm water runoff. (Coastal Act/30230, 30231)*

Land Use Element (LUE) Policy 5.25: *Minimize drainage impacts to the Dana Point Marine Life Refuge and Laguna Niguel Marine Life Refuge. (Coastal Act/30230, 30231)*

Land Use Element (LUE) Policy 5.43: *In conjunction with the development of a luxury inn at the Headlands, the developer shall install water quality best management practices, including structural best management practices that shall treat runoff from the development site as well as at least 17 acres of off-site developed area.*

CONSERVATION OPEN SPACE ELEMENT (COSE)

GOAL 1: CONSERVE AND PROTECT SURFACE WATER, GROUNDWATER AND IMPORTED WATER RESOURCE.

The Headlands Water Quality Program

Although portions of the Headlands have been previously developed, specifically the mobile home park in the Stand area, the greenhouses and related improvements in the Upper Headlands and several public streets, the storm water conveyance systems that are currently in place are in a state of disrepair. Moreover, no water quality Best Management Practices (“BMPs”) in the form of structural devices are in place to prevent or mitigate water quality impacts to the Pacific Ocean or Dana Point Harbor. In addition, existing urban development adjoining and within the same drainage basins the Headlands are not currently served by such BMPs.

The City of Dana Point recognizes impacts can occur to coastal waters from both storm water runoff and “nuisance” runoff from urban areas. Therefore, it is of utmost importance that any Headlands project be designed to incorporate effective Site Design, Source Control and Treatment Control. BMPs to minimize the potential for water quality impacts to the adjoining marine environment and to Dana Point Harbor.

In addition to the prior policies, the following policies shall guide future development/redevelopment of the Headlands:

Conservation Open Space Element (COSE) Policy 1.9: *All development shall meet the requirements of the California Regional Water Quality Control Board San Diego region’s Waste Discharge Requirements for discharges of urban runoff from Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the*

Incorporated Cities of Orange County, and the Orange County Flood Control District within the San Diego Region or subsequent versions of this plan.

Conservation Open Space Element (COSE) Policy 1.10: *Concurrent with the submittal of a tentative tract map and/or master coastal development permit application, a post-development drainage and runoff control plan shall be prepared that incorporates a combination of structural and non-structural Best Management Practices (BMPs”) best suited to reduce pollutant loading in runoff from the area proposed for development to the maximum extent feasible. BMPs shall include Site Design, Source Control, and Treatment Control BMPs. In addition, schedules for the required routine maintenance for each of the structural BMPs and the responsible party of the maintenance shall be identified.*

Conservation Open Space Element (COSE) Policy 1.11: *Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate, or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (multiplied by an appropriate safety factor, i.e. 2 or greater for flow-based BMPs.*

Conservation Open Space Element (COSE) Policy 1.12: *Development that requires a grading/erosion control plan shall include a plan and schedule for landscaping and re-vegetation or graded or disturbed areas. If the grading occurs during the rainy season, the plan will include BMPs to minimize or avoid the loss of sediment from the site.*

Conservation Open Space Element (COSE) Policy 1.13: *The City, property owners, or homeowners association, as applicable, shall vacuum sweep public and private streets, and parking lots frequently to remove debris and contaminant residue.*

Conservation Open Space Element (COSE) Policy 1.14: *The City, property owners, or homeowners associations, as applicable, shall be required to maintain any structural BMP device to ensure it functions as designed and intended. Owners of these devices shall be responsible for ensuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, shall be required to be carried out prior to the next rainy season.*

Conservation Open Space Element (COSE) Policy 1.15: *Commercial development shall incorporate BMPs designed to minimize or avoid the runoff of pollutants from structures, landscaping, parking and loading areas.*

Conservation Open Space Element (COSE) Policy 1.16: *Restaurants shall incorporate BMPs designed to minimize runoff of oil and the grease solvents, phosphates, suspended solids, and the other pollutants to the storm drain system.*

Conservation Open Space Element (COSE) Policy 1.17: *Storm drain stenciling and signage shall be provided for new storm drain construction in order to discourage dumping into drains.*

