FINAL
ENVIRONMENTAL IMPACT REPORT

VOLUME III: RESPONSES TO COMMENTS AND APPROVAL DOCUMENTATION

HEADLANDS DEVELOPMENT AND CONSERVATION PLAN

DANA POINT, CALIFORNIA

SCH#2001071015

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February, 2002

FINAL ENVIRONMENTAL IMPACT REPORT

HEADLANDS DEVELOPMENT AND CONSERVATION PLAN

The Final Environmental Impact Report for the Headlands Development and Conservation Plan is made up of the following four volumes:

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RESPONSES TO COMMENTS

INTRODUCTION

As required by CEQA Guidelines Section 15087, a public Notice of Availability (NOA) of the Draft Environmental Impact Report (DEIR) for the Headlands Development and Conservation Plan was filed with the Orange County Clerk on October 5, 2001. In addition, the NOA was also posted both at the project boundaries and at points readily visible to the public, and notices were mailed to 263 private citizens and groups that had requested to be notified of the availability of the DEIR. The NOA was also published in the Dana Point News on October 11, 2001. The DEIR was circulated for public review for a period of 45 days, from October 5, 2001, to November 19, 2001. Copies of the DEIR were mailed to all responsible agencies and state agencies and were made available for public review at the Dana Point Planning Department and the Dana Point Library. Copies of the DEIR were also made available for purchase through the City Planning Department.

A total of 48 comment letters was received during the public review period. Comments were received from State and local agencies, special districts, interested parties, and private citizens. Comments that address environmental issues are thoroughly responded to. In some cases, corrections to the DEIR are required or additional information is provided for clarification purposes. However, some of the comments do not address the adequacy or completeness of the DEIR, do not raise environmental issues, or do request the incorporation of additional information not relevant to environmental issues. Such comments do not require a response, pursuant to Section 15088(a) of the CEQA Guidelines.

Many comments raise similar or identical issues. To address these comments, a single response is provided the first time the issue is raised, and subsequent responses refer to the initial response. In addition, general responses to specific environmental issues have been included to provide a comprehensive response to important or common environmental topics brought up in several of the comments.

Section 15088 of the state CEQA Guidelines, Evaluation of and Response to Comments, states:

a) The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.

b) The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, major environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail, giving the reasons that specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.

c) The response to comments may take the form of a revision to the draft EIR or may be a separate section in the final EIR. Where the response to comments makes important changes in the information contained in the text of the draft EIR, the lead agency should either:

1. Revise the text in the body of the EIR; or
2. Include marginal notes showing that the information is revised in the responses to comments.

Information provided in this Response to Comments document clarifies, amplifies, or makes minor modifications to the DEIR. No significant changes have been made to the information contained in the DEIR as a result of the responses to comments, and no significant new information has been added. Therefore, this Response to Comments document is being prepared as a separate section of the EIR, and is included as part of the Final EIR, for consideration by the City Council, prior to a vote to certify the Final EIR.

INDEX OF COMMENTS RECEIVED

The following is an index list of the agencies, groups, and persons who commented on the Draft EIR, prior to the close of the public comment period, or immediately thereafter. Comment letters No. 49 to 53 were received substantially after the close of the public review period and, therefore, no responses to the comments in those letters are provided. Nevertheless, copies of these letters are included. The comments received have been organized in a manner that facilitates finding a particular comment or set of comments. Each comment letter received is indexed with a number below.

#	Name	Date
1	Derith Madden	October 6, 2001
2	SCAG	October 17, 2001
3	Frank Persides	October 21, 2001
4	Jean Badraun	October 18, 2001
5	Charlene O'Connell	November 4, 2001
6	Coleen Reily	November 6, 2001
7	Endangered Habitats League	November 11, 2001
8	Steven & Carol Hoffman	November 15, 2001
9	Derith Madden	October 31, 2001
10	Edward Gallagher	November 15, 2001
11	Caltrans	November 16, 2001
12	Terry Goller	November 14, 2001
13	Nancy Knipe	November 15, 2001
14	Winston Goller	November 16, 2001
15	Tom Brabeck	November 18, 2001
16	Kent Welton	November 18, 2001
17	John D. Taylor/Marion Cook	November 19, 2001
18	Surfrider Foundation	November 19, 2001
19	Frank Persides	November 19, 2001
20	Mavis Crick	November 16, 2001
21	South Orange County Wastewater Authority (SOCWA)	November 15, 2001
22	Regatta HOA	November 15, 2001

#	Name	Date
23	Robert and Rona Lindl	November 19, 2001
24	Jim & Betty Folk/Dan & Fran Bianca	November 19, 2001
25	Donna Watkins	November 18, 2001
26	Ruby Netzly	November 16, 2001
27	Grant Bjornestad	November 19, 2001
28	U.S. Fish & Wildlife Service and California Dept. of Fish & Game	
29	James Slark	November 19, 2001
30	Christopher J.P. Nicoll	November 19, 2001
31	Dr. & Mrs. Lewis Bruggeman	November 19, 2001
32	Edward Gallagher	November 17, 2001
33	Headlands Conservancy	November 18, 2001
34	Barbara Brabeck	
35	South Coast Water District	November 19, 2001
36	City of San Juan Capistrano	November 19, 2001
37	Ron & Lee Cohan	November 18, 2001
38	J. Richard Faulk	November 19, 2001
39	Celia Kutcher	November 19, 2001
40	Bob Larwood	November 19, 2001
41	Bette J. Courtney	November 18, 2001
42	Selva Owner	November 19, 2001
43	California Native Plant Society	November 16, 2001
44	County of Orange, Planning & Development Svcs. Dept	November 19, 2001
45	Lute Eldridge & Associates	November 19, 2001
46	State Clearinghouse	October 15, 2001
47	Brian Yaklich	November 19, 2001
48	California Coastal Commission	November 21, 2001
49	Capistrano Unified School District	November 26, 2001
50	Endangered Habitat League	November 26, 2001
51	Phillip Brylski, Ph.D.	November 26, 2001
52	Ruby Netzly	November 26, 2001
53	State Clearinghouse	December 7, 2001

FORMAT OF RESPONSES TO COMMENTS

Responses to each of the comment letters are provided on the following pages. The comment letter number is provided in the upper right hand corner of each comment letter, and individual points within each letter are numbered along the right-hand margins of each letter. Comments not requiring any response are not numbered. The City's responses to each comment letter immediately follow each letter and are referenced by the index numbers in the margins.

GENERAL RESPONSES

The following are general responses provided to address important common issues raised by commentors in the responses to comments.

1. Traffic on Green Lantern
2. Traffic on Selva Road
3. New Intersection at Street "A" and PCH
4. Tour Buses at Park
5. Geotechnical Stability
6. Terrestrial Biological Impacts
7. Traffic on Stonehill
8. Noise Due to Visitor Centers/Activity Centers, Impacts on Adjacent Properties
9. Loss of Open Space
10. Loss/Impacts to Private Views, Landscaping Restrictions

GENERAL RESPONSE 1 - TRAFFIC ON GREEN LANTERN

A Traffic Study, contained in Appendix H and summarized in Section 4.13 of the DEIR, was prepared to analyze the project's impact on the street system. Street of the Green Lantern is a local street that connects PCH to Cove Road and Scenic Drive. The Street is a one-way westbound street between PCH and the driveway that provides access to the upper Blue Lantern Plaza Center. The Traffic Study states that the existing average daily traffic (ADT) volume on Green Lantern is approximately 2,600, and that the street can accommodate 5,000 ADT and maintain an acceptable level of service (LOS) (DEIR Table 4.13.F: Summary of Road Link Analysis). The intersections of PCH/Green Lantern and PCH/Blue Lantern currently operate at LOS A.

Street of the Green Lantern will provide secondary access to the project site, and will provide access to Planning Area 5, Hilltop Park and Greenbelt Linkages, Planning Area 7, Headlands Conservation Park, Planning Area 8, Harbor Point Park, and Planning Area 9, Seaside Inn Visitor/Recreation Commercial. Green Lantern will be realigned to connect with a traffic circle at its intersection with Scenic Drive. Metered, head-in parking along the realigned Street of the Green Lantern and Scenic Drive will provide access to the adjacent parks, open space, and public trail system.

The Traffic Study estimates that the proposed project will generate approximately 4,599 ADT. Under the Existing Plus Project Condition, traffic on Green Lantern between PCH and Cove Road is expected to increase from approximately 2,600 ADT to approximately 3,400 ADT, an increase of 800 vehicle trips per day (600 of these trips will be inbound and outbound utilizing Blue Lantern and Santa Clara Avenue, and 200 will be added to Green Lantern inbound from PCH. This is significantly less than the 5,000 ADT that can be acceptably accommodated by the street, and the adjacent intersections will also continue to operate at an acceptable level of service. As such, there is no significant impact to Green Lantern, and no need to increase the street width or to route traffic generated by the project to Selva Road, Cove Road, or another street. It should be noted that the existing traffic for the multifamily residential enclave (approximately 28 condominium units), which currently utilizes Green Lantern and Cove Road, will be accessed in the future by the extension of Selva Road. Furthermore, the increase in noise and air pollution resulting from 800 additional vehicle

trips on Green Lantern will be insignificant, as shown in the analysis in Section 4.2 of the DEIR, Air Quality, and Section 4.10 of the DEIR, Noise.

GENERAL RESPONSE 2 - TRAFFIC ON SELVA ROAD

Selva Road is a four lane undivided secondary arterial highway providing a direct connection between PCH and Stonehill Drive in the City. West of its intersection with Street of the Blue Lantern to its intersection with Stonehill Drive, Selva Road is a two lane divided secondary arterial highway (please see Figure 4.13.2 in Section 4.13.2 of the DEIR). The road crosses PCH to the southwest as a four lane undivided secondary arterial. It currently serves the Niguel Beach Terrace condominiums, a small office building, the homes in Chelsea Point, and the Salt Creek public parking lot, with the road ending near the project site property line (please see Figure 4.13.6A in Section 4.13 of the DEIR). Through 1988, the road served as the primary access for a 90 lot mobile home park in the Strand Beach area. The mobile home park was closed in 1988.

With project implementation, Selva Road will provide primary entry to Planning Area 1, Strand Vista Park, Planning Area 2, Strand Residential, and Planning Area 3, Strand Beach Park. Selva Road also provides secondary access to Planning Area 7, Headlands Conservation Park, and Planning Area 5, the Hilltop Park and Greenbelt Linkages. The Selva Road extension will connect to the existing Dana Strand Road and terminate in a cul-de-sac at the south end providing access to the existing residential enclave and open space uses.

The proposed General Plan Amendment removes the Selva Road loop from the General Plan Circulation Element and will allow the construction of a landscaped median within the portion of the road with existing improvements, west of PCH. If implemented this will lower the capacity to a collector from that of a secondary arterial. The project will construct a two lane extension onto the project area, terminating at and serving the existing residential enclave adjacent to the Headlands Conservation Park. The project's Strand Residential Area will be accessed via a T-intersection to the west, where the new extension of Selva Road crosses the property line (Figure 4.13.6A).

With vehicle trips primarily attributable to the 75 unit Strand residential portion on the project site and the existing residences adjacent to the Headlands Conservation Park, approximately 1,000 daily trips will be added to Selva Road at its intersection with PCH (please see Figure 4.13.10 of the DEIR).

As a four lane roadway, adjacent to the Strand residential portion of the project site, and adjacent to the Niguel Beach Terrace condominiums, Selva Road has a capacity of 20,000 cars per day. Current usage of the roadway is 3,100 cars per day as shown on Table 4.13.F in Section 4.3 of the DEIR. The addition of 1,000 trips, as noted, will raise the volume on this road to 4,100 trips, still under the carrying capacity of 20,000 trips. If the median is implemented, the capacity of Selva Road will be at least 10,000 ADT. Table 4.13.G shows that the Selva Road/PCH intersection currently operates at between 42 and 48 percent of capacity during peak usage periods on a typical weekday. During the summer beach season, intersection usage increases to between 45 and 53 percent of capacity. With the addition of the proposed project and the ultimate build out of the City's General Plan, weekday intersection usage will increase to between 57 and 67 percent of capacity, and peak summer usage to between 61 percent and 72 percent of capacity. At its highest use of 72 percent of capacity, the intersection will operate within a level of service (LOS) C, which the City considers acceptable for

such an intersection. According to the LOS C standard, the maximum acceptable capacity use for this intersection is 80 percent.

Therefore, the highest intersection use is within the City standard of LOS C, so there is sufficient capacity both on Selva Road and its intersection with PCH to accommodate the proposed project without any modification to the road or intersection, except as noted above, regarding the extension for the purpose of serving the residential enclave, the Strand residential portion of the project site, as well as the other recreational and open space uses.

GENERAL RESPONSE 3 – NEW INTERSECTION AT STREET A AND PCH

The plan for the Headlands Development and Conservation Plan has been developed after careful consideration of the potential impacts from a traffic, circulation, land use, and open space standpoint. The plan provides for a separate access point to the Upper Headlands Residential area (Planning Area 6) and the Pacific Coast Highway Visitor/Recreation Commercial Area (Planning Area 4) to "A" Street at Pacific Coast Highway. The residential development in Planning Area 6 is a separate neighborhood within the Headlands development that will be served by "A" Street, which takes access from Pacific Coast Highway. In order to distribute traffic from the development so that no single existing area is impacted, access is provided to Selva Road, "A" Street, Green Lantern, and Cove Road. Green Lantern cannot viably serve the commercial area, since it is limited to inbound (westbound) traffic only and does not provide full turning movements, which is important for the economic viability of the commercial area (Planning Area 4). Due to turn movement conflicts, traffic using any Headlands access on Green Lantern would conflict with existing access to Blue Lantern Plaza (Pacific Room Restaurant). This could cause traffic to back up onto Pacific Coast Highway and also into Santa Clara due to the short distance between Pacific Coast Highway and Santa Clara.

Taking access from Green Lantern as suggested would require a greater amount of grading in the vicinity of the hilltop landform and would require the commercial pad to drain to either Pacific Coast Highway or Dana Point Harbor. Caltrans has prohibited drainage to Pacific Coast Highway. The harbor is an impaired body of water; draining in that direction will affect the water quality program for the project site. Furthermore, providing an access to Pacific Coast Highway via "A" Street greatly reduces traffic impacts to Green Lantern, which is a concern to the existing residents along this roadway. The advantages of a traffic signal at "A" Street and Pacific Coast Highway are described below:

1. Provides direct, safe, signal controlled access to the commercial (Planning Area 4) and residential (Planning Area 6) areas of the Headlands project at a single point on PCH.

2. The proposed signalized intersection meets or exceeds Caltrans standard sight distances.

3. The projected traffic counts meet Caltrans warrants for a traffic signal. (See attached warrant sheet).

4. Provides a point of vehicular access to PCH as identified on the adopted Dana Point Local Coastal Program and the City's General Plan.

5. Accommodates access as shown on Caltrans R.O.W. Map No. P_2 3976-1 and on Tract Map No. 697, circa 1924, which preceded conveyance of the right-of-way easements to the State of California for PCH in 1925 and 1930, and avoids creation of land-locked parcels.

6. Eliminates the need for driveways along PCH to serve the proposed commercial site.

7. Provides controlled access and crossing of PCH for pedestrians and bicycles directly to the proposed Headlands Trail system, which provides coastal access.

8. Provides an intermediate observable traffic signal between Selva Road and Blue Lantern that will transition the 50 mph speed limit north of the Headlands, to the 35 mph speed limit zone that will now begin just south of the Green Lantern/PCH intersection.

9. Avoids loading traffic onto Green Lantern, a restricted access roadway.

10. Allows a customer driving on PCH to make a visual connection between the Headlands commercial site and the physical point of access.

An extensive discussion of the traffic signal installation at Pacific Coast Highway and "A" Street is contained on pages 9-5 through 9-9 of the traffic study (Appendix H).

GENERAL RESPONSE 4 - TOUR BUSES AT PARK

The project does not propose the operation of tour buses to Harbor Point Park or the other visitor facilities at the site. None of the proposed visitor centers is larger than 2,000 sq. ft. and, therefore, it is unlikely that these facilities would be destinations for tour buses. Furthermore, the County parking lot on Selva Road has sufficient capacity to accommodate the parking of buses if necessary. An existing OCTA bus line is located along PCH, and two bus stops are located within two blocks of the project site. Visitors to the site wishing to utilize mass transit can use this existing option.

GENERAL RESPONSE 5 – GEOTECHNICAL STABILITY

As presented in Section 2.0 of AMEC's geotechnical evaluation report of the project (DEIR Appendix D, August, 2001), which is summarized in DEIR Section 4.5, the Strand area (i.e., Planning Areas 1, 2, and 3) has been the subject of extensive previous geologic/geotechnical evaluation beginning in 1983-84. These evaluations have included 20 exploratory borings, 39 exploratory trenches/test pits, 9 ground penetrating radar profiles, and extensive analysis of the stability conditions that considered both the planned interim construction slopes and the proposed final design configuration. As summarized in Section 2.0 of AMEC's August, 2001, report, information and analyses specific to stability conditions in Planning Area 2 are presented in AMEC's reports dated: November 29, 1984 (Job No. 384-414); March 4, 1988 (Job No. 387-584); October 15, 1999 (Job No. 9-212-306100); February 4, 2000 (Job No. 9-212-306100); and March 21, 2000 (Job No. 9-212-306100).

Stability evaluations and recommendations regarding planned temporary slopes during grading construction were compiled from the referenced reports and are outlined in Section 6.4.2.1 of

AMEC's August, 2001, report. Recommended mitigation measures outlined in the report include provisions for additional geotechnical evaluations as a part of the final grading and foundation design process. These additional evaluations are intended to refine and enhance the preliminary construction slope design that was evaluated in the referenced AMEC reports. These mitigation measures are contained in DEIR Section 4.5.4.2, and the Project Design Features and Project Conditions are listed in Section 4.5.2.

AMEC's reports specific to the current preliminary grading design have been reviewed and ultimately approved by the City of Dana Point's geotechnical consultant, Zeiser Kling Consultants (ZKC). AMEC's report dated February 4, 2000, was prepared in response to review comments made by ZKC, and includes requested additional data and analyses specific to the temporary construction slope stability. Brief summaries of similar landslide stabilization projects that were successfully completed nearby, including the adjoining Niguel Shores residential tract, are also presented in that report.

In summary, AMEC's reports, which are included in the DEIR by reference, provide sufficient data and analyses to demonstrate that the geotechnical constraints to the project can be appropriately planned, graded, and engineered to provide a stable and safe development site. For specific responses related to the geotechnical stability of the Harbor Point, the Headlands Promontory, and the Upper Headlands area, including Street of the Green Lantern and Cove road, refer to Responses to Comments 10-5, 24-10, 26-7, 33-13, and 45-2.

GENERAL RESPONSE 6 – TERRESTRIAL BIOLOGICAL IMPACTS

Section 4.3 of the DEIR, Terrestrial Biological Resources, contains an analysis of the project's impacts on terrestrial biological resources. A separate discussion of impacts to marine biological resources is contained in Section 4.15 of the DEIR. Section 4.3 describes the flora and fauna that exist on the project site and discloses the impacts to those resources that would result from implementation of the project. With the application of the Project Design Features, Project Conditions, and Mitigation Measure 3-1 in the FEIR and through the project's consistency with and participation in the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement (USFWS et al. 1996), the impacts on biological resources are not considered significant per CEQA. As explained in Section 4.3, the property owner is a signatory to and participatory landowner in the Orange County Central/Coastal Subregion NCCP/HCP Program. Direct, indirect, and the proposed project's incremental contribution to the cumulative impacts on coastal sage scrub, maritime succulent scrub, southern coastal bluff scrub, and various associated sensitive wildlife species, such as the Pacific pocket mouse and California gnatcatcher, are considered to be reduced to less than significant levels.

With one exception, where an impact to either a sensitive habitat or sensitive plant or animal species was deemed significant on either a direct, indirect, or cumulative basis, application of the Project Design Features or Project Conditions in the DEIR (which included biological mitigation conditions imposed by the Central/Coastal Subregion NCCP/HCP) reduced the significant impact to a level below significance. Comments on the DEIR revealed an additional potential increase in the severity of impacts to a sensitive plant species on the site, the Coulter's saltbush, but the addition of a new mitigation measure (3-1), described more fully in Response to Comment 43-39, reduces a potentially significant impact to below a level of significance. Comments from the California Native Plant Society questioned whether the proposed project would have significant impacts to certain additional

plants and habitat types on the project site, but further biological analysis has led to the conclusion that none of those actual or potential impacts would be significant.

GENERAL RESPONSE 7 – TRAFFIC ON STONEHILL DRIVE

The Dana Point Headlands Traffic Study (DEIR Appendix H, August 24, 2001) followed the County of Orange Congestion Management Criteria with respect to the determination of the appropriate study area and analysis procedures. The following traffic impact analyses were included: 1) existing, 2) short-term, and 3) build out. Weekday and weekend analyses were also included in the Traffic Study. The intersection and link analysis followed both the City of Dana Point and County of Orange Congestion Management requirements. The project trip distribution is based upon the Dana Point Traffic Model. This model takes into account the shortest time path and various destinations within and outside of the City of Dana Point. The Traffic Model takes into account congestion and reroutes traffic accordingly. The detailed select zone assignments indicate that some traffic utilizes the Stonehill Drive connection; however, the majority of traffic bound for the I-5 Freeway utilizes the PCH connection. In establishing traffic distribution among such roadways, the classifications of the roadways are taken into consideration. PCH and the freeway connection are classified at higher capacity levels than Stonehill and, therefore, would be assigned more traffic.

The traffic model was used to perform a "one percent analysis" to determine where the project had the potential to increase traffic by one percent or more. The project contributes less than one percent of the total projected traffic to segments of Stonehill Drive within the City of Dana Point and as such there would be no significant impacts to these segments. For Stonehill Drive within the City of San Juan Capistrano, the traffic model projected that the HDCP project would contribute between 50 and 72 ADT (Average Daily Trips) on Stonehill Drive between Del Obispo Street and Camino Capistrano. Within the segment included within the City of San Juan Capistrano east of San Juan Creek, the project contributes 50 ADT and the projected future traffic volume is 37,000 ADT. The HDCP project represents 0.14 percent of total traffic within this segment. This is significantly under the threshold of one percent that would require intersection analysis or inclusion in the study area. Therefore, HDCP traffic is not projected to significantly impact Stonehill Drive.

GENERAL RESPONSE 8 - NOISE DUE TO VISITOR CENTERS/ACTIVITY CENTERS, IMPACTS ON ADJACENT PROPERTIES

Noise impact on the project site and on adjacent land uses emanates from construction related activities during the development phase and from activities occurring on the site after build out. The City's General Plan establishes noise policies applicable throughout the City, including the project site. Regulations are established by the City's Noise Ordinance for construction activities, as well as for general noise sources.

General Plan noise polices are based on the Community Noise Equivalency Level (CNEL), which is a weighted average of noise readings over a 24 hour period, with noise readings overnight given a greater weight than daytime noise because of the potential for greater disturbance. The City's Noise Ordinance provides standards for maximum noise levels using the dBA standard, which weighs a sound with the frequency response for the human ear, correlating with subjective reaction to noise. The maximum dBA noise that is measured during a given period is designated as L_{max}.

The General Plan noise standard for the interior of residences is 45 dBA CNEL. The exterior noise standard is 65 dBA CNEL for residences and community facilities (such as outdoor recreation and open space). The City's Noise Ordinance has a nontransportion noise standard of 55 dBA in the daytime and 50 dBA overnight. Individual noise readings may exceed these standards for short durations, but not to exceed 75 dBA in the daytime and 70 dBA overnight. Construction noise is exempt from the Noise Ordinance from 7:00 a.m. to 8:00 p.m., only, Monday through Saturday. However, construction noise is mitigated through a City requirement for all construction equipment to have properly operating and maintained mufflers.

One Project Design Feature (PDF) and two Project Conditions (PC) address project related noise impacts. PDF 10-1 (page 4.10-7 of the DEIR) proposes a six-foot perimeter sound wall adjacent to PCH to mitigate road-related noise impacts in Planning Area 6. PCs 10-1 and 10-2 (page 4.10-7 and 4.10-8) require project compliance with the City's Noise Ordinance, discussed in the preceding paragraphs. Figure 4.10.1 in Section 4.10 of the DEIR shows that with additional traffic being added by the project to PCH and with the construction of the sound wall, none of the existing residences adjacent to the protect site will exceed the exterior noise standard of 65 dBA CNEL, so that no on-site mitigation measures will be required to meet either exterior or interior noise policies or standards.

Short-term noise impacts will occur during construction. As noted, this activity will be exempt from the City's Noise Ordinance. Two types of short-term noise impacts could occur during construction of the proposed project. First, the transport of workers and construction equipment/materials to the project site would incrementally increase noise levels on access roads leading to the site. However, short-term construction related impacts associated with worker and equipment/material transport to the proposed project site would result in a less than significant impact because of a short noise duration from a passing truck.

The second type of short-term noise impact is related to noise generated during excavation, grading, and construction on the project site. Existing residences adjacent to the project site may be subject to short-term high intermittent noise generated by construction activities near the project boundary. Depending on where active construction occurs, the exterior areas of adjacent residences may be affected by construction noise exceeding 90 dBA intermittently during construction.

Typically, the site preparation phase, which includes demolition, excavation, and grading of the site and infrastructure construction, tends to generate the highest noise levels other than rock drilling and pile driving, because the noisiest construction equipment is earthmoving equipment. Earthmoving and demolition equipment includes excavating machinery such as back fillers, bulldozers, excavators and front loaders, and earth moving and compacting equipment, which includes compactors, scrapers, and graders. According to the applicant, remedial and excavation grading activities on site will be staged over a period of approximately 28 weeks.

During the construction period, existing residences to the north, east, south, and west that are directly adjacent to the project site would potentially be exposed to high levels of noise for short periods of time. The exterior areas of these residences could experience construction noise levels exceeding intermittent maximum noise levels of 90 dBA L_{max} over very short periods of time when construction occurs near these residences. The areas of intermittent noise impacts will shift around the site as grading activities and earth moving shift from phased areas of cut and fill and as soil compaction proceeds. The shift of activities from one area to another as excavation is followed by filling and

recompaction, and as the site is finished in one area and grading activities move to another area, will keep the noise levels from being a constant source of noise and will lessen noise levels as the grading moves away from adjacent residences.

Once completed, the project site will include residential uses, an inn, other Visitor/Recreation Commercial uses, and public open space. Except for loading/unloading activities at the proposed commercial uses, which are surrounded by urban development and are buffered from adjacent residential uses or directly front Pacific Coast Highway, the rest of the proposed development, which is residential or is parking for the commercial/inn and park/open space land uses, would not result in noise levels that are different or substantially above the ambient noise levels experienced in the project vicinity.

The proposed Recreation Open Space includes a trail system, public parks, and a public beach. The proposed Conservation Open Space includes public safety constraints, environmental resources, and/or scenic value. Public park parking and street parking are exempted from the Noise Ordinance requirements. In addition, according to the City's Noise Ordinance, activities conducted on any park or playground are exempted from the provisions of the Noise Ordinance, provided such park or playground is owned and operated by a public entity.

The proposed Visitor/Recreation Commercial land uses (including the Seaside Inn) would be similar to other current commercial uses along Pacific Coast Highway and Green Lantern to the north/northeast and east of the project site. Noise associated with Visitor/Recreation Commercial/Inn land uses, such as air conditioning, loading/unloading, and parking lots, must comply with the maximum noise level (L_{max}) standards specified in the Noise Ordinance. Peak noise levels from the parking lots may be audible to nearby residential areas, but these noise levels would be required to comply with the Noise Ordinance criteria. The noise levels produced adjacent to existing residences by existing commercial and residential development are common in an urban environment such as Dana Point. At the residences adjacent to the proposed Inn and Visitor/Recreation Commercial sites, compliance with the City's Noise Ordinance will maintain impacts to levels accepted by the City and are determined to be less than significant levels.

In summary, the project will comply with all short-term and long-term noise attenuation requirements of the City of Dana Point, including noise impacts generated during project construction.

GENERAL RESPONSE 9 - LOSS OF OPEN SPACE

DEIR Section 4.12 provides an analysis of the project's impact on open space and recreational facilities. Implementation of the project will result in the creation of approximately 62 acres of public recreation and conservation open space, which is over half of the project site. The project far exceeds the amount of park space dedication recommended by the General Plan and significantly improves public access to the site and Strand Beach. As a result, the project will result in a net increase to the amount of area dedicated to parks and open space in the City and region. As such, there are no significant impacts to open space. The project design must balance the multiple needs of both the City and the applicant. In particular, the City recognizes that the conservation of the PPM habitat as open space is extremely important, and, as a result, the proposed plan preserves this habitat and does so in excess of the requirements of both CEQA and the NCCP/HCP. At the same time, the passive recreational, coastal access, and educational needs of the general public, from both a regional and

local level, must be addressed in a project such as the Headlands. Coastal resources in Orange County are limited. A number of competing interests must be balanced, and, in the final analysis, the project must be able to financially provide the multiple public benefits that are proposed. Please note, unlike many recent projects that received approval along Orange County's coast, this project does not require City, County, State, or federal subsidies to create and provide the numerous parks, public facilities, amenities, and management programs.

GENERAL RESPONSE 10 – LOSS/IMPACTS TO PRIVATE VIEWS, LANDSCAPING RESTRICTIONS

As described in Aesthetics Section 4.1.3, Thresholds of Significance, impacts to views from private properties are not considered significant environmental impacts. The City of Dana Point does not have an ordinance protecting private views. Therefore, restrictions on development (structures or landscaping) for the sole purpose of view preservation are not required. However, "the substantial loss or obstruction of a scenic vista or view that would occur from a public area" is defined as a significant impact by the thresholds (DEIR p. 4.1-8). Section 4.1.4.1 of the DEIR contains an analysis of the project's visual impacts to public views as exhibited by ten representative view simulations. While views from homes in the Regatta and Niguel Beach Terrace neighborhoods and other private properties adjacent to the site would be affected by the development, such effects are not considered significant environmental impacts. Changes to views from locations within the project site are also not considered significant impacts because these views are from private property. Section 4.1.5.2, Loss of Ocean Views, discusses the cumulative impacts resulting from the loss of ocean views. The discussion acknowledges that the existing ocean view is reduced, but concludes that this loss is less than significant and will be offset by the expansion of public view opportunities created by implementation of the project. Because the project does not significantly impact public views, the visual analysis in Section 4.1 concludes that no significant visual impacts will result from implementation of the project at these view locations or any of the other views. To the contrary, the project will create and enhance public access and public views from the site. As such, there are no significant impacts related to views.

1. COMMENTS FROM DERITH MADDEN

1

Derith Madden, 34142 Selva Road #213, Dana Point, CA 92629

October 6, 2001

Mr. Edward M Knight,
Community Development Director
Dana Point City Hall
33282 Golden Lantern
Dana Point, CA 92629

Dear Mr. Knight:

Subject: Environmental Impact Report of Headlands Development & Conservation Plan
Reference: Significant Impact of traffic at the end of Selva Road due too not using two entrances into the proposed Strand Neighborhood. Proposed plan Entry Monuments blocking ocean views.

- Circulation Plan 4.6 Map 4.6.1 4.7
  - Selva Road was closed off for public access back in the 1985 and was not used as a city street since then.
  - They have operated the public road between Salt Creek Public Parking area and the office building off of Selva Road. The use it to go in and out of the old trailer park Strands Beach area for walking tours and the drive goes down to the beach for emergency access.

- Land Use Planning Areas Figure 4.3.1, 4.9

Using only one entrance at the end of Selva Road and closing the old entrance down to Dana Strand will cause a significant impact on traffic. Rather than using both opening so the flow of traffic has less of an impact to the total number of cars that will be using Selva Road in one area. 1-1

1. from existing condo's out on the point
2. 386 unit condo's on Selva Road
3. Salt Creek Public Parking
4. Upper Headland Neighborhood Residential
5. Strand Neighborhood
6. Strands Vista Park / Public Beach Assess (Recreation Open Space)
7. Existing Business Complex Building
8. Beach traffic and parking to access all public trails down to the Beach

The main entrance that was used when the trailer park was in the Strands Beach area should be used as the main entrance to the homes proposed for the Strands Neighborhood therefore having two ways in and out which would balance out the amount of traffic using the end of Selva Road.

- Conceptual Monument Plan Figure 4.12.1 and 4.12.2 Ledger Stone Monument / Stone Cap

Having the *main* entrance at the end of Selva Road with proposed Ledger Stone Monument with Stone Cap at the neighborhood entry. These monuments will block all existing ocean views that the existing condo's now have in Niguel Beach Terrace. 1-2

- Conceptual Wall and Fencing Plan Figure 4.12.6 Map

I do not see any plans for a new fence going up between where I live and the green belt and public bike trail that will be between the new homes in the bowl area. I see a fence planned for the back of their homes and the public bike trail area on all maps but nothing planned for where the existing wire fence on their property is now between our properties. Will this fence be replaced, kept the way it is or is something that does not show up on their plans being added for these existing fences. 1-3

Sincerely,
Derith Madden

CC: Niguel Beach Terrace Board of Directors, Dana Point City Counsel & Planning Commissioners

1. RESPONSES TO COMMENTS FROM DERITH MADDEN

It should be noted that the responses below are directed at issues raised by the writer relative to the HDCP and the DEIR.

1-1 Refer to General Response 2 – Traffic on Selva Road. Table 4.13G in Section 4.13 of the DEIR indicates that, when the project is fully developed and the future build out of the City of Dana Point and surrounding jurisdictions is complete, the Selva Road – Pacific Coast Highway (PCH) intersection will be able to accommodate the traffic generated by the project, with 60 percent to 70 percent of the intersection's capacity being used during the busiest periods, which are the morning and afternoon peak travel times. This intersection will operate at or better than Level of Service (LOS) "C" at all times, which is the City standard. Therefore, unacceptable traffic impacts will not be created along Selva Road and at its intersection with PCH. Selva Road is currently a four lane secondary arterial with a LOS C traffic capacity of 20,000 ADT. The current level of traffic is 3,100 ADT. The project will add 1,000 ADT to Selva Road. The project proposes to change Selva Road to a collector roadway with a capacity of 10,000 ADT. At 4,100 ADT with project implementation, Selva Road will still operate at less than one-half of its available capacity. A second access point to serve the Strand Residential Area is not necessary and could detract from the proposed Strand Vista Park.

1-2 The City of Dana Point does not have an ordinance or other regulation that protects existing private views. Currently, due to overgrown vegetation, fencing and power lines, there are limited public views near the terminus of Selva Road. The Site Entry being proposed, as depicted on HDCP Figure 4.12.2, shows a pilaster 7.5 feet high and 3.5 feet wide, accompanied by a 3.0 foot high wall and low landscaping and trees. The proposed monument/site entry is not a significant structure and does not severely impair public views; therefore, it does not result in significant public impacts. Refer to DEIR Section 4.1, Aesthetics, for a discussion of the project's effect on public views. It should be noted that views toward the ocean will actually be enhanced along the Strand Vista Park and the future extension of Selva Road.

1-3 HDCP Figure 4.12.6, Conceptual Wall and Fencing Plan, depicts the project wall planned between the Upper Headlands Residential Neighborhood and the 50-80 foot Greenbelt Linkage. The project wall is planned as a 6.0 foot slumpstone wall with Ledger Stone Pilasters up to 7.5 foot high, 50 feet on center. The figure also depicts the existing property line that separates Niguel Terrace from the project site. The existing 7-foot high chain-link and barbed wire fence along the common boundary with Niguel Terrace will be replaced with a 6-foot high wrought iron view fence.

2. COMMENTS FROM SCAG

2

CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT

OCT 19 12 56 PM '01

October 17, 2001

Mr. Edward M. Knight
Community Development Director
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

RE: SCAG Clearinghouse I20010576 The Headlands Development and Conservation Plan

Dear Mr. Knight:

We have reviewed the above referenced document and determined that it is not regionally significant per Areawide Clearinghouse criteria. Therefore, the project does not warrant clearinghouse comments at this time. Should there be a change in the scope of the project, we would appreciate the opportunity to review and comment at that time.

A description of the project was published in the **October 15, 2001** Intergovernmental Review Report for public review and comment. 2-1

The project title and SCAG Clearinghouse number should be used in all correspondence with SCAG concerning this project. Correspondence should be sent to the attention of the Clearinghouse Coordinator. If you have any questions, please contact me at (213) 236-1867.

Sincerely,

JEFFREY M. SMITH, AICP
Senior Planner
Intergovernmental Review

2. RESPONSES TO COMMENTS FROM SCAG

2-1 Comment noted. The comment indicates that the project is not considered "regionally significant" per SCAG criteria. Therefore, there are no comments on the DEIR from SCAG, and no response is necessary.

3. COMMENTS FROM FRANK PERSIDES

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
OCT 22 11 38 AM '01

34430 Green Lantern
Dana Point, Ca 92629

October 21, 2001

Planning Commission
EIR Report Headlands -
City Hall, Dana Point

Dear Commissars

Upon reading the EIR report pertaining to the Headlands I've come to the glaring conclusion the plan will not work.

To begin with Green Lantern St is only a 60 ft. wide street. This street was never meant to absorb the amount of traffic this project would generate. Consider the 151 000 sq ft of commercial development (141 000 sq ft on the Headlands and 11 000 on P.C.H. Also consider future development of the present undeveloped property on Green Lantern, the expansion of the Marine Institute. Please tell me how in the world I could back out of my driveway on this impacted street. 3-1

Yours very truly
Frank Perkins

3. RESPONSES TO COMMENTS FROM FRANK PERSIDES

3-1 Refer to General Response 1 – Traffic on Green Lantern.

4. COMMENTS FROM JEAN BADRAUN

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT

OCT 22 4 31 PM '01

34144 Selva #208
Dana Point, CA 92629
October 18, 2001

Mr. Edward M. Knight
Community Development Director
33282 Golden Lantern – Suite 212
Dana Point, CA 92629

Dear Mr. Knight:

As an owner and a long time resident of Niguel Beach Terrace, I am particularly concerned about Selva being the only access to the Headlands development. I believe the traffic congestion here will be unacceptable. A second access point to the new development must be considered to alleviate the present proposal. 4-1

Secondly, I would be very disappointed to see the proposed wall (Figure 12.6) constructed as this would certainly destroy the open feeling we enjoy in our area. 4-2

I look forward to being advised of any public hearings which may be scheduled in the future.

Respectfully,

Jean Badraun

Jean Badraun

4. RESPONSES TO COMMENTS FROM JEAN BADRAUN

4-1 Please see Response to Comment 1-1 and General Response 2 – Traffic on Selva Road. Contrary to the commentor's statement, in addition to Selva Road, the Headlands project site will have access from the future "A" Street/PCH intersection, Street of the Green Lantern, and a connection to Street of the Green Lantern from Street of the Blue Lantern and Santa Clara Avenue. This information is depicted on Figure 4.6.1 in Section 4 of the HDCP and discussed on page 4.13–15 of the DEIR. Please also see Response to Comment 8-2 for further discussion of the Street of the Green Lantern project access.

4-2 Regarding the issues of access to the Strand portion of the project site from Selva Road and the project wall design, please see Responses to Comments 1-2 and 1-3. Please note that this response relates to a comment raised regarding the HDCP and not the DEIR.

5. COMMENTS FROM CHARLENE O'CONNELL

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 6 2 47 PM '01

11-4-01

34104 SELVA ROAD #360
DANA POINT, CA 92629

MR. EDWARD KNIGHT
COMMUNITY DEVELOPMENT DIRECTOR
DANA POINT CITY HALL
33282 GOLDEN LANTERN
DANA POINT, CA 92629

DEAR MR. KNIGHT:

BEING A RESIDENT OF NIGUEL BEACH TERRACE, I AM CONCERNED WITH THE ASPECT OF HAVING INCREASED TRAFFIC CONGESTION IN OUR NEIGHBORHOOD BECAUSE OF THE HEADLANDS DEVELOPMENT PLAN. 5-1

SINCE SELVA ROAD WILL BE THE ONLY PROPOSED ENTRANCE AND EXIT TO THE NORTH HALF OF THE HEADLANDS, IT SEEMS THAT THIS ASPECT WILL ALSO BE A DANGEROUS HAZZARD.....DANGEROUS FOR RESIDENTS TRYING TO GET OUT IF NEED BE AND DIFFICULT FOR EMERGENCY VEHICLES TO GET IN AND OUT IN TIMES OF CRISES. ONE OUTLET FOR THE PROPOSED EXPANSION OF HOMES , HOTEL, AND BUSINESSES IS SIMPLY NOT ADEQUATE. 5-2

AS FAR AS ESTHETICS IS CONCERNED, WE HAVE BEEN TOLD THAT WE WILL HAVE AN OCEAN VIEW, NOT A VIEW OF PENDING STRUCTURES. I'M NOT SO SURE THAT WILL BE THE CASE. WHAT ASSURANCE DO WE HAVE? 5-3

I AM ANXIOUS TO HEAR HOW THE DEVELOPMENT PLAN WILL AFFECT OUR COMMUNITY AND WAY OF LIFE ON SELVA ROAD.

SINCERELY,

Charlene O'Connell

CHARLENE O'CONNELL

5. RESPONSES TO COMMENTS FROM CHARLENE O'CONNELL

5-1 Regarding project related traffic using Selva Road to access the Strand portion, please see Response to Comment 1-1. Also see Response to Comment 4-1 for a discussion of additional access points to the project site. Vehicles accessing other areas of the project such as the Seaside Inn and the Upper Headlands Residential area will not utilize Selva Road.

5-2 Emergency access for emergency vehicles will be available from the lowest and most southerly cul-de-sac of the Strand residential portion of the project site through a 16-foot wide rampway to Strand Beach, in addition to the access provided by Selva Road, as depicted in Figure 4.6.1 in Section 4 of the HDCP. Given the relatively low number of proposed residences in the Strand (75), the Orange County Fire Authority does not require an additional access to this neighborhood.

5-3 As described in Aesthetics Section 4.1.3, Thresholds of Significance, impacts to views from private properties are not considered significant environmental impacts. The City of Dana Point does not have an ordinance protecting private views. In the current condition, the overgrown vegetation and fencing that borders the Salt Creek Beach parking lot and the end of Selva Road limits public views to the ocean. With the development of the project, the vegetation will be removed and the trees thinned to create additional coastal view opportunities. The fencing will be changed to a lower public view fence. Also, the height of residential structures on the project site will be limited to one story and a maximum height of 18 feet for the Upper Headlands Residential area and two stories and a maximum height of 28 feet for the Strand Residential Area in order to be compatible with surrounding development, including the Niguel Beach Terrace condominiums, as depicted in Figures 3.4.1 and 3.4.2 in Section 3 of the HDCP.

6. COMMENTS FROM COLEEN REILY

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
NOV 13 2 05 PM '01

Mr. Edward Knight
Community Development Director
Dana Point City Hall
33282 Golden Lantern
Dana Point, California 92629

11/06/01

Dear Mr. Knight,

I am a homeowner in Niguel Beach Terrace. I am writing to voice my concern that the Headlands development will have on my property. While I am in favor of the development, I am very concerned about the burden it will place on our natural surroundings.

The reason I purchased my property was because of the charm of the quite oceanside location. The new development will cause alot more people and cars to use Selva Road. I would like the developer to consider spreading the traffic flow between Selva Road and Dana Strands Road. 6-1

I am also very concerned with impact the runoff from the homes will have on our already fragile Ocean. 6-2

Most of all I do not want to lose what little view I have of the ocean only to see massive roofs. 6-3

I hope you will voice my concern and consider the impact this new development will have on Niguel Beach Terrace and our surroundings. 6-4

Sincerely,
Coleen Reily
40 Placer Road
Atlantic City, Wyoming 82520
(307) 332-7382
creily@wyoming.com

cc:Derith Madden
Sanford Edward
PCM Management

6. RESPONSES TO COMMENTS FROM COLEEN REILY

6-1 Regarding issue of the Strand area project generated traffic using Selva Road, this issue is addressed in Responses to Comments 1-1, 5.1, and 5.2.

6-2 Section 4.8.5 of the DEIR describes the Water Quality Program for the project. Also refer to responses to Comment Letter 48B.

6-3 Please see Response to Comment 5-3.

6-4 The public will have an opportunity to comment on the DEIR at the Planning Commission and City Council meeting.

7. COMMENTS FROM ENDANGERED HABITATS LEAGUE

ENDANGERED HABITATS LEAGUE

Dedicated to Ecosystem Protection and Improved Land Use Planning

Dan Silver • Coordinator
8424-A Santa Monica Blvd., #592
Los Angeles, CA 90069-4267
TEL 323-654-1456 • FAX 323-654-1931
dsilverla@earthlink.net

COMMUNITY DEVELOPMENT
Nov 14 3 46 PM '01



November 11, 2001

Edward Knight
Community Development Dept.
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

RE: DEIR for Headlands Development and Conservation Plan

Dear Mr. Knight:

The Endangered Habitats League (EHL) appreciates the opportunity to comment on the above-referenced document. For your information, EHL is a Southern California organization dedicated to ecosystem protection, improved land use planning, and collaborative conflict resolution. We were privileged to participate intensively in the exemplary public planning process conducted by the City in 1998. 7-1

EHL is supportive of the general direction of project and open space design. If certain improvements to the Conservation Park were made, we would be in support the project. We particularly acknowledge the strong commitment to management, which is crucial for the species involved. The elimination Marguerita Road is also strongly endorsed. 7-2

Our concerns are as follows:

1. Biological impacts are not fully disclosed.

Recent Pacific pocket mouse survey results outside of the temporary preserve area should be provided. 7-3

2. Significant impacts to biological resources are not adequately mitigated.

Potentially significant impacts to the endangered Pacific pocket mouse, threatened California gnatcatcher, coastal sage scrub, and rare plants are appropriately acknowledged. These impacts should be avoided, or all feasible measures or project alternatives adopted to minimize such impacts. In EHL's view, Pacific pocket mouse (PPM) habitat can effectively serve as a surrogate for coastal sage scrub and gnatcatcher impacts. 7-4

Appropriately, the DEIR does not limit avoidance and mitigation measures to those contained in the Central/Coastal NCCP. Rather, it proposes the establishment of a permanently dedicated and managed Conservation Park. In light of comments received from the scientific community during the course of the NCCP, these steps are essential. According to these scientists, the Headlands site should be preserved. Due to the critically low numbers, no individuals or genetic resources of the PPM are expandable, and any attempt at moving the 7-5

Headlands PPM, or breeding them in captivity, would be far more risky than leaving them where they are – in the high quality habitat on-site. In the context of preservation and management of the Headlands site, *excess* individuals could be interchanged with other populations or translocated, assuming high quality yet unoccupied habitat is actually identified. 7-5

The question then becomes, when are impacts to the PPM under CEQA – that which would reduce its numbers or restrict its range – avoided or minimized? We believe that the information cited by the DEIR to make this determination is not substantiated, and leads to an incorrect conclusion. In particular, Section 2.4.1 of Appendix D (page 28) should be reevaluated. According to that section, "The maximum amount of open space that could feasibly support PPM, without major modification of existing areas on the site, is primarily contained in the area now managed as a Temporary Preserve . . ." However, sandy substrate is far more extensive and *substantial high quality PPM habitat*, with proper soils and vegetative cover, exists immediately inland of existing Marguerita Rd., particularly toward the west. Further information will be submitted on this point under separate cover. 7-6

Thus, avoidance of impacts to the range (if not actual numbers) of the mouse would require more land to be protected in the Conservation Park. No financial evidence has been submitted to the effect that a project alternative that set aside more or all of the important mouse habitat would be infeasible. Such feasible measures to avoid or minimize impacts are required under CEQA.

It is important to know if greater set-aside has a practical consequence. Any high quality habitat added in a contiguous fashion to the proposed Conservation Park brings substantial value to the species. Because the remaining habitat area is very small to begin with, even small additions yield relatively large changes in percent. Such additions significantly increase the area in which successional and other ecological regimes can be managed and into which population expansion can occur. With greater flexibility in management and greater cushion for adverse events, a larger preserve provides for greater security and greater potential for the production of excess individuals for translocation or interchange. 7-7

In conclusion, additional high quality habitat, which lies inland of Marguerita Road, should be added to the proposed Conservation Park. The best such habitat exists in the western portion of the area inland of the road. Several acres should be added.

To achieve this goal, development should be pulled back, or lot sizes reduced, inland of Marguerita Rd. An increase in the total number of units may be appropriate. In addition, the fuel modification zones needed to protect private property should be the responsibility of the property owners, and should be located in back yards rather than in a public "buffer," as now proposed. Thus, the 100-ft. buffer should also be recontoured using sand substrate and revegetated and managed as mouse habitat. A narrow trail would be compatible. All visitor, recreational, and parking facilities (such as those now proposed at both ends of the former Marguerita Rd.) should be moved out of mouse habitat, as necessary, to achieve the conservation goal. 7-8

Regarding management, it is stated that the fence will surround "occupied" mouse habitat. This should be clarified so that the entire Conservation Park, including all potentially occupied and managed habitat, is protected by this critically important fencing. 7-9

3. <u>The range of alternatives is inadequate</u>.

Contrary to the intent of CEQA, no alternative is provided that reduces impacts to biological resources. An alternative should be analyzed that reduces the project footprint in areas of sandy substrate, coastal sage scrub, potential Pacific pocket mouse habitat, and California gnatcatcher habitat. "Alternative A," prepared by the City as part of its 1998 planning process, would be an example of an environmentally superior project footprint. 7-10

In conclusion, a relatively modest modification in project design would adequately mitigate impacts and earn EHL's support for the project. Given the flexibility on-site in terms of lot sizes and density, there is no indication that these modifications are infeasible. We support the Conservation Park and its management as a wonderful legacy to the citizens and community of Dana Point. EHL would be happy to work with the applicant and the City toward these goals as the approval process moves forward. 7-11

Sincerely,

Dan Silver, MD

Dan Silver, MD
Coordinator

7. RESPONSES TO COMMENTS FROM ENDANGERED HABITATS LEAGUE

7-1 The City and applicant appreciate the Endangered Habitat League's (EHL) constructive participation in the project planning process.

7-2 As the commentor notes and supports, management actions in excess of those required pursuant to the NCCP/HCP and the 10(a) endangered species taking permit, including minimization of ongoing impacts to PPM habitat and habitat restoration, are an important component of the EIR and the HDCP. Marguerita Avenue will be removed as part of the project, as outlined in the Project Description, Chapter 3.0 of the EIR.

7-3 Biological impacts have been fully disclosed. The PPM trapping surveys have been limited to the trapping program overseen by the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) pursuant to the establishment of the 22-acre Temporary Preserve in conjunction with the NCCP/HCP. Results of this trapping program from 1997 through the 2000 season were reviewed for the EIR assessment. No documented trapping effort outside the temporary preserve boundary is reported in the agency reports for the trapping program. An anecdotal report of a single pocket mouse potentially detected outside the temporary preserve occurred in 1997 (A. Hartzell, pers. comm.).

The County of Orange (County), CDFG, and USFWS, in the 1996 NCCP/HCP Program EIR/EIS, acknowledged the potential for incidental take of PPM and the loss of potential PPM habitat outside of the 22-acre temporary preserve area, but concluded that this impact had been reduced to a level below significance, particularly as the then occupied habitat consisted of 3.75 acres. Additionally, the USFWS concluded that the NCCP/HCP's Conservation Plan for the PPM on the project site minimized and mitigated the impacts to the PPM to the maximum extent practicable.

The USFWS also concluded that any impacts to PPM outside of the 22-acre temporary reserve area and any loss of potential PPM habitat beyond the 22-acre reserve area within the project site would not appreciably reduce the likelihood of the survival or recovery of the PPM in the wild.

The 24.2-acre area proposed for the Headlands Conservation Park encompasses the best quality PPM habitat on the project site, including the entire 22-acre temporary preserve. Active management of permanently conserved potential habitat, although not required under the existing NCCP/HCP, is a key component of the EIR and is deemed sufficient to increase and stabilize the PPM population on the Headlands site.

7-4 The proposed project and the range of alternatives are consistent with, and as noted in Responses to Comments 7-2 and 7-3 above, exceed the 1996 NCCP/HCP Program EIR/EIS

analysis, from which this EIR is tiered. The 1996 NCCP/HCP Program EIR/EIS concluded that the impacts to these particular species had been reduced to a level below significance, in conjunction with numerous mitigation measures that continue to be implemented by the property owners. Therefore, no further mitigation is necessary or appropriate under CEQA. Compared to the 1996 NCCP/HCP Program EIR/EIS, the proposed project has enlarged the PPM preserve by 2.2 acres with habitat restoration areas to enhance the habitat quality within the Conservation Park. In addition, the habitat buffer has been extended between the Conservation Park boundary and the proposed development in Planning Area 6, by approximately 2.7 acres. A fully endowed habitat management program is included in the proposed project. Therefore, direct and indirect impacts have been avoided and minimized where practicable.

7-5 The CDFG and the USFWS analyzed the views of the scientific community during the NCCP/HCP preparation and, in particular, during the EIR/EIS process and certification. The USFWS, CDFG, and many third party scientists noted that the PPM were unlikely to survive, even in the short term, without intensive, proactive management efforts. After considering all available scientific information, the wildlife agencies concluded that translocation of some or all of the PPM from the Headlands site may be necessary, at some future date, due to the inherent characteristics of the property that were not ideal for the long-term conservation of the PPM, regardless of whether future development activities occurred. At the time of the NCCP/HCP Program EIR/EIS, the Headlands property was the only known occupied habitat for the PPM. Since then, three additional occupied habitats have been discovered: (1) 54 PPM on an area as large as 865 acres, north of Santa Margarita River in Camp Pendleton Marine Corps Base; (2) 37 PPM on 2 acres, north of San Mateo Creek in Camp Pendleton; and (3) 20 PPM on 32 acres, south of San Mateo Creek in Camp Pendleton. These areas contain larger numbers of the species and/or larger occupied habitats than those found on the subject property (i.e., 9-32 PPM, originally found on 3.75 acres).

The Headlands PPM population currently faces a number of significant threats to its continued existence, threats that are magnified given the population's small size and current site characteristics. In the absence of active management measures, this population is likely to become extirpated from the site; the proactive management measures that have been implemented under the NCCP/HCP are intended to enhance the chances of the survival and recovery of the Pacific pocket mouse. The NCCP/HCP provides for the establishment of a Sub-Regional Reserve System, which includes over 8,000 acres within the Coastal zone, some of which may be found to be occupied by the mouse, or be suitable for translocation. In addition, the NCCP/HCP established an Adaptive Management Program to provide for enhancement, restoration, and monitoring of the habitat and the species, to provide access to a currently substantially threatened population of the Pacific pocket mouse, and to provide funds to conduct recovery studies and undertake needed management actions.

While the Headlands site is a significant site for the pocket mouse, there is a clear need for development of additional information on this little known species and expansion of the species range in locations suitable for long-term conservation of this species. Once the NCCP/HCP enabled research studies and management activities are further developed, it should become clearer whether the Headlands site is indeed essential for the long-term survival and recovery of the species. Retaining the PPM on site is one option for the wildlife

agencies, as discussed in the NCCP/HCP. The proposed project will not preclude this option, and, in fact, promotes this option. The potential carrying capacity of the proposed Conservation Park currently exceeds the current population of PPM, allowing for an increase in the current population size. The proposed project, if approved, enables the proactive conservation and management activities to continue beyond the 2003 sunset provision of the temporary preserve. Without the current project, the proactive measures terminate, unless the agencies purchase the property at fair market value.

Additional mitigation (requiring a larger PPM habitat conservation park) is not required to offset the effects of the project on the PPM population since these impacts were determined to be fully mitigated under the 1996 NCCP/HCP Program EIR/EIS (See Appendices: Wildlife Agencies' March 1995 joint letter discussing CEQA determinations of significant impacts under the NCCP program).

7-6 Through the design of the project, impacts to PPM have been avoided and minimized. Enlarging the temporary preserve by 2.2 acres, providing additional habitat buffers, and providing a habitat management endowment are not mitigation, but are project features that will further enhance PPM viability. The no project alternative is considered a more impactive alternative in regards to PPM conservation. The 1996 NCCP/HCP Program EIR/EIS concluded that sufficient high quality PPM habitat was conserved for the future management of the PPM population on the Headlands and that the impacts to these particular species had been reduced to a level below significance. Therefore, no further mitigation is necessary or appropriate under CEQA. The area of 3.75 acre PPM-occupied habitat was temporarily conserved with a substantial and adequate habitat buffer included to minimize potential indirect effect of development. The proposed project adds additional acreage to this habitat area and a surrounding buffer to further minimize potential impacts to PPM-occupied habitat. The quality of potential PPM habitat outside the proposed Conservation Park is much more variable due to past and ongoing disturbance activities. No information is provided in the comment to dispute the findings of the DEIR. Because the project provides sufficient high quality PPM habitat, providing additional habitat does not provide further avoidance nor does it lessen project effects. Therefore, requiring additional mitigation is not warranted or required by CEQA.

Under Cal. Pub. Resources Code Sect. 21085, the excess biological mitigation (via avoidance) and related reduction in housing units is unlawful, as the NCCP/HCP program has identified an alternative feasible biological mitigation program resulting in less than significant impacts but allowing more housing units. Moreover, the NCCP/HCP authorizes approximately 35 future residential housing units within nearly two-thirds of the proposed 24.2-acre Conservation Park, including those areas presently set aside by the temporary preserve.

7-7 The commentor's statements are counter to the conclusions of the Pocket Mouse Viability Assessment (PVA) prepared for the biological assessment (Appendix D). The current potential carrying capacity of the Headlands site is likely to be insufficient for the long-term maintenance of the PPM population onsite. Incremental additions of potential habitat area to the preserve do not substantially improve the viability of the Headlands PPM population. In addition, as stated in Responses to Comments 7-5 and 7-6 above, additional mitigation is not

necessary and is not required by CEQA. No consensus of evidence, particularly for a potential site that is less than forty acres, suggests that a larger, on-site conservation park would provide a meaningful "cushion of adverse events" or "greater management flexibility." Rather, the scientific consensus is that larger, integrated natural communities, such as the NCCP/HCP Reserve System, which literally incorporates thousands of acres including potential PPM habitat, give rise to the cushion and management flexibility that the commentor is suggesting.

7-8 See Responses to Comments 7-4, 7-6, and 7-7 above. Any mitigation measure must not exceed the "rough proportionality" standard of *Dolan*. The proposed project provides proactive long-term management and maintenance of PPM, gnatcatcher, and sensitive native biotic resources on site. Given the small, isolated size of the project site, and existing edge effects, such active measures for conservation are necessary (compared with a benign neglect that would result from a no project alternative) for the PPM and gnatcatcher and sensitive plants to have a moderate prospect for long-term conservation. The fuel modification zones will be managed to promote habitat values (see Section 4.14, Parks and Open Space Management Plan, in the HDCP).

7-9 The entire Conservation Park, including the majority portion of the 24.2 acres that are not presently occupied by PPM, will be fenced to control public access (see the HDCP, Figure 4.12.6, Wall and Fencing Plan). The park consists of both environmental and safety fencing. The proposed Conservation Park environmental fencing exceeds the requirements of the approved NCCP/HCP and accompanying 10(a) endangered species "take" permits. All potentially occupied areas have been subject to the scientific criteria established by the NCCP/HCP Program EIR/EIS (see Responses to Comments 7-4, 7-6, 7-7, and 7-8 above). Without substantial evidence that significant adverse effects to PPM are likely to result from the proposed conservation and mitigation elements, the City cannot require additional mitigation.

7-10 Section 4.3 of the EIR, Terrestrial Biological Resources, determined that the project's direct, indirect, and cumulative impacts to terrestrial biological resources would be reduced to below a level of significance through the implementation of the proposed Project Design Features and Project Conditions. CEQA Guidelines Section 15126.6(b) states that "Because an EIR must identify ways to mitigate or avoid significant effects that a project may have on the environment, (Public Resources Code Section 21002.1) the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." Because the project does not result in significant adverse impacts to terrestrial biological resources, it was not necessary to analyze an alternative that further reduced impacts on biological resources.

The Alternatives Analysis evaluated four alternatives that had the potential to reduce the significant environmental impacts of the project. Alternative 3, the Reduced Intensity Alternative, is considered the Environmentally Superior Alternative because it lessens significant impacts, including eliminating sufficient CO emissions to lessen the significant long-term CO impact of the project. The EIR does not include an alternative to reduce

biological impacts because this is not a requirement of CEQA. The proposed project is environmentally better than the no project alternative, since without the project: (1) the goals of the NCCP will not be accomplished; (2) no permanent habitat conservation is assured; (3) no endowment is established for long-term habitat management and restoration; (4) no active control of public access and other existing edge effects would be implemented; and (5) natural processes, such as increasing density of coastal sage scrub, are working to negatively impact the PPM population.

7-11 The City appreciates the commentor's qualified support for the project. The proposed project has benefited from its ongoing dialogue with EHL. In particular, many of the current project design features are in direct response to positive input from EHL. The Conservation Park, as well as its endowment and the endowment manager, the Center for Natural Lands Management, was designed in concert with the EHL's advice. The project applicant and the City have benefited from the professional, straightforward approach of EHL.

Additional modifications to the project design must be balanced by the multiple needs of both the City and the applicant. In particular, the City recognizes that the conservation of the PPM habitat is extremely important, and, as a result, the proposed plan preserves this habitat and does so in excess of the requirements of both CEQA and the NCCP/HCP. At the same time, the passive recreational, coastal access, and educational needs of the general public, from both a regional and local level, must be addressed in a project such as the Headlands. Coastal resources in Orange County are extremely limited. A number of competing interests must be balanced, and, in the final analysis, the project must be able to financially provide the multiple public benefits that are proposed. Please note, unlike many recent projects that received approval along Orange County's coast, this project does not require City, County, State, or federal subsidies to create and provide the numerous parks, public facilities, amenities, and management programs. (See HDCP, Development Agreement, and compare to Treasure Island project in Laguna Beach or Waterfront Hilton project in Huntington Beach.)

The proposed project has made a number of significant concessions, including reductions in authorized density and intensity of development, commitments to numerous public facilities and amenities, and dedication and preservation of over 50 percent of the project site to parks and open space. As a result, we trust that the EHL will understand how far forward the design has actually evolved in light of the underlying certified LCP, the NCCP/HCP, and the City General Plan, as well as how rare an opportunity the City and the entire public community has in front of it, and will actively support the project as proposed.

8. COMMENTS FROM STEVEN & CAROL HOFFMAN

November 15, 2001

City of Dana Point
33282 Golden Lantern
Dana Point, CA. 92629
ATTN: Edward M. Knight

Dear Mr. Knight,

I have lived at 34333 Green Lantern St. for approximately 1½ years and for 15 years on Polaris Dr., also in Dana Point.

My wife, Carol, and I would like to take this opportunity to discuss with you our concerns about the current and developing situation with respect to Green Lantern St.

We have a very difficult and dangerous situation with ingress and egress from our home because of the blind curve on southbound Green Lantern. The problem is not just the blind curve but also the speed with which many cars come around that corner. We are sure that you are fully aware that Green Lantern is a small, narrow two-way street. With the current construction, the continuing construction by S.D.G.&E. and the proposed construction with respect to the Headlands we are becoming very frustrated that our voices are not being listened to. 8-1

If the plan is to add 110,000 + square feet of commercial space at the south end of Green Lantern plus 125 residential lots plus hotels and parks to attract even more people, my wife and I are not going to be happy with the problems that will be caused.

I am not against the development of the Headlands and indeed appreciate the rights of the owners to develop their land. However, the city of Dana Point has a distinct responsibility to see that there is enough access to all of these amenities that are contained within the development itself. To just dump 10 times the traffic onto a 2-lane narrow road and provide only 1 more way in and out is certainly not acceptable as far as we are concerned. 8-2

We suggest that Green Lantern end at Cove Road. It will continue to handle all of the traffic that it presently handles (except for Dana Strand) and let the new access road be sufficient for the Headlands development. We also suggest speed bumps and traffic warnings be placed on Green Lantern to slow the traffic down and prevent someone from being injured or killed.

My wife and I are offering possible solutions to you and would be happy to discuss them in person with you and the City Council. Please let us know if we can meet with you and the Council. Our telephone number is (949)496-8035.

Thank you,

STEVEN & CAROL HOFFMAN
34333 Green Lantern St.

8. RESPONSES TO COMMENTS FROM STEVEN AND CAROL HOFFMAN

8-1 Please refer to General Response 1 – Traffic on Green Lantern. In addition, the current situation on Street of the Green Lantern has existed since the construction of homes in the area. The City appreciates the interest in providing safe and convenient access for all residents along this street. The construction of the proposed project is required to follow the current City design standards with respect to access and sight distance. The proposed project complies with current City standards. Because there is no significant traffic impact on Street of the Green Lantern, as discussed in Response to Comment 8-2, below, the City cannot require additional mitigation measures related to the design and flow of traffic on this street. However, this does not prelude the City from considering public suggestions to modify the traffic usage of this street, independent of this project and the DEIR.

8-2 Please refer to General Response 1. Also, the proposed Headlands development plan includes several points of access to the overall development. These include the southerly extension of Selva Road, a new signalized access on PCH at "A" Street, and access to Street of the Green Lantern and Cove Road from PCH. These multiple access points should be sufficient to accommodate the projected traffic as anticipated from the proposed development and as reflected in the traffic analysis in Section 4.13 of the DEIR. Components of the project that will be accessed from Street of the Green Lantern are the 65 room Resort Seaside Inn (PA 9), and the proposed parks and public amenities, e.g., Harbor Point Park, Hilltop Park and the Conservation Park. Additionally, no homes associated with the Headlands plan will use Street of the Green Lantern as an access street. As reported in the traffic analysis, the project will contribute 800 average daily trips on this street. When distributed to morning peak and evening peak hours and analyzed against the City standards, there are no significant traffic conditions that require mitigation. As such, at project and City build out, Street of the Green Lantern will continue to operate at Level of Service A, with additional usage coming only from the Inn, and open space referenced above. Therefore, there is no traffic-related impact that would necessitate terminating the road at Cove Street. Final site design for the Seaside Inn and other visitor/recreation uses will be subject to review by the City Traffic Engineer before development proceeds, pursuant to Planning Condition (PC) 13-8 in Section 4 of the DEIR.

Also, please see Responses to Comments 1-1 and 4-1 for alternative access points to the project site, especially from Selva Road.

9. COMMENTS FROM DERITH MADDEN

9

Derith Madden 34142 Selva Rd. #213, Dana Point, CA 92629, 949-661-8984

October 31, 2001

Mr. Edward M. Knight
Community Development Director
Dana Point City Hall
33282 Golden Lantern
Dana Point, CA 92629

Dear Mr. Knight:
RE: Environmental Impact Report of Headlands Development and Conservation Plan
Subject: Draft Environment Report Volume I &Volume II: Appendices
The following are concerns that I would like to note with you about the above reports: Updating 10/6/01 letter faxed.

Vol. II Appendix E. Phase I Environmental Site Assessment:
State: 5.3.3 **Leaking Underground Storage Tank List (LUST)**
5.3.6 **Registered Underground Storage Tank (Usts) and Aboveground Storage (ASTs)**
Federal: 5.2.5 **Toxic Release Inventory Database (TRIS)**

Under Site Reconnaissance & Interviews
Section 6.1 **Hazardous Substances/Materials' Usage, Storage & Disposal (Identified)**
Pg. 9 6.2 **Hazardous waste Storage & Disposal/ Identified 300 gallons waste oil**
6.3 **Underground Storage Tanks & Aboveground Storage tanks (ASTs)**
200 gallons waste oil identified on former nursery property
pg. 9 6.4 **Identification of Polychlorinated Biphenylis (PCBs)**
Trailer park area has (5) oil-filled wall mounted high-voltage switches and (2) floor electric transformers,
The nursery contains (2) transformers/mounted on utility poles found southwest of service buildings. (PCBs) 9-1
Pg. 10 6.5 **Identification of Asbestos Containing Materials (ACMs)**
Asbestos containing materials are found in the nursery & trailer park buildings,
(Covering roofs/ceilings/walls/floors/insulations' materials, & mastics used in construction).
6.6 **Surface Staining & Distressed Vegetation**
Heavy Dark staining in (2) areas in former nursery waste oil from spilled waste oil/on interior concrete surfaces north of houses.
Pg. 11 6.9 **Other Conditions of Concern Pesticides and Herbicides used in all three greenhouses. Chlorinated pesticides and herbicides are constituents listed with the U.S. EPA as considered hazardous materials that will affect the subsurface soil.**
Pg. 12 7.0 **Conclusions and Recommendations 7.1 Subject Site Identified Environmental Concerns**
Pg. 13 **8.0 Report Limitations, are a concern to me because the scope of services within this TRS Service did not include sample collections or analysis for hazardous materials, testing for asbestos and other seismic risk evaluation. Demolition of existing buildings will cause airborne particles to be released into the atmosphere.**
Summary: ACM's disposal operation notification when existing they schedule buildings' & materials for demolition. So that airborne particles released into the atmosphere will not become hazardous to existing neighborhood facing the area where these buildings are. I am directly in the area that would have exposure to airborne particles. I would like notification so I can close my home and be away to avoid any contact. 9-2
Vol. 1 pg.1-11, 1-12 **Potential Environmental Effect 4.6 Hazardous Materials /Hazardous Material Accidental Release,** Emissions within one quarter mile from School, has that no mitigation required under Mitigation Measure/Level of Significance After Mitigation, with Implementation of Project Condition 6-1, Hazardous Material Handling/ MM 6-1, Project Conditions 6-1 6-2, & 6-3 potential impacts of any hazard to public or environment through route transportation. This does not cover the potential impact that the actual demolition before removal will cause to the existing neighborhood directly exposed to the demolition of the buildings.

9

4.13 Transportation/Traffic pg. 1-21, Volume 1 of EIR Parking and Internal Circulation, Cumulative Traffic Impacts, This does not mitigate the congestion that most of the traffic will cause focused at the middle area of Selva Road, nor the parking problems in and around the existing communities when all public parking areas are full.
Subject: Circulation Plan 4.6.1 Land Use Planning Areas Figure 4.3.1, 4-9 This Plan allows only one access point via Selva Road into the Strands Neighborhood 75 residential area. Selva will also provide two access points into Niguel Beach Terrace 368 homes. Twenty-five to 30 existing homes next to the PA 7 and Conservation Park area trails and parking. Strands Vista Park/Public Beach access parking plus two other Beach access trails. The County Salt Creek Public Parking area. Pedestrian/ bike trail greenbelt/linkage trails from Pacific Coast Highway, between existing condos and PA Headlands Neighborhood. Twenty-six homes, and an office building found just before the Dana Strands Road. This will cause too much traffic congestion mostly at one point on Selva Road for emergency access. Having access at two places using the Dana Strands Road that is already in use to reach the 75 residential Strands areas should be graded or configured for another way in and out for emergency reasons. Dana Strand's road would provide better access to the new community and spread the traffic impact out more evenly, on Selva Road. (4.6.1). 9-3

Subject: Conceptual Wall and Fencing Plan Figure 4.12. 6 Maps

This map does not show any plans for fencing where the existing wire fence is now on the owners land between existing residents and where they plan a pedestrian bike trail greenbelt/linkage trail from PCH next to PA 6 Upper Headlands Neighborhood. All other fencing is in the plan but this fence. 9-4

Subject: Grading Plan Figure 4.11.1 Does not give heights of how high the grading will be in each area.

5.Measurement of Building Height, page 3-25 section 3.0. They will measure all residential building heights from a finished grade and will not be measured from existing grade or natural grades. It does not give the grading amount in feet of how high they will grade the ground before the homes go up. (Measurements of 18' above finished pad for single pad lots for PA 6 Upper Headlands Neighborhood). We need to see a design that shows us how high the grade will be before the homes will go up to the 18' above finished grades. These homes will be next to our existing homes that have Oceans views. If the grading is also to be terraced and graded before the 18' we have no idea of the true height of single story homes without the grading height disclosure we might all loose our existing Ocean Views. We should all be able to enjoy that view that we paid so much more for. 9-5

G. Design of the Upper Headlands Residential page 4-94 Section 4.0 Development Guidelines. These pictures show two homes as examples and they have two stories in both pictures. 9-6

View Obstruction: Your project is within a view corridor protected and enhanced for public views to the sea. Therefore, will both residential neighborhoods keep all landscaping and trees trimmed to enhance seaward views and avoid a view blockage to existing residential homes? We have a tree height limit of thirty-five feet at maturity such trees and vegetation must be pruned frequently in Niguel Beach Terrace. What are the present restrictions that must be kept on all seaward properties in the city? 9-7

Sincerely,
Derith Madden
Derith Madden

cc: City Planning Commissioners &City Counsel Members,

NBT Headlands Oversight Committee

9. RESPONSES TO COMMENTS FROM DERITH MADDEN

9-1 Listing of sections with concerns is noted as a follow-up to 10-6-01 letter from same commentor.

9-2 Refer to DEIR Section 4.6, Hazardous Materials, and Section 4.5, Geology and Soils. Air quality impacts are discussed in Section 4.2. Compliance with the PCs, PDFs, and mitigation measures contained in the DEIR reduces any hazards to below a level of significance. As such, notification of adjacent properties of demolition or other site preparation activities is not warranted.

9-3 Please see Responses to Comments 1-1, 5-1, and 5-2. Also refer to the parking analysis provided on page 4.13-21 of the DEIR.

9-4 See Response to Comment 1-3.

9-5 See Responses to Comments 1-2 and 5-3. The grading plan for the project, as depicted in Figure 4.11.1 in Section 4 of the HDCP (also referenced in the comment letter), shows the conceptual grading for the project site. Maps are also available at the City of Dana Point. Preliminary and final grading plans with finished grade elevations will be depicted in the tentative tract map to be considered after final action is taken on the HDCP. The Green Belt open space buffer between the Upper Headlands Residential uses and the higher density Niguel Terrace units provides visual and spatial relief between these land uses. Additionally, Figures 4.1.5 through 4.1.9 in the Aesthetics Section of the DEIR depict views of the project site with the development product in place on the anticipated finished grade. From these view representations, the massing of structures is apparent on the finished grade with public viewsheds preserved or enhanced. The majority of the Niguel Beach Terrace condominiums facing Selva Road will have views to and over the proposed Strand Vista Park. Also see Response to Comment 20-1.

9-6 The photographs on page 4-94 are intended to capture the character and potential architectural style of the homes in the Upper Headlands Residential Neighborhood. The text on page 4-94 states that the homes are to be one story. Table 3.4.2, Development Standards: Planning Areas 2 and 6, restricts the homes in Planning Area 6 (Upper Headlands) to one story and a maximum building height of 18 feet.

9-7 Please see Responses to Comments 5-3 and 33-5 regarding private views and height of proposed landscaping.

10. COMMENTS FROM EDWARD GALLAGHER

November 15, 2001

Mr. Edward Knight; Community Development Director
City of Dana Point, 33282 Street of the Golden Lantern
Dana Point, Ca. 92629

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 16 2 38 PM '01

Subject: Draft Environmental Impact Report – Headlands Development & Conservation Plan

Dear Mr. Knight:

The following are some of my comments regarding the subject DEIR of October 2001:

(1) It is not possible to really know or accurately guess at the true environmental impacts of the proposed development based upon the information in the subject DEIR. Among other reasons for this are:

(A) The diagrams and Figures in the DEIR made available to the public are just too small and not sufficiently detailed to enable reasonably accurate evaluation and judgements.

(B) The diagrams and Figures in the DEIR made available to the public are too small and not sufficiently detailed to even enable sufficiently intelligent questions to be raised with respect to potential impacts.

(C) Some of the information that is portrayed in the diagrams and/or Figures contradicts some of the information in the text of the DEIR.

(D) Most, or all, of the diagrams and Figures include the statement: "Note: Plan is diagrammatic in nature and intended to show the general location of land use planning areas. It is subject to change based on final engineering, planning and design." It is not reasonable to try to predict, analyse or intelligently question impacts based upon generalities involving incomplete information that is subject to change.

10-1

(2) The proposed stabilization and/or remediation necessary for the dangers inherent in the ancient landslide(s) complex at the South end of Planning Area 2 are not sufficiently detailed to enable reasonable assurance that life and safety concerns of the future are adequately addressed.

(3) Attempted stabilization and/or remediation of the dangers inherent in the ancient landslide(s) complex at the South end of Planning Area 2 may cause instability of the land underlying the nearby existing residences along Selva Road and Dana Strand Road. That this is possible (even probable) is sufficiently evidenced by similar situations in other areas in the past. There is insufficient consideration in the DEIR of these possible impacts on the future life and safety concerns for those nearby residents and property owners. There seems to be inadequate information on this subject to enable any confident judgement by legislative and approval authorities.

10-2

(4) The phrase "Approval of the project as proposed" in paragraph PC 3-11 on page 4.3-26 is not defined and is sufficiently ambiguous as to render everything else in the project plans indefinite. Obviously, it is impractical, if not impossible, for the project to be approved exactly as proposed and the test of "reasonableness" may be inadequate here. This destroys the required validity of the associated plans and DEIR and makes any plan approval by the authorities having jurisdiction a matter of guesswork, whim or bias.

10-3

(5) The drainage method proposed for the "Seaside Inn" area is not clear from either the text or from Figure 4.16.8. Therefore, the potential impacts cannot be appraised.

10-4

(Cont'd on page 2:)

(6) Potentially dangerous impacts upon life and safety at the bottom of the bluffs (and their remediation) are not addressed. There is obvious danger to the public at and near the Marine Institute, the tide pools, and sandy beach below the steep Southerly bluffs due to inappropriate actions of people or animals at the top of these bluffs, or by accidents or nature. This is especially true at this end of the Headlands due to the steepness of these bluffs and the degree of public activity below them. Better means need to be adopted (and described in the DEIR) by which falling rocks, portions of bluff faces, or falling persons, objects or equipment would be prevented from impacting those below. 10-5

(7) The public path and lookout so closely adjoining the existing Southern residential Enclave by Scenic Drive appear to be dangerously close to that Enclave. This degree of obnoxious proximity could endanger the public since the existing residence would be an attraction for children and unstable or immature adults on that path and lookout area. The bedroom windows and patio of this adjoining existing residence would be temptingly located just "a step away" from the public path and lookout which are all precariously located atop a dangerous cliff. The presence of residential pets could increase the temptation to children to climb across the inadequate buffer area between the path/lookout and the existing residential target (exposing the children to the steep cliff). The inadequate buffer also seems to be a strange attempt to adversely impact the privacy and safety of the existing resident(s). 10-6

Both the public and the residential occupants would be much better and more safely served by relocating the public path and lookout farther away from the existing residential area. Instead of starting at the traffic circle, the path should start at the approximate location of the proposed Cultural Centre and maintain at least a fifty-foot buffer space, with landscape screening, between the trail and the adjoining residence. The other end of this residential Enclave should be similarly buffered.

(8) Neither Volume I nor Volume II of the subject DEIR describes the grading aspects of the proposed plan in enough detail to allow valid legislative judgement of the potential environmental impacts. Building lot elevations and the extent and degree of any cuts and fills are not sufficiently described. Comprehensive and detailed Elevations and Sections through all directions and portions of all the proposed developed areas (showing also their spatial relationship to all adjoining areas) are needed together with firm restrictions on the proposed grading details. A map showing the limits of grading is required for reasonably valid legislative judgements regarding potential impacts. 10-7

(9) The impacts on Strands public Beach and associated public maintenance costs due to the severe drainage outfalls on the sand are not addressed sufficiently. Directing so much of the drainage from the upper Headlands to the beach sands could severely erode this beach to the extreme detriment of the public. Since the areas above the sandy beach are proposed for development (eliminating the historical source of sand replenishment from erosion of the landslide areas) the beach could quickly waste away absent ongoing and expensive sand replenishment enterprises at great public cost. 10-8

Thank you for the opportunity to comment and please keep me informed of any developments, City actions, proposed public hearings or other publicly available information regarding the Headlands and its planning.

Sincerely,

Edward L. Gallagher
34365 Dana Strand Road #3
Dana Point, Ca. 92629

10. RESPONSES TO COMMENTS FROM EDWARD GALLAGHER

10-1 The comment is made that the diagrams and figures in the DEIR are too small and lack sufficient detail to evaluate. Typically, the figures in plan view are provided with a scale and north arrow for reference. The figures use base topographic and boundary detail from aerial photographs. Following approval of the HDCP, more detailed plans, such as subdivision maps, precise grading plans, etc., will be submitted for review by the City. In addition to the explanation that the graphics are meant to be diagrammatic in nature, it should be noted that they also augment the textual explanation in the DEIR sections. As such, they provide additional visual explanation to augment or clarify the text. Any questions relative to the contents of the DEIR should be directed to textual discussion or analysis, with reference to the graphics to make a point relative to the text. The standard for such graphics is consistency with the text and accuracy of information. The comment does not raise any specific accuracy or inconsistency issues.

10-2 As presented in Section 2.0 of AMEC's geotechnical evaluation report in support of the EIR process (August, 2001), the Strand area (i.e., Planning Areas 1, 2, and 3) has been the subject of extensive previous geologic/geotechnical evaluation beginning in 1983-84. These evaluations have included 20 exploratory borings, 39 exploratory trenches/test pits, 9 ground penetrating radar profiles, and extensive analysis of the stability conditions that considered both the planned interim construction slopes and the proposed final design configuration. As summarized in Section 2.0 of AMEC's August, 2001, report, information and analyses specific to stability conditions in Planning Area 2 are presented in AMEC's reports dated: November 29, 1984 (Job No. 384-414); March 4, 1988 (Job No. 387-584); October 15, 1999 (Job No. 9-212-306100); February 4, 2000 (Job No. 9-212-306100); and March 21, 2000 (Job No. 9-212-306100).

Stability evaluations and recommendations regarding planned temporary slopes during grading construction were compiled from the referenced reports and are outlined in Section 6.4.2.1 of AMEC's August, 2001, report. Recommended mitigation measures outlined in the report include provisions for additional geotechnical evaluations as a part of the final grading and foundation design process. These additional evaluations are intended to refine and enhance the preliminary construction slope design that was evaluated in the referenced AMEC reports.

AMEC's reports specific to the current preliminary grading design have been reviewed and ultimately approved by the City of Dana Point's geotechnical consultant, Zeiser Kling Consultants (ZKC). AMEC's report dated February 4, 2000, was prepared in response to review comments made by ZKC, and includes requested additional data and analyses specific to the temporary construction slope stability. Brief summaries of similar landslide stabilization projects that were successfully completed nearby, including the adjoining Niguel Shores residential tract, are also presented in that report.

In summary, AMEC's reports, which are included in the DEIR by reference, provide sufficient data and analyses to demonstrate that the geotechnical constraints to the project can be appropriately mitigated.

10-3 Project Condition (PC) 3-11 in Section 3 of the DEIR, referenced in the comment letter, identifies the mechanism for acquisition of the temporary PPM preserve area pursuant to the NCCP/HCP, if needed. This area is identified in the HDCP for preservation, with the approval of the project (as per "approval of project as proposed" reference in the comment letter). If the project is not approved, then preservation of the 22 acre preserve area would occur pursuant to acquisition pursuant to the NCCP/HCP.

10-4 Figure 4.16.8 in Section 4 of the DEIR is only intended to show the drainage system outletting to the Strand Beach. Please refer to Figure 4.7.3, which clearly shows drainage from the Seaside Inn connecting to the storm drain system in Area "A" and outletting to the harbor.

10-5 As summarized in Section 6.1.3 of AMEC's August, 2001, report, from a geotechnical standpoint, avoidance based on accepted standards and appropriate geotechnical recommendations is the only practical mitigation measure with regard to potential rockfall/shallow landsliding of the bluffs and steep sea cliffs that rim the Harbor Point and Headlands Promontory areas. Information, evaluations, and recommendations specific to the bluff areas are summarized in AMEC's reports dated February 21, 2000, and July 9, 2001.

Public access to the area above the bluffs is currently restricted by fencing along Scenic Drive, which was installed about 15 years ago. The proposed project will remove this fencing and will provide greater public access to the area overlooking the harbor and ocean. Access to the area along the base of the bluffs is currently unrestricted, and no specific changes to this status are currently anticipated as a part of the proposed project.

The height and steepness of the bluff in the Harbor Point and Headlands Promontory areas is similar to the sea cliffs that rim the westerly and northerly sides of the Dana Point Harbor area. A minor difference is that most of the area along the top of the bluff in the harbor area is private property. However, public access is provided at several commercial sites (restaurants and hotels) and at public viewpoints near the ends of old Golden Lantern, Street of the Blue Lantern, Street of the Amber Lantern, and Street of the Violet Lantern. At each of these locations, access to the actual bluff face is typically restricted by fencing at the top of the bluff, and some signs may also be present to point out the obvious dangers and safety concerns. Public viewpoints and associated facilities are common along coastal Southern California, including those at Point Loma, Torrey Pines, Del Mar, Encinitas, Point Fermin, Rancho Palos Verdes, etc. In the nearby harbor area, although signs are present at some locations along the base of the bluff, public access is generally not restricted, and public facilities, such as roadways and picnic tables, are present below the bluff. Access to tide pools and beaches below coastal bluff areas in other areas of Southern California is also generally unrestricted.

As summarized in Section 6.1.3 of AMEC's August, 2001, report, a minimum shallow foundation setback of 50 feet from the top of the bluff is recommended for any proposed

permanent structures/buildings in the subject area (see also AMEC's report dated February 21, 2000). Specific recommendations regarding drainage/soil moisture control in the subject area are also addressed in AMEC's February 21, 2001, report. However, the design of public viewpoints and other facilities in the vicinity of the bluff top is currently conceptual, and specific details regarding these improvements will be developed during the final design process. At the present time, it is anticipated that public safety concerns will be addressed in a manner similar to that in the adjoining harbor area and to that in other areas of coastal southern California. Signs and fencing will likely be included in the design of public improvements near the top of the bluff, and signs will also likely be planned along the base of the bluff to warn of possible safety concerns. Illegal, inappropriate, or unsafe activities in the vicinity of the bluff would ultimately be regulated by law enforcement officials.

10-6 The public path referenced in the comment letter, accessed near Scenic Drive, has been so located in order to maximize public views and enjoyment of the open space features of the Headlands development plan by members of the public.

10-7 Please see Responses to Comments 9-5 and 10-1. The grading to be undertaken for the project is described in detail in Section 4.5 of the DEIR and in Technical Appendix D.

10-8 As discussed in detail in DEIR Section 4.7, Hydrology, and 4.16, Coastal Processes, the storm drain system has been designed to minimize the potential for beach erosion through the use of energy dissipaters, split flow structures and the reconstruction of the existing revetment. The existing storm drain outlets on Strand Beach do not have similar velocity control devices. No significant impacts to coastal processes are identified. Please see Response to Comment 6-2.

11. COMMENTS FROM CALTRANS

STATE OF CALIFORNIA—BUSINESS AND TRANSPORTATION AGENCY GRAY DAVIS, Governo

DEPARTMENT OF TRANSPORTATION

DISTRICT 12
3337 Michelson Drive Suite 380
Irvine, CA. 92612-8894

FAX & MAIL

November 16, 2001

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

File: IGR/CEQA
SCH#: 2001071015
Log #: 939A
SR: PCH

Subject: The Headlands Development and Conservation Plan (HDCP)

Dear Mr. Knight,

Thank you for the opportunity to review and comment on the **Draft Environmental Impact Report (EIR) dated October 2001 for the Headlands Development and Conservation Plan (HDCP).** The HDCP proposes development of 125 residential lots, a 110,000 square feet 65 room inn, and up to 40,000 square feet visitor/recreation commercial use, 62 acres of public open space including 30.3 acres of natural resources conservation and associated infrastructure on 121.3 gross acres of land in the west central portion of the City of Dana Point. The project site is located on Pacific Coast Highway and Golden Lantern Street.

Caltrans District 12 status is a responsible agency on this project. Please refer to our previous letter dated August 1, 2001 (copy attached) regarding the encroachment permit requirements and hydraulic plan comments and submit the requested information.

Please continue to keep us informed of this project and other future developments, which could potentially impact our Transportation facilities. If you have any questions or need to contact us please do not hesitate to call Maryam Molavi at (949) 724-2267.

Sincerely,

Maryam Molavi for

Robert F. Joseph, Chief
Advanced Planning Branch

c: Terry Roberts, OPR
Ron Helgeson, HDQRTRS Planning
Praveen Gupta, Environmental Planning
Roger Kao, Hydraulics
Raouf Moussa, Traffic Operation

NOV-16-2001 14:31 FROM:CALTRANS 9497564962 TO:92487372 P.002/004

STATE OF CALIFORNIA—BUSINESS AND TRANSPORTATION AGENCY GRAY DAVIS, Govern

DEPARTMENT OF TRANSPORTATION

DISTRICT 12
3347 Michelson Drive Suite 100
Irvine, CA 92612-0661

FAX & MAIL

August 1, 2001

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

File: IGR/CEQA
SCH#: 2001071015
Log #: 939
SR: PCH

Subject: The Headlands Development and Conservation Plan (HDCP)

Dear Mr. Knight,

Thank you for the opportunity to review and comment on the **Notice of Preparation (NOP) for the Headlands Development and Conservation Plan (HDCP) Draft Environmental Impact Report (EIR).** The HDCP proposes development of 125 residential lots, a 65 room inn, and up to 40,000 square feet visitor/recreation commercial use, 62 acres of public open space including 30.3 acres of natural resources conservation and associated infrastructure on 121.3 gross acres of land in the west central portion of the City of Dana Point. The project site is located on Pacific Coast Highway and Golden Lantern Street.

Caltrans District 12 status is a responsible agency on this project and has the following comments:

- According to the Transportation/Traffic section XV of the DEIR there are potential significant traffic impacts on PCH. Therefore, a traffic study report and mitigation measures to reduce the level of these impacts are to be submitted to Caltrans for review and comments. 11-1

- If increased levels of traffic generated by the project require expansion/modification of Caltrans facilities within the project vicinity (i.e., PCH/Selva Road, PCH/ Street of the Green Lantern), impacts need to be addressed in the environmental document. Special attention should be given to any proposed new access (openings/driveways) to the site from PCH. Further, please describe pedestrian, bicycle and transit along the PCH property line. 11-2

- Any runoff draining into the Caltrans Right of Way from construction operations or from the resulting project must fully conform to the Caltrans Statewide NPDES Permit (Order No. 99-06-DWQ, NPDES No. CAS000003) and the current discharge requirements of the San Diego Regional Water Quality Control Board to avoid impacting water quality. Controls must be implemented to contain all vehicle loads and avoid any tracking of materials that may fall or blow onto Caltrans roadways or facilities. 11-3

- Planned areas 4,5 and 6 surface runoff must be drained away from PCH. 11-4
- Please submit final design plans, hydraulic/hydrology study reports to Caltrans for review and comment. 11-5
- If any construction activity is to occur within the Caltrans Right of Way, the applicant must apply for an Encroachment Permit. As a condition of the application process, the applicant will be required to submit either a Storm Water Pollution Prevention Plan (SWPPP) or a Water Pollution Control Program (WPCP) pursuant to the Caltrans Storm Water Quality Handbook. In addition, biological and cultural impacts will have to be assessed to meet Caltrans standards. 11-6
- All activities in Caltrans right of way will require an encroachment permit. Applicants need to plan for sufficient permit processing time, which may include engineering and environmental studies and documentation.

Please continue to keep us informed of this project and other future developments, which could potentially impact our Transportation facilities. If you have any questions or need to contact us please do not hesitate to call Maryam Molavi at (949) 724-2267.

Sincerely,

Robert F. Joseph, Chief
Advanced Planning Branch

cc: Terry Roberts, OPR
Ron Helgeson, HDQRTRS Planning
Philip Brierly, Right of Way
Praveen Gupta, Environmental Planning
Roger Kao, Hydraulics
Raouf Moussa, Traffic Operation

Fax Note 7671	Date 8-3-01	pages 3
To Ed Knight	From M. Molavi	
Co./Dept. City Dana Point	Co. Caltrans D-12	
Phone #	Phone # (949) 724-2267	
Fax # (949) 348-7372	Fax #	

11. RESPONSES TO COMMENTS FROM CALTRANS

11-1 In response to the 8-1-01 NOP comment letter, which was incorporated by reference into the DEIR comment letter, the traffic study for the proposed project was included as Appendix H to the DEIR and was submitted to Caltrans for review and comment as requested. Regarding project impacts on PCH, those are discussed in Section 4.13, Traffic/Transportation, of the DEIR. In order to address project impacts on PCH, the project proponent will improve PCH adjacent to the project site to half-width Major Arterial standards (Planning Design Feature (PDF) Measure 13-2). The project proponent will be fully responsible for the design and construction, including signalization, of the project access point at PCH and the future "A" Street (Mitigation Measure 13-1). Additionally, the project will be responsible for the payment of fees into the Coastal Area Roadway Improvement and Traffic Signal Fee Program as building permits are issued (Project Condition of Approval (PC) 13-10). A portion of the fees collected by the County of Orange is allocated to fund PCH improvements, as needed in the vicinity of the project. The project proponent will also enter into an agreement for fair share funding of intersection improvements at PCH and Niguel Road, as well as PCH and Dana Point Harbor Drive, pursuant to Mitigation Measure 13-3.

11-2 The DEIR shows that project related impacts at PCH/Selva Road and PCH/Street of the Green Lantern will not cause these intersections to operate at unacceptable service levels (please see Figure 4.13.G in Section 4 of the DEIR). Therefore, project related improvements are not proposed at these intersections. Development of the visitor serving commercial site on the west side of Street of the Green Lantern at PCH will be subject to site plan and/or conditional use permit review in order to evaluate site development issues, including ingress and egress. No direct drive access to PCH is proposed. Project Condition (PC) 13.8 in Section 4 of the DEIR provides that final site design for ingress and egress to the commercial site at PCH/Street of the Green Lantern will be subject to review by the City Traffic Engineer before development proceeds. The project's internal public trail and access system will connect to off-site trails located along Selva Road and PCH. This includes a crosswalk at the "A" Street signalized intersection to provide access to the Class 1 bike trail on the north side of PCH. Transit service along PCH will continue to be provided by OCTA. Two bus stops are located within two blocks of the "A" Street intersection.

11-3 NPDES requirements are covered in Section 4.9 of the DEIR, with two project conditions of approval (PC 8-5 and PC 8-9) addressing compliance parameters, including those associated with the containment of runoff during project construction. Construction runoff is also addressed by the requirements contained in the preparation of a Water Quality Management Plan addressing such construction related items as erosion control. This requirement is set forth in PC 8-7. No direction of runoff from the project to PCH is proposed.

11-4 DEIR Figure 4.7.4 in Section 4 shows that surface water drainage in Planning Areas 4, 5, and 6 is away from PCH.

11-5 Preliminary hydrology and hydraulic calculations for the design of a conceptual storm drain layout for the project were included and submitted for review and comment as Appendix F to the DEIR. Final design plans will be submitted as part of the subdivision process for the project site.

11-6 The requirement for a Caltrans encroachment permit and the process associated therewith is set forth in Project Condition (PC) 13-1, in Section 4.13 of the DEIR. The only Caltrans facility affected by development of the project site is the widening of PCH adjacent to the project. To the extent that widening of PCH would affect biological or cultural resources, Project Design Feature (PDF) 3-7 in Section 4.3 and Project Condition (PC) 4-1 in Section 4.4 of the EIR establish monitoring and collection requirements for biological and cultural resources, respectively.

12. COMMENTS FROM TERRY GOLLER

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
NOV 16 1 46 PM '01

Terry Goller
33112 Elisa Dr.
Dana Pt. Ca.

November 14, 2001

Edward Knight
Community Development
City of Dana Point

DEVELOPMENT & CONSERVATION PLAN OF HEADLANDS

Re: Resort Seaside Inn Area Visitor Recreation - Commercial

Parking is inadequate as there will be Chart House Restaurant overflow. 12-1

Parking is inadequate for visitor/recreation at Harbor Point Park

Resort should be set back. Trails should be in front of the resort as scenic views are cut off with trails behind. Plan A did not block this prime community view. 12-2

The spa should be defined. What is the height and square feet? 12-3

There is excess impact and traffic on Green Lantern road. Need connecting road within project for resident safety. Possible connection with Margarite. 12-4

There is cliff instability with city liability and a possible erosion closure on Cove Road and Green Lantern Unsafe with only one access road into this area. 12-5

A better resort location would be on PCH and Green Lantern. There would be less impact on the present Green Lantern plan considering the bluff liability, water drainage and more flora and habitat preservation. 12-6

Before any hotels are presented, there should be a 70% hotel occupancy. Dana Point already has 800 hotel rooms. 12-7

The 2.8 acre resort area needs an appraisal for a possible land acquitision. 12-8

Open space in this area could better conform to the Coastal Commision's environmental standards and expectations. 12-9

Terry Goller

Terry Goller

12. RESPONSES TO COMMENTS FROM TERRY GOLLER

12-1 Parking requirements for the Seaside Inn will be provided pursuant to Chapter 9.35 of the City's Zoning Code. Additionally, visitor parking for Harbor Point Park will be provided by on-street parking along Street of the Green Lantern and Scenic Drive, and in the parking lot adjacent to the Nature Interpretive Center. A total of 62 spaces will be provided pursuant to a formula for calculating visitor/recreation parking spaces described on page 4.13-21 of the DEIR. The issue of Chart House overflow parking using the new parking spaces is unrelated to the development of this project, but should be addressed to the City and the owners of the restaurant. Both parties will be made aware of this issue by the inclusion of this letter and response in the Final EIR, which will be considered by the Planning Commission and City Council. Additionally, parking issues associated with the development of the visitor/recreation uses served from Street of the Green Lantern will be reviewed with respect to parking needs by the City's Traffic Engineer, pursuant to Planning Condition (PC) 13-8 in Section 4 of the DEIR.

12-2 With respect to a trail location behind the Inn, the trail was established at an elevation to allow views over the Inn in most cases. Refer to Figure 4.5.3. In addition, a trail will also occur along Green Lantern in front of the Inn.

12-3 The HDCP provides project-related detail at the general plan and zoning level. Detailed information on the design of any spa will be provided as part of the development plan for the Inn, pursuant to the proposed Visitor/Commercial Zoning District regulations on page 3-20 of Section 3 of the HDCP. The square footage of a spa would count towards the maximum allowable square footage of the use, which is 110,750 sq. ft.

12-4 Please see General Response 1 – Traffic on Green Lantern. Also see Responses to Comments 8-1 and 8-2. Since implementation of the proposed project will not affect the existing operating level of service standard on Street of the Green Lantern (LOS A), a connection with Marguerita Avenue is not needed. Alternate safety access to Street of the Green Lantern is available via Street of the Blue Lantern to Santa Clara Avenue.

12-5 Project Design Feature (PDF) 5-1 in Section 4.5 of the DEIR requires adherence to structure foundation and setbacks from the bluff as provided in the geotechnical report for the DEIR (Appendix D), subject to review and approval by the City's Director of Public Works. Issues related to any potential erosion closure of either Street of the Green Lantern or Cove Road are general in nature and effect regarding any land use to be accessed from these streets, including the existing homes and restaurant, regardless of whether or not project site is developed. The City would be responsible for evaluating any erosion issues on these streets as part of its routine maintenance of public thoroughfares.

12-6 All environmental issues associated with the siting of the Inn as proposed have been reduced to a level of insignificance.

12-7 This comment is a planning policy issue to be considered by the Planning Commission and City Council during the approval process of the HDCP. This comment is noted and will be part of the Final EIR, along with this response.

12-8 The potential for public ownership of Planning Area 9 can also be considered during the Planning Commission and City Council decision making process regarding the HDCP. This comment is noted and will be part of the Final EIR, along with this response.

12-9 Pages 4.9.69 to 4.9.75 of Section 4.9 of the DEIR describe the consistency and conformance of the project with the marine environment and land resource provisions of the Coastal Act. A primary objective of the HDCP is to provide for the conservation of coastal resources. This is achieved through the use of site planning criteria, grading concepts, drainage concepts, and site development standards developed to minimize impacts to on- and offshore coastal resources. Additionally, the HDCP land use plan provides policies and standards for the preservation and enhancement of open space and conservation areas and for preservation of sensitive biological resource areas, establishes buffers, and minimizes impacts to significant biological resources on site. A significant part of this plan is the creation of the Headlands Conservation Park, a 24 acre area for the conservation of natural and scenic resources on the Headlands.

13. COMMENTS FROM NANCY KNIPE

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
NOV 16 1 46 PM '01

Nancy Knipe
26632 Vuelta Rica
Capo Beach, Ca., 12

November 15, 2001

Edward Knight
Community Development
City of Dana Point

DEVELOPMENT & CONSERVATION PLAN OF HEADLANDS

Re: Visitor/Recreational/Commercial

Commercial buildings on Green Lantern & PCH should be one story. Buildings block the western home views above PCH | 13-1

Signals are too close together on PCH. Cal Trans opposes such short distances. Vision is unsafe for vehicles going up the hill on PCH. | 13-2

Height of buildings should be defined. Difficult without a scale model. | 13-3

Ridge line views should be retained from all land use vistas. The ridge line in Plan A was considered a wise developmental and environment plan. The present plan omits any Plan A proceedings. | 13-4

Nancy Knipe

Nancy Knipe

13. RESPONSES TO COMMENTS FROM NANCY KNIPE

13-1 The maximum building height for the visitor serving commercial and office uses in Planning Area 4 at PCH and Street of the Green Lantern is two stories, but not to exceed 35 feet. Figure 4.1.4 in Section 4.1 of the DEIR depicts the simulation with the new development in place from a road level view on PCH. Private views are not assessed as part of the EIR analysis. The design guidelines described in Section 4.12 of the HDCP will ensure high quality design and materials. Please see also Response to Comment 5-3.

13-2 Signalization along PCH is determined by City and Caltrans standards, which take into account such factors as speed limits along PCH, volume of traffic at cross street intersections, and sight distance. The project proposes to add one new signal at the future PCH/"A" Street intersection. Per the discussion on page 4.13-34 in Section 4.13 of the DEIR, the signal at the new intersection would make for safer ingress and egress to the project site by allowing for full turn movements, allowing for pedestrian and bicycle access at this intersection, and obviating the need for improvements at the existing signalized intersections at Selva Road and Street of the Green Lantern to accommodate a greater number of U-turns, if a signal is not added to the future "A" Street intersection. Planning Condition (PC) 13-9 in Section 4.13 of the DEIR commits the project proponent to fund the "A" Street signal. However, as noted on page 4.13-34 of the DEIR, ultimate approval of the signal is the responsibility of Caltrans, taking into the account factors noted above, and including distance between existing and proposed signals. In addition, see Response to Comment 22-3 regarding the benefits of the proposed intersection.

13-3 Building heights are defined in Section 3 of the HDCP. Residential building heights range between 18 and 28 feet, with a maximum of two stories. The future commercial/office building at PCH and Street of the Green Lantern is limited to two stories or 35 feet, and the Resort Seaside Inn is limited to 42 feet in height with a maximum of three stories.

13-4 Comment noted. The City is no longer pursuing Plan A. This comment will be forwarded, along with this response, in the Final EIR to be considered by the Planning Commission and City Council as part of the approval process for this project.

14. COMMENTS FROM WINSTON GOLLER

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
NOV 16 1 46 PM '01

Winston Goller
33112 Elisa Dr.
Dana Pt. Ca.

November 16, 2001

Edward Knight
Community Development
City of Dana Point

Re: GENERAL COMMENTS on DEVELOPMENT, CONSERVATION,LAND USE, DEIR for HEADLANDS

Need more open space. Actual site is 65% environmentally impacted. | 14-1

Should not lose 28.7 of sensitive vegetation providing for habitat. Need more coastal sage protection and guaranteed long term protection and management for Mouse Point. | 14-2

Project should require a firm 62 acres or more open space. There are only 56.8 acres of open space discounting the Strands Beach sand. | 14-3

Bluff facings, sand and buildings should not reflect proper open space and should be defined. | 14-4

Bluff facings are unstable and city should not carry liability. | 14-5

Relocation of Resort Hotel to PCH and Green Lantern would provide more acceptable conservation open space in Harbor Point areas. Financial support for additional open space could be sponsored by the city, county, state or foundations. | 14-6

Large 2,000 square feet buildings in Harbor Point should not be included just to satisfy coastal approval for visitor serving. | 14-7

The proposed Cultural Arts, Nature and Maritime Historical centers are just proposals and not a concrete plan. | 14-8

Parking is inadequate for Harbor Point A & B areas and access to proposed endeavors. Existing restaurant will also use this area for parking. | 14-9

If not relocated, the Resort Seaside Inn should be set back with the trail bordering scenic views and not behind the resort.. | 14-10

All trails should have a scenic view with a closer proximity to Strands Beach. | 14-11

Sea walls should be omitted. | 14-12

The upper Strands Vista Park should have additional setbacks. The Zeisser report defined the top of the Strands as coastal bluff and should be redefined. The General Plan says that the City is supposed to protect natural landforms and the new plan does not. 14-13

There are many good ideas in the plan and endeavors should be commended. The Headlands is the last large parcel of open space and the soul of Dana Point. This legacy should be preserved for generations to come. The goal should be to preserve and retain these vistas from all directions with the maximum amount of open space to leave as our heritage. 14-14

Sincerely,

Winston Goller

Winston Goller

14. RESPONSES TO COMMENTS FROM WINSTON GOLLER

14-1 Please see Responses to Comments 12-6 and 12-9. The City has no basis for addressing the comment relative to the percentage of the site being environmentally impacted. See responses to Comment Letter 48. The statement is noted as coming from the commentor.

14-2 Please see Responses to Comments 7-3 through 7-9 and all responses to Comment Letter 48.

14-3 There is no reason to discount the Strand Beach acreage from the cumulative open space area devoted to recreation and conservation uses. The Strand Beach area is defined within the Recreation Open Space Zoning District as described in Section 3 of the HDCP, and is a part of the cumulative open space area for the project site, accounting for over 50 percent of the project site.

14-4 Because the bluff face and the Strand Beach area are significant landform conservation and/or recreation features, they are appropriately designated as open space. The upper bluff faces provide for the preservation of sensitive coastal bluff scrub, including rare plants. Except for structures such as kiosks, buildings are not permitted within the Conservation Open Space. Visitor recreation facilities such as the Nature Interpretive Center are included within the definition of recreation open space.

14-5 Please see Response to Comment 12-5.

14-6 Please see Response to Comments 12-6 and 12-8.

14-7 As discussed on pages 4.9-63 and 4.9-64 of the DEIR, Coastal Act Section 30210 requires the provision of public access to coastal property, especially with respect to recreational opportunities and natural resource areas. Section 30213 encourages lower cost visitor and recreational facilities in the Coastal Zone as part of overall development plans for the Coastal Zone. In compliance with these sections of the Coastal Act, Harbor Point Park is proposed as a location for three visitor centers, Nature Interpretive, Cultural/Arts, and Maritime Historical.

14-8 Comment noted. Subject to City Council approval, the provision of the referenced visitor recreation facilities is a requirement of the HDCP and must be constructed by the developer prior to any residential occupancy of the project.

14-9 Please see Response to Comment 12-1.

14-10 Please see Response to Comment 12-2.

14-11 Siting of trails has accounted for the maximization of public view opportunities. This is further enhanced by the inclusion of view overlooks. Refer to Figure 4.5.3 of the HDCP regarding coastal view opportunities.

14-12 The commentor is assumed to be asking about the revetment structure in the Strand Beach area when referring to "sea walls." It is important for the project proponent to improve the existing revetment because wave action has the potential to increase the exposure of project facilities to coastal erosion, as discussed in Section 4.16 of the DEIR. Additionally, without revetment improvements, the existing public walkway and ramp and the County storm drain outlet may be undermined and damaged. Improving the revetment would minimize the potential for coastal erosion and protect infrastructure and improvements on and adjacent to the future Strand residential area.

14-13 Refer to Responses to Comments 33-13 and 33-15.

14-14 The commentor summarizes some of the project objectives listed in Table 3.1.1 in Section 3 of the HDCP. As such, the comment is noted.

15. COMMENTS FROM TOM BRABECK

BOBBI OGAN

From: Tom Brabeck [tbrabeck@jps.net]
Sent: Sunday, November 18, 2001 2:49 PM
To: bogan@danapoint.org
Subject: Fw: Headlands EIR response

November 17, 2001

Director of Community Development
Edward Knight
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92929

Re: Comments on Headlands Draft Environmental Impact Report 2001 and Headlands Development and Conservation Plan

Dear Mr. Knight,

In response to the above-mentioned report, I have listed below areas of concern to the residents of Dana Point, plus statements of an erroneous nature.

1. A 65-room inn is proposed on 2.8 acres. It is not in the best interest of Dana Point to put any type of hotel or inn on the Headlands. After speaking with the homeowners on Green Lantern, they have voiced conclusively, that due to the present amount of commercial and public vehicles, there is already too much traffic on Green Lantern. The traffic will be substantially increased with additional residential development. 15-1
2. Commercial development on the Headlands is not compatible with residential zoning on such a prime piece of land. 40,000 square feet of commercial development will conflict directly with surrounding residents. In addition, an undue traffic burden will result on local residents. As defined, the entrance on Green Lantern and PCH is hazardous and should not be allowed. 15-2
3. Traffic flows as stated in Sec 3.3.1, table 3A and Figure 4, show Scenic Drive as being relocated. Scenic Drive has been here before any of the residents moved into this area. Therefore, this charming aspect of the area should be left unchanged. It is designated Scenic Drive for a reason. Any change will detract from the present views and may very well devaluate the existing homes.. 15-3
4. Open space – Drawings and other statements are depicting the cliff faces and bluff fronts as part of the open space. This is totally unsatisfactory. No unusable space such as these should be included in a formula for open space. This is deceitful and erroneous. We do not need 2 buildings for the general public in lieu of valuable open space. As a city, we should do everything in our power to obtain and maintain the maximum open space possible. Open space definitions and calculations should not include any bluff faces, streets, buildings and parking spaces. They should be based on the practicality of the "green space" only. 15-4
5. Ridgeline Walking Trail- the City must obtain prescriptive rights to the trail and land on either side. The public has used this trail for decades; therefore prescriptive rights must be obtained to enjoy its use in perpetuity. 15-5
6. There is no concise plan for urban runoff. At a time when our beaches are constantly closed for environmental pollution, it is imperative that a detailed program for urban runoff is in place PRIOR to any zone, rezoning or plan approvals. 15-6
7. Aesthetics – It is well known that the Headlands are the last undeveloped jewel left on the coast. I am concerned that the city is willing to trade natural beauty for artificial aesthetics in order to generate more tax income. 15-7
8. Owners property rights – It should be recognized that owners on Green Lantern have rights to peace and enjoyment of their properties. In fact, they may probably have even more rights at present than do the owners of the Headlands. When the present owners of the Headlands purchased the property, they were never guaranteed what they could build. On the other hand, owners on Green Lantern have their rights through past approval of prior county or city governments. As stated in the plan, Green Lantern will become a traffic hazard for any of its present residents. Widening the street is not an option. It would only make a bad situation worse for present owners, since a portion of their land would have to be taken by adverse possession in order to accomplish a larger street. In addition, Cove Road will not be able to sustain an increased traffic burden due to its limitations. As a result, the plan as stated creates an additional traffic hazard, which in 15-8

turn creates a greater liability for the city.

10. The city in the past, specifically with Capitol Pacific Holdings, has given up too much and received too little in return from the developers when granting zone changes. It is time for this type of biased decision making to cease. As a population, and as concerned residents of the city of Dana Point, we have the right to know what the city is giving up in land and easements prior to any final decision by the council. The general voting population of the city should bring any decision of this magnitude to a general vote and not in the hands of a few.. 15-9

In summary, the plan is flawed in many areas and should not be passed until these areas of concern are adequately addressed.

Sincerely

Tom Brabeck
33802 Blue Lantern
Dana Point, CA 92629

(949) 493-9399 (Home)
(949) 272-3337 (Office)

15. RESPONSES TO COMMENTS FROM TOM BRABECK

15-1 Please see Responses to Comments 3-1, 8-1, and 8-2 and General Response 1 - Traffic on Green Lantern.

15-2 Please see Responses to Comments 3-1, 8-1, and 8-2 and General Response 1 - Traffic on Green Lantern. The proposed commercial and office building at the corner of PCH and Green Lantern is appropriate for this location along a Major Arterial Highway. It will also be located across from the existing and similarly zoned Blue Lantern plaza. Additionally, this corner is not designated for residential development in the Dana Point General Plan. As such, this corner is not conducive to residential development.

15-3 The realignment of Scenic Drive will not change its character. The realignment of Scenic Drive seaward will increase scenic view opportunities. Scenic Drive will have an adjacent off-road trail on its south side, affording access opportunities to the Harbor Point Park and its three visitor serving facilities, as well as to the Headlands Conservation Park perimeter trail. The portion of the trail adjacent to Scenic Drive will provide unobstructed coastal view areas that can be readily accessed from a staging area parking lot at the end of Scenic Drive. This information is depicted on Figure 4.5.3 in Section 4.5 of the DEIR. Essentially, the character of this street in allowing access to coastal resources will not be adversely affected by development of the project. The statement that these changes will devalue the existing homes cannot be substantiated and represents the opinion of the commentor.

15-4 Please see Responses to Comments 14-3 and 14-4. Additionally, preservation of scenic, visual, conservation, and recreation features is consistent with Sections 30240 and 30251 of the Coastal Act, as discussed in Section 4.9 of the DEIR. Recognizing such features as either conservation or recreational areas and identifying them as either conservation or recreation open space in the Zoning Districts discussed in Section 3 of the HDCP is consistent with intent of the Coastal Act. The existing City of Dana Point General Plan accounts for roads as part of the open space calculation. Under that definition, the project includes 64.5 acres of public open space.

15-5 Refer to Response to Comment 33-3.

15-6 Drainage plans to control, capture, and dispose of project-related runoff and ensure water quality are described in Sections 4.7 and 4.8 of the DEIR. Additional information is also provided in Section 4.7 of the HDCP. Precise drainage plans are prepared as part of subdivision maps to be processed after consideration of the HDCP comprising the general plan amendment and zone change for the project site. Planning Design Features (PDF) 7-2 through 7-6 and 8-1 through 8-13 describe the design of the critical components of the storm water runoff drainage system. Planning Conditions (PC) 7-3 through 7-7 and 8-1 through 8-13 set forth the requirements for studies and plans to implement the drainage system. As discussed on pages 4.7-7 to 4.7-9 and 4.8-11 to 4.8-13 of the DEIR, these PDFs and PCs must

be satisfied before project implementation. All told, this information will constitute the detailed design for controlling, containing, and disposing of storm water and nuisance runoff from the project site.

15-7 The issue raised in this comment is a public policy matter, which can be addressed by the Planing Commission and City Council during or after the approval process for the project site. The comment and this response will be forwarded to these decision making bodies in the Final EIR for the project.

15-8 Please see Responses to Comments 3-1, 8-1, and 8-2 and General Response 1.

15-9 Please see Response to Comment 15-7.

16. COMMENTS FROM KENT WELTON

KENT WELTON
24361 Caracas St.
Dana Point, CA. 92629
(949) 240-6864

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 19 11 09 AM '01

November 18, 2001

To: Ed Knight, Dana Point City Council,
DP Planning Commission & Coastal Commission

Re: Headlands Project DEIR comments

Several improvements/changes should be made to plan - to reserve views, maximize open space, improve traffic flows, prevent both congestion and useless commercial blight:

1. **Planning area PA4** (PCH Visitor/Recreation/Commercial) at corner of PCH and Blue lantern should be *eliminated* from plan or, at very least, moved onto Blue Lantern next to residential across from Cannon's restaurant - thus behind hill and out of PCH view. This would save the entrance open space on PCH, preserve view and, in lieu, provide good area for elegant Dana Point City monument sign with gardens, etc. Otherwise, more ocean view is ruined for visitors and residents for what is clearly throwaway commercial space too small to be of any real value. 16-1
2. **Planning Areas 8A & 8B** - Maritime Historical Visitor center and Cultural Arts Visitor center should either be eliminated or moved/integrated into the same building as Nature Interpretive Visitor Center. (see attached) Why destroy views with these unneccessary buildings which can be combined and placed where ocean views are not destroyed! No throwaway buildings and adjacent parking lots on the last of Headlands! Veteran's memorial should also be deleted. 16-2
3. **Planning Area 9** - Resort Seaside Inn. Remove from plan or, at very least, move back toward slope, move road in, and gain more view & open space. 16-3
4. **Planning Area 6** - Upper Headlands. Eliminate street exit onto PCH. Eliminate bottle-necking street and any signal here. (see attached map) Take road behind Area 5 hill and connect to Blue lantern, connect other end to Selva. Better and less intrusive traffic flow, and also more privacy feel for tract. 16-4
5. **Planning Areas 1&2** - Keep north end tract entrance open - the one next to public beach access steps. Allow better entrance/egress from this end of tract. 16-5

The above changes would clearly result in a less intrusive and environment destroying plan. I strongly urge the planning bodies and coastal commission to implement these changes.

Very Truly Yours,

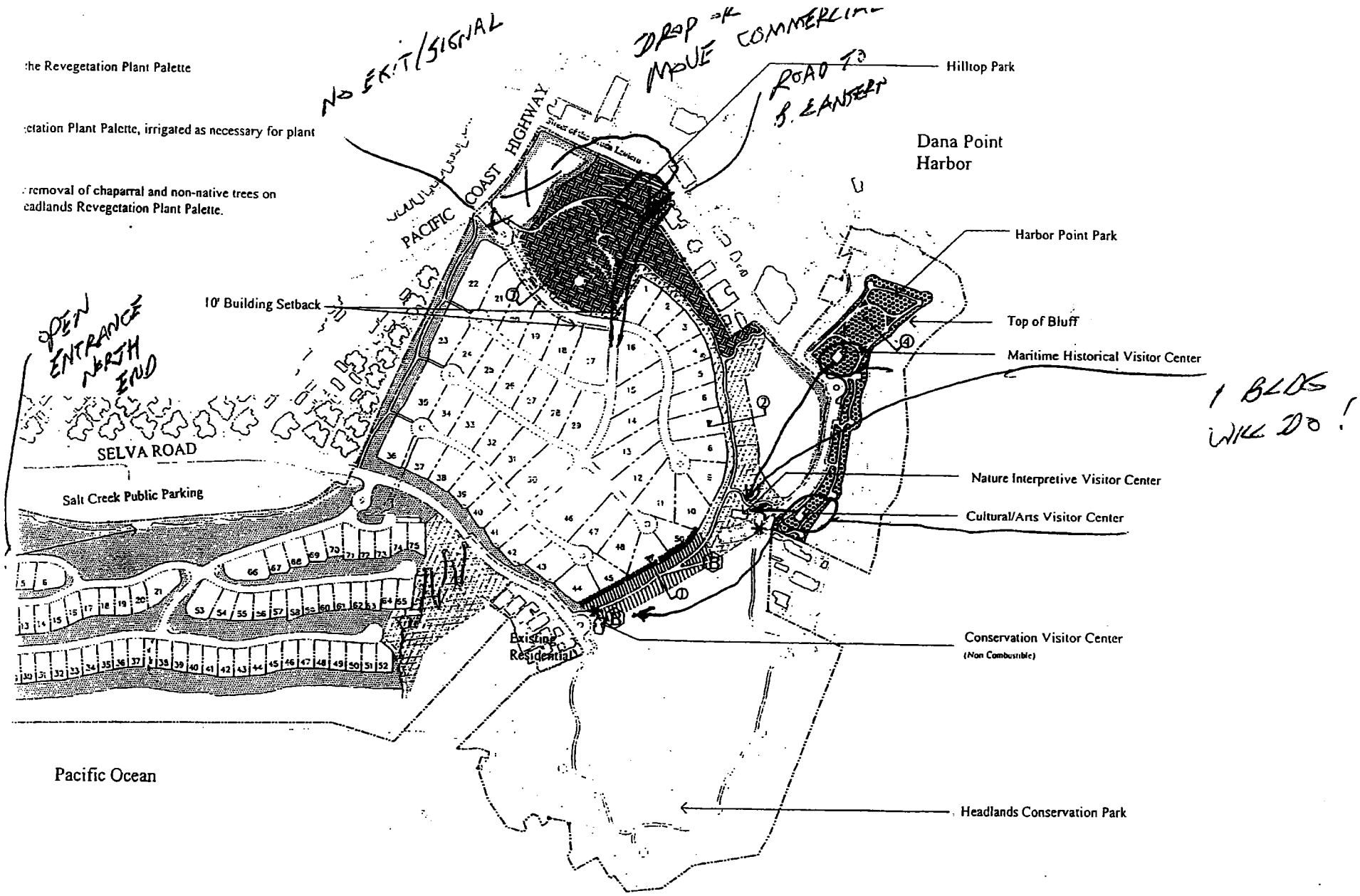
Kent Welton

Kent Welton

:he Revegetation Plant Palette

:etation Plant Palette, irrigated as necessary for plant

: removal of chaparral and non-native trees on
eadlands Revegetation Plant Palette.



SERVATION PLAN

0 100 200 300

SWA Group

16. RESPONSES TO COMMENTS FROM KENT WELTON

16-1 Please see Response to Comment 13-1. In response to the suggestion that office commercial development should be moved from the corner of PCH and Street of the Green Lantern to Street of the Blue Lantern next to the residential area across from the Cannons restaurant, the project does not front Blue Lantern, and there are no vacant parcels on Blue Lantern. The design guidelines developed in the HDCP will ensure that high quality design and materials are utilized in the commercial structures.

16-2 The Maritime Historical Visitor Center and the Cultural/Arts Visitor Center are each single story structures proposed at 2,000 square feet, about the size of an average single family home. Therefore, the structures will not have a significant viewshed impact. Ocean views in Planning Area 8 are enhanced by the location of the bluff top trail seaward of the aforementioned structures. The parking spaces in Planning Area 8 afford public access to the open space recreation and conservation areas in the Headlands Conservation Park and Harbor Point Park, consistent with Sections 30210 and 30212.5 of the Coastal Act as discussed on pages 4.9-63 and 4.9-64 in Section 4.9 of the DEIR. Whether the veterans memorial should be provided is a policy decision, which can be considered by the Planning Commission and City Council during the project approval process.

16-3 Comment noted. Any consideration given to removing or relocating the Resort Seaside Inn should be addressed through the project's decision making process at the Planning Commission and City Council.

16-4 Eliminating the Planning Area 6 access point at PCH and "A" Street would essentially divide 600 average daily trips from this planning area (please see Figure 4.13.10 in Section 4.13 of the DEIR) and direct the trips to Selva Road or toward either Street of the Green Lantern or Street of the Blue Lantern. The effect of this action would change the balance of project-related trips by sending more vehicles adjacent to existing homes. Assuming that trips are evenly distributed, Selva Road would have an approximately 33 percent increase in project-related trips, with a similar level of impact on Street of the Green Lantern and Street of the Blue Lantern, with 50 percent of the trips moving in this direction as well. Additionally, a connection to Street of the Blue Lantern would adversely impact the hilltop landform, requiring the leveling of the hilltop to the elevation of Green Lantern. Since an alternative exists (the "A" Street to PCH access) to minimize through trips on existing neighborhoods, such an alternative is more desirable as compared to the suggestion of the commentor.

16-5 Creating an access point to Planning Areas 1 and 2 next to the public steps to the beach is unnecessary since traffic levels on Selva Road are not negatively impacted by the project. See Response to Comment 1-1. Vehicular Access as proposed may interfere with the coastal access associated with Planning Area 1, Strand Vista Park.

17. COMMENTS FROM JOHN D. TAYLOR/MARION COOK

CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DANA POINT

November 19, 2001

Nov 19 11 47 AM '01

Mr. Edward M. Knight, Community Development Director
City of Dana Point
33282 Golden Lantern
Dana Point, California 92629

Dear Mr. Knight,

I am writing to you on behalf of Mrs. Marion Cook and members of her immediate family with regard to the Draft Environmental Impact Report for the Headlands Development and Conservation Plan (HDCP), dated July 24, 2001. She has asked me to review the documents for potential impact to her residence, located at 34545 Scenic Drive, and identified in the documents as the "single family residential enclave."

I am presently a registered Landscape Architect in the State of California (RLA # 4504).

In reviewing the documents, and in discussions with Mrs. Cook and family members, a number of concerns have been expressed regarding the HDCP and its potential negative impact on her residence.

1. Scenic Drive and Residential Enclave Access Road

The Headlands Development Agreement by the City of Dana Point and the Headlands Reserve LLC vacates the northern half of the current 60' public street right-of-way, Scenic Drive (Headlands Development Agreement, Exhibit E, Road Easements To Be Vacated). The vacated area is deeded to the HDCP to form Recreation Open Space as part of the 62 acre Headlands Conservation Park (Table 3.3.1, Land Use Statistical Summary). The remaining 30' wide residential enclave street is joined to the project area by means of a vehicular roundabout, as shown on Figure 4.4.8.

The repair and integration of the remaining 30' wide street within the larger roadway system, including its relation to adjacent surface drainage, vehicular circulation, wastewater collection, and other utilities has not been addressed in the EIR. The mitigation of these impacts by the Developer is appropriate as the cause of these impacts are due to the inclusion of the land into the 62 acre Headlands Conservation Park and the resulting demolition of at least 50% of the existing Access Road. Unless these issues are addressed and mitigated within the HDCP, the impact to the existing residential enclave will be negative. 17-1

A. Surface Drainage

The vacation, and subsequent demolition, of one half of the residential enclave roadway and right-of-way will alter current surface drainage patterns. The remaining roadway profile will require new grading and resurfacing, which is not shown within the limit-of-work-line, in order to prevent drainage impacts on the residential enclave. Provisions should be made within the HDCP for recognizing

and correcting this impact and evaluating the necessity for storm drain improvements. 17-1

B. Traffic Movement: Scenic Drive, Vehicular Roundabout, Access Road
The Conceptual vehicular roundabout terminating Scenic Drive on Figure 4.4.8 is poorly designed. The design does not encourage orderly traffic flow. The poor design of the vehicular roundabout negatively impacts the residents whose only means of accessing their residences is via the roundabout.

-The roundabout as currently shown must accommodate two-way traffic from three separate locations (Scenic Drive, Nature Interpretive Center Parking Lot, and Access Road), as well as bus and passenger vehicle pick-up and drop-off. The multiple points of exit, entry and pullover are excessive, confusing, and potentially unsafe.

-No provisions are made in the plan for the Drop-Off area to be set aside from other traffic movements. The lack of a lay-by area exclusively for pick-up and drop-off causes the design to be unsafe.

-The vehicular roundabout is not integrated with a pedestrian circulation system showing how pedestrians will move safely from the drop-off area to the Nature Interpretive Center or the Conservation Trail.

-The remaining residential enclave Access Road meets the roundabout at an oblique angle. The roundabout should be redesigned and reconfigured so that it will meet the Access Road at a 90-degree angle in order to create safe traffic movement design. 17-2

-Cars that mistakenly turn down the remaining residential enclave roadway have no recourse but to use existing private residential driveways as means to turn-around.

-Drivers moving in a Westerly direction on Scenic Drive may mistake the Access Road opening for a Headlands Conservation Park entry. Cars that mistakenly turn down the remaining residential enclave roadway have no recourse but to use existing private residential driveways as means to turn-around.

-It is possible that visitors will simply park on the residential enclave roadway because the roadway remains outside parking restrictions which are designated for Scenic Drive, thus impacting the residents to a greater degree. The HDCP does not account for the negative impact of increased traffic volume on the residential enclave roadway.

C. Wastewater Treatment Service
It is in the public interest, and within the stated City of Dana Point goals (Public Facilities/Growth Management Element-Page 32), that the HDCP should provide wastewater treatment service to the residential enclave. The HDCP is founded on recognizing that "Dana Point's spectacular natural setting forms one of the most memorable arrangements of sea and landform in Southern California" (Urban Design Element-Page 13, The Natural Setting). The conservation of natural resources is highlighted in the Land Use Plan (4.2). The current septic system is potentially prone to the same dilapidation as described in Section 4.1, Existing Site Characteristics, F. Hydrology. The HDCP should include wastewater treatment service to the residential enclave in order to mitigate potential negative impacts on the Headlands environment, as well as bring the design of the street into 17-3

conformance with street design standards that are a part of the development and The City of Dana Point. 17-3

2. Access During Construction

The HDCP is deficient in explaining how access will be made to the residential enclave while the reconfigured Scenic Drive is under construction. Under any conditions, the impact on residents of the enclave during roadway construction will be negative as they encounter noise, dust, delays, and discomforts. 17-4

3. Public Access Restrictions

Table 4.5.3, Item 11 notes that Parking on Scenic Drive will be time restricted. It is not indicated how the restriction will be accomplished or enforced. The EIR is deficient in that it does not specifically address how unrestricted access to the residential enclave will be made when restrictions are placed on other vehicles using Scenic Drive. 17-5

4. Noise: Vehicular /Visitor

A. Vehicular Noise

One of the largest negative impacts on the residential enclave will be the introduction of noise, which does not currently exist in this secluded area. One of the largest contributors to this negative impact will be the increased presence of cars, service vehicles, and buses. The most immediate source of vehicular noise will come from public parking at the Nature Interpretive Center.

The Nature Interpretive Center is poorly sited in relation to its mission, as shown on the Harbor Point Park Plan, Figure 4.4.8.

Rather than face the Headlands Conservation Park, the Nature Interpretive Center faces 24 stalls of vehicular parking to the West, and a 2:1 graded slope to the North and East. Users who desire to access the Headland Conservation Park pedestrian system after having visited the Nature Interpretive Center are forced to cross two lanes of moving traffic, or enter the moving traffic of the roundabout because a clearly designed system of safe pedestrian circulation is not shown. 17-6

To mitigate vehicular noise, provide pedestrians with safe access to the Headlands Conservation Park, and improve the relation of the Nature Interpretive Center to its appropriate setting, the Parking Lot should be relocated adjacent to the future Northerly graded slope, and the Nature Interpretive Center should be relocated adjacent the Pedestrian Coastal Access Trail of the Headlands Conservation Park. By "flipping" these two uses, negative noise impact on the residential enclave will be reduced, pedestrian circulation to the Headlands Conservation Park will be made safe, and the Nature Interpretive Center will be joined with the landscape of the Headlands Conservation Park.

B. Visitor/Pedestrian Noise

Another immediate source of noise will be from the increased presence of visitors to the site. The most immediate source of noise to the residential enclave from visitors

will come from the Overlook located Northwest of the Cultural/ Arts Visitor Center, in Harbor Point Park, as shown in Harbor Point Conceptual Plan, Figure 4.4.8.

The Overlook is poorly sited with regard to maximizing the visual resources available in this area, and is poorly sited in relation to the residential enclave with regard to noise disturbance. The Conceptual Tree Planting which is shown to the Northwest of the Overlook, and has possibly been graphically introduced in order to suggest a buffer, is inconsistent with the HDCP Revegetation Plant Palette, as shown in Fuel Modification Plan, Figure 4.14.1, and subsequently in Table 4.14.2. No tree species occur within the Revegetation Plant Palette. The effect of buffering the development from the residential enclave with trees is misleading, incorrect, and should be revised to more accurately portray noise mitigation measures. 17-6

The prior Headlands development proposed in 1994 placed public trails 100' from private property lines. The Overlook and Blufftop Trail should be relocated no less than 100' from the closest property boundary of the residential enclave, and be suitably buffered by shrub and groundcover planting.

To mitigate the negative impact of visitor noise, the Overlook should be relocated to the Southeast, reducing the amount of unbuffered noise imposed on the residential enclave, and improving the quality of the Overlook for users.

Thank you for your review and consideration of the above-noted items.

Sincerely,

John D. Taylor
(RLA# 4504)

Marion Cook, Joyce Joffray co-trustees

Marion Cook
34545 Scenic Drive
Dana Point, California 92629

17. RESPONSES TO COMMENTS FROM JOHN D. TAYLOR/MARION COOK

17-1 The current public roadway (Scenic Drive) in this location is substandard with approximately 220 ft. of 20 ft. wide pavement, no storm drain, no cul-de-sac or hammerhead turnaround at the end of pavement, and no concrete curb and gutter. This street serves three homes. With the development of the HDCP, this roadway will be improved with new pavement and related improvements as designed by a licensed civil engineer and approved by the City of Dana Point.

Currently the drainage pattern for the south side of the right-of-way directs runoff towards the pavement area of the street. A small asphalt berm at the edge of pavement helps maintain runoff within the pavement area. With the HDCP, it is correct that the roadway will be recontoured and resurfaced based on a design prepared by a licensed civil engineer to ensure that stormwater runoff from the street is directed away from the residences. Based on preliminary designs and the small area of pavement involved, a storm drain system is not warranted.

Any alteration to the existing drainage patterns caused by vacation of the northern half of Scenic Drive in front of the residential enclave is considered to be insignificant. The residential access road may need to be moved to remain within the remaining right-of-way; however, this should not produce any drainage impacts on the residential enclave. In comparing Figures 4.7.1 and 4.7.3, the project proposes to remove some of the drainage that currently reaches the roadway in front of the residential enclave, and redirect it to the harbor. The result to the enclave is a better drainage condition than exists today.

17-2 The proposed cul-de-sac at the end of Scenic Drive is not designed as a "roundabout." In fact, it will function as a cul-de-sac, allowing traffic to reverse direction while at the same time allowing access to either the parking lot or the residential enclaves. There is no bus pickup or drop-off proposed at this location. Private vehicle drop-offs can be accommodated on the north side of the cul-de-sac or in the parking lot at the Nature Interpretive Center, without interfering with orderly traffic flow. With stop signs installed at the appropriate locations, as well as directional signage, no traffic impacts are foreseen. Specific design criteria of the cul-de-sac configuration will occur during the tentative map process and during final improvement design. All designs for public improvements will follow appropriate engineering standards. Pedestrians will utilize the proposed trail system that will run on either side of Scenic Drive, and no conflicts with vehicular traffic are anticipated. Signage will be installed to prevent traffic from mistakenly heading toward the residential enclave. If determined necessary by the City of Dana Point or the Orange County Fire Authority, a hammerhead turnaround can be provided on the roadway fronting the enclave.

The vehicular roundabout shown midway along Scenic Drive is conceptual at this time and requires further refinements in terms of final design that needs to be incorporated at the time that improvement plans are completed for the project. The roundabout design should incorporate all vehicular and pedestrian movements and should be based upon published guidelines from Caltrans, FHWA (Federal Highway Administration) and others, with respect to design elements. The projected traffic volumes within the area are relatively low and should be easily accommodated within the proposed roadway system and proposed roundabout.

17-3 Substantial private improvements would be required to convert the homes from private septic systems to public sewer. The HDCP proposes to install an eight-inch sewer line in the cul-de-sac that leads to the residential enclave and Nature Interpretive Center. The capacity of this sewer line will accommodate the additional capacity of the three homes in the enclave. The actual sewer connections of the homes in the enclave are subject to the review and approval of the South Coast Water District and the City of Dana Point through a separate permitting process. This process, if it occurs, is outside the scope of the HDCP.

17-4 Roadway improvements are typically addressed as part of the tentative subdivision map approval process after the HDCP general plan amendment and zone change actions have been considered by the Planning Commission and City Council. Typically, access changes are linked to an appropriate condition of subdivision map approval, which ensures that access to the residential enclave will be maintained during project related construction. In order to minimize the impact of construction noise on the residential enclave adjacent to Scenic Drive, Planning Condition (PC) 10-1 on page 4.10-8 of the DEIR restricts construction activity to between the hours of 7:00 a.m. and 8:00 p.m., with no activity permitted on Sunday. PC 2-1 on page 4.2-11 establishes requirements for dust suppression techniques to prevent fugitive dust from creating a nuisance off site.

17-5 As noted on page 4.13-19 of the DEIR, metered parking will be provided along Scenic Drive, and restricted hourly parking is proposed for the new parking lot adjacent to the Scenic Drive cul-de-sac. The City's Police Department will enforce parking restrictions. Since Scenic Drive will remain a public street even after project implementation, unrestricted access will be available to residents, visitors, and service vehicles traveling to the residential enclave.

17-6 The focus of this comment is on noise related issues resulting from project implementation. However, other topics are also interspersed and will be responded to as raised. It should be noted that vehicles and visitors currently utilize Scenic Drive and Marguerita. Therefore, the site does experience visitors and some impacts such as noise.

As discussed on page 4.10-22 of the DEIR, the proposed HDCP includes residential uses, an inn, other Visitor/Recreation Commercial uses, and public open space. Except for loading/unloading activities at the proposed commercial uses, the rest of the proposed development adjacent to Scenic Drive, which includes the referenced Nature Interpretive Center, is parking for the park/open space land uses, would not result in noise levels that are different or substantially above the ambient noise levels experienced in the project vicinity. Public park parking and street parking are exempted from the Noise Ordinance requirements. In addition, according to the City's Noise Ordinance, activities conducted on any park or

playground are exempted from the provisions of the Noise Ordinance, provided such park or playground is owned and operated by a public entity. The reviewing agency has the right to set appropriate hours of operation for the park and open space areas.

Noise associated with Visitor/Recreation Commercial land uses, including the Nature Interpretive Center, such as air conditioning, loading/unloading, and parking lots, must comply with the maximum noise level (Lmax) standards specified in the Noise Ordinance. Peak noise levels from the parking lots may be audible to nearby residential areas, but these noise levels would be required to comply with the Noise Ordinance criteria.

The Nature Interpretive Center and parking lots were sited approximately given site conditions and topographic constraints. The parking lot falls in the existing flat area of Marguerita Avenue, minimizing grading and drainage issues. Regarding the reference to pedestrians having to cross either two lanes of moving traffic on Scenic Drive or in the cul-de-sac at the end of Scenic Drive, per Figure 4.13.10 of the DEIR, crossing of the drives which will service the parking lot or enclave will not create a problem for pedestrians. See Response to Comment 17-2.

For the reasons discussed in the second paragraph in this response (17-6), visitors using the Harbor Point Park overlook are not expected to generate noise impacts that are different from or substantially above ambient noise levels in the vicinity of the residential enclave.

In response to the comment that the overlook in Harbor Point Park is poorly sited to maximize visual resources, the overlook will provide dramatic views to the Pacific Ocean to the south and southeast. The commentor has misinterpreted the illustration for shrubs in Figure 4.4.8 as trees. Any trees in this location are those existing in the enclave.

The City is no longer pursuing the 1994 plan that the commentor states would have located trails 100 feet from property lines. The existing General Plan and Local Coastal Program designate a bluff top trail in the rear yards of the residential enclaves. If approved, the HDCP will negate the need for the bluff top trail since all linkages and trail components will be provided by the developer. For addition information, refer to Responses to Comments 33-17, 33-18, and 33-19. Table 4.5.1 of the HDCP requires the placement of fencing, signage, and other design features to discourage users from leaving the trails and disturbing adjacent residences and conservation areas.

18. COMMENTS FROM SURFRIDER FOUNDATION



Surfrider Foundation

San Clemente Chapter.

19 November 2001

Mr. Ed Knight
Community Development Director
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Subject: Comments to Draft Environmental Impact Report, The Headlands Development and Conservation Plan

Dear Mr. Knight:

This letter has been prepared on behalf of the Surfrider Foundation, a non-profit environmental organization representing close to 30,000 members, many of which are located in the south Orange County area and specifically, in Dana Point. Surfrider has been very active in reviewing the proposed development activities of the Headlands and has previously provided comments to the plan both in writing as well as in person at public hearings. Despite being on the public record to date, we were not provided with a notice of preparation or notice of availability of the EIR. Furthermore, we attempted for more than two weeks to obtain a copy of the EIR until we finally were able to receive a copy due to "confusion" at city hall and your copy service as to who had a copy to provide. Our review period was therefore approximately two weeks. 18-1

In review of the project, we have two main issues we feel were either not adequately analyzed or for which the analysis was incomplete or in error. Both of the issues relate to the Strands area and are:

Coastal Processes, Geology

The report describes the geology of the site both on land as well as marine deposits. It is clearly stated that remnant landslide deposits are present both on the bluffs as well as on the beach. Extensive grading will be necessary to develop the project and stabilize the soils. The existing revetment is contemplated for reconstruction and expansion as part of the project. It is mentioned that the Strands beach is in a healthy sand condition some of which emanates from the adjacent bluffs. 18-2

In the EIR, a very dubious claim is made that the revetment expansion and reconstruction is for the purpose of public safety, water quality and protection of existing structures. This statement is laughable. If there were such a public safety threat, the City would and should issue corrective orders. It is clear from reading the document that the only purpose of the revetment is to allow new construction to proceed. We are gravely concerned over the proposed expansion of the revetment and feel that the potential

18

negative impacts of such an expansion have not been adequately analyzed in the EIR. It is well documented that hard coastal structures can have a negative impact on adjacent beaches during run up or storm events. The document mentions in several places that without the revetment, the toe of the slope and bluffs face erosion concerns (sand sources to the beach) establishing that such interaction is a very realistic situation. Such hard structures may be prohibited under the Coastal Act. Therefore, we recommend that the document be revised to fully analyze the potential for significant environmental impact:

- under the assumption that the revetment is not allowed to be expanded and/or reconstructed. In the existing alternatives analysis, only the No Project alternative considers this condition;
- from significant land form alteration of the Strands area which is a significant concern of the Coastal Act;
- associated with removal and regarding of the portions of the landslides that are either on the sandy beach and/or below the mean high tide line;
- related to bluff instability and the potential for future bluff failure on newly installed structures. The proposed setback of 50' is based on geologic estimates that have proven state wide to include a high degree of uncertainty. An appropriate "buffer or margin of error" should be included in such an uncertain estimate.
- From sand loss to Strands beach that would occur from an increase in the revetment, increases to the impervious cover of the project and other developmental activity.

18-2

Coastal Water Quality

In reviewing the section on water quality, we feel that there has not been enough analysis on the potential for post construction impacts to local receiving waters in the Strands area. While we do recognize that several aspects of the project will be installed to mitigate potential water quality impacts such as dry flow diversion and structural BMPs, the document itself acknowledges that the potential for bacterial runoff cannot be accurately estimated. Given the importance of water quality to the Strands area (and Dana Point in general) we feel that there has not been enough analysis of the specific stormwater BMP plan for the City to make an informed decision and that additional analysis of the potential impacts of the project are necessary.

18-3

We thank you for the opportunity to comment on the plan and look forward to further sharing our comments during upcoming public hearings.

Very truly yours
The Surfrider Foundation
San Clemente Chapter

Mark Cousineau, REA
Chapter Chair

CC

Karl Schwing, California Coastal Commission
Marco Gonzales, Esq.

18. RESPONSES TO COMMENTS FROM SURFRIDER FOUNDATION

18-1 The notice of availability of the DEIR was mailed to:
Melissa Raymond, Legal Committee
Jake Grubb, Executive Director
Surfrider Foundation
122 South El Camino Real, #67
San Clemente, CA 92672

The City apologizes for any difficulty the Surfrider Foundation may have had in obtaining a copy of the DEIR.

18-2 In response to the concern that the revetment reconstruction is not acknowledged to also protect the proposed Strand residential area, the commentor is directed to Figure 4.1.1 in Section 4 of the HDCP, which shows the revetment as also protecting the new residential area. PDF 16-1 states that the existing revetment will be upgraded and reconstructed for the proposed project. On page 4.16-21, the HDCP states that the revetment will be reconstructed for a number of reasons including to minimize slope erosion, enhance public safety, maintain beach access, and protect the proposed coastal accessways and proposed storm drain improvements. Also, Table 4.11.1 on page 4-71 of the HDCP states that reconstruction of the existing revetment will not encroach seaward of the toe of the existing revetment at bedrock, unless improvements are specifically necessary to create or enhance public access or public safety. Of the existing 2,240 L.F. of revetment, approximately 2,100 L.F. are proposed for reconstruction.

The present on-site revetment and an approximately 155 foot off-site revetment segment north of the project boundary form a continuous shore protective device to protect the existing public walkway, emergency ramp, and County storm drain outlet (see Figure 4.16-1 of the DEIR). The slope erosion resulting from the removal of the revetment would extend to the off-site revetment, exposing the public walkway/ramp and County storm drain to structure damage. The effectiveness of the existing off-site revetment would be substantially compromised. Consequently, the public walkway/ramp and the County storm drain may be damaged, and the provision of public coastal access and safety would be impacted. Therefore, permanent removal of the revetment would result in a high probability for geological instability and would accelerate the adverse impacts that would occur if the revetment were not upgraded. In summary, allowing further deterioration of the revetment would compromise the ability to redevelop the former mobile home park site as the future Strand residential portion of the project site, and would further deteriorate the above referenced structures. Reconstruction of the revetment in its present footprint would minimize any impacts to Strand Beach.

Section 30253 of the Coastal Act requires that new development assures stability and structural integrity while not creating or contributing significantly to erosion, geologic

instability, or in any way requiring the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Strand area of the project site was previously developed as a mobile home park, including extensive grading. As such, it does not represent a natural landform. The revetment was previously constructed to protect this area from erosion. The proposed project will not construct a new revetment, but will reconstruct the existing one, which has been in place since the 1950s. This will maintain the integrity of the Strand Beach and protect the area behind it, which was developed and is now proposed to be redeveloped. Based on the recommendations of professional engineers, a well-structured revetment will minimize issues associated with erosion and geologic instability and enhance public safety and access. The proposed reconstruction would not substantially alter a natural landform, as the revetment is already in place as part of a series of man-made slopes and terraces. An extensive analysis by Noble Associates and a peer review by Scott Jenkins, Ph.D. demonstrates that no effect on coastal processes, including sand replenishment, will result from the reconstruction.

In response to the commentor's bullet points in reference to revising the DEIR, the CEQA Guidelines require a reasonable range of project alternatives. Four project alternatives are provided to satisfy this requirement, including the one referenced by the commentor. Removal of the revetment or deferring its reconstruction was analyzed in the Alternatives Section on pages 5-4 and 5-5 and was determined to be infeasible, and per CEQA Guidelines, was withdrawn from further consideration.

Accordingly, Dr. Jenkins found that the "removal of the existing revetment would be a high risk project alternative that offers benefits of little consequence...The Strand Beach is not a sand-starved beach and consequently, there is no apparent need to provide additional sediment to this beach by way of slope/terrace retreat." In addition, see Responses to Comments 48A-10 to 48A-12. On pages 14.16-21 through 14.16-24, the DEIR does include a discussion of a series of options concerning the existing revetment, including doing nothing to the existing revetment, removing the existing revetment, or implementing a beach fill, nearshore submerged breakwater, or seawall alternative to the revetment. The DEIR concludes that none of these options would be feasible, resolve the existing geologic instability on the site, or result in less of an impact to the environment than the proposed reconstruction of the revetment.

18-3 Water quality compliance requirements are established through the Project Design Features (PDFs) listed on page 4.8-11 in Section 4.8 of the DEIR. The requirements include Best Management Practices (BMPs) such as litter control and street sweeping (PDF 8-1), development of public and commercial use awareness programs (PDFs 8-2 and 8-3), water efficient landscaping (PDF 8-4), use of low flow devices (PDF 8-5), prevention of commercial waste and domestic waste from entering into storm or sanitary systems (PDFs 8-6 and 8-7), capture of first flush (PDF 8-8), and low flow diversions to the sanitary sewer system (PDF 8-9). PDF 8-13 establishes a monitoring program requiring water quality testing for a three-year post-construction period. If water quality levels are reported below acceptable standards, additional structural and non-structural BMPs would be required.

The project proposes to not only provide these features for the project area, but also for approximately 30 acres of existing highly urbanized development surrounding the project

site. These areas currently drain to Strand Beach and Dana Point Harbor unabated, without any substantive BMPs in place. The project proactively proposes to not only provide the appropriate BMPs for the project but also for these off-site areas. In addition, see the responses to Comment Letter 48B.

19. COMMENTS FROM FRANK PERSIDES

CITY OF DANA POINT
COMMUNITY DEVELOPMENT
NOV 26 12 03 PM '01

34431 Green Lantern
Dana Point, CA 92629
November 19, 2001

Dana Point Planning Commission
City Hall
Dana Point, CA 92629

Dear Commissioners:

I have several concerns regarding the proposed development of the Headlands by LLC Reserve.

My prime concern is the amount of traffic that will be generated by the commercial development at the end of Green Lantern and Cove Road. Green Lantern Street was never meant to be a prime thoroughfare. The street is only sixty feet wide. Parking, forget it. Presently traffic flows via Cove Road to Green Lantern. The Marine Institute is enlarging which will generate more traffic. There are two major properties designated T/R/C on Green Lantern that have not, as yet, been developed. 19-1

I would suggest strongly to the Commission an alternative entrance and exit to this commercial development other than Green Lantern Street, perhaps through an extension of Selva Road. We, the people residing at the west end of Green Lantern, know only too well the amount of noise and confusion generated by commercial delivery trucks. (beg. Chart Houses Res.) 19-2

I believe the amount of commercial development is far too extensive as outlined by the LLC plan. The bed and breakfast hotel should stand alone without the gift shop and restaurants. 19-3

The buffer space between residential and commercial should be a minimum of 100 feet on Green Lantern. 19-4

I thank the Commissioners for addressing my concerns.

Yours very truly,

Frank Persides

Frank Persides

19. RESPONSES TO COMMENTS FROM FRANK PERSIDES

19-1 Please see Responses to Comments 3-1, 8-1, 8-2, and 12-1. Additional traffic impacts resulting from the development of any remaining sites designated for visitor serving uses or the expansion of the Marine Institute will be evaluated as part of the entitlement process for these sites. Mitigation measures would be applied, as appropriate, if traffic impacts would cause level of service (LOS) to deteriorate below the City's standard of LOS C along Street of the Golden Lantern.

19-2 If the commentor is referring to the 40,000 square feet of commercial and office development proposed in Planning Area 4 on the corner of Street of the Green Lantern and PCH, delivery trucks servicing this site will not travel south along Street of the Green Lantern. Therefore, commercial deliveries to the Planning Area 4 site will not impact homes along this street. Deliveries to the future Resort Seaside Inn and the proposed three visitor centers will be restricted to daytime hours by City ordinance in order to minimize any noise impact on nearby residences.

19-3 If the commentor is referring to traffic impacts caused by overall project commercial development, and the gift shop and restaurants to be located in the Resort Seaside Inn, please see Responses to Comments 3-1, 8-1, and 8-2 relative to project impacts along Street of the Green Lantern.

19-4 As depicted on Figure 4.3.1 of the HDCP, none of the commercial or tourist related buildings of the proposed project accessed from Street of the Green Lantern will be located within 100 feet of the homes along this street or the residential enclave at the end of Scenic Drive.

20. COMMENTS FROM MAVIS CRICK

Edward Knight
Community Development Director
Dana Point City Hall
33282 Golden Lantern
Dana Point, CA 92629

COMMUNITY DEVELOPMENT
Nov 19 12 31 PM '01

November 16, 2001

Dear Mr. Knight:

I am a Dana Point resident and own a unit in the Niguel Beach Terrace Condominium Complex. My building faces the Headlands property line and the proposed development area 6 known as the "bowl". After reviewing the Draft Environmental Impact Report for the Headlands Development and Conservation Plan, I have several concerns and questions about the proposed project.

1. SUBJECT: GRADING, FILLING AND TERRACING OF PROJECT AREA 6.
DEIR Volume 1
4.0 Environmental Analysis
4.1 Aesthetics
4.1.1 Existing Environmental Setting
4.1.1.3 Project Site Conditions (page 4.1-10)
Figure 4.1.6

CONCERN: As a current resident of Niguel Beach Terrace with my home facing project area 6 (the bowl), I am concerned about the proposed terrace heights of that area. According to the DEIR (page 4.1-10) the depth of fill will **average 40** feet and the highest lots will range from **245 to 260 feet** above sea level. Since the proposed Hilltop Park is **288 feet** above sea level, when houses **(18 feet)** are build on the highest terrace, their roof peaks will be only **10 feet** below the highest point on Hilltop Park. My largest concern is the impact on my home and others along the property line. It appears the homes in the new project will be at such a height/elevation that they will loom over the Niguel Beach Terrace homes creating a "valley effect" for our homes facing the property line. This is particularly true for the Niguel Beach Terrace homes that will border the **highest** terraces. This is shown in Figure 4.1.6 and is especially true because the picture used for this figure does not include all of the Niguel Beach Terrace buildings that face the property line, mine included. In addition, some residents along this property line currently have ocean views from their homes. It appears that the project was planned to assure all new home sites would have an ocean view without consideration for displacement of views enjoyed by current Niguel Beach Terrace homeowners.

20-1

I would like to request that the City of Dana Point require the owner/developer of the Headlands to prepare a figure or map of projected Headlands area 6 which will accurately reflect the effects of the terracing on adjacent existing homes. This information should include elevations and be to accurate scale so that the public reviewing the Headlands Environmental Impact Report can evaluate the complete impact of that particular area of the project on the surrounding areas.

20-1

2. SUBJECT: A. FENCING BETWEEN NIGUEL BEACH TERRACE COMPLEX AND HEADLANDS PROJECT
Figure 4.12.6 Conceptual Wall and Fencing Plan
B. GREENBELT/BICYCLE/ PEDESTRAIN PATH ADJACENT TO NIGUEL BEACH TERRACE CONDOMINIUM COMPLEX
Figure 4.47 Greenbelt Linkage

CONCERN: The above referenced figure (4.12.6) shows fencing and walls that are planned for the Headlands project. On this figure and on all other figures/maps that I have reviewed in the DEIR, there is not an indication of the type of fence, if any, which will be provided along the property line between Niguel Beach Terrace Condominiums and the Headlands project. At the present time there is a very old chain link fence on the property line. On November 13, 2001, Sanford Edward was questioned about this fence and he stated that an open wrought iron fence would replace the current chain link fence. The area between Niguel Beach Terrace Condominiums and project wall (figure 4.4.7) will be a pedestrian/bicycle path. Although this figure indicates there will be selective use of low canopy trees to screen houses in area 6 of the Headlands Development, it shows only low "landscaping" along the fence (open wrought iron?) bordering Niguel Beach Terrace Complex. All of the condominium units adjacent to the greenbelt/path have at least one bedroom with double glass sliding doors facing area 6 of the project.

20-2

I would like to request that the City of Dana Point require the owners/developers of the Headlands to prepare a figure/map that will indicate a projected fence on the property line between Niguel Beach Terrace Condominium Complex and the Headlands project. This figure/map should, in addition, indicate the type of fence that will be provided. Landscaping of the area along said fence should be addressed. Since this area will be a bicycle and pedestrian walkway, adequate landscaping to insure privacy to current Niguel Beach Terrace homeowers should be provided. Adequate landscaping will also assist in mitigating the additional noise that will ensue with the building and use of the projected walkway/bicycle path. I would like to request all due consideration be given to the effects on current homeowners of any lighting that might be placed in the greenbelt area and all feasible measures be taken to minimize or lessen any adverse impact.

3. SUBJECT: TRAFFIC CONGESTION ON SELVA ROAD

CONCERN: The proposed plan for the headlands allows only one access point via Selva Road into the 75 unit lower residential area (area 2). Selva Road will also provide access to the 368 condominiums in Niguel Beach Terrace, the existing homes on the point, new Strands public parks, three beach access trails, the pedestrian/bike path adjacent to Niguel Beach Terrace, all open space trails to the conservation areas and Salt Creek Beach parking lot. It is apparent that the Salt Creek Beach parking lot will see increased use because of easier access to the beach and the new recreational facilities that will be available. Salt Creek Beach parking lot is also currently used on occasion as a meeting/parking place for individuals and groups to be shuttled to other locations in the city. All of the above uses will cause significant traffic congestion on Selva Road. The generally increased vehicular usage the entire area could also lead to parking problems within the Niguel Beach Terrace Complex. 20-3

Dana Strands Road is already in use to reach the area where a 75 unit residential area will be built. This road could be used to provide a second access to the new community while easing the traffic impact on Selva Road. If for some reason it is impossible to use this road as an entrance/exit to the proposed project in area 2, I would like to request that serious consideration be given to the possibility of using the Dana Strands road as an emergency entrance/exit.

Thank you for your consideration.