Conservation Open Space Element (COSE) Policy 1.18: *Utilize efficient irrigation practices to minimize the potential for nuisance water runoff.*

Conservation Open Space Element (COSE) Policy 1.19: *Divert low-flow “nuisance” run-off to the sanitary sewer system for treatment, thereby avoiding dry weather flows to the beach of Harbor.*

Conservation Open Space Element (COSE) Policy 1.20: *Reduce impervious surfaces through design of narrower than standard streets; shorten streets where feasible; and on single loaded streets, eliminate sidewalks on one side.*

Conservation Open Space Element (COSE) Policy 1.21: *Develop a public awareness program concerning water quality for future homeowners, property managers, and visitors to the public open space. The program will emphasize the proper use of irrigation, fertilizers and pesticides by homeowners and landscape contractors.*

1. Construction Impacts to Water Quality

Construction will occur on land. As such, there is a possibility that construction phase activities could result in adverse water quality impacts. In addition, there is a possibility that improper staging and storage of equipment could have impacts on water quality.

Potential construction phase impacts include improper storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or in a manner which allows such materials to be discharged into Dana Point Harbor and coastal waters via rain or urban runoff. These actions would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species ability to see food in the water column.

In order to address water quality impacts during construction, the Commission imposes **Special Condition No. 5**, which requires the applicant to submit a Storm Water Pollution Prevention Plan (SWPPP) for the Executive Director’s review and approval. The SWPPP must show that the permittee is properly prepared to apply site design, source control and treatment control BMP’s, appropriate for the potential stormwater pollutants at this site, in order to protect coastal waters from polluted runoff generated by construction activities to the maximum extent practicable

In order to assure that the proposed project does not result in any accidental or unanticipated discharges, spills or other activities that could harm marine resources and water quality, and to assure the applicant is aware of their responsibility to provide a debris catching device under this coastal development permit, the Commission imposes **Special Condition No. 6**, which requires

the applicant to implement construction Best Management Practices (BMPs) to protect water quality during construction.

The applicant has not indicated where the construction staging area will be. Thus, the Commission finds that it is necessary to impose **Special Condition No. 7**, which requires the applicant to submit a Construction Staging Plan for the Executive Director's review and approval.

2. Post-Construction Impacts to Water Quality

The proposed development will result in urban runoff entering the storm water system. Pollutants such as sediments or toxic substances such as grease, motor oil, heavy metals, pesticides and fertilizers are often contained within urban runoff entering the storm water system. In this case, the development drains new buildings and a parking garage. Therefore, the primary landside post-construction water quality concerns associated with the proposed project include trash. The proposed development would result in the discharge of storm water into the storm water conveyance system that would discharge into the Dana point Harbor and into coastal waters. Therefore, the project has the potential to affect the water quality of the coastal waters in Dana Point. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from the proposed project.

In order to deal with these post construction water quality impacts, the applicant has stated that pervious pavers, a bio filtration system and a grease interceptor will be used. However, no further details have been provided for these post construction methods of dealing with water quality impacts. Therefore, in order to address water quality impacts post construction, the Commission imposes **Special Condition No. 8**, which requires the applicant to submit a Water Quality Management Plan (WQMP) for the Executive Director's review and approval.

The applicant has stated that landscaping is proposed. The placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society (www.CNPS.org) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>.

Commission staff has reviewed the submitted Landscaping Plan and determined that the plan includes some plants that are not drought tolerant. For example: *Carissa M.* "Boxwood Beauty" and *Festuca O.* "Glauca." Therefore, the Commission imposes **Special Condition No. 9**, which requires the permittee to submit a Revised Landscaping Plan, which consists of native or non-native drought tolerant plants, which are non-invasive.

Conclusion

As conditioned, the Commission finds that the proposed project is consistent the marine resources/water quality policies of the City’s LCP.