Mavis A. Crick

Mavis A. Crick
34152 Selva Road
Dana Point, CA 92692
949-661-5376

cc: Dana Point City Council
Niguel Beach Terrace Board of Directors
Niguel Beach Terrace Headlands Oversight Committee

20. RESPONSES TO COMMENTS FROM MAVIS CRICK

20-1 The concerns discussed regarding the grading for Planning Area 6 are acknowledged. However, the commentor is hereby advised that the City does not have an ordinance or other regulation that protects existing private views. Please also see Response to Comment 5-3. The information requested by the commentor relative to terracing and pad elevations is provided through the tentative subdivision map process after the Planning Commission and City Council consider the HDCP. Regarding concerns that grading of Planning Area 6 creates a "valley" effect for adjacent residents living in the Niguel Beach Terrace condominiums, the setback for the development in Planning Area 6 is 50 to 80 feet from the property line creating a landscaped Green Belt buffer of at least that distance as a transitional zone between adjoining uses. Plate II of the Geotechnical Report (Appendix D of the DEIR) shows elevations along the property boundary such that the buildings at Niguel Beach Terrace are higher than the level of the buffer between the two properties. With the highest residential elevation limited to 18 feet on the project site, some Niguel Beach Terrace condominiums will have a higher roof line than homes across the buffer in Planning Area 6. A representative cross-section is shown on Figure 4.4.7 in the HDCP.

20-2 Please see Response to Comment 1-3. Table 4.5.2 in Section 4 of the HDCP indicates that areas disturbed during construction (including trails) will be landscaped. Detailed landscape plans will be developed during the tentative map and Master Coastal Development Permit process. The public trail will typically be 20-30 feet from any homes in Niguel Terrace. There is no proposal to provide lighting along the trail adjacent to the Niguel Beach Terrace condominiums.

20-3 Please see General Response 2 - Traffic on Selva Road. Refer to Responses to Comments 1-1 and 5-1.

21. COMMENTS FROM SOUTH ORANGE COUNTY WASTEWATER AUTHORITY (SOCWA)

SOCWA
South Orange County Wastewater Authority

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 19 12 32 PM '01

November 15, 2001

City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629-1805

Attention: Mr. Edward Knight

Re: EIR for Headlands Development and Conservation Plan

Mr. Knight:

Thank you for transmitting a copy of the Draft EIR for the Headlands Development and Conservation Plan to us for our review. Our comments on the EIR are limited to the proposed storm water diversions identified in Appendix F – Drainage Study. Flows diverted into the sanitary sewer system of the South Coast Water District will drain into the South Orange County Wastewater Authority (SOCWA) J. B. Latham Treatment Plant that discharges treated flows through the San Juan Creek Ocean Outfall. The EIR Study has not quantified the water quality characteristics of the proposed diversions. Therefore, it is not possible to evaluate the impact on the performance of SOCWA's treatment process or SOCWA's ability to meet permit conditions for ocean discharge. 21-1

The comments listed below with regard to the EIR are consistent with the comments that SOCWA has transmitted to the City of Dana Point regarding other proposed storm water diversions .

COORDINATION WITH SOUTH COAST WATER DISTRICT

The EIR does indicate that the City of Dana Point is coordinating this project with the South Coast Water District (SCWD). SCWD will address the project impact on both the District's capacity within the J. B. Latham Treatment Plant as well as in its own sanitary sewer system. 21-2

FLOW AND WATER QUALITY DATA

The attached form shows the flow monitoring and water quality sampling necessary to complete the review of your proposed diversion. This data should be collected over a two week period of time. This is consistent with the data that has been recently requested for other proposed nuisance water discharges into the SOCWA system. The requested data reflects parameters that arer evaluated 21-3

by the Regional Water Quality Control Board within our own NPDES permit. The analyses should be conducted by a state certified environmental laboratory. 21-3

LONG TERM PLANNING

In addition to the water quality data could you please indicate what is the proposed duration of the diversions. If the diversion is of a temporary nature please identify the long term water quality management plan for discharge at this location. If the diversion is of a long term nature, could you please describe how it will comply with the proposed new Orange County Stormwater Permit (Region 9). 21-4

If you have any questions, please contact me at (949) 234-5411.

Very truly yours,
SOUTH ORANGE COUNTY WASTEWATER AUTHORITY

B Peck

Brian Peck, P.E.
Director of Engineering

CC: David Caretto, SOCWA
Paul Schmidtbauer, SOCWA
Mike Dunbar, South Coast Water District

RESULTS OF SAMPLING AND ANALYSIS
Sheet A

NON-PRIORITY POLLUTANTS - GENERAL

	UNIT	TOS	FREQUENCY	RESULT	METHOD
Flowrate	MGD	R/T	Continuous		Flow Meter
$cBOD_5$ @ 20°C	mg/L	C	Daily		SM 5210
BOD_n @ 20°C	mg/L	C	Daily		SM 5210
Total Suspended Solids	mg/L	C	Daily		SM 2540 D
Oil & Grease	mg/L	G	Daily		EPA 413.1
pH	SU	G	Daily		EPA 150.1

PRIORITY POLLUTANTS - CYANIDES

	UNIT	TOS	FREQUENCY	RESULT	METHOD
Cyanide	mg/L	C	Weekly		EPA 335.2

PRIORITY POLLUTANTS - METALS

	UNIT	TOS	FREQUENCY	RESULT	METHOD
Antimony	ug/L	C	Weekly		EPA 6010 B
Arsenic	ug/L	C	Weekly		EPA 6010 B
Beryllium	ug/L	C	Weekly		EPA 6010 B
Cadmium	ug/L	C	Weekly		EPA 6010 B
Chromium, Total	ug/L	C	Weekly		EPA 6010 B
Chromium, Hexavalent	ug/L	C	Weekly		EPA 6010 B
Chromium, III	ug/L	C	Weekly		EPA 6010 B
Copper	ug/L	C	Weekly		EPA 6010 B
Lead	ug/L	C	Weekly		EPA 6010 B
Mercury	ug/L	C	Weekly		EPA 7470 A
Molybdenum	ug/L	C	Weekly		EPA 6010 B
Nickel	ug/L	C	Weekly		EPA 6010 B
Selenium	ug/L	C	Weekly		EPA 6010 B
Silver	ug/L	C	Weekly		EPA 6010 B
Thallium	ug/L	C	Weekly		EPA 6010 B
Tributyltin	ug/L	C	Weekly		GC/MS
Zinc	ug/L	C	Weekly		EPA 6010 B

PRIORITY POLLUTANTS - TCDD EQUIVALENTS (DIOXIN)

	UNIT	TOS	FREQUENCY	RESULT	METHOD
TCDD Equivalents (*Sum*)	pg/L	G	Once		EPA 8280

C = 24-hr composite
G = Grab
ND = Not Detected
NA = Not Analyzed

SU = Standard Unit/pH
R/T = Recorder/totalizer
TOS = Type of Sample
Sum = Shall mean the sum of

g/L = grams/liter
mg/L = milligram/liter
ug/L = micrograms/liter
ng/L = nanograms/liter

pg/L = picograms/liter
ml/L = milliliter/liter
pCi/L = picocuries/liter
MGD = Million Gallons per Day

RESULTS OF SAMPLING AND ANALYSIS
Sheet B

PRIORITY POLLUTANTS - PESTICIDES

	UNIT	TOS	FREQUENCY	RESULT	METHOD
Endrin	ug/L	C	Once		EPA 8080
Endosulfan (*Sum*)	ug/L	C	Once		EPA 8080
[illegible]					
HCH (BHCs) (*Sum*)	ug/L	C	Once		EPA 8080
[illegible]					
Aldrin	ug/L	G	Once		EPA 8080
Dieldrin	ug/L	G	Once		EPA 8080
Toxaphene	ug/L	G	Once		EPA 8080
Chlordane (*Sum*)	ug/L	G	Once		EPA 8080
[illegible]					
DDT (*Sum*)	ug/L	G	Once		EPA 8080
[illegible]					
Heptachlor (*Sum*)	ug/L	G	Once		EPA 8080
[illegible]					

PRIORITY POLLUTANTS - POLYCHLORINATED BIPHENYLS (PCB's)

	UNIT	TOS	FREQUENCY	RESULT	METHOD
PCB's (*Sum*)	ug/L	G	Once		EPA 8080
[illegible]					

RESULTS OF SAMPLING AND ANALYSIS
Sheet C

PRIORITY POLLUTANTS - PURGEABLE ORGANIC COMPOUNDS

	UNIT	TOS	FREQUENCY	EFFLUENT	METHOD
Acrolein	ug/L	G	Once		EPA 8260
Acrylonitrile	ug/L	G	Once		EPA 8260
Benzene	ug/L	G	Once		EPA 8260
Carbon tetrachloride	ug/L	G	Once		EPA 8260
Chlorobenzene	ug/L	G	Once		EPA 8260
Chloroform	ug/L	G	Once		EPA 8260
1,2-Dichloroethane	ug/L	G	Once		EPA 8260
1,1-Dichloroethylene	ug/L	G	Once		EPA 8260
1,3-Dichloropropene	ug/L	G	Once		EPA 8260
Ethylbenzene	ug/L	G	Once		EPA 8260
1,1,2,2-Tetrachloroethane	ug/L	G	Once		EPA 8260
Tetrachloroethylene	ug/L	G	Once		EPA 8260
Toluene	ug/L	G	Once		EPA 8260
1,1,1-Trichloroethane	ug/L	G	Once		EPA 8260
1,1,2-Trichloroethane	ug/L	G	Once		EPA 8260
Trichloroethylene	ug/L	G	Once		EPA 8260
Vinyl Chloride	ug/L	G	Once		EPA 8260
Halomethanes (*Sum*)	ug/L	G	Once		EPA 8260
[redacted]					

PRIORITY POLLUTANTS - PHENOLS (ACID EXTRACTABLE ORGANIC COMPOUNDS)

	UNIT	TOS	FREQUENCY	EFFLUENT	METHOD
Phenolics - Nonchlorinated (*Sum*)	mg/L	C	Once		EPA 625
[redacted]					
Phenolics - Chlorinated (*Sum*)	mg/L	C	Once		EPA 625
[redacted]					
4,6-Dinitro-2-methylphenol	ug/L	G	Once		EPA 625
2,4-Dinitrophenol	ug/L	G	Once		EPA 625
2,4,6-Trichlorophenol	ug/L	G	Once		EPA 625

RESULTS OF SAMPLING AND ANALYSIS
Sheet D

PRIORITY POLLUTANTS - BASE/NEUTRAL EXTRACTABLE ORGANIC COMPOUNDS

	UNIT	TOS	FREQUENCY	RESULT	METHOD
Benzidine	ug/L	G	Once		EPA 625
bis(2-chloroethoxy) methane	ug/L	G	Once		EPA 625
bis(2-chloroethyl) ether	ug/L	G	Once		EPA 625
bis(2-chloroisopropyl) ether	ug/L	G	Once		EPA 625
bis(2-ethylhexyl) phthalate	ug/L	G	Once		EPA 625
1,4-Dichlorobenzene	ug/L	G	Once		EPA 625
3,3-Dichlorobenzidine	ug/L	G	Once		EPA 625
Dichloromethane	ug/L	G	Once		EPA 625
Diethyl phthalate	ug/L	G	Once		EPA 625
Dimethyl phthalate	ug/L	G	Once		EPA 625
1,2-Diphenylhydrazine	ug/L	G	Once		EPA 625
Di-n-butyl phthalate	ug/L	G	Once		EPA 625
2,4-Dinitrotoluene	ug/L	G	Once		EPA 625
Fluoranthene	ug/L	G	Once		EPA 625
Hexachlorobenzene	ug/L	G	Once		EPA 625
Hexachlorobutadiene	ug/L	G	Once		EPA 625
Hexacyclopentadiene	ug/L	G	Once		EPA 625
Hexachloroethane	ug/L	G	Once		EPA 625
Isophorone	ug/L	G	Once		EPA 625
Nitrobenzene	ug/L	G	Once		EPA 625
N-nitrosodimethylamine	ug/L	G	Once		EPA 625
N-nitrosodiphenylamine	ug/L	G	Once		EPA 625
Dichlorobenzenes (*Sum*)	ug/L	G	Once		EPA 625
[illegible]					
PAH's (*Sum*)	ug/L	G	Once		EPA 625
[illegible]					

NON-PRIORITY/PRIORITY POLLUTANTS - ANY OTHER COMPOUNDS DETECTED

	UNIT	TOS	FREQUENCY	RESULT	METHOD
Manganese	mg/L	C	Daily		EPA 200.7
Iron	mg/L	C	Daily		EPA 200.7
Boron	mg/L	C	Daily		EPA 200.7
Sodium, Concentration	mg/L	C	Daily		EPA 6010B
Sodium, Percent	%	C	Daily		
Sulfate	mg/L	C	Daily		EPA 375.4
MBAS	mg/L	C	Daily		EPA 425.1
Flouride	mg/L	C	Daily		EPA 340.2
Nitate (as N	mg/L	C	Daily		EPA 353.3
Phosphate (as P)	mg/L	C	Daily		EPA 365.2

21. RESPONSES TO COMMENTS FROM SOUTH ORANGE COUNTY WASTEWATER AUTHORITY (SOCWA)

21-1 The quality of the nuisance water from the proposed development is expected to be better than that from other similar new residential and commercial developments with the implementation of the non-structural BMPs detailed for the project. Treasure Island in Laguna Beach should be representative once it is built. Prior to discharge to the sanitary sewer, the nuisance water will be sampled and analyzed to see that it meets the requirements of SOCWA.

21-2 Refer to Responses to Comments 35-1 through 35-7.

21-3 Although not required by any mitigation, based on discussions with South Coast Water District (SCWD) and SOCWA, sampling and analysis will be conducted and the results provided to both SCWD and SOCWA prior to discharge.

21-4 The diversion is intended to be long term and to comply with the municipal NPDES permit prohibition against non-stormwater discharges to the storm drain system. Nonstructural BMPs such as the use of native and drought-tolerant landscaping (PDF 7-7) and automatic rain gauges connected to irrigation controllers and low flow emitters (PDF 8-12) will reduce the amount of irrigation on site and, therefore, the amount of runoff. The public awareness program (PDF 8-2) will address the proper use of fertilizers and pesticides and will serve as a means to limit the opportunity for pollution to occur in the first place. Nuisance water diversion is expected to be primarily an incidental occurrence. Refer also to the responses to Comment Letter 48C.

22. COMMENTS FROM REGATTA HOMEOWNER'S ASSOCIATION

REGATTA HOMEOWNER'S ASSOCIATION
C/O COMMON INTERESTS, INC., 3551 Camino Mira Costa, Suite N, San Clemente, CA 92672

COMMUNITY DEVELOPMENT
DEPARTMENT

November 15, 2001 Nov 19 12 41 PM '01

Mr. Edward M Knight,
Community Development Director
City of Dana Point
33282 Street of the Golden Lantern
Dana Point, CA 92629

RE: The Headlands Development and Conservation Plan

Dear Director Knight:

This letter will serve as the response to the above referenced project by the Regatta Homeowner's Association, identifying concerns over anticipated impacts to one or more residences in the Association if the project is permitted to go forth as presented. In general, The Regatta Homeowner's Association is in support of the plan with specific exception to three areas of concern. These concerns, as well as copies of previous documentation attempting to get resolution to them, are outlined below. 22-1

Issue 1. Intersection with Pacific Coast Highway (PCH)

Homeowners in our community directly adjacent to Pacific Coast Highway have repeatedly expressed concerns over increased noise and air pollution caused by increased starts and stops created in an intersection. This proposed feature would also add light impacts into bedrooms of a number of residences that would face the feeder street of the intersection. The plan calls for this intersection to provide access to the proposed commercial building on the corner of PCH/Green Lantern and approximately 50 homes built in the "bowl". We believe this intersection is unnecessary and that a simple, less expensive alternative exists. First, the access for the housing area can be modified to come from the current end of Selva Road. This area was originally designed for such increased traffic loads this development could produce. Table 4.13.B shows Selva at PCH would remain a LOS A even with the project load. It was designed in fact to carry the loads of a much larger development than is proposed here. Not to take advantage of its design is inappropriate and wasteful. Secondly, the access to the commercial building can be accommodated off Green Lantern simply by changing the point of access to the site from Green Lantern. This would, of course, require the location of the structure on the site to be moved to the west side of the parcel. The current document does not consider these alternatives and assumes no impact would result by adopting the proposed design. Further, there are no other comments other than to discount the impacts of noise created by acceleration to the extent the control signal could reduce noise by reducing speeds overall. A discussion/evaluation of this issue must occur. See attached documents for additional information on this issue. 22-2 22-3 22-4

Issue 2. Commercial building at corner of PCH/Green Lantern

The need for this amenity is suspect. Immediately across the Street of the Green Lantern to this proposed development exists the Blue Lantern Plaza. It contains floor space for any number of 22-5

small business activity types to include restaurants, health/gym club, beauty salon, cleaners, and other specialized services for local shoppers. The history of this site is well known to be one of having a difficult time maintaining tenants. The restaurant site, for instance, has changed three (3) times in five (5) years. Given this amount of change and the vacancy rate within the Blue Lantern Plaza, we wonder the need for more commercial space, especially when such can be accommodated through development of the vacant lots in the "downtown area" of town. This area can better be used in a number of different ways (as identified in attached documents submitted to the City previously) that could reduce impacts to our community. The need for the commercial development on this site should be well defined and stated in the DEIR. Our association is concerned that any type of commercial activity would bring unwanted noise, light, loitering, trash, and view infringement to members of our community. If it can be shown a commercial building is both a legal necessity and be economically viable, we would support a restriction to the site that only office space be permitted. The DEIR should address these concerns regarding the commercial site, consider the impacts identified herein, and identify mitigation measures to the satisfaction of Regatta HOA. 22-5

Issue 3. View shed protection

Early in the process, this Association identified concerns over view shed infringements caused by structures and vegetation (see attached documentation). While the DEIR indicates a design requirement to maintain building heights at or under a certain height, it does not address vegetation height restrictions other than to indicate the use of "low canopy trees or vertical trees to frame and enhance views" (pg 4.1-7). What does this mean? Who's views are enhanced or protected? Further, the use of palms at the entrances would also infringe upon existing views held by property owners within Regatta. This Association provided the developer copies of its governing documents which address view shed protections in an attempt to have similar restrictions established for this development. We find no such attempt to address this concern at this point. It is obvious that views are an important point of sale of this project or the restrictions to building designs and heights would not be a component of the project. To ignore the heights of vegetation is a mistake and needs to be addressed. Also of concern is the placement of an entrance monument for the proposed intersection on PCH. We have already stated our opposition to this intersection for other reasons. This proposed monument is another cause to remove the intersection from consideration. By review of the concept design provided in the document, we believe a significant amount of available view to the west of our community will be taken away if this element is adopted and constructed. Section 4.1.5.3 – Loss of Ocean Views admits to such a loss but indicates views will be gained in public viewing areas. How does this help the existing homeowner who has a view now? This impact seems to be significant to the existing property owners as it would definitely reduce the quality of their life. Additionally, these homes were purchased with view sheds in mind. To remove that amenity can only have a negative impact upon their property values. We therefore oppose this and ask it be removed from consideration. 22-6

Members of our community plan on speaking at the public hearings for this project to express their individual concerns. Notices of such hearing(s) are required to be sent to property owners within 300 feet of any planned development. This Association respectfully requests your office send such notices to those properties so situated. For the most part, they are properties on Palm Beach Court, from #101 to #61, and New York Court, #49 to #37. These properties exist within the 300-foot radius of the project boundary and are some of the Association's most concerned members. In fact, some of these are on record in public meetings on this issue in the past as requesting notification of future meetings and information. We understand hearings are planned for December 5th and 19th. Please provide the property owners identified above as well as this Association formal notification of such public hearings in order that attendance can occur. 22-7

The Regatta Homeowner's Association appreciates the opportunity to comment on the Draft Environmental Impact report for the development of the Headlands. As it is the direction of the City in its General Plan Policy to consider the current resident's quality of life and the surrounding environments before approving any future development, we implore your office to give our concerns every consideration and review. We will state again our general support for this project and the elements within but are adamantly opposed to the intersection on PCH and the development of a commercial building on the corner of PCH/Green Lantern. 22-8

As President of the Regatta Homeowner's Association, I am always available to you or a member of your staff, as well as the developer, to discuss these concerns and offer constructive alternatives that might satisfy all involved. I can be reached at 949-661-3232 or by e-mail at jack@fea.net. 22-9

Sincerely,

Jack Roggenbuck, President
Board of Directors
Regatta Homeowner's Association

Attachments 22-10

CC: Members, Board of Directors
Board Liaison to Headlands Issue
Common Interests, Inc.
City Council members
Planning Commissioners
City Manager
Mr. Sanford Edward, Headlands Reserve, LLC.

A:/headDEIRcomment

REGATTA HOMEOWNER'S ASSOCIATION

C/O COMMON INTERESTS, INC., 3551 Camino Mira Costa, Suite N, San Clemente, CA 92672

May 10, 2000

Mr. Sanford Edward
Headlands Reserve LLC
24849 Del Prado
Dana Point, CA 92629

RE: Meeting with Regatta HOA

Dear Mr. Edward:

On behalf of the Board of Directors of Regatta Homeowner's Association, I wish to thank you for the presentation you made to our membership last evening. You gave everyone present an opportunity to better understand your proposed development of the Headlands.

During the course of the discussions, you heard a number of people explain their concerns over reduction of current views, the concerns of an intersection on Pacific Coast Highway, and the potential loss of property values caused by these impacts. Alternatives were offered for your consideration as you prepare your application documents. Our membership also clearly understood what they must do to either support your project in totality or attempt to modify it through the public hearing process. After the meeting, I heard from a number of those present that indicated a desire to work with you now rather than fight you later. But this was prefaced with seeing some of these concerns addressed early on. Your willingness to listen and work with these concerns will, I am sure, be of benefit to both parties.

As an example of our willingness to help, our membership is ready to defend during the public hearing process your desire for an office complex on the commercial corner. We will take this issue all the way to the Coastal Commission hearings. We are already gathering data on current vacancies in visitor serving commercial locations, developing a list of office facilities both vacant and occupied, and looking at traffic data for similar situations as surround our community in preparation for these hearings. Further, we will be sending you a list as you have requested of homeowners desiring to have you develop graphic images of the planned development and its visual impact upon their properties.

We appreciate your candor and willingness to work with our community. We hope the future will show this effort and bring about a development both sides can be proud of.

Sincerely,

Jack Roggenbuck, President
Regatta Homeowner's Association

CC Board of Directors
Common Interests, Inc.

REGATTA HOMEOWNER'S ASSOCIATION

C/O COMMON INTERESTS, INC., 3551 Camino Mira Costa, Suite N, San Clemente, CA 92672

March 6, 2000

Ingrid McGuire, Mayor
City of Dana Point
33282 Street of the Golden Lantern
Dana Point, CA 92629

RE: Headlands Development Plan

Dear Mayor McGuire:

Thank you for taking time out of your busy schedule to meet with members of our association recently. As you know, the Regatta Community has been very open in it's support for the development of the Dana Point Headlands by the property owner. We have attended numerous public hearings and meetings, written letters, and urged support in social gatherings. The Community has participated in this process more than any other in its brief history, primarily because of the potential adverse impacts any development might pose upon our community.

Now that the City and property owner are about to conclude their negotiations, which will lead to the submittal of a plan, we again want to bring our community concerns to your attention. Accordingly, if these concerns are considered now, before negotiations are finalized, it is possible they can be resolved before a planning document is presented for public review and comment. This will only help to speed up the process overall. Please find attached a document that provides the details of our concerns and offers plausible alternatives.

It is our sincere hope the City's negotiating team will review this information and do everything possible to address these concerns. Your assistance toward providing any direction to the negotiating team to consider this information would be most appreciated. We will also attempt to communicate with the City Manager's Office to see what can be accomplished there.

The residents of Regatta look forward to the successful conclusion to this issue through your involvement and assistance. It is greatly appreciated!

Best regards,

Jack Roggenbuck, President
Regatta Homeowner's Association

Attachment

CC: Board of Directors, Regatta HOA
Council Members, City of Dana Point
J. Boharski, City Manager, Dana Point
S. Edward, Headlands Reserve LLC

REGATTA HOMEOWNER'S ASSOCIATION

C/O COMMON INTERESTS, INC., 3551 Camino Mira Costa, Suite N, San Clemente, CA 92672

March 6, 2000

Mr. John Boharski, City Manager
City of Dana Point
33282 Street of the Golden Lantern
Dana Point, CA 92629

RE: Headlands Development Plan

Dear Mr. Boharski:

It is no secret the Regatta Community has been a vocal supporter toward the development of the Dana Point Headlands. We have collectively attended hearings and meetings, written letters and urged support at social gatherings. Now, with negotiations between the City and the property owner nearing a conclusion, we are seeking involvement by your office to help assure our concerns are included in any document put out for public review and comment.

Attached is a document that expresses the concerns of the Regatta Community toward ANY development on the Headlands. We also offer plausible alternatives in an effort to identify what Regatta believes could solve the concern. This information, while supplied to both parties involved in the negotiation process, appears not to be considered if what we heard in the most recent Headlands Today meeting is to be true. These ideas should be included with full consideration and analysis to assure the development is compatible with the surrounding neighborhoods. It is therefore our desire this information be forwarded to staff for review and incorporated into the final plan to be reviewed by the public and eventually approved before the City Council.

Your assistance toward this matter is deeply appreciated. We look forward to discussing this matter in greater detail during our meeting scheduled for March 8th.

Sincerely,

Jack Roggenbuck, President
Regatta Homeowner's Association

Attachment

CC: City Council Members
Mr. Sanford Edward, Headlands Reserve LLC
Board of Directors, Regatta HOA

REGATTA HOMEOWNER'S ASSOCIATION

C/O COMMON INTERESTS, INC., 3551 Camino Mira Costa, Suite N, San Clemente, CA 92672

The following information reflects the concerns of the Regatta Community toward proposed components of the development of the Dana Point Headlands. It is an update of the same information provided in writing on June 6, 1999 to Councilman Wayne Rayfield and Mr. Sanford Edward, Headlands Reserve LLC. This information, while basically the same as the June 6th document, has been refined to be more specific and inclusive of community suggestions.

CONCERN # 1 – Signalized Intersection w/ PCH

Concepts presented in the past by both the Developer and the City put forth the need for a signalized intersection with Pacific Coast Highway (PCH) approximately 100 yards south of Blue Lantern, a signalized intersection. This new intersection is to be the extension of Selva Road and serve the new residences planned for the area. The impact to Regatta is immediate and untenable if this intersection is to be built. Regatta has been led to believe this intersection will only be used by those "new" residents of the development, that those already living in the vicinity will continue to use the existing PCH/Selva Road intersection. Unfortunately, this will not be the case. Anyone desiring to go south on PCH will exit the local from this new intersection, saving a mile of drive. So, this means that not only the new residents will use it but the existing residents of approximately 300 apartments, condos, and town homes. This translates to an intersection with heavy volume, potentially more than exists at the current PCH/Selva Road intersection. The impacts to residents of Regatta include increased noise, exhaust, dirt and grime, and light pollution from vehicle's headlights shining into bedrooms at night. These impacts will have a direct detrimental impact on approximately 10 homes. It will lead to reduced property values for these homes. The reduction in property values of these ten will have a ripple affect on the other 109 homes when comparables are used to value a home in the real estate market. The Community estimates the impact to be as much as $1 million in lower property values.

SUGGESTED SOLUTION

Do not create an intersection on PCH. Rather, if the extension of Selva is not to be considered to be aligned on the graded portion to connect it with Margarita, the design should be considered to "wrap" around the north end of the hill and connect with the intersection of Santa Clara and Green Lantern. This route would allow a commercial building to be positioned between the new portion of Selva and PCH, potentially acting as a buffer and block of vehicle headlights shining toward Regatta. Traffic from the project area would travel east on Santa Clara, turning left on Blue Lantern to access PCH. This route is even more attractive as it does not travel through other residential areas since the adoption of the plan to cul-de-sac Santa Clara Avenue by the City Council. By considering this alignment, we are confident the need for a new intersection can be avoided and better utilization of the intersection at Blue Lantern can be achieved. Another advantage to this concept is that the portion of Green Lantern running from PCH to Santa Clara could be abandoned and converted to access/parking for the proposed commercial site as well as the Blue Lantern Plaza. Of course, another alternative is to have all traffic generated by 125 new homes proceed in and out of the current Selva Road design. The addition of 125 homes will not exceed the design capacity of the existing roadway, especially since it will not carry commercial traffic associated with the Bed & Breakfast and other facilities planned for the Cove Road/ Green Lantern area of the property.

CONCERN # 2 – Commercial Site at Green Lantern/PCH

The Headlands Reserve proposal incorporates the development of a commercial entity on the corner of Green Lantern / PCH to meet the policy requirements of the California Coastal Commission for development projects of this size. The concern of Regatta is that this portion of the project, if not limited in scope and type of activity, could have the same negative impact as an intersection of PCH. The site could produce increased noise, light pollution, loitering, trash, and loss of view amenities. Further, there is currently, in this booming economy, a number of vacant offices spaces in the Blue Lantern Plaza as well as in other new office structures nearby. Do we really need more office and fast food spaces when other vacant space exists? The City vision called for housing. This also would restrict views presently held by over 30% of the 119 residences in Regatta. These conditions would have a direct negative impact upon the property values of these homes and a trickle affect toward the values of the rest of the community.

SUGGESTED SOLUTION

If the alternative identified in Concern #1 is considered and adopted, the preferred use of this area would be a green belt with inclusion of a monument of some sort. This could be the perfect place for the proposed memorial to veterans or identification of the "Dana Point Headlands", a geographically important site. If a commercial entity is absolutely necessary, it should be placed such that the parking lot is placed directly on the corner of Green Lantern/PCH, and incorporate this portion of Green Lantern into a service access for both Blue Lantern Plaza and the proposed commercial facility. The building structure should be located toward the hillside so as to reduce its visual impact over all and act as a barrier to the headlights of vehicles traveling on the extension of Selva Road. Further, the uses should be conditioned to be office type businesses, similar to that of the ReMax building at Niguel Road and PCH.

CONCERN # 3 – Loss of View Shed

Initially, the Regatta Community was very concerned over the plan to put a hotel/spa on the slope above the Dana Strand Beach. We viewed this as a severe infringement of the views held by our Community overall due in part to expected light and noise pollution such a site would inevitably produce. We repeatedly called for such a development to be positioned near the intersection of Cove Road and Green Lantern. With the advent of negotiations between the parties and the disclosure that no hotel on the beach is planned, our Community is somewhat relieved but still concerned over the potential loss of views over the Headlands toward San Clemente Island and the surrounding ocean waters. This concern still exists because of the uncertainty over the height of homes and their placement in the proposed development. While we are led to believe homes will be single story and not exceed the height of the ridge top, vegetation heights will still be an issue.

SUGGESTED SOLUTION

Positioning the bed & breakfast at Cove Road/Green Lantern is encouraging. Considering the importance of views, the placement of single-family home lots should be done such that use of vegetation to conceal the structure **without** blocking views is accommodated. When looking toward the ocean, each view would then see vegetation instead of a building. This would provide those with existing views of the open space of the Headlands the sense that it continues to be open space. The height of vegetation can be controlled through the adoption of

Community Covenants & Restrictions (CC&Rs). Regatta has such a requirement and it seems to work.

OTHER COMMENTS

The Regatta Community is generally in favor of such suggested amenities as a lighthouse, visitor center/historical society location, a war memorial, and most importantly, dedicated open space. These amenities will provide an additional identification to Dana Point as a destination resort worth visiting and residing in.

REGATTA HOMEOWNER'S ASSOCIATION

C/O COMMON INTERESTS, INC., 3551 Camino Mira Costa, Suite N, San Clemente, CA 92672

March 8, 2000

Mr. Sanford Edward
Headlands Reserve LLC
24849 Del Prado
Dana Point, California 92629

RE: Headlands Development Plan

Dear Mr. Edward:

The Regatta Homeowner's Association has been a supporter of the proposed development on the Dana Point Headlands for sometime. We have attended numerous public hearings and meetings, written letters to officials, and urged support in social gatherings. Our Association has looked upon this opportunity to help assure Regatta Community concerns could be heard and positively addressed.

Over the past few months, members of the Association have listened to the progress reports over the negotiation process with Dana Point City officials. We have come to realize the concerns we have repeatedly expressed have not been addressed in these negotiations. As a reminder, these concerns include view-shed impairments, a new signalized intersection with Pacific Coast Highway (PCH), and a commercial establishment on the corner of Green Lantern and PCH. We have offered to help with ideas for lessening these adverse impacts through different routes, land uses, and design criteria. But after listening to what can be said of the negotiation process, it is very clear our input is not having the desired affect.

At the last Headlands Today gathering, you indicated that it would be about 6 more weeks before a plan would be submitted to the City of Dana Point for review and the beginning of the public hearing process. I ask you to reconsider some of the ideas members of the Regatta Community have suggested and include them, or at least a modification of them, in the planning documents you will be submitting. Attached is a document that will further articulate our suggestions. The time is now to do this as it will help to assure our continued support.

As always, I am ready, as are other members of the Regatta Homeowner's Association Board of Directors, to meet with you to discuss these important issues. We look forward to hearing from you in the very near future.

Best regards,

Jack Roggenbuck, President
Regatta Homeowner's Association

Attachment
CC w/ Attach: Dana Point City Council Members
Dana Point Planning Commissioners
Mr. Boharski, City Manager, Dana Point
Board of Directors – Regatta

REGATTA HOMEOWNER'S ASSOCIATION

C/O COMMON INTERESTS, INC., 3551 Camino Mira Costa, Suite N, San Clemente, CA 92672

February 17, 2000

Mr. John Boharski, City Manager
City of Dana Point
33282 Street of the Golden Lantern
Dana Point, CA 92629

RE: Headlands Development Plan

Dear Mr. Boharski:

It is no secret the Regatta Community has been a vocal supporter toward the development of the Dana Point Headlands. We have collectively attended hearings and meetings, written letters and urged support at social gatherings. Now, with negotiations between the City and the property owner nearing a conclusion, we are seeking involvement by your office to help assure our concerns are included in any document put out for public review and comment.

Attached is a document that expresses the concerns of the Regatta Community toward ANY development on the Headlands. It also offers plausible alternatives in an effort to identify what Regatta believes would solve the concern. This information, while supplied to both parties involved in the negotiation process, appears not to be considered if what we hear in the most recent Headlands Today meetings to be true. It is therefore our desire this information be forwarded to staff for review and inclusion into the final plan to be reviewed by the public and approved before the City Council.

In order that we might better understand the process and ways in which our input can actually cause change, I, Mr. James Orris, Association Vice President, and Mr. Dick Faulk, Association liaison to this issue, would like to meet with you. We will be contacting your office to schedule an appointment in the very near future. We look forward to meeting you soon.

Sincerely,

Jack Roggenbuck, President
Regatta Homeowner's Association

Attachment

CC: City Council Members
Mr. Sanford Edward, Headlands Reserve LLC
Board of Directors, Regatta HOA

REGATTA HOMEOWNER'S ASSOCIATION

C/O COMMON INTERESTS, INC., 3551 Camino Mira Costa, Suite N, San Clemente, CA 92672

February 17, 2000

Ingrid McGuire, Mayor
City of Dana Point
33282 Street of the Golden Lantern
Dana Point, CA 92629

RE: Headlands Development Plan

Dear Mayor McGuire:

The Regatta Community has been very open in it's support for the development of the Dana Point Headlands by the property owner. We have attended numerous public hearings and meetings, written letters, and urged support in social gatherings. The Community has participated in this process more than any other in its brief history, primarily because of the potential adverse impacts any development might pose upon our community.

Now that the City and property owner have agreed to negotiate a settlement, which will lead to the submittal of a plan, we again want to bring our community concerns to your attention. Accordingly, if these concerns are considered now, before negotiations are finalized, it is possible they can be resolved before a planning document is presented for public review and comment. This will only help to speed up the process overall. Please find attached a document that provides the details of our concerns and offers plausible alternatives.

It is our sincere hope the City's negotiating team will review this information and do everything possible to address these concerns. Your assistance toward providing any direction to the negotiating team to consider this information would be most appreciated. We will also attempt to communicate with the City Manager's Office to see what can be accomplished there.

The residents of Regatta look forward to the successful conclusion to this issue through your involvement and assistance. It is greatly appreciated!

Best regards,

Jack Roggenbuck, President
Regatta Homeowner's Association

Attachment

CC: Board of Directors, Regatta HOA
Council Members, City of Dana Point
J. Boharski, City Manager, Dana Point
S. Edward, Headlands Reserve LLC

REGATTA HOMEOWNER'S ASSOCIATION

Points of Concern Regarding Development of the Dana Point Headlands

1. TRAFFIC - Both the City plan and the Developer plan call for an intersection on Pacific Coast Highway (PCH) approximately 100 yards up-coast of Green Lantern, at the crest of the hill. This intersection is to allow for the interior traffic of the project to access PCH from another route other than Selva Road. The impact to Regatta is immediate and untenable. The intersection is to be a controlled light, meaning it will stay green on PCH until traffic from the project exits. The traffic studies lead people to believe the numbers of vehicles will be insignificant. Regatta believes the traffic will be significant as it will become the most easy point of access both in and out of the site. This will lead to a constant din of noise from accelerating vehicles both on PCH and the site access road. In addition to the noise, pollutants in the form of exhaust and road dust and grime will increase. Light glare from headlights on vehicles leaving the site at night will shine directly into the bedrooms of homes with sight line views of the road.

Suggested Solution - Do not create an intersection on PCH. Rather, continue Selva Road within the previously designated right of way to connect to Margarita Road which will continue to Green Lantern. Interior streets should connect to this designated four lane arterial leading back to PCH. Traffic should not be a factor on Green Lantern if the direction of flow is designated one-way toward Selva. This route would also accommodate those "tourist travelers" who would travel up Cove Road by routing them via Margarita to Selva and on to PCH. This would be especially important with the redevelopment programs anticipated within the Harbor Area and reduce the "unwanted commercial traffic" on Green Lantern. An alternative to this preferred design would be to make the connection from Selva toward PCH bend around the high ground near PCH and connect to the intersection of Green Lantern and Santa Clara. This route would not impact the flow or load on Green Lantern or Santa Clara nor the residents of those two streets. Further, it would utilize an existing light at Blue Lantern. Visual screening in the form of trees could resolve the light glare issue observed from the homes with view of the roadway.

REGATTA HOMEOWNER'S ASSOCIATION

Points of Concern Regarding Development of the Dana Point Headlands

2. Commercial Activity - The Headlands proposal incorporates the development of a commercial entity on the corner of Green Lantern and PCH. The concern of Regatta is that this development, if not limited in scope and type of activity, could increase noise, light pollution, loitering and trash, and loss of view amenities. The City plan calls for housing. The concern of Regatta for this type of development is it further restricts the views currently held by almost 1/3rd of the community, thus adversely impacting property values. In addition, the development of homes would be a detriment to instituting the alternative suggestion to concern #1.

Suggested Solution - The preferred alternative use for this location, if the alternative concept in concern #1 is utilized would be to landscape the corner and include a monument introducing the area to passersby. It would be a similar beautification condition to the corner of PCH and Blue Lantern to which the Regatta Community is very proud to display, all be it without a monument, for the City of Dana Point. As an alternative, this location could be planned for a community center or other office type activity which would only be opened during day time business hours. Parking lot lighting should not be necessary or, if it is required, be low (height) level and low intensity, directed to the immediate pavement area only. Parking lot spaces should be painted with green to mute the outline, thus lessening the visual impact. Businesses should be limited to official commercial only.

REGATTA HOMEOWNER'S ASSOCIATION

Points of Concern Regarding Development of the Dana Point Headlands

3. Hotel/Spa - The Headlands Reserve Plan desires a European style health spa in the location of Cove Road and Green Lantern. This would have no adverse impact upon the Regatta Community. The City plan calls for a 150 room hotel complex above Strand Beach. This would have a negative impact upon the residents of Regatta in a two fold manor. First, the potential exists for view impairment and light pollution to over 2/3 rds of Regatta. This would adversely affect current property values and reduce the quality of life presently experienced in the community. Secondly, the beach experience presently found on the Strand would be degraded by increased litter transient attendance produces as well as the loss of the visual amenity found on the site. The Headlands plan indicates an open space component for the area which would be less of a detraction from the proposed development of estate homes.

Suggested Solution - Allow the development of the health spa as a business activity to which the City would derive certain incomes from. Traffic from this type of facility could certainly be accommodated on Green Lantern and Cove Road without serious adverse impact to existing entities on either route. This type of business activity would also be unique to the community at large thus helping to assure success unlike the uncertain business activity of a hotel competing with three other MAJOR hotels in the surrounding area.

Other comments - The Regatta Community is generally in favor of such suggested amenities as a light house utilized as a civic center/historical society location, a war memorial, and most importantly, the dedication of open space to a public entity such as the American Land Conservancy. These types of amenities will provide an additional identification to Dana Point as a destination resort worth visiting.

REGATTA HOME OWNERS ASSOCIATION

C/O Common Interest's Inc.
3551 Camino Mira Costa, Suite N
San Clemente, CA 92672

August 12, 1998

Planning Commission
City of Dana Point
33282 Street of the Golden Lantern
Dana Point, CA 92629

RE: Dana Point Headlands Specific Plan

Dear Commissioners:

The purpose of this letter is to express concerns, through the Board of Directors, of the Regatta Community over the proposed Dana Point Headlands Specific Plan, commonly called Alternative "A". The Board desires to bring to your attention three areas of concern and asks your cooperation in resolving these concerns to our satisfaction through the planning process. These concerns are outlined below.

1. The proposed Land Use Plan identifies in Section 3 the development of a signalized intersection on to Pacific Coast Highway (PCH) approximately 150 ' north of Green Lantern. Our Association is opposed to this intersection for a number of reasons. First, the glare of vehicle lights at night will fill the homes facing the Headlands and this intersection with light in the evening. Secondly, the increase in noise and other pollutants from accelerating vehicles leaving after a red light will be a detriment to these home owners. This area is already replete with vehicle accidents. An intersection at this location is just asking for more frequent and possibly severe accidents. While City staff has indicated some modifications of the signaling can be made such as "hold on green", this will not satisfy the issue of light and privacy. We suggest looking at a reroute that wraps this interior street around the hilltop and connects to Santa Clara.
2. The Illustrative Site Plan, Figure 3.9, indicates residential uses for the corner of Green Lantern and PCH. The development of homes at this location would severely impact views from the Regatta Community. The views presently held have been reduced already with the commercial development put in at PCH and Blue Lantern. Residents were assured when this commercial property was proposed that existing views would not be impacted. In fact, white water views and views of the harbor held before the development have been lost after the completion of the second story and peaked roof design. Needless to say, the building of homes, limited to any elevation will be an adverse impact and one we do not welcome. We suggest this area be kept in open space and utilized for the realignment of the interior street to connect to Santa Clara

Street. Additional trail access points could be generated as well from this location making access from bus routes easier.

3. Overall view shed concerns exist with the proposed development of the Ridge Top and Bowl areas. The proposed plan currently allows for building heights to approximately 35'. We believe this will block current views and thus reduce the current property values in our community. We suggest a lower height limit of approximately 22'.

We recognize the efforts of the City to seek input from all interested parties and reach a consensus as to the type of development which should occur on this landmark parcel. Unfortunately, the Regatta Community was not advised nor invited to participate directly in the process until just recently. We have been given the opportunity to meet with staff to hear of the plan as presented in the Specific Plan document and for that we are grateful. We believe however that had we been notified early in the process, the concerns of this community could have been addressed and properly resolved. You can expect our involvement in the process from this point forward and would appreciate notification to the Board through our management company, Common Interests, Inc. of any and all future meetings on this project.

Respectfully,

Board of Directors
Regatta

22. RESPONSES TO COMMENTS FROM REGATTA HOMEOWNER'S ASSOCIATION

22-1 The documentation attached to the letter was previously submitted to the City and does not comment specifically on the contents of the Draft EIR. As stated in the comment, the Regatta HOA's three areas of concern are listed in the November 15, 2001, letter and, therefore, are addressed in the responses provided below. Therefore, separate responses to each of the attachments are not warranted.

22-2 The DEIR analyzed the increased traffic, noise, air, and light impacts associated with development of the project, including installation of the traffic signal at Street "A" and PCH. The Traffic Study, Appendix H of the DEIR, evaluated the project as proposed, which includes installation of a traffic signal at Street "A" and PCH. The Traffic Study concluded that the proposed circulation system is adequate to accommodate trips generated by the proposed project, and adverse impacts to the City's street system would not occur with the implementation of the recommended improvements. All of the improvements recommended by the Traffic Study have been incorporated into the project as Project Design Features, Project Conditions, or are listed as Mitigation Measures in the DEIR.

The traffic analysis also evaluated the effect of limiting access at Street "A" to a right turn in/out configuration (see pages 9-5 to 9-9 of the Traffic Study, and pages 4.13-34 to 4.13-37 of the DEIR). While the analysis concluded that the Street "A" access could function as a right turn in/out only access, there would be several undesirable aspects of this which would otherwise occur without the signalization of this intersection. These effects are summarized below. Refer to the DEIR and the Traffic Study for a complete discussion of this issue. The Traffic Study concluded that, without the proposed traffic signal, additional U-turn movements would occur at the nearby intersections of PCH/Selva Road and PCH/Blue Lantern. At build out, the analysis projected that the level of service at PCH/Selva Road would decrease from LOS B to LOS C during the p.m. peak. In addition, the restriction could introduce traffic conflicts on PCH for vehicles exiting the site at Street "A" and desiring to travel northbound on PCH, due to the short distance between Street "A" and Street of the Blue Lantern. Another problem caused by the right in/out access restriction, as the result of additional U-turn movements, is the increased vehicle miles traveled by drivers making these movements. Such movements would generate additional vehicle emissions and noise.

The potential noise impacts generated by installation of the new signal were also addressed in the noise analysis of the DEIR (page 4.10-13). The analysis states that "except for the extreme conditions of cars with worn out brakes and older engines, the stop-and-go pattern vehicle noise is generally lower than vehicles driving by at relatively high speeds (e.g., 45 mph or higher). Therefore, implementation of a new traffic signal is not anticipated to generate traffic noise higher than the no traffic light condition." Further analysis of this issue is not warranted.

With regard to air quality impacts associated with the installation of the proposed traffic signal, the air quality analysis of the DEIR, Section 4.2, evaluated the impact of increased vehicle emissions generated by the project. As the analysis states (p.4.2-14), "the primary mobile source pollutant of local concern is CO. CO is a direct function of vehicle idling time and, thus, traffic flow conditions. CO transport is extremely limited; it disperses rapidly with distance from the source under normal meteorological conditions." CO impacts were calculated under peak traffic conditions to represent a worst-case analysis; the modeling of CO hot spots was based on projected build out year afternoon peak hour traffic volumes generated with and without the project. DEIR Tables 4.2.D and 4.2.E indicate that CO concentrations would not exceed either the State or federal CO standards, and that the concentration levels are significantly lower than the State and federal standards. As such, CO concentration for the Street "A"/PCH intersection is expected to be similar to the other ten intersections that were analyzed, and such impacts would not be significant.

Light and glare impacts resulting from the project were discussed in the DEIR (p.4.1-27, -28). The section states that "The proposed uses will create lighting associated with residential development such as street lighting, security lighting, and lighting from vehicles traveling within the project area." This includes vehicles exiting the site at the proposed intersection of Street "A" and PCH. The HDCP includes development guidelines designed to limit glare from fixed lighting sources. Lighting from mobile sources (vehicles) are more difficult to control, especially at an intersection, where blockage by landscaping or hardscape is much more difficult or infeasible. While headlights from vehicles exiting the project site at Street "A" will cross PCH and shine on the slopes and masonry wall behind the homes and some residual light on the homes across the street in the Regatta community, these impacts are not significant. Existing lighting generated by streetlights and vehicle traffic on PCH already affects these residences, and the additional lighting generated by traffic from 50 homes in PA 6 (Upper Headlands Neighborhood) and vehicles from PA 4, PCH Visitor/Recreation Commercial, will not significantly increase lighting impacts. Furthermore, the existing perimeter wall and landscaping in the parkway along the east side of PCH adjacent to the Regatta neighborhood will further reduce lighting impacts from vehicle headlights at the intersection. As such, headlights from vehicles at Street "A" will not cause significant amount of light or glare impacts.

22-3 The plan for the Headlands Development and Conservation Plan has been developed after careful consideration of the potential impacts from a traffic, circulation, land use, and open space standpoint. The plan provides for a separate access point to the Upper Headlands Residential area (Planning Area 6) and the Pacific Coast Highway Visitor/Recreation Commercial Area (Planning Area 4) to "A" Street at Pacific Coast Highway. The residential development in Planning Area 6 is a separate neighborhood within the Headlands development that will be served by "A" Street, which takes access from Pacific Coast Highway. In order to distribute traffic from the development so that no single existing area is impacted, access is provided to Selva Road, "A" Street, Green Lantern, and Cove Road. Green Lantern cannot viably serve the commercial area, since it is limited to inbound (westbound) traffic only and does not provide full turning movements, which is important for the economic viability of the commercial area (Planning Area 4). Due to turn movement conflicts, traffic using any Headlands access on Green Lantern would conflict with existing

access to Blue Lantern Plaza (Pacific Room Restaurant). This could cause traffic to back up onto Pacific Coast Highway and also into Santa Clara due to the short distance between Pacific Coast Highway and Santa Clara.

Taking access from Green Lantern as suggested would require a greater amount of grading in the vicinity of the hilltop landform and would require the commercial pad to drain to either Pacific Coast Highway or Dana Point Harbor. Caltrans has prohibited drainage to Pacific Coast Highway. The harbor is an impaired body of water; draining in that direction will affect the water quality program for the project site. Furthermore, providing an access to Pacific Coast Highway via "A" Street greatly reduces traffic impacts to Green Lantern, which is a concern to the existing residents along this roadway. The advantages of a traffic signal at "A" Street and Pacific Coast Highway are described below:

1. Provides direct, safe, signal controlled access to the commercial (Planning Area 4) and residential (Planning Area 6) areas of the Headlands project at a single point on PCH.

2. The proposed signalized intersection meets or exceeds Caltrans standard sight distances.

3. The projected traffic counts meet Caltrans warrants for a traffic signal. (See attached warrant sheet).

4. Provides a point of vehicular access to PCH as identified on the adopted Dana Point Local Coastal Program and the City's General Plan.

5. Accommodates access as shown on Caltrans R.O.W. Map No. P_2 3976-1 and on Tract Map No. 697, circa 1924, which preceded conveyance of the right-of-way easements to the State of California for PCH in 1925 and 1930, and avoids creation of land-locked parcels.

6. Eliminates the need for driveways along PCH to serve the proposed commercial site.

7. Provides controlled access and crossing of PCH for pedestrians and bicycles directly to the proposed Headlands Trail system, which provides coastal access.

8. Provides an intermediate observable traffic signal between Selva Road and Blue Lantern that will transition the 50 mph speed limit north of the Headlands, to the 35 mph speed limit zone that will now begin just south of the Green Lantern/PCH intersection.

9. Avoids loading traffic onto Green Lantern, a restricted access roadway.

10. Allows a customer driving on PCH to make a visual connection between the Headlands commercial site and the physical point of access.

An extensive discussion of the traffic signal installation at Pacific Coast Highway and "A" Street is contained on pages 9-5 through 9-9 of the traffic study (Appendix H).

22-4 Refer to Response to Comment 22-2. Additional analysis of the noise impacts of a traffic signal at Street "A" and PCH is not warranted.

22-5 Comment noted. Inclusion of an economic viability assessment of the proposed PCH Visitor/Recreation Commercial use proposed for PA 4 in the DEIR is not warranted, as the topic is not an environmental issue. The DEIR and HDCP address noise and lighting impacts from the proposed project, including the PCH Visitor/Recreation Commercial site. Refer to Response to Comment 22-6, below, regarding view infringement. Loitering at the site will be subject to City regulations and enforced by Dana Point Police Services, as warranted, similar to other properties.

22-6 As described in Aesthetics Section 4.1.3, Thresholds of Significance, impacts to views from private properties are not considered significant environmental impacts. The City of Dana Point does not have an ordinance protecting private views. Therefore, restrictions on development (structures or landscaping) for the sole purpose of view preservation are not required. However, "the substantial loss or obstruction of a scenic vista or view that would occur from a public area" is defined as a significant impact by the thresholds (DEIR p. 4.1-8). Section 4.1.4.1 of the DEIR contains an analysis of the project's visual impacts to public views as exhibited by ten representative view simulations. A view simulation of the PCH Visitor/Recreation Commercial site is included as DEIR Figure 4.1.4. The vantage point is opposite the intersection of PCH/Green Lantern, but can assist the reader to understand what the volume of a building on the site could look like. In addition, Figure 4.1.5 depicts the future development at the intersection of Street "A" and PCH. Both of these locations would be visible from homes in the Regatta neighborhood, although from different perspectives. While views from homes in the Regatta neighborhood and other adjacent private properties would be affected by the development, such effects are not considered significant environmental impacts. Section 4.1.5.2, Loss of Ocean Views, discusses the cumulative impacts resulting from the loss of ocean views. The discussion acknowledges that the existing ocean view is reduced, but concludes that this loss is less than significant and will be more than offset by the expansion of public view opportunities created by implementation of the project. Because the project does not significantly impact public views, the visual analysis in Section 4.1 concludes that no significant visual impacts will result from implementation of the project at these view locations or any of the other views. To the contrary, the project will create and enhance public access and public views. As such, there are no significant impacts related to views. Regarding comments on vegetation, palm trees are an example of a vertically oriented tree that typically has a minimal canopy but provides visual interest and can "frame views."

The conceptual design for the proposed Project Monument, as shown in HDCP Figures 4.12.1 and 4.12.2 and page 4-78, consists of individual stone columns on either side of the roadway. The column dimensions are approximately 3'6" wide and 7'6" high. These columns will not have a significant impact on public views, especially when seen from the east side of PCH.

Discussion about the project's potential impact on adjacent property values is speculative. It does not constitute an environmental impact and, therefore, is not addressed in the DEIR. No additional response to this issue is required by CEQA.

22-7 Public testimony on the proposed DEIR and HDCP is welcome at the public hearings planned for the project. Refer to Response to Comment 38-2 regarding the advertising of the Notice of Availability of the DEIR. All property owners within 500 feet of the project boundaries will be mailed notices of the hearing dates using the mailing list on file at the City. In addition, the Regatta HOA will continue to be provided notice.

22-8 As required by CEQA, the DEIR evaluates the environmental impacts of the project by comparing the existing environmental setting to the proposed setting that would result through implementation of the project. This evaluation is consistent with the reference in the General Plan to evaluating the existing quality of life. Refer to the above responses regarding the intersection of Street "A" and PCH and the proposed PCH Visitor/Recreation Commercial site.

22-9 The City and applicant appreciate the constructive comments provided by the Regatta HOA and will continue to notify the Regatta HOA of upcoming public hearings regarding the project.

22-10 Refer to Response to Comment 22-1 regarding the attachments. No response is required.

23. COMMENTS FROM ROBERT AND RONA LINDL

Robert and Rona Lindl
903 S Brea Blvd
Brea CA 92821

November 19, 2001

Edward Knight, Director of Community Development
City of Dana Point
33282 Golden Lantern
Dana Point CA 92629

RE: EIR Draft for HDCP / Serious Impacts on Green Lantern Residents

Dear Mr Knight:

While we are generally pleased with the new Plans for development of the Headlands, we, along with our neighbors are very concerned about the sizeable increase in traffic, noise and pollution on Green Lantern from this project. It seems ludicrous to use our tiny two-lane residential access street for traffic in and out of the proposed Visitor, Commercial and Business areas at either end of the street. *Why would you not insist that Selva Rd provide all major access from Coast Highway?* That is the only logical and intelligent alternative, since clearly, that road will be a major thoroughfare, and will not greatly impact the adjoining residential areas any more than planned. *Green Lantern is strictly a local access road, since it cannot be made wide enough to handle the enormous increase in traffic that commercial development will most certainly bring.*

23-1

We strongly urge you to rethink the current highly flawed traffic plan. Why should taxpayers and the City of Dana Point foot the bill for excessive street maintenance due to Green Lantern's obvious inability to handle high traffic volume? Rather, the Developer should have to extend Selva Rd, at his expense, so that it can sensibly carry the traffic burden.

Respectfully,

Robert Lindl DDS

Rona Lindl

Rona and Robert Lindl

23. RESPONSES TO COMMENTS FROM ROBERT AND RONA LINDL

23-1 Refer to General Response 1 - Traffic on Green Lantern. Also, the visitor recreation commercial center at PCH will take access from "A" Street at PCH, not Green Lantern as suggested in the comment.

24. COMMENTS FROM JIM & BETTY FOLK/DAN & FRAN BIANCA

Jim and Betty Folk
34361 Green Lantern
Dana Point, Ca.92629

Mr. Edward Knight, Director of Community Development City of Dana Point

Dear Ed.
As per our phone conversation the other day this is a letter regarding the impact of us that live on Green lantern.

The letter by Mr. Dan Bianca is very much to the point. And to our feeling about the traffic and speeding on Green lantern St.
I know that you have his letter but I would like to send it to you with as our thoughts also.

24-1

Jim Folk
11-19-01

Dan Bianca
34407 Green Lantern
Dana Point, CA 92629

November 18, 2001

Mr. Edward Knight - Director of Community Development City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Dear Ed,

After reviewing the EIR Draft for the HDCP I am fully convinced that this plan will have more than a significant impact on those of us that live on Green Lantern.

The short term effects are very obvious as to noise pollution and air pollution. The prevailing winds are from the West toward our homes and the construction noise, dust, and heavy equipment traffic will have a huge impact on our quality of life during this period which realistically could last two to three years. 24-2

To fully mitigate these effects will be next to impossible considering the amount of grading planned. However, by not allowing Green Lantern, which is a residential street to be used for construction traffic and by constant dust control measures it will certainly help to reduce some of the aforementioned pollution.

The EIR mentions that the existing residences will have a buffer zone between them and any new development. This buffer is inadequate because it not a passive buffer (contains an active trail) and the distance is substantially less than previous plans which had proposed a totally passive buffer zone. A minimum buffer zone of 100 ft with the trail located at the farthest side away from the existing residences would be acceptable. 24-3

As to the significant long term effects, they are also obvious. The Traffic Circulation Plan will have the highest level of significant impact on Green Lantern. The Plan calls for approximately 151,000 square feet of Visitor/Recreation/Commercial land uses and all of it will directly impact Green Lantern. 40,000 square feet of Commercial is proposed at the North end of Green Lantern and 111,000 at the South end. Because the developer will directly benefit from these Commercial uses he should directly absorb the negatives and not shift them onto the existing residences of Green Lantern.

According to the traffic study included in the EIR it states on page 4-54 that Green Lantern provides secondary access. Considering the amount of proposed Visitor/Recreation/Commercial land uses proposed for Green Lantern, I believe the Developer's Plan should have designated it a primary access route to the project. Green Lantern is expected to handle and cope with all of the negative impacts of this project while the developer shields his gate guarded communities to the fullest extent. Page 4.13-23 states the project trip generation for Green Lantern as a result of the Park/Recreation Areas, the three Community Facilities, the Seaside Inn, and the Commercial Restaurant will generate 919 new trips per day. Page 4.13-11 indicates Green Lantern has 2800 trips currently which totals out at 3719 trips per day. This is a significant amount of traffic! 24-4

The traffic study does not appear to take into account the future impact from two large commercial lots yet to be developed on Green Lantern. These properties are adjacent the the Chart House Restaurant and will not have a choice as to an access route. I have been informed that preliminary plans for another hotel are about to be submitted for the property at Green Lantern and Cove Road. 24-5

Green Lantern currently has a traffic circulation problem because it is a narrow two lane residential street which has three operating restaurants and a large visitor shopping plaza. Exacerbating the problem is that Southbound traffic on PCH headed for the Harbor have two choices (a) chance encountering five traffic lights on the PCH/Golden Lantern route or (b) use Green Lantern/Cove Rd. with no traffic light exposure. More and more vehicles are using the Green Lantern/Cove Rd. route to save time and because they are transiting the area they tend to be speeding. This creates a definite safety hazard for Green Lantern residents entering and exiting their parking facilities and also causes a higher level of noise pollution from the increasing traffic flow. 24-6

There is no question Green Lantern residents can anticipate an ever increasing amount of traffic on our street generated by planned new homes for the Headlands and the surrounding areas and the expectation of future hotels along Green Lantern and PCH. We can also expect numerous tour buses bringing visitors to the three proposed recreation centers at the terminus of Green Lantern/Scenic Drive. To have a Light-house in this area is ludicrous. It will be nothing more than a sham tourist attraction. These facilities will generate additional commercial traffic and at the same time provide venues for social events such as weddings, etc. creating even more traffic. 24-7

Dana Point already has several locations within our city that have major traffic circulation problems. This has caused a great deal of discontent to the area residents, ill will toward the City, and a significant financial cost to the City budget as well. Why create another monster when it can be easily avoided with proper planning. Once a project is implemented the impacts of environmental changes cannot be reversed. 24-8

Possible consideration to ease the traffic load on Green Lantern are (a) the Circulation Plan should be revised to have a primary connection from Street A direct to the Hotel, Restaurant, and the three Visitor Centers. (b) Cove Road could be made one way for traffic reduction and to allow space for a safe pedestrian/bike trail. (c) Green Lantern could be closed at PCH to discourage through traffic. 24-9

Another unaddressed issue is the seismology in the Green Lantern area. It should be remembered a significant slide occurred at Cannon's Restaurant a number of years ago and Cove Road was closed for several years due to the slide. Approximately 150 feet of Green Lantern has its street edge as the bluff. A ground failure in this area due to heavy construction traffic, heavy rains or earth movement at the adjacent known Dana Cove Fault would render Green Lantern and Cove Road unusable. See page 4.5-6 and 4.5-9 regarding faults. Residents south of this area would lose all ingress/egress capabilities. 24-10

Drainage issues are not addressed as to provisions for surface water flowing toward our residences from the buffer area behind our homes. 24-11

As you know we have been actively involved in all of the previous plans relating to the Headlands and we have to say this is the first time we feel very uncomfortable with the process thus far. It seems everything has been predetermined between the developer and the City with a high level of secrecy. In the past we could always get information from Lance Schulte, John Ballou or Dan Bott. Currently we have no person readily available to provide us with assistance or to directly address our concerns. We are hopeful this will change. 24-12

Sincerely,

Dan and Fran Bianca

Jim & Betty Falk
34361 Green Lantern St.
Dana Point, Ca 92629

24. RESPONSES TO COMMENTS FROM JIM & BETTY FOLK/ DAN & FRAN BIANCA

24-1 Comment noted. The commentors have attached a letter by Dan and Fran Bianca to represent their views.

24-2 Air emissions, air quality impacts, and measures to control air quality impacts are discussed in Section 4.2 of the EIR. Contrary to the comment, the EIR utilized grading quantities calculated by the project engineer to project the amount of air pollutant and dust emissions expected during grading, site preparation, and construction. There is a significant impact associated with these emissions cited in the EIR, page 4.2-21. Mitigation is proposed in the EIR and can be found on pages 4.2-22 through 4.2-24. The EIR reports that there will be a significant impact even after all feasible mitigation measures are employed to limit construction emissions and fugitive dust during site preparation and construction. The EIR fully discloses construction related noise impacts in Section 4.10. Provisions included in Project Conditions 10-1 and 10-2 are attached to the project to reduce project noise impacts on adjacent occupied properties. The comment author is correct in the statement that dust control measures, which are being implemented through PC 2-1, will reduce project dust impacts. Primary construction access will occur from Selva Road, which is more suited to this purpose. Restricting all construction access from Street of the Green Lantern, however, is not necessary because the DEIR does not identify any significant traffic or noise impacts that would require such a restriction.

24-3 Comment noted. The comment represents an opinion about the adequacy and efficacy of the planned buffer between the development proposed and existing residences and that a minimum buffer of 100 feet is desired/acceptable. This comment will be forwarded to the decision makers for their consideration. The comment does not provide any information or data that would change the analysis or conclusions of the EIR. Therefore, no further response is required by CEQA.

24-4 The comment indicates that the proposed project will create a "significant amount of traffic" affecting Street of the Green Lantern. The Traffic Study (Appendix H) and EIR Section 4.13 fully disclose existing, existing plus project, and future (cumulative) with project conditions. The impacts of the project in the future cumulative projects scenario are stated to be under the City's significant impact thresholds for this street (at PCH reported to be 2,800 ADT compared to the threshold of 5,000 ADT). Even though there is an acknowledged increase in future traffic resulting from the project combined with all other sources, it is clear from the analysis presented in the EIR that there is no significant impact on Street of the Green Lantern. See also General Response 1 – Traffic on Green Lantern and Responses to Comments 8-1, 8-2, and 24-5 through 29-7. The Traffic Study shows that Street of the Green Lantern will not be significantly impacted by the proposed project.

24-5 The referenced properties are small; taken together the total lot square footage is about 15,000 square feet. No development proposal for this property has been made. Several potential uses of the property are possible, each with different traffic generation. It would be speculative to guess whether a development submittal will be made and what the development proposal might consist of. Even though there is an acknowledged increase in future traffic resulting from the project combined with all other sources, it is clear from the analysis presented in the EIR that there is sufficient traffic capacity on Street of the Green Lantern, including future build out according to the City's General Plan, and there will be no significant impact to traffic on this roadway.

24-6 All traffic impacts associated with the existing traffic conditions and projected traffic conditions with the project are fully disclosed in the EIR. See Response to Comment 24.4.

24-7 All traffic impacts associated with the existing traffic conditions and projected traffic conditions with the project are fully disclosed in the EIR. The visitor recreation facilities are designed as lower cost public facilities; however, none of the visitor centers is larger than 2,000 sq. ft. and, therefore, it is unlikely that these facilities would be destinations for tour buses. Traffic that would be generated by these facilities is accurately accounted for in the traffic analysis of the EIR. The comment does not add any information or data that would change the analysis or conclusions in the Traffic Study or EIR. The comment will be forwarded to the decision makers for their consideration.

24-8 All traffic impacts associated with the existing traffic conditions and projected traffic conditions with the project are fully disclosed in the EIR. The comment does not add any information or data that would change the analysis or conclusions in the Traffic Study or EIR. The comment will be forwarded to the decision makers for their consideration.

24-9 The "A" Street connection to the Seaside Inn, Visitor Recreation (Community) facility, and park recreation area cannot be extended from Pacific Coast Highway as a result of physical, topographic constraints, impacts to the open space areas, and the fact that the residential area is a private gated community. Making Cove Road a one-way roadway would have the benefit of reducing traffic on Cove Road; however, it would increase traffic on Green Lantern, since traffic bound for Dana Point Harbor would have to partially use Green Lantern as a result of the one-way flow on Cove Road. The closure of Green Lantern totally at Pacific Coast Highway would increase traffic on Blue Lantern and would limit access to the existing commercial and residential development along Green Lantern. This roadway is already limited in function, since it provides only one-way flow from Pacific Coast Highway. Because there is no significant impact associated with the project at the locations mentioned in the comment, there is no requirement to mitigate any project created condition or to change project design in these areas.

24-10 The subject portion of the Street of the Green Lantern does not adjoin the project site. However, this roadway will provide access for the proposed visitor/recreation/commercial and recreation/open space areas of Harbor Point and the Headlands Promontory.
As briefly discussed in Section 5.4.2 of AMEC's 2001 report, the northerly trending Dana Cove fault is located near Pacific Coast Highway at the northeast corner of the project site. The fault crosses beneath Cannon's restaurant and along the westerly edge of a former

landslide area above Cove Road that was reconstructed/stabilized in 1987. Exposures observed during construction of the restaurant in 1971 and subsequent grading associated with the slope stabilization work in 1985-87 indicated that the fault is truncated by an ancient wave-cut bench in the bedrock at elevation 160 feet. No apparent displacement of this wave-cut erosion surface is evident, indicating that fault movement pre-dates deposition of the overlying marine terrace sediments (i.e., probably at least 125,000 years ago). The presence of soft-sediment deformation features observed in these construction exposures also suggests that primary movement along the fault may have occurred as much as 5 to 10 million years ago, shortly after deposition of the sediments. On the basis of these exposures, the Dana Cove Fault is considered inactive (Kerwin, 1987).

The Dana Cove Fault separates two distinct rock types: the San Onofre Breccia and the Capistrano Formation. Dana Cove is a shoreline re-entrant caused by differential erosion and coastal retreat along the fault. The relatively competent and resistant San Onofre Breccia forms the headland, and the weaker, less resistant Capistrano Formation has been eroded away to form the inner margin of the harbor/cove (see AMEC, 8/01, Plate IV or DEIR, Figure 4.5.2). Deformation and attendant shearing of the Capistrano Formation near the fault has made it susceptible to landsliding, but the Breccia has remained relatively undisturbed (Kerwin, 1987). Grading and other stabilization measures incorporated in the slope restoration work performed above Cove Road in 1985-87 has removed and/or supported the portions of the Capistrano Formation below Street of the Green Lantern that were previously susceptible to landsliding. The remainder of the slope below Street of the Green Lantern is composed of San Onofre Breccia with a thin mantle of terrace deposits above about elevation 160 feet. These materials are generally not susceptible to significant landsliding and are additionally supported by the previous slope stabilization measures.

The outside edge of the Green Lantern roadway in this area is supported by a retaining wall that was likely constructed as a part of the original road construction. No information is readily available regarding the condition or design of the retaining wall. Previous observations have shown no obvious evidence of problems with the existing wall. The wall and adjoining roadway are presumably subject to routine maintenance by the appropriate City and/or County agency.

In summary, the portions of the slope below the Street of the Green Lantern that were previously susceptible to landsliding were removed or are supported by the slope reconstruction work/remedial grading performed in 1985-87. Although erosion and minor surficial failure of this slope may occur in the future, no significant landsliding that would affect the existing roadway is anticipated.

24-11 All project drainage is designed to flow from adjacent private properties and into project surface drainage systems, underground drainage systems, or, in the case of the nuisance water runoff, into the on-site sewer lines. The topography and drainage of the greenbelt buffer area behind the homes on Green Lantern will remain essentially as it is today. Nothing will occur that would increase or concentrate surface flows from the natural condition.

24-12 The Headlands Development and Conservation Plan (HDCP) was released for public review on July 21, 2001. A Draft Environmental Impact Report (EIR) was prepared in accordance

with the development concept proposed through this document, and made available for public review October 5, 2001, through November 19, 2001. The public review process for the Draft EIR was noticed in the newspaper, and direct notification occurred at the time the Draft EIR was released to the public. All notices have been provided as required by CEQA, as interpreted by the City of Dana Point. In August, the City held a public Scoping meeting for interested parties to provide concerns and issues to be addressed in the EIR. This meeting was optional, but was carried out by the City in an attempt to involve the public in the EIR process. The inclusion of this letter and this response to the comments are a part of the public input process. Public hearings on the project and the EIR before the City of Dana Point Planning Commission and the City Council will occur prior to the City Council's consideration of the project and certification of the EIR. This process is open to the public and is being carried out according to the requirements of CEQA. Additional public review is not required by CEQA or City of Dana Point procedures. As part of the public involvement process, the opinions included in this comment letter will be forwarded to the decision makers for their consideration prior to action on the application and the EIR. Sufficient opportunity will be afforded to the residents to voice their comments on these documents through the Planning Commission and City Council public hearings. Any questions on the project can be directed to Peter Vanek, Project Planner, at (949) 553-1427.

25. COMMENTS FROM DONNA WATKINS

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 19 12 59 PM '01

Donna Watkins
34142 Selva Rd. #212
Dana Point, CA 92629

November 12, 2001

Mr. Edward M. Knight
Community Development Director
Dana Point City Hall
33282 Golden Lantern
Dana Point, CA 92629

Subject: EIR/Headlands Development and Conservation Plan

Dear Mr. Knight,

As a resident of Niguel Beach Terrace, I have some concerns about "The Headlands Development and Conservation Plan/Draft EIR." These concerns are as follows:

- Traffic congestion problems

  This plan allows only one access point via Selva Road into the 75 unit residential area. Selva Road will also provide access to the 368 condominiums in Niguel Beach Terrace, the existing homes out on the point, Strands new public parks, three beach trails, the pedestrian bike trail greenbelt/linkage next to our property and all open space trails to the conservation areas. This will cause too much traffic congestion on Selva Road. 25-1

- The bike path area between the headlands and Niguel Beach Terrace

  Currently residents of Niguel Beach Terrace look out at the headlands from the south edge of the community and see trees. According to the plan, a 6-8 foot wall will be built around the new community with a private view fence on our side of the bike path. From the plan it looks like the bike path will be built lower than our community, so people won't be able to see into our community (and into my kitchen window) when they are on the bike path. I'd like to know for certain if this is the case. 25-2

  If it is the case that the bike path is lower than out units, I would really like to be able to see trees and plants like I do now when I look out my window toward the headlands, instead of a wall or the view fence (or the bike path). As the bike path is maintained by the city, I'd like to know what types of trees and other plants will be planted along the bike path. I hope that I won't have to look at a brick wall when currently I look at lovely trees. 25-3

I also have concerns about the height of the houses as compared to the height of our units. One of the diagrams from the plan indicates that our units would be even with the new houses. I want to know how accurate this is. I do not want to be down in a valley or in the shade of someone's house. I also don't want the cool ocean breezes we now get off the headlands to blocked by houses. 25-4

Please let me know if this is the appropriate time and method for my concerns to be addressed. If not, please let me know what I need to do to have my concerns addressed. 25-5

Sincerely,

Donna Watkins

25. RESPONSES TO COMMENTS FROM DONNA WATKINS

25-1 Refer to General Response 2 - Traffic on Selva Road and Response to Comment 1-1.

25-2 The conceptual grading plan indicates that the elevation difference between the Niguel Beach Terrace homes and the bike path varies from east to west. Because the trail connects with PCH at Street "A," the trail will be higher than the ground level in Niguel Beach Terrace at the eastern portion of the Greenbelt Linkage. On the western end of the trail, the Niguel Beach Terrace ground elevation will be higher than the trail. Somewhere in between, the trail will be at the same elevation. Due to the grade differences, existing landscaping within Niguel Beach Terrace, the distance between the trail and existing homes, and new landscaping that will be proposed along the 50 to 80 foot wide Greenbelt Linkage, the privacy of existing property owners is not likely to be significantly impacted by the proposed trail. The commentor is welcome to study the full-size conceptual grading plans to determine the specific relationship between a particular home and the trail.

25-3 As shown in HDCP Figure 4.4.7, Greenbelt Linkage, and described on page 4-22 of the HDCP, landscaping within the Greenbelt Linkage will consist primarily of native shrubs, ground covers, and grasses selected from the Headlands Revegetation Palette (HDCP Table 4.16.1). The document also states that "trees shall be located to minimize conflicts with views from the surrounding areas." Because the proposed project wall will be located on the opposite side of the Greenbelt Linkage, 50-80 feet from the Niguel Beach Terrace property line, views will not be dominated by the proposed six foot high wall.

25-4 According to the conceptual grading plan, homes in the Upper Headlands Residential area will generally be plotted at a higher elevation than those in the Niguel Beach Terrace neighborhood. The elevation differential between the existing and proposed homes on either side of the Greenbelt Linkage will be the greatest closest to PCH. The new building pads proposed adjacent to Selva Road and the bike trail will be at approximately the same elevation or slightly lower than the Niguel Beach Terrace neighborhood. The commentor is welcome to study the full-size conceptual grading plans to determine the specific elevation relationship between the existing community and the proposed project.

25-5 Providing written responses during the public review period is the best way to make your concerns part of the administrative record. The commentor may also desire to attend public hearings on the project.

26. COMMENTS FROM RUBY NETZLY

November 16, 2001

RECEIVED
2001 NOV 19 P 1:30
CITY OF DANA POINT

City of Dana Point
Director of Community Development Edward M. Knight
33286 Golden Lantern Street
Dana Point, Ca. 92629

Re: **COMMENTS on Draft Environmental Impact Report (DEIR) and The Headlands Development and Conservation Plan (HDCP)**

Introduction/Executive Summary & Background

The Headlands Development and Conservation Plan (HDCP) proposes General Plan Amendments and Local Coastal Amendments. Neither it nor the Draft Environmental Impact Report (DEIR) includes a **Specific Plan.** A review of the headings in all five sections of the HDCP Table of Contents reflects the omission of a **Specific Plan for the Headlands.**

Under the DEIR, Section 1.0 Executive Summary, Item 3, Consideration of an Amendment to the General Plan: The project site ....is designated as **Specific Plant** in the Land Use Element of the City's General Plan....an amendment to the General Plan is required to accommodate the proposed project.

Comment: There should be a Specific Plan for the Headlands Development as part of these proceedings.

In DEIR 1.0 Executive Summary, Section 1.1 Proposed City Actions, Item 4 states that an amendment to the zoning code and zoning map is proposed to designate this site as **Planned Development District** as a zoning classification; Item 5 addresses such a District as being requested by the project proponent to provide the land use regulatory framework for the project, as well as to establish the development concept and distribution of land uses within the proposed project; Item 6 addresses Consideration of an Amendment to the Local Coastal Program; Item 7 addresses Consideration of a Development Agreement; Item 8 addresses additional permits and approvals which include, among other things Public Finance District, CDP's, SDP's, street vacations, etc. 26-1

Comment: This site should not be designated as Planned Development District.

Please provide comparison information to the public between a Specific Plan and a Planned Development District under these circumstances. Explain the advantages and disadvantages to the City and to the property owner of such an uncommon change in designation and procedures; and, what motivates the request by the project proponent.

Section A of the HDCP Executive Summary (reference - pages i, ii, and iii) states that; In 1981, the County of Orange approved the Dana Point Specific Plan/ Local Coastal Plan for the majority of the Headlands property...the County certified a Final Environmental Report (EIR). ...In 1985 the California Coastal Commission certified the Dana Point Local Coastal Program consistent with the 1981 County-approved Dana Point Specific Plan and certified EIR. In 1989 the City incorporated and adopted the Local Coastal Program for the Headlands. In 1994 the City approved a Specific Plan. In 1996 a final EIR/EIS was certified as part of the Orange County Central and Coastal Sub-region Natural Community Conservation Plan/Habitat Conservation Plan 26-2

(NCCP/HCP). The NCCP/HCP with its accompanying certified EIR/EIS was approved and implemented by the U.S. Dept. of Interior, the U.S. Fish and Wildlife Service, the California Resources Agency, the California Dept. of fish and Game, the California Dept of Fire Protection, the California Dept. of Parks and Education, the County of Orange, and other appropriate agencies.

The DEIR also omits this background. See page 4.9.1 & 2.

Comments: Significantly, the period from 1996 thru 2000 is not addressed in Section A of the HDCP or Page 4.9.1 & 2 of the DEIR. It is important to know and recognize that during this period the City held extensive Public Hearings regarding the Headlands development. Development plans (including developer plans, City plans, and a plan submitted by the public) were reviewed by the Planning Commission of the City. Many persons wrote letters and attended the hearings and spoke, including the developer's representatives. The Planning Commission, after considering all correspondence and testimony made a ruling in favor of so-called Plan A (which was submitted by the City). The Commissioners spent many long days and hours on this matter. When making their choice and recommendation, each Commissioner gave eloquent speeches supporting their choice of Plan A. The hearing room was packed and overflowing. Although Plan A was a compromise plan, it was overwhelming accepted. I was there and I had tears in my eyes when I heard the eloquent words of the Commissioners endorsing this plan. Their recommendation was forwarded to the City Council for the recommended approval. The City staff did an outstanding job on a very complicated issue and worked to protect the city from liability while respecting the property owner's rights. 26-2

A new part owner of the property appeared. There was litigation. The property owner held up development of the Headlands, under Plan A. Then, at the property owners request, over a year was spent in mediation. Now, the project owner is bringing forth a new development plan to go thru the public hearing process.

All of the above should be part of this record. It reflects a considerable delay in development resulting from the property owners refusal to accept Plan A, which came about through lengthy public hearings in which the property owner presented his plans and participated in the hearings.

Plan A respected and included compliance with a Specific Plan. The above reflects a considerable delay in development resulting from the property owner's refusal to accept the plan that came about through lengthy public hearings in which the property owner and the public participated.

Now, as we enter another hearing process we must be sure that public input is listened to and included in any new plan for development of the Headlands. There must be maximum efforts to protect the City and its taxpayers from liability and additional time and expense.

Only positive environmental impacts must result from this development. Our environment, including but not limited to water and air quality, habitat, endangered species and native vegetation, natural land formations, and open space must be protected. Future lot owners who will build on the vacant lots sold on this property must be assured of geological stability. The EIR must recognize that this unique land formation on the shore of the Ocean is the last such land in Dana Point and on the southern coast of California. 26-3

Please prove, assure, and make clear that this EIR is accomplishing such goals.

DEIR and HDCP Table 3.3.1 Headlands Development and Conservation Plan Objectives

Comments: There is a fatal flaw in the Plan Objectives since there is no objective to assure safety. Also, a listed objective is to ensure adequate vehicle access and circulation, while minimizing impacts to residential areas. This is not accomplished in the DEIR or the HDCP. 26-4

DEIR, Table 1.6.A, page 1-17, Potential Environmental Effect - Vehicular Traffic Noise

Comment: Green Lantern Street, PCH, and the full length of Blue Lantern and side streets leading to the freeway are ignored. Residential areas of Green Lantern from PCH to the intersection of Scenic Drive and Cove Road will be greatly impacted. PCH and Blue Lantern will be impacted.

DEIR, Table 1.6.A, page 1-18, Fire Protection and Emergency Medical Service 26-5

The occupants of the residential enclave homes and the proposed hotel, as well as the public at the recreation and meeting facilities on Scenic Drive, will be negatively impacted since they have only one road out that connects with Green Lantern and Cove Road. Both roads are narrow and congested and will be an increased hazard to their safety with the increase of use of these roads to reach the hotel and other amenities just past Cove Road.

DEIR, Table 1.6.A, page 1-21, Cumulative Traffic Impacts

Comments: There isn't any way that the additional traffic impacts from the Project on Green Lantern and Cove can be mitigated without eliminating the 65 (key) room hotel with spa, restaurant and other amenities from the Project Plan. The 2.8 acres of land proposed to be used for a hotel could be offered for sale to the City. This could result in decreased traffic congestion and noise and improve safety. It could also increase open space.
With the construction of the St Regis Hotel, the need for City revenue from hotels has diminished also. 26-6

Cove Road is a narrow winding road that cannot safely carry traffic and it passes directly below the potential slide area abutting Green Lantern next to the former slide area below Cannons. Green Lantern Street is narrow, subject to a potential slide and presently too crowded with traffic, especially on 26-7

weekends and when there are meetings at the Chart House. Certainly, the project must not be built and then require road widening that will negatively impact property owners on Green Lantern Street by impinging on their property rights, property values and quality of life. 26-7

A road from Scenic Drive through the new residential area to PCH would greatly diminish the safety hazards in this area to numerous persons, including children. Certainly the safety of our residents and visitors should be of prime concern. 26-8

DEIR, 4.0, Environmental Analysis, page i, and HDCP, Sec. 4.0, page 4-11, Planning Area 5 Hilltop Park and Greenbelt Linkage (Recreation Open Space)
DEIR Figure 4.1.A & 4.1.B & 4.3.3, DEIR page 4.9.18 Preservation of Natural Resources
Goal 4 Encourage the preservation of the natural resources of the City of Dana Point

These areas, among other things, address the Hilltop Park and Greenbelt Linkage. It claims to preserve a significant landform and provide integrated trails. It references Section 4.4 Park and Open Space Plan, which among other things, states that the Project site has been carefully planned ...to preserve coastal bluffs and other significant landforms and conserve sensitive habitat. Figure 4.4.1 and 4.4.3 does not provide sufficient detail to determine if the natural land formation of the ridge which runs parallel to Marguerite Road and Scenic Drive, then turns and goes to the hilltop park, is being preserved. However, Figure 4.1.A Clearly shows the ridge/ridge line from the second group of residences at the end of Marguerite to the hilltop park. Figure 4.4.6 appears to indicate that the historical natural-landform of the ridge (with a trail at the highest elevation on the ridge, its current walking trail) is not being preserved. 26-9

It is important that this natural land formation be preserved, consistent with the City's General Plan provision for preservation of natural landforms. This was a subject of a recent proposed development in Monarch Beach. Also, the DEIR and HDCP for this project recognize and stress such preservation.

Not only is this a natural landform, it has a trail along its highest elevation that has been used by the public for many years (enough to establish prescriptive rights). It is also critical that the sensitive habitat on this ridge and its descending ridge face be preserved. Ridge and habitat area are needed to help assure the preservation of the endangered pocket mouse species. In previous conversations with an expert from the Endangered Habitats League, it was made clear that additional land contiguous to the pocket mouse area north of Marguerite Road to the top of the ridge is necessary for preservation of this species. The pocket mouse needs room to migrate where natural habitat and conditions exist. 26-10

DEIR Figure 3.4, PA 4, 1.6 acres, PCH Visitor/Recreation Commercial
Table 3A, 40,00 sq. ft. of Visitor/Recreational Commercial at PA 4 26-11

Comments: A Commercial development of 40,000 sq. ft. on 1.6 acres at the corner of PCH and Green Lantern is undesirable. It will block views from the Regatta homes and of motorists. It should not have its access road onto PCH for safety reasons. The contour of the land and highway and the proximity to another signal on PCH is a less than desirable safety condition. Cal Trans has brought this to the attention of the City in the past. If a commercial development is necessary it should probably be off site. 26-11

It appears that such a commercial development would actually cut into the hill top slope and require an unattractive retaining wall. Plan A did not have a commercial development at this corner.

DEIR Table 3A Land Use Statistical Summary, Visitor/Recreation Commercial (V/RC), Fig. 3.4

Table 3.4 shows that 2.8 acres in Planning Area 9 (the corner of green Lantern and Scenic Drive and Cove Road) will include a 150,750 sq. ft. (65 key) hotel building. Figure 3.4 shows planning area 9 with a Resort Seaside Inn on 2.8 acres. A restaurant, amenities, and accessory uses are included per HDCP, page 4-12 in Planning Area 9.

Comments: The above describes an operation that will employ a number of persons and have a significant number of clientele using the hotel, restaurant, amenities, and accessory facilities provided.

How large is the proposed spa? What hours will the restaurant operate and how many persons will it serve? How many square feet of paved areas for parking, etc and will there be adequate parking for both customers and employees? 26-12

How much traffic will be added to the narrow streets of Green Lantern and Cove Road? Will employees be allowed to use the new public parking for visitors to the Harbor Point Park? It is obvious that neither Green Lantern or Cove Road will be able to handle all the traffic that will be generated by the hotel establishment, the park the proposed additional buildings on Scenic Drive and the residents on Scenic Drive plus the existing traffic for the Chart House restaurant, the residents on Green Lantern and the normal traffic for other reasons. The new hotel and restaurant will require considerable numbers of delivery trucks for goods and services. Both Green Lantern and Cove Road have the safety hazard of a potential land slide as has previously occurred in the area. Is there any intent to widen Green Lantern and take away front footage from properties on either side of the street?

This all adds up to a significant safety problem and an undesirable situation.

DEIR and HDCP Section 6, page 13, Item 3.12 Headlands Development Agreement/ Vacation of unnecessary Right-of- Way, Easements, Public Roadways, and/or Irrevocable Offers to Dedicate. Exhibit E, Road Easements to be Vacated (see attached) 26-13

Please provide support in each instance of the proposed vacation by the City of the irrevocable offers to dedicate, right-of-way easements, and public

roads etc. described and shown in Exhibit "E". Inadequate information has been provided for the public to make a judgment. This information appears to be missing from the DEIR. 26-13

DEIR FIGURES 4.1B, $.34 & $.19.1and Section 4.5 Geology and soils and page 4.9-63 (2nd area)

Page 4.9-63 refers to "coastal bluff top" in addressing the southern portion of the Strands Beach area. The DEIR Figures show the planned lots for new homes as extending into this area. Address and show proof that the purchasers of these residential lots can be assured and guaranteed the geologic stability of such lot sites. 26-14

DEIR Table 3.A & Figure 3.3 & 4, etc - Open Space

DEIR, Table 3.A as well as other sections of the Report shows 30.3 plus 30.7 acres of Open Space for a total of 62 acres. The DEIR needs to break that down in an exhibit and illustration showing the amount of usable Open Space available to the public as well as that acreage inside the residential areas inaccessible to public use, space used for parking lots, the 2000 square foot building shells and most importantly the bluff face acreage and the open space which the City has legal Easements, Right-Of Ways, and or irrevocable offers to dedicate as referred to on Page 13, Section of the Headlands Development Agreement captioned 3.12. Also clearly show the mouse preserve being established to preserve that species. 26-15

It is obvious that this will end up with a much smaller amount of Open Space available to the general public.

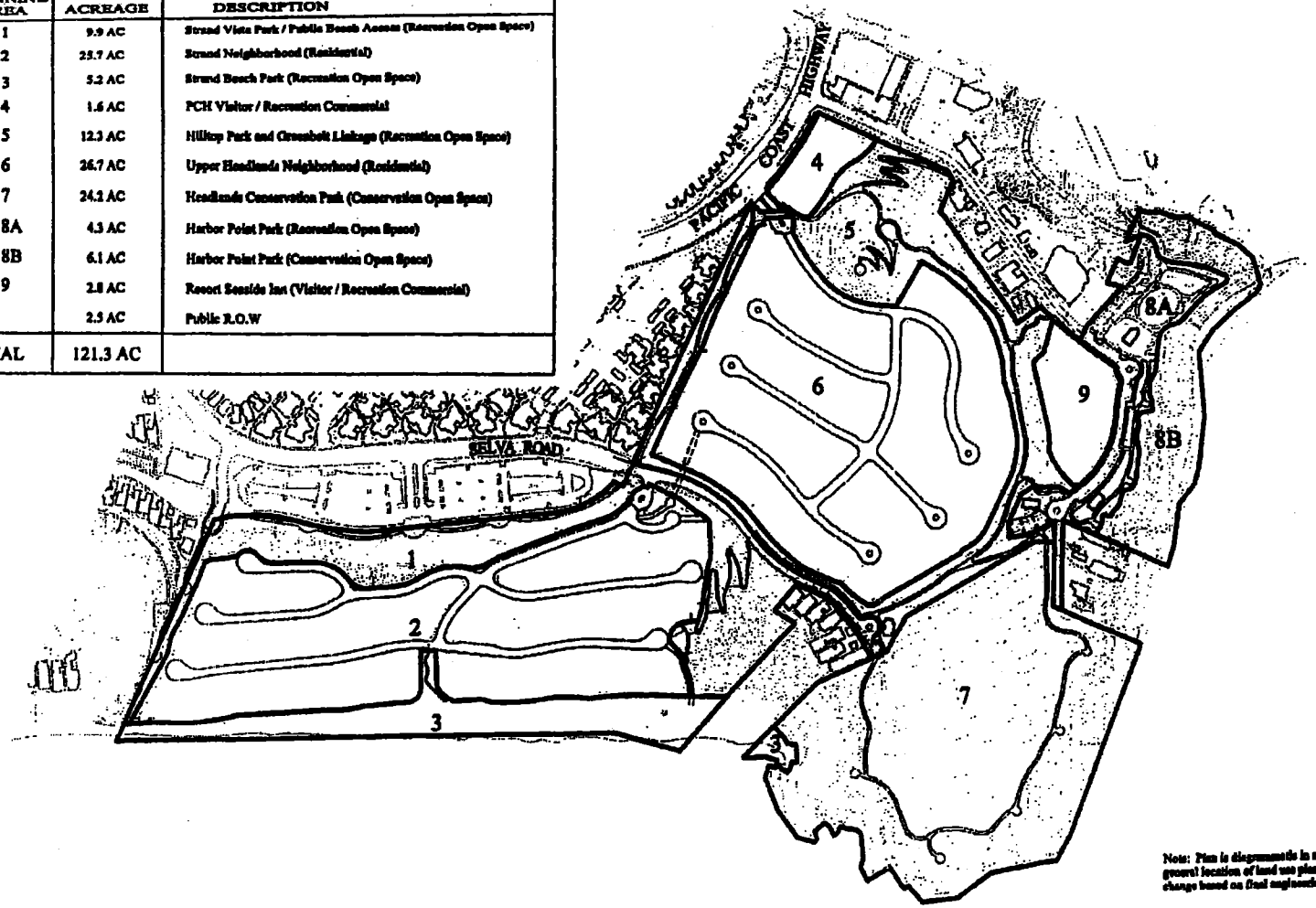
NOTE
It is impossible to adequately address this lengthy and technical DEIR Report in the time frame allotted. It would appear that an extension of the time frame should be allowed in order to show fairness to the public. I respectfully request that this be considered and publicized. 26-16

All of the above comments are respectfully submitted for your consideration. With more time, I could have made them more concise. Thank you for your consideration.

Sincerely,

Ruby L. Metzler

PLANNING AREA	ACREAGE	DESCRIPTION
PA 1	9.9 AC	Strand Vista Park / Public Beach Access (Recreation Open Space)
PA 2	25.7 AC	Strand Neighborhood (Residential)
PA 3	5.2 AC	Strand Beach Park (Recreation Open Space)
PA 4	1.6 AC	PCH Visitor / Recreation Commercial
PA 5	12.3 AC	Hilltop Park and Greenbelt Linkage (Recreation Open Space)
PA 6	26.7 AC	Upper Headlands Neighborhood (Residential)
PA 7	24.2 AC	Headlands Conservation Park (Conservation Open Space)
PA 8A	4.3 AC	Harbor Point Park (Recreation Open Space)
PA 8B	6.1 AC	Harbor Point Park (Conservation Open Space)
PA 9	2.8 AC	Resort Seaside Inn (Visitor / Recreation Commercial)
	2.5 AC	Public R.O.W
TOTAL	121.3 AC	



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

FIGURE 3.4

5 A

N

300 600

RCE: SWA

R130\G\Land Use Planning Areas.cdr (10/1/01)

HDCP EIR

Land Use Planning Areas

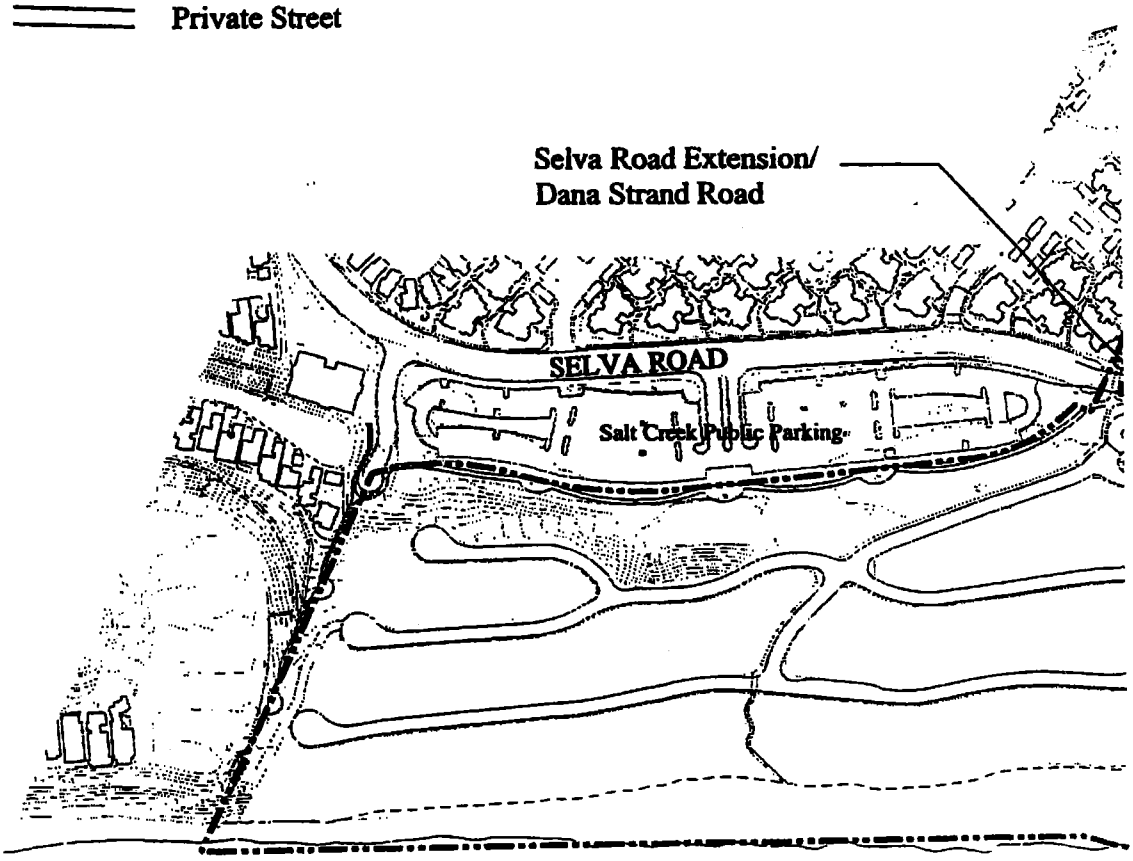
New PCH Intersection / "A" Street
58 FT. R.O.W.

Selva Road Extension (Dana Strand Road)
30 FT. R.O.W.

Scenic Drive
42 FT. R.O.W., Parking

Access Drive
30 FT. R.O.W.

Private Street



Pacific Ocean

THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN

Fig. 4.6.1 - Page2 (contd.)

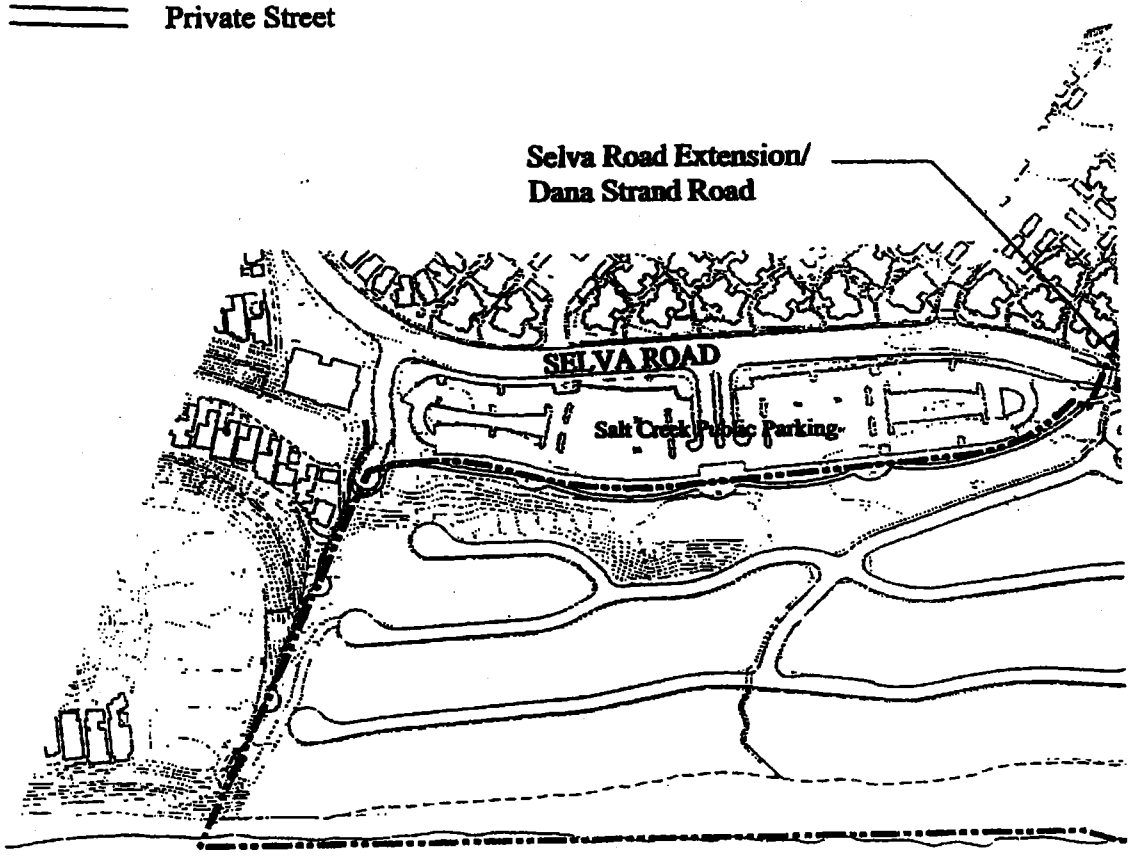
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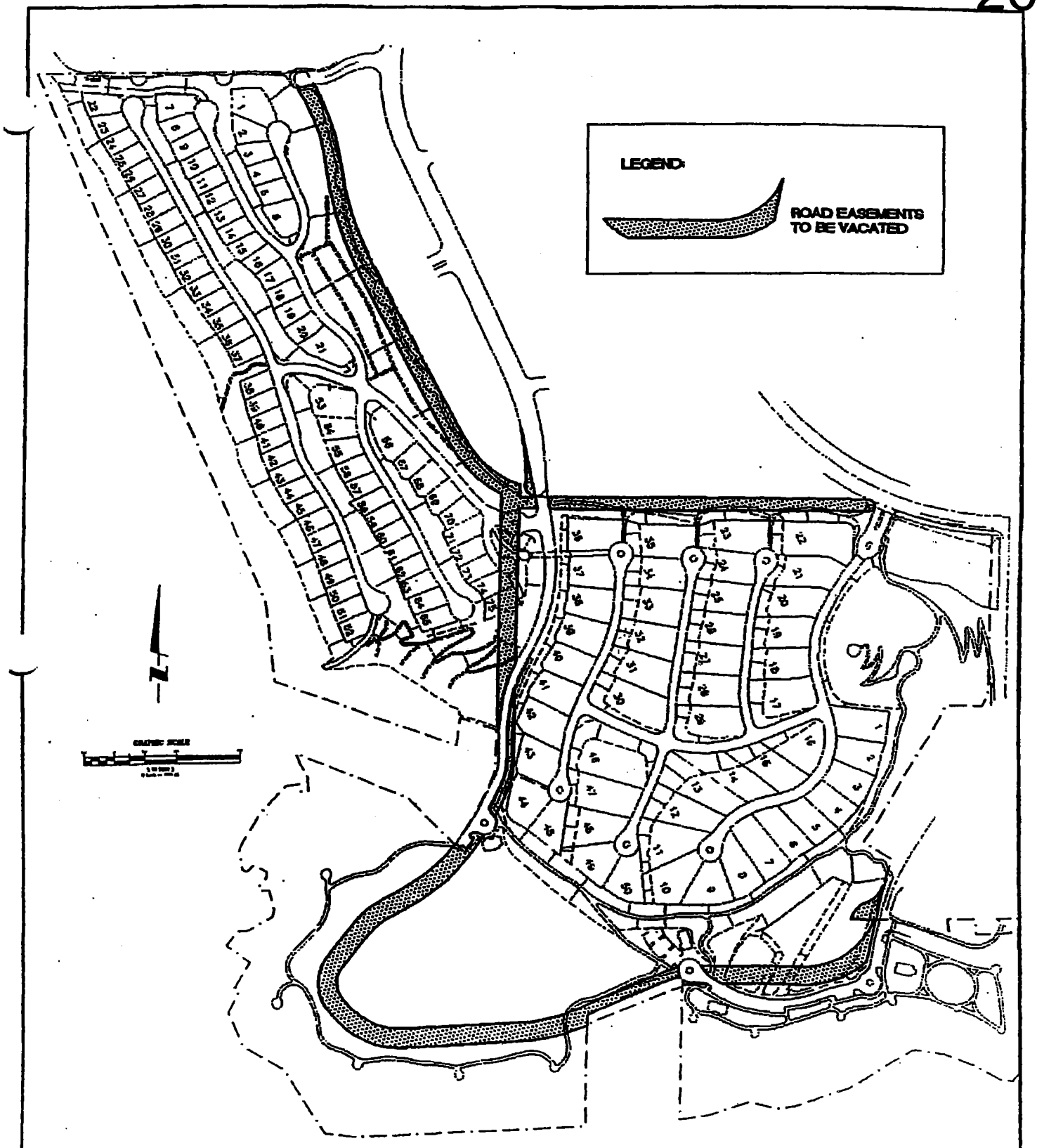
Private Street



Pacific Ocean

THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN

Fig. 4.6.1 - Page 2 (contd.)



The Keith Companies
TKC
2955 Red Hill Avenue, Costa Mesa, CA 92626 (714) 540-0800

EXHIBIT 'E'

ROAD EASEMENTS TO BE VACATED

26. RESPONSES TO COMMENTS FROM RUBY NETZLY

26-1 The justification behind the PDD ordinance is resultant from court action that preceded the submittal of the current application. During the land use entitlement process that the City of Dana Point undertook in 1998 and 1999, a court order was issued by Superior Court Judge John Woolley that prohibited the City from concurrently processing a specific plan and a General Plan Amendment for the Headlands. This ruling is still under appeal by the City. The purpose of a specific plan is to provide zoning for a property. Planned Development Districts ("PDD") are commonly utilized throughout California to establish zoning and serve as an implementation tool to guide development. Functionally a PDD is very similar to a specific plan and wholly suitable for the Headlands. In accordance with provisions of State Law, a PDD would permit concurrent processing of the application.

Although a PDD is not required to meet the requirements of a specific plan, adoption requirements for PDDs have been proposed as a part of the Zoning Text Amendment (ZTA) to the Zoning Code. The PDD is intended to allow diversification in the relationship of various buildings, structures, and open spaces and to offer relief from the rigid standards of conventional zoning, while still providing for the orderly, systematic, and specific implementation of the General Plan. A PDD requires exceptional design features and sensitive and enhanced site planning to produce an integrated and stable planned development that is compatible with existing and planned surrounding land uses. Much like a specific plan, the PDD promotes creative approaches in the development of land through a mix of land uses and variety in the physical development pattern of the community. The PDD for the Headlands, as proposed, meets the intent and purpose of a PDD, and will function in a similar fashion to a specific plan.

26-2 Comment noted. The proposed HDCP is the result of many years of planning and public input dating back to the 1980s. The process undertaken by the City in 1998 and 1999 was determined to be legally flawed by order of Superior Court. The HDCP has resulted from settlement negotiations between the property owner and the City after the court order was issued. Public Hearings for the project will be conducted pursuant to the normal City process and procedures. All relevant public comment and input are encouraged.

26-3 Consistent with the goals and requirements of CEQA, the DEIR describes the existing environmental setting of the project site and the environmental impacts that would result from the implementation of the project. The project minimizes its environmental impacts through the application of Project Design Features (PDFs), as well as through the application of Project Conditions (PCs). In addition, where significant impacts are identified, mitigation measures are proposed to further reduce the project's impacts. The DEIR concludes that the environmental impacts of the project are reduced to below a level of significance for environmental topics, with the exception of the following areas, as stated in Section 2.5, Significant and Unavoidable Impacts:

- Short-term regional air quality impacts resulting from construction activities.
- Long-term regional air quality impacts resulting from operation of the proposed project.
- Cumulative regional air quality impacts.
- Cumulative noise impacts.

26-4 The first General Objective states "To be consistent with the goals, policies, and objectives of the City's General Plan, as proposed to be amended" (DEIR, page 3-13). The City's General Plan contains a Public Safety Element, which contains numerous goals, policies, and objectives. By stating that a project objective is to be consistent with the City's General Plan, maintaining public safety is implicitly assumed to be a project objective.

Despite the claim by the commentor, the traffic study, summarized in Section 4.13 of the DEIR, concludes that adequate vehicle access and circulation is being provided while at the same time minimizing impacts on residential areas. Through the implementation of PDFs, PCs, and mitigation measures, there are no significant traffic impacts that would result from the project. An increase in traffic on a given roadway does not necessarily correspond to a significant impact, as shown in the analysis.

26-5 A traffic study was prepared of part of the DEIR. The traffic study analyzed the impacts of the project on the referenced streets and found that there would be no significant impact with the implementation of the project. Also refer to the General Response 1 - Traffic on Green Lantern.

26-6 Refer to Responses to Comments 26-4 and 26-5 above. As stated in the Section 4.12 of the DEIR, Recreation, the proposed project includes approximately 31.7 acres of Recreation Open Space and 30.3 acres of Conservation Open Space land uses. Three parks will be dedicated/transferred to the City of Dana Point. These City parks include the following: Strand Vista Park (9.9 acres), Hilltop Park and Greenbelt Linkage (12.3 acres), and Harbor Point Park (10.4 acres). In addition, Strand Beach Park (5.2 acres) will be dedicated to the County of Orange, and the Headlands Conservation Park (24.2 acres) will be managed through a non-profit trust. These park and open space areas are illustrated in DEIR Figure 4.12.3, the Parks and Open Space Plan. By designating five parks totaling approximately 62 acres for public recreation and conservation open space, the project significantly exceeds the required amount of park space, and further dedication is not warranted. The need for an Inn as part of the project is not an environmental issue and, therefore, is not evaluated in the environmental analysis.

26-7 AMEC's previous geotechnical work in and around the westerly end of Dana Point Harbor included landslide stabilization evaluations that were performed for the County of Orange as a part of the Cove Road Slope Restoration Project between 1983 and 1987. No evidence of potential landslides beyond the portion of the slope that was previously repaired/stabilized was observed in the area below Street of the Green Lantern during AMEC's investigation and extensive field work. Please refer to Response to Comment 24-10 for additional discussion regarding the geologic conditions in this area.

26-8 Implementation of the project, as proposed, will not result in any significant traffic and circulation impacts. The alternative proposed by the commentor to connect Scenic Drive through the Upper Headlands Residential area to PCH is not necessary. As exhibited in the traffic study and Section 4.13 of the DEIR, implementation of the proposed traffic and circulation plan, and compliance with the PDFs, PCs, and Mitigation Measures, will not result in any significant safety concerns.

26-9 As stated in the Aesthetics Section of the DEIR, "The HDCP minimizes visual impacts to the four major landforms - the coastal bluffs, the two geographic points (Dana Point and Harbor Point), the Hilltop, and the Strand Beach - by designating each area as a park or open space land use" (DEIR page 4.1-9). The ridge between Marguerita Road and the hilltop is not considered a significant landform. Development of PA 6, the Upper Headlands Residential area, calls for the bowl area to receive fill resulting from the remedial grading of the Strand in depths averaging 40 feet to create a series of terraced residential lots. This grading will daylight along the spine of the ridge in a series of terraced lots that will step with the topography. The DEIR acknowledges that this will result in changes to the visual character of the topography as primarily viewed from on site or from adjoining private property. However, the proposed elevations of the lots and the single story homes proposed have been designed to maintain unobstructed views from the Hilltop Park, which is regarded as a major landform.

26-10 The existing trail is on private property. Public access to this part of the project site has resulted in the degradation of the existing habitat in the area. Use of the trail by the public has not established prescriptive rights to public access of the privately owned property. Refer to Responses to the Endangered Habitats League, Responses to Comments 7-1 to 7-11, for information about preservation of habitat area for the Pacific Pocket Mouse.

26-11 Refer to Response to Comment 22-5 regarding the proposed PCH Visitor / Recreation Commercial site at PA 4. Refer to Response to Comment 22-6 regarding view blockage resulting from future development at PA 4. The commercial development would have access to PCH via Street "A," and would not have a driveway on PCH. Refer to Response to Comment 22-2 regarding the proposed intersection at Street "A" and PCH. Construction of a commercial project at this site would require the grading of site. The development would be below the Hilltop Park. Refer to Response to Comment 26-2 regarding Plan A.

26-12 The proposed HDCP would create the land use planning framework to allow for the development of up to a 65 room inn at PA 9. There are no specific development plans for the development of PA 9 at this time. As such, the details requested by the commentor are not available. Once a development is proposed at this site (after certification of the DEIR and adoption of the HDCP), such details will be known and made available upon request at the City Planning Department. Parking will be provided as required by the City's Parking Ordinance, which would include parking for employees. Although a specific development has not been proposed for the site, the traffic study analyzed traffic that would be generated by development of the site as allowed for by the provisions of the HDCP. Refer to General Response 1 - Traffic on Green Lantern and Response to Comment 26-7, above, regarding Cove Road geologic stability. As stated in the DEIR, there are no significant traffic/circulation impacts that would result from the proposed project.

26-13 The proposed street vacations are necessary to implement the HDCP as proposed. The referenced Exhibit "E," Road Easements to Be Vacated, adequately depicts the proposed street vacations and indicates that the existing road rights-of-way conflict with the proposed HDCP. As such, vacations of the conflicting portions of roadway are requested. Additional information is not necessary for evaluation of the issue. However, a formal street vacation application will have to be filed with the City for the indicated segments for City Council approval as one of the actions necessary to implement the HDCP.

26-14 The cited reference to the "coastal bluff top" on page 4.9-63 of the DEIR refers to the area above the sea cliffs that forms the Headlands Promontory and Harbor Point areas of the project site (see Section 4.1.1.4, page 4.1-2 of the DEIR). No residential lots are proposed in these areas.

Residential lots are, however, planned in the southerly portion of the Strand area (i.e., Planning Area 2). AMEC's evaluations of the stability conditions in Planning Area 2 are briefly summarized in Response to Comment 10-2.

26-15 DEIR Figure 3.4, Land Use Planning Areas, indicates each of the Planning Areas and the number of acres devoted to each. The Strand Neighborhood (PA 2) and Upper Headlands Neighborhood (PA 6) residential areas are not counted as open space. Slopes, roads, trails, and parking areas are included in the total acreage of the project site, and are counted in the total acreage of the each of the Planning Areas. The upper portion of the Headlands bluffs provides habitat for sensitive species. These areas are appropriately designated public open space, to ensure their protection. The PPM preserve will be in PA 7, the Headlands Conservation Park, within the area bounded by the bluff top pedestrian trail. Refer to Figure 4.3.2, Sensitive Species, for a map of occupied PPM habitat. The additional information requested is not necessary for evaluation of the project's impacts or determination of the adequacy of the DEIR.

26-16 The 45 day public review period is the standard review period for a DEIR as provided by CEQA when comments from State agencies are expected (CEQA Guidelines Section 15105). The public will have additional opportunity to comment on the project at Planning Commission and City Council Hearings.

27. COMMENTS FROM GRANT BJORNESTAD

GRANT R. BJORNESTAD

31196 Via San Vicente • San Juan Capistrano, CA • 92675 • (949) 248-9044

November 19, 2001

Via Facsimile
(949) 248-7372

Mr. Edward Knight
Director of Community Development
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Re: Headlands EIR No. 2001071015

Dear Mr. Knight:

I have the following comments on the EIR and would like additional information on the following:

Page 3-4 of the EIR indicates that beginning in the 1920's, several subdivision maps were recorded that created lots of varying sizes. Please provide the following information concerning the recorded maps and lots:

1) Map numbers, date of recordation, total number and range in size of lots. 27-1

2) Please include an exhibit(s) of the actual recorded maps or other exhibit that provides the location and orientation of the lots which exist on the Headlands property.

I understand the existing development in the residential enclaves on the Headlands has occurred pursuant to the 1920's era subdivision maps. If the proposed project is not implemented, then the result would likely be a development based on the recorded maps. The City should consider this fact when it deliberates on the merits of the current project.

Sincerely,

Grant R. Bjornestad

27. RESPONSES TO COMMENTS FROM GRANT BJORNESTAD

27-1 Please refer to Section 4.9, page 1, of the EIR. That page refers to Final Maps 697 and 771. Tract Map 661 was recorded in 1924 and consisted of 66 lots. Typical lots were 10,000 sq. ft. Tract Map 771 was recorded in 1925 and consisted of 227 lots. Typical lots were 4,000 sq. ft., 5,000 sq. ft., and about 10,000 sq. ft. Approximately 20 of these lots were sold and were subsequently developed as the residential enclaves and homes on Green Lantern. In addition, there are several previously vacated streets and at least four additional parcels that make up the legal description of the Headlands property.

28. COMMENTS FROM U.S. FISH & WILDLIFE AND CALIFORNIA DEPARTMENT OF FISH & GAME

28

U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
2730 Loker Avenue, West
Carlsbad, California 92008 (858)
(760) 431-9440
FAX (760) 431-5902 + 9618

CA Dept. of Fish & Game
4949 Viewridge Avenue
San Diego, California 92123-1662
467-4201
FAX (858) 467-4235

In Reply Refer To:
FWS/CDFG-OR-1403.6

NOV 1 9 2001

Mr. Edward M. Knight
Community Development Director
City of Dana Point
33282 Golden Lantern
Dana Point, California 92629

Re: Draft Environmental Impact Report for the Headlands Development and Conservation Plan, City of Dana Point, Orange County, California (SCH # 2001071015)

Dear Mr. Knight:

The California Department of Fish and Game (Department) and U.S. Fish and Wildlife Service (Service), the Wildlife Agencies, have reviewed the draft environmental impact report (DEIR) dated October 2001, for the Headlands Development and Conservation Plan. We offer the following comments and recommendations regarding project-associated biological impacts based on our review of the DEIR and the project applicant's participation in the Orange County Central and Coastal Subregions Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP).

The Department and Service are responsible for the protection and conservation of fish and wildlife resources and, respectively, are responsible for implementing the California Endangered Species Act and Federal Endangered Species Act. In 1991 the State of California adopted the Natural Community Conservation Planning Act to facilitate preparation of regional ecosystem-based conservation plans that allow for reasonable economic growth while more effectively protecting sensitive species and habitats than conservation efforts driven by the listings of individual species. In 1996 the County of Orange, the Wildlife Agencies, other participating jurisdictions and a number of participating landowners adopted the NCCP/HCP to address the conservation of the coastal sage scrub ecosystem and associated sensitive habitats and species in the Central and Coastal subregions of Orange County. The owners of the Dana Point Headlands participated[1] in this effort to address impacts of their anticipated development on coastal sage scrub, the endangered Pacific pocket mouse (*Perognathus longimembris pacificus*, "pocket mouse"), the threatened coastal California gnatcatcher (*Polioptila californica californica*), 5 sensitive plant species known from the Dana Point Headlands (Headland Plants), and 37 other species whose conservation was addressed by the NCCP/HCP.

28-1

[1]All NCCP/HCP commitments made by the previous owners of the Dana Point Headlands have been assumed by the current owners, Headlands Reserve LLC.

The DEIR provides a comprehensive discussion of the resources at the Dana Point Headlands and the requirements of the NCCP/HCP that pertain to the development of this property. However, based on the present development proposal, we would like to clarify and make recommendations to ensure consistency with the provisions of the NCCP/HCP as they relate to two species that occur on the Dana Point Headlands, the Pacific pocket mouse and Blochman's dudleya (*Dudleya blochmaniae blochmaniae*). 28-1

The NCCP/HCP has a number of provisions that apply to the disposition of the Pacific pocket mouse at the Dana Point Headlands. Among these provisions is a requirement that an approximately 22-acre preserve for the pocket mouse be established on the Dana Point Headlands for a period of 8 years (i.e., until July 2004). This temporary preserve was established to afford the Wildlife Agencies an opportunity to research what is necessary for the survival and recovery of the pocket mouse. Terms of the NCCP/HCP grant the Wildlife Agencies the opportunity to negotiate an option to purchase the temporary preserve area. If the Service determines at or prior to expiration of the eight-year period that translocation or captive breeding of the Dana Point Headlands pocket mouse population is not feasible and continuance of the preserve is necessary to ensure the survival and recovery of the species, the Service is obligated to take all steps within its legal authority to acquire the preserve area at or prior to expiration of the temporary preserve period. The Service is provided, through extension payments, up to four one-year extensions to the temporary preserve period to continue to pursue those steps within its legal authority to acquire the preserve area. In the absence of an option agreement, the NCCP/HCP allows the Service to pursue other means to see that the property is acquired for conservation purposes, including, for example, offering to exchange land of equal value to the temporary preserve that is acceptable to the landowners. If the Wildlife Agencies do not acquire the temporary preserve before the temporary preserve period expires (as it may be extended if applicable), take of all "Identified Species" including the pocket mouse is permitted within the former preserve area in accordance with the Planned Activities anticipated by the NCCP/HCP for the Dana Point Headlands. 28-2

In August of 2000, the Dana Point Headlands landowners approached the Wildlife Agencies with a proposal by a non-profit foundation to establish a trust that would provide for the permanent preservation of the temporary preserve area and two additional acres (hereafter referred to as "Conservation Area") for the following purposes: to maintain the temporary preserve as a natural open space open to the public; to protect and conserve threatened and endangered species and their habitat on the Headlands, particularly including the pocket mouse; and to protect other natural flora and fauna on the land. Since that time the Wildlife Agencies have worked with the landowner and the non-profit foundation to ensure that the Trust Agreement is consistent with the NCCP/HCP and appropriately protective of the pocket mouse. Based on the language of the Trust Agreement, the Wildlife Agencies determined that the proposal is consistent with the provision of the NCCP/HCP that allows the Service to use alternative means to see that the property is acquired for conservation purposes. The Trust Agreement effectively abrogates the need of the Wildlife Agencies to take steps to acquire the temporary preserve.

Of potential concern to the Wildlife Agencies has been granting public access to the Conservation Area due to the small size and isolated nature of the pocket mouse population. Measures incorporated in the trust agreement to ameliorate the effects of granting public access to the Conservation Area include establishing an endowment to provide for management of the Conservation Area and its habitat, preparation of a management plan, installing and maintaining 28-3

fencing around the Conservation Area, and restricting public access to a single perimeter trail during daylight hours. The landowner has agreed to work with the Wildlife Agencies to align the fence and perimeter trail in locations that will minimize impacts to coastal sage scrub and the pocket mouse. We also anticipate and recommend adoption of a management plan that will prohibit the public from bringing dogs, cats and other pets into the bounds of the Conservation Area. Based on implementation of these measures, the present proposal exceeds the level of conservation provided for the pocket mouse at the Dana Point Headlands under the NCCP/HCP. 28-3

As an additional measure, because the pocket mouse is a nocturnal species that could become more vulnerable to predation in association with increased night-time light levels, we recommend the City of Dana Point require preparation of a lighting plan for the overall project that will ensure that all project lighting, including all external residential and street lighting, is shielded away from the Conservation Area. 28-4

With respect to Blochman's dudleya, the DEIR references and proposes to implement a condition from the NCCP/HCP Implementation Agreement that requires the landowner to carry out a translocation plan for Blochman's dudleya plants that will be directly impacted by project grading. This condition requires the Department to identify the relocation site and secure all permissions required to conduct the relocation, if any, at its expense, within one year of receipt of a request from the Dana Point Headlands landowners to identify the relocation site. To date, the Department has not been requested, nor has it identified the relocation site. 28-5

The DEIR proactively proposes some potential translocation sites within the Hilltop Park and Greenbelt Linkage component of the project. However, the Wildlife Agencies have not had an opportunity to review the suitability of this area for translocation. We therefore recommend that Project Condition 3-7 specify that a relocation site will be specified for Blochman's dudleya in consultation with the Department.

We believe the proposal by the Headlands landowners to create a permanent preserve at the Dana Point Headlands and provide for the ongoing management of that preserve through a fully-funded endowment is a positive one for the conservation of the pocket mouse. We also find that this proposal is consistent with the provisions of the NCCP/HCP. 28-6

Thank you for the opportunity to comment on the Headlands Development and Conservation Plan DEIR. If you have any questions regarding our comments or any aspect of the NCCP/HCP please contact William Miller of the Service at (760) 431-9440 or Warren Wong of the Department at (858) 467-4249.

Sincerely,

Karen A. Evans
Assistant Field Supervisor
U.S. Fish and Wildlife Service

William E. Tippets
Environmental Program Manager
California Department of Fish and Game

cc: Sanford Edward
Andrew Hartzell
Wilbur Layman

28. RESPONSES TO COMMENTS FROM U.S. FISH & WILDLIFE AND CALIFORNIA DEPARTMENT OF FISH & GAME

28-1 Comments noted. The commentor states that "the DEIR provides a comprehensive discussion of the resources at the Dana Point Headlands and the requirements of the NCCP/HCP that pertain to the development of this property." No response is necessary. Responses to the comments regarding the Pacific pocket mouse (PPM) and Blochman's dudleya follow.

28-2 Comments noted. No response is necessary.

28-3 Comments noted. The HDCP specifies standards for barriers, signage, and lighting at the margin of the Headlands Conservation Park, and along trails, to protect wildlife habitat, exclude unwanted animals, promote public education, and enhance public safety. The agencies' additional recommendations regarding adoption of a management plan prohibiting dogs, cats, and other pets in the Headlands Conservation Park have been addressed in the HDCP and will be considered in more detail as part of the management plan for the PPM Preserve.

28-4 Comment noted. As stated on page 4.1-27 of the DEIR, the Development Guidelines prepared for the HDCP include lighting guidelines for specific areas of the HDCP. No lighting is proposed in PA 7, the PPM Park. Page 4.1-27 of the DEIR references lighting restrictions. (Refer to pages 4-86 and 4-95 of the HDCP regarding lighting guidelines for PA 6 and PA 9).

28-5 Revision to Project Condition (PC) 3-7, Translocation of Blochman's Dudleya, is not necessary to address translocation of the plant on the project site. The identified sites are potential translocation areas subject to consultation with CDFG. Consistent with the provisions of the NCCP/HCP Implementation Agreement, the applicant will consult with CDFG regarding the potential for translocation on site.

28-6 Comment noted. The agencies' acknowledgement of the project's consistency with the provisions of the NCCP/HCP is appreciated. No additional response is necessary.

29. COMMENTS FROM JAMES SLARK

COMMUNITY DEVELOPMENT
Nov 19 2 38 PM '01

COMMENTS TO THE HEADLANDS' EIR

Submitted by: James Slark
33672 Blue Lantern #3
Dana Point, CA 92626

Date: November 19, 2001

Summary:

I believe that the conclusions put forward within Transportation/Traffic section (4.13) are seriously flawed, to the extent that one may question the credibility of the entire document. In my opinion it is flawed in what it doesn't say as well as what it does say. My reasons for this opinion follow. 29-1

1. This study ignores traffic flows on Stonehill Drive and the Street of the Blue Lantern between Selva and Stonehill. See discussion. 29-2
2. The study references Dana Point CIP's to mitigate projected traffic problems while it totally ignores these while analyzing and projecting impacts of Headlands Project traffic flows. 29-3
3. The study implies that all traffic flowing to the I-5 will flow from the Headlands south on SR-1 (PCH). This assumption can be shown to be totally false and misleading. Redistribution of these traffic flows in turn will show extremely negative impacts for those streets that will in fact absorb the redistributed traffic. 29-4

References

Draft Environmental Impact Report, Vol II, APPENDICES 29-5

A. Existing Avg Daily Traffic (ADT) Exhibit 3-B, page 3-9
B. Project Avg Daily Traffic (PDT) Exhibit 5-C, page 5-6
C. Existing Plus Project Avg Daily Traffic Exhibit 6-A, page 6-2
D. Project Trip Distribution Exhibit 5-B, page 5-5
E. Build-Out Lane Requirements Exhibit 8-K, page 8-17

Discussion

1-A. This study fails to analyze traffic flows on Stonehill Drive, and on The Street of the Blue Lantern, specifically between Selva and Stonehill.

On any given day it may be seen that very significant traffic flows from Dana Point to the I-5 freeway north use the freeway interchange at the intersection of Stonehill Drive and Camino Capistrano. Over a period of more than an hour traffic backs up for over a quarter of a mile every weekday morning. The 29-6

intersection and the freeway on-ramp handle traffic flows smoothly and effectively; it may be concluded that they could handle a significant increase in flow.

29-6

Note that a Dana Point CIP will implement median strips on Stonehill; however, it will remain a four lane divided highway. (Ref E)

The Street of the Blue Lantern between Selva and Stonehill is classified 'Residential', and as such is limited to traffic speeds of 25 MPH. The street is about 36 feet wide, with traffic lanes only 10 feet wide north and south. DP General Plan policies state that as such traffic is supposed to be restricted to local flows; no through traffic is allowed.

In fact Dana Point government has failed to enforce speed limits on this street, and allows large volumes of through traffic, in violation of these policies. Residents suffer the impacts of these decisions; large numbers of children constantly present in daylight hours are severely in danger. There are many additional negative impacts.

29-7

In the morning and evening much of the through traffic on Blue Lantern can be shown to have a destination of the I-5 north at the interchange at Stonehill and Camino Capistrano. The city has refused to address this problem; even now the city is awaiting an analysis from the traffic engineer, pending for several weeks, even though one councilman thoughtfully noted that the matter should be expedited because of the danger to the children.

2-A. The study ignores Dana Point CIP's. Specifically, two have an impact on existing traffic conditions. The first addresses traffic flows through the central city. This CIP proposes reducing the number of traffic lanes on PCH (SR-1) within the central city area, and introducing lane parking. The intent is to slow down traffic flows on PCH through the city center. While this is a notable goal, the impacts of this are ignored in the analysis. The study does not specifically address the impact of this restriction on traffic flows, although the results may be included in the analysis numbers.

29-8

The second CIP builds a median on Selva Road, especially between Blue Lantern and Stonehill Road. The proposed median will significantly reduce the traffic-carrying capacity of the street by reducing available east-west lane widths to 12 feet. The city has already reduced the speed limit on Selva by twelve percent. It is difficult to understand why this change was made when the city will not enforce a twenty-five mph speed limit in a residential district.

29-9

The Project Trip Distribution (D) shows project increased flows of 6% on Selva from PCH, and 8% on Blue Lantern. It shows no increase from these streets

29-10

feeding to Selva, which is the natural flow. This is in line with what is expected from implementing the CIP on Selva (D). 29-10

The study totally ignores where this traffic will go. The only outlet is to Blue Lantern to Stonehill; directly into a street where traffic flows are now in violation of the General Plan, and where large numbers of children are constantly present. Also, this result shunts traffic directly to the Dana Hills High School area. 29-11

In fact the study probably ignores an additional impact as a result of the CIP on Selva. The reduction of the east-west lanes of traffic on Selva to the Stonehill to the freeway will be incentive for more traffic to flow onto Blue Lantern to Stonehill, as it is unregulated in traffic speed and volume of traffic flow. Because of this I believe the Existing Plus Project Avg Daily Traffic (C) significantly overstates the expected volume of traffic on Selva after implementation of the CIP. There will be further analysis on this later. 29-12

3-A. The study implies that all freeway-bound traffic flowing to and from the Headlands' Project will flow through the intersection of DP Harbor Drive and PCH. While this may be true for traffic going south on the I-5, it can be shown that northbound traffic will flow to Selva at PCH north to Blue Lantern, then to Stonehill then to the freeway north.

Traffic to/from the project to the I-5 north projected to use SR-1 (PCH) will encounter strong incentives to take an alternate route. One is that to get to the I-5 north on PCH will require motorists to pass through at least nine traffic lights. The same trip via Selva to Blue Lantern to Stonehill will require motorists to pass through two stop signs and five stop lights. One of the stoplights is a right hand turn and can be traversed quite easily (run). That particular light is at the intersection of Blue Lantern and Stonehill. That is, at Dana Hills High School. 29-13

Another disincentive for traffic to use PCH is the impact of the CIP as discussed above. Traffic speeds will be slowed significantly from what they currently are. No such restrictions currently exist on Blue Lantern; traffic speeds are very high, and apparently not enforced.

The study ignores another factor when it does not address the number of lanes of traffic in the city center. PCH traffic is shown as 4D and 5D on PCH below the intersection of Green Lantern and PCH (E). It does not show the number of lanes from the intersection of Blue Lantern and PCH to Green Lantern. The CIP proposes to reduce the number of lanes of PCH in this area; why isn't it addressed? 29-14

Conclusion

Based on the analysis presented above, I believe the Project Avg Daily Traffic percentage estimates for Selva between PCH and Blue Lantern, and on Blue Lantern north of PCH (total 14%) are substantially understated. A more probable estimate might be a total of in excess of 20%, or .2 *4599 = 920 trips total, based on redistributed traffic flows as a direct result of accurate analysis of PCH flows to the I-5 north. 29-15

In addition, the above analysis suggests an actual reduction in traffic flow on Selva east of Blue Lantern as a result of the implementation of the CIP. A conservative estimate of increase in traffic on Blue Lantern might be 300 to 500 trips a day, although I believe the actual figure may be considerably higher than that. Anyone want to make a guess why the city would want to reduce traffic on one of the most important feeder streets in the city? With little visibility in this study? 29-16

This totals out to be from 1220 to 1420 additional trips per day directly to Blue Lantern. This increase is on a street the city has chosen to ignore in the analysis of substantial traffic impacts.

I believe the issues I have brought forward can lead anyone to conclude the study is indeed flawed. I don't propose that this is a result of less than due diligence on the part of the engineering firm that did the study; I personally believe that the flaws are at least in part due to the data, assumptions and expectations provided by the city of Dana Point. 29-17

29. RESPONSES TO COMMENTS FROM JAMES SLARK

29-1 The Transportation/Traffic Section of the Draft EIR is based upon a traffic study that has been reviewed by the City of Dana Point and upon established procedures and evaluation methodology. The traffic study included updated traffic counts and an evaluation of existing, short-term, and build out traffic impacts of the project based upon the City of Dana Point's Adopted Traffic Model. The traffic model was based upon the City's build out General Plan and has been utilized for other projects, including the City's General Plan.

29-2 The traffic study did review traffic impacts on the Street of the Blue Lantern north of Pacific Coast Highway. Based upon the relatively low traffic projections for this link, no level of service problem is anticipated for this roadway segment. Reviewing the segment of Blue Lantern north of Pacific Coast Highway, the projected build out with project traffic volumes is 3,000 ADT. This projected traffic volume is substantially under the Level of Service (LOS) C capacity of Street of the Blue Lantern at 5,000 ADT. This information is contained on Table 8-2, Page 8-5 of the traffic study (Appendix I). Short-range with project roadway segment analysis with the project is shown in Table 7-4. Again, the projected traffic volume with the project is 2,200 ADT, which is substantially under the LOS C capacity of that roadway. Further to the north, the project traffic is reduced substantially, and lower project impacts would be anticipated.

29-3 The traffic study identified roadway improvements necessary to accommodate both short-term and long-term build out traffic conditions within the study area. Where there are potential CIP projects, they are discussed in the Transportation/Traffic Section as a potential means of future mitigation. The traffic study evaluated traffic conditions based upon the existing geometrics at study area intersections at the time of the "Notice of Preparation" for the DEIR.

29-4 The project trip distribution is based upon the City of Dana Point's Adopted Traffic Model. This model takes into account the shortest time route for various destinations throughout the study area. Trip distribution patterns are not an assumption, but an output from the traffic model, which evaluates various land uses and circulation routes throughout the study area.

29-5 Comment noted.

29-6 See Response to Comment 29-2.

29-7 The projected traffic flow on Street of the Blue Lantern between Selva Road and Stonehill Drive for build out conditions is approximately 3,000 ADT. This is substantially below the City's LOS C guideline (5,000 ADT) for this type of street. As a public street, it is not restricted to local or through traffic. However, the traffic calming measures and the narrower street width would naturally discourage through traffic from using it as a bypass route in lieu of other more substantial arterial highways.

Enforcement of speed limits in the City is under the City's control. This is an existing issue that must be addressed by local law enforcement and City policy.

A review of the traffic calming measures that can be implemented on the Street of the Blue Lantern is ongoing by the City. All available methods will be reviewed and analyzed as part of the City's ongoing review of the local street system within Dana Point.

The various CIP projects that the City is proposing are not being proposed or are required for the Headlands project. Separate traffic evaluations have been conducted in conjunction with the CIP projects to establish the potential benefit and impacts of such changes in roadway geometry, including reducing the number of traffic lanes and introducing parking lanes.

Again, the proposed median on Selva Road is not being proposed by the Headlands project, and a separate CIP project is being planned by the City. The introduction of a median would not reduce roadway capacity as long as the number of lanes is maintained. At this time, no lane reductions are being proposed for Selva Road north of Pacific Coast Highway. It should be noted that the 12 foot lane widths are standard lane widths for through lanes.

29-8 The Traffic Study was based upon the existing lane configurations and the City of Dana Point General Plan Roadway Classifications. The Traffic Study indicates that on PCH and Del Prado there is a significant amount of additional capacity available from Street of the Golden Lantern to Street of the Blue Lantern to allow for a restriction in through lanes in this segment. Changes to the existing and proposed circulation network would be addressed in the specific Dana Point Capital Improvement Program (CIP) project for these changes. A Traffic Study of the CIP project has been proposed in a separate document.

29-9 Refer to Responses to Comments 29-3 and 29-8 above.

29-10 The traffic percentages referenced in Comment 29-10 represent the direction of project traffic distribution to the circulation system, as noted on Exhibit 5-B, Page 5-5 of the traffic study (Appendix I). It does not mean that the project increases these street volumes by six or eight percent, it only indicates that six or eight percent of the project traffic would utilize these roadways. Again, the project does not contribute significant traffic to the side streets along these roadways.

29-11 It is not true that the only outlet of the project is to Blue Lantern to Stonehill Drive. There are numerous access roads to the project to distribute traffic within and outside the City of Dana Point. These roadways include Pacific Coast Highway, Niguel Road, Crown Valley Parkway to the north, and Street of the Golden Lantern and Del Obispo Street to the south. Some project traffic will use Street of the Blue Lantern; however, as indicated in the traffic study, projected traffic volumes on Street of the Blue Lantern are still projected to be under the City's LOS C standard for this type of roadway.

29-12 In discussions with the City, plans for the Selva Road CIP project have not been finalized or adopted by the City. The proposed improvements are related primarily to the installation of a

raised median with landscaping and sidewalk improvements. There are no plans to reduce the number of through lanes along Selva Road north of Pacific Coast Highway.

29-13 The project trip distribution is based upon the Dana Point Traffic Model. This model takes into account the shortest time path and various destinations within and outside of the City of Dana Point. The Traffic Model does take into account congestion and does reroute traffic accordingly. The detailed select zone assignments indicate that some traffic utilizes the Stonehill Drive connection; however, the majority of traffic bound for the I-5 Freeway utilizes the PCH connection. In establishing traffic distribution among such roadways, the classifications of the roadways are taken into consideration. PCH and the freeway connection are classified at higher capacity levels than Stonehill and, therefore, would be assigned more traffic. The information provided in the comment does not affect the traffic distribution in the model. Therefore, the results of the traffic analysis remain valid.

29-14 The Traffic Study was based upon the existing and proposed City of Dana Point Master Plan Circulation System. The CIP Traffic Study (Town Center Traffic Study, July, 2000) has addressed the change in lane configuration that may occur as a result of reducing the number of lanes on Pacific Coast Highway and Del Prado. As shown in the traffic report, there is excess capacity along several segments of Pacific Coast Highway from Street of the Golden Lantern to Street of the Blue Lantern that could accommodate the reduced number of through lanes on this highway. The proposed Headlands project is not proposing to reduce the number of lanes along Pacific Coast Highway or Del Prado, and this is more appropriately addressed in the CIP traffic studies.

29-15 The project distribution as previously noted was based upon the Dana Point Traffic Model, which considers the future build out of the City of Dana Point along with the General Plans of other adjacent cities and the County of Orange. Even if the distribution to Selva Road and Street of the Golden Lantern were increased by six percent, this would represent a maximum of 276 ADT to be distributed between these two roadways. Assuming the same portional distribution as the traffic model has projected, this would add an additional 118 ADT to Selva Road and 158 ADT to Street of the Blue Lantern. This would represent only minor increases in traffic on Selva Road and Street of the Blue Lantern based upon the build out project traffic projections as shown in the Traffic Study. Selva Road would increase from 10,000 ADT to 10,118 ADT and Street of the Blue Lantern would increase from 3,000 ADT to 3,158 ADT. These do not represent significant changes in the volume and can be accommodated by the capacity of these roadways.

29-16 As stated in Response to Comment 29-15, even if there were an additional distribution of traffic to Selva Road and Blue Lantern, only minor increases in traffic would occur. The commentor mentions an actual reduction of traffic flow on Selva Road and Blue Lantern. The build out traffic volumes identified in the Traffic Study do show increases in comparison to existing conditions on both Selva Road and Blue Lantern as a result of City wide regional growth and the proposed project. As noted above, only a minor increase in traffic from that previously projected would occur with the suggested redistribution of traffic to Selva Road and Street of the Blue Lantern.

29-17 The traffic study has followed recognized procedures and methodologies in evaluating the traffic impacts from the project. The traffic study was based upon the City's Adopted Traffic Model, which has been utilized for the City's General Plan and other developments throughout the City.

30. COMMENTS FROM CHRISTOPHER J.P. NICOLL

THE NICOLL
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RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 19 2 58 PM '01

November 19, 2001

(HAND DELIVERED)

Edward M. Knight
Community Development Director
THE CITY OF DANA POINT
33282 Golden Lantern
Dana Point, California 92629

Re: ***Comments re Draft Environmental Impact Report ("DEIR") of Headlands Development and Conservation Plan ("HDCP"). SCH# 20011071015.***

Dear Mr. Knight:

I represent Ms. Marketta Gassel, who resides at 34555 Scenic Dr, Dana Point CA, which address is adjacent to the above referenced DEIR. As such, my client is a "beneficially interested" person under *Code Civ. Proc.* § 1086, and has standing as a potentially "aggrieved" person under *Pub. Res. Code* § 30801, and other applicable statutes.

I.
INTRODUCTION

30-1

My client resides in the so called "Southern Residential Enclave" (DEIR 4.9-61.) Her home is on the South-Easterly most lot, and as such, she is the closest property owner to the proposed development in that area. The following comments and objections are made, as follows;

1. **Cumulative Effect of Overcrowding and Overuse by the Public in a Single Area.**

   The extensive proposed development concentrated in the immediate proximity of my client's existing residential property, is in violation of *CEQA,* the developer's proposed guidelines and *California Public Resources Code* § 30212.5, insofar as the "public facilities, including parking areas or facilities" are not "distributed throughout an area so as to mitigate against the impacts of . . . overcrowding or overuse by the public of any single area." (See HDCP Figure 4.4.8 and 4.2.3., attached as Exhibits "A" and "B".)

30-2

2. **The "DEIR" Is Improperly Vague as to the Proposed "Vacation" of the Easement on Scenic Drive, and Preservation of Existing Biological Resources. [*County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 192-193, 139 Cal. Rptr. 396.**

It remains vague and unclear which portion of Scenic Drive that the Developer proposes to be vacated and added to the Headlands Conservation Park. A 30' access road is proposed, possibly comprising the southern half of the current right-of-way. This means the paved driveways, which required and received building permits in 1984, would be removed. Countless trees and plants of many varieties, which have been maintained for over 20 years, and which also serve as a natural and aesthetically pleasing buffer, would be forcible removed. 30-3

3. **The "DEIR" Is Improperly Vague as to the Any Proposed Set-Back of Trails and Outlook Points.**

The DEIR is absolutely devoid of any reference to any set-back limitations as to the pedestrian paths or overlooks and the existing residential dwellings, and as such, is in violation *California Public Resources Code* § 30214(a), which mandates the "need to provide for the management of access areas **so as to protect the privacy of adjacent property owners**" (Emphasis added.) 30-4

Therefore, pursuant to *CEQA*, *The Coastal Act* and all other applicable authority, this party respectfully offers the following comments and objections to the DEIR, as well as the following Proposed Mitigation Measures, which could easily be obtained without compromising the Developer's project or open space requirement, as follows:

II.
COMMENTS/OBJECTIONS

1. **CUMULATIVE EFFECT OF OVERCROWDING AND OVERUSE BY THE PUBLIC IN A SINGLE AREA.**

The extensive proposed development concentrated in the immediate proximity to my client's existing residential property, as discussed below, violates *The Coastal Act, CEQA* and the developer's own proposed guidelines. (See HDCP Figure 4.4.8 and 4.2.3., attached as Exhibits "A" and "B".) 30-5

A. Supporting Facts:

1. The Proposed Harbor Point Park accommodates several visitor recreation facilities, bluff top trails, picnic areas, scenic overlooks and kiosks. The developer proposes a cultural art center, to the south of my client's property, within minimum distance of 50 to 60 feet from said residence (DEIR 4.9.-60; HDCP 3-31, tble 3.4.7.) with trails and scenic lookouts even closer (see Fig. 3.4, 3.55 HDCP/EIR/Fig. 4.5.2 HDCP; See Exhibit "C".) These trails and look outs have no setbacks to my client's property line. There is no buffer description between Harbor Point Park and the Southern Enclave.

2. The Developer proposes to build a Nature Interpretive Center within 50-100 feet of my client's property.

3. The Developer proposes to eliminate Scenic Drive at the southeast corner of my client's property, with a traffic circle. Scenic Drive currently consists of a 60' right of way. This traffic circle serves as an entrance to the proposed new parking lot, the Nature Interpretive Center and an additional access to adjacent parks, open space and trail system. This traffic circle also serves as a turnaround for the rest of Scenic Drive and Harbor Point Park

30-6

4. The Developer also proposed approximately 25 parking spaces next to the Nature Conservation Park, which is within 50 to 75 feet of my client's property (fig 3.4 HDCP/DEIR). In addition, there is considerable additional parking lining Scenic Drive, seaward within 10-20 feet of my client's property.

5. The Developer proposes a Seaside Inn within 100-200 feet of my property. (See Fig 4.4.8 HDCP; Fig. 3.4 EIR.)

6. The Developer plans other public facilities within close proximity to my client's existing residence, including a Maritime Historical visitors' center in close proximity, and a veterans memorial and several lookout points and public trails (4.4.8 HDCP).

7. The concentration of above referenced parking and visitor development is in the immediate vicinity of my client's property, and the unregulated substantial increase in pedestrian and tourist activity presents no safeguards as to the time, place, and manner of public access to the area so as to protect the privacy of my client and any adjacent property owners.

B. Coastal Act Violations

It is undisputed that: "The project is entirely within the Coastal Zone, as defined by the California Coastal Act." (HDCP 5-1.)

1. Overcrowding and Distribution of Public Facilities, Including Parking

California Public Resources Code § 30212.5, requires as follows:

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

30-7

It is clear that the primary concentration of public parking and visitor development is in the immediate vicinity of my client's property. In violation of *California Public Resources Code* § 30212.5, the "public facilities, including parking areas or facilities" are not "distributed throughout an area so as to mitigate against the impacts of . . . overcrowding or overuse by the public of any single area."

2. Violation of the Privacy of Adjacent Property Owners

California Public Resources Code § 30214(a), requires as follows:

> "The public access policies of this article shall be implemented in a manner that takes into account the need to regulate **the time, place, and manner of public access** depending on the facts and circumstances in each case including, but not limited to, the following:
>
> * * *
>
> "(4) The need to provide for the management of access areas **so as to protect the privacy of adjacent property owners** and to protect the aesthetic values of the area by providing for the collection of litter." (Emphasis added.)

30-8

It is also clear that the major concentration of public parking and visitor development is in the immediate vicinity of my client's property, and that the unregulated substantial increase in pedestrian and tourist activity, is in violation of *California Public Resources Code* § 30214(a), in that there are no safeguards as to the time, place, and manner of public access to the area so as to protect the privacy of adjacent property owners.

C. Violations of California Environmental Quality Act (CEQA)

The same development proposals discussed above also violate the *California Environmental Quality Act* ("CEQA".) Of course, the Courts have consistently held that ***CEQA* is to be interpreted broadly so as to afford fullest possible protection to environment** within the scope of statutory language. *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal. 3d 247, 259, 104 Cal. Rptr. 761, 502 P.2d 1049 ; *City of Antioch v. City Council* (1986) 187 Cal. App. 3d 1325, 1330, 232 Cal. Rptr. 507 ; *People ex rel. Younger v. Local Agency Formation Com.* (1978) 81 Cal. App. 3d 464, 476, 146 Cal. Rptr. 400

30-9

1. Excessive Noise.

California Public Resources Code § 21002, states as follows:

> "The Legislature further finds and declares that it is the policy of the state to: (a) Develop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state. (b) Take all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and **freedom from excessive noise.** " (Emphasis added; See also *California Public Resources Code* § 21000(g), as to the intent of the Legislature that all agencies of the state government regulate such activities so that major consideration is given to preventing environmental damage, **while providing a decent home** and satisfying living environment for every Californian.)

30-10

2. Violation of Developer's Own Policies:

In addition to violating *CEQA* and *The Coastal Act*, the concentration of development adjacent to my client's existing residence violates the Developer's own plan designs. The DEIR states as follows:

> **"Effects on Existing Adjacent Land Uses.** Land use compatibility and operational conflicts **are considered significant if they lead to physical impacts on nearby properties** or persons living or working in the area. **Substantial nuisances**, such as significant unmitigated **increases in traffic**, **noise**, odor, or substantial incongruity and conflict (physical and visual) characterize such incompatibilities and conflicts with the adjacent land use." (DEIR 4.9-59; emphasis added.)

30-11

Once again, it is self evident that the proposed land use compatibility and operational conflicts in my client's case are significant, in that they will certainly lead to physical impacts on my client's property as well as nearby properties or persons living in the area, creating substantial nuisances, such as significant unmitigated increases in traffic, noise, odor, and substantial incongruity and conflicts (physical and visual) with the adjacent land use. 30-11

D. Cumulative Impact

In addition to discussing the direct environmental impact of a project, the courts have consistently held that an EIR must include a discussion of **cumulative impacts** when the project's impact is ``cumulatively considerable," as defined by 14 *Cal. Code Reg.* § 15065(c) . [See 14 *Cal. Code Reg.* § 15130(a) ; *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal. 3d 376, 394, 253 Cal. Rptr. 426, 764 P.2d 278 ; *Whitman v. Board of Supervisors* (1979) 88 Cal. App. 3d 397, 406-411, 151 Cal. Rptr. 866 ; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal. App. 3d 61, 198 Cal. Rptr. 634 ; *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal. App. 3d 421, 222 Cal. Rptr. 247 ; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 720, 270 Cal. Rptr. 650 .

Cumulative impacts are those that are ``individually limited but cumulatively considerable." [See *Pub. Res. Code* § 21083(b)[Deering's]; *Whitman v. Board of Supervisors* (1979) 88 Cal. App. 3d 397, 406, 151 Cal. Rptr. 866.] Cumulative effects are required to be evaluated in an EIR because ``one of the most important lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant, assuming threatening dimensions only when considered in light of the other sources with which they interact. ... CEQA has responded to this problem of incremental environmental degradation by requiring analysis of cumulative impacts." [*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 720, 270 Cal. Rptr. 650 (citing *Selmi, The Judicial Development of the California Environmental Quality Act*, 18 U.C. Davis L. Rev. 197, 244 (1984).] 30-12

Therefore, it is respectfully requested that the cumulative impact of all of the proposed development in the area of my client's property be taken into consideration when assessing the impact on this pre-existing residential property.

2. **THE "DEIR" IS IMPROPERLY VAGUE AS TO THE PROPOSED "VACATION" OF THE EASEMENT ON SCENIC DRIVE, AND PRESERVATION OF EXISTING BIOLOGICAL RESOURCES.**

A. **The Existing DEIR is Vague.**

My client has resided at 34555 Scenic Drive, Dana Point, since the 1970's. The DEIR states that with respect to the current 60' right of way: "The portion of Scenic Drive **that fronts** the residential enclave **will be vacated to a 30 foot wide right-of-way**, with the vacated portion converted to open space." (DEIR 4.9-18 & 4.9-19; emphasis added.) The current 60' right of way consists of approximately 20' of property which contains significant improvements, such as driveways, substantial old growth trees and foliage, water and other utility outlets, etc. The DEIR is vague, in that it is unclear whether the developer intents to leave these improvements and the mature natural buffers in their present state, or intents to move the right of way over said improvements which have existed for decades.

An EIR must contain a general description of the project's technical, economic, and engineering characteristics, and a statement of the objectives sought by the proposed project. [14 Cal. Code Reg. § 15124(b), (c) ; See *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 cal. App. 4th 20, 27, 82 cal. Rptr. 2d 398. **An accurate, stable, and finite project description is the sine qua non of an informative and legally sufficient EIR. The project must be described accurately to allow reviewers and decision makers to balance the project's benefits against its environmental costs, to consider mitigation measures, and to assess the advantages of the no-project and other alternatives**. [*County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 192-193, 139 Cal. Rptr. 396 ; see *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal. App. 3d 577, 592, 284 Cal. Rptr. 498 ; *Native Sun/Lyon Communities v. City of Escondido* (1993) 15 Cal. App. 4th 892, 909, 19 Cal. Rptr. 2d 344.]

30-13

B. **Prior Approved Plans Were Not Vague, and Allowed for the Preservation of "Existing Mature Trees and Shrubs" Adjacent to the Property Line.**

In Section 4.9.1.1 of the DEIR entitled "Previous Project Sites Uses and Planning Approvals" it sates that: "In 1994 the City approved a specific Plan, Development Agreement, and certified a final EIR. . ." (DEIR 4.9-3.)

The 1994 Headlands Specific Plan SP91-03/4, stated that "Existing mature trees and shrubs within 40 feet of the property line shall be retained." (See excerpt attached as "D.")

30-14

Therefore, it remains unclear which portion of Scenic Drive that serves the existing residential,

that the Developer proposes be vacated and added to the Headlands Conservation Park. A 30' access road is proposed, possibly comprising the southern half of the current right-of-way. This means the paved driveways, which required and received building permits in 1984, be removed. Countless trees and plants or many varieties, which have been cared for over 20 years, and which also serve as a natural and aesthetically pleasing buffer, will be forcible removed. 30-14

3. **THE "DEIR" IS IMPROPERLY VAGUE AS TO THE ANY PROPOSED SET-BACK OF TRAILS AND OUTLOOK POINTS.**

A. **The Existing DEIR is Vague.**

The DEIR is **absolutely devoid** of any reference to ant set-back limitations as to the pedestrian paths and the existing residential dwellings.

Once again, **an accurate, stable, and finite project description is the sine qua non of an informative and legally sufficient EIR. The project must be described accurately to allow reviewers and decision makers to balance the project's benefits against its environmental costs, to consider mitigation measures, and to assess the advantages of the no-project and other alternatives**. [*County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 192-193, 139 Cal. Rptr. 396 ; see *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal. App. 3d 577, 592, 284 Cal. Rptr. 498 ; *Native Sun/Lyon Communities v. City of Escondido* (1993) 15 Cal. App. 4th 892, 909, 19 Cal. Rptr. 2d 344.]

B. **Prior Approved Plans Were Not Vague, and Allowed for the Set-Back of Pedestrian Trails and Overlook Points.** 30-15

In Section 4.9.1.1 of the DEIR entitled "Previous Project Sites Uses and Planning Approvals" it sates that: "In 1994 the City approved a specific Plan, Development Agreement, and certified a final EIR. . ." (DEIR 4.9-3.)

The 1994 Headlands Specific Plan SP91-03/4, stated that "Bicycle/pedestrian trail adjacent to existing residences shall be located a minimum distance of 40 feet from the easterly property line and no overlooks or other public spaces shall be located adjacent to the property line." (See excerpt attached as Exhibit "D".)

C. **The Lack of Buffers or Set-Backs Violates the Developer's Own Project Design Policies.**

The HDCP states that "Policy 5.11" is to "Assure the Specific Plan for the headlands provides

buffers to achieve a compatible and enhanced relationship to existing surrounding land uses." (HDCP 4.9-21.)

As stated, the DEIR is absolutely devoid of any reference to any set-back limitations as to the pedestrian paths or overlooks and the existing residential dwellings, and as such, is in violation *California Public Resources Code* § 30214(a), requires as follows:

> "The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
>
> * * *
>
> "(4) The need to provide for the management of access areas **so as to protect the privacy of adjacent property owners** and to protect the aesthetic values of the area by providing for the collection of litter."

30-15

The DEIR is absolutely devoid of any reference to any set-back limitations as to the pedestrian paths or overlooks and the existing residential dwellings, and as such, is in violation *California Public Resources Code* § 30214(a), which mandates the "need to provide for the management of access areas **so as to protect the privacy of adjacent property owners**" (Emphasis added.)

III.
CONCLUSION
&
PROPOSED MITIGATION MEASURES

Therefore, in consideration of the foregoing, and pursuant to *CEQA*, the following Proposed Mitigation Measures, which could easily be obtained without compromising the Developer's project or open space requirement, are respectfully recommended, as follows:

1. Increase the minimum setback between public/visitor recreational facilities and existing residences to a minimum 150 feet.

2. Establish a minimum setback of public trails and lookout points to be built no closer than 100 feet to existing residences.

3. The Hilltop Park has a 100-feet greenbelt buffer between future residential and commercial uses, it is respectfully submitted that the same treatment should be rendered to the existing residential structures.