F. BIOLOGICAL RESOURCES

HEADLANDS DEVELOPMENT AND CONSERVATION PLAN (HDCP) LOCAL COASTAL PROGRAM (LCP) POLICIES: LAND USE PLAN (LUP)

CONSERVATION OPEN SPACE ELEMENT (COSE)

GOAL 2: CONSERVE SIGNIFICANT TOPOGRAPHICAL FEATURES, IMPORTANT WATERSHED AREAS, RESOURCES, SOILS AND BEACHES.

Conservation Open Space Element (COSE) Policy 2.20: *The biological productivity and quality of coastal waters, streams, wetlands, estuaries, and lakes and the restoration of optimum populations of marine organisms shall be ensured by, among other means, minimizing adverse effects of waste water discharges. Any specific plans and/or planned development district policies and specific development proposals, site plans and subdivision maps shall control runoff, prevent depletion of ground water supplies and substantial interference with surface water flow, encourage waste water reclamation, maintain natural vegetation buffer areas that protect riparian habitats, and minimize alteration of natural streams. (Coastal Act/ 30231).*

CONSERVATION OPEN SPACE ELEMENT (COSE)

GOAL 3: CONSERVE SIGNIFICANT NATURAL PLANT AND ANIMAL COMMUNITIES.

Conservation Open Space Element (COSE) Policy 3.1: *Environmentally sensitive habitat areas (ESHAs) are 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, and include, but are not limited to, important plant communities, wildlife habitats, marine refuge areas, riparian areas, wildlife movement corridors, wetlands, and significant tree stands, such as those generally depicted on Figure COS-1. ESHAs shall be preserved, except as provided in Conservation Open Space Element Policy 3.12. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts that would significantly degrade those areas, and such development shall be compatible with the continuance of those habitat areas. Among the methods to be used to accomplish the siting and design of development to prevent ESHA impacts are the practice of creative site planning, revegetation, and open space easement/dedications. A definitive determination of the existence of environmentally sensitive habitat areas on a specific site shall be made through the coastal development permitting process. For the Headlands, the extent of environmentally sensitive habitat area presently known to the City is generally depicted on Figure COS-1, and the land use area boundaries at the Headlands recognize the presence of the habitat. The precise boundary of the sensitive habitat at the Headlands shall be determined through the coastal development permitting process, including but not limited to those provisions outlined in Land Use Element Policy 5.29. (Coastal Act/30230, 30240)*

Conservation Open Space Element (COSE) Policy 3.7: *Environmentally sensitive habitat areas (ESHA) shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas except as provided in Conservation Open Space Element Policy 3.12. Development in areas adjacent to ESHA shall incorporate buffering design elements, such as fencing, walls, barrier plantings and transitional vegetation around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Variances or modifications to sensitive resource protection standards shall not be granted. (Coastal Act/30240)*

Conservation Open Space Element (COSE) Policy 3.16: *Except for landscaping on private residential lots, that portion of Strand Vista Park situated seaward of the County parking lot and the area along the North project boundary parallel to the County beach access stairway, the HOA maintained common areas and slopes (residential plan areas only) and the visitor/recreation commercial (i.e. PCH Commercial and Seaside Inn site adjacent to Harbor Point), all landscaping (including temporary erosion control and final landscaping) for all development within the Headlands shall be of plants native to coastal Orange County and appropriate to the natural habitat type. Native plants used for landscaping shall be obtained, to the maximum extent practicable, from seed and vegetative sources at the Headlands. No plant species listed as problematic and/or invasive by the California Native Plant Society, California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be utilized anywhere within the Headlands, including within private residential lots, that portion of Strand Vista Park situated seaward of the County parking lot and the area along the North project boundary parallel to the County beach access stairway, the HOA maintained common areas and slopes (residential plan areas only) and the visitor/recreation commercial (i.e. PCH Commercial and Seaside Inn site adjacent to Harbor Point). No plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized anywhere within the proposed development area, including the private residential lots, that portion of Strand Vista Park situated seaward of the County parking lot and the area along the North project boundary parallel to the County beach access stairway, the HOA maintained common areas and slopes (residential plan areas only) and the visitor/recreation commercial (i.e. PCH Commercial and Seaside Inn site adjacent to Harbor Point). Drought tolerant plant species shall be used and native plant species are encouraged within the private residential lots, that portion of Strand Vista Park situated seaward of the County parking lot and the area along the North project boundary parallel to the County beach access stairway, the HOA maintained common areas and slopes (residential plan areas only) and the visitor/recreation commercial (i.e. PCH Commercial and Seaside Inn site adjacent to Harbor Point).*