30-16

4. Insofar as the majority of the public/visitor recreational facilities and parking seem to be concentrated in proximity to existing Southern enclave and the Harbor Point Park, a more even distribution of public facilities should be obtained. For example, the Cultural Arts Center (or other public facility) could be moved to the Strand Vista Park, surrounded by ample parking, and/or the Nature Interpretive Center could be moved to the Hilltop Park. 30-17

5. Parking should be more evenly dispersed and located to the north of Nature Interpretive Center and north of Scenic Drive, and not seaward. In addition, limit hours of parking should be established. Excessive noise and vandalism is already common in the area. The impact of such noise from said proposed parking is not addressed in DEIR. 30-18

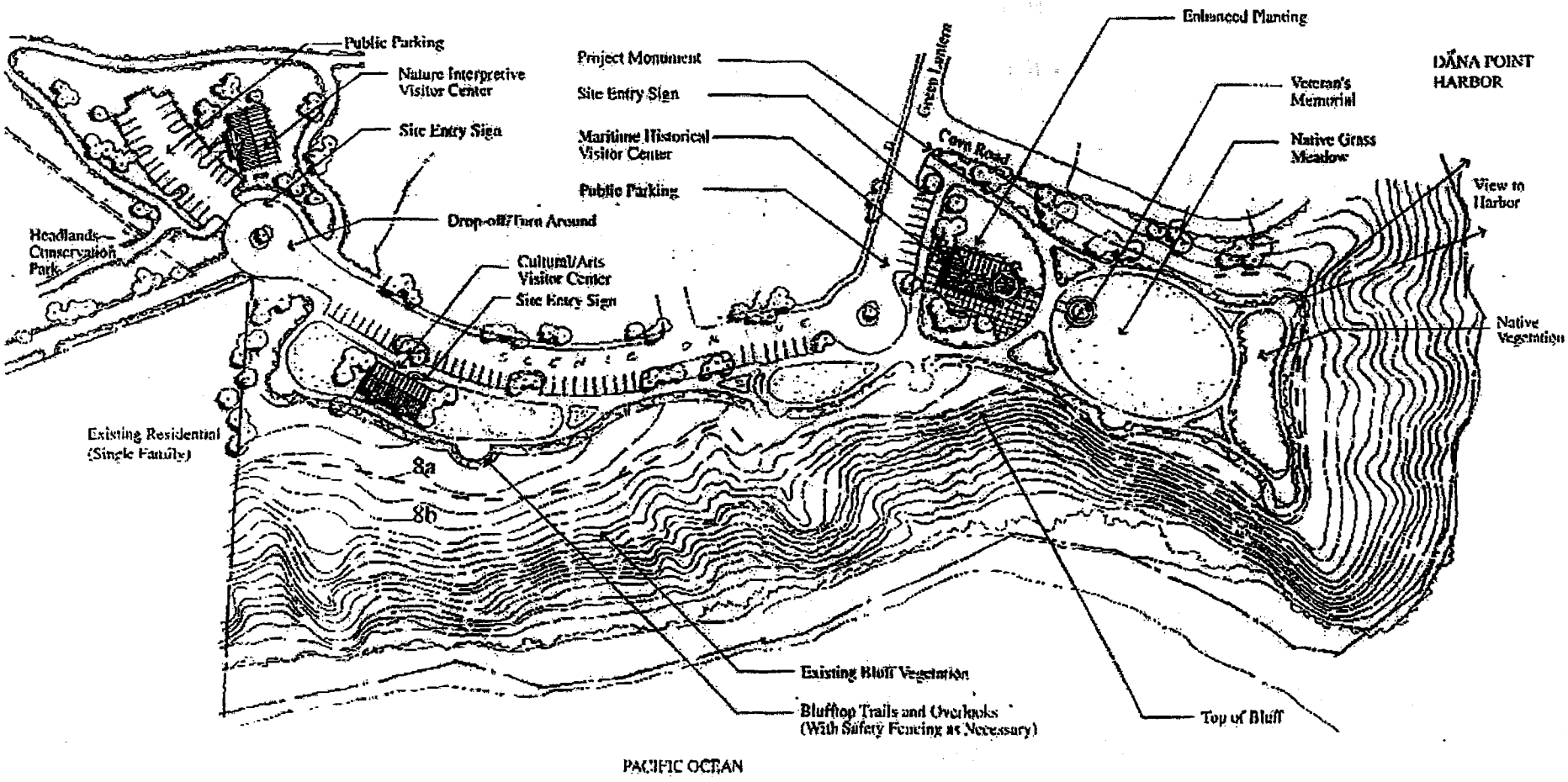
If you have any questions or comments, please so advise. Thanking you for your consideration, I remain,

Very truly yours,

THE NICOLL LAW FIRM

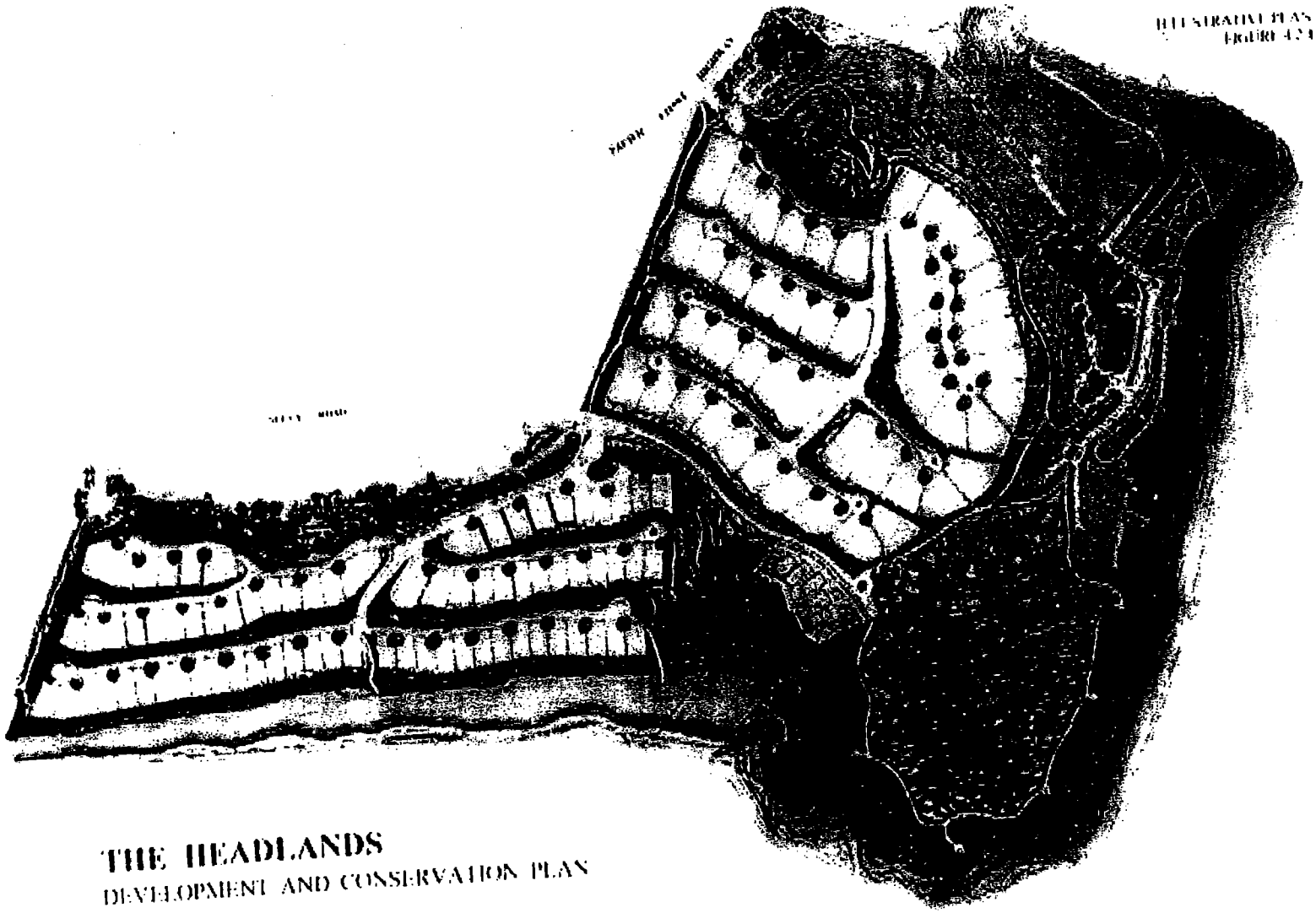
Christopher J. P. Nicoll
Attorney at Law

HARBOR POINT PARK CONCEPTUAL PLAN
FIGURE 4.4.8



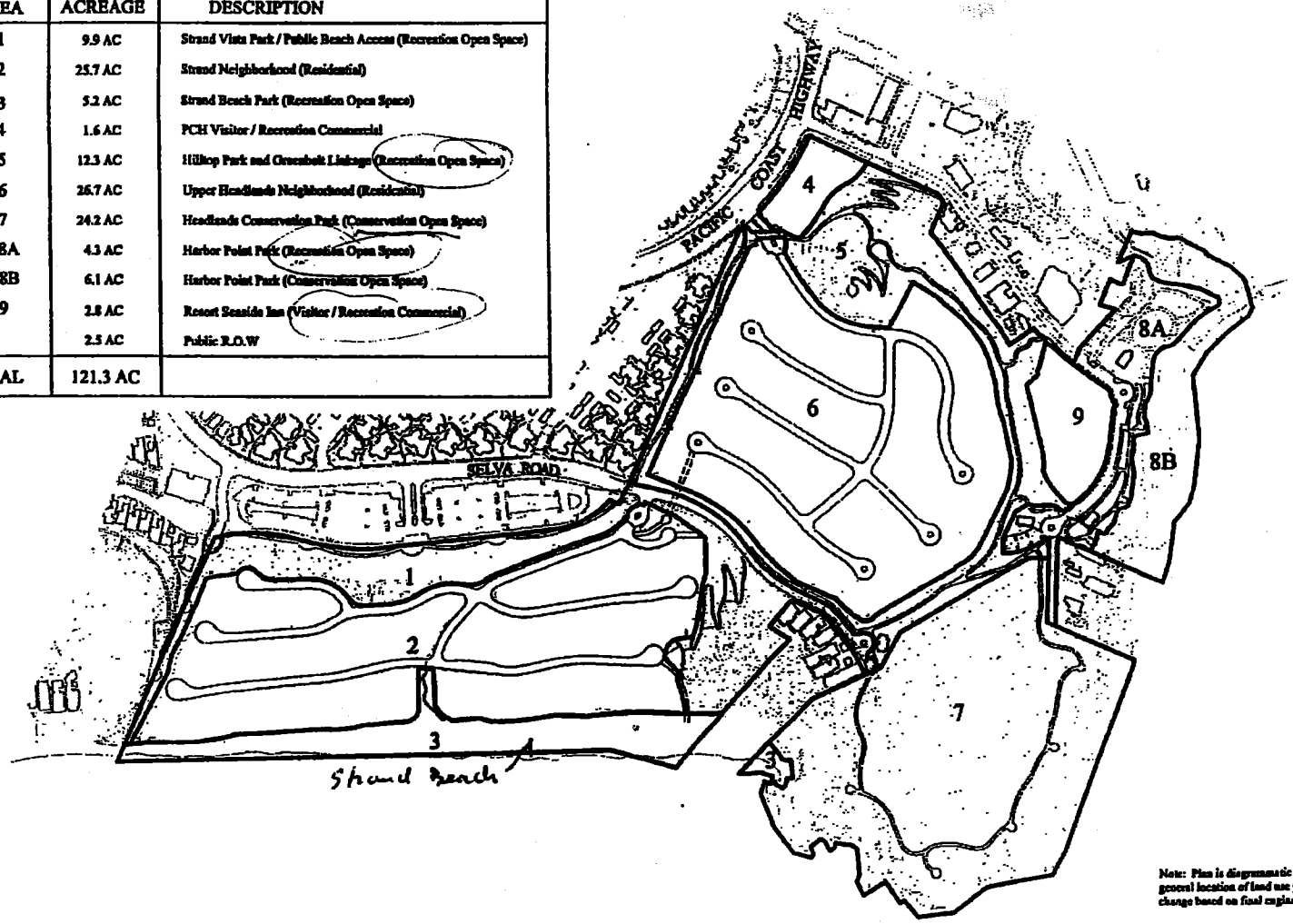
Note: Plan is diagramatic in nature and is subject to change based on final engineering, planning and design.

THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN



THE HEADLANDS
DEVELOPMENT AND CONSERVATION PLAN

PLANNING AREA	ACREAGE	DESCRIPTION
PA 1	9.9 AC	Strand Vista Park / Public Beach Access (Recreation Open Space)
PA 2	25.7 AC	Strand Neighborhood (Residential)
PA 3	5.2 AC	Strand Beach Park (Recreation Open Space)
PA 4	1.6 AC	PCH Visitor / Recreation Commercial
PA 5	12.3 AC	Hilltop Park and Greenbelt Linkage (Recreation Open Space)
PA 6	26.7 AC	Upper Headlands Neighborhood (Residential)
PA 7	24.2 AC	Headlands Conservation Park (Conservation Open Space)
PA 8A	4.3 AC	Harbor Point Park (Recreation Open Space)
PA 8B	6.1 AC	Harbor Point Park (Conservation Open Space)
PA 9	2.8 AC	Resort Seaside Inn (Visitor / Recreation Commercial)
	2.5 AC	Public R.O.W
TOTAL	121.3 AC	



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

FIGURE 3.4

LSA

N

0 300 600
FEET

SOURCE: SWA

I:\HLR130\G\Land Use Planning Areas.cdr (10/1/01)

HDCP EIR

Land Use Planning Areas

be added back into the Specific Plan as a permitted architectural style. Page 3 of the Errata (Attachment 1 of this report) for the Specific Plan indicates this revision. The Errata will be incorporated into the Final Specific Plan. Exhibit 20 in the Specific Plan, also part of the Errata, includes the Craftsman style.

2. A buffer between the proposed hotel and the existing single family residential enclave on Scenic Drive shall be provided. The proposed buffer will be located adjacent to the easterly property line of the existing residential enclave. The following is staff's recommendation on the buffer:

- Setback/Height Limit (measured from property line of existing residence):
  0'- 80': No structures permitted. Patios, architectural features and a bicycle/pedestrian trail are permitted.
  80'- 90': 12 foot height limit.
  90'- 100': 24 foot height limit.
  100' +: 35 foot height limit.

- Existing mature trees & shrubs within 40 feet of property line shall be retained.
- Bicycle/pedestrian trail adjacent to existing residences shall be located a minimum distance of 40 feet from the easterly property line and no overlooks or other public spaces shall be located adjacent to property line.
- Balconies, patios and other public gathering spaces at the hotel shall be minimized where they face existing residences.
- Pools, tennis courts and other recreational facilities at the hotel shall be oriented away from existing residences.

The proposed buffer is illustrated on Exhibit 34a of the Specific Plan Errata of this Agenda Report (Attachment 1) and, if approved by the City Council, will be included as part of Exhibit 34 in the Final Specific Plan (Scenic Drive Buffer Condition), which now illustrates only the proposed buffer between the northerly property line of the existing single family residential enclave and the proposed bicycle/pedestrian trail and residential 3.5-7 on the Headlands.

3. Add to permitted uses for PCH Visitor/Recreation Commercial: Combined civic and cultural uses.
   Pages 2, 5 and 6 of the Errata (Attachment 1 of this report) for the Specific Plan indicates this revision. The Errata will be incorporated into the Final Specific Plan.

4. Support for recommendations of the Planning Commission on November 30, 1993, except as noted above.

30. RESPONSES TO COMMENTS FROM CHRISTOPHER J.P. NICOLL

30-1 Comment noted. The determination of whether the named individual has standing is not relevant to the issue of the legal adequacy of the EIR.

30-2 The focus of this comment is not the legal adequacy of the EIR but rather the HDCP's compliance with local and state land use laws and policies. Nevertheless, a general response is provided. The development described in the HDCP does not violate CEQA in that CEQA does not regulate development but rather ensures information is available to the public and decision makers concerning the environmental impacts that may result from the proposed development. Similarly, the development proposed in the HDCP does not violate the HDCP but rather implements the policies and standards described in the HDCP. Section 30212.5 of the Coastal Act is one of the many Coastal Act policies that will be considered at the time the HDCP is reviewed by the City and the Coastal Commission. The EIR adequately discusses Section 30212.5 and other related Coastal Act policies, many of which have been incorporated into the City's General Plan, in Section 4.9 of the EIR. A discussion on pages 4.9-15 through 4.9-18 of the EIR specifically addresses compatibility of the proposed uses, including parking and other public facilities, with existing and proposed uses. The HDCP also includes a discussion of consistency with Section 30212.5 and other Coastal Act policies in Section 5, Table 5.1. More specifically, the HDCP does not locate public facilities and public parking in locations that will result in overcrowding or overuse by the public. The HDCP identifies three parking areas that will serve the public, the largest of which is located near Strand Vista Park, and not the three residences located on Scenic Drive. Moreover, the location of parking spaces along Scenic Drive and adjacent to the Nature Interpretive Center does not constitute a significant impact to the existing three residences and will not result in overcrowding or overuse by the public. The HDCP includes a variety of public features and facilities, many of which are not located near Scenic Drive, including the North Strand Beach Access, restroom and shower facility above Strand Beach, Strand Beach Park, Central Strand Beach Access, South Strand Beach Access, Strand Vista Park, and Hilltop Park. The HDCP also limits the individual size of the proposed Maritime Historical Visitor Center, Cultural Arts Visitor Center, and Nature Interpretive Center to 2,000 square feet each with a requirement that they comply with the HDCP's Design Guidelines in order to "complement the surrounding area." The HDCP requires these structures to be single story with a maximum height of 16 feet. The HDCP also requires that these facilities have a minimum 50-foot setback from proposed or existing residences, which is substantially more than is required in other parts of the City. The HDCP also allows for the selective planting of native trees "adjacent to the existing residential enclaves to provide a visual transition between the building architecture and surrounding landscape." Finally, the EIR concludes that there are no significant land use compatibility impacts that will result from the uses proposed in the HDCP, including parking and public facility uses, and existing adjacent residences. See also Response to Comment 33-18 and General Response 8.

30-3 The EIR is intended to provide an adequate description of the proposed project, which is described in more detail in the HDCP. A detailed exhibit of the proposed street vacations required to implement the HDCP can be found in Exhibit E to the Development Agreement, which is included as Section 6 of the HDCP. Removal of 20-year old trees or driveways located in the existing right of way of Scenic Drive is not considered a significant environmental impact.

30-4 The EIR provides an adequate description of the location of trails and overlooks adjacent to existing residential development. See Figure 4.12.3 of the EIR and Figures 4.4.2, 4.4.8, and 4.5.1 of the HDCP. There is no need, at this point in the development process, to be more specific about the location of the trails or overlooks or to establish a minimum setback from residential uses. There is no inherent conflict between publicly accessible trails and residential uses, just as there is no inherent conflict between publicly accessible sidewalks and residential uses. The HDCP includes policies that are intended to protect the privacy of adjacent property owners while providing appropriate public access to coastal resources, which also is a requirement of the Coastal Act. Such policies include signage and fencing requirements, restricting public access to designated trails, lookouts, and other public places, and establishing appropriate hours of daily operation. See Section 4.4 of the HDCP. See also Response to Comment 33-23.

30-5 See Response to Comment 30-2.

30-6 See Response to Comment 30-2.

30-7 See Response to Comment 30-2.

30-8 See Responses to Comments 30-2 and 30-4.

30-9 Comment noted.

30-10 Comment noted.

30-11 The comment correctly quotes the standard of significance described in the EIR. Contrary to the suggestion in the comment, however, the EIR concludes that there are no significant effects on existing adjacent land uses. See pages 4.9-60 and 4.9-61 of the EIR.

30-12 The EIR includes an adequate discussion of cumulative impacts for each potential environmental impact. The EIR concludes that the project will result in significant and unmitigated cumulative regional air quality impacts and significant cumulative noise impacts. The significant cumulative noise impacts, however, do not affect residences located on Scenic Drive. No other significant and unmitigable cumulative impacts are identified in the EIR.

30-13 See Response to Comment 30-3.

30-14 See Response to Comment 30-3. Prior development proposals for the property included within the area of the HDCP do not need to be analyzed in the EIR. The EIR does discuss an appropriate range of alternatives to the proposed project.

30-15 See Responses to Comments 30-3 and 30-4.

30-16 Comment noted. This comment does not address the adequacy of the EIR but will be forwarded to the decision makers for review and consideration.

30-17 Comment noted. This comment does not address the adequacy of the EIR but will be forwarded to the decision makers for review and consideration.

30-18 See Response to Comment 30-2 and General Response 8.

31. COMMENTS FROM DR. & MRS. LEWIS BRUGGEMAN

CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT

7 Gavina
Dana Point, CA 92629
NOV 13 3 10 PM '01
November 19, 2001

Mr. Edward M. Knight, Community Development Director
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Dear Mr. Knight,

Please accept these written comments as our response to the Draft Environmental Impact Report for The Headlands Development and Conservation Plan (HDCP).

PROJECT SITE AND ITS RELATIONSHIP TO THE RESPONDER:

The proposed development is a 121.3-acre site, which includes the Dana Point Headlands, a coastal promontory that forms a series of bluffs that overlook the Pacific Ocean. Specifically excluded from this site, but intimately affected by the development of this site, are the existing residential neighborhoods located on the Dana Point Headlands. In the HDCP these are referred to as the "single family residential enclave" located on the southern bluff and the "multi-residential enclave," located on the western bluff. These are privately owned and many of these homesites were developed between 30 and 75 years ago. My wife and I are owners of a single family home on the southern bluff.

PERTINENT PROJECT DESCRIPTION AS IT AFFECTS RESPONDER:

31-1

1. Developer proposes to build a Headlands Conservation Park, which will border our property on the north and west with a proposed public trail traversing the periphery of the Park. The minimum distance of the trails from private property boundaries is not stated. Figures are conceptual and subject to change.
2. Developer proposes to build a Harbor Point Park, which will include a parking lot and Nature Interpretive center within 150-200 feet of my property (EIR Figure 3.4).
3. The Developer proposes to terminate Scenic Drive in a round-about just east of the existing southern residential neighborhood. (EIR 4.13-19).
4. Developer proposes that the City vacate and deed over to the HDCP the northern ½ of the width of the City owned 60-foot wide public street right-of-way, which is currently the end part of Scenic Drive (EIR 4.13-19). This street constitutes the ONLY access to my property. The street will need to be moved because most of the current street lies within the space the HDCP proposes should become open space. The current street has served these three homes for the last 50 years. When vacated, this new open space land will be transferred to a non-profit conservancy. The proposed new "Access Street" will occupy the southern half of

the current right-of-way (this land will require development because it is not paved).

PROJECT PHASING. The site preparation phase is described in 4.10-11. This includes demolition, excavation, grading and infrastructure construction. The applicant states that remedial and excavation grading activities on site will be staged over a period of approximately 28 weeks. 31-1

PROJECT ISSUES AND CONCERNS

I. TRAFFIC AND CIRCULATION

LOCAL TRAFFIC VOLUMES ARE INCOMPLETE. Figure 4.13.3 shows existing average daily traffic volumes on affected streets. There are no volume measurements submitted for the Street of the Green Lantern south of Santa Clara, where the street width is extremely limited and is two-way, nor are there any for Scenic Drive or Cove Road. Projections made for traffic volumes on these roads due to the project development are based on a 1991 City of Dana Point General Plan Traffic Analysis. Given the substantial amount of development that has occurred since 1991, these estimates are unreliable and unlikely to include appropriate baseline calculations or comply with current modeling requirements. New trip generation rates of 919 trips per day are estimated on Scenic Drive. It is unclear whether the "dwelling units" ascribed to this calculation (4.13.D) allow for the unique location and popularity of the community facilities/visitor/recreation proposals that are planned. Figure 4.13.11 has no data referring to the existing Plan Project Average Daily Traffic after development to the above-mentioned streets. 31-2

As a result, the EIR is deficient and prevents the local residents from being able to assess the impact of the Project on their neighborhood streets. Green Lantern is a narrow, busy street that cannot be widened and it will need to serve the needs of a busy Seaside Inn, a Cultural Arts Center and a Maritime Historical Visitor Center as well as many other recreational park visitors. Further traffic studies are needed. 31-3

THE "ACCESS STREET" PROPOSED TO ORIGINATE FROM THE SCENIC DRIVE ROUND-ABOUT DOESN'T PROVIDE FOR ADEQUATE "ACCESS STREET" TERMINATION. The dead-end "Access Street" proposed for the existing southern residential neighborhood is described as 30 feet wide throughout, and is a minimum of 200 feet long. The public street codes for Dana Point require a circular turnaround for the termination of all public streets including without limitation this "Access Street". In addition, the Orange County fire codes require that a dead-end street longer than 150 feet provide for a fire-truck turnaround (Orange County Fire Authority Emergency Access Guideline B-09, January 31, 2000). Therefore the City Code requires this new "Access Street" to have a circular turn-around large enough to accommodate a fire truck at its termination point. The HDCP is deficient because it does not provide for a legal termination by current City standards for street design. My wife and I have recently submitted a Site Development Plan to the City for the remodel of the single-family 31-4

residence on our property. We have been required by the Department of Public Works to include a circular turn-around within the current 60-foot right-of-way as a termination for our street. Since the HDCP proposes that the City vacate the northern ½ of the 60 foot right-of-way, the circular turn-around required by the City for our Site Development Plan cannot be accommodated under the HDCP Plan. This is because it cannot fit within the newly proposed 30-foot wide "Access Street".

The following mitigation is recommended. The Department of Public works and/or the City Council should approve a "relief from public street requirements" for the termination of the "Access Street" as allowable under Dana Point Municipal Code Section 14.01.520. Since the street only serves as access to the three properties (a total of 5 lots), and will be surrounded by a limited access Headlands Conservation Park, it is reasonable and in the public interest to terminate the street with a 30-foot wide ending rather than the circular turn-around described above. This would still allow for a hammerhead fire-truck turn-around design, which would require only a driveway and the 30-foot wide new street for fire truck access. Additionally, it would allow for the vacated land to be dedicated to open space by the HDCP as originally planned. 31-4

DEVELOPER TO PAY FOR STREET ACCESS CONSTRUCTION COSTS

The EIR is deficient because it does not include as a mitigation measure that the developer will pay for the new "Access Street" construction including the cost of grading, paving, and the placement of all utilities underground including water, sewer, electrical, natural gas, telephone and cable. At best, the statement in 4.14-4 is ambiguous because the "project development" is stated elsewhere to exclude the "residential enclaves" (EIR 3-1). 31-5

Such mitigation is appropriate because it is the developer who will be necessitating the relocation of the Street. This mitigation measure should be specifically addressed in the EIR.

DESIGN OF NATURE INTERPRETIVE CENTER AND PARKING LOT UNSAFE

The Nature Interpretive Center exits into the Parking Lot and is the major pathway to the Headland's Nature Park. For all people who visit the Center and then who wish to progress to the pedestrian trail within the Park, they will cross a parking lot. This is not a safe design. Mitigation would be accomplished by placing the Nature Interpretive Center to the south of the parking lot. This would also help to control access to the Park. 31-6

II. NOISE

NOISE (CONSTRUCTION PHASE)

The EIR states that construction activities will occur from 7 AM until 8 PM Monday through Saturday. It furthermore states that different standards are used when considering the effects of noise during the "relaxation hours" of 7 PM to 10PM adding 31-7

5db to the measured noise level during this period. Despite local ordinances, we feel it is unreasonable to allow construction activities over 28 weeks or longer in the evenings during relaxation hours. This project will have significant adverse effects on local residents. The EIR states that noise level during the site preparation phase can be as loud as 99 decibels (4.10-11) at 50 feet and at least one of the residential homes is within 50 feet of the construction area. To place this level of noise in human context, 99 decibels is significantly louder than the sound of a freight train passing at 50 feet from our neighborhood homes for 28 weeks. Adding 5 dBA to this raises the number to over 100 dBA during evening relaxation hours. 31-7

Because of the protracted 28-week site preparation period, and the closeness of multiple residences to the construction site, suggested mitigation is to decrease the hours of work to not later than 7 PM Monday through Friday and 6PM on Saturday.

NOISE (PARKING LOT)

The project proposes to build a Nature Interpretative Center adjacent to the Scenic Drive cul-de-sac termination and the Nature Conservation Park. In addition, a parking lot with approximately 25 parking stalls is planned. This represents 40% of the parking planned for the Harbor Point Park. This parking lot is located between 75 and 300 feet from the existing residential neighborhood. The impact of noise from this parking lot is not directly considered in the EIR.

31-8

This parking lot will result in a permanent substantial increase in ambient noise levels to the existing neighborhood above levels existing without the project. The parking lot will have an impact on the privacy and quiet of the local neighborhood. Single and continuous event noise from slamming of car doors, radios blaring and loud voices can be detrimental and significantly impact the quiet enjoyment of the nearby residential neighborhood.

The size of the parking lot may be inappropriate to its anticipated use. It seems likely that the bulk of the public uses of the Park will be for visitation to either the Maritime Historical Center, the Cultural Arts Center, or simply to view the scenery from the promontory or other portions of Harbor Park to the south of Scenic Drive. It would seem reasonable to provide for more parking in that area than near the Nature Interpretive Center. 31-9

We suggest mitigation be accomplished by moving most of the parking to the Harbor Point Park region along the south or north side of Scenic Drive. Otherwise, many of the people who park "above" will only have to walk down the hill.

31-10

For any parking that remains above, the Nature Interpretive Center should be moved to the south, and the parking lot would then be located to the north of the Nature Interpretive Center providing a sound buffer from the existing neighborhood residents. Additionally, the parking lot could be narrower and stretch farther to the west, increasing

the distance from and decreasing the concentration of cars and subsequent impact of parking lot noise.

Additional mitigation would be accomplished by limiting access to this parking lot from 8 AM to sundown. These issues are inadequately addressed in the EIR. 31-10

NOISE (PUBLIC TRAILS)

The Developer proposes to construct public trails in the periphery of the Headlands Conservation Park and the Harbor Point Park. No minimum distances for these trails from nearby neighborhood homes is specifically stated. These trails will result in a permanent increase in ambient noise from the public compared to levels existing without the project. This will significantly impact the privacy and quiet enjoyment of the current residents. 31-11

Mitigation would be accomplished by placing these trails as far as practical from private property boundaries to provide adequate buffering. In view of the extensive open space proposed, this distance for trails should equal or exceed 100 feet.

NOISE: (PUBLIC MEETING CENTERS)

It is proposed that the Maritime Historical Visitor Center have an outdoor enhanced patio area suitable for outdoor receptions and picnicking. A paved patio area shall adjoin the Cultural Arts Center building (HDCP, 4-28). It is anticipated that outdoor functions at these locations will produce noise disturbance affecting the local area residents. These public meeting centers will result in a permanent increase to the existing residential neighborhoods of ambient noise from the public compared to levels existing without the project. 31-12

The HDCP conceptual drawing (HDCP Figure 4.4.8) shows the Cultural Arts Center to be located quite near to the existing residences (approximately 100 feet). The extensive length of the Harbor Point Park would allow this facility to be moved to the east, helping to mitigate public noise to the nearby residents.

It is suggested that there be an evening time limitation on these functions so that resulting noise to the local residents will be lessened. The EIR draft does not adequately address this issue.

III. AESTHETICS: VIEWS AND VISTAS ARE COMPROMIZED

The EIR does not adequately address the preservation of views of the ocean from the existing residential neighborhoods. The HDCP proposes to plant trees between the public path and my residence and this could have a substantial adverse effect on the scenic vista of the Park and Ocean from nearby homes (HDCP, 4-19). Since native trees do not exist in the Park, they would not be native to the Park. These would necessarily have a detrimental effect on the views from the surrounding residences. We feel that "the 31-13

need to provide a visual transition between the building architecture (only one home to the East) and the surrounding landscape" is insufficient to warrant the planting of trees in this region.

31-13

It is suggested that the Headlands Conservation Park retain its natural flora and appearance and not include the planting of trees. Views of the Park and Ocean to the West would therefore be preserved for all neighborhood residents as well as the general Public.

IV. TERRESTIAL BIOLOGICAL RESOURCES

NATURE PARK'S BIOLOGIC RESOURCES ARE COMPROMIZED

The planting of approximately 40 or more trees in the Headlands Nature Park (HDCP Figure 4.4.8) may have a substantial adverse effect through habitat modification of the endangered Pacific pocket mouse (Perognathus longimembris pacificus) and the threatened coastal California gnatcatcher (Polioptila californica californica). No trees are native to this Nature Preserve. The large and deeper trees roots would likely inhibit the burrowing activities of the pocket mouse and decrease available habitat. The presence of trees would decrease the availability of coastal scrub sage that is the required nesting habitat for the gnatcatcher and thereby decrease its habitat.

31-14

It is suggested that the Headlands Conservation Park be preserved in its most natural state, and any modification should exclude the planting of trees.

Respectfully submitted,

Dr. & Mrs. Lewis Bruggeman

Dr. and Mrs. Lewis Bruggeman
Property owners of 34525 Scenic Drive

31. RESPONSES TO COMMENTS FROM DR. & MRS. LEWIS BRUGGEMAN

31-1 Comment noted. Scenic Drive will terminate in a cul-de-sac, not a roundabout. See Response to Comment 17-2.

31-2 Numerous traffic volume counts were taken in conjunction with the preparation of the Traffic Study (see documentation in the Traffic Study). The Traffic Study focused on arterial highway roadway segments and intersections in the study area pursuant to CMP traffic guidelines. It is anticipated that Street of the Green Lantern traffic volumes south of Santa Clara are approximately 2,600 ADT when compared to other comparable traffic counts in the area. The build out traffic analysis was based upon the City General Plan Traffic Model as updated at the time of preparation of traffic study near 2001. The traffic model included all refinements in the traffic model since the 1991 City of Dana Point General Plan Traffic Analysis. The traffic model has taken into account the future projected land uses within the City as currently proposed in the City's latest General Plan. Appropriate trip generation rates have been developed as part of the modeling effort.

31-3 Refer to General Response 1 – Traffic on Green Lantern. The traffic study (Appendix H) and EIR Section 4.13 fully disclose existing, existing plus project, and future (cumulative) with project conditions. The impacts of the project in the future cumulative projects scenario are stated to be under the City's significant impact thresholds for Green Lantern (at PCH reported to be 2,600 ADT compared to the threshold of 5,000 ADT). Even though there is an acknowledged increase in future traffic resulting from the project combined with all other sources, it is clear from the analysis presented in the EIR that there is no significant impact on Street of the Green Lantern. See also General Response 1 and Responses to Comments 8-1, 8-2 and 24-4 through 28-7. The traffic study shows that Street of the Green Lantern will not be significantly impacted by the proposed project. The multifamily enclave will not use Green Lantern for access with the implementation of the project.

31-4 The proposed cul-de-sac at the end of Scenic Drive is designed with the turnaround capability as suggested in the comment, with an extension allowed connecting the existing drive to the enclave homes. The street ending will function as a cul-de-sac, allowing traffic to reverse direction while at the same time allowing access to either the parking lot or the residential enclaves. With stop signs installed at the appropriate locations, as well as directional signage, no traffic impacts are foreseen. Specific design criteria of the cul-de-sac configuration will occur during the tentative map process and during final improvement design. All designs for public improvements will follow appropriate engineering standards. Signage will be installed to prevent traffic from mistakenly heading toward the residential enclave. If determined necessary by the City of Dana Point or the Orange County Fire Authority, a hammerhead turnaround can be provided on the roadway fronting the enclave. The mitigation requested in the comment would benefit the homeowners within the enclave, and is not tied to any particular impact. The City cannot require mitigation when there is no significant impact.

Therefore, the inclusion of additional measures in the EIR is not appropriate. The comment will be forwarded to the decision makers for their consideration.

31-5 The project design accommodates the requested access connections to the enclave residences. Because there is no environmental impact associated with the issue of connection of the Scenic Drive access to the enclave drive, the City cannot require mitigation. Please see Response to Comment 31-4.

31-6 The comment focuses on design of pedestrian access to various trails, park areas, and the Interpretive Center. Pedestrian safety for persons using these areas will be addressed by the City at the time more detailed plans are submitted as part of the plan check review process. The general design of on-site pedestrian paths, trails, sidewalks, and parking lot ingress-egress has been addressed in a general way through site layout and the City review process. However, site specific pedestrian safe access issues, handicapped access, parking lot circulation, sidewalk location adjacent to parking areas, and trail crossing details are traditionally addressed during site plan review done as part of the plan check process, prior to issuance of a final map. Because pedestrian safety has not been identified as a significant environmental impact, the City cannot require mitigation. These issues are appropriately addressed at a later stage in the project design and plan check review process, controlled by the City prior to issuance of a final map.

31-7 Comment noted. The opinion of the author will be forwarded to the decision makers for their consideration. The City feels that the measures included to limit construction hours are adequate and are consistent with regard to any other construction permitted in the City. In addition, it is not clear that further limiting hours of construction would substantially reduce impacts.

31-8 See General Response 8.

31-9 This comment represents the opinion of the commentor regarding a preferred parking scheme, being proposed as a "reasonable" alternative. The suggested relocation of parking on the project site is not required to address any significant impact of the project. The comments are an opinion that will be forwarded to the decision makers for their consideration. Also, see Responses to Comments 31-8 and 31-10.

31-10 The suggested relocation of parking on the project site and the suggested operational restrictions are not required to mitigate a significant impact and, as such, cannot be required by the City as a mitigation measure. The ideas presented in the comment regarding alternative methods of providing parking will be forwarded to the decision makers for their consideration. Also, see Responses to Comments 31-8 and 31-9.

31-11 Comment noted. See General Response 8. The comment represents an opinion about the adequacy and efficacy of the planned buffer between the development proposed and existing residences and that a minimum buffer of 100 feet is desired/acceptable. This comment will be forwarded to the decision makers for their consideration. The comment does not provide any information or data that would change the analysis or conclusions of the EIR. Therefore, no further response is required by CEQA.

31-12 See General Response 8.

31-13 See General Response 10. The EIR addresses view preservation from public viewpoints and discusses changes to views resulting from implementation of the proposed plan. EIR Section 4.1 addresses the changes in view from ten viewpoints. The analyses include several before and after viewpoints to address visual and aesthetic impacts of the proposed project. The comment is oriented toward preservation of private views, indicating that the EIR does not address impacts to private views. The City of Dana Point does not have a view protection ordinance and, therefore, there are no significant environmental impacts that would result from changes to private views. This comment represents the opinion of the commentor regarding a preferred planting program, limiting location of trees to preserve an existing view and to maintain similar flora now in the Conservation Park. These comments do not address a significant environmental impact that would require mitigation. Rather, the preferences stated provide a different approach to the site plan and planting palette that may or may not address any environmental effect. The comment is an opinion that will be forwarded to the decision makers for their consideration.

31-14 See General Response 6. In addition, the commentor mistakenly refers to the number of trees depicted in Figure 4.4.8, which is not the conceptual plan for the Conservation Park but rather the Harbor Point Park. Figure 4.4.2 is the conceptual plan for the Conservation Park, which includes the habitat for the PPM, and that plan does not show a large number of trees being planted but rather indicates that native habitats will be protected and managed.

32. COMMENTS FROM EDWARD GALLAGHER

November 17, 2001

Mr. Edward Knight
Community Development Director
City of Dana Point
33282 Street of the Golden Lantern
Dana Point, Ca. 92629

RECEIVED
2001 NOV 19 P 3:40
CITY OF DANA POINT

Re: Draft Environmental Impact Report – Headlands Development & Conservation Plan: Oct. 2001

Dear Mr. Knight:

The following are some additional comments regarding the subject DEIR of October 2001:

(10) There appears to be a contradiction between Fig. 4.11.1 "Conceptual Grading Plan" of the Headlands Development and Conservation Plan" of 7/24/01 and the DEIR< Volume II, Sht. 3 of 4 "Hydrology Exhibit" regarding the height (elevation) of the proposed development's building pads adjoining (across the street from) the existing Northern residential Enclave Condos. 32-1

(11) In Appendix F of Volume II of the DEIR Hydrology Exhibit Sht. 1 of 4 ("Existing Conditions") shows the Headlands property across the street (Dana Strand Road) from the existing Northern residential Enclave to be approximately at the same level as the street and the pads of the residential Enclave. The fact is that the existing level of the Headlands property across the street from the Enclave is:
(a) Considerably lower than the street level for the stretch along the two Northernmost Condos
(b) Lower than the street level for the third Northernmost Condo except for a slight berm that extends only about 5 or 10 feet inward on the Headlands property (and was apparently created when the land was scooped off to make the street).
(c) Higher than the street level beginning with the fourth Northernmost Condo.
In all cases, the pad levels of the Condos are higher than the street.
This is an example of the sloppiness and lack of accurate detail and fact found throughout the DEIR which makes the DEIR untrustworthy as a basis for legislative decisions. 32-2

(12) In Appendix F of Volume II of the DEIR Hydrology Exhibit Sht. 3 of 4 (site developed condition) shows the Headlands property across the street (Dana Strand Road) from the existing Northern residential Enclave to be raised ten or more feet above the street level with a hillside that would drain runoff to the street and possibly to the existing Condos property. This would cause off-site siltation which would be a significant impact that is not mitigated or addressed by the DEIR. 32-3

(13) There appears to be a contradiction in Appendix F between the text of Secion 4, page 28 ("Beach Erosion") which claims five existing storm drain outlets on Strands Beach and Sht.1 ("Existing Conditions") which seems to show no existing storm drain outlets. 32-4

(14) The DEIR is very misleading with regard to drainage and erosion. For example:

Appendix F, Section 4, page 28: The protection against beach erosion described is insufficient to protect the beach against severe erosion. At present there **are not** five functioning storm drains on the beach. The vast majority of the undeveloped property over Strands Beach is presently porous, non-impervious sandy soil. Nearly all of the present runoff is in the form of underground seepage and surface flow. These flows serve to replenish the beach sand which is otherwise rapidly depleted by prevailing currents and storms. 32-5

(Cont'd on page 2 of 4)

Upon development, as presently proposed over Strands Beach, the present natural, widely-distributed runoff will be more severe due to the proposed homes and roads that will render most of the area impervious. In addition, the proposal would add the runoff from most of the upper Headlands (which is also proposed for development, making it similarly impervious) to this beachside runoff and would direct it to only three proposed storm drain outlets to flow in a concentrated manner onto and through the beach sands. 32-5

Rather than "minimizing the potential for erosion" as claimed in Section 3, page 27, the proposed development and storm drains will collect and concentrate all flows from most of the 121 acres, make erosion drastically worse than at present, and will ruin the proposed Public Beach.

(15) The proposed development in Planning Area 6 shows residential building pads at the same level as the existing ridgeline that goes from Dana Strand Road to the Hilltop (Fig. 4.11.1 "Conceptual Grading Plan" of the Headlands Development and Conservation Plan of 7/24/01). The proposed residences are to be allowed a height above pad level of eighteen feet. This will have a tremendously adverse impact on Aesthetics for two reasons:

(a) All existing Coastal views to the North and West will be cut off **from** the public trail proposed on the ridgeline. This is an extensive, existing trail winding thousands of feet up to the Hilltop from Dana Strand Road and has been routinely used (and the views enjoyed) by the public for decades. 32-6

(b) The existing public views **of** this notable and distinctive, historic coastal ridgeline itself will be disfigured from one direction, and obliterated from the other by homes built on the top of this ridgeline.

(16) DEIR Volume I, Fig. 4.1.6 purports to show a before-and-after view from the "Hilltop Park". However, there **are no** before-and-after development views shown from the ridgeline adjoining the Planning Area 6 development all the way from Dana Strand Road to the Hilltop. This stretch affords the vast majority of existing (unfenced and un-posted) view opportunities for the public from the Headlands and before-and-after views should be shown in several places along this extensive ridgeline both from the North and from the South. 32-7

(17) General Plan Policy 5.4 mandates support and coordinated development and maintenance of bikeways to make them compatible with neighbouring jurisdictions. The DEIR fails to address this subject in any substantial or satisfactory manner. 32-8

(18) The proposed Inn, together with other new facilities proposed to be accessed via Green Lantern will overburden traffic along this street and Cove Road. The proposed Inn should be re-located to the hillside stretch along Green Lantern beginning at Pacific Coast Highway. This Inn should be accessed either from Coast Highway or Green Lantern at Coast Highway to avoid further intolerable impacts upon the Green Lantern traffic. 32-9

The commercial centre, presently proposed for Coast Highway and Green Lantern siting, should be down-sized and relocated adjacent the Inn on its North side or combined with the Inn. 32-10

The proposed public facilities presently proposed to be located up along the Scenic Drive area should be re-located to the area presently proposed for the Inn with most of this hillside left in its present, natural condition. 32-11

(Cont'd on page 3:

The traffic impacts of the development, as presently proposed, in the critical Green Lantern – Scenic Drive areas are inadequately studied or detailed in the DEIR. 32-12

(19) Fig. 4.9.9, page 4.9.53 "Open Space for Public Health and Safety" shows two abrupt and unexplained departures of the border between the Headlands owners' land designated as "unaffected" and the area designated as "erosion constraints". All the areas of the North and South existing Residential Enclaves are designated as "erosion constraints" with no explanation or justification, even though the elevations and distances from the bluff line are identical to the Headlands owners' property (surrounding both sides of both existing Enclaves) which is designated as "unaffected". This would appear to be another obvious mistake in the DEIR. Please explain and justify this. 32-13

Thank you for the opportunity to comment and please keep me informed of any developments, City actions, proposed public hearings or other publicly available information regarding the Headlands and its planning.

Sincerely,

Edward L Gallagher

Edward L. Gallagher
34365 Dana Strand Road #3
Dana Point, Ca. 92629

32. RESPONSES TO COMMENTS FROM EDWARD GALLAGHER

32-1 The conceptual contour grading lines appear to match. Because the contour lines on the conceptual grading plan are not labeled with elevations, it is difficult to understand the comment. Without further explanation, it is not possible to understand the meaning of the comment or the environmental implications of the comment. Therefore, no further response is possible.

32-2 The base mapping under Exhibit Sheet 1 of 4 in Appendix F is aerial topography compiled by Digital Mapping, Incorporated to national mapping standards from aerial photos dated July 21, 1998. The contours on this exhibit have an interval of five feet. The topography shows the ground opposite the two northernmost condos falling away from the street at a grade of approximately eight percent. (This is the grade perpendicular to the street; overall the ground in this area slopes to the northeast at an approximate grade of 12 percent.) The ground transitions in front of the third condo and, opposite the fourth and fifth condos, is roughly five feet higher than the street. Since this is in agreement with the conditions described by the commentor, the topography appears to be accurate.

32-3 Existing drainage in the area referenced is shown on Figure 4.7.1 of the DEIR. The existing drainage passes south of the existing enclave properties in the street right-of-way, easterly into Watershed Area B and westerly into Watershed Area C. The HDCP proposes to drain this area of the project via the street right-of-way in essentially the same manner as exists now, into Watershed Area C, as indicated on Figure 4.7.3, and into Watershed Area B, as shown in Figure 4.7.4. The grades and drainage systems in these areas have been designed to avoid property impacts and are considered adequate to address the drainage interface between the enclave properties and proposed project development. The proposed lot pads will drain to the fronting streets. Where required, drainage devices such as terrace drains and toe drains will collect runoff from slopes and transport it to the storm drain system. All slopes will be landscaped and BMPs provided to minimize the potential for erosion. As a last resort, the sedimentation chamber at the sand filter will capture any silt. Therefore, there is no significant environmental impact that needs to be addressed further.

32-4 The five existing outlets are identified on Figure 4.7.2 by the small arrows pointing at the ocean. Photographs of two of the existing outlets are shown on Figures 4.16.3 and 4.16.5.

32-5 A majority of the drainages includes remnant development parcels on site, urbanized development off site and areas where significant erosion is occurring. Inspection of the site would indicate that there is continuing failure of the existing drainages, and continuing sedimentation passing directly to Strand Beach. This condition would be remedied by the surface drainage plan and subsurface drainage facilities included in the HDCP and documented in the EIR on pages 4.7-10 through 4.7-18. Areas B1, B2, B3, and F are proposed to drain onto Strand Beach, as depicted in Figure 4.7.4. As reported on page 4.7-16 of the EIR, storm drains at Strand Beach will be equipped with vertical drop energy

dissipators, to slow the storm water velocity to reduce the potential for beach sand erosion. The required PDFs and SCs, shown on pages 4.4-7 and 4.7-8, along with BMPs, will further reduce the chance of on-site erosion or beach erosion affecting the quality of Strand Beach. As shown on Table 4.7.A, peak flow (Q10) for the existing condition for Strand Beach is 149.4 CFS. In the developed condition, as shown on Table 4.7.B, the peak flow (Q10) increases less than 2.5 percent to 153.1 CFS. After implementation of the PDFs, SCs, and BMPs, the resulting impacts due to drainage and erosion are reduced to a level that is less than significant. Without additional information or calculations that dispute the findings of the hydrology study in Appendix F of the EIR, the findings reported in the EIR are adequate for purposes of CEQA for full disclosure of project related impacts. No significant impacts resulting from project implementation are reported in the EIR.

32-6 The comment is an opinion about the severity of impacts related to changed views from what now is privately owned property on the project site due to project implementation. There are no public views currently from the referenced trails. With implementation of the project, there will be over three miles of public trails and overlooks. These trails and overlooks have been situated to capture the most dramatic view opportunities, while allowing for the preservation of natural resources and the development of less than one-half the property. The EIR states that project impacts are not significant. In the absence of further information or a dispute over methods of assessing project impacts, the analysis currently in the EIR will remain unchanged. The opinions of the commentor will be provided to the decision makers for their consideration.

32-7 The intent of the analysis (and what is required by CEQA) is to indicate the effect of the project on public views. Although the hilltop is currently privately owned, it is designated in the General Plan as a public park, with references to maintain its significant landform. The topographic spine has no such designation. The views that are requested to be addressed in the comment are from private property, in the middle of the project area. Views from this area to the pacific Ocean to the south and to the harbor to the east will still be present after buildout.

32-8 General Plan Policy 5.4 addresses the City's desire to coordinate development of public bike trails connecting to other cities and to County trails. The project's trail system will link to possible locations, including Selva Road, Pacific Coast Highway, along Strand Beach, Cove Road, and Street of the Green Lantern.

32-9 See General Response 1 - Traffic on Green Lantern.

32-10 See General Response 1 - Traffic on Green Lantern. There is no justification given for the proposed change in the development plan. Without additional information, this comment cannot be addressed further.

32-11 See General Response 1 - Traffic on Green Lantern. There is no justification given for the proposed change in the development plan. Without additional information, this comment cannot be addressed further.

32-12 See General Response 1 - Traffic on Green Lantern.

32-13 Figure 4.9.9 in the EIR reports on the proposed General Plan Amendment.

33. COMMENTS FROM HEADLANDS CONSERVANCY

655 California Street
Mountain View, CA 94041
November 18, 2001

Mr. Edward K. Knight
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Dear Mr. Knight,

Norman Powell, chairman of the Headlands Conservancy, a 501(c)(3) organization of which I am a supporter and which has 180 known supporters, asked me to review the analysis of the proposed Headlands development contained in the Draft Environmental Impact Report, dated October 2001 (2001 DEIR), and submit a comment letter on behalf of the Conservancy. 33-1

4.1 Aesthetics

A) Project Site Conditions and Visual Impacts

The 2001 DEIR refers to a "*Hilltop Area*" 288 ft above msl, "*located in the northeast portion of the project site, near PCH.*" (4.1-3). This description, while not totally inaccurate, is quite incomplete. The hilltop area referred to is part of a visually prominent natural landform described in a previous EIR prepared for this site (State Clearinghouse Number 98051062, referenced in the above mentioned DEIR as *EIP Associates, 1999 Final Environmental Impact Report for the Dana Point Headlands General Plan Amendment and Local Coastal Plan Amendment, March,* and hereafter referred to as the 1999 FEIR) as Upper and Lower Headlands Ridge. The prominence of the ridgeline and its interrelationship with the hilltop is well captured in the topographic map shown Figure 3-4 of the 1999 FEIR, which I have attached as Figure 1. 33-2

Interestingly, reference to this existing natural landform does appear in the Geology and Soils section of the 2001 DEIR under 4.5.1.1, Existing Environmental Setting, Geologic Setting and Topography, in paragraph 4: "*The adjoining highland extends to the south and west from this peak (the Hilltop). This highland typically ranges from 230 to 260 feet above mean sea level.*" As an indication of the significance and visual prominence of the ridge, the nearby tree farm area is at an elevation of approximately 160 feet above msl.

Upper and Lower Headlands Ridge is an existing conspicuous landform that is prominent to the eye from several public-right-of-ways that include PCH, Scenic Drive and Dana Strands Road. Furthermore, the ocean views and outdoor experience from Lower Headlands Ridge are far superior to those from Upper Headlands Ridge ("*The Hilltop*") for the following reasons:

a.) Whitewater views of Dana Strand Beach exist from that location whereas no such views are available from The Hilltop.

b.) The location is considerably more seaward, affording a majestic view not available from the Hilltop or the walkways in the proposed Conservation Park because of the Park's low altitude. 33-2

c.) Unlike The Hilltop, Lower Headlands Ridge is well buffered from the roar of PCH traffic.

Although Lower Headlands Ridge is on private property, as is The Hilltop, the public has enjoyed the same rights of access to Lower Headlands Ridge as it has to The Hilltop during my eight years of familiarity with the area from 1994-2001. During these years, there was neither fencing nor signage restricting access whatsoever to either area. Long time area residents acknowledge that this has been so for several decades. This situation raises the possibility of a proscriptive right of public access to these areas. 33-3

In the City of Dana Point's General Plan section on Conservation of Significant Natural Features, Goal 2 is to "*Conserve significant topographical features...*" Policy 2.2 states, "*...design features shall respond to the natural landform wherever possible to minimize grading and visual impact.*"

The California Coastal Act, Section 30251 states:

> "*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect public views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms (emphasis added)...*"

The proposed development plan alters both Lower and Upper Headlands Ridge, either by grading the landform itself, or by filling in areas directly adjacent to it, or by a combination of both. This violates the Dana Point General Plan, as well as the California Coastal Act, and has significant environmental impact. Because the 2001 DEIR does not analyze the impact of these landform alterations and the resultant visual distortion of and from the Headlands, it is therefore incomplete and inadequate. 33-4

Another area where restrictions against altering natural landforms and bluffs has been neglected by the 2001 DEIR is the area between the abandoned Dana Strand Club trailer park and the western residential enclave along Dana Strand Road that falls within the Dana Point Specific Plan/Local Coastal Plan. The dividing line between the Dana Point Specific Plan/Local Coastal Plan and the uncertified Laguna Niguel Local Coastal Program can be visualized by extending the dividing line between the Niguel Beach Terrace Development and the Headlands property to the ocean at Dana Strands Beach.

Reference to this area as a natural coastal bluff can be found in Dana Point Specific Plan, written by the Environmental Management Agency of the County of Orange, and dated April 1980. It is

worth noting that a member of the Specific Plan Advisory Committee was Dan Daniels of the M.H. Sherman Company, who co-owned the Headlands property with the Chandler family of from the 1950's until recently. Mr. Daniels served as point man for development efforts for the Headlands for both ownership interests.

Exhibits 10 and 14 show this area primarily designated as *5.41: Conservation*. On Page IV-18, the Conservation land use designation is defined:

> ***"The "Conservation" (5.41) designation is a subcategory and indicates those portions of the "other open space" lands which require preservation <u>in a natural state</u> (emphasis in original document) on behalf of the public interest. The only lands to be designated as 5.41 include coastal bluffs and tidepool areas in the Dana Point Headlands sector. One aim of this designation is to preclude any alteration or development of this visually significant landform feature (emphasis added).***

Therefore, even an early planning effort for the Headlands that was not noted for its environmental sensitivity and that included the active participation of the longtime landowner of the property recognized the existence of a coastal bluff in this area and the importance of preserving it.

The California Coastal Program certified the Dana Point Local Coastal Program in 1985. This LCP was consistent with the 1980 Dana Point Specific Plan, as explained in the 2001 DEIR on Page 4.9-3. 33-4

The 1999 FEIR also recognized this area as a natural coastal bluff that under the California Coastal Act and the City of Dana Point's General Plan must be protected from the impacts of development. The area of the Headlands property designated as a coastal bluff can be seen in Figure 3.4 of the 1999 FEIR. This figure is reproduced as Figure 1 in this comment letter. The text portions of the 1999 FEIR most relevant to the coastal bluff in the Dana Strand area can be found in Section 4.1 and Section 4.2a of Volume 1 and Pages 2-25 to 2-28 of Volume 3.

The definition of a coastal bluff under Coastal Commission Regulations 14 CCR 13577 (h) (1998) is given on Page 2-26 of Volume 2, which says, in part:

> *Coastal bluffs shall mean:*
>
> *(1) Those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion.*

This page also contains a citation for the City of Dana Point's definition, which is substantially identical to that of the Coastal Commission Regulations.

The California Coastal Act, Section 30253 states:

"New development shall:

(1) Minimize the risks to life and property in areas of high geologic, flood and fire hazard.

(2) Assure stability and structural integrity, and neither create or contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."

The City of Dana Point's General Plan goals and policies that require the preservation of the bluff include but are not limited to the following:

Land Use Element - Development of the Headlands, Policy 5.3:

"Preserve natural open space in the Headlands area, especially along the coastal bluffs..."

Conservation and Open Space Element - Conservation of Significant Natural Features, Policy 2.1:

"Place restrictions on the development in floodplain areas, beaches, sea cliffs, ecologically sensitive areas and potentially hazardous areas."

33-4

Public Safety Element - Protection from Geologic, Seismic, and Erosion Hazards: - Geologic Hazards, Policy 1.7:

"Preserve Dana Point's bluffs as a natural resource and avoid risk to life and property through responsible bluff top development.

In summary, there is clear line of evidence stretching back 21 years that establishes that this area contains a coastal bluff that must be protected under the Coastal Act as well as City of Dana Point General Plan policy.

Nevertheless, the proposed development analyzed in the 2001 DEIR would result in the destruction of a considerable portion of this coastal bluff by grading to make building pads for housing. Referring to Figure 4.11.3 of the 2001 DEIR and comparing with Exhibits 10 and 14 of the 1980 Dana Point Specific Plan and Figure 3.4 of the 1999 FEIR, it is evident that Lots 47-52, 60-65, and 70-75 in the Strand Planning Area would be constructed on the protected coastal bluff. The 2001 DEIR does not analyze nor propose mitigation for these environmental impacts, nor mention these violations of state law and local policies, and is therefore incomplete and inadequate.

B) Visual simulations and visual impacts

Figure 4.1.6 shows existing views to the west from knoll top on Upper Headlands Ridge and a simulation of the after-project conditions, which would appear to give similar views of the Pacific. This will be true only, however, if the trees in the proposed residential neighborhood

33-5

remain at the heights shown in the simulation. From the simulation, the trees appear to be roughly the same height as the houses, which according to the text (Page 4.1-25) have a maximum height of 18 feet. Since most trees grow to a height greater than 18 feet, there will be a viewshed impact over time. Unless the CC&Rs for the development mandate trees that have a maximum height of roughly 20 feet, over time the views available in this location will be reduced. These impacts require further analysis. 33-5

Of more concern, however, is the impact of the proposed project on views from this location to the southwest, towards the Headlands promontory and to the south. Currently, there is an unobstructed view of natural open space leading to the Point and to the ocean beyond. Of concern also, is that the proposed residences and VC/R to the south and southwest will diminish these views of the open space, the Point and the ocean beyond. These impacts also need further analysis. 33-6

Figure 4.1.10 shows existing conditions near the Cove Road/Green Lantern/Scenic Drive intersection, along with a simulation showing a proposed faux historical lighthouse and hotel/restaurant establishment. The discussion of this simulation on page 4.1-27 refers to the existing view as one of "*degraded vegetation*" that "*detracts from the scenic quality of the project site.*" While the immediate foreground in the photograph is of non-native grasses, the predominant view is of coastal scrub and maritime succulent scrub, and is identified as such in Figure 4.3.1 of this DEIR. Since the scrub in this area has not been affected by off-road vehicles, as has the scrub in other locations on the site, it is in quite good condition. One's aesthetics may certainly be considered subjective, but it is quite a stretch of the imagination to characterize native vegetation as an aesthetic detraction and its replacement with a faux historical lighthouse and large commercial establishment as *aesthetic enhancement.* 33-7

4.3 Terrestrial Biological Resources

A) Orange County Central/Coastal NCCP/HCP

The 2001 DEIR repeatedly states that the landowner/ developer's participation in the County's Central/Coastal NCCP/HCP (NCCP/HCP) fully mitigates the "*take*" of up to 30 acres of coastal scrub, along with the plant and animal species that inhabit that coastal scrub.

This is not correct. While the US Fish and Wildlife Service and the California Department of Fish and Game accept participation in the NCCP/HCP as fully mitigating the "*take*" of 30 acres of coastal scrub, this does not mean that additional mitigation measures cannot be taken by the lead agency or responsible agencies. As of 2000, the City of Dana Point was not a signatory to the NCCP/HCP, and if that is still the case, the City is free to take additional mitigating measures to protect its last significant area of natural coastal scrub habitat. 33-8

Similarly, the California Coastal Commission takes the position that the NCCP/HCP does not diminish its powers under the California Coastal Act, Section 30240, which covers environmentally sensitive habitat areas (ESHA).

In its comment letter on the 1999 FEIR, the California Coastal Commission stated:

> *"Irrespective of the NCCP planning efforts and allowable take of the habitat by state and federal resources agencies, the Coastal Act ESHA policy only allows uses dependent on the ESHA resources to be allowed on the ESHA. Therefore, the proposed Specific Plan must direct development away from coastal sage scrub areas and habitat for sensitive species."*

33-8

B) Pacific Pocket Mouse and California Gnatcatcher

In the context of my remarks above on the authority of the City of Dana Point and the California Coastal Commission to impose additional mitigation measures regarding impacts to coastal scrub habitat in addition to those contained in the HCCP/NCP, it is clear that the DEIR has inadequately considered alternatives to the proposed development as it relates to the endangered Pacific Pocket Mouse (PPM). High quality potential PPM habitat currently exists beyond what is being proposed as the Conservation Park inland of existing Margarita Avenue, as detailed in a comment letter for the 2001 DEIR by Mark Silver, Coordinator of the Endangered Habitats League. Additional habitat could make a significant difference in the long-term viability of the PPM on the Dana Point Headlands. As one of a small handful of locales where there is habitat for the PPM, it is clear that the environmental impact of this proposed development could be significantly reduced by

1. reducing the footprint of the development near the PPM habitat,
2. Relocating the fuel modification zone and making it the responsibility of the future homeowners adjacent to the Conservation Park.
3. Relocating proposed structures and parking lots in the immediate vicinity of the PPM habitat area, and
4. Providing the critically important fencing for all potentially occupied and managed PPM habitat not just occupied mouse habitat, as proposed.

33-9

An alternative with these elements for the areas near the PPM preserve clearly should be part of a Biologically Superior Alternative.

In the proposed Harbor Point Park, which has been fenced for many years and hence protected, the groundcover largely consists high quality coastal scrub, as reported in the 1999 FEIR. However, the proposed Harbor Point Park would contain *of "low growing grasses/native shrubs"*, according to Figure 4.11.3 of the 2001 DEIR.

Low growing grasses are not native to the Headlands area, and using all-native plants in this area would not negatively impact the plan's intended use of the area as a public park. However, it would make the area more biologically useful and vital for native animals, including the threatened California Gnatcatcher. This alternative for the proposed Harbor Point Park area clearly should be park of a Biologically Superior Alternative.

C) Cumulative Impacts

The 2001 DEIR refers to an approved development for 3 houses on the former Bade property. This appears to be based on out-of-date information. It is my understanding that the development permits for that project lapsed some time ago. 33-10

Additional comments applicable to Terrestrial Biological Resources are made below in reference to the Alternatives analysis of the 2001 DEIR. 33-11

4.5 Geology and Soils

A) Landalide Hazards

The 2001 DEIR neither mentions nor analyzes the 1981 slope failure underneath Cannon's Restaurant. This landslide slope failure is significant for the proposed project. It was a large slope failure immediately adjacent to the Headlands property that resulted in a disabling closure of Cove Road for many months, reopening only after considerable investment of public funds and the construction of the present unsightly retaining wall. Cove Road would be a key access route to all of the proposed public amenities in the proposed project.

Part of the Street of the Green Lantern, the only other access to this region of the proposed project, as well as existing residential housing and VC/R uses, runs right along the bluff edge above Cove Road, close to the Cannon's bluff failure. A slope failure in this area could close both Green Lantern and Cove Road, completely isolating from traffic and emergency services the proposed VC/R hotel/restaurant, cultural arts center and other proposed public amenities, as well as existing residential and commercial uses dependent on those streets. This would have a crucial, significant impact. The bluff failed in this area before and such a recurrence is reasonably foreseeable. 33-12

The 2001 DEIR recommends a 50-foot setback in the Harbor Point Area unless "*specific design*" measures are taken (Page 4.5-18). Presumably, this would include the proposed Cultural/Arts Center, which appears to be very close to the California Coastal Commission's mandated 25-foot setback. The plan also calls for the realignment of Scenic Drive much closer to the bluff edge than the current alignment of this public-right-of-way. It appears that this realignment of Scenic Drive would move it right up to the 50-foot setback recommended here.

The 1999 FEIR recommended a 200-foot structural setback in this area as seen in Figure 1 of this letter. Among the pieces of evidence cited to support this larger setback include: 33-13

a) the over 100 feet of lateral sea cliff/bluff retreat along the south-, southwest- and west-facing bluffs during two major storm events in 1938 and 1941 (Zeiser Geotechnical, 1990),

b) the near vertical bluff faces near the Harbor breakwall with active wave scour at the toe of

the bluff (see Figure 4.2-8 of the 199 FEIR), and

c) The geotechnical report (Petra, 1997) documenting 25 feet of bluff top retreat between 1947 and 1997 at a residence in the southern enclave (see page 2-25 of Volume 3, 1999 FEIR).

Note that the southern enclave in the context of the 1999 FEIR, as well as for this comment letter, refers to the existing single family residential area along Scenic Drive. 33-13

With either the large episodic bluff failures noted in the Zeiser report or with the more steady ~1 ft/year bluff retreat documented in the Petra report, it is obvious that the public-right-of-way, if relocated as proposed, is likely to be at risk in about 50 years. The proposed cultural facility would be at risk even sooner, which would result in an unacceptable safety hazard.

Interestingly, some supporting evidence for more extensive setback requirements appears within the 2001 DEIR itself. Figure 4.9.9, Open Space for Public Health and Safety shows all of the area contained within the two residential enclaves along Dana Strand Road and Scenic Drive as erosion/flood hazard areas. For the southern residential enclave along Scenic Drive, this would imply a bluff setback requirement of 150-200 feet, the distance from the bluff edge to the property lines in that area. For the western enclave along Dana Strand Road, the distance from the bluff edge to the property lines is approximately 100 feet.

Curiously, Figure 4.9.9 shows that on either side of both residential enclaves that the zone of erosion constraints becomes much narrower. This dramatic change appears right at the property lines that separate the residential enclaves and the landowner/developer's land. The rationale for this sudden discontinuity in geologic hazards is unclear. This situation is even more puzzling in light of the evidence shown in the 1999 FEIR documenting the greater relative stability of bluff at the southern enclave compared to the bluff farther to the east, closer to the harbor breakwall (see pages 4.2a-6, Figures 4.2-7 and 4.2-8 of the 1999 FEIR). The less stable bluffs near the breakwall are in the region Harbor Point park area, Cultural Arts facility and the areas where public-right-of-way are relocated closer to the bluff edge. The apparent contradiction between the wide areas for the residential enclaves and the dramatically narrower strip claimed by the developer needs to be addressed. 33-14

4.9 Land Use

A) Land use conflicts

The 2001 DEIR fails to acknowledge land use conflicts between VC/R and residential uses in the Headlands development plan.

The City of Dana Point's General Plan states: 33-15

Land Use Element Compatibility and Enhancement Among Land Uses, Policy 2.2:
"Visitor serving commercial uses shall not intrude into existing residential communities. (Coastal Act/30250)"

The DEIR goes on to state:

> *"Consistency Analysis: The HDCP includes visitor serving commercial uses. As explained above in Section 4.9.6, there is no intrusion into an existing neighborhood. The proposed visitor serving uses are sited in close proximity to similar existing uses. The proposed project is consistent with this policy."*

33-15

The reference to Section 4.9.6 is a typo or some other form of error. Section 4.9.6, which is on Page 4.9.6, consists of two sentences, and says nothing about the siting of the visitor serving commercial uses or its proximity to existing or proposed residential uses.

Referring to Figure 4.11.3 a 200 foot circle around the proposed hotel near the corner of Street of the Green Lantern and Cove Road encompasses parts of two existing residential neighborhoods, located along Green Lantern and Scenic Drive, and part of a proposed neighborhood along the proposed "A" Street. This circle encompasses exactly one existing visitor serving commercial facility, The Chart House. As a restaurant, the Chart House has limited hours of operation, unlike a hotel, which must be open 24 hours a day, 365 days a year. Nevertheless, The Chart House has negatively impacted the surrounding residential neighborhood because of the undercapacity of the roadways, as discussed below in my comments on traffic.

33-16

The 200 foot circle was chosen arbitrarily, but an approximately 800 foot circle would be required before the second existing visitor serving commercial establishment would be reached, Cannon's Restaurant, and an even larger circle is necessary to encompass the first overnight facility, the Blue Lantern Inn. It is worth noting that both Cannon's Restaurant and the Blue Lantern Inn are quite close to PCH and take access from streets other than Green Lantern, which are wider and better able to handle traffic. Hence, it is clear that the consistency analysis quoted above is at best misleading and inaccurate. Therefore, the 2001 DEIR is incomplete and inaccurate.

B) Overcrowding and overuse

The proposed plan places virtually all of the plan's public amenity structures within a few hundred feet of each other, in the Green Lantern/Cove Road/Scenic Drive area. These include the proposed VC/R Seaside Inn, the Maritime Historical Center, The Cultural Arts Visitor Center, and the Nature Interpretive Center. This appears to be contrary to the City of Dana Point's General Plan and the Coastal Act:

33-17

Land Use Element - Directing Growth to Maintain and Improve Quality of Life - Policy 3.5:

> *"Public Facilities including parking areas or facilities shall, whenever appropriate and feasible, be distributed throughout the coastal zone area to mitigate the impacts, social and otherwise, of overcrowding and overuse of the public of any single area. (Coastal Act 30215.5)"*

The Coastal Act 30215.5 contains substantially similar language.

The City's General Plan also contains language specifically concerning buffers and development on the Headlands:

> Land Use Element - Development of the Headlands - Policy 5.11:
> *Assure the Specific Plan for the Headlands provides buffers to achieve a compatible and enhanced relationship with existing surrounding land uses. "*

33-17

The 2001 DEIR does not analyze these effects, and therefore is incomplete and inadequate.

C) Residential and Recreational land use conflicts

Another environmental impact from a land use conflict arises out of the developer's public trails and scenic overlooks plan. From Figure 4.12.3 of the 2001 DEIR, one can see that there is an overlook that is oriented toward and immediately adjacent (<10 feet or less) to the easternmost residential home of the southern enclave. More specifically, the orientation and location of this lookout is right at the master bedroom of this residence. It is unjust as a matter of policy and not feasible for the existing residential property owner to relocate or reorient their home to accommodate this overlook. Therefore, the conflict, if the project were developed as proposed, would remain indefinitely. The environmental impact of this land use conflict for the users of this public lookout point as well as the inhabitants of the residential property should be shockingly obvious.

33-18

Similarly, the trail system in the vicinity of this same residential property would be the cause of another land use conflict. From Figure 4.12.3 of the 2001 DEIR, the trail as it approaches the proposed Scenic Drive turnaround adjacent to the proposed Nature Interpretive Center seems to extend over the property line and run through the guest house of the easternmost house of the southern enclave. While it is noted that figure contains the disclaimer that it is "*diagrammatic in nature and intended to show the general location*", it is also noted that Page 4.9-61 of the 2001 DEIR states only that:

> *"a substantial setback or buffer (emphasis added) between the HDCP proposed visitor recreation facilities in Harbor Point Park, and other HDCP land uses, and the existing enclave, and do not result in a significant land use impact."*

33-19

With such a vague, nonquantifiable term as *"substantial"*, decision-makers are not able to assess the validity of this evaluation and the plan's consistency with the City's General Plan Policy 5.11. Therefore, the 2001 DEIR is incomplete and inadequate.

In this context, it is worth noting that the 1994 Specific Plan, a planning effort so unbalanced in favor of the landowner/developer's interests at the expense of local resident's concerns that it was overturned by a referendum, provided than the 2001 plan currently under consideration. The

1994 Specific Plan, as noted in the minutes of the March 15, 1994 Dana Point City Council Public Hearing, included buffer provisions for the single family enclave on Scenic Drive that:

- Included an 80-foot structural setback.
- Allowed existing mature trees and shrubs within 40 feet of the property line shall be maintained.
- Bicycle/pedestrian trail adjacent to the existing residences shall be located a minimum of 40 feet from the property line.
- No overlooks adjacent to the property.
- Balconies, patios and other public gathering spaces shall be minimized where they face the existing residences.
- Pools, tennis courts and other recreational facilities shall be oriented away from the existing residences.

33-19

4.13 Transportation/Traffic

As is described in the DEIR, the project site is accessed by car in one of two ways. One way is via Selva Road a four-lane secondary arterial with parallel parking on both sides, which adjoins a 500+ space county parking lot. Both Selva Road and the parking lot are very underutilized.

33-20

The other way to access the site is via Street of the Green Lantern or Cove Road, which joins Green Lantern within the project site. Green Lantern is a substandard narrow one- and two- lane road that frequently experiences traffic problems as a result of a restaurant, The Chart House, which exists on what is primarily a residential street. Cove Road, which joins Green Lantern near the Chart House, is correctly described in the 2001 DEIR as "a narrow, winding two-lane road". It becomes crowded on summer weekends or when events are held at the Dana Point Harbor (e.g. Tall Ships Festival, Whale Festival, etc.). As noted in my letter above, (see 4.5, Geology and Soils) a bluff failure in 1981 resulted in the closure of Cove Road for several months and similar hazards threaten Green Lantern.

33-21

From a traffic planning or safety perspective, it would make much more sense to provide access for the proposed VR/C hotel/restaurant and public amenities such as the Cultural Art Center, Maritime Historical Center and Nature Interpretive Center either from the existing 4 lane arterial with a large underutilized public parking lot, or from the proposed new connection with PCH. Instead, the developers have chosen to provide access to these facilities from the narrow and substandard Green Lantern/Cove roadways.

Though it makes little sense from a traffic planning and safety perspectives, there does appear to be a solid financial motive for this choice. By loading the traffic impacts and the associated noise on the existing residential areas along Green Lantern and Scenic Drive while keeping its proposed new residential areas well shielded, the developers can maximize the value of their development.

33-22

It is worth noting that public hearings that were held during the Headlands planning effort process lead by the city in 1998 that lead to the 1999 FEIR identified that using Green Lantern as

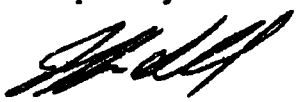
a major access road for a Headlands development project was unacceptable to the Dana Point community. It is interesting that this current development effort appears not to have benefited from that aspect of 1998 planning process. 33-22

5.0 Alternatives to the Proposed Project

No Biologically Superior Alternative was proposed, which would contain the elements suggested above in the comments on terrestrial biological resources. No evidence is presented that such an alternative would make the overall plan financially not feasible. Therefore, the alternatives analyses are incomplete and inadequate. 33-23

Thank you for the opportunity to comment on this DEIR.

Respectfully submitted,



Jeffrey Segall, Ph.D.
On behalf of the Headlands Conservancy

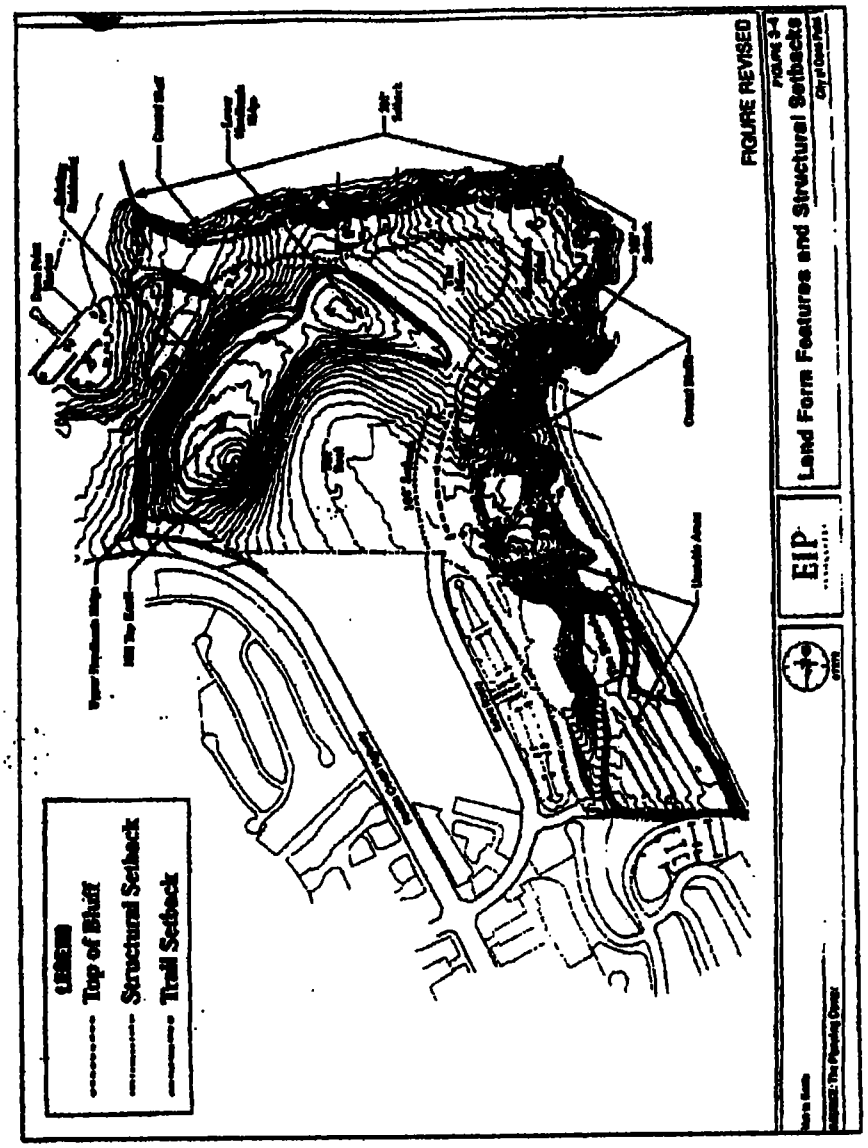


Figure 1. Existing topology of the Headlands, highlighting the ridgeline along the southern portion of the property, denoted as Upper and Lower Headlands ridge, coastal bluffs, and the recommended structural setbacks. Taken from Figure 3.4 of the 1999 FEIR for the Dana Point Headlands, referenced in the body of this comment letter.

33. RESPONSES TO COMMENTS FROM HEADLANDS CONSERVANCY

33-1 The City appreciates the comments from the Headlands Conservancy. Responses are provided below.

33-2 As acknowledged by the commentor, the Hilltop Area was accurately described in the EIR as a visually prominent landform, which, at an elevation of 288 feet, represents the highest elevation on site. The Hilltop is clearly visible from PCH, areas in the Harbor, and other public viewing locations. The same cannot be said for the other topographic features referenced by the commentor, which are visually obscured by adjoining development on Green Lantern, ornamental landscaping, and the blocking effect of the Hilltop landform that dominates the landscape.

Regarding the views from the "lower Headlands ridge," as pointed out by the commentor, this area is private, not public, property. As such, there are no regulatory requirements that require views from private property to be assessed. Moreover, the issue of view opportunities and quality of views needs to be taken in the context of the entire coastal experience of the project, not by comparing one vantage point to another. The project proposes to create and preserve five public parks and several miles of public trails and overlooks with dramatic and uninterrupted vistas. The overwhelming impact of this new coastal experience dwarfs any comparison to any existing view, public or private.

Finally and importantly, the commentor incorrectly refers to the 1999 Draft EIR as a Final EIR in this comment and others. The 1999 Draft EIR was never certified as complete by the City of Dana Point.

33-3 The comment does not raise an environmental issue. The commentor is correct that the Headlands is privately owned. The right to pass by the public anywhere on the property is by the owner's permission, subject to revocation by the owner. As far as the City knows, there are no prescriptive easements that have been established on the Headlands. Unfortunately, the use of the referenced area by people, their dogs, bicycles, and off-road vehicles has seriously degraded the natural resources previously identified.

33-4 Refer to Response to Comment 33-2, above.,. As stated in DEIR Section 4.1, Aesthetics, the Hilltop is considered one of four major landforms. The coastal bluffs, the two geographic points (Dana Point and Harbor Point), and Strand Beach are other major landforms of the project site, all of which are preserved as open space features of the HDCP. However, the entirety of the topographic area the commentor refers to as the Lower and Upper Headlands Ridge is not described as a major landform in the HDCP, although for the purpose of the environmental review, all of the landform alteration was analyzed. In any case, the grading in this area typically daylights along the spine of the ridge, allowing the proposed lots to follow the general topography, minimizing landform alteration. The project will be in

conformance with the Dana Point General Plan as amended. No significant landform impacts will occur.

The commentor refers to the south Strand area as a natural coastal bluff. The topographic and geographic analysis by AMEC, as referenced in the Technical Appendix beginning on page 11, provides a detailed discussion on the extensive grading that has occurred in the Strand area beginning in 1955. Grading continued incrementally until about 1968. Further, the report states:

"Only small portions of the existing slopes in the central and southerly portions of the Strand appear to be in a generally natural condition, and essentially the entire Strand area was graded to some degree during this period." (AMEC, 2001)

One form of physical evidence of the grading that occurred in the area is the extensive amount of ice plant that covers most of the terraces and slopes in the south Strand area. Inasmuch as this area was previously extensively graded (with little remaining natural vegetation) and has slopes that are less steep than 1:1, it can no longer be described as a natural landform nor is it a natural coastal bluff. As described in the earlier referenced AMEC report, the southerly Strand area, in the vicinity of the residential enclave, will be contour graded to allow a variable gradient slope face with rounded slope contours. Thus special attention is provided to minimize the potential for visual impacts in this area. Remedial grading in the south Strand is required to fully remove the landslide complex that continues from the northerly portion of the Strand. This is necessary to assure geologic stability and structural integrity for the proposed Strand Vista Public Park (comprising 4.3 acres), necessary infrastructure, and development areas and to provide the required coastal accessway as shown in the adopted LCP. The project will be in conformance to the Dana Point General Plan as amended. No significant impacts were identified; therefore, no further mitigation measures are required. Coastal Act consistency is discussed in detail in Section 4.9, Land Use, in the EIR.

33-5 Refer to Response to Comment 33-2. Current views from the hilltop are from private property and, therefore, impacts, if any, are not considered significant. The landscaping shown is considered to be mature. The height of the trees in the simulation exceeds the height of the homes as clearly shown. The trees range in height between 15-25 ft. in the simulation. Please refer to the Master Landscape and Design Guidelines in Section 4.16 of the HDCP. That section states: "Utilizing vertical landscape elements such as palms, cypress and similar trees to frame views shall enhance significant public coastal view opportunities. Private homeowners are encouraged to utilize plant species from the following list. However, landscaping for residential lots shall be established at the Site Development Permit approval, and may vary from the list." Tree species for the Headlands Plant Palette were selected to not detract from view opportunities either for the public or for future homeowners. For instance, Torrey Pines were not selected due to their potential to grow too high and too full. .Finally, because the Hilltop is a minimum of 35 feet higher than the proposed street elevation below the hill, over 70 feet higher than the elevation of Dana Strand Road in front of the existing residential enclave (note the two existing palm trees), and as much as 128 feet higher than the

elevation of Selva Road, most future landscaping will not reach heights that would significantly impact this view.

33-6 New public view opportunities will be created by the project in many locations including the Hilltop. The view from the privately owned Hilltop to the southwest is affected by urban development. The current view is clearly impacted by the multifamily residential enclave, fencing, overhead power lines and power poles, and the greenhouses and material storage area. With the implementation of the project, there will be minimal impacts to views from the Hilltop viewpoint. The Hilltop is at elevation 288 feet. Assuming an average person's eye level of 5 feet, the view elevation is 293 feet. The highest development pad is elevation 260 feet, and most are 10 to 50 feet lower. With a maximum home elevation of 18 feet, the observer will have an overview of about 15 feet above the highest home. The Seaside Inn will not obstruct views from the Hilltop.. As stated on page 4.1-9 of the DEIR, the HDCP minimizes the visual impacts to the four major landforms and provides extensive new opportunities for coastal views. Because development is proposed on the project site, all existing views from privately owned property cannot be preserved, nor are they required to be. However, as described in Section 4.1, public views are created from many locations on the project site.

33-7 The commentor misread the statement in the DEIR. The reference to the degraded view is that of the "Existing public views from nearby public streets..." towards Harbor Point through the seven foot high chain-link fence. The degraded vegetation referenced in the citation refers to the Disturbed Coastal Sage Scrub habitat as well as the invasive non-native plants that front the Street of the Green Lantern along the referenced fence. The non-natives include castor bean, mustard, and tree tobacco.. As shown in DEIR Figure 4.3.4, the Harbor Point Park will be revegetated with a low-growing grass and scrub mixture from the Headlands Revegetation Native Plant Palette and will transition to the native brush.. The statement about aesthetic enhancement describes the improvement of public views from the adjoining public streets with the removal of the fencing, power poles, and invasive plants and to the creation of extensive new public view opportunities from Harbor Point that is now private property.

33-8 Refer to the responses to Comment Letter 28, Comment Letter 7, and Comment Letter 48.

33-9 Refer to Response to Comment 33-8, above. Harbor Point Park, Planning Area 8A, is planned as a park that preserves the major landform, while establishing and encouraging public coastal access. The HDCP calls for a public trail system and visitor recreation facilities by providing areas that can be actively used by the public. While the native plant species selected for the site may not be native to the Headlands site, they are most appropriate for the uses proposed for the amount of visitation expected in this area. The retention of existing habitat is proposed for other areas of the project site, including the Conservation Open Space section of Harbor Point Park (Planning Area 8B). Alternative 1, the No Project/No Build Alternative, examined preservation of the site as it currently exists. While this alternative would have preserved all of the existing habitat on site, it was not determined to be the Environmentally Superior Alternative for reasons stated in Section 5.0 of the DEIR. CEQA does not require the evaluation of a "biologically superior alternative," particularly in this instance where there are no unmitigated project or cumulative biological impacts.

33-10 The commentor is correct that previous development entitlements on the Bade property have expired. A new application for the development of the property has been submitted to the City, but not yet approved. This clarification does not change any conclusions of the DEIR. However, the current status of the Bade property is noted in the Errata.

33-11 No response necessary.

33-12 Refer to Response to Comment 24-10. Significant failure of the bluff such that it would permanently affect Cove Road or Green Lantern is considered unlikely.

33-13 Recommended shallow foundation setbacks presented in the DEIR are based on AMEC's subsurface exploration, testing, and stability analysis in the Harbor Point area. As a part of AMEC's evaluations, the bluff erosion history was also evaluated using aerial photographs and topographic maps, including reference materials cited by Zeiser Geotechnical, in their "Coastal Erosion Technical Report" (1990) that was prepared for the City of Dana Point's General Plan.

Although aerial photographs provide a reasonable means of assessing large-scale erosion events, direct comparison to evaluate long-term incremental deterioration of the bluff face is very difficult. Aerial photographs taken in February, 1929, were therefore used to compile a topographic base map of the project area at a scale of 1" = 100. The accuracy of the 1929 topographic map has some limitations because of the age and scale of the photographs, etc. However, the resulting topographic contours can be compared directly to the current topographic base, thus providing the most definitive source of information that is available for assessing long-term changes in the local topography. The 1929 topographic conditions in the Harbor Point area are shown superimposed on the current topographic base (1998) on the Geologic Map and Sections enclosed with AMEC's February 21, 2001, report. Review of these topographic maps for the area around the headland and specific to the subject Harbor Point area, indicates that there is no evidence that substantial retreat of the bluff has occurred. On the basis of the available information, bluff retreat is within the estimated precision of the topographic contours, and appears to have been less than about 10 feet during the previous 70 years. AMEC's February 21, 2000, report also summarizes exploration, testing, analysis, conclusions, and recommendations regarding bluff setback evaluations in the Harbor Point area.

On the basis of AMEC's review, Zeiser's previous bluff retreat interpretations of over 100 feet of bluff retreat in 1938-41 storm periods have been supplemented with the comparison of 1929 and 1998 topographic maps. Those unfounded bluff erosion interpretations provide the basis for subsequent development of recommended 200-foot setbacks that were presented as a part of a previous Final Program EIR (1999) for the site, which was ultimately not adopted. No site specific exploration, testing, analyses, or evaluations were presented in support of those recommendations.

In Petra's report for 34567 Scenic Drive (10/28/97), local bluff retreat is characterized as "relatively minor" and is estimated to have been 15 to 25 feet over the previous 50 years. Considering the fact that the subject residence and other nearby residences are serviced by

on-site sewage disposal systems, the estimated degree of bluff erosion could be considered relatively minor. The existing systems discharge effluent into friable terrace sands that comprise the upper portions of the bluff, and the presence of this subsurface discharge behind the bluff face would tend to reduce the local stability of the slope. This residence was originally constructed prior to 1929, and the long-term effects of uncontrolled drainage/irrigation may also have had some influence on the local bluff erosion described in Petra's report.

Petra recommended a minimum building setback of 25 feet from the top of the bluff on the basis of their investigation, with the provision that deep foundations should be installed in the area closest to the bluff face. Those setback/foundation recommendations, and the proposed project for construction of three single family residences on the property, were subsequently reviewed and approved by the City of Dana Point in 1998.

In summary, the recommended shallow foundation bluff setbacks presented in the subject DEIR are based on AMEC's exploration, testing, analyses, and conclusions, as presented in a report for the Harbor Point area dated February 21, 2000. On the basis of these data and conclusions, the locations of proposed improvements shown on the preliminary design plan presented in the DEIR are considered to have appropriate foundation setbacks, provided that the recommendations presented in AMEC's February 21, 2000, report are implemented. However, the design of public facilities in the vicinity of the bluff top is currently conceptual, and specific details regarding the design and location of these improvements will be developed during the final design process. As recommended in AMEC's February 21, 2000, report, site specific design evaluation will be performed for the various design elements of the proposed improvements in the Harbor Point area. This work will include additional subsurface explorations, laboratory testing, and analyses specific to the location and type of foundations proposed for the final design. These final design evaluations are subject to review and approval by the City of Dana Point prior to issuance of grading/building permits.

33-14 Figure 4.9.9 is an exhibit that was produced as a part of the City of Dana Point's original General Plan. The quality and detail of the original exhibit are essentially as shown on Figure 4.9.9, with the exception that some revisions were made within the project site as a part of the proposed General Plan Amendment. Revisions to the erosion constraints were made on the basis of updated evaluations (see page 4.9-50 of the DEIR). Although the scale and detail of the base map are relatively poor, the intent of the revisions in the Headlands Promontory and Harbor Point areas is to identify the erosion constraints associated with the bluff areas. No changes were made to the portions of the exhibit beyond the project site, including the area of the two residential enclaves along Dana Strand Road and Scenic Drive. The methodology and basis for identification of erosion constraints in those off-site properties are not known.

The utility of the subject exhibit is severely limited by the scale and quality of the drawing. Bluff erosion constraints in the Harbor Point area are addressed in greater detail in AMEC's report dated February 21, 2000 (see also Response to Comment 33-13).

33-15 As stated in the referenced quote from the DEIR, the proposed visitor serving uses are sited in close proximity to similar existing uses. Commercial uses and zoning exist along Green Lantern adjacent to the proposed Seaside Inn, and the commercial uses in the Town Center

are adjacent to the PCH Visitor/Recreation Commercial site. The existing Dana Point General Plan designates over six times as much VRC use (400 rooms v. 65) at the same location as the Seaside Inn. No conflicts with nearby residential uses were determined to occur in that designation. It stands to reason that the current project would have an even lower impact. The proposed project is responding to the Coastal Act, which designates visitor serving uses as a priority. The proximity to Dana Point Harbor, with its wide variety of recreational uses, makes the proposed Seaside Inn an excellent opportunity for visitor serving uses. No conflicts with residential uses are anticipated.. As such, there is no conflict with the cited General Plan Policy 2.2.

33-16 Refer to Response to Comment 33-15, above. While hotels do operate 24 hours per day, most operations occur during hours similar to those of restaurants such as the Chart House. Very little activity occurs during the middle of the night, when guests staying at the hotel are sleeping. Also refer to General Response 1 - Traffic on Green Lantern. In addition, the proposed Inn is designed to be buffered from existing and proposed residential uses. The landscaped Greenbelt Linkage separates the Inn from the Upper Headlands Residential area, as well as from existing residential uses on Green Lantern. As such, the proposed commercial uses will not cause significant land use conflicts with the adjacent residential uses.

33-17 The cited General Plan and Coastal Act policies refer to the City as a whole, and are not meant to be interpreted on a project- specific level. Moreover, the City of Dana Point has numerous public facilities along the coast, as depicted in DEIR Figure 4.12.1, Recreational Facilities. The visitor centers and Seaside Inn are appropriately proposed within walking distance to each other in the Harbor Point Park, Hilltop Park, and Green Lantern areas, to allow visitors of all ages and abilities an opportunity to enjoy recreation on the Headlands. This also allows for the consolidation of parking needs and minimizes on-site vehicle trips between visitor or recreational uses, both of which are worthwhile goals. As the commentor has pointed out repeatedly, this is one of the most scenic and accessible parts of the Headlands. Therefore, it is an area that should have the visitor facilities available to serve the public. Grouping these uses within walking distance helps to allow the conservation of other open space in its natural state, and potential impacts from visitation are thereby reduced.

33-18 According to Figure 4.4.8 of the HDCP, Harbor Point Park Conceptual Plan, the viewpoint would be located approximately 30 feet from the property line, with landscaping planted along the property line to buffer the adjacent land uses. This conceptual design reduces any such land use impacts to below a level of significance.

33-19 The commentor has correctly stated that the referenced figure is diagrammatic in nature and intended to show general locations of open space features. There is a slight error in registration of the trail on the illustration; the trail is correctly shown on other figures. Refer to HDCP Figure 4.4.8 for a more detailed view of the conceptual plan for the area. One should note that the current General Plan describes a bluff top trail that would traverse the rear yards of the residential enclaves. Moreover, scenic overlooks are shown all along the bluffs, including the southerly enclave. The proposed project will create the opportunity to create the desired bluff top trail linkages without the need to align the trail over the enclave property. The same figure indicates that no land use conflict would exist with the extension of

the loop trail. There would certainly not be any encroachment over the property line. The figures and discussion in the HDCP and the environmental analysis in the DEIR provide decision makers adequate information to assess the adequacy of the DEIR and the desirability of the proposed project. The claim of inadequacy is not justified by the comment.

The term *substantial*, referenced in context to the size of the buffers between visitor recreation facilities, is intended to be descriptive not quantifiable, as suggested by the commentor. The purpose of an EIR is to provide impact analysis and descriptive information to aid in the decision making process. Regulatory information regarding allowable heights, setbacks, etc., is quantifiable and properly included in the zoning documents. The zoning documents for this project include the HDCP. Page 3-31 of the HDCP includes the development standards for the visitor recreation facilities. Therein it states that the minimum setback for a visitor recreation facility to an existing or proposed residential structure is 50 feet. This is a quantifiable standard. Thus the assertion that the EIR is incomplete and inadequate is not correct.

The commentor's reference to the standards from another proposed project is without context and irrelevant. The 1994 project proposed an 80 foot structural setback from the enclave to the proposed multilevel 400 room resort hotel. The maximum height of the hotel was 35 feet, and the General Plan would have permitted over 450,000 sq. ft. of commercial uses. The proposed project includes a single story, 2,000 sq. ft. visitor center just 16 feet high, surrounded by 10.4 acres of open space. The proposed HDCP contains design provisions similar to those of the 1994 Specific Plan, which buffer existing residences from adjacent visitor amenities. As such, there are no environmental impacts related to this issue.

33-20 Comment noted. Refer to General Response 2 - Traffic on Selva Road.

33-21 Refer to General Response 1 - Traffic on Green Lantern, and Response to Comment 33-12 to 33-14 above regarding geologic stability.

33-22 Refer to General Responses 1 and 2 and Responses to Comments 22-3, 24-9, 8-2, and 26-8.

33-23 As stated in Response to Comment 33-9, above. Alternative 1 would have minimized impacts to existing vegetation on the site, but this would not have provided protection for the PPM to the extent proposed by the HDCP. CEQA does not require analysis of the financing of development projects, unless a lead or responsible agency makes a finding of financial infeasiblity in connection with the decision not to implement a mitigation measure or project alternative. In this case, a biologically superior alternative was not included in the DEIR because there are no unmitigated project or cumulative biological impacts. The range of alternatives in the DEIR is considered a reasonable range in light of the potential environmental impacts of the HDCP's implementation.

34. COMMENTS FROM BARBARA BRABECK

Director of Community Development
Edward Knight
City of Dana Point
33282 Golden Lantern
Dana Point

Dear Mr. Knight,

I would like to address the situation in regard to the Headlands Development. My concerns are these:

1. The development of a commercial center on Green Lantern and Coast Hwy...The traffic flow on Coast Hwy. and Blue Lantern intersection will be very dangerous. We have so many existing shops and business spaces available that aren't presently occupied. These shops will increase traffic on Green Lantern and Blue Lantern. 34-1
2. The proposed B & B on Green Lantern: don't we have enough Hotels and more than enough bed tax revenue from the existing hotels, especially the St. Regis and also the newly proposed B & B at the entrance of Doheny Park. A new B & B will create more traffic on the over trafficked area of Green Lantern and Blue Lantern. 34-2
3. The construction of 2 buildings for public use on the proposed park land. Wouldn't it be nicer the have just park land with natural plant life identified as in botanical gardens along with the natural wildlife, similar to Heissler Park in Laguna. 34-3
4. Apparently the way I understood it you will be taking space from the proposed parkland to use to widen the road on Marguerite, we value every speck of ground given too us as public use. 34-4

Thank you for reading this, and I hope you will take these suggestions into consideration.

Sincerely,

Barbara Brabeck

Barbara Brabeck

34. RESPONSES TO COMMENTS FROM BARBARA BRABECK

34-1 The proposed commercial center would be accessed via Street "A," which is proposed to have a traffic signal at its intersection with PCH. As such, it is unlikely that the commercial center would generate much traffic on Green Lantern or Blue Lantern. Refer to Response to Comment 22-5 regarding the economic viability of additional commercial development in the area. As stated in the Traffic Study, the adjacent intersections of Selva Road/PCH and Blue Lantern/PCH are forecast to operate at an acceptable level of service with the implementation of the project.

34-2 The necessity or desire for an Inn is not an environmental issue and, therefore, is not required to be addressed in the DEIR. Refer to Response to Comment 26-12 and General Response 1 - Traffic on Green Lantern regarding parking and traffic from the proposed Seaside Inn and traffic on Green Lantern.

34-3 The design of the proposed park and visitor centers is conceptual, and one or all the buildings could be eliminated from the plan based on revisions requested by the City or Coastal Commission. The comment does not raise any environmental issues, and no further response is necessary.

34-4 Marguerite Road will be vacated and converted to open space between Scenic Drive and Selva Road. Open space is being provided by the project.

35. COMMENTS FROM SOUTH COAST WATER DISTRICT

SOUTH COAST WATER DISTRICT
Providing Quality Water and Wastewater Services to the Coastal Communities

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 19 3 49 PM '01

November 19, 2001

Mr. Ed Knight
Director of Community Development
City of Dana Point
Community Development Department
33282 Golden Lantern
Dana Point, CA 92629

Re: Headlands Development and Conservation Plan
Draft Environmental Impact Report

Dear Mr. Knight:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (EIR) for the Headlands Development and Conservation Plan (HDCP). We offer the following comments based on our review.

In Section 4.8, Water Quality, Project Design Feature (PDF) 8-7 indicates that all restaurant/food service facilities include a washdown area that would eventually be plumbed to the sanitary sewer system. The District would request that prior to any discharge from washdown areas from restaurant/food service facilities, a grease interceptor be incorporated to capture greases and oils. Absence of any adequately sized grease interceptor would result in grease blockages leading to sewer spills. 35-1

PDF 8-8 discusses the diversion of dry weather (low flow nuisance) flows to the sanitary sewer system. The District has indicated to the HDCP development that it would accept up to 10,000 gallons per day of these dry weather diversions. The District has adopted a policy that sets out the requirement for these dry weather diversions. A copy of that policy will be forwarded to the HDCP development. In addition, the South Orange County Wastewater Authority (SOCWA) has provided the District with a copy of the chemical and biological constituents that would be required to be monitored. A copy of these constituents would also be forwarded. 35-2

Figure 4.14.1, Conceptual Water Plan, indicates an existing 2-inch water pipeline. The District would request that all water distribution pipelines within the project boundaries be a minimum of 6 inches. 35-3

Mailing Address: P.O. Box 30205, Laguna Niguel, CA 92607-0205
Street Address: 31592 West Street, Laguna Beach, CA 92651
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PDF 14-2 indicates that there will be maintenance of supply line water pressure at 50 psi o less by means of pressure reducing valves. This requirement may impose unnecessary restrictions to the development. The American Water Works Association (AWWA) guidelines indicate a minimum pressure of 40 psi for a water supply system. The District requires water pressure reducing valves or other devices on facilities receiving water pressure in excess of 80 psi. The proposed 50 psi requirement leaves very little margin above the AWWA guidelines. 35-4

PC 14-2 indicates that the sanitary sewer plan shall be reviewed and approved by the Director of Public Works of the City of Dana Point (CDP). The District is the provider of sanitary sewer services for the project area. Any plans for the sanitary sewer system are to be reviewed and approved by this District. Copies of the approved plans will be provided to the Director of Public Works. 35-5

PC 14-3 indicates that the water distribution system shall be reviewed and approved by the Director of Public Works of the CDP. The District is the provider of potable water services for the project area. Any plans for the potable water distribution system are to be reviewed and approved by this District. In addition, the water distribution system would be dedicated to the District for operation and maintenance of the facilities. Copies of the approved plans will be provided to the Director of Public Works. 35-6

Please incorporate these comments into the final EIR. If you have any questions or require further information, please free to contact me. 35-7

Very truly yours,

SOUTH COAST WATER DISTRICT

Michael P. Dunbar

Michael P. Dunbar
General Manager

cc: Board of Directors

MD/em

35. RESPONSES TO COMMENTS FROM SOUTH COAST WATER DISTRICT

35-1 An adequately sized grease interceptor, as referenced by the commentor, is a typical feature required for restaurant/food service wash down areas, and installation of such a feature will be incorporated in the design as shown on Table 4.8.E.

35-2 Comment noted. The project applicant will be required to comply with the South Coast Water District Policy prior to initiating the proposed low flow diversion to the sanitary sewer system. This includes testing for constituents of concern and providing this information to SOCWA.

35-3 Replacing the existing two inch PVC line under Marguerita Avenue with a six inch line to complete the loop in Scenic Drive would result in a better overall system, and will be done. Although the two inch PVC serving the residential enclave is not considered a distribution pipeline that would serve the project, the applicant will coordinate with SCWD prior to issuance of City building permits to properly size the water delivery service system. These project implementation details will be finalized during plan check, prior to issuance of building permits.

35-4 Comment noted. A working pressure of 40 psi to 50 psi is too narrow a range for the distribution system. The District already requires individual pressure reducing valves for services receiving water from distribution lines with over 80 psi of pressure. PDF 14-2 shall be reworded to require pressure-reducing valves on services receiving water from distribution lines with over 80 psi of pressure.

35-5 Correction noted. The sanitary sewer plan shall be submitted to SCWD for review and approval, and copies of the approved plans will be provided to the City's Director of Public Works. PC 14-2 shall be revised to clarify the review and approval authority of SCWD and the City's Director of Public Works.

35-6 Correction noted. Plans for the water distribution system shall be submitted to SCWD for review and approval, and copies of the approved plans will be provided to the City's Director of Public Works. Dedication of the lines for operation and maintenance by the District is hereby acknowledged. PC 14-3 shall be revised to clarify the review and approval authority of SCWD and the City's Director of Public Works.

35-7 As noted above, the District's comments are to be incorporated into the administrative record of the Final EIR through this Responses to Comments document and an Errata to the EIR.

36. COMMENTS FROM CITY OF SAN JUAN CAPISTRANO

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CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 19 4 06 PM

MEMBERS OF THE CITY COUNCIL
DIANE L. BATHGATE
JOHN S. GELFF
COLLENE CAMPBELL
WYATT HART
DAVID M. SWERDLIN

CITY MANAGER
GEORGE SCARBOROUGH

November 19, 2001

Edward M. Knight, Community Development Director
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Subject: Draft Environmental Impact Report (EIR) for The Headlands Development and Conservation Plan, City of Dana Point (our file: Inter-jurisdictional Project Review 2001-05, Headlands Reserve LLC)

Dear Mr. Knight:

We recently completed a review of the Draft Environmental Impact Report (EIR) for the proposed Headlands project. Based on our review, the Draft EIR is inadequate and requires additional traffic analysis including an expanded project area which analyzes the impact of the Headlands project on Stonehill Drive. Given the implicit standards expressed in your City's recent comments on the Home Depot Draft EIR, we would have expected a more comprehensive traffic analysis effort than you've completed for the Headlands Draft EIR.

Although the Home Depot Draft EIR, traffic study, as specified by the City of Dana Point in response to our Notice of Preparation, includes a project study area which incorporates a significant area of Dana Point and has been completed consistent with Dana Point traffic study guidelines and LOS criteria. The Headlands Draft EIR traffic study, on the other hand, has not even addressed our similar specification outlined in our response to the Notice of Preparation for this project. 36-1

Furthermore, the traffic study inexplicably limits the project area to exclude potentially impacted streets and intersections, especially Stonehill Drive. Stonehill Drive is a designated primary arterial within your City and presently operates at a LOS D, well below your City's minimum standard of LOS C. Under this condition, the proposed Headlands project will have incremental impacts to this roadway which warrant analysis in the traffic study. Our specific comments are as follows: 36-2

- In our Notice of Preparation (NOP) comment letter, we advised you that the project must comply with the State-mandated Congestion Management Plan (CMP), and that we expected that the EIR traffic analysis will include ICU and HCM analysis of those arterial intersections within our City at which the project would increase traffic volumes by at least 1%, consistent with the City of San Juan Capistrano policies. The Draft EIR is wholly deficient because it does not provide analysis to demonstrate whether such an impact may occur and provides no HCM analysis. 36-3

DRUG USE IS LIFE ABUSE

Consequently, the traffic analysis does not demonstrate compliance with the Congestion Management Plan (CMP), and requires revision to address the same, and recirculation for public review and comment, prior to being considered for final action. 36-3

- The Headlands project will generate approximately 4,600 daily vehicle trips, with approximately 79% of the traffic with regional origin/destination, many of which would likely be outside of the City of Dana Point. The project trip distribution, as provided on Page 5-5 of the traffic study demonstrates 38% of the regional traffic utilizing Pacific Coast Highway to the east and south with 8% splitting north to Blue Lantern, 3% splitting north on Golden Lantern and 2% north onto Del Obispo Street and 25% of the traffic continuing on Pacific Coast Highway to the south. It also shows 41% of the traffic going to the north, with 6% splitting onto Selva Road, 17% split north on Niguel Road and 10% split off to Crown Valley Parkway and 8% continuing north on Pacific Coast Highway. The traffic study indicates that the distribution was completed using the City of Dana Point traffic model. That model evidently does not track regional (inter-community) trips and so is inadequate to provide an accurate distribution. We demand that the traffic analysis be completed using a trip distribution which tracks regional trips and provide an accurate trip distribution. 36-4

- The 25% of traffic oriented south on Pacific Coast Highway has the potential of entering San Juan Capistrano. However, the analysis of these trips stops at the City of Dana Point's border and no regional interpretation of these trips is provided by the traffic study. Based on trip volumes disclosed in the traffic study, the Headlands project could generate as many as 1150 daily trips and approximately 100 evening peak hour trips on this link. In addition, based on the trip distribution, there is a potential for 34% of the project traffic which will utilize Stonehill Drive, generating as many as 1564 daily trips and 135 evening peak hour trips. Combined, this totals 2714 daily and 235 evening peak hour trips. Based on the demand to access the I-5 Freeway, it is possible that many of these trips will impact City of San Juan Capistrano arterial roadways, such as Stonehill Drive, Del Obispo Street or Camino Capistrano. 36-5

- The traffic study predicts 10% of Crown Valley traffic stops short of Camino del Avion and represents approximately 460 daily trips and 40 evening trips. It is reasonable to assume that some of this traffic will have a regional influence on the City of San Juan Capistrano. However, the traffic study does not follow through on this distribution of external trips, so it is difficult to assess the true potential impacts beyond that analyzed by the document provided. We find that the EIR is wholly deficient in this regard. 36-6

- The analysis of cumulative projects includes traffic generated from projects within the City of Dana Point and is provided on page 7-2 and 7-3 of the traffic study. However, Table 7-1 does not include South Coast Water District's Master Planned Development. Additionally, the City of San Juan Capistrano has regionally significant projects, presently under consideration, which would influence this study. Specifically the proposed Home Depot and the SunCal-Pacific Point projects must be included in the cumulative analysis. 36-7

The City of Dana Point has a responsibility to study and address inter-jurisdictional traffic impacts and our goal will be to assure that your City fairly assumes that responsibility. 36-8

Sincerely,

Thomas Tomlinson
Planning Director

WR:hs

C:\My Files\ALAN\Interjurisdictional\Headlands EIR.wpd

cc: George Scarborough, City Manager
John Shaw, City Attorney
William Huber, Engineering & Building Director
William Ramsey, AICP, Principal Planner
Alan Oswald, Senior Engineer-Traffic

36. RESPONSES TO COMMENTS FROM CITY OF SAN JUAN CAPISTRANO

36-1 The Dana Point Headlands Traffic Study dated August 24, 2001, in the draft EIR followed the County of Orange Congestion Management Criteria with respect to the determination of the appropriate study area and analysis procedures. An existing, short-term, and build out traffic analysis, along with a weekday and weekend analysis, was included in the Traffic Study. The intersection and link analysis followed both the City and County of Orange Congestion Management requirements.

36-2 A "one percent analysis" has been performed to determine where the project had the potential to increase traffic by one percent. The City of San Juan Capistrano specifically referenced Stonehill Drive within the City of San Juan Capistrano. In this area, it was projected by the City's model that the Dana Point Headlands project would contribute between 50 and 72 ADT (Average Daily Traffic) on Stonehill Drive between Del Obispo Street and Camino Capistrano. Within the segment included within the City of San Juan Capistrano east of San Juan Creek, the project contributes 50 ADT and the projected future traffic volume is 37,000 ADT. The Dana Point Headlands project represents 0.14 percent of total traffic within this segment. This is significantly under the threshold that would require intersection analysis or inclusion in the study area. The project similarly contributes less than one percent of the total projected traffic to other segments of Stonehill Drive within the City of Dana Point.

36-3 As previously noted, the Traffic Study did analyze the study area with respect to the Congestion Management Plan (CMP) requirements based upon the one percent threshold. The Traffic Study did not find that the proposed project would increase traffic volumes by over one percent in the City of San Juan Capistrano. The project would contribute significantly less than one percent of the traffic volume to Del Obispo Street south of Camino del Avion and as previously mentioned in Response to Comment 36-2, the project would contribute significantly less than one percent of the traffic to Stonehill Drive in the City of San Juan Capistrano. Based upon the CMP guidelines, the project would not be required to analyze traffic impacts in these areas. The Traffic Study did use the ICU (Intersection Capacity Utilization) method to analyze signalized intersections in the study area. This is the appropriate capacity method stipulated in the CMP for Traffic Impact Analysis (TIA) reports utilized by the County of Orange and by the City of Dana Point.

36-4 The Traffic Study utilized the City of Dana Point General Plan Buildout Traffic Model, which was developed by the same consultant (Austin-Foust Associates, Inc.) that developed the traffic model for the City of San Juan Capistrano. The project traffic engineer utilized the select zone loading from the Dana Point Traffic Model provided by Austin-Foust Associates, Inc. for the Dana Point Headlands area to determine the local and regional trip distribution of the project. The Dana Point Traffic Model **does** take into account regional traffic, since it is based on the regional OCTAM (Orange County Traffic Analysis Model) model.

Intercommunity trips are taken into account based upon the interface with the regional traffic model. The model does take into account regional traffic and through trips, since its origin was the Orange County Traffic Analysis Model, which has a trip table that links locally generated trips with cordon stations outside of the City of Dana Point.

36-5 The primary destination for the 25 percent of the trips shown in the project trip distribution is the Pacific Coast Highway connection to the I-5 Freeway. These trips do not impact any City of Dana Point or San Juan Capistrano intersections, since they enter the controlled access Pacific Coast Highway connection to I-5 Freeway. The project contribution to any of the arterial highways in this area is significantly less than the one percent criterion. The project contributes 522 ADT to the I-5 Freeway north of the PCH connection and 402 ADT to the south of the PCH connection to the I-5 Freeway. Project contribution to the I-5 Freeway is significantly under a one percent traffic impact.

36-6 Based upon the detailed traffic assignments, the project traffic contribution in the vicinity of Crown Valley Parkway and Camino del Avion has been reviewed. The project traffic on Crown Valley Parkway north of PCH is 462; however, the project traffic is reduced to 137 by the time it reaches Camino del Avion. This represents 0.42 percent of the total traffic on this link. The project traffic on Camino del Avion east of Crown Valley Parkway is 223 ADT or 0.95 percent of the total traffic. Both of these contributions are under the one percent threshold for inclusion in the study area. Based upon the Traffic Study, the study area intersections ended at the intersection of Crown Valley Parkway and Pacific Coast Highway because the project had less than one percent impact to locations beyond this intersection.

36-7 The traffic analysis for the Dana Point Headlands project was based upon several time frames, including existing conditions, short-range conditions, and build out conditions. Identification of cumulative projects for short-term conditions was based upon projects known to the City of Dana Point at the time of preparation of the Traffic Study and that would directly impact the study area. Neither the Home Depot nor the Suncal project falls into this category. Other projects, particularly outside of the City of Dana Point, are accounted for in the "ambient growth rate," which adds an additional ten percent (one percent per year for ten years) to the existing traffic volumes. The build out projections address the long-term build out of the general plans of the City and adjoining areas and, therefore, take into account other areawide growth anticipated within the region.

37. COMMENTS FROM RON & LEE COHAN

FAX TO: Edward Knight # 248-7372

Ron & Lee Cohan
34371 Green Lantern St.
Dana Point, CA 92629

November 18, 2001

Mr. Edward Knight, Director of Community Development
City of Dana Point
33282 Golden Lantern St.
Dana Point, CA 92629

Dear Ed,

This letter is in response to the environmental report for the proposed development of the Dana Point Headlands property (EIR Draft for HDCP).

We moved to Dana Point two and a half years ago from Laguna Niguel, and purchased residential property on Green Lantern Street. We have always loved Dana Point which is why we moved here. During the time we have lived here we have seen some very positive moves by the city to make this a safer, cleaner, and more beautiful place to live, and we appreciate all the hard work you do to contribute to that. We know it must be difficult trying to address all concerns.

Although we love living in Dana Point, not everything has been a positive experience living on Green Lantern St. We have been exposed to a huge amount of traffic, noise, and pollution from commercial, non-commercial, and construction vehicles. It was not what we expected when we moved here. So, naturally we are very concerned about the proposed additional developments for this street. It is difficult to imagine how traffic will be able to flow smoothly on this two lane street with the addition of a hotel, restaurant, lighthouse, Veteran's memorial, cultural arts center, and nature center. Presently on Friday and Saturday evenings when the Chart House is busy, or when they have a wedding, the cars get so backed up because they cannot fit them all in their parking area. The restaurant service employees already park on the street because they do not have enough parking, which only creates more congestion. Also on holidays, such as the fourth of July, the traffic gets so bad that one time, when we had an emergency at our place of business we couldn't even get out of our driveway because the cars were deadlocked on Green Lantern. What if there was a medical or fire emergency on this street, how could emergency vehicles get through? 37-1

We hope you will consider these issues and study what the impact could be to the residents who presently live on this street, since the entire west side is zoned residential. We would appreciate any assistance the city could give us in addressing these concerns.

Thank you,

Ron & Lee Cohan

37. RESPONSES TO COMMENTS FROM RON & LEE COHAN

37-1 Refer to General Response 1 - Traffic on Green Lantern. As described in the DEIR, Mitigation Measure 13-2 requires the approval of a traffic management plan by the City Traffic Engineer prior to issuance of a grading permit. The plan is required to address traffic control for any street closure, detour, or other construction-related disruption to traffic circulation. With implementation of this mitigation measure, construction impacts to the circulation system will be less than significant. The project proposes improvements to Scenic Drive, which will include street parking and a turnaround at the end of the road. These improvements may help to address the congestion due to special events cited in the comment. As stated in the DEIR, implementation of the project will not result in significant traffic impacts. The assertion that the entire west side is zoned residential is incorrect. As shown in Figure 4.9.2 of the DEIR, Land Use Policy Diagram - Existing, the proposed Seaside Inn site at the intersection of Green Lantern/Cove Road/Scenic Drive is designated as Visitor/Recreation Commercial.

38. COMMENTS FROM J. RICHARD FAULK

Date: November 19, 2001

RECEIVED
2001 NOV 19 P 4:22
CITY OF DANA POINT

To: Daniel K. Miller

From: J. Richard Faulk, Regatta resident
79 Palm Beach Court
Dana Point, CA 92629
(949) 661-1237

Subject: Notice of Availability, Draft Environmental Impact Report (EIR), Headlands

Purpose: The purpose of this memorandum is to advise you, the City Council and the Planning Commission of the deep concern Regatta residents have about certain aspects of the approval process.

Background: Regatta is the single most impacted community by the Headlands development. Regatta home values are tied directly to the ocean views and the quality of life afforded in our gated development. The views for a number of homes could be severely impaired by the proposed 40,000 square foot commercial center at PCH and Green Lantern. The proposed new traffic signal and entry way on PCH across from Regatta will cause devastating noise, air and light pollution to many Regatta homes that back up to PCH. Because Regatta home values have traditionally been based on comparables, all 119 Regatta homes will be negatively impacted. 38-1

Main Points:

1- I learned today that the review period ends today on the Draft Environmental Impact Report (EIR) for the Headlands Development Plan. Why were concerned Regatta Residents not notified directly?

2- At least nine (9) different letters were written by individual Regatta residents. Copies of most of the letters were sent to the City Council and the Planning Commission. This alone would dictate proper notice should be given to each writing individual. 38-2

3- At the last series of public comment meetings regarding the Headlands Development, I appeared and spoke at the last meeting before the City Council. My first point of concern was pointing out that the Regatta residents did not receive the required (and expected) individual mailed notices. Any Dana Point official attending those meetings will remember my continuous complaint about not being given proper notice and requesting future notice be provided. I did not receive direct notice of the report review period. Instead, through indirect notice, I learned of the review deadline in time to write this memo.

4- It is my understanding that the City officials did not respond to the letters written by Regatta residents. Instead, the developer wrote back and I had the opportunity to review some of their responses. I must point out that they present the Headlands Development as a "done deal". In fact, one could further surmise that the Planning Commission and City Council hearings were just a formality. 38-3

5- We recognized that "closed door" meetings were being held between the developer and select members of the City Council. While technically this may not violate the Brown Act, it would seem all the more reason for alternative suggestions for slight modifications to the 38-4

6- Recognizing that the "closed door" meetings gave a huge advantage to the developer, Jack Rogenbuck, Regatta Homeowner Association President and I met with the then Dana Point Mayor, Ingrid McGuire. Jack and I also held a separate meeting with the City Manager. We expressed our concerns about the arrangements being made behind "closed doors" placing the Headlands plans in concrete with no chance for our suggestions to be given adequate consideration. We were assured Regatta would have time to make a counter proposal which would be given open minded consideration. This most recent lack of notice only perpetuates our fears. 38-5

7- Several residents were promised superimposed pictures of how the Headlands plan would impact their views last year. When months passed and no pictures were forthcoming from the developer, the City may have put pressure on the developer to deliver the promised pictures in a timely manner. Were these view impacts discussed during the "closed door" meetings as they should have been? 38-6

Finally, it should be understood that the Regatta residents have been a proponent for the headlands Development. Our concerns rest in the areas directly impacting our quality of life as follows: 38-7

- No viewshed blockage
- No added entrance or traffic signal on PCH
- No commercial building on the corner of PCH and Green Lantern

We have alternative proposals that will not hinder the progress of the development, will not lessen the developer's profit potential and will not lessen the property values or usage. In fact, we have suggestions that will protect Regatta residents and enhance the quality of life in the 50 homes proposed for directly across from Regatta. 38-8

Requested Action: Citing precedent at prior public meetings where the Dana Hills High School Students and others were allowed to make concurrent presentations early in the evening, we request that the City Council allow the following:

- Due to the lack of notice, please accept the response written by Jack Rogenbuck today, November 19, 2001 as my response as well, had I been given the time necessary to prepare a more detailed response.
- For the upcoming meeting on December 5, 2001, we will provide you with a list of the attending Regatta speakers with the request they be allowed early concurrent time slots. Each speaker will take no more than the allotted time and will address a specific point. Each point will be followed in logical sequence. This will lessen the number of Regatta speakers and will avoid duplication, and will give the hearing board well thought out intelligent reasons and suggested alternatives. 38-9
- Based upon the facts presented above, we trust that the process not be a required formality. Rather it would be conducted in the best interest of the tax paying voters who have been long standing caring members of the Dana Point community.

38. RESPONSES TO COMMENTS FROM J. RICHARD FAULK

38-1 Refer to the Responses to Comment 22-1 through 22-10.

38-2 The Notice of Availability for the DEIR was mailed to 263 individuals and groups, including the Regatta Homeowners Association (HOA) on October 5, 2001. It was made clear to the Regatta HOA that it was their responsibility to notify the Regatta residents of the availability of the EIR. In addition, the notice was published in the Dana Point News and posted at City Hall and the Dana Point Library. Finally, the notices were posted both at the project boundaries and at points readily visible to the public in the vicinity of the project.

Several letters were written to the Headlands property owner Headlands Reserve LLC and copied to the City. These letters referenced information these homeowners were seeking to receive from Headlands Reserve. The letters did not ask for specific replies from the City nor did any request to be notified of the availability of the EIR. Notice of the Public Hearings will be mailed to each owner of property within 500 feet of the project site.

38-3 As referenced above, the letters were written to the Headlands property owner and copied to the City. Planning Commission and City Council hearings have yet to occur on the HDCP and EIR. During the public hearing process, the Planning Commission will have the opportunity to recommend approval or denial to the City Council, and the City Council will have the authority to approve or deny the proposed HDCP and EIR.

38-4 Comment noted. At the suggestion of Superior Court, settlement discussions between the City and the property owner occurred to formulate a resolution to continuing litigation. A two member City council subcommittee with members of City Staff met with the property owners to discuss and formulate a land use plan for the Headlands. Results from these meetings were provided in press releases to the general public. Subsequent to these meetings, City Staff and the property owners met to prepare the draft Headlands Development and Conservation Plan (HDCP), which was released to the public in July, 2001.

38-5 Comment noted. As a resident of Dana Point you have every right to have meetings with City representatives, as does the property owner. There is a public benefit to having litigation resolved, as clearly recognized by the courts. The benefit is that both litigants have an equal opportunity to make proposals and counter proposals in a way that will not disadvantage either, if the litigation is not settled. For this reason settlement discussions are not public proceedings. Public input at the public hearings is encouraged. The public hearing process before the Planning Commission and City Council will provide the opportunity for the Regatta residents to voice their concerns and recommendations with respect to the proposed HDCP and EIR.

38-6 Comment noted. The settlement discussions and materials are confidential. Visual simulations are provided in Section 4.1, Aesthetics, of the EIR. This section analyzes the

visual impacts of the proposed project as required by CEQA. The purpose of these views is to document impacts to public views to and from the Headlands site. The City does not have an ordinance that protects or considers private views.

38-7 Refer to Response to Comment 38-1.

38-8 The City welcomes public input on the project and is open to discussions about additional alternatives. Also refer to Response to Comment 38-1 above.

38-9 All interested residents will be given the opportunity to voice their comments and concerns during the public hearings for the Headlands in the order as scheduled on the posted agendas.

39. COMMENTS FROM CELIA KUTCHER

34681 calle los robles capistrano beach ca 92624

COMMUNITY DEVELOPMENT DEPARTMENT
Nov 19 4 19 PM '01

November 19, 2001

Edward Knight
Community Development Department
City of Dana Point
33282 Golden Lantern
Dana Point CA 92629

RE: DEIR for Headlands Development and Conservation Plan (HDCP)

Dear Mr. Knight:

I appreciate the opportunity to comment on the above-referenced documents. As documents, they are much more thorough than the previous planning processes for the Dana Point Headlands, and the plan they support has many well-thought elements. And yet I have a number of concerns: 39-1

ON DEIR §4.9, LAND USE:

General Comment: More distinctive and consistent headings and subheadings would make it easier to navigate and comprehend this large and complex section. How about including a brief index, either here or in the main DEIR index? There are a number of typos and mis-usages, some of which are noted below. 39-2

On PDD vs SP:

- **p.4.9-4:** "... The project site is designated as "Specific Plan Overlay Zone" in the Zoning Code ... **Under existing General Plan Policy, the project site may be zoned only through adoption of a Specific Plan and implementing ordinance.** A General Plan Amendment, Zoning Code Amendment, and Zone Change are required to ... allow the proposed project. The proposed project ... includes [these] ..." (emphasis added).
- **p.4.9-8:** "The HDCP also establishes the Planned Development District (PDD) Zone Classification to [in? a typo?] the Zoning Code. The [proposed General Plan Amendment (GPA)] specifically provides that the Headlands will be developed as a PDD or a Specific Plan (SP), providing the PDD or SP is adopted as being consistent with the General Plan. **The GPA for the HDCP amends the Land Use Policy Program of the General Plan to add the PDD as a[n] implementing mechanism for the Headlands. The Headlands project utilizes the PDD provisions to implement General Plan policy ...**" (emphasis added).
- **p. 4.9-9:** "... **In general, if amended by the proposed actions, the Project will become consistent with the General Plan, as amended** ..." (emphasis added).
- The above is circular reasoning: "It's necessary to amend the General Plan to fit our project, so that our project will be consistent with the General Plan." Other instances are on pp. 4.9-22 and 4.9-25 (e.g.). 39-3

- It is not clear here or elsewhere why a PDD is a better mechanism than an SP. And it's all rather ironic; if memory serves, Headlands owner Sanford Edwards sued the City over the last Headlands Plan ("Plan A") because it was done concurrently with its enabling GPA, instead of the GPA being done before the SP was started. Is this proposed PDD really all that different? 39-3

p. 4.9-15: [General Plan Policy 2.1 consistency] "The existing infrastructure is sized to accommodate [the higher] densities associated with the [current] General Plan ..." [General Plan Policy 2.2 consistency] "... there is no intrusion into an existing neighborhood." This may be the case for some infrastructure and neighborhoods, but what about along Green Lantern? 39-4

p. 4.9-16: [General Plan Policy 2.4 consistency] "The HDCP includes provisions for shared parking among the inn and visitor-serving commercial uses." Does this mean that Chart House diners will be able (encouraged? required?) to park in the inn's underground parking (see HDCP p. 4-86), instead of in the Green Lantern/Scenic Drive parking (see HDCP p. 4.13-21)? 39-5

p. 4.9-19: "[General Plan Policy 4.6 consistency] "The project is not within, nor does it affect, a scenic corridor." I always thought the view of the Capistrano Bight, when coming from the north on PCH, was pretty scenic. And haven't the City Council and interested others recently been wanting to do something about the City's lack of an "entrance" there? The Hilltop/PCH area is a very visible landmark and what's done (or not done) there will greatly affect the view along that stretch of PCH, official "scenic corridor" or not. 39-6

p. 4.9-28: [Urban Design Plan] "The intent of the project grading is to minimize alteration of the significant landforms ... the Hilltop and Strand Beach." The grading proposal (see DEIR §4.5 and HDCP §4.11) calls for digging out all the slope above Strands Beach down to sea level or lower, compacting most of the dirt into the Bowl to about halfway up the Hilltop and across the lower part of the ridge, and compacting the rest back into the Strands slope. Isn't that "alteration of significant landforms"? The best way to minimize alteration would be to not do any. 39-7

p. 4.9-29: "[General Plan] Policy: Provide a variety of housing opportunities for all income levels ..." If there is indeed a "need" in Dana Point for very high-end housing, the Plan will provide it. But it doesn't do much for the need for low-end housing. 39-8

p. 4.9-33: "[General Plan] Policy 6.3: Provide sufficient off-street parking."

- The Plan does provide off-street parking where presently there is none. Whether it will be "sufficient" is questionable. Parking and Internal Circulation analysis (DEIR p. 4.13-21) estimates parking demand to be 106 spaces. About 62 spaces are proposed along Green Lantern, Scenic Drive and in the Nature Interpretive Visitor Center lot, to serve the Nature, Cultural/Arts and Maritime Historical Visitor Centers. Will patrons of the inn and the Chart House be restricted from using this parking? Will parking at the inn be reserved for its 39-9

patrons only? (See comment for p. 4.9-16, above.) About another 60 spaces are proposed along Dana Strand Road (which will become an extension of Selva Road). And the 593 spaces in the Strands Beach parking lot and on adjacent Selva Road are not far away. 39-9

- Sixty-two spaces (even if time-restricted, see HDCP p. 4-50) aren't enough to handle the number of visitors that may be expected at events and programs at the Visitor Centers. If they have the kind of active education programs that they should, at least one busload of schoolchildren may be expected each day for each of them. If the buses park on the Selva extension, a lot of each field trip's (usually limited) time will be spent walking the kids from there to the Centers. 39-10

p. 4.9-46, discussion of NCCP/HCP in relation to General Plan Policy 3.9:

- In the second paragraph, the first sentence is about the 1996 NCCP process' final determination that the Headlands site does not fulfill the requirements for inclusion in the Central-Coastal Reserve System. The second sentence begins "Accordingly ..." then talks about the NCCP/HCP's overall purpose; the rest of the paragraph continues that topic but says nothing about how or why the Headlands fits in "accordingly." Did something get left out?
- In the third paragraph, we learn that the Headlands got included in the Reserve anyway because its former landowners contributed "significant land and/or funding toward implementation of the reserve system ...", in effect buying themselves a Section 10 Endangered Species Incidental Take Permit to facilitate the development they were pushing at the time. Does the Section 10 Permit apply to the current Plan? 39-11
- The third paragraph continues with a comparison of the 1996 Headlands Plan to the current one. This Plan is indeed far better than the old one in every way, especially in its consistency with the General Plan's Goal to conserve significant natural plant and animal communities and its provisions for implementation.
- The discussion of how the NCCP/HCP and HDCP bring consistency with the above Policy covers almost two pages. But it is confusingly written; I'm familiar with the topic and it was still hard to figure out what was being said. Conservation of the site's natural resources is very important, and the effort to do so shapes much of the current Plan; I hope that this section can be rewritten for greater clarity.

p. 4.9-48: [General Plan] Policy 6.1: "Mitigate the impacts of development on sensitive lands ..." [General Plan] Policy 6.2: "Preserve and protect ... environmentally sensitive habitat areas ..." Project implementation will fulfill a lot of this, but grading will remove some coastal sage scrub habitat in general, and Blochmann's Dudleya and some potential Pacific Pocket Mouse habitat in particular, and the mitigation measures are not guaranteed to work. Therefore, project implementation is <u>not</u> truly consistent with these policies. The best way to preserve environmentally sensitive habitats is to not disturb them. 39-12

p. 4.9-49, [General Plan] Policy 7.6 consistency:

- "... is a major <u>tenant</u> of the HDCP." Do you mean "tenet"? This mis-use occurs wherever this boilerplate is used. 39-13

- "... no significant impact to off-site public views." Any viewpoint upslope of the Headlands, as from across PCH, will certainly have a different view once the Bowl is filled and graded and the houses and commercial corner are built. Ditto for the view when traveling along PCH. How "significant" will this be? 39-14

p. 4.9-60: "The Harbor has over 1.0 million [don't need this much precision; "over 1 million" is better usage] visitors each year that [who?] utilize the Harbor's coastal facilities ..." This seems to imply that there are even more visitors annually who don't utilize Harbor facilities; and does the Harbor have inland facilities? 39-15

p. 4.9-66, Coastal Act Policy: "Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area." The Headlands is oceanfront property, all 121.3 acres of it. Even in its present state the site offers re-creational activity not now adequately provided for in this area: a sweep of acres of open space, untrammeled by nearby rooftops, where one can walk the native earth in solitude, surrounded by natural openness, breathing clean ocean wind. Where one can walk on a beach between bluff and ocean with no railroad, highway, or parking lot a few steps away, with no houses hovering over one's shoulder. Of the Plan's 62 acres of recreation/open space, only the Conservation Park's 24.2 acres will provide an approximation of the re-creation that one may now experience amidst 121.3 acres. All the park/recreation amenities offered in the Plan are very nice, but will not mitigate for the loss of 121.3 acres of oceanfront open space. 39-16

p. 4.9-69, Land Resources: "To protect this natural habitat, only limited portions of the area will accommodate passive uses ..." This could be taken to imply that the unlimited portions will not accommodate passive uses, or will accommodate only active uses. Perhaps you meant: "... habitat, only passive uses will be accommodated, and these only in limited portions of the area." 39-17

p. 4.9-79, Coastal Act Policy: "... in any way require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." 39-18

- The project calls for massive grading (see DEIR §4.5 and HDCP §4.11) that will remove a good part of the slope above Strands Beach and fill the Bowl with it, rework the remaining slope to stabilize the landslide complex, and grade it all for housing pads. This certainly sounds like substantial alteration of natural landforms along bluffs and cliffs. 39-19
- The Plan assures us that the end product on the Strands slope will approximate what's there now, and points out that the existing slope has had much minor alteration over the past 50 years at least, therefore is not now "natural". 39-20
- DEIR §4.5, Geology and Soils, p. 4.5-2: "Slope gradients along [Strands slope] ... typically range from about 1.5:1 to 2:1 ..." Footnote 1: "For the purposes of this analysis, a "coastal bluff" is defined as a natural oceanfront landform having a continuos slope of 45° (1:1) or greater over a vertical height of at least 25 feet, and extending over a horizontal distance of at least 100 feet." Thus the definition of "coastal bluff" determines whether the Strands slope is protected 39-21

by Coastal Act Policies or is open to massive reworking. The 1990 *Zeiser Geotechnical Report* said that the Strands slope was a bluff. Do the Coastal Act Policies contain a definition of "coastal bluff"? 39-21

ON THE HDCP

General Comments: The Plan is generally well-thought and shows that the landowner has paid attention to past public input on Headlands issues. However, much that is presented is "conceptual" or "proposed," i.e. the final product will not automatically be like the pretty pictures in the Plan. During the several previous episodes of Headlands planning, a constant public comment was that there was not enough detail about any proposed amenities/mitigations. The developer of the moment would reply that such specificity of detail would be merely conceptual at that stage of the process, and the requested detail would be in the final plans for each part of the project. The current Plan does give us much of that kind of detail, but it's all still conceptual.

HDCP 4.4, PARKS AND OPEN SPACE PLAN
HDCP 4.5, PUBLIC TRAIL/ACCESS PLAN
All the parks, open space, trails and related amenities are presented as "proposed." We are promised that the developer will improve, offer for dedication, transfer and/or convey to appropriate public agency or non-profit entity in the first phase of the project, consistent with terms and conditions of the Development Agreement. Is Sanford Edwards/Headlands Reserve LLC to be the developer, or will these promises be shifted to another developer for fulfillment?

39-22

As Curator of the Plant Collection at the Fullerton Arboretum from 1978 to 2000, I have had lots of hands-on, on-the-job experience in what it takes to establish and manage a museum of live plants. A nature reserve is also a museum, with live free-running animals as well as wild plants (i.e. plants that grow naturally and as nature places them). The comments below are based on my and others' experience in the botanic garden/museum business and also on my decade-plus experience in growing and maintaining native plants at the Fullerton Arboretum, the UCI Arboretum, and at my home.

The following thoughts apply to all the park/open space areas.

- It will not be ideal to have these adjacent, almost interwoven parks under different management teams.
  - Will the conservation-oriented staff of the Conservation Park have the final say over City-owned Parks' planting plans and management practices that may be detrimental to conservation goals? Will the City-owned Parks' staff be permanently stationed at those Parks only, or be responsible for a variety of other parks too? Conservation-aimed maintenance of natural areas and native plants is quite different from ordinary landscape maintenance. Will the City Parks' staff be allowed, encouraged, or required to learn the proper maintenance techniques? (Many a great landscape or conservation plan has foundered because of untrained maintenance people.)

- The Conservation Parks' staff and programs will be headquartered in the proposed Nature Interpretive Center, which will be within a City-owned Park, as also will the Conservation Visitor Center. It would be cleaner, management-wise, for these facilities to be owned by the same entity that owns the Conservation Park.
- These Parks will need to function as one, administratively and management-wise, in order to meet all their conservation goals. It is not clear why they are planned to be separate Parks. The non-profit entity that owns the Conservation Park is the logical choice to also own all the Headlands Parks, thus provide a single management direction for all. At a minimum, the entity and the City should have a comprehensive Memorandum of Agreement about who is responsible for what and who has the final say in management decisions and staff direction.

- Unfortunately there are no native trees that grow naturally on dry, windswept southern California promontories, thus none that would be suitable to plant as screening for the adjacent enclaves and still maintain the goal of a natural landscape. The best candidates for this are the following large shrubs; they may become treelike with age if grown in a protected site, but probably not on a spindrift-swept site like the Headlands promontory.
  - *Comarostaphylis diversifolia*
  - *Heteromeles arbutifolia*
  - *Malosma laurina*
  - *Quercus dumosa* (true *Q. dumosa*, which is coastal, not *Q. berberidifolia*, which grows inland) 39-22
  - *Rhus integrifolia*

  See below for further comments on the Revegetation and Landscape Palettes.
- Billboard-type signage, as illustrated in HDCP Fig. 4.12.12, is intrusive if large and difficult to read if small. Criteria for signage configurations, materials and content will be sent under separate cover.

Headlands Conservation Park:

- The Blufftop Pedestrian Trail route should be pulled inward, to wend largely along the existing City Right-of Way (which is generally inside the proposed trail route shown on Fig. 4.4.2), with windings looping down to the illustrated trail route.
- The trail should also have more bulb-outs and overlooks, including a few looking into the Pocket Mouse habitat, and more side loops or trails leading to cliff-edge overlooks.
- Conservation fencing around the Mouse habitat is a must. However, the "conservation" fencing shown in HDCP Fig. 4.12.11 looks suspiciously like fancy chain-link. DEIR 4.3, Terrestrial Biological Resources, recommends a finer-mesh fencing, at least at the bottom, with solid sheet aluminum buried along the fence's base, steep conical or pyramidal "hats" atop the fence posts, and two lines of slack fine wire above the mesh fencing. All this is to discourage burrowing, digging, and perching by predators. I'm surprised that this recommended fencing is not illustrated in HDCP Fig. 4.12.11.

Hilltop Park and Greenbelt Linkages:

- The existing lower ridge is home to populations of the rare Blochmann's Dudleya and Western Dichondra, which will be graded out under the current Plan. Elimination of the grading east of "Road A" would preserve these populations without the need for the proposed transplantation efforts.
- Perhaps at least part of the Hilltop overlook seating could be a rough circle of boulders, preferably of San Onofre Breccia and/or Monterey Sandstone, of a size for comfortable sitting. Such a stone circle would recall similar structures used by local Native Americans.
- Decomposed-granite-paved trails should be constructed according to either of the enclosed methods. Water bars should be installed to direct storm runoff and avoid erosion of trails on slopes.
- The open-air Conservation/Visitor Center is illustrated as a gazebo-type structure of a maximum 2000 square feet.
  - It has only indirect access from the cross-Headlands pedestrian/bike trail that will replace Marguerita Road. But the trail is the Center's most direct connection with the Conservation Park's headquarters at the Nature Interpretive Visitor Center. This may be a problem for Park staff, for program implementation as well as for maintenance.
  - A roofed structure such as that shown will provide a perch for predators, and in that location may be a wind tunnel for people inside.
  - A more appropriate design would be a stone circle, as described above. The circle should be further in along the bike path, with a direct connection to the path; there could be two or three circles of different sizes along the path. 39-22
  - The path between the parking area and, at least, the first stone circle would be constructed according to handicapped-accessibility parameters.
  - Is the Conservation Visitor Center's "educational program" to be a static set of information displays? Why would it be about various conservation programs elsewhere instead of about the Pocket Mouse Reserve that's right next to it?

Harbor Point Park:

- Three separate buildings, each 2000 square feet maximum, are proposed for this Park. As a comparison, the Dana Point Women's Club building is a little under 2000 square feet. This size may be sufficient for the Maritime Historical Visitor Center, but is quite inadequate for the Cultural/Arts Visitor Center and especially for the Nature Interpretive Visitor Center. Will each of these structures contain its own set of restrooms?
- The cliff-top sites of the Maritime Historical and Cultural/Arts Centers will always be awash in damp, salt-laden air. This makes them poor sites for long-term display and, especially, storage of artifacts. Contact the American Association of State and Local History (530 Church St., Ste. 600, Nashville TN 37219, history@aaslh.org) for a wealth of information on proper storage and handling of artifacts, and all other aspects of running small local museums.
- The Cultural/Arts and Maritime Historical structures should be combined into one 4000 square foot facility, preferably on the site indicated for the latter. This will give economy of scale for restrooms and other support facilities, allow

reasonable-sized multi-purpose, exhibit, and gift-shop spaces, and adequate staff office and work area. No structure should be built between Scenic Drive and the cliff edge.

- The Nature Interpretive Visitor Center and Conservation Visitor Center should be combined into one 4000 square foot facility, which should be owned by, and on land owned by, the non-profit entity responsible for managing the Conservation Park, for the reasons detailed above. This will give economy of scale for restrooms and other support facilities, allow reasonable-sized multi-purpose, exhibit, and gift-shop spaces, and adequate staff office and work area. Perhaps this facility should be located at the end of the Selva Road extension (proposed site of the Conservation Visitor Center) rather than at its proposed site at the end of Scenic Drive. This would remove Nature-Center-generated traffic and parking from the Green Lantern/Scenic Drive area, and allow better use of parking available on the Selva extension and in the Strands Beach lot.

Strand Vista Park and Strand Beach Park:

- The proposed improvements are all excellent ideas.
- Is there really any beach between the mean high tide line and the revetment?

HDCP §4.14, PARKS AND OPEN SPACE MANAGEMENT PLAN

39-22

General Comment: This section would benefit from more consistent headings and subheadings.

p. 4-117-120, Fuel Modification Zones:

- Is a copy of the standard OCFA plant palette readily available? Why is it not included in the HDCP?
- Is the permanent irrigation of Zone B to be done by drip/low flow methods or overheads?
- Why is it necessary to remove 100% of the vegetation in Zone B, then turn around and replace it with all the native plants that might be there except *Artemisia californica, Eriogonum fasciculatum,* and *Salvia mellifera?* Especially since these, which are the basic plants of Coastal Sage Scrub (a now-rare habitat that is the focus of conservation efforts in the adjacent Conservation Park), are allowed in "Habitat Islands" throughout the Zone? It would be simpler to clear out the non-natives, thin the existing natives, and focus management direction on maintaining the thinning. Most of these plants are low and wide, so the recommended pruning and lacing-out wouldn't apply. If these were done, most of the insects living there would be removed, thus affecting the bird population.
- Zone B straddles the pedestrian/bike path that replaces Marguerita Road. The area immediately inland of the road is, at present, vegetated with generally healthy Coastal Sage Scrub/Grassland on a sandy substrate suitable for Pocket Mice. The four or five lots adjacent to Zone B should be removed from the Plan and this stretch of habitat added to the Conservation Park. The path could be rerouted to skim the ends of the cul-de-sacs.

- Include some of the *Opuntia* spp. (see Table 4.14.2, Revegetation Plant Palette) in Zone B, especially near its outer boundaries, and also in other fuel modification areas. They have low flammability and also make excellent barrier plantings. Just remove pads from existing Headlands plants and bury them 1/2-way in the soil where you want new plants, water lightly until established. This method would preserve their genetic lines on-site.

p. 4-122, Zone B Inappropriate Species: Most of those listed are non-native annual weeds. They are undoubtedly present in the on-site seed bank and may be expected to sprout abundantly after grading disturbance. Of the native species:

- *Adenostoma fasciculatum* and *A. sparsifolium* are generally not found close to the coast, thus are unlikely to be spontaneous on the Headlands.
- *Artemisia* (misspelled in the list) *californica, Eriogonum fasciculatum* and *Salvia mellifera* have been discussed above.
- *Heterotheca grandiflora, Nicotiana quadrivivalis* (=*bigelovii,* misspelled in the list), and *Salvia apiana* are Coastal sage Scrub natives and may be expected to grow spontaneously on the site. Could they be a part of the habitat islands?

p. 4-124, Revegetation Plant Palette: Most of those listed in Table 4.14.2 are naturally found in Coastal Sage Scrub, so will be appropriate for revegetation. Additional suitable species are listed on the enclosed. Unsuitable species in the table are: 39-22

- *Baccharis salicifolia:* generally found natively only in wetter sites; it will probably be spontaneous in frequently-irrigated areas.
- *Ceanothus* spp.: only *C. megacarpus* would be appropriate; it grows natively on San Onofre Breccia in the Laguna Beach area.
- *Eschscholzia californica:* unless seed is collected from known native coastal southern Californian populations. Seed commonly available is from central-Californian strains; the plants are very vigorous and tend to overwhelm other annuals.
- *Garrya elliptica* (misspelled in list): found in southern California only in the mountains.
- *Lavandula dentata* (misspelled in list): not a California native.
- *Ribes speciosum:* generally grows in shady canyon bottoms in southern California.
- *Trichostema lanatum:* native to chaparral, away from the immediate coast.
- *Umbellularia californica:* found in southern California only in north-facing slopes in deep mountain canyons.

p. 4-124, Additional misspellings: Chalk Dudleya; *Eriophyllum confertiflorum;* Prickly Pear; Elderberry.

p. 4-128, Blochman's Dudleya Salvage: The methods detailed are adequate. Both transplantation and seed collection should be employed. The best method to save the Dudleya would be to not grade its growing the area, but add it to the Hilltop Park and adjacent greenbelt.

p. 4-128, Soil Amendments: It would be best to use mechanical methods in preference to adding amendments.

HDCP §4.16, MASTER LANDSCAPE AND IRRIGATION GUIDELINES

p. 4-135-136, Table 4.16.1, Landscape Palette:

- See the enclosed lists for native species that can be used instead of the non-natives in the Table.
- It is especially important that the CC&Rs prohibit non-native species that potentially can invade the conservation areas. Many of the non-natives in Table 4.16.1 have that potential, if conditions are right. 39-22
- Ornamental grasses are especially prone to reseeding wherever the wind blows them. Only native grasses should be allowed; many of them are quite ornamental.

p. 4-137: "Education of maintenance personnel and homeowners ..." is the key to successful management of the conservation areas as well.

I would be glad to further advise the City on park planning and management, and revegetation and landscape palettes. 39-23

Sincerely,

Celia Kutcher

Celia Kutcher
496-9689

for Wildflowers and Native Plants, Inc.
10459 Tuxford Street, Sun Valley, CA 91352

DECOMPOSED GRANITE PATHWAYS

Sometimes plant lovers tend to forget that when planning a native plant garden, choosing the right hardscape is as important as plant selection in creating a pleasing and harmonious place.

Decomposed granite (D.G.) pathways offer a natural looking, attractive, low-maintenance, inexpensive, and durable walking surface. D.G. can be found in a variety of colors ranging from a golden cast to grayed tones.

D.G. pathways are easy to install and are much more subtle in texture and appearance than many other surfaces. Two methods are set out here. The first, employed by long-time T. P. F. members, Roy and Ysabel Fetterman, produces durable walkways which have lasted for thirty years in their garden. The second method is recommended and widely used by Charlie Swigart of Pacific Land Design.

Fetterman's D.G. pathways: D.G. walkways must have an edging. The Fetterman's is made of bricks. To ensure good drainage, half of the pathway's depth should be above ground level and half below. Spread D.G. uniformly, removing all lumps and chunks if present (good D.G. has neither of these). Roll it with a water roller, which may be borrowed from a nursery or equipment rental store. Firm pathways with roller, then wet surface with water, then roll and repeat process several more times. The finished walkway should be a good 2" deep and have a firm, durable surface.

Pacific Land Design's pathways: For curving pathways use wood bender board, doubled, tripled or quadrupled for strength, staked every 4' and nailed. For straight paths, you may use 2" x 4" 's. Mix dry D.G. with dry Portland cement at the rate of one bag of cement per cubic yard of D.G. It's simplest to mix in a wheelbarrow: add 1/5 bag of cement to a wheelbarrow (1/5 yard capacity) of D.G. Dump dry mixture between edgings to a depth of 4" (the height of the 2" x 4" 's or bender board). Roll it dry and fill holes as necessary. Keep the mixture dry until it is all in place and rolled evenly. Then water well with a sprinkler.

CALENDAR OF COLOR

Use this plant list as a guide to successful flowering throughout the year. Location, cultural practices, weather and many other factors will effect the time indicated as the typical flowering season and duration for native plants. You can expect that plant. Start and stop times vary variation from year to year.

3 CHOOSE PLANTS FROM EACH MONTH TO DESIGN YEAR-ROUND COLOR IN YOUR GARDEN.

March *Spring is here! Flowers are coming on strong*

- Arctostaphylos manzanita 'Dr. Hurd' (5 wks)
- Ceanothus cuneatus (6 wks)
- Ceanothus thyrsiflorus (6 wks)
- Dichelostemma capitatum (6 wks)
- Eschscholzia californica (6 wks)
- Heteromeles arbutifolia (6 wks)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Sisyrinchium bellum (6 wks)

April *Spring is here! Flowers are coming on strong*

- Arctostaphylos manzanita 'Dr. Hurd' (5 wks)
- Ceanothus cuneatus (6 wks)
- Ceanothus thyrsiflorus (6 wks)
- Dichelostemma capitatum (6 wks)
- Eschscholzia californica (6 wks)
- Heteromeles arbutifolia (6 wks)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Sisyrinchium bellum (6 wks)

May *Still more season of flowers*

- Asclepias fascicularis (5 wks)
- Ceanothus 'Frosty Blue' (4 wks)
- Dendromecon rigida (6 wks)
- Eriogonum umbellatum (6 wks)
- Eschscholzia californica (6 wks)
- Fremontia 'El Dorado Gold' (4wks)
- Galvezia 'Firecracker' (6 mos)
- Heteromeles arbutifolia (6 mos)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Penstemon heterophyllus (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Salvia clevelandii (6 wks)
- Salvia mellifera (6 wks)
- Salvia spathacea (6 wks)
- Sisyrinchium bellum (6 wks)

June *Summer is here! Flowers are the birds*

- Arctostaphylos manzanita 'Dr. Hurd' (5 wks)
- Ceanothus cuneatus (6 wks)
- Ceanothus thyrsiflorus (6 wks)
- Dichelostemma capitatum (6 wks)
- Eschscholzia californica (6 wks)
- Fremontia 'El Dorado Gold' (4wks)
- Galvezia 'Firecracker' (6 mos)
- Heteromeles arbutifolia (6 mos)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Penstemon heterophyllus (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Salvia clevelandii (6 wks)
- Salvia mellifera (6 wks)
- Salvia spathacea (6 wks)
- Sisyrinchium bellum (6 wks)

July *Summer is here! Flowers are the birds*

- Arctostaphylos manzanita 'Dr. Hurd' (5 wks)
- Ceanothus cuneatus (6 wks)
- Ceanothus thyrsiflorus (6 wks)
- Dichelostemma capitatum (6 wks)
- Eschscholzia californica (6 wks)
- Fremontia 'El Dorado Gold' (4wks)
- Galvezia 'Firecracker' (6 mos)
- Heteromeles arbutifolia (6 mos)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Penstemon heterophyllus (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Salvia clevelandii (6 wks)
- Salvia mellifera (6 wks)
- Salvia spathacea (6 wks)
- Sisyrinchium bellum (6 wks)

August *Summer is here! Flowers are the birds*

- Arctostaphylos manzanita 'Dr. Hurd' (5 wks)
- Ceanothus cuneatus (6 wks)
- Ceanothus thyrsiflorus (6 wks)
- Dichelostemma capitatum (6 wks)
- Eschscholzia californica (6 wks)
- Fremontia 'El Dorado Gold' (4wks)
- Galvezia 'Firecracker' (6 mos)
- Heteromeles arbutifolia (6 mos)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Penstemon heterophyllus (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Salvia clevelandii (6 wks)
- Salvia mellifera (6 wks)
- Salvia spathacea (6 wks)
- Sisyrinchium bellum (6 wks)

September *Fall is here! Flowers are the birds*

- Arctostaphylos manzanita 'Dr. Hurd' (5 wks)
- Ceanothus cuneatus (6 wks)
- Ceanothus thyrsiflorus (6 wks)
- Dichelostemma capitatum (6 wks)
- Eschscholzia californica (6 wks)
- Fremontia 'El Dorado Gold' (4wks)
- Galvezia 'Firecracker' (6 mos)
- Heteromeles arbutifolia (6 mos)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Penstemon heterophyllus (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Salvia clevelandii (6 wks)
- Salvia mellifera (6 wks)
- Salvia spathacea (6 wks)
- Sisyrinchium bellum (6 wks)

October *Fall is here! Flowers are the birds*

- Arctostaphylos manzanita 'Dr. Hurd' (5 wks)
- Ceanothus cuneatus (6 wks)
- Ceanothus thyrsiflorus (6 wks)
- Dichelostemma capitatum (6 wks)
- Eschscholzia californica (6 wks)
- Fremontia 'El Dorado Gold' (4wks)
- Galvezia 'Firecracker' (6 mos)
- Heteromeles arbutifolia (6 mos)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Penstemon heterophyllus (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Salvia clevelandii (6 wks)
- Salvia mellifera (6 wks)
- Salvia spathacea (6 wks)
- Sisyrinchium bellum (6 wks)

November *Fall is here! Flowers are the birds*

- Arctostaphylos manzanita 'Dr. Hurd' (5 wks)
- Ceanothus cuneatus (6 wks)
- Ceanothus thyrsiflorus (6 wks)
- Dichelostemma capitatum (6 wks)
- Eschscholzia californica (6 wks)
- Fremontia 'El Dorado Gold' (4wks)
- Galvezia 'Firecracker' (6 mos)
- Heteromeles arbutifolia (6 mos)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Penstemon heterophyllus (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Salvia clevelandii (6 wks)
- Salvia mellifera (6 wks)
- Salvia spathacea (6 wks)
- Sisyrinchium bellum (6 wks)

December *Winter is here! Flowers are the birds*

- Arctostaphylos manzanita 'Dr. Hurd' (5 wks)
- Ceanothus cuneatus (6 wks)
- Ceanothus thyrsiflorus (6 wks)
- Dichelostemma capitatum (6 wks)
- Eschscholzia californica (6 wks)
- Fremontia 'El Dorado Gold' (4wks)
- Galvezia 'Firecracker' (6 mos)
- Heteromeles arbutifolia (6 mos)
- Lupinus albifrons (6 wks)
- Mahonia pinnata (6 wks)
- Penstemon heterophyllus (6 wks)
- Ribes sanguineum glutinosum (6 wks)
- Salvia clevelandii (6 wks)
- Salvia mellifera (6 wks)
- Salvia spathacea (6 wks)
- Sisyrinchium bellum (6 wks)



California Native Plant Society

Dedicated to the Preservation of California Native Flora

Orange County Chapter

CALIFORNIA NATIVES TOLERANT OF CLAY SOIL

* denotes species that need good drainage

TREES

Acer macrophyllum (Big Leaf Maple)
Alnus rhombifolia (White Alder)
Calocedrus decurrens (Incense Cedar)
Chamaecyparis lawsoniana (Lawson's Cypress)
Cupressus forbesii (Tecate Cypress)
Lyonothamnus floribundus ssp. asplenifolius (Fern-leaved Catalina Ironwood)*
Myrica californica (Pacific Wax Myrtle)*
Pinus attenuata (Knobcone Pine)
Pinus coulteri (Coulter Pine)
Pinus radiata (Monterey Pine)
Pinus sabiniana (Foothill Pine)
Pinus torreyeana (Torrey Pine)
Populus balsamifera ssp. trichocarpa (Black Cottonwood)
Prunus ilicifolia ssp. lyonii (Catalina Cherry)*
Pseudotsuga menziesii (Douglas Fir)*
Quercus agrifolia (Coast Live Oak)
Quercus chrysolepis (Canyon Live Oal)
Quercus lobata (Valley Oak)
Sequoia sempervirens (Coast Redwood)*
Sequoiadendron giganteum (Giant Sequoia)
Washingtonia filifera (California Fan Palm)

SHRUBS

Adenostoma fasciculatum (Chamise)
Adenostoma sparsifolium (Redshanks)
Arctostaphylos edmundsii (Manzanita)*
Arctostaphylos glauca (Big Berry Manzanita)*
Arctostaphylos hookeri (Monterey Manzanita)*
Arctostaphylos franciscana (Manzanita)*
Arctostaphylos pajaroensis (Pajaro Manzanita)*
Arctostaphylos viscida (Manzanita)*
Baccharis pilularis 'Twin Peaks' or 'Pigeon Point' (Chaparral Broom, Coyote Bush)
Calycanthus occidentalis (Spice Bush)*
Carpenteria californica (Bush Anemone)*
Ceanothus 'Concha'*
Ceanothus gloriosus*
Ceanothus griseus*
Ceanothus griseus horizontalis *
Ceanothus maritimus (Maritime Ceanothus)*
Ceanothus megacarpus (Big Pod Ceanothus)*
Ceanothus spinosus (Greenbark Ceanothus)*
Cercis occidentalis (Western Redbud)
Cercocarpus betuloides (Western Mountain Mahogany)
Chilopsis linearis (Desert Willow)
Comarostaphylis diversifolia (Summer Holly)*
Coreopsis gigantea (Giant Coreopsis)*
Dendromecon harfordii (Channel Island Bush Poppy)*
Dendromecon rigida (Bush Poppy)*
Encelia californica (Coast Sunflower)*
Eriogonum arborescens (Santa Cruz Is. Buckwheat)*
Eriogonum fasciculatum (California Buckwheat)*
Eriogonum giganteum (St. Catherine's Lace)*
Forestiera neomexicana (Desert Olive)
Fraxinus dipetela (Flowering Ash)
Galvezia speciosa (Island Snapdragon)*
Garrya elliptica (Coast Tasselbush)*
Heteromeles arbutifolia (Toyon, Christmas Berry)*

for Wildflowers and Native Plants, Inc.
10459 Tuxford Street, Sun Valley, CA 91352

NATIVE PERENNIAL BORDERS

by Art Tyree, Nursery Manager

You have seen those riotously colorful traditional flower borders in the coffee table garden books. Why must they be in England or Pennsylvania? You can make such a border with natives! Use the colors and fragrances, textures and rhythms of California, and see how satisfying it can be.