The project site has already been graded as part of the installation of the infrastructure improvements of the Headlands development, allowed under a previous CDP and there is no environmentally sensitive habitat on the site. The project will not result in any impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation

areas as previously approved fencing has already been installed to protect the adjacent conservation area which provides an adequate buffer to protect such resources. The project site has been continually used as a parking/ staging area for the development of the public and private components of the HDCP area.

Conclusion

The Commission finds that the proposed project is consistent the biological resource policies of the City's LCP.

G. GEOLOGIC STABILITY

HEADLANDS DEVELOPMENT AND CONSERVATION PLAN (HDCP) LOCAL COASTAL PROGRAM (LCP) POLICIES: LAND USE PLAN (LUP)

LAND USE ELEMENT (LUE)

GOAL 5: PROVIDE FOR THE DEVELOPMENT OF THE HEADLANDS IN A MANNER THAT ENHANCES THE CHARACTER OF THE CITY AND ENCOURAGES THE PROTECTION OF THE NATURAL RESOURCES OF THE SITE.

***Land Use Element (LUE) Policy 5.2:** Require geotechnical studies to assess geologic hazards in the areas where development is proposed. Except for the public access facilities and residential development in the Strand (which is exempt from this requirement only if proposed in the context of an application that provides all of the HDCP Elements, and only in conjunction with a requirement that the plan be completed as a whole), require a minimum 50 foot setback from bluff edges or a sufficient setback to avoid anticipated erosion/bluff retreat over a minimum 75 year timeframe in accordance with those geotechnical studies, whichever is most restrictive. (Coastal Act/30250, 30253)*

***Land Use Element (LUE) 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)*

CONSERVATION OPEN SPACE ELEMENT (COSE)

GOAL 2: CONSERVE SIGNIFICANT TOPOGRAPHICAL FEATURES, IMPORTANT WATERSHED AREAS, SOILS AND BEACHES.

***Conservation Open Space Element (COSE) Policy 2.8:** Minimize risks to life and property, and preserve the natural environment, by siting and clustering new development away from areas which have physical constraints associated with steep*

topography and unstable slopes; and where such areas are designated as Recreation/Open Space or include bluffs, beaches, or wetlands, exclude such areas from the calculation of net acreage available for determining development intensity or density potential. (Coastal Act/30233, 30253)

Conservation Open Space Element (COSE) Policy 3.14: *Exterior night lighting shall be shielded and directed so that light is directed toward the ground and away from sensitive biological habitat.*

The proposed development has been designed to minimize the alteration of natural landforms and will not result in risks from geologic and erosional forces. The site has already been pre-graded under a previous CDP and the proposed development has been designed to utilize the natural slope of the site.

Conclusion

The Commission finds that the proposed project is consistent the geologic stability policies of the City's LCP.

H. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition No. 10**, which requires the property owner record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

I. LOCAL COASTAL PROGRAM (LCP)

The Commission certified the Headlands Conservation Plan (HDCP), a component of the City's Local Coastal Program, on August 11, 2004 and which became effectively certified in January 2005. For the reasons stated in this report, the proposed development is consistent with the HDCP. In this case, that finding can be made since the proposed project, as conditioned, is consistent with the scenic and visual resources, marine resources, water quality, biological resources, and geologic stability policies of the HDCP and the public access and public recreation policies of the Coastal Act. Therefore, the Commission approves the Coastal Development Permit.

J. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the

activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

In this case, the City of Dana Point is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Dana Point approved an EIR and EIR addendum that analyzed the project site, and also made a determination that the proposed development is Categorically Exempt per Section 15332 (Class 32-In-Fill Development Projects). As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the City's certified Local Coastal Program and the public access and public recreation policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.