Let's say that your border is to be three to ten feet wide, with some soil mounding and large boulders. After establishment it is to be deeply soaked two times per month. The mounds need be no higher than about a foot. Group the rocks two or three together, burying at least one third of their mass. Clay soil? Work in gypsum and perlite for drainage.

Now for the plants. Select a few "solid" plants to anchor your plantings, small shrubs with attractive all-year foliage. Choose from among San Francisco Manzanita *(Arctostaphylos hookeri franciscana)*, Wayside Manzanita *(A. hookeri* 'Wayside'), Emerald Carpet Manzanita *(A.* 'Emerald Carpet'), Creeping Mahonia *(Mahonia repens)*, Prostrate Juniper *(Juniperus communis saxatilis)*, Seaview Coffeeberry *(Rhamnus californica* 'Seaview'). These low shrubs are invaluable for maintaining greenery in the border, particularly when some of the seasonal perennials go on summer vacation.

Next select several sturdy plants with long flowering seasons to establish major color in the border. Consider the Sunflower Bush *(Encelia californica)*, San Diego Sunflower *(Viguiera laciniata)*, the violet flower stems of Woolly Blue Curls *(Trichostema lanatum)*, the robust Showy Penstemon *(Penstemon spectabilis)*, the fragrant and colorful Cleveland Sage *(Salvia clevelandii)*, and Apricot Mallow *(Sphaeralcea ambigua)*.

Now, fill in with a wide variety of seasonally colorful plants. The smaller buckwheats are good here: *Eriogonum cinereum* with billowy masses of soft pink, and ruby-flowered *E. grande rubescens*. Monkey Flowers *(Mimulus)* are indispensable for summer color. *M. aurantiacus*, especially its buff-flowered local form combines well with blues or reds. Penstemons star as filler with tall stems of lavender-violet *(Penstemon heterophyllus)* or scarlet *(P. centranthifolius)*. Sea Coreopsis *(Coreopsis maritima)* brightens earliest spring with stunning long-stemmed daisies, while California Fuchsia *(Epilobium californica)* inflames the end of the season with brilliant scarlet trumpets.

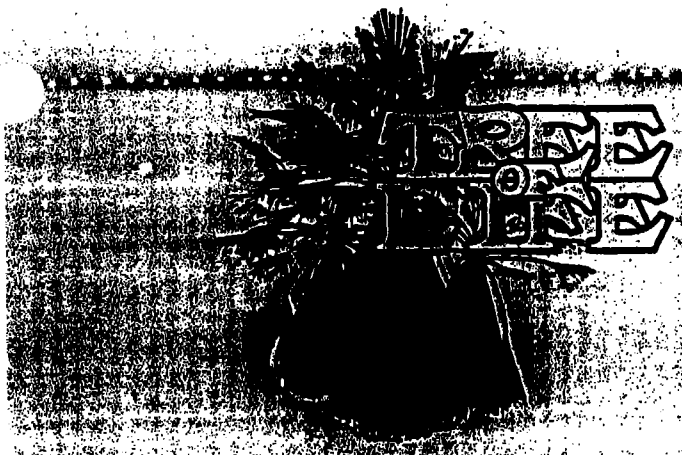
After color masses are in place, add interest by locating some accent plants of special form and color. Clumps of Douglas Iris *(Iris douglasiana)* decorate their grass-like foliage with lavender blossoms in April. At the boulders spot some rosettes of Chalk Dudleya *(Dudleya pulverulenta)*. And don't forget the several handsome native grasses: fountain-clumps of Deergrass *(Muhlenbergia rigens)*, blue-bladed *Leymus condensatus* 'Canyon Prince', Tufted Hairgrass *(Deschampsia caspitosa)*, and others.

To fill in the gaps, spot in some cheerful blue-flowered grass-like clumps of Blue-eyed Grass *(Sisyrinchium bellum)*, and a few lace-like Yarrow *(Achillea millefollium)* with white flower bunches. Include, of course, the annual wildflowers, such as California Poppy, Baby Blue Eyes, Tidy Tips, Bell-flowered Phacelia, and Lupines.

Tidy low edging plants finish off the native border. Choices include various species of Alum Root *(Heuchera)*, Beach Aster *(Erigeron glaucus)*, and Conejo Buckwheat *(Eriogonum crocatum)*.

Keep your border well-groomed by cutting back plants as needed after flowering. A light application of organic fertilizer in late winter will keep plants energetic and colorful.

Come by and view our plantings at the Foundation for ideas. Then make your own coffee table book border—with native plants.



NURSERY

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San Juan Capistrano, CA 92693
714-728-0685

HANDY PLANT RE-SPECIFIER

by Art Tyree

Sample plant material spec improvements showing how to solve common planting problems with native plants - and increased esthetic effect, durability, and ecological appropriateness.

THINKING OF . . .	THINK AGAIN . . .
ACACIA LATIFOLIA	Such plants are unecessary with the tough and handsome RHUS INTEGRIFOLIA, MAHONIA NEVINII available.
CUPANIA	For a clean, starely shade tree, look at UMBELLULARIA CALIFORNICA.
EUCALYPTUS	Deliver us from Australia with California's own texture and character trees: LYONOTHAMNUS, PINUS TORREYANA, ARBUTUS MENZIESII, PLATANUS RACEMOSA.
GAZANIA	Try some authentic color from MIMULUS, PENSTEMON, ENCELIA, ZAUSCHNERIA.
HEDERA	Spare us the Ivy menace with lush carpets of ARCTOSTAPHYLOS, 'EMERALD CARPET' or A. 'POINT REYES'.
JUNIPERS	Out of the Juniper rut with the low-growing forms of ARCTOSTAPHYLOS, CEANOTHUS 'YANKEE POINT'.
LIGUSTRUM	Quick-flee to RHUS OVATA or PRUNUS ILLICIFOLIA.
MYOPORUM	No excuse for this when we could enjoy RHUS INTEGRIFOLIA or MYRICA CALIFORNICA.
NERIUM	California's color shrubs shine: CEANOTHUS, MAHONIA NEVINII, COMAROSTAPHYLIS DIVERSIFOLIA.
PINUS	Instead of the habitual choices, consider PINUS TORREYANA as a large pine, PINUS EDULIS as a small one, P. ATTENUATA for fast growth in heat.
PITTOSPORUM	RHAMNUS CALIFORNICA is lush, dense, unfussy.
PRUNUS, PYRUS	CERCIS OCCIDENTALIS is stronger, flowers longer. PRUNUS LYONII makes a fine small canopy tree.
PYRACANTHA	Lush foliage, scarlet berries, minus Pyracantha's thorns, diseases, pests: HETEROMELES ARBUTIFOLIA.
RHAPHIOLEPIS	Is this what you really want, or only a habit? Cure it with ARCTOSTAPHYLOS 'HOWARD McMINN'.
TRACHELOSPERMUM	Non-intrusive, great under trees is the aromatic RIBES VIBURNIFOLIUM; shiny and neat like Star Jasmine on less than one fourth the water.
XYLOSMA	Clean, reliable green: RHAMNUS CALIF., RHUS OVATA.

NATIVE PLANT CARE AND MAINTENANCE CALENDER

	JAN.	FEB.	MAR.	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.
Pest Control Schedule:												
BOTRYOSPHAERIA	X X X									X	X X X	X X X
Preventive spray of fungicide												
RUST AND POWDERY MILDEW		X X X	X X X	X X X								
Preventitive spray of fungicide												
APHIS, WHITEFLY, PSYLLID,			X X X	X X X	X X X	X X X						
LEAF HOPPER, WOOLY APPLE APHID,												
POWDERY MILDEW, RUST												
Contol as needed												
WOOD BORING BEETLES			X X X	X X X	X X X	X X X	X X X	X X X	X X X			
Prune out as needed												
SUMMER WEEDS			X	X X X	X							
Apply pre-emergent herbicides												
GALL APHID, MEALYBUG, SCALE,					X X X	X X X	X X X	X X X	X X X			
CEANOTHUS STEM GALL MOTH, MITES,												
VERTICILLIUM WILT, PHYTOPTHORA												
Control as needed												
BOTRYOSPHAERIA					X	X X X	X X X	X X X	X X X			
Prune out dead branches												
WINTER WEEDS								X	X X X	X		
Apply pre-emergent herbicides												
Fertilizing Schedule:												
DECIDUOUS PLANTS		X X	X									
Fertilize with balanced fertilizer												
EVERGREENS AND PERENNIALS											X X X	X
Fertilize with balanced fertilizer												
Planting Schedule:												
PLANT MIMULUS			X X	X X X	X X							
PLANT MOST NATIVE PLANTS										X X	X X X	X
Spring planting (if unable to in fall)			X X X	X X X	X X							
PLANT ANNUALS AND BULBS										X X	X X X	X

Native Planting Design: A Coastal Sage Scrub Community Approach

Steve Ahles, Landscape Architect

Coastal sage scrub, once the dominant vegetation of coastal San Diego County, is now noted primarily as the disappearing habitat for the California gnatcatcher. Coastal canyons or slopes may contain remnants of coastal sage scrub plant communities. Is it possible to expand these areas into adjacent slope or garden areas? Objectives for such an approach include provision of wildlife habitat and visual integrity with the natural area. An advantage is that species that make up the coastal sage scrub community are as adapted to our climate and soil conditions as any could be.

"Diegan Coastal Sage Scrub" is a widespread plant community in coastal San Diego County. It consists of low soft woody subshrubs to one meter in height and is dominated by *Artemisia californica* and *Eriogonum fasciculatum* with *Malosma laurina* and *Salvia* spp.. Stem and leaf succulents are present, but not dominant. Other typical species include *Haplopappus venetus*, *Lotus scoparius*, *Malacothamnus fasciculatus*, *Rhus integrifolia*, and *Stipa lepida*. Other associated species are also present. The exact percentage of coverage by any particular species will vary from site to site as well with the orientation of the slopes. *Rhus* and *Quercus* are often found in greater concentrations on north-facing slopes.

Native communities appear to be haphazard mosaics, seemingly without design pattern. But, natural patterns of plant groupings do occur, often as a response to slope or soil conditions. In the late summer, it is easy to see clumps of *Rhus*, *Malosma* or *Yucca* in a large area of coastal sage.

Most successful biologically accurate coastal sage revegetation efforts are in relatively large isolated areas. The character of coastal sage is not conducive to a typical small garden intended for human use. However, a coastal sage garden, representative of the community, in a naturalistic design, can provide an excellent transitional or demonstration garden.

When planning a project adjacent to an existing area of undisturbed coastal sage scrub, a survey of the existing plants can provide a guideline for the percentages of individual species. Where no existing community exists, the "typical" community descriptions or a similarly located area of coastal sage can provide the basis for design.

Many cultivars and varieties of coastal sage plants are now available in nurseries and offer outstanding characteristics such as an unusually low growth habit or distinctive flower color. Asexually propagated in nurseries, these would be inappropriate for a biologically accurate restoration project, but can be an asset to the garden as they are often more suited for garden conditions.

Possibly no other factor contributes more to the successful establishment of a native plant garden in San Diego than timely installation. The cool seasons from fall to spring provide winter rains, moderate temperatures, and cool, moist soil—all work with the plants' natural growth cycles to contribute to success. Though irrigation can be provided as a backup or supplement to natural rainfall, it cannot compensate for the problems created by warm season planting.

Fire Concerns

Because many plants typical of the coastal sage scrub community are highly flammable, careful consideration to placement and maintenance of species is important. Limiting high fuel species, avoiding masses of shrubs and trees, and pruning dead or dry branches is essential. A transitional area of low growing annuals or varieties can be used to provide erosion control. Supplemental irrigation can help reduce fire hazard.

High Fuel Species:
- *Adenostoma fasciculatum* (Chamise)
- *Artemisia californica* (California Sagebrush)
- *Eriogonum fasciculatum* (Buckwheat)
- *Salvia mellifera* (Black Sage)

Moderate Fuel Species:
- *Heteromeles arbutifolia* (Toyon)
- *Malosma laurina* (Laurel Sumac)
- *Quercus dumosa* (Scrub Oak)
- *Rhus integrifolia* (Lemonade Berry)
- *Xylococcus bicolor* (Mission Manzanita)

Low Fuel Species:
- *Baccharis pilularis* var. *pilularis* (Chaparral Broom)
- *Dudleya* spp.
- *Encelia californica* (Coastal Daisy, Coast Sunflower)
- *Eriophyllum confertiflorum* (Yarrow)
- *Gnaphalium californicum* (California Everlasting)
- *Haplopappus venetus* (Goldenbush)
- *Helianthemum scoparium* (Sun Rose)
- *Lasthenia chrysostoma* (Goldfields)
- *Lotus scoparius* (Deerweed)
- *Lupinus bicolor* (Lupine)
- *Mimulus puniceus* (Red Monkeyflower)
- *Opuntia* spp.
- *Sisyrinchium bellum* (Blue-eyed Grass)
- *Stipa pulchra* (Purple Needle Grass)
- *Yucca* spp.

Coastal sage scrub restorations are not typical garden situations. The ultimate test of a community restoration is its ability to sustain and reproduce itself over time. In practice, it takes a number of years of management to establish. A garden would take a more concentrated effort. But besides the aesthetic and wildlife values, the result would be a garden that is truely regional—uniquely southern California.

A Select List Of Easy-To-Grow Natives

Revised from a list by the San Diego Chapter

With few exceptions, this list is limited to species native to San Diego County. Most are also native to much of cismontane Southern California. Hence they are naturally adapted to regional conditions. All are relatively easy to grow, and, unless noted, most are suitable for sunny, low-water-use gardens. Some grow better near the coast, others thrive under more extreme conditions inland. Sizes given are approximate for mature plants.

Trees

Cupressus stephensonii **(Cuyamaca Cypress)**, 20' to 40'. Blue-gray foliage. Grows slowly, maintaining a compact shape. Found in the wild only on the southwest slope of Cuyamaca Peak in San Diego County.

Lyonothamnus floribundus **ssp.** ***asplenifolius*** **(Santa Cruz Island Ironwood)**, 20' to 35'. Shredded red bark, fern-like palmate leaves. More adapted to the coast; inland needs water and protection from hot, dry winds. Native to the Channel Islands.

Pinus torreyana **(Torrey Pine)**, 40' to 70'. Grows tall and straight with garden conditions. Casts light shade. Found naturally only near Del Mar and on Santa Rosa Island.

Quercus engelmannii **(Engelmann or Mesa Oak)**, 20' to 40'. Grows rapidly with water in the garden. All oaks attract native wildlife with their fall crop of acorns. Found only in scattered patches in the foothills of Southern California.

Umbellularia californica **(California Bay Laurel)**, 30' to 80'. Aromatic, shiny green leaves. Grows best in cool, moist conditions; sun to part shade.

Medium & Large Shrubs

Arctostaphylos **spp. (Manzanita)**. Many manzanita species and cultivars are suitable for gardens. They range from sturdy shrubs and small trees to very flat ground covers. Most have smooth red bark and stiff green to gray leaves; their small pink or white flowers in late winter or early spring signal the beginning of a new bloom season.

Atriplex lentiformis **ssp.** ***lentiformis*** **(Coastal Quail Bush)**, to 8'. Silvery gray leaves. Quail and other wildlife attracted to seeds.

Berberis nevinii **(Nevin's Barberry)**, 3' to 12'. Stiff, multistemmed with bristly blue-gray leaves, yellow flowers, red berries. Good food and shelter for birds.

Ceanothus **spp.**, to 10'. Many species and cultivated varieties of "wild lilac" are available. Spectacular blue or white flowers. Expect to replace them in five to ten years. All attract a wide variety of birds.

Cercocarpus betuloides **(Western Mountain Mahogany)**, 6' to 25'. Can be pruned and shaped into small tree or informal hedge. Long, feathery seed plumes in summer.

Comarostaphylos diversifolia **(Summer Holly)**, 6' to 12'. Grows slowly. Red berries in summer. Occurs in limited and scattered colonies in canyons of western San Diego, Orange, and Riverside Counties and into Baja.

Heteromeles arbutifolia **(Toyon)**, 8' to 20'. Interesting all year with dark green leaves, white blossoms in late spring, bright red berries in fall to winter. Can be shaped by pruning. Attracts many kinds of birds.

Lavatera assurgentiflora **(Island Mallow)**, 10' to 15'. Fast growing, with broad leaves and large magenta flowers. Native only to the Channel Islands. Attracts hummingbirds and goldfinches.

Malosma laurina **(Laurel Sumac)**, 8' to 15'. Dark green leaves, reddish when young; dense clusters of small white flowers. Frost sensitive. Good shelter for wildlife; seeds attract a variety of birds.

Prunus ilicifolia **ssp.** ***lyonii*** **(Catalina Cherry)**, 10' to 40'. Useful as a small tree. Glossy green leaves. Dark fruit attracts birds. Its mainland relative *Prunus ilicifolia* ssp. *ilicifolia* is similar but has holly-like leaves.

Rhamnus californica **(California Coffeeberry)**, 3' to 15', including compact cultivars. Large greenish berries turn reddish to black in late summer and are valuable to wildlife.

Rhamnus crocea **(Redberry)**, 3' to 6'. Very small leaves on stiff, spiny branches. Can be pruned into hedges. Bright red berries attract birds, especially Phainopeplas. Both male and female plants need to be grown to ensure fruiting.

Rhamnus ilicifolia **(Hollyleaf Redberry)**, 5' to 15'. Shiny, holly-like leaves. Red berries from late summer to fall. Lusher appearance than *R. crocea*. Both grow in sun or part shade.

Rhus integrifolia **(Lemonade Berry)**, 5' to 15'. Dark green leaves, dense clusters of small, pinkish flowers, and red berries sought by wildlife. Can be pruned and shaped. Common near the coast.

Rhus ovata **(Sugarbush)**, 8' to 15'. Shiny green leathery leaves, clusters of pink buds, and white flowers. Frost and heat-tolerant. Berries attract wildlife.

Ribes indecorum **(White-flowering Currant)**, 4' to 6'. White flowers; medium green leaves, no spines. Shade.

Sambucus mexicana **(Blue or Mexican Elderberry)**, 6' to 20'. Shiny creamy yellow flowers, blue berries. Deciduous. Can be used as a small tree. Better with regular water. Attracts birds.

Southern California Landscape Plant Selection Guide (San Luis Obispo to San Diego)

Perennial Beds & Borders

Aquilegia formosa: 1-5
Artemisia pycnocephala: 1-3
Artemisia nesiotica: 1-3
Coreopsis maritima: 1-2
Erigeron glaucus: 1-3
Eriogonum spp.: 1-6
Galvezia 'Firecracker': 1-3,5
Heuchera maxima hybrids: 1-3
Iris douglasiana: 1-4
Mimulus cardinalis: 1-6
Mimulus longiflorus: 1-3,5
Mimulus puniceus: 1-3,5
Mimulus hybrids: 1-3,5
Monardella spp.: 1-4
Oenothera chamissonis: 1-3,5
Oenothera hookeyana: 1-3,5
Penstemon heterophyllus: 1-4
Penstemon spp.: 1-3
Salvia spp.: 1-3,5
Scrophularia [illegible]: 1-5

Accent Plants to 4'

Agave deserti: 1-3,5,6
Agave shawii: 1-3,5
Arctostaphylos 'Greensphere': 1-4
Ceanothus rigidus 'Snowball': 1-4
Cneoridium dumosum: 1-4
Coreopsis gigantea: 1-2,5
Dudleya spp.: 1-3
Encelia farinosa: 1-5,6
Eriogonum arborescens: 1-4
Eriogonum giganteum: 1-4
E. grande var. rubescens: 1-4
Eriogonum umbellatum: 1-3
Ferrocactus viridescens: 1-6
Galvezia 'Firecracker': 1-3,5

Accent Plants to 8'

Amorpha fruticosa: 2-5
Arctostaphylos [illegible]: 1-4
Arctostaphylos [illegible]: 1-4
Calycanthus occidentalis: 2-4
Carpenteria californica: 1-4
Ceanothus 'Concha': 1-4
Ceanothus 'Julia Phelps': 1-3
Ceanothus 'Skylark': 1-3
Cercis occidentalis: 1-4,6
Comarostaphylis diversifolia: 1-3
Dendromecon rigida: 2-4
Fallugia paradoxa: 2-6

Ground Covers

Arctostaphylos 'Carmel Sur': 1-4
A. 'Emerald Carpet': 1-3
A. 'Pacific Mist': 1-4
A. 'Point Reyes': 1-4
Artemisia cal. 'Canyon Grey': 1-3
Baccharis pil. 'Pigeon Point': 1-4
Baccharis pil. 'Twin Peaks': 1-4
Ceanothus 'Joyce Coulter': 1-4
Ceanothus maritimus: 1-3
Ceanothus 'Point Reyes': 1-4
Ceanothus 'Yankee Point': 1-3

Formidable Slope Plants

Aesculus californica: 2-4
Amorpha fruticosa: 2-4
Artemisia californica: 1-3
Atriplex lent. ssp. breweri: 1-3,5
Baccharis pil. ssp. cons.: 1-6
Ceanothus spp.: 1-4
Cercidium floridum: 2-3,5
Cercocarpus spp.: 2-6
Encelia californica: 1-3,5
Encelia farinosa: 2,3,5,6
Forestiera neomexicana: 2-6
Fremontia species & hybrids: 1-4,6
Fraxinus trifoliata: 1-6
Garrya flavescens: 2-4
Heteromeles arbutifolia: 1-5
Ilex [illegible]: 1-3,5
Malosma laurina: 2-6
Parkinsonia aculeata: 2-3,5,6
Pinus coulteri: 2-4
Pinus muricata: 1-2
Pinus sabiniana: 2-4,6
Prosopis jul. var. torrey.: 2-3,5,6
Prunus ilicifolia: 2-4,6
Prunus lyonii: 1-3
Purshia tridentata: 2-6
Quercus dumosa: 1-4,6
Rhamnus spp.: 1-4
Rhus spp.: 1-4,6
Ribes malvaceum: 1-4
Romneya coulteri: 1-4
Salvia clevelandii: 1-5
Salvia mellifera 'Terra Seca': 1-3
Shepherdia argentea: 2-6
Senecio douglasii: 1-6
Solanum xantii: 1-3
Yucca spp.: 1-6

Tall Fillers, Background & Screen Plantings 6'+

Arctostaphylos 'Sentinel': 1-3
Ceanothus 'Piedy Blue': 1-4
Ceanothus 'Ray Hartman': 1-3
Ceanothus 'Santa Ana Blue': 2-4
Ceanothus 'Snowball': 1-3
Ceanothus 'Snow Flurry': 1-3
Comarostaphylis diversifolia: 1-3
Fremontia species & hybrids: 1-4,6
Garrya flavescens: 2-4
Heteromeles arbutifolia: 1-3
Lavatera 'Purisima': 1-3
Malosma laurina 'Laguna Mountain': 2-4
Myrica californica: 1-3
Prosopis jul. var. torrey.: 2-3,5,6
Prunus ilicifolia: 2-6
Prunus lyonii: 1-3
Quercus agrifolia: 1-4
Rhamnus californica: 1-4
Rhus integrifolia: 1-3
Rhus ovata: 2-6
Sambucus mexicana: 1-4
Shepherdia argentea: 2-5
Umbellularia californica: 1-6

Hedges

Arctostaphylos spp.: 1-4
Baccharis pilularis: 1-3
Ceanothus 'Concha': 1-4
Ceanothus 'Piedy Blue': 1-4
Ceanothus 'Ray Hartman': 1-4
Ceanothus 'Skylark': 1-4
Ceanothus 'Snow Flurry': 1-3
Ceanothus spp.: 1-6
Cistus [illegible]: 1-3
Dietes [illegible]: 1-4
Feijoa sellowiana: 1-3
Malosma laurina: 2-4
Myrica californica: 1-3
Prunus ilicifolia: 1-4,6
Prunus lyonii: 1-3
Rhamnus californica 'Eve Case': 1-4
Quercus crocea: 2-4
Rhamnus crocea ssp. insula: 1-3
Rhus integrifolia: 1-3
Rhus ovata: 1,2,5,6
Shepherdia argentea: 2-6
Simmondsia chinensis: 1-5
Umbellularia californica: 1-6

Deciduous Trees

Acer macrophyllum: 2-4,6
Acer negundo californicum: 2-4,6
Aesculus californica: 2-4
Alnus rhombifolia: 1-6
Betula fontinalis: 1-4,6
Cercidium floridum: 2-3,5,6
Cercis occidentalis: 1-6
Chilopsis linearis: 2-3,5,6
Juglans californica: 2-5
Parkinsonia aculeata: 2-3,5,6
Platanus racemosa: 1-3,5,6
Populus fremontii: 2-6
Prosopis jul. var. torrey.: 2-3,5,6
Quercus douglasii: 2,3
Quercus kelloggii: 3-4
Quercus lobata: 3-4,6
Sambucus mexicana: 1-5
Tecoma stans: 1-3,5

Evergreen Trees

Arbutus menziesii: 3,4
Calocedrus decurrens: 2-5,6
Ceanothus arboreus: 1-3
Erythea armata: 2,3,5
Erythea edulis: 1-3
Lithocarpus densiflorus: 1-4
Lyonothamnus flor. ssp. aspleni.: 1-3
Pinus coulteri: 2-4,6
Pinus monophylla: 1-6
Pinus muricata: 1-2,6
Pinus sabiniana: 2-6
Pinus torreyana: 1-3
Prunus lyonii: 1-3
Quercus agrifolia: 1-3
Quercus chrysolepis: 2-4,6
Quercus engelmannii: 2-4
Sequoia sempervirens hybrids: 1-3
Umbellularia californica: 1-6

Vines/Espaliers

Antigonon leptopus: 1,2,5
Carpenteria californica: 2-4
Chilopsis linearis: 2,3,5
Clematis lasiantha: 1-4
Fremontia spp.: 1-4,6
Galvezia speciosa: 1-3,5,6
Keckiella cordifolia: 1-3
Lavatera 'Purisima': 1,2,5
Ribes malvaceum: 1-3
Ribes viburnifolium: 1-3
Rosa californica: 1-6
Rubus ursinus: 1-4
Tecoma stans: 1-3,5
Vitis spp.: 1-6

Conservation/Wildlife

Aquilegia formosa: 1-4
Arbutus menziesii: 3,4
Atriplex lent. ssp. breweri: 1-6
Ceanothus spp.: 1-4
Camarostaphylis diversifolia: 1-3
Eriogonum spp.: 1-6
Forestiera neomexicana: 2-6
Galvezia spp.: 1-3,5
Heteromeles arbutifolia: 1-6
Juglans californica: 2-4
Keckiella cordifolia: 1-3
Malosma spp.: 1-4
Mimulus spp.: 1-4
Populus spp.: 1-6
Prosopis jul. var. torrey.: 2-3,5,6
Prunus spp.: 1-6
Quercus spp.: 1-4,6
Rhamnus spp.: 1-4
Rhus spp.: 1-4,6
Ribes spp.: 1-4,6
Rosa californica: 1-6
Salix spp.: 1-6
Sambucus mexicana: 1-6
Trichostema lanatum: 2-4
Vitis spp.: 2-6
Zauschneria californica: 1-4,5

How to use this Guide:
Select plants by use, i.e. "Hedges" and select plants for your "zone" (see below). Then research further in our catalog, and in the various books listed in the catalog bibliography, as to height, spread, sun/shade and other cultural requirements. This list is compiled with the aid of Lenz and Dourley, "California Native Trees and Shrubs", and the horticultural experiences of experts in the various regions. Although a plant may be listed in a particular zone, it may require special horticultural conditions such as shade, or additional water to thrive. A plant may not be listed in a particular zone because we lacked data. We encourage experimentation, additional research and feedback on how these plants grow in your area.

TREE OF LIFE NURSERY

Planting Zone—Representative Cities

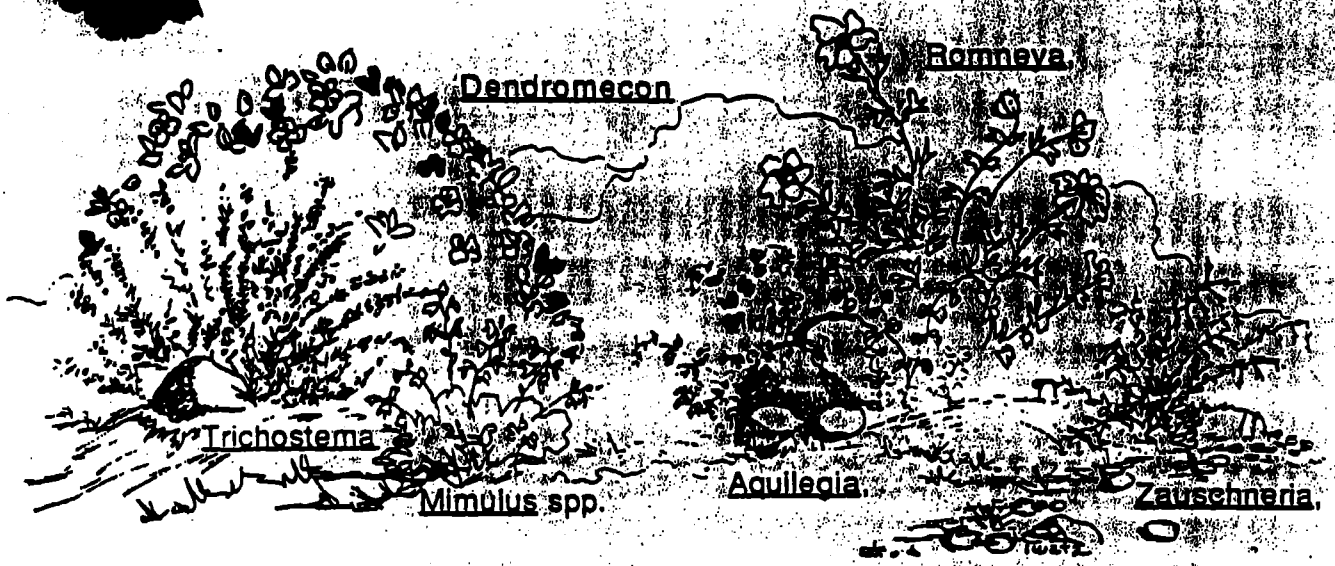
1. **Immediate Coast**-San Luis Obispo, Ventura, Long Beach, La Jolla (Constant maritime influence)
2. **Transition Coastal & Foothills**-Santa Maria, Glendale, Orange, Vista, San Diego (West of Coastal Foothills)
3. **Inland Valleys**-Pomona, San Bernardino, Riverside, Temecula (East of Coastal Foothills)
4. **Mountains**-Wrightwood, Big Bear, Idyllwild, Alpine (above 3000', South Coast Ranges)
5. **Low Desert**-Palm Springs, Borrego (Imperial or Colorado)
6. **High Desert**-Lancaster, Victorville, Yucca Valley (Mojave)

TREE OF LIFE NURSERY
San Juan Capistrano, CA
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TREE OF LIFE WHOLESALE NURSERY

Plants of El Camino Real



Summer Bloomers

THE LONG HOT SUMMER- While the rest of the country enjoys gardening from April through October, the southwest can enjoy the out-of-doors all year round. By now, however, you know that while the east coast and mid-west are in a planting frenzy in the spring and early summer, wise Californians are maintaining their gardens, watering deeply and infrequently*, mulching and enjoying the fruits of their work from last fall. Fruit and vegetable gardens are burgeoning and while many native plants are finishing up their blooming season-many more are continuing or just starting!

Depending on your area, some of these summer blooming perennial favorites include: Penstemon spp, Mimulus spp. Zauschneria, Romneya, Aquilegia, Fallugia paradoxa, Galvezia spp., Limonium californicum, Solanum xantii, and Trichostema lanatum, to name a few. Some of the woody, or semi-woody plants include: Chilopsis, Aesculus californica, Comarostaphylis diversifolia, Dendromecon rigida, Fremontia mexicana, Heteromeles arbutifolia, Isomeris arborea, Lavatera spp., Sambucus mexicana, and Tecoma stans.

Dry California summer landscapes don't have to be brown! Careful integration of plants can create color and interest during all seasons. See our catalog for plant characteristics, preferences and uses.

* See *Tree of Life Pro-notes*, Summer of '86, for suggested watering schedule.

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California Native Plant Society

Dedicated to the Preservation of California Native Flora

Orange County Chapter

SUMMER-FLOWERING CALIFORNIA NATIVES FOR THE LANDSCAPE

Aquilega formosa var truncata .....Red Columbine
Atriplex lentiformis ssp. lentiformis .....Brewer's Salt Bush
Carpenteria californica .....Bush Anemone
Cleome isomeris .....Bladderpod
Comarostaphylis diversifolia .....Summer Holly
Dendromecon harfordii .....Channel Island Bush Poppy
Dendromecon rigida .....Bush Poppy
Encelia californica .....Coast Sunflower
Epilobium cana .....Hoary California Fuchsia
Epilobium 'Catalina' .....Catalina Fuchsia
Epilobium californica .....California Fuchsia
Erigeron glaucus .....Seaside Daisy
Eriogonum fasciculatum .....California Buckwheat
Eriogonum arborescens .....Santa Cruz Island Buckwheat
Eriogonum crocatum .....Conejo Buckwheat
Galvezia 'Firecracker' .....Island Snapdragon
Heteromeles arbutifolia .....Toyon, Christmas Berry
Heuchera hybrids .....Coral Bells
Mimulus hybrids .....Monkeyflower
Monardella linoides ssp. viminea .....San Diego Willowly Mint
Penstemon heterophyllus ssp. australis ...Foothill Penstemon
Penstemon grinnellii .....Grinnell's Penstemon
Rhamnus californica 'Eve Case' .....Coffeeberry
Romneya coulteri .....Matilija Poppy
Salvia clevelandii .....Cleveland Sage
Salvia leucophylla .....Blue-Eyed Grass
Trichostema lanatum .....Wooly Blue Curls



Epilobium californica
CALIFORNIA FUCHSIA
Margaret Warriner Buck

RANCHO SANTA ANA BOTANIC GARDEN'S

TOP 40 NATIVE PLANTS

TREES

Cercis occidentalis **- Western Redbud -** Deciduous large shrub to small tree 15' to 20' high and wide. Pea-shaped clusters of rose pink to magenta flowers appear in spring, before leaf buds break. Shiny apple green heart-shaped leaves. Naturally multi-trunked, can be pruned to single trunk, or pruned up to form a higher canopy. Wide distribution in Northern and Southern California, usually in woodland and chaparral communities. Accepts many soil and moisture conditions. Full sun to part shade.

Chilopsis linearis **- Desert Willow -** Deciduous large shrub to medium tree 15' to 40'. Trumpet-shaped purple-throated pink flowers occur from mid-spring to early summer. Linear, willow like leaves. Juvenile plant may be pruned to improve structure. Native to high and low desert areas, most commonly in deep sandy soils along washes. Accepts many soil and moisture conditions, lusher growth with periodic watering. Full sun. Can become deciduous in response to drought. Many cultivars available, color forms from white to deep burgundy.

Chitalpa tashkentensis **and cultivars - Chitalpa -** Fast growing deciduous small to medium tree 20' to 30'. Large clusters of trumpet-shaped flowers occur over long season, late spring through summer. Long, medium green, linear leaves. Inter-generic cross between *Catalpa* and *Chilopsis*. Can be selectively pruned for shape and canopy, and to remove water sprouts. Prefers well drained soils, but tolerates most soil types. Occasional summer deep watering, and supplemental watering in the winter if rainfall is below normal. Full sun. Several cultivars, with white to pink flowers variously marked with deeper colors.

Pinus quadrifolia **- Four Leaf Pinyon Pine -** Needled evergreen tree to 45' tall. Produces many small cones, seeds are edible. Native to Pinyon-Juniper Woodlands. Needs good drainage. Little supplemental water needed. Full sun.

Quercus agrifolia **- Coast Live Oak -** Broadly spreading evergreen tree 30' to 60' high. Cupped dark green leaves. Acorns rather narrow, 1" to 2" long. Wide distribution in coastal foothills and inland valleys, usually associated with Southern Oak and Foothill Woodlands. Needs deep, fairly well drained soil, and periodic soakings. Full sun.

SHRUBS

Arctostaphylos densiflora **'Howard McMinn' - Sonoma Manzanita -** Evergreen spreading shrub 5' high and as wide. White to light pink flower clusters, late winter to early spring. Medium green leaves, very handsome deep red bark. Limited distribution to an area in the coastal foothills of Sonoma County. Prefers good drainage, occasional supplemental watering. Full sun, benefits from light shade inland.

Arctostaphylos **'John Dourley' - John Dourley Manzanita -** Evergreen low shrub to 4' high and as wide. Good pink flower display late winter-early spring. Attractive grey green foliage, with red tinged new growth. Hybrid of unkown parentage. Prefers good drainage, supplemental summer and winter irrigation. Full sun to light shade.

Arctostaphylos edmundsii **ssp.** ***parvifolium*** **'Bert Johnson' - Bronzemat Manzanita -** Evergreen shrub 1' to 2', spreading to 5'. Liberally sprinkled with pink flowers in winter. Densely clad fuzzy grey-green foliage. Prefers good drainage. Tolerates heat and drought well, performs best with light shade and occasional deep watering.

Baccharis pilularis **cultivars - Prostrate Coyote Brush -** Evergreen low spreading shrub, 2' to 3' high, 4' to 6' wide. Inconspicuous cream flowers in the summer. Bright green leaves, mounding habit, very good for large scale ground cover. Should be pruned severely every 3 or 4 years during the late winter. Native to coastal bluffs In Central California, from Monterey to Marin counties. Tolerant of many soil conditions, maintains a fresher appearance with supplemental watering. Full sun to light shade.

Berberis **'Golden Abundance' - Golden Abundance Mahonia -** Evergreen medium shrub to 6' high and 4' to 6' wide. Large clusters of yellow, scented flowers occur in the spring, followed by clusters of dusky blue fruit. Medium green sharply toothed leaves, often having attractive red coloring in the cooler months. Good screen or accent plant. Seedling origin, cross between *B. aquilifolium, B. piperiana,* and *B. amplectans*. Prefers good drainage. Occasional deep watering needed. Full sun to light shade.

Berberis repens **- Creeping Mahonia -** Evergreen low shrub 12" to 20" high, spreading to 3'. Early spring

blooming with clusters of yellow flowers, followed by clusters of dusky blue berries. Dull green lightly toothed foliage. Native to northern conifer woodlands where it grows as an understory plant. Good ground cover under trees or on shaded slopes. Needs regular watering and soils fairly high in organic content. Partial to full shade.

California Lilac cultivars

***Ceanothus* 'Blue Cascade'** - Evergreen medium shrub 6' to 8' high and as wide. Large clusters of sky blue flowers in early spring, almost hiding the foliage. Densely foliaged with bright green leaves. Can take light pruning in early summer, but rarely needs it. Hybrid of unknown parentage. Winner of an Honorable Mention award from the American Horticultural Society. Prefers well drained soil, needs low amount of supplemental deep watering.

***Ceanothus* 'Concha'** - Evergreen mounding, medium sized shrub, 5' to 7' high, spreading slightly wider. Spring blooming, very attractive deep blue flower clusters. Can be pruned lightly in early summer if needed. Seedling origin, probably a cross between *C. impressus* and *C. papillosus* var. *roweanus*. Probably the most garden tolerant *Ceanothus*, accepting a wide variety of soil types, and a greater diversity of irrigation practices. Full sun to light shade.

***Ceanothus* 'Joyce Coulter'** - Evergreen mounding, low to medium sized shrub 3' to 5', spreading 8' to 10'. Blooms in spring with many mid-sized medium blue flower clusters. Deep green and densely foliaged, this cultivar makes a wonderful high ground cover, well suited for slight slopes. Hybrid origin, cross between *C. papillosus* var. *roweanus* and *C. thryrsiflorus*. This is a very adaptable *Ceanothus*, tolerant of a wide variety of soil types and irrigation practices, but it prefers well drained soil and occasional supplemental watering. Full sun, prefers light shade in inland areas.

***Ceanothus* 'Ray Hartman'** - Evergreen large shrub 15 to 18' high and up to 15' wide. Very large medium blue flower clusters appear in spring. Fast growing with large dark green, glossy leaves. Good background shrub or as a focal point trained into a small tree. Hybrid origin, cross between *C. arboreus* and *C. griseus*. Pruning for tree proportions should begin with juvenile plant. Prune in early summer taking care to remove only branches under 3/4" diameter. Tolerates heavy soils but prefers good drainage. Occasional deep watering in the summer. Full sun, or light summer shade in inland areas.

***Ceanothus maritimus* and its cultivars - Maritime Ceanothus** - Low evergreen shrub, 1' to 3' high, spreading to 6' across. Dense flower panicles occur winter to early spring, one of the earliest blooming *Ceanothus*. Small deep green foliage, with white cast to the undersides. Wonderful ground, bank, or rock garden plant. Native to coastal areas in San Luis Obispo County. Prefers good drainage, supplemental watering. Will take full sun, longer lived with light shade inland. Cultivars available: **'Frosty Dam'** - extremely low growing with silver lavender flowers; **'Popcorn'** - dense mound with bright white flowers; **'Dr. Leiser's Dark Blue'** and **'Roger's Dark Blue'** are dense mounding with deep blue inflorescences; **'Point Sierra'** is very low growing with strong horizontal branching habit, good mid-blue flower color.

***Comarostaphylis diversifolia* - Summer Holly** - Evergreen medium shrub 6' to 10' high, 6' to 8' wide. Creamy white urn-shaped flowers appear in clusters in mid spring, followed by very showy red berries which last from summer into fall. Rich deep green leathery, leaves, grey/brown bark which sheds to reveal attractive red. Native to San Diego County on coastal foothills. Good background, accent, or slope plant, can be pruned into small tree form. *C.d.* var. *planifolia* has a wider distribution, and is a larger species up to 18', may be better suited for training into tree form. Prefers good drainage, occasional deep watering. Full sun, will tolerate light shade.

***Fallugia paradoxa* - Apache Plume** - Deciduous medium shrub 3' to 8', spreading 6' to 10'. White flowers in spring, followed by seeds which have very showy feathery pink tails. Twiggy branches with small dark green leaves. Overall appearance of plant is light and airy. Wide distribution through high deserts of western states where it occurs in gravelly and sandy soils. Very heat and drought tolerant, although will become deciduous during extended periods of drought. Needs good drainage. Full sun.

***Heteromeles arbutifolia* - Toyon** - Evergreen large shrub 18' to 23' high and as wide. White flowers in spring through early summer. Clusters of bright orange red berries mature in fall and winter. Handsome deep green foliage. Multi trunked, it can be pruned into tree form. Very wide distribution throughout chaparral areas of California and Baja. Accepts a wide variety of soil types and needs very little water once established. Full sun, can tolerate light shade.

***Myrica californica* - Pacific Wax Myrtle** - Evergreen large shrub 15' to 25' high and 15' wide. Glossy dark green foliage. Flowers inconspicuous. Good for screen hedge or small tree, as it takes readily to pruning. Can be used for formal applications. Native to coastal dunes and scrub. Prefers good drainage. Needs some summer irrigation. Best with some shade inland. *M. c.* **'Buxifolia'** is a dwarf version to 6', suitable for smaller hedges.

***Prunus ilicifolia* ssp. *ilicifolia* - Hollyleaf Cherry** - Evergreen large shrub to 25' high and spreading as wide. Large spikes of white flowers cloak plant in the spring, followed by deep red fruit. Glossy green leaves with toothed margins. Excellent for large screen or can be pruned for use as a large hedge or small tree. *Prunus* has a large distribution through Califomia in many plant

communities. Tolerates a wide variety of conditions. Takes full sun or light shade.

***Rhamnus californica* and cultivars - Coffeeberry** - Evergreen medium shrub 8' to 10' and spreading as wide. Inconspicuous flowers followed by showy red/brown fruit in fall. Large dark green leaves. Good for background shrub or screen. Native to many plant communities. Tolerates a wide variety of soils, will survive with very little irrigation, but will have fresher appearance with periodic deep soakings. Takes full sun to quite a bit of shade. Some of its cultivars: **'Seaview Improved'** and **'Ed Holmes'** are good low selections up to 3'; **'Eve Case'** and **'Mount San Bruno'** are densely foliaged to about 6'.

***Rhus ovata* - Sugarbush** - Large evergreen shrub 6' to 30' high and spreading as wide. Cream and rose flowers in dense clusters in spring, followed by clusters of small hairy red fruit. Good for a background shrub or trained as a small tree. Wide distribution, mainly inland chaparral. Prefers good drainage. Heat and drought tolerant. Full sun or light shade.

***Ribes sanguineum* var. *glutinosum* and cultivars** - Medium deciduous shrub 5' to 8' high and 4' to 6' wide. Blooms in spring with long (up to 8") pendant clusters. Flower color ranges from white to red in named cultivars. Maple-like leaves are light green. Very attractive flowering features make it a good choice for mixed plantings or as a background for a perennial bed. Wide distribution in Northern California. Prefers good drainage, supplemental watering. Needs light to moderate shade.

***Ribes viburnifolium* - Catalina Currant** - Low evergreen spreading shrub 2' to 3' high and up to 12' wide. Clusters of small rosy flowers in spring, followed by reddish fruit. Leaves are dark green, leathery, on arching red stems. Good easy care ground cover under oaks or other low water use trees. Can prune out upright branches. Occurs in Southern California and Santa Catalina Island. Prefers good drainage. Performs best in partial shade. Drought tolerant but responds well to occasional deep watering.

PERENNIALS

***Achillea millefolium* cultivars - Yarrow** - Low perennial to 3' high. Flat-topped pincushion-like flower heads, 2' to 3" across, bloom spring through late summer with colors ranging from creamy white to deep rose. Bright green ferny foliage. Cut back in late summer. Good for dried flowers. Can be used as a walk-on lawn substitute. Moderately drought tolerant. Full sun to light shade.

***Aquilegia formosa* - Western Columbine** - Herbaceous to almost evergreen perennial, grows to 3' high. Red and yellow pendant flowers occur in spring and summer. Green lacy attractive foliage. Native to stream banks, seeps, and moist places in many plant communities. Needs periodic summer water. Performs best in part shade.

***Artemisia pycnocephala* 'David's Choice' - Coastal Sagewort** - Compact perennial grows 1' high and 2' to 3' wide. Silver flower stalks rise above foliage, flowers are creamy yellow; stalks are often cut off to maintain plant shape. Silver grey foliage is fern like, slightly aromatic. Native to beaches of Northern California. Prefers well drained soils, but is tolerant of many conditions. Drought tolerant, but appreciates supplemental water. Avoid overhead watering during periods of heat to prevent rot.

***Chrysopsis villosa* 'San Bruno Mtn.' - Golden Aster** - Ever-blooming perennial 1' high to 2' wide. Sterile yellow daisy flowers cover the dull green hairy foliage. Good for mixed border or for massing. Native to rocky areas in the Sierra and Cascade Ranges. Maintains better appearance if deadheaded monthly. Needs supplemental water for best performance. Full sun to very light shade.

***Epilobium* spp. and cultivars - California Fuschia** - Easily grown perennial. Flaring-mouthed tubular flowers occur from late August to October or later. Flower color generally vibrant red to orange-red, but will include pink and white in some of the many cultivars. Wonderful choice for the informal sunny garden, where it will spread by underground runners and seeds. Unless otherwise noted pants should be cut to stubs in January or February to avoid an unkempt rangy appearance. Drought tolerant once established, but will accept regular irrigation in fast draining soils. Hummingbirds love this plant. Some of its cultivars: **'Catalina'** - Very vigorous form with narrow grey leaves. Rich orange-red flowers contrast wonderfully with the foliage. Upright habit to 3'. Cut back severely in winter. **'Everett's Choice'** - Bright orange-red flowers on a prostrate mounding plant which reaches a height of only 6", spreading to 2'. Larger felted grey green leaves. Does not appear to spread underground. Good for containers or draping down over walls. Cut back in winter. **'Hurricane Point'** - Thin dark grey leaves. Orange narrow flowers. Plant reaches 2', spreading to 3'. Cut back lightly in winter, will not withstand severe pruning.

***Erigeron glauca* and cultivars - Seaside Daisy** - Free blooming perennial grows to 10" high. Daisy flowers range in color from white to deep lavender. Blooms heaviest in spring with scattered bloom through much of the year. Spatulate foliage ranges from blue green to bright green. Native to coastal bluffs and sand dunes. Good for cut flowers, in mixed border or massed. Needs some supplemental irigation, occasional deadheading. Full sun to part shade.

***Eriogonum umbellatum* var. *polyanthum* 'Shasta Sulfur' - Sulfur Flower** - Dome-shaped perennial grows 2' by 3'. Bright, clear canary yellow flower heads in summer, fading to typical buckwheat rusty

brown. Grey-green foliage turns purple-red in cold weather. Fast growing. Prefers well-drained soils. Drought tolerant. Full sun or very light shade.

***Festuca californica* cultivars - California Fescue** - Grey-green perennial grass 2' by 3'. Inflorescences to 6' high in summer. Good grey accent. Native to open forest areas and chaparral. Cut foliage back to stubs in late summer to rejuvenate. Part to full shade. Prefers supplemental summer water. Cultivar **'Serpentine Blue'** has steel grey foliage with 5' attractive inflorescences which remain until December. It appears to be more sun tolerant than the species.

***Heuchera* cultivars - Alum Root** - Evergreen mounding perennial. Wonderful for mass plantings in semi-shade to shade areas. Good for planting under oaks or any other tree with low water requirements. Should be divided every 4 to 5 years. *H. maxima* x *H. sanguinea* cultivars include: **'Santa Ana Cardinal'** 2' to 3' branched flower stalks with clusters of bright red inflorescences; **'Susanna'**, shorter and less branched with red flowers; **'Genevieve'** has 2' stalks with rose-pink flowers and marbled foliage; **'Wendy'** 2' stalks with bright pink flowers and grey-green foliage; **'Opal'** has white flowers that fade to pink, on 2' stalks.

***Iris* cultivars** - Perennial from rhizomatous roots. Plants range in size from less than 1' to more than 3'. Many flower colors available. Requires good drainage, adequate fertilizer and water, and occasional treatment with fungicides. These iris are worth all the extra effort with their spectacular flowers. Transplant in late fall. Moderately drought tolerant when established in part shade. Rhizomes can rot if overwatered in hot summer weather

***Leymus condensatus* 'Canyon Prince' - Giant Wild Rye** - Perennial grass growing 3' by 4'. Blue-grey foliage with bristly flower heads rising above. Spreads slowly underground, increasing clump size. Wonderful bold accent and refreshing cool foliage color. Native to dry slopes and open woodlands. Drought tolerant, but will accept fairly regular irrigation. Tolerates a wide variety of soil types. Prefers light shade.

***Muhlenbergia rigens* - Deer Grass** - Perennial bunch grass can grow to 6' tall and can spread to 8' wide. Tall, spear-like unbranched inflorescences last well into winter. Narrow grey green foliage turns grey brown in fall and winter. Fast growing. These are bold and spectacular in the garden. Native to gravelly washes in the Southwest. Clumps are long-lived and require adequate space. To rejuvenate plants after several years of growth, they may be cut to stubs in late fall or early winter. Drought tolerant, but looks better with occasional deep watering.

***Penstemon heterophyllus* - Foothill Penstemon** - Perennial, 1' to 2' high and as wide. Eight-inch spikes of intense blue flowers appear from April to June, with occasional bloom through summer if plant receives some water. Other color forms are available. Linear leaves are mid green. Native to Central and Southern California in coastal and inland foothills: Good drainage and air circulation are important. Good for dry border or rock garden. Full sun to light shade.

***Romneya coulteri* - Matilija Poppy** - Large scale perennial 6' tall and spreading by underground runners. 6" to 8" crepe-textured white poppies with golden stamen at the center. Flowers are lightly scented. Attractive blue-grey to grey-green foliage. Can be difficult to establish, and difficult to eradicate once it is established. Care must be taken not to damage the fragile root system while planting it. Wonderful choice for use on dry hillsides, wild gardens, and large dry borders. Controls erosion. Native to dry foothills in Southern California and Baja. Drought tolerant, will succumb to rot if overwatered.

***Salvia clevelandii* spp. and cultivars - Cleveland Sage** - Wonderfully fragrant medium perennial reaching 5' to 6' when in bloom. Whorls of inch-long blue-violet, mint-like flowers are freely produced on spikes from late spring through early summer. Oblong grey-green leaves, rounded growth habit. Prune back in late summer to remove old flower stems and shape the plant. Pinch back regularly when young to develop a good sturdy structure. Native to inland foothills of San Diego County and Baja. Easily grown in nearly all gardens. Prefers full sun and good drainage, but is adaptable. Fast growth rate. Drought tolerant when established. Many named cultivars available, with different shades of flower color. Also, is one of the parents in a number of named hybrids.

***Sisyrinchlum bellum* and cultivars - Blue Eyed Grass** - Diminutive iris-like perennial to 1'. Flower color varies from purple, blue, pale blue, to white. Each 1" flower lasts one day, but is quickly replaced. Foliage ranges from dull grey-green to bright green. Dwarf forms are available. Good in dry borders or rock gardens. Will seed freely when grown well. Short lived if overwatered. Native to coastal grasslands. May go completely dormant in hot dry summers, emerging with the rains and cooler temperatures of fall. Plant in sun to part shade.

***Sphaeralcea ambigua* - Desert Mallow** - Showy perennial grows 2' to 6'. 1' to 3' spikes carry many inch-wide hollyhock-like flowers in shades of apricot, orange, pink, or rose. Olive green leaves are covered with a light fuzz. Native to desert scrub areas. Good choice for hot, dry locations. Requires good drainage, full sun.

***Woodwardia fimbriata* - Giant Chain Fern** - Large fern can attain heights of 9'. Coarse-textured twice-cut fronds. Refreshing cool appearance, good in shaded spot near patio, pool or in a woodland garden. Large distribution, always found near streams and springs. Water regularly for best appearance and fastest growth, but can withstand neglect once established.

TREE OF LIFE
WHOLESALE
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Plants of El Camino Real

CALIFORNIA NATIVE PLANTS

PLANTING FOR WILDLIFE: SELECTED NATIVE PLANTS FOR WILDLIFE HABITAT ENHANCEMENT

Acer macrophyllum - Big Leaf Maple. Large deciduous tree (too large for most home gardens but ideal for parks or nature centers). Seeds, buds, and flowers eaten by House Finches, Goldfinches, Black-headed Grosbeak and other seed eating birds.

Alnus rhombifolia - White Alder. Large, fast growing deciduous riparian tree. Seeds eaten by various Finches, particularly Goldfinches.

Aquilegia formosa var. truncata - Red Columbine. Excellent border plant for woodland effect. Attracts hummingbirds which serve as its primary pollinator.

Arctostaphylos spp. - Manzanita. A large variety of short to medium height shrubs are available for general wildlife cover. Fruit eaten by birds and mammals. Hummingbirds use flowers.

Atriplex lentiformis ssp. breweri - Coastal Quail Brush. Excellent conservation plant, tolerates poor soil. Seeds eaten by small mammals and birds. Also serves as important cover plant providing general protection and nest sites for low-nesting birds.

Baccharis pilularis consanguinea - Coyote Brush. Excellent cover plant, dense foliage.

Ceanothus spp. - Ceanothus. Some of our most attractive cultivated shrubs providing good general wildlife cover.

Cercocarpus betuloides - Mountain Mahogany, and C. minutiflorus - San Diego Mountain Mahogany. Two important chaparral plants for good general wildlife cover. Seed eaten by birds and small mammals.

Encelia californica - California Encelia. Easy, fast growing subshrub. Seeds eaten by many birds and small mammals.

Eriogonum fasciculatum - California Buckwheat. Good low cover. Seeds eaten by birds and small mammals.

Galvezia speciosa - Island Bush Snapdragon. Good low cover. Showy accent plant in small clumps. Hummingbirds use red tubular flowers.

Heteromeles arbutifolia - Toyon. Outstanding wildlife plant and slope stabilizer. General tall shrub cover. Fruits eaten by many birds including California Quail, Northern Mockingbird, American Robin, Cedar Waxwing, Western Bluebird, and Black-headed Grosbeak.

Isomeris arborea - Bladderpod. Very drought tolerant. Flowers most of year. Seeds eaten by finches, sparrows, and doves. Bright yellow flowers occasionally visited by hummingbirds.

Keckiella cordifolia - Heart-leaved Penstemon. Vining shrub, good in shade. Flashy red flowers. Hummingbirds.

Lonicera subspicata - Chaparral Honeysuckle. Deciduous vining shrub with attractive orange berries eaten by many birds.

Mimulus cardinalis - Scarlet Monkey Flower. Low, herbaceous perennial spreading readily by underground root stocks. Good in partial shade. Red flowers attract hummingbirds.

Mimulus longiflorus - Bush Monkey Flower and M. puniceus - Red Bush Monkey Flower. Good mixed in with low shrub cover. Profuse bloomers. Hummingbirds.

Myrica californica - Pacific Wax Myrtle. Large attractive fragrant tree. Waxy coated fruit and its seed eaten by variety of birds.

Penstemon centranthifolius - Scarlet Bugler. Small herbaceous perennial. Showy in bloom. Hummingbirds attracted to its red tubular flowers.

Penstemon spectabilis - Showy Penstemon. Tall flower spikes, abundant bloom, lavender-purple flowers used occasionally by hummingbirds.

Pinus spp. - Pine. Seeds eaten by many birds and mammals. Mature trees provide shelter and nest sites.

Platanus racemosa - Western Sycamore. Large riparian tree. Seeds eaten by various finch species. Mature trees provide nest sites for raptors and cavity nesting birds.

Populus fremontii - Fremont Cottonwood. Large native tree in riparian habitats. Flower buds eaten by numerous birds. Raptor nest sites.

Prosopis juliflora var. torreyana - Mesquite. Deep rooted deciduous shrub with attractive yellow flowers. Seeds eaten by birds and small mammals.

Prunus ilicifolia - Hollyleaf Cherry. Good for general tall cover. Lush green growth, very drought tolerant, showy white flower clusters and attractive fruits eaten by birds and mammals.

Quercus agrifolia - Coast Live Oak. As mature tree one of most valuable for wildlife. Acorns eaten by wide variety of birds and mammals. Nesting substrate for many bird species large and small. Foraging habitat for many insect eating birds.

Rhamnus californica - Coffeeberry and R. crocea ilicifolia - Hollyleaf Redberry. Good for tall shrub cover. Many birds eat fruit.

Rhus integrifolia - Lemonadeberry. One of the best and most dependable species for general wildlife cover including bird nesting substrate. Birds eat fruit. Deep network of fleshy roots provides good slope stabilization.

Rhus laurina - Laurel Sumac. Great tall shrub cover. Many bird species nest in it. Many birds eat flower buds and fruit.

Ribes spp. - Currants and Gooseberries. Several species of low to medium shrubs. Do well in shade. Attractive fruits eaten by many birds and mammals. Hummingbirds use flowers of R. malvaceum , R. speciosum, and R. sanguineum.

Rosa californica - California Wild Rose. Outstanding for low shrub cover. Forms protective thickets for nesting birds.

Rubus ursinus - California Blackberry. Great protective cover. Fruits eaten by many birds and mammals.

Salix spp. - Willow. Important wildlife plant in wetland habitats for general cover and nest sites. Flowers and buds eaten by various finches. Foraging habitat for insect eating birds.

Salvia spp. - Sages. Many good low shrub cover species. Seeds eaten by birds and mammals. Hummingbirds visit S. mellifera, S. apiana, S. greggii, and S. clevelandii.

Sambucus mexicana - Elderberry. Outstanding wildlife shrub. Good as cover. Fruit eaten by a very long list of birds and mammals.

Solanum xantii - Purple Nightshade and S. douglasii - White Nightshade. Low shrubs. Fruit eaten by many birds and mammals.

Trichostema lanatum - Wooly Blue Curls. Beautiful accent shrub. Showy, profuse bloomer. Heavily used by Hummingbirds.

Umbellularia californica - California Bay Laurel. Good tall shrub to tree size depending upon conditions.

Vitis girdiana - Desert Grape. Great cover for shelter and bird nest sites. Fruit eaten by long list of birds and mammals.

Zauschneria californica - California Fuchsia. Great small accent shrub. Profuse bloomer. Bright red flowers. A Hummingbird favorite.

THEODORE PAYNE FOUNDATION
ESTABLISHED 1960

for Wildflowers and Native Plants, Inc.

10459 Tuxford Street, Sun Valley, CA 91352 (818) 768-1802

CALIFORNIA NATIVE PLANTS FOR HEAVY AND ALKALINE SOILS

A = Annual, G = Grass, GC = Ground Cover, P = Perennial, S = Shrub, T = Tree, V = Vine

BOTANICAL NAME	TYPE	COMMON NAME
Arctostaphylos densiflorus 'Howard McMinn'	S	Manzanita cultivar
Arctostaphylos 'Dr. Hurd'	S	Manzanita cultivar
Actostaphylos edmundsii	GC	Little Sur Manzanita
Actostaphylos edmundsii 'Carmel Sur'	GC	Manzanita cultivar
Actostaphylos edmundsii parvifolia	GC	Bronzemat Manzanita
Actostaphylos uva-ursi	GC	Manzanita
Actostaphylos uva-ursi 'Pt. Reyes'	GC	Red Bearberry
Acer macrophyllum	T	Bigleaf Maple
Achillea millefolium	P,GC	Yarrow
Adenostema fasciculatum	S	Chamise
Adenostema sparsifolium	S	Red Shanks
Aesculus californica	S,T	California Buckeye
Agave utahensis nevadensis	GC	Utah Century Plant
Alnus rhombifolia	T	White Alder
Amorpha fruticosa	S	False Indigo
Argemone munita	P	Prickly Poppy
Artemisia californica	S	California Sagebrush
Artemisia californica 'Canyon Grey'	GC	Prostrate Sagebrush
Artemisia tridentata	S	Great Basin Sagebrush
Atriplex canescens	S	Four-winged Salt Bush
Atriplex lentiformis lentiformis	S	Quail Bush
Baccharis pilularis 'Twin Peaks'	GC	Prostrate Coyote Bush
Baccharis pilularis consanguinea	S	Chaparral Broom
Baccharis salicifolia	S	Mulefat
Bouteloua curtipendula	G	Sideoats Grama
Bouteloua gracilis	G	Blue Grama
Ceanothus 'Concha'	S	Hybrid Calfiornia Lilac
Ceanothus crassifolius	S	Hoary-leaf Ceanothus

A = Annual, G = Grass, GC = Ground Cover, P = Perennial, S = Shrub, T = Tree, V = Vine

BOTANICAL NAME	TYPE	COMMON NAME
Ceanothus griseus horizontalis 'Yankee Pt.'	GC	Carmel Creeper cultivar
Ceanothus 'Joyce Coulter'	S	Hybrid California Lilac
Ceanothus 'Julia Phelps'	S	Hybrid California Lilac
Ceanothus leucodermis	S	Chaparral Whitethorn
Ceanothus 'Mills' Glory'	GC	Hybrid California Lilac
Ceanothus 'Sierra Blue'	S	Hybrid California Lilac
Calocedrus decurrens	T	Incense Cedar
Carpenteria californica	S	Bush Anemone
Castilleja foliolosa	P	Indian Paint Brush
Castilleja linariaefolia	P	Indian Paint Brush
Celtis reticulata	T	Western Hackberry
Cercidum floridum	T	Blue Palo Verde
Cercis occidentalis	T,S	Western Redbud
Cercocarpus betuloides	S	Mountain Mahogany
Cercocarpus ledifolius	S	Desert Mountain Mahogany
Chilopsis linearis	T	Desert Willow
Chrysothamnus nauseosus	S	Rabbit Brush
Clarkia spp.	A	Farewell-to-Spring, etc.
Collinsia heterophylla	A	Chinese Houses
Cornus stolonifera	S	Red-Twig Dogwood
Cowania neomexicana	S	Cliffrose
Delphinium cardinale	P	Scarlet Larkspur
Dendromecon rigida	P	Bush Poppy
Eriogonum fasciculatum	GC	California Buckwheat
Eriogonum fasciculatum 'Dana Pt.', 'Theodore Payne' & 'Warriner Lytle'	GC	Prostrate California Buckwheat cultivars
Eriogonum fasciculatum polifolium	GC	Desert California Buckwheat
Eriogonum umbellatum	P,GC	Sulfur Buckwheat
Encelia californica	S,GC	California Bush Sunflower
Encelia farinosa	S,GC	Brittle-bush or Incienso
Epilobium californica	GC,P	California Fuchsia
Eriodictyon californica	S	Yerba Santa
Eriophyllum confertiflorum	P	Golden Yarrow
Erysimum capitatum	P	Wallflower
Eschscholtzia californica	P	California Poppy
Forestiera neomexicana	S	Desert Olive
Fraxinus dipetala	S	Flowering Ash
Fraxinus velutina coriacea	T	Arizona Ash
Fremontodendron 'California Glory'	S	Hybrid Flannel Bush
Gilia capitata	A	Globe Gilia
Heliomeris multiflora nevadensis	P	Wild Sunflower
Heteromeles arbutifolia	S	California Holly or Toyon
Heuchera maxima	GC,P	Alum Root
Heuchera parishii	P	Sierra Alum Root
Isocoma spp.	S,P	Goldenbush
Isomeris arborea	S	Bladderpod

A = Annual, G = Grass, GC = Ground Cover, P = Perennial, S = Shrub, T = Tree, V = Vine

BOTANICAL NAME	TYPE	COMMON NAME
Iva hayesiana	GC	Poverty Weed
Juglans californica	T	California Walnut
Keckiella cordifolia	S,GC	Heart-leaf Penstemon
Lasthenia chrysostoma	A	Goldfields
Layia platyglossa	A	Tidy Tips
Leptodactylon californicum	P	Prickly Phlox
Leymus condensatus	G	Giant Wild-Rye
Lonicera hispidula	S	Wild Honeysuckle
Lotus scoparius	P	Deerweed
Lupinus spp.	A,P,S	Lupines
Mahonia nevinii	S	Nevin's Barberry
Mahonia pinnata	S	California Barberry
Mahonia repens	GC	Creeping Barberry
Malacothamnus fasciculaturs	S	Bush Mallow
Malosma laurina	S,T	Laurel Sumac
Mentzelia lindleyi	A	Blazing Star
Mimulus aurantiacus	P,GC	Monkeyflower
Muhlenbergia rigens	G	Deergrass
Nasella cernua	G	Nodding Needlegrass
Nasella coronata	G	Giant Needlegrass
Nasella lepida	G	Foothill Needlegrass
Nasella pulchra	G	Purple Needlegrass
Nasella speciosa	G	Desert Needlegrass
Orthocarpus purpurascens	A	Owl's Clover
Oryzopis hymenoides	G	Indian Ricegrass
Parkinsonia aculeata	T	Palo Verde
Penstemon azureus	P	Azure Penstemon
Penstemon centranthifolius	P	Scarlet Bugler
Penstemon eatonii	P	Firecracker Penstemon
Penstemon grinnelli	P	Grinnell's Penstemon
Penstemon heterophyllus	P	Foothill Penstemon
Penstemon palmeri	P	Fragrant Penstemon
Penstemon spectabilis	P	Showy Penstemon
Pinius attenuata x radiata	T	Hybrid Pine
Pinus attenuata	T	Knobcone Pine
Pinus coulteri	T	Coulter Pine
Pinus ponderosa	T	Yellow Pine
Pinus sabiniana	T	Digger Pine
Pinus torreyana	T	Torrey Pine
Platanus racemosa	T	Western Sycamore
Pluchea sericea	S	Arrow Weed
Populus fremontii	T	Fremont Cottonwood
Populus trichocarpa	T	Black Cottonwood
Prosopis glandulosa	T	Mesquite
Prunus ilicifolia	S	Holly-leaf Cherry
Prunus llicifolia ssp. lyonii	S	Catalina Cherry

A = Annual, G = Grass, GC = Ground Cover, P = Perennial, S = Shrub, T = Tree, V = Vine

BOTANICAL NAME	TYPE	COMMON NAME
Prunus virginiana demissa	S	Western Chokecherry
Pseudotsuga macrocarpa	T	Bigcone Spruce
Purshia tridentata	S	Antelope Bush
Quercus agrifolia	T	Coast Live Oak
Quercus dumosa	T,S	Scrub Oak
Quercus turbinella	T,S	Desert Scrub Oak
Rhamnus californica	S	Coffeeberry
Rhamnus californica "Sea View'	S,GC	Coffeeberry cultivar
Rhamnus californica 'Eve Case'	S	Coffeeberry cultivar
Rhamnus crocea	S	Redberry
Rhamnus ilicifolia	S	Holly-leaf Redberry
Rhus integrifolia	S	Lemonade Berry
Rhus ovata	S	Sugar Bush
Rhus trilobata	S,GC	Squaw Bush
Ribes aurem	S	Golden Currant
Ribes malvaceum	S	Chaparral Currant
Ribes speciosum	S	Fuchsia-flowered Gooseberry
Ribes viburnifolium	GC	Catalina Perfume
Romneya coulteri	GC,P	Matilija Poppy
Rosa californica	S,Gc	California Wild Rose
Rosa woodsii ultramontana	S,GC	Wood Rose
Salix goodingii, hindsiana, lasiandra, lasiolepis	S,T	Willow spp.
Salvia apiana	S	White Sage
Salvia clevelandii	S	Cleveland Sage
Salvia mellifera	S	Black Sage
Salvia mellifera 'Tera Seca'	GC	Prostrate Black Sage
Salvia sonomensis 'Dara's Choice'	GC,P	Hybrid Creeping Sage
Sambucus mexicana	S,T	Elderberry
Senecio douglasii	P	Sand-wash Groundsel
Shepherdia argentea	S	Silver Buffaloberry
Simmondsia chinensis	S	Jojoba, Goatnut
Sisyrinchium bellum	P	Blue-eyed Grass
Sphaeralcea ambigua	P	Apricot Mallow
Stanleya pinnata	P	Prince's Plume
Symphoricarpos mollis	GC,S	Creeping Snowberry
Symphricarpos albus	S	Snowberry
Trichostema lanatum	P,S	Wooly Blue Curls
Umbellularia californica	T,S	California Bay Laurel
Viguiera laciniata	P	San Diego County Viguiera
Viguiera parishii	P	Wild Sunflower
Vitis girdiana	V	Desert Grape
Wyethia mollis	P	Arrowleaf, Mule's Ears
Yucca schidigera	S	Spanish Bayonet
Yucca whipplei	S	Our Lord's Candle

39. RESPONSES TO COMMENTS FROM CELIA KUTCHER

39-1 Comment noted. The comment points out several positive aspects of the HDCP, but indicates that there are several concerns of the author. These concerns are detailed in the following sections of the letter.

39-2 Comment noted. The City of Dana Point will consider the format issues brought up in the comment. Because there is no environmental issue brought up in the comment, no further response is required by CEQA.

39-3 The comment refers to the approach taken by the City and the applicant in zoning the property for the proposed project. The comment also includes discussion of the proposed General Plan Amendment. The zoning approach and the General Plan Amendment process has been under negotiation for several months between the City and the applicant. The City's consideration of the zoning of the property and the General Plan designation for the property are fully explained in the HDCP and fully analyzed in the EIR. The choice of zoning and General Plan designation options is part of the project that is under consideration by the decision makers. The ramifications of these actions are disclosed in the EIR. Because the comment does not bring forward any new information or address any environmental concern, no further response is required by CEQA.

39-4 The project's effect on traffic along Street of the Green Lantern is described in Section 4.13. See General Response 1 - Traffic on Green Lantern for additional information.

39-5 Parking on the project site will be open to the public. It is not being provided for Chart House diners or for any other off-site private property. Regarding restrictions on Chart House diners, i.e., prohibiting diners from using street parking on Street of the Green Lantern/Scenic Drive, the City is not contemplating this restriction in the HDCP. The Chart House is a private establishment and not a part of the project. Therefore, the City cannot place such restrictions on the Chart House.

39-6 The project is not within, nor does it affect, a "designated" Scenic Highway, as defined by the State of California, County of Orange, or City of Dana Point. Even though there are views from PCH of a small portion of the site, the views along the reach of PCH adjacent to the project site are limited, and PCH in the vicinity of the project is not recognized as a Scenic Highway by any agency. The proposed PCH Commercial Corner will serve as the gateway to the "Village," and design guidelines have been developed to ensure an aesthetically pleasing building. The commentor is correct in stating that views along the affected reach of PCH will change. This change is depicted in the graphics provided in the EIR (Figures 4.1.4 and 4.1.5) and is fully analyzed. Because the comment does not bring forward any new information or address a new environmental concern not already addressed in the EIR, no further response is required by CEQA.

39-7 The proposed grading plan limits grading to those areas away from significant landforms, including hilltop (Hilltop Park, Planning Area 5), the Headlands (Headlands Conservation Park, Planning Area 7), Harbor Point (Planning Area 8), and Strand Beach (Planning Area 3). The resulting grading is fully analyzed in both the Aesthetics Section (Section 4.1) and the Geology and Soils Section (Section 4.5). Avoidance of any change in topography is analyzed in the Alternatives Section of the EIR (Section 5.5, the No Project/No Development Alternative).

39-8 It is correct to state that the project does not provide lower income housing opportunities. This issue is addressed in the Land Use Section (Section 4.9).

39-9 Parking is provided as described in the HDCP. The parking options discussed in the comment are noted (parking along Strand Road and the public parking lot at Selva Road) and are described as being available to the public in the HDCP and in the EIR (Section 4.13). Parking is not being provided for Chart House diners or for any other off-site private property. Regarding restrictions on Chart House diners, i.e., prohibiting diners from using street parking on Street of the Green Lantern/Scenic Drive, the City is not contemplating this restriction in the HDCP. The analysis in the EIR indicates that parking demand will be met by the on-site parking and the shared public parking. Therefore, there is no significant impact to off-site properties.

39-10 See General Response 4. Contrary to the comment that there will not be sufficient parking on site, the analysis in EIR Section 4.13 indicates that there will be sufficient parking utilizing the parking spaces provided for each of the uses, plus the shared public parking spaces.

39-11 See General Response 6.

39-12 The HDCP follows the provisions of the NCCP by avoiding the most sensitive habitat areas and setting aside the Conservation Park for the PPM and other species. In addition, the NCCP has established the 37,000 acre Orange Reserve, which will protect core populations of species and provide important linkages. See General Response 6.

39-13 Tenet is the correct word.

39-14 See Response to Comment 39-6.

39-15 The comment is unclear and does not relate to an environmental concern not already fully addressed in the EIR. Because the comment does not bring forward any new information or address any environmental concern, no further response is required by CEQA.

39-16 Refer to DEIR Table 4.9.B, Public Recreation Policies Consistency Analysis, for discussion of the Coastal Act Policies. The project site is almost entirely privately owned, and right to pass is subject to permission of the property owner. Preservation of the entire site is not feasible without just compensation of the property owner, and public sale of the site is not proposed. The proposed project, as described in the HDCP and analyzed in the DEIR, provides for a variety of public recreational opportunities within the 62 acres of parks and

open space. Development of a portion of the site will provide funding for public improvements to the remainder of the site. Also refer to the responses to Comment Letter 48.

39-17 The HDCP restricts all public access to the occupied PPM habitat areas to the perimeter trails and generally prohibits active uses within the Headlands Conservation Park. The suggested language does not significantly improve the clarity of the paragraph. As such, no change is warranted.

39-18 Comment noted. The Coastal Act policies include restrictions on substantially altering natural bluffs and cliffs. The proposed project complies with this policy as analyzed in EIR Section 4.9. See also Responses to Comments 48A-10 to 48A-14.

39-19 The landform described in the comment includes the abandoned former mobile home park and adjacent areas, both of which no longer resemble the natural landform. This site is highly modified by grading, streets, infrastructure, abandoned structures, and areas of landslide and extensive erosion caused by uncontrolled man-made drainages/storm water outlets, some of which have fallen into disrepair and are contributing to further erosion. The alteration in this area will be to a previous man-made facility. This grading is fully described and analyzed in EIR Section 4.5, Geology and Soils. See also General Response 5 and Responses to Comments 48A-10 to 48A-14.

39-20 The statement is correct and reflects the information provided in Response to Comment 39-19.

39-21 The policy of protection of natural slopes on coastal bluffs and cliffs is addressed in EIR Sections 4.5 and 4.9. The documentation in Section 4.9 of the EIR indicates that the project complies with the Coastal Act. The opinion in the comment that the project does not comply with Coastal Act policies will be forwarded to the decision makers for their consideration.

39-22 Ongoing maintenance and management of the Conservation Park will be provided by the Center for Natural Lands Management, a professional organization that has extensive experience in nature open space management. It is anticipated that this organization will also serve as a monitor for the developer and the City to oversee the maintenance and management of the other native areas proposed on site. Regarding the trail in the Conservation Park and fencing, final design will occur after consultation with resource agencies and experts associated with Pacific pocket mouse. Your comments and observations are appreciated. A more detailed design for all the public open spaces will occur during the process for a Coastal Development Permit. Comments on seating, displays, signage, landscaping and other details will be addressed at that time. Restrooms will be included in each of the visitor recreation facilities except the open air conservation center. The inclusion of the visitor recreation facilities in the project will be determined by the City Council. Thank you for your detailed input on native plants. Please comment further during the Coastal Development Permit process.

39-23 The rest of the comments in the letter are directed to the HDCP and are not comments on the EIR. Therefore, no further response is required by CEQA.

40. COMMENTS FROM BOB LARWOOD

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 19 4 28 PM '01

November 19, 2001

Attn: Edward M. Knight, Comm. Development Dir.
From: Bob Larwood, Dana Point Resident
Comments: Draft E.I.R. Headlands Development and Conservation Plan

Anticipated Significant Impacts: The 1986 L.C.P. indicates that the southern one-third of the strands area is designated conservation and other open space. The new E.I.R. reclassifies this same area as residential. As these designations were originally certified by the Coastal Commission, this change cannot be mitigated. The Bowl Area

40-1

Also, the Bowl Area topography will be greatly changed by approximately forty feet of landfill. This change is prohibited by the Coastal Act, Chapter 3 restriction.

40-2

In addition, the proposed Development Plan fails to provide a lateral public trail along the lower Strands Bluff, which is just above the beach. A failure to provide a lateral public trail will deny the public an important recreational option.

40-3

40. RESPONSES TO COMMENTS FROM BOB LARWOOD

40-1 The proposed project includes an amendment to the City of Dana Point Local Coastal Program. The Coastal Commission will be required to certify the proposed amendment, which will eliminate this land use conflict. Refer to DEIR Section 4.9 for a complete discussion of the land use changes and an analysis of the project's consistency with the Coastal Act.

40-2 The commentor is correct in stating that the topography of the Bowl area will change substantially with the implementation of the project. Fill depths averaging 40 feet are proposed in this area. Approval of the proposed amendment to the Local Coastal Program will eliminate any inconsistencies with the Coastal Act. Refer to DEIR Section 4.9 for a complete discussion of the land use changes and an analysis of the project's consistency with the Coastal Act.

40-3 While the project does not provide a trail along the top of the lower Strand bluff, the project does provide new access to Strand Beach, via the Central and South Strand Beach access trails. In addition, a new lateral pedestrian trail with overlooks is proposed at the top of the bluffs adjacent to the existing County parking lot. The project proposes a system of recreation and coastal access trails totaling approximately three miles. There is no significant impact that would result from the lack of a lateral trail along the lower Strand bluff.

41. COMMENTS FROM BETTE J. COURTNEY

Bette J. Courtney
34335 Green Lantern St.
Dana Point, CA 92629-2763

November 18, 2001

Mr. Edward Knight - Director of Community Development City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Dear Ed,

After reviewing the EIR Draft for the HDCP I am fully convinced that this plan will have more than a significant impact on those of us that live on Green Lantern.

The short term effects are very obvious as to noise pollution and air pollution. The prevailing winds are from the West toward our homes and the construction noise, dust, and heavy equipment traffic will have a huge impact on our quality of life during this period which realistically could last two to three years.

To fully mitigate these effects will be next to impossible considering the amount of grading planned. However, by not allowing Green Lantern, which is a residential street to be used for construction traffic and by constant dust control measures it will certainly help to reduce some of the aforementioned pollution.

The EIR mentions that the existing residences will have a buffer zone between them and any new development. This buffer is inadequate because it not a passive buffer (contains an active trail) and the distance is substantially less than previous plans which had proposed a totally passive buffer zone. A minimum buffer zone of 100 ft with the trail located at the farthest side away from the existing residences would be acceptable.

As to the significant long term effects, they are also obvious. The Traffic Circulation Plan will have the highest level of significant impact on Green Lantern. The Plan calls for approximately 151,000 square feet of Visitor/Recreation/Commercial land uses and all of it will directly impact Green Lantern. 40,000 square feet of Commercial is proposed at the North end of Green Lantern and 111,000 at the South end. Because the developer will directly benefit from these Commercial uses he should directly absorb the negatives and not shift them onto the existing residences of Green Lantern. 41-1

According to the traffic study included in the EIR it states on page 4-54 that Green Lantern provides secondary access. Considering the amount of proposed Visitor/Recreation/Commercial land uses proposed for Green Lantern, I believe the Developer's Plan should have designated it a primary access route to the project. Green Lantern is expected to handle and cope with all of the negative impacts of this project while the developer shields his gate guarded communities to the fullest extent. Page 4.13-23 states the project trip generation for Green Lantern as a result of the Park/Recreation Areas, the three Community Facilities, the Seaside Inn, and the Commercial Restaurant will generate 919 new trips per day. Page 4.13-11 indicates Green Lantern has 2800 trips currently which totals out at 3719 trips per day. This is a significant amount of traffic!

The traffic study does not appear to take into account the future impact from two large commercial lots yet to be developed on Green Lantern. These properties are adjacent the the Chart House Restaurant and will not have a choice as to an access route. I have been informed that preliminary plans for another hotel are about to be submitted for the property at Green Lantern and Cove Road.

Green Lantern currently has a traffic circulation problem because it is a narrow two lane residential street which has three operating restaurants and a large visitor shopping plaza. Exacerbating the problem is that Southbound traffic on PCH headed for the Harbor have two choices (a) chance encountering five traffic lights on the PCH/ Golden Lantern route or (b) use Green Lantern/ Cove Rd. with no traffic light exposure. More and more vehicles are using the Green Lantern/ Cove Rd. route to save time and because they are transiting the area they tend to be speeding. This creates a definite safety hazard for Green Lantern residents entering and exiting their parking facilities and also causes a higher level of noise pollution from the increasing traffic flow.

There is no question Green Lantern residents can anticipate an ever increasing amount of traffic on our street generated by planned new homes for the Headlands and the surrounding areas and the expectation of future hotels along Green Lantern and PCH. We can also expect numerous tour buses bringing visitors to the three proposed recreation centers at the terminus of Green Lantern/ Scenic Drive. To have a Light-house in this area is ludicrous. It will be nothing more than a sham tourist attraction. These facilities will generate additional commercial traffic and at the same time provide venues for social events such as weddings, etc. creating even more traffic.

Dana Point already has several locations within our city that have major traffic circulation problems. This has caused a great deal of discontent to the area residents, ill will toward the City, and a significant financial cost to the City budget as well. Why create another monster when it can be easily avoided with proper planning. Once a project is implemented the impacts of environmental changes cannot be reversed.

41-1

Possible considerations to ease the traffic load on Green Lantern are (a) the Circulation Plan should be revised to have a primary connection from Street A direct to the Hotel, Restaurant, and the three Visitor Centers. (b) Cove Road could be made one way for traffic reduction and to allow space for a safe pedestrian/ bike trail. (c) Green Lantern could be closed at PCH to discourage through traffic.

Another unaddressed issue is the seismology in the Green Lantern area. It should be remembered a significant slide occurred at Cannon's Restaurant a number of years ago and Cove Road was closed for several years due to the slide. Approximately 150 feet of Green Lantern has its street edge as the bluff. A ground failure in this area due to heavy construction traffic, heavy rains or earth movement at the adjacent known Dana Cove Fault would render Green Lantern and Cove Road unusable. See page 4.5-6 and 4.5-9 regarding faults. Residents South of this area would lose all ingress/ egress capabilities.

Drainage issues are not addressed as to provisions for surface water flowing toward our residences from the buffer area behind our homes.

As you know we have been actively involved in all of the previous plans relating to the Headlands and we have to say this is the first time we feel very uncomfortable with the process thus far. It seems everything has been predetermined between the developer and the City with a high level of secrecy. In the past we could always get information from Lance Schulte, John Ballou or Dan Bott. Currently we have no person readily available to provide us with assistance or to directly address our concerns. We are hopeful this will change.

Sincerely,



41. RESPONSES TO COMMENTS FROM BETTE J. COURTNEY

41-1 This letter is the same letter as included in Comment 24. Please see Responses to Comments 24-1 through 24-12 and General Response 1 – Traffic on Green Lantern.

42. COMMENTS FROM SELVA OWNER

November 19, 2001

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

Attn: Community Development Department

Ladies and Gentlemen:

Please accept this letter as a set of comments on the proposed development project for the Dana Point Headlands Development and the Environmental Impact Report prepared in connection with that project. I have a number of concerns as a property owner in the area – 34112 Selva Road, Unit #332. These comments relate to the impact of the proposed development on the area in general, on the specific property and in relation to the property that I own on the south or east side of Selva Road.

First, the traffic study does not do an adequate job of addressing the impacts on Selva Road between the Pacific Coast Highway traffic signal and its current dead end adjacent to the limits of the project. The traffic study discussing traffic that is added to the street as a result of the proposed project (particularly with only one major outlet) and the Environmental Impact Report do not adequately address mitigation issues to offset the impacts on the property owners at 34112 Selva Road. The noise, congestion and disruption that will be caused by the traffic created by the project to the adjacent property owners must indeed be better mitigated in order to maintain the quality of life that currently exists at that location. It is hereby requested that the project be amended to incorporate adequate mitigation measures in relation to traffic and associated noise and congestion impacts, if, in fact, that is even possible. This also includes safety of the children on crossing Selva Road for beach access since that is now a major current activity. 42-1

The second area where the Environmental Impact Report and the proposed project are inadequate is in the protection of the environment on Headlands property. The existing native plants and animals will be significantly disrupted and even though there is a fair amount of open space included within the project, it is not adequate to protect the existing plant and animal species. The project must be amended to protect the habitat as well as the natural environment in the Headlands area to a greater extent than is currently the case. 42-2

Additionally, the following areas must be fully addressed and that is currently not the case in both the project and the Environmental Impact Report. The density is greater than the property can handle relative to the proper balance between open space, single- 42-3

family residential and multiple uses such as hotels. Sewage disposal is addressed as respect the collection and disposal of sewage through traditional underground sources but the possibility of spills in an area with such a difficult terrain and with sharp elevations, is not adequately addressed as respects prevention and clean up. The signalization at Selva Road and Pacific Coast Highway need to be substantially upgraded beyond what has been proposed. Finally, beach access needs to be improved for existing users of Salt Creek and Monarch Bay beaches. The project should not be allowed to disrupt existing uses in support of future higher land uses that take away from the current activities in both the headlands (environmental) and on the beaches (public use). 42-4 42-5 42-6

Finally, I would like to reserve the opportunity to comment at future hearings ~~and in litigation~~ as respects environmental concerns in general and also the issues highlighted in this letter. 42-7

Sincerely

Owner - 34112 Selva Rd

Mailing Address:
34112 Selva Road, Unit 332
Laguna Niguel, CA 92677

42. RESPONSES TO COMMENTS FROM SELVA OWNER

42-1 Regarding the increase in traffic projected on Selva Road, see General Response 2. The intersection of PCH and Selva Road is projected to operate at an acceptable level of service, and will not be a significant impact causing unacceptable traffic congestion. Regarding air and noise effects from the increase in traffic, these issues are addressed in EIR Sections 4.2 and 4.10, respectively. Localized air quality measurements are calculated for carbon monoxide at the intersection of PCH and Selva Road (carbon monoxide levels are the only localized pollutant that can accumulate to levels that affect human health). The results of the pollutant modeling show that carbon monoxide levels are far below State and federal thresholds and will not cause a significant impact. The modeling results are included in Table 4.2.D. Noise impacts at this location are also provided. Noise modeling for PCH between Selva Road and the project site is reported in Table 4.10.F, which indicates that unprotected residences fronting PCH would be significantly affected. With planned and existing walls, topography, structures and the distance from the roadway traffic (noise source), noise levels will not exceed thresholds established by the City, and there will not be a significant impact. Noise levels along Selva Road itself will not exceed thresholds of significance due to the low level of vehicular traffic and the slow vehicle speed allowed on Selva Road. Selva Road is signalized at PCH, allowing traffic breaks for traffic flow to pass through this intersection, alleviating traffic congestion and providing safe pedestrian crossing for beach access.

42-2 See General Response 6.

42-3 The current General Plan designates the project site for 261 to 522 dwelling units and 12.7 acres of commercial uses. The proposed project is considerably less dense. The issue of appropriate density on the property is a planning issue to be addressed by the decision makers in considering the proposed project, the proposed General Plan designation, and the environmental issues included in the EIR. Land use issues are addressed in the EIR in Section 4.9. The comment provides an opinion about these issues, but does not provide additional information that would change the analysis or conclusions of the EIR. The comment will be forwarded to the decision makers for their consideration.

42-4 Project design adequately addresses sewage collection and transport to off-site sewer lines. Examination of potential accidents, spills, and system failure would be speculative. Because such an event cannot be known and the extent and duration of such an event cannot be known, further analysis is not required by CEQA.

42-5 See General Response 2.

42-6 Public beach access is increased by the proposed project by the construction of two new accessways and improvements to the existing stairway. It is unclear from the information provided in the comment how the proposed project will disrupt public access to the beach and

why providing increased public access at Salt Creek and Monarch Bay is related to the proposed project or the environmental impact review included in the EIR.

42-7 There are further opportunities to address the City Planning Commission and City Council through the scheduled public hearings for consideration of the EIR and the proposed project.

43. COMMENTS FROM CALIFORNIA NATIVE PLANT SOCIETY

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 19 5 02 PM '01

Orange County Chapter
California Native Plant Society
P.O. Box 54891
Irvine, CA 92619-4891

Mr. Ed Knight
Community Development Department
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

16 November, 2001

RE: Comments on the Draft Headlands Development and Conservation Plan EIR

Dear Mr. Knight

The California Native Plant Society (CNPS) is a non-profit volunteer organization dedicated to the conservation and preservation of rare plants in California. The Orange County Chapter of CNPS focuses on rare plant species and vegetation conservation issues in County County. The following comments and recommendations pertain to the draft Headlands Development and Conservation Plan EIR. The Headlands development and conservation proposes to build 65 residential homes, commercial and recreational development on the Dana Point Headlands and adjacent Dana Strands within the City of Dana Point. About 52 acres would be set aside as recreational open space and 30 acres would be set aside as conservation open space within a 121 acre project site. 43-1

The Dana Point Headlands have long been known as an important site for rare plants and animals. Historically the headlands included Despite being largely isolated from surrounding natural areas since about 1985, the headlands continue to support very rare species, some of which, are not known currently to occur elsewhere in Orange County, or are now extremely restricted in distribution. Our chapter has had significant concerns regarding potential development since large populations of Blochman's dudleya (*Dudleya blochmaniae* ssp. *blochmaniae*) were found to occur on the site in 1983. The Dana Point Headlands is a special area not only for the remarkable diversity of rare plants and animals on the promontory, but because so little of this unique habitat remains today. With the exception of the open coastal mesas of Camp Pendelton, most of the coastal bluffs between Santa Monica and San Diego have been urbanized. 43-2

There are several issues that we would like to comment on. Primarily we take issue with the proposed development configuration. With the exception of cliff spurge (*Euphorbia misera*), a CNPS list 2 plant, virtually all the rare plant species on the headlands will either be eliminated or severely reduced in terms of habitat and numbers. Most of the rare species are associated with clay soils. Only a small portion of this area will remain in conservation open space, primarily in association with a hill top park. This park will be in general, too small for effective conservation. Additional areas along the eastern ridge that will be in recreational open space could potentially supplement and improve conservation if these areas were given larger setbacks (e.g. eliminating lots 1-9, 15 and 16) or at the very least, were established as native grassland rather than irrigated slope. 43-3

We also concerns regarding the Pacific pocket mouse. Although our focus is rare plants, the Pacific pocket mouse is a critically endangered species. Previous agreements, based more on politics and compromise, rather than sound biology, have literally ignored at least 10 acres of suitable habitat adjacent to the preserve area (vicinity of lots 43-46, 49, 50, 10-12). Potential pocket mouse burrows have been seen in this area and there are even reports that pocket mice have been seen here. This area maybe critical to the long term preservation of the species. The headlands site is isolated. It is important that any small preserve in this area include as much natural open space as possible. The 43-4

2001 survey season for the pocket mouse is a case in point. The population appeared to decline significantly. However, surveys are restricted to the preserve. Thus we can only make partial statements on the overall status of the population. Mice simply could have moved across Margarita Avenue or it is even possible that the population north of Margarita is comparable to that within the preserve to the south. We feel that it is important to know what the pocket mouse is doing north of Margarita Road. Even if it should prove that this habitat is currently unoccupied, it is clear that it must have been occupied historically and that the additional 10 acres (nearly doubling the suitable habitat) is of good quality and may be critical to the long-term survival of this population. Protecting this habitat would also benefit one of the few sand-loving rare plants on the project site: prostrate spineflower (*Chorizanthe procumbens*). We ask that the City request a project revision that would seek to eliminate those lots listed above (e.g. eliminating lots 1-6, 43-46, 49, 50, 10-12) from the development. We believe that is necessary to increase the area of Planning Area 5 and 7 at the expense of Planning Area 6. The Dana Point Headlands represent one of the last coastal promontories left in southern California that has not been developed. It is important that the City recognize its uniqueness and importance to rare plant conservation. The current plan fails this.

43-4

Other concerns regard 1) the vagueness of the impact description in the EIR: we can not find a section that specifically states what portion of the individual rare plant species will be impacted; 2) a lack of a map displaying the distribution of rare plants and impacts on the same figure (including grading limits), 3) failure to include discussions regarding *all* rare plants known from the project site, 4) incomplete data, indicating poor or incomplete surveys, or lack of background research particularly regarding species such as Blochman's dudleya and Coulter's saltbush, and 5) the mitigation proposed to offset impacts to rare plants is not adequate. Our comments regarding individual species are detailed below.

43-5

After reviewing this document and the alternatives section (5.1), we believe that the City should adopt either the No Project/No Build Alternative. However, we think the alternatives suggested here are limited. One Alternative that apparently is not explored includes a reduced project footprint largely relying on areas already impacted by previous use. For example, a biologically superior alternative that would would expand PA 5 and PA 7 and reduce PA 6. We will discuss the reasoning under our comments on section 5.1

43-6

Developer Agreement and the 1996 NCCP/HCP program

Section 3.11 of the Developer/City Agreement adopts the NCCP/HCP agreements of 1996 as they relate to offsetting the impacts on biological resources on the project site. For plants, the agreement includes 5 "identified species" on the headlands: Blochman's dudleya, Nuttall's scrub oak, cliff spurge, western dichondra, and Palmer's grappling hook. Not all species were fairly represented in this agreement. The agreement appears more or less reasonable in the cases of cliff spurge (most plants would be protected), Nuttall's scrub oak (only a single plant will be impacted and most of the Central coastal populations are protected), Palmer's grappling hook (limited numbers on site and population and then represents only a small portion of regional population), and western dichondra (population only represents a small portion of regional population). Blochman's dudleya, the rarest and most endangered species covered by the agreement is also the one that is least well addressed. If implemented as written, the agreement will contribute significantly to the decline of this species. The agreement was based on incomplete information and unworkable conservation limitations. The agreement basically would allow the applicant to remove the only known population of Blochman's dudleya remaining in the HCP area, and then only considers a small portion of the impacts that actually will affect the species. This appears to be somewhat contradictory with the criteria that qualify as "covered species" within an HCP. Note, as discussed under sensitive plants, there are several additional rare plant species on the headlands that were not part of this agreement.

43-7

Simplified, the 1996 agreement states that the applicant will transplant 250 individuals. However it is the CDFG's responsibility to locate a suitable site. CDFG has a limited time to locate a new site or the project may proceed anyway. Both CDFG and the Service were made aware that one of the

43-8

major failings of this concept was that it did not take into account that there virtually are no other significantly large patches of suitable habitat for this species remaining in Orange County. San Clemente State Park only supports small areas of suitable habitat. The Marblehead site, once supporting nearly 10 acres of suitable bluff, has been significantly reduced. That site already includes a host of problems relating to mitigating Blochman's dudleya impacts. The Ritz-Carlton area, where this species was first collected in Orange County in 1894 is developed, and so is the area of Dana Point near Golden Lantern and Camino del Avion which once supported over 200 acres of thinly populated habitat. 43-8

The NCCP assumed a relatively small impact, to perhaps no more then 250 individuals. This number originated from the 1991 EIR and has been used for the basis of subsequent mitigation plans. The botanist that surveyed the headlands at the time was not familiar with the population distribution and apparently was not given adequate time to fully assess the population. No additional surveys were done for the purpose of the NCCP and it does not appear that directed surveys were conducted for this EIR. In 2001 for example, the number of individuals have been reported as over 1,380, nearly 7 times the number upon which this agreement is based. The Headlands probably support even more individuals. About 20 acres of suitable habitat for this species is on the headlands and plants appear scattered throughout this area, which area appears to mark the extent of the population in 1983 when thousands of individuals were reported. The agreement does not appear to take the extent of this suitable and occupied habitat into account, or the regional significance of this habitat. Since the hill top park is no more then 6 acres, even if the entire site were devoted to Blochman's dudleya conservation, the suitable habitat would be reduced by over 60 percent, a substantial amount. 43-9

We recommend that the City carefully review the 1996 agreement and modify elements pertaining to species like Blochman's dudleya, the Pacific pocket mouse, and other species that were not adequately addressed. These agreements appear to conflict with the stated goals and criteria of the NCCP/HCP programs. 43-10

4.14 Parks and Open Space management Plan

As stated above, we believe that the development footprint needs to be modified to allow for increased conservation area. This in turn would require that portions of this section be revised. As currently proposed, conservation areas, particularly about the hill top park are too small and will require intensive long-term management and in combination with the very general list offered as a plant revegetation palette, will take on the character of a small botanical garden rather than onsite preservation. Our specific comments will be directed toward elements of the plan as they are currently proposed. 43-11

While the basic premise of the zoned fuel modification is reasonable. The area left within open space within the eastern portion of the site is too narrow to support it. As proposed the fuel modification zone virtually precludes adequate conservation along the ridge south of the hilltop park. All Zone A and B fuel modification should be restricted from this area to improve conservation open space. As currently proposed, conservation within the hilltop park is too small an area to be realistically successful. The addition of the ridge area would improve the likelihood that long-term conservation will be successful. 43-12

The open space plan also alludes to "habitat islands" within areas of irrigated landscape. These areas, about 200 square feet in area are too small to be self supporting when surrounded with other irrigated landscapes. Additionally, the document suggests that these islands will consist of black sage (*Salvia mellifera*), coastal sage brush (*Artemisia californica*), and California buckwheat (*Eriogonum fasciculatum*). The document also suggests that these islands will be irrigated. 43-13

These species will be killed by summer watering. Additionally, the islands are also unlikely to work if the adjacent area (particularly upslope locations) are also under irrigation because these areas will be persistent weed sources (many nonnative thrive under these conditions) and potentially inhibit development of appropriate native soil microflora. To be truly effective, the habitat islands need to be at least 20,000 square feet or more in size with at least 30 to 50 feet of transitional more moister tolerant "buffer" vegetation if placed within an irrigated landscape. The "habitat islands" concept is an interesting idea but is probably not workable with such limited space and with this suite of species. Even if the habitat islands were 40,000 square feet, they would probably be too small for effective conservation purposes.

43-13

Figure 4.14.1 does not clearly indicate fuel modification zones. For example, within Area 4, portions of the eastern boundary are already with existing fuel modifications zones that can not be changed due to existing development. The figure would seem to imply more conservation here than truly available. Additionally, the document appears to imply that the hill top region of Area 4 is largely conservation open space. A separate more restrictive plant palette should be developed for this area. While many of the species listed on Table 4.14.2 are California natives, they are not compatible with existing natural conditions on the headlands and appear to be incompatible with potential rare plant mitigation. We also suggest that virtually all of Planning Area 5 (or at least the eastern portions) be established as southern needlgrass grassland. This habitat would not be a particular fire risk, require no irrigation, and then would potentially be able to serve as habitat for rare plants.

43-14

Plants listed on Table 4.14.2 (Revegetation Plant Palette) that would be appropriate for revegetation in Area 4 include: *Antirrhinum nuttallianum, Dichelostemma capitatum, Dudleya lanceolata, Encelia californica, Eriophyllum confertiflorum, Gnaphalium californicum, Isomeris arborea, Lasthenia californica, Lotus scoparius, Mirabilis californica, Mimulus aurantiacus* (preferably from salvaged plants on the headlands because of potential cross population genetic problems), *Nasella lepida, N. pulchra, Opuntia littoralis, O. prolifera, Plantago erecta*, and *Sisyrinchium bellum*. Most of the other species should be avoided because they would significantly change the character of the habitat (e.g. chaparral species or mesic montane canyon species). *Lavendula dentate* is not even native to the continent. Despite being a native and even occurring on the headlands, *Isocoma menzisii* should not be planted. If there is any soil disturbance, it maybe difficult to keep this species from dominating the site without the additional assistance of planting it on purpose.

43-15

We would also recommend a native grassland palette for those areas within PA5 outside of Area 4 that would include low growing grasses and herbs such as *Nassella lepida, N. pulchra, Melica imperfecta, Dichelostemma pulchellum, Dudleya lanceolata, Bloomeria crocea* as these species are compatible with existing rare plant species.

Native Restoration and Management Guidelines

A Mitigation and Monitoring Plan should be developed for onsite restoration and any rare plant transplantation. The guidelines presented here are too general for an effective program. The maintenance and monitoring program for rare plants should be a minimum of 5 years. Three years is too short to determine success or failure. Ideally the plan should be at least 7 years. Plants like *Dudleya blochmaniae* may require as much as 5 years just to mature.

43-16

B (1) Native Plant Salvaging (4-126 and 4-127)

Putting aside issues regarding the NCCP/HCP agreement, we have several concerns regarding the salvage guidelines. It is the position of CNPS that transplanting of rare plants should be

43-17

undertaken unless there is no alternative. The plants should be preserved in situ where possible and the project should be designed to allow for the maximum avoidance. In general, rare transplantation's are difficult and prone to failure. There are very few examples were there is documented success. However some transplantation projects are better than others. In San Clemente there is a restoration project from Blochman's dudleya that was initiated about 1990. The early years were not very promising. RECON took over the project and has established a number of important elements regarding establishing Blochman's dudleya. The site is under intense and perhaps unrealistic management that may not be easy to duplicate elsewhere, and it is simply so small that the population that impacts could never be offset entirely. Regardless, some of the methods developed at Marblehead are worth exploring. It is suggested that the applicant's botanist contact RECON for further information. Based on experience with other rare plant sites, rather then remove individual corms and top soil separately, we recommend that the top soil is removed intact in blocks and that the corms are left within these blocks of soil. This method will more likely capture corms that have not been flagged or identified. The translocation, if pursued, should be combined with a seed or leaf planting program. 43-17

4.3 TERRESTRIAL BIOLOGICAL RESOURCES

4.3.1.1 Vegetation. There are a number of problems with the vegetation mapping that suggest that the site was not field checked, misrepresentation of vegetation types, lists of dominant species that are not even known from Orange County, sites dominated by natives of the Canary Islands described as chaparral. We recommend that the City request a new vegetation map that more closely reflects the distribution and composition of the vegetation within the project area. 43-18

Coastal sage scrub (pg. 4.3-3). The vegetation described as coastal sage scrub is oversimplified at the scale used in the document. Mixed, annual, and southern needlegrass grassland, and clay soil grasslands are important elements of the native vegetation of eastern side of the headlands. These areas should be called out as a distinct unit or should be described within the coastal sage scrub unit text as forming mosaics with coastal sage scrub. The main elements of this habitat include *Nasella pulchra, N. lepida, Deinandra fasciculata, Vulpia myuros, Brachypodium distachyon, Pentachaeta aurea,* and *Dudleya blochmaniae*. Most of the rare plants are actually associated with grassland and open grassy coastal sage, not dense stands of coastal sage. 43-19

Maritime succulent scrub (pg. 4.3-3). Maritime succulent scrub is generally not a recognized community in Orange County. Our habitat has been described as Maritime succulent cactus scrub which occurs in small patches of habitat along the coast from San Clemente, Dana Point, and Newport Bay. Our form of this vegetation tends to be depauperate in species diversity as compared to Maritime succulent scrub in San Diego County. Here, the description of the habitat is entirely inappropriate for the headlands. The majority of the elements mentioned here (*Agave, Acalypha, Bergerocactus, Ferrocactus*, and *Simmondsia*) are not known to in the vicinity of Dana Point. Only one of these (*Acalypha*) is known to occur in Orange County. The other species mentioned occur primarily along the Mexican border. *Opuntia prolifera* is the primary dominant here. 43-20

Southern Mixed chaparral (pg 4.3-3). The polygon mapped along green lantern adjacent to the proposed hilltop park is not southern mixed chaparral. This site is dominated by the shrubby exotic: *Hypericum canariense*. Ornamental scrub maybe an appropriate term. Historically this area was coastal sage scrub. The area identified as mixed chaparral immediately above the Marine Institute is dominated by *Rhus integrifolia* but has a number of elements such as *Opuntia prolifera* and *Lycium californicum* that leaves its composition and function with a closer affinity to coastal bluff scrub. It maybe OK to describe it as sumac chaparral but it supports too little diversity of chaparral species to be called "mixed chaparral". The EIR text and map should be modified to reflect this. 43-21

Nonnative Grassland (pg. 4.3-4). *Nasella pulchra* and a number of native wildflowers including *Bloomeria crocea* and *Dichelostemma pulchella* are relatively common throughout much of the area identified here as non-native grasslands. This area would be considered native grassland using CDFG standards. For the most part it is southern needle grass grassland with significant intrusions of *Vulpia myuros, Hordeum intercedens, Bromus* sp., and *Brachypodium distachyon.* We recommend that the unit name is modified. As discussed under coastal sage scrub, additional annual, mixed, and native grasslands occur in the project area. Impacts to native grassland (or southern needlegrass grassland) are considered significant under CEQA. 43-22

4.3.2.4 A revised list of ranks and designations for CNPS plants was released in July 2000 over the internet. The published version of the 6th Edition is now available. A number of recent changes affect the status of species on the headlands. The botanical section of the EIR should be revised to reflect these changes. 43-23

4.3.3 Sensitive habitats: The document does not identify any southern needlegrass grasslands. Some areas identified as coastal sage scrub would probably be better placed here. Most if not all the habitat identified as non-native grassland in association with the hill top area is southern needlegrass grassland (About 3 acres). The grasslands should be resurveyed and the maps and text should be modified accordingly. Probably 4 to 8 acres of native grassland is on site. Native grasslands are considered sensitive. 43-24

4.3.3.2 and 4.3.3.3 Maritime succulent scrub and Southern Coastal bluff scrub. Both descriptions appear better suited to descriptions of these habitats in southern San Diego. For example, species such as the giant coreopsis and San Diego sea-dahlia are not known to occur north of Del Mar in San Diego County. 43-25

4.3.1.2 Wildlife: The document fails to note that the project site was also historically occupied by the Quino Checkerspot According to Larry Orsak (The Butterflies of Orange County), Quino checkerspot collections were made on the headlands between 1932 and 1936. Searches by Robert Allen in the 1980's failed to detect the butterfly although the host plant (*Plantago erecta*) is not uncommon on the site. While there is no evidence this rare butterfly occurs on the headland today, the fact that it once did occur on the headlands is further evidence that this area is a very unique and important site. 43-26

4.3.2.4 Other Designations. The CNPS inventory (Skinner and Pavlik, 1994) cited here is out of date. CNPS released, initially via the internet, a list of changes to the inventory in July 2000. A number of rare species on the headlands, including a number that were not discussed in the EIR, are affected by these changes. The Inventory is now available in its published form. The EIR should be updated to reflect these changes. Specific comments regarding these changes are discussed below. 43-27

4.3.3 Sensitive habitats: As indicated above, the headlands also support native grassland habitat (southern needlegrass grassland). Most of the area designated on the map as non-native grassland is native grassland and at the scale used to depict vegetation distribution, other patches of native grassland are within areas mapped as coastal sage scrub. There is probably between 4 and 8 acres of native grassland on site. Portions of this area could be designated mixed css and native grassland. In southern California, native grasslands are actually considerably more rare than coastal sage scrub and support a wealth of rare plant species. As mentioned above, those areas identified as maritime succulent scrub could also be called southern cactus scrub. Regardless, both communities are considered sensitive. 43-28

Figure 4.3.2 (pg. 43-7). While this figure displays rare species locations in relationship to the overall site, an additional figure, displaying the distribution of the rare species against the development footprint should also have been included. 43-29

4.3.4 Sensitive Plants

A number of species that should be included within this section are missing. Additionally, we believe that the Blochman's dudleya section is oversimplified and tends to downplay the importance of this site. The EIR fails to note that Prostrate spineflower (*Chorizanthe procumbens*) is no longer considered a CNPS list 4 species. However we agree that it should still remain within the discussion because it is locally rare in Orange County and the removal of this species from the CNPS lists is not without controversy. The EIR fails to discuss 7 additional rare plants that are known to occur within the project area. Three of these species are reported on the species list without any additional discussion or analysis: California box thorn (*Lycium californicum*), Golden-rayed pentachaeta (*Pentachaeta aurea*), and woolly seablite (*Sueada taxifolia*). Four of these species are not included in the Biological Report or any other area of the document: Coulter's saltbush (*Atriplex coulteri*), small-flowered microseris (*Microseris douglsasii* var. *platycarpha*), vernal barley (*Hordeum intercedens*) and California groundsel (*Senecio aphinactis*). Several other species, including Aphanisma (*Aphanisma blitoides*), Pacific saltbush (*Atriplex pacifica*) and Robinson's peppergrass (*Lepidium virginicum* var. *robinsonii*), all CNPS List 1B species, should also be surveyed for and discussed for their potential of occurring within the project area. Suitable habitat for all three species occur on site. Additional surveys should be conducted for all 10 species in addition to reviewing existing data sources. 43-30

Blochman's dudleya: The R-E-D code for this species is now 3-3-3. The EIR understates the distribution, number, and significance of Blochman's dudleya on site. The distribution of individuals on figure 4.3.-7 is only partially complete and abundance appears to rely on the PSBS report of 1991 which only partially characterizes the population. 43-31

The population on the headlands is variable but considerably larger than 250 individuals. At least 20 acres of suitable and partially habitat are found on the headlands mostly east and southeast of the old nursery site. This is not reflected by the EIR. Blochman's dudleya was first recorded on the headlands in 1949. In 1983 and 1984, nearly the entire 20 acres of suitable was occupied by Blochman's dudleya. About half of this area, mostly south of the hilltop area was densely occupied. The qualitative population estimates were made at the time. Only very rough estimates indicating thousands of individuals. However based on experience with and comparisons with other occupied sites that do have reliable estimates, the population must have been quite large and probably exceeded 8,000 or 10,000 individuals. The population has never been as large as those seen in 1983 or 1984. Regardless, the population has consistently persisted as scattered clusters and colonies throughout the original occupied habitat. The number of plants in any given year has fluctuated between about 200 to 1,500 individuals. In the spring of 2000, for example about 620 individuals were reported on the headlands by members of CNPS. In 2001, about 1,400 individuals were reported. Blochman's dudleya can be difficult to locate. However, it is important that adequate surveys be conducted and that the population is characterized as accurately as possible. We can supply additional distribution data if requested. There was no time to put such information onto a map at this time. 43-32

Years of drought from 1985 through 1991 and off road vehicle activity have undoubtedly impacted Blochman's dudleya as the populations have never appeared as large as the 1980's. The PSBS document oversimplifies this by merely stating that the population is "significantly reduced from 1983." However, the conditions (temperature, rainfall amount and seasonal distribution) has never been duplicated since 1983. The status of this plant has been improving and in recent years, the 43-33

plant has appeared in more areas of the headlands then it did in the 1990's. The actual distribution of rare plants originating from bulbs or corms are difficult to characterize in even two seasons of surveys. Many individuals tend not to produce leaves in a given year, others sprout and detectable early in the season, and only a few actually actually flower. The population may respond vigorously for one year (as in 1983 following a particularly strong El Nino), or produce only a handful of individuals during any given year. The significance of a site should not only be based on the number of individuals reported in a single year (as for example, the PSBS results of 1990), but for the combination of historic abundance and suitable (or previously demonstrated as occupied) habitat on site. Despite the fact that this information was submitted to the County of Orange and the Coastal Commission in 1983 and 1984, the U.S. Fish and Wildlife Service and the City of Dana Point in the 1990's, it has largely been ignored (hence the 1996 HCP agreement). 43-33

Blochman's dudleya is one of the more restricted rare plants in California. Fewer than 20 locations are known from San Luis Obispo County south to the Pacific Beach area. It is known from two locations in Baja California, but at least one of these is severely endangered. In California, most populations are restricted to the western Santa Monica Mountains and Camp Pendelton. It is very rare south of Santa Monica. In Orange County it is known from about 5 locations, of which, two have been extirpated (Ritz Carlton area, Dana Woods), and one has been significantly reduced (Marblehead). A population at San Clemente State Park is quite small (fewer than 200 individuals). The Dana Point Headlands population has been reduced by offroad vehicle activity, trampling, and to a lesser extent, competition with non-native species. However, in all of Los Angeles, Orange, and San Diego County, outside of Camp Pendelton, it is the only site that remains that could support a population of Blochman's dudleya with at least 15 to 20 acres. While more habitat would be available on Camp Pendelton, this is a military base and while conservation is a consideration to military activities, rare plants and their habitat are subject to potential military training and other activities. Thus the headlands are now one of the few sites remaining south of the Santa Monica Mountains that could substantially contribute to stabilize the decline or improve the status of the species. Continued decline will almost certainly lead to State or Federal listing of the species. 43-34

Cliff Spurge: The results of surveys in 2000 should be summarized in the Biological Resources Report and added to the EIR. The document appears to rely only on the PSBS survey results which are over 10 years old. 43-35

Palmer's grappling hook: This species is now listed under List 4 within the CNPS Inventory of Rare Plants. 43-36

Prostrate Spineflower: This species is no longer within the CNPS Inventory. However it continues to be a species of local concern as it is uncommon in Orange County. The EIR indicates that this species was not located during recent surveys. However small to moderate sized populations are located in the sandy coastal sage scrub immediately north of Margarita Road. These populations were in good shape in the spring of 2000 and 2001. 43-37

Western Dichondra: The EIR reports that this species was not located in 2000. Despite the late season, this species is still detectable on the headlands site at this time (November). Prior to March 1990, it was present but only in small numbers. At that time, a small fire burned about 3 acres of the headlands. By 1992, western dichondra formed a dense colony over much of the burn near the corner of the nursery property south of the hilltop. The population has gradually declined since but is still relatively common on the slopes west of the ridge line. 43-38

Coulter's Saltbush (*Atriplex coulteri*): This species occurs in a small population immediately south of hilltop area where it has been known and documented since 1983. Coulter's saltbush is a 43-39

CNPS List 1B species. It is rare and declining though out coastal southern California. In Orange County it is known from fewer than 10 locations (perhaps only 4 are still extant) and is no where abundant. It is a relatively obscure plant and occasionally mistaken for the introduced *Atriplex semibaccata*. The Dana Point population is significant and the impacts are significant and therefore must be addressed in the EIR. The headlands site has significant restoration potential for this species because of its coastal location and soils. This species is not covered by the 1996 HCP agreement in any case. 43-39

vernal barely (*Hordeum intercedens*): This is a CNPS List 3 species. It has recently been reported near the hilltop area. The regionally status of this species is still under review. However, it is relatively uncommon in Orange County and typically associated with mesic grasslands. It probably occurs on the headlands as a relic of the vernal pool vegetation that once once found on the headlands and above the harbor up until the 1950's. There is no mapping, discussion or analysis of impacts to this species in the EIR. 43-40

California box-thorn (*Lycium californicum*): This species was added to the CNPS List in 2000 and is now a CNPS List 4 species. It is included on the species list however there is no discussion or analysis of impacts. *Lycium californicum* occurs primarily on the cliffs but at least one individual occurs within the impact area near Lot 7. There is no mapping, discussion or analysis of impacts to this species in the EIR. 43-41

Small-flowered Microseris (*Microseris douglasii* var. *platycarpha*): This is a CNPS List 4 species that was first reported and documented from the headlands in 1983. Much of the area that is suitable for Blochman's dudleya is also suitable habitat for this species. There is no mapping, discussion or analysis of impacts to this species in the EIR. 43-42

Golden-rayed Pentachaeta (*Pentachaeta aurea*): This species was added to the CNPS List in 2000 and is now a CNPS List 4 species. It is included on the species list however there is no discussion or analysis of impacts. Small to moderate sized populations (the numbers vary significantly one year to the next) occur in the vicinity of Palmer's grappling hook and on the flats and slopes south of this location. Golden-rayed pentachaeta is known from fewer than 5 recent collections in Orange County. There is no mapping, discussion or analysis of impacts to this species in the EIR. 43-43

California groundsel (*Senecio aphinactis*): California groundsel is a CNPS List 4 species. This species was first reported and documented on the headlands in 1983 where it was described as locally common. It occurs near the Palmer's grappling hook site. This is a small and obscure plant. However suitable habitat persists at this location and it is presumed to be extant. California groundsel is very rare in Orange County and known from fewer than 3 recent collections. There is no mapping, discussion or analysis of impacts to this species in the EIR. 43-44

woolly seablite (*Suaeda taxifolia*): This species was added to the CNPS List in 2000 and is now a CNPS List 4 species. It is included on the species list however there is no discussion or analysis of impacts. We are less certain of its distribution on the headlands but most individuals probably occur with cliff spurge. There is no mapping, discussion or analysis of impacts to this species in the EIR. 43-45

4.3.5 Sensitive Wildlife: A discussion should be included regarding the historical status of Quino checkerspot on the headlands. 43-46

Table 4.3.A NCCP/HCP Identified Species on site: Prostrate spineflower should be in the present column, western dichondra should be in the present column. 43-47

Direct Impacts (pg. 4.3-35): The document states that impacts to the 5 identified species will be "reduced to less than significant levels and consistent with the NCCP/HCP and IA. Application of PDFs 3-1 through 3-8 and PCs 3-1 through 3-16 results in the reduction of the potential impact the these sensitive plant species to a less than significant level. However, with the exception of cliff spurge, the application of PDFs 3-1 through 3-8 will have no affect or benefit to these identified species because the identified species do not occur in the area affected by these PDFs. Nor could these plants be established or transplanted to the Headlands Conservation area because of inappropriate soils. The project conditions set forth in PCs 3-1 to 5 will have little benefit to the identified species because few of the identified species will be within the project site once completed. PC 3-6 maybe adequate to offset impacts to Nuttall's scrub, western dichondra, Prostrate spineflower, and Palmer's grappling hook as these species due benefit measurably from the NCCP. However, Blochman's dudleya will not as the only population in the NCCP will be severely impacted. Additionally PC 3-7, although specifically addressing Blochman's dudleya, fails to reduce the impacts to less then significant because it would result in at least a 60 percent decline of onsite habitat to one of the most regionally significant sites in southern California, and that it will result in only a small fraction of the population being addressed (e.g., less than 20 percent based on 2001 population estimates). PC 3-8 through 3-14 only pertain to the pocket mouse habitat, which again, has few rare plants because of unsuitable soils. PC 3-15 will not benefit any species except cliff spurge as the other species are entirely within the impact areas.

43-48

In light of the above discussion, we would like to see a discussion within the EIR that describes *specifically* how the various PDs and PDc will result in less than significant impacts. Additionally the impacts to other rare species not discussed in this report are not considered here (see discussion under sensitive species above).

43-49

Note: on this same page, where tree preservation ordinances are discussed: Nuttall's scrub oak is not a tree and would not be affected by a tree ordinance.

43-50

Indirect Impacts: Some discussion should also be included on indirect impacts to rare plants. These impacts are generally not severe for most species only as they will be extirpated by direct impact. However, some species such as Blochman's dudleya and cliff spurge will continue to have indirect impacts. For the same reasons as given above, we do not believe that the indirect impacts to Blochman's dudleya will be reduced to below significant by the NCCP/HCP agreement.

43-51

4.3.11 Cumulative Impacts: Despite the NCCP/HCP, the reduction of loss of the headlands will result in regionally significant losses of Blochman's dudleya, Coulter's saltbush, and California groundsel.

43-52

5.1 Alternatives: As here presented, CNPS believes that the City should adopt Alternative 1, Although Alternative 1 would not necessarily meet with anyone's immediate goal, it would be far superior in terms of rare plant conservation then the proposed alternative which would severely impact nearly all rare plants. The City then would be able to review further project alternatives for the site. Alternative 2, appears unrealistic considering the developer's goals and does not appear to be a serious alternative. However, it appears that the alternative discussion is a bit thin. No effort appears to have been made to present a true environmentally superior alternative. Under 5.10, it would appear that alternative 1 has been designated the environmentally superior alternative. Sadly, this appears to be correct. However, we believe that a true environmentally superior alternative would have presented a mixture of elements that would meet development and conservation goals but perhaps not all satisfactorily. We would like to see an alternative presented that would reduce Planning Area 6, expand Areas 5 and 7, and place more of PA 5 in natural conservation open space. Virtually all rare plants are situated along the east and southeast portions of PA 6 and to a smaller

43-53

degree in PA 5. This would still allow some additional impacts beyond Alternative 2 and impacts in PA 9. 43-53

While conservation goals are listed on page 5-7, we are disappointed that none of the goals appear to be true conservation. For example, should not one of the conservation goals be to stabilize and maintain a population of the Pacific pocket mouse on the headlands? Another goal that CNPS would like to have been considered was: Preservation of the majority or rare plants and their habitat within the project site. 43-54

5.5 Alternative 1: 5.5.2 (pg. 5-8). While this alternative does not attain any of the stated conservation goals, would result in the possibility that some unstated goals such as preserve the majority of the rare plants and plant habitats on site may ultimately be attainable. The proposed project eliminates this possibility for the majority of the species. 43-55

7.0 Mitigation Monitoring and Reporting Program

The mitigation and monitoring program for impacts associated with the project appear to be vague and poorly presented. The level of detail offered in the EIR would appear to indicate that there is no specific mitigation with the exception of limited mitigation for the Blochman's dudleya and the Pacific Pocket Mouse. Both concepts appear to be limited in scope and deficient. Even accepting the premise that biological impacts to the Headlands site will be mitigated as per the 1996 NCCP/HCP agreement, some form of specific restoration and monitoring plan document for Blochman's dudleya should be put together. CEQA requires that mitigation and monitoring plans be developed. This plan should include monitoring for no less then 5 years, preferably 7 years, identified actions and methods used to establish or enhance rare plant populations and habitat, and success criteria. The mitigation is of little value if the applicant is not accountable for long-term success. This document should be reviewed by the City and other public agencies. 43-56

As offered, the mitigation suggested for impacts to Blochman's dudleya fails to reduce impacts below the level of significance for reasons discussed earlier in our letter. Additionally there is no mitigation offered for impacts to species the EIR has failed to identify as occurring within the project site such as Coulter's saltbush. We would recommend that the City require a more detailed mitigation and monitoring plan that is directed toward critical species (such as Blochman's dudleya and Coulter's saltbush) but also allows for offsetting the impacts to other species that are less endangered. 43-57

For reasons we have discussed in this letter we believe that the City should require a more comprehensive approach to conservation for rare plants within the headlands project area. If we had more time, we would offer more comments on mitigation. If you have any questions or if you wish to contact me, I can be reached at 760-439-6244. Thank you for your consideration. 43-58

Sincerely,

Fred M. Roberts, Jr.

Fred M. Roberts, Jr.
Co-chair, Conservation
California Native Plant Society
Orange County Chapter

cc: Karl Schwing, California Coastal Commission

43. RESPONSES TO COMMENTS FROM CALIFORNIA NATIVE PLANT SOCIETY

43-1 The City appreciates CNPS's constructive participation in the planning process for the project.

43-2 The EIR does note that substantial development has occurred in the coastal zone throughout California.

43-3 In the case where impacts to rare plants have already been reduced to a level below significance, CEQA does not require more mitigation. Under Cal. Pub. Resources Code Sect. 21085, the additional biological mitigation being proposed and related reduction in housing units is unlawful. The NCCP/HCP program has identified an alternative feasible biological mitigation program resulting in less than significant impacts through the conservation of regionally important and higher quality habitat areas set aside in the Central/Coastal Nature Reserve of Orange County, but allowing development to occur in lower quality, isolated habitat on the Headlands.

43-4 In the case where impacts to rare plants or endangered species (such as PPM and prostrate spineflower) have already been reduced to a level below significance, CEQA does not require more mitigation. Under Cal. Pub. Resources Code Sect. 21085, the additional biological mitigation being proposed and related reduction in housing units is unlawful. The NCCP/HCP program has identified an alternative feasible biological mitigation program resulting in less than significant impacts through the conservation of regionally important and higher quality habitat areas set aside in Central/Coastal Nature Reserve of Orange County, but allowing development to occur in lower quality, isolated habitat on the Headlands.

The CDFG, USFWS and the NCCP/HCP EIR/EIS carefully evaluated the needs of the PPM and the biological and habitat characteristics of the 121-acre project site and determined that establishing a 22-acre temporary preserve (an area within the 24.2 acre proposed conservation park) would be sufficient for the PPM in terms of trying to conserve a PPM population on the Headlands site. The USFWS and the EIR/EIS concluded that the NCCP/HCP's conservation plan for the PPM on the project site minimized and mitigated the impacts to the PPM to the maximum extent practicable. The USFWS also concluded that any impacts to PPM outside of the 22-acre temporary reserve area and any loss of potential PPM habitat beyond the 22-acre reserve area within the project site would not appreciably reduce the likelihood of the survival or recovery of the PPM in the wild. The CDFG concluded that the NCCP/HCP EIR/EIS conservation plan for the dudleya adequately provided for the conservation, protection, restoration, enhancement, and management of the Blochman's dudleya in the Central/Coastal subregion of Orange County. (See Section 8.4 of NCCP/HCP Implementing Agreement.).

Without the proposed project, the 22-acre temporary PPM preserve will not be expanded by 2.2 acres, permanently conserved and the PPM population will not receive habitat management, monitoring, and protection efforts made possible through a perpetual, fully funded endowment. If the project is not approved, the property owner would have no benefit from continuing to participate in the NCCP/HCP program, resulting in the termination of the on-site habitat management and population recovery efforts occurring in the temporary PPM reserve. Such efforts are essential if the population is to have any reasonable chance of persisting even in the short term on the project site. The project site's existing conditions render the site unlikely to be able to maintain a PPM population on the site in the long term. See the responses to Comment Letter 7, Endangered Habitats League. Rare plants will be conserved on site in the Headlands Conservation Park, in Harbor Point Park, and in the Hilltop Park. These areas are also suitable as translocation sites for rare plants.

43-5 The DEIR contains the appropriate analysis, including review of all available relevant information regarding on-site resources, as documented in the Biological Technical Report. Figure 4.3-5 has been added to the FEIR that identifies the development area overlain on the vegetation and resource map. The impacts to rare plants are fully described in the assessment. (For example, see the NCCP/HCP and the USFWS's Biological Opinion for the Section 10(a) permits issued under the NCCP/HCP program.) For further discussion of Coulter's atriplex, see Response to Comment 43-39 below. Impacts to rare plants and their associated habitats were deemed adversely impacted by the proposed project. However, impacts to these species are considered to be reduced to less than significant levels through application of specific Project Design Features, Project Conditions, Mitigation Measure 3-1 and through the project's consistency with and participation in the NCCP/HCP and IA (DEIR, page 4.3-35).

43-6 Refer to Response to Comment 33-9. Analysis of a biologically superior alternative is not required by CEQA. Please note that the No Project/No Build Alternative was not determined to be the Environmentally Superior Alternative for reasons discussed in Chapter 5.0 of the DEIR.

43-7 As part of the NCCP/HCP EIR/EIS, the USFWS, together with the CDFG, conducted an extensive information review and biological analysis to determine that the NCCP/HCP's mitigation measures for the proposed project's impacts to the Blochman's dudleya reduced such impacts to a less than significant level. Some of this information and analysis is contained in the biological opinion prepared by the USFWS for the NCCP/HCP Orange County Central/Coastal Subarea Plan. The USFWS concluded that the NCCP/HCP's conservation plan for the dudleya on the project site minimized and mitigated the impacts to the dudleya to the maximum extent practicable. The CDFG concluded that the NCCP/HCP's conservation plan for the dudleya adequately provided for the conservation, protection, restoration, enhancement, and management of the Blochman's dudleya in the Central/Coastal subregion of Orange County. (See Section 8.4 of NCCP/HCP Implementing Agreement.)

The NCCP/HCP mitigation does not call for the elimination of dudleya from the HCP area as suggested. It is not uncommon for there to be disagreements among biologists as is apparently is the case here with CNPS biologists disagreeing with biologists from USFWS and CDFG. The Blochman's dudleya on the project site currently is subjected to significant

human impacts from the small, infill nature of the project, its location, and active use by the public as a hiking area and dog run. The NCCP/HCP recognized that population numbers and sizes for all "covered species," including the Blochman's dudleya, would be expected to fluctuate from year to year and that the analysis of impact levels and conservation measures were not being analyzed and designed based simply on a single snapshot in time population size or distribution estimate, but rather were being analyzed and designed based on the knowledge that such fluctuations would be expected over time. The NCCP/HCP found that the impact to Blochman's dudleya on the project site had been reduced to a level less than significant.

43-8 See Response to Comment 43-7, above. As part of the NCCP/HCP EIR/EIS, CDFG and USFWS found the mitigation measures for impacts to the Blochman's dudleya as a result of the proposed project to be appropriate. The commentor has not accurately described the mitigation plan, which is set forth at Section 8.3.2(b) of the NCCP/HCP Implementing Agreement. The mitigation measure does not limit translocation to 250 individuals. Moreover, a seed collection and planting program may be used to mitigate for individuals of the species expected to be impacted by site development. The CDFG, as a practical matter, has already had much more than a year to locate receptor sites. The mitigation measure also allows for individuals to be translocated into open space within the project site itself. The information from the commentor regarding possible receptor sites was known to USFWS, CDFG and the County at the time the mitigation measure for the NCCP/HCP was formulated and adopted.

43-9 The NCCP/HCP recognized that population numbers and sizes for all "covered species," including the Blochman's dudleya, would be expected to fluctuate from year to year and that the analysis of impact levels and conservation measures were not being analyzed and designed based simply on a single snapshot in time population size or distribution estimate, but rather were being analyzed and designed based on the knowledge that such fluctuations would be expected over time. The NCCP/HCP found that the impact to Blochman's dudleya on the project site had been reduced to a level less than significant. The commentor is incorrect in its statement that the NCCP assumed that the proposed project would impact only 250 individuals. For example, the USFWS Biological Opinion for the NCCP/HCP notes that the project may impact 1,000-2,000 or more individuals of the species.

43-10 See Responses to Comments 43-3, 43-4, and 7-4. A purpose of the Orange County Central/Coastal NCCP/HCP was to establish the complete set of mitigation measures necessary for biological impacts of the "Planned Activities" (such as the proposed project) for the sensitive species covered by this program. The USFWS concluded that the NCCP/HCP's conservation plan for the covered species minimized and mitigated impacts to those species to the maximum extent practicable and would not appreciably reduce the likelihood of survival and recovery of these species in the wild. The CDFG concluded that the NCCP/HCP measures for these species adequately provides for their conservation, protection, restoration, enhancement , and management. The impact assessment completed for the NCCP/HCP was accurate and adequate. No modification to the NCCP/HCP is necessary. The City intends to implement the HCP and IA as written, as modified by the Project Conditions in the FEIR. Measures to reduce impacts to Coulter's saltbush to less than significant levels have been added to the FEIR as Mitigation Measure 3-1.

43-11 The HDCP as proposed includes a number of polices and guidelines to ensure the proper long-term management of the designated open space on site. These policies include revegetation, irrigation, landscaping guidelines, fuel modification, and management requirements. Also refer to Comment 43-10.

43-12 The fuel modification plan was developed through an "alternate means and methods" process in conjunction with OCFA, the project's biologist and SWA Landscape Architects. The fuel modification program is part of the comprehensive open space management program identified in Section 4.14 of the HDCP. The fuel modification program is closely associated with the native revegetation program. Fuel modification will typically occur in areas that either are already disturbed or will be disturbed as part of the grading for the proposed project. In quantifying the impacts to various vegetative communities, the fuel modification program was accounted for. In other words, the fuel modification falls within the development envelope for the project.

Plant species for the fuel modification/revegetation program were selected primarily for their habitat value, drought tolerance and native species characteristics. The plants utilized for the fuel modification areas will be native plant species. Please refer to the Headlands Revegetation Palette in the Technical Appendices and the HDCP. For instance, many areas of the site, especially the upper slopes at the south end of Strand Beach are extensively covered with literally acres of ice plant, a non-native, invasive plant species. These areas are proposed for complete revegetation with native species. Irrigation is proposed for the establishment of the plantings, and in selected locations, to ensure that some moisture is retained in plants during periods of little rain. Please refer to the detailed irrigation guidelines in the HDCP that stipulate low flow devices, minimization of irrigation water usage, the use of moisture sensors and other measures.

43-13 Irrigation is proposed for the establishment of the plantings, and in selected locations, to ensure that some moisture is retained in plants during periods of little rain. Please refer to the detailed irrigation guidelines in the HDCP that stipulate low flow devices, minimization of irrigation water usage, the use of moisture sensors and other measures. Active management of the irrigated open space area will ensure that no areas, including areas of coastal sage scrub, are watered inappropriately. The habitat islands will blend with the compatible adjoining native species and, pursuant to the HDCP, will be subject to management and maintenance to ensure their establishment and viability. No Zone A or Zone B fuel modification is proposed for the Hilltop Area.

43-14 The current plant palettes for Planning Areas 4 and 5 will be modified per CNPS suggestions to enhance potential habitat for existing rare plants. Specifically, the plant palette for Area 5 can be modified to include southern needlegrass species. During final design of the project habitat restoration program, specialists with experience in the local flora will be consulted to further ensure a successful restoration program.

43-15 The plant palette for Area 4 (Table 4.14.2) will be modified to incorporate the species suggested by CNPS and delete the chaparral and/or mesic montane canyon species as well as French lavender (*Lavendula dentate*) and goldenbush (*Isocoma menziesii*). The plant palette

for PA 5 outside of Area 4 will be modified to include the "low growing grasses and herbs" suggested by CNPS. See Response to Comment 43-14 above. CNPS input is welcomed.

43-16 See Responses to Comments 43-7 through 43-10. A key Project Feature is a long-term habitat management program that includes monitoring of any restoration efforts. The NCCP/HCP provides for certain monies for Blochman's dudleya translocation. It should be noted that the USFWS and CDFG both reviewed the translocation and mitigation measures for the Blochman's dudleya on the project site and concluded that such measures were appropriate and sufficient. If monitoring is necessary beyond that which can be provided by the funding contributed by the Project Applicant pursuant to the NCCP/HCP, CDFG and USFWS may undertake such monitoring and management actions pursuant to the NCCP/HCP and IA. Also, the NCCP/HCP will enable long-term monitoring of any Blochman's dudleya translocated into the Central/Coastal Nature Reserve of Orange County. The Project Applicant is providing $500,000 to the Adaptive Management Program of the Central/Coastal Nature Reserve of Orange County; these monies or other reserve endowment monies can be used to monitor and maintain populations of Blochman's dudleya translocated into the preserve.

43-17 The best and most current information regarding Blochman's dudleya translocation methods will be used. The revegetation guidelines in the HDCP include requirements that topsoil and duff be removed and placed in the revegetation site in manner similar to that recommended by the commentor.

43-18 URS Corporation and Fred Roberts reviewed the vegetation map of the Headlands during a site visit on November 28, 2001. The vegetation map was independently verified in the field by qualified biologists in 1999 and 2000 and is considered adequate and accurate for the purposes of CEQA. The widely used Holland vegetation classification system developed by CDFG was used in the vegetation mapping.

43-19 CNPS is suggesting a different habitat classification system. It is relatively common for differences of opinion between biologists to exist in regard to vegetation classification. Hence, the DEIR elected to use the widely accepted Holland vegetation classifications developed by CDFG. For the Final EIR, a text notation will be added indicating that a grassland component is found in openings in certain areas between the shrubs in the text description of "coastal sage scrub."

43-20 See Responses to Comments 43-18 and 43-19. The vegetation map was independently verified in the field by qualified biologists in 1999 and 2000 and is considered adequate and accurate for the purposes of CEQA.

43-21 See Responses to Comments 43-18 and 43-19. The polygons mapped, as "southern mixed chaparral" will not be changed. This habitat was mapped using the Holland Code and is adequate and accurate. In the Final EIR, the text description for this habitat will be modified by noting the presence of the ornamental plant *Hypericum canariense* within the patch of the otherwise native chaparral habitat. This text change only applies to the "southern mixed chaparral" polygon in the northwest corner of the site. *Hypericum canariense* is not found in the two other sumac chaparral polygons.

43-22 See Responses to Comments 43-18 and 43-19. The area at issue was reviewed in the field with the CNPS representative. The labeling for the approximately 1.65 acre polygon in the extreme northern area of the Headlands that is mapped as "non-native grassland" will be revised. The Final EIR document will be changed to include a 1.65 acre polygon of "disturbed southern needlegrass grassland" due to the relative abundance (about 30 percent cover) of native perennial grasses such as *Nassella* and *Melica* within an area otherwise dominated by non-native grasses. The impact on 1.65 acres of disturbed southern needlegrass grassland is not significant due to the small size of the impact and the isolated condition of the Headlands site. Moreover, the NCCP/HCP EIR/EIS anticipated the loss of this grassland as part of the proposed project. In addition, within the 37,000 acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone), there are approximately 8,055 acres of grassland in the Reserve (1,300 acres in the Coastal Zone), Special Linkage, and Non-reserve Open Space of which approximately 3,067 acres are designated as "High" or "Moderate" quality (Harmsworth Associates 1999). The Adaptive Management endowment allows for further enhancement and restoration of needlegrass grassland in the Central/Coastal Nature Reserve of Orange County. Moreover, there are approximately 720 acres of southern needlegrass grassland in the 8,000 acre Foothill Transportation Corridor in southern Orange County and hundreds of acres of native perennial grassland in the proposed Southern Subregion of the Orange County NCCP/HCP (Tony Bomkamp pers. comm.). Finally, the impact on 1.65 acres of disturbed southern needlegrass grassland does not meet or exceed a "significant effect on the environment" pursuant to the standard CEQA Significance Criteria that is provided in the Biological Resources Report Section 4.1.

43-23 The botanical section of the Final EIR will be revised to reflect the recent (Summer 2001) changes appearing in the 6th edition of the CNPS Inventory of Rare Plants. These changes do not change the assessment under CEQA since all of the "new" sensitive plants, but for Coulter's atriplex, are CNPS List 4 and the impacts to these "watch list" species are less than significant.

43-24 The vegetation map and text will be modified to include a description of "disturbed southern needlegrass grassland" (1.65 acres). A "resurvey" of the area is not necessary. The site was visited by the CNPS representative and URS Corporation on November 28, 2001. This change to the Final EIR does not change the assessment under CEQA because the impact on this small area of disturbed southern needlegrass grassland is not significant. Please see Response to Comment 43-22 explaining why this impact is not significant.

43-25 The text descriptions of "southern coastal bluff scrub" and "maritime succulent scrub" will be modified in the Final EIR to more accurately describe the Orange County form of these habitats.

43-26 The Quino Checkerspot Butterfly is a "conditionally covered species" pursuant to the NCCP/HCP and its IA. Quino Checkerspot is currently known only from locations in San Diego, western Riverside Counties and northwestern Baja California, Mexico and was last observed in Orange County in 1967. This species is not expected to occur on site due to the isolated and fragmented condition of the site – site conditions that are very different from those occurring in 1936 when the species was last documented. For a project site such as the

Headlands, any small population of this species, even if it were to occur on site, could be impacted without causing a significant impact through implementation of the NCCP/HCP.

43-27 See Response to Comment 43-23 above.

43-28 See Responses to Comments 43-19, 43-20 and 43-24.

43-29 An additional figure displaying the rare species locations in relation to the development footprint has been prepared and will be included as Figure 4.3-5 in the FEIR. The Draft Biological Resources Report maps are sufficient to allow accurate interpretation to impacts on site.

43-30 A brief discussion of the seven sensitive plant species that occur on site and the three species with potential to occur (Aphanisma (*Aphanisma blitoides*), Pacific saltbush (*Atriplex pacifica*), and Robinson's peppergrass (*Lepidium viginicum* var. *robinsonii*) will be added to the text of the Final EIR. This change to the Final EIR does not alter our assessment under CEQA. These three List 1B species aphanisma, Pacific saltbush, and Robinson's peppergrass were not detected during surveys in 1991, 1998, or 2001. The level of survey effort was deemed adequate for approval of the NCCP/HCP.

43-31 Blochman's dudleya is a covered species under the 1996 NCCP Agreement and the discussion of this species in the Biological Resources Report is sufficient. Additional surveys for Blochman's dudleya are not necessary because adequate surveys were performed by PSBS in 1991, and verified by URS Corporation in 2000 and LSA in 2001. The USFWS, CDFG, and County were aware of the Blochman's dudleya issues when the NCCP/HCP EIR/EIS was prepared. The NCCP/HCP EIR/EIS assumed that as many as 1,000-2.000 individuals of the species could be impacted. A portion of the dudleya population will not be impacted by the proposed development. See Responses to Comments 43-7, 43-8, and 43-9.

43-32 Refer to Response to Comment 43-31, above.

43-33 Refer to Response to Comment 43-31, above.

43-34 Refer to Response to Comment 43-31, above.

43-35 The presence and approximate distribution of cliff spurge on the Headlands was verified by URS Corporation in 2000 and is reported in the Draft Biological Resources Report. No changes to the document are necessary.

43-36 The CNPS Inventory of Rare Plants status of Palmer's grappling hook will be changed to a "List 4 species" to reflect the 6th edition. This change to the Final EIR does not alter our assessment under CEQA. List 4 is a "watch list" for species that are still relatively common, but are in potential need of monitoring in the future.

43-37 The CNPS Inventory of Rare Plants status designation for prostrate spineflower will be changed to reflect the 6th edition. This species is no longer listed in the CNPS Inventory.

43-38 The Draft Biological Resources Report assesses western dichondra as currently occurring on the Headlands. Western dichondra is a CNPS List 4 species and is a covered species under the 1996 NCCP/HCP and its Implementing Agreement. Impacts to this species from the proposed project are consistent with the impacts anticipated under the NCCP/HCP program Further discussion or additional surveys for this species are not necessary since it is addressed in the NCCP/HCP program.

43-39 The presence of Coulter's saltbush (*Atriplex coulteri*) was verified on the Headlands during a site visit with Fred Roberts on November 28, 2001. The species was difficult to detect at this time of year, but four individuals were found in a cluster on the ridgeline adjacent to the Blochman's dudleya (*Dudleya blochmaniae*) population. Mr. Roberts estimated that total population on site was likely to be no more than ten individuals of Coulter's saltbush, all co-occurring near the Blochman's dudleya population. This small population is within an area proposed for development. Impacts to rare plants and their associated habitats were deemed adversely impacted by the proposed project. However, impacts to these species are considered to be reduced to less than significant levels through application of specific Project Design Features and Project Conditions and are consistent with the NCCP/HCP and IA (DEIR, page 4.3-35). Coulter's saltbush is known from approximately 45 occurrences on the Channel Islands and mainland California combined. There are at least 34 documented occurrences on Santa Cruz Island (29 documented occurrences), Santa Rosa Island (2 occurrences), and San Miguel Island (3 occurrences) combined (CalFlora Database 2001). These occurrences are presumed extant and conserved due to the designation of these islands as part of Channel Islands National Park. On the mainland, there are approximately 12 known occurrences, of which, at least 6 are in Orange County. Within the Central/Coastal Subregion of the Nature Reserve of Orange County, there is a population in Upper Bommer Canyon and two occurrences in the Upper Newport Bay Ecological Preserve (Harmsworth Associates 1999). The current status of the populations within the Upper Newport Bay Ecological Preserve is unclear due to potential disturbance from flood control activities. Two other occurrences of Coulter's saltbush are within the proposed reserve area of the Southern Subregion NCCP/HCP of Orange County. These two southern populations are found in Chiquita Canyon and Cristinos Canyon. Other known populations include Newport Beach behind the Main Public Library (Harmsworth Associates 1999). Since Coulter's saltbush is on CNPS List 1B, loss of this small population is considered significant, but mitigable. Translocating the small population of Coulter's saltbush to suitable habitat (same general location as for Blochman's dudleya) into protected open space will mitigate this nominal increase in the severity of the environmental impact of the proposed project to less than significant. The translocation and propagation of Coulter's saltbush is described in Mitigation Measure 3-1 in the DEIR and is as follows:

Mitigation Measure 3-1. Translocation and Propagation of Coulter's Saltbush. Prior to any site preparation or other project-related activities that would impact the species, the project site shall be surveyed for the presence of extant individuals of Coulter's saltbush. The location of the individuals shall be identified and fenced as a temporary protection measure. Care shall be taken to avoid impacts on the individuals of Blochman's dudleya (that are located in close proximity), which shall also be identified and protected. Cuttings and seed collection of Coulter's saltbush shall be undertaken prior to translocation to ensure that the genetic resource is conserved. The individuals shall be transplanted to suitable, protected

areas on site in the Hilltop area and also in the Conservation Park, if appropriate soils are present in this area. If approved by the project biologist, the extant individuals shall be translocated by removing the soil and associated microbiota in blocks by digging down to a depth of approximately 12 inches. This likely will increase the potential for success by keeping the microhabitat conditions intact when moving Coulter's saltbush to the translocation area. Where appropriate, a combination of signage, fencing, and/or planting of Prickly Pear, Coast Prickly Pear, or Coast Cholla (consistent with the Headlands Revegetation Plant Palette) shall be installed to preclude trampling of the translocation sites. The same protection measures shall be provided for the remaining dudleya and translocated dudleya remaining on the project site. The Project Applicant will assure adequate funding for a qualified botanist to monitor the translocation sites for a period up to five years after translocation and to be able to take appropriate corrective management actions (additional seeding, cuttings, etc.) to support to the success of the translocation effort.

43-40 Vernal barley (CNPS List 3) was not detected during surveys in 1991 and 1998. Therefore, it was not addressed in the Biological Resources Report. Vernal barley was observed on site by a biologist in 1996, but this information was not conveyed prior to the submittal of the DEIR (T. Bomkamp pers. comm., 2001). This information will be added to the FEIR. Two small patches of vernal barley with less than 100 individuals total are on site (T. Bomkamp pers. comm., 2001). One patch occurs within the Blochman's dudleya population and the other patch is adjacent to Scenic Drive in Planning Area 8A (Harbor Point Park). Harmsworth Associates (1999) reports that there are 21 known locations of vernal barley in the Central/Coastal Subregion of which 13 are within the Reserve, Special Linkage, or Non-reserve Open Space. Specifically, vernal barley is known within the Reserve at Aliso Canyon (several occurrences), Bommer Canyon (several occurrences), and the Ecological Reserve at UC-Irvine. Harmsworth Associates (1999) also notes that vernal barley is "much more common than previously thought" and is often misidentified, thereby resulting in a further underreporting of its abundance. Vernal barley is a CNPS List 3 species (a review list where more information is required to determine conservation status) and will be benefited by the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program. For these reasons, potential direct, indirect, and cumulative impacts to vernal barley are less than significant.

43-41 California box-thorn was observed on site in 1991 and its CNPS status has recently changed to List 4 "watch list" since the submittal of the Biological Resources Report was prepared. This change will be reflected in the Final EIR text. Most of the individuals of this species occur along the coastal bluffs and will be conserved on site with cliff spurge and woolly seablite. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. T. Bomkamp (pers. comm.) reports that California box-thorn is still common on coastal bluffs in Orange County and occurs in Crystal Cove State Park, Newport Back Bay, Bolsa Chica Reserve, and Fairview-Talbert Park in Costa Mesa. The NCCP/HCP program, through the creation of the 37,000 acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and adaptive management program benefits this species and its current CNPS status does not affect our assessment under CEQA. For these reasons potential direct, indirect, and cumulative impacts to California box-thorn are less than significant.

43-42 Small-flowered microseris was not observed on the Headlands during the past surveys and its presence has not been confirmed. Therefore it was not addressed in the Biological Resources Report. However, Harmsworth Associates (1999) reports that a population of small-flowered microseris was observed on the Headlands in 1998. Small-flowered microseris is known from 22 localities within the Central/Coastal Subregion and 14 of these occurrences are within the Reserve, Special Linkage, or Non-reserve Open Space. Small-flowered microseris is a CNPS List 4 ("watch list") species that is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. This species is addressed by the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program. For these reasons, potential direct, indirect, and cumulative impacts to small-flowered microseris are less than significant.

43-43 Golden-rayed pentachaeta was observed on site in 1991 and its CNPS status was recently changed to List 4 since the submittal of the Biological Resources Report. This change will be reflected in the Final EIR text. This species is more common in San Diego County and has also been documented in Los Angeles, San Bernardino, Orange, and Riverside Counties. This List 4 species is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. Although not explicitly covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program. Its change in status does not affect our assessment under CEQA. For these reasons, direct, indirect, and cumulative impacts to golden-rayed pentachaeta are less than significant.

43-44 California groundsel was not detected on site during past surveys and its presence has not been confirmed. Therefore it was not addressed in the Biological Resources Report. This species was reported to be on site by Roberts (pers. comm.). Regardless, this is a CNPS List 4 ("watch list") species. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Although not explicitly covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program that can assist this species, if necessary. Its current CNPS status does not affect our assessment under CEQA. For these reasons, if the species is on site, direct, indirect, and cumulative impacts on California groundsel are less than significant.

43-45 Woolly seablite was observed on site in 1991 and its CNPS status has changed to List 4 since the submittal of the Biological Resources Report. This CNPS status change will be reflected in the Final EIR text. Most or all of the individuals of woolly seablite on site occur along the coastal bluffs and will be conserved with cliff spurge and California box-thorn. This List 4 species is still relatively common (occurs at Bolsa Chica, Newport Back Bay, etc.), but is considered by CNPS to be in potential need of monitoring in the future. In addition, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone). Its change in CNPS status does not affect our assessment under CEQA. For these reasons, direct, indirect, and cumulative impacts (if any) to woolly seablite are less than significant.

43-46 The Quino Checkerspot Butterfly is a "conditionally covered species" pursuant to the NCCP/HCP and its IA. Quino Checkerspot is currently known only from locations in San Diego, western Riverside Counties and northwestern Baja California, Mexico and was last observed in Orange County in 1967. This species is not expected to occur on site due to the isolated and fragmented condition of the site – site conditions that are very different from those occurring in 1936 when the species was last documented in the project vicinity. CEQA does not require an analysis of conditions that no longer exist. For a project site such as the Headlands, any small population of this species, even if it were to occur on site, could be impacted without causing a significant impact through implementation of the NCCP/HCP (see, for example, NCCP/HCP IA Section 8.3.2 (a) (5) and USFWS Biological Opinion for Central/Coastal Subregion NCCP/HCP).

43-47 The FEIR text has been revised as shown in the Errata.

43-48 The purpose of a program EIR like that for the NCCP/HCP for biological resources is to be able to avoid unnecessary duplication of analysis when the impact was known and analyzed in the first tier EIR, such as the case here. Proposed impacts are consistent with those addressed in the NCCP/HCP EIR. The benefits of the NCCP program mitigate the impacts associated with this project at both the project level and cumulative level. The proposed project is consistent with the NCCP/HCP and IA.

43-49 Refer to Response to Comment 43-48, above.

43-50 Clarification noted. Nuttall's scrub oak is not a tree. This clarification will be noted in the Errata. This clarification does not change the conclusions of the DEIR.

43-51 Cliff spurge will be protected within 24.2 acre Conservation Park and the Harbor Park open space area. The long-term habitat management program will preclude significant indirect impacts to biological resources. Refer to Response to Comment 43-39 for additional details regarding prevention of indirect impacts. The inaccessible location of the cliff spurge and fencing along the bluff will preclude trampling and other similar impacts. Under the NCCP/HCP program, indirect impacts to dudleya will either be addressed through management and oversight provided through the translocation funding provided by the project applicant, or if these funds were ultimately found to be insufficient, then either CDFG or USFWS, as partners in the NCCP/HCP program, will be able to provide additional management, maintenance, and conservation measures. It should be noted that the USFWS and CDFG both reviewed the translocation and mitigation measures for the Blochman's dudleya on the project site and concluded that such measures were appropriate and sufficient. The NCCP/HCP EIR/EIS concluded that direct, indirect, and cumulative impacts to Blochman's dudleya were reduced to below a level of significance through the measures in the NCCP/HCP (see Response to Comment 43-16).

43-52 The NCCP/HCP did consider cumulative impacts to dudleya and other covered species and found cumulative impacts to be reduced to a level below significance. The large NCCP habitat preserves benefit regional biological resources at a cumulative level. Cumulative impacts on California groundsel are not significant because it is a List 4 species that is still

relatively common, there is suitable habitat (coastal scrub and cismontane woodland) within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone), and it could further benefit from the adaptive management plan that is part of the NCCP/HCP program.

Cumulative impacts on Coulter's saltbush are not significant because the on-site population will be translocated, monitored and maintained pursuant to Mitigation Measure 3-1 (see Response to Comment 43-39). In addition to translocating the extant individuals in the population, with the collection of cuttings and seeds and adaptive management, the population size (currently < 10 individuals in heavily used area) may increase.

43-53 The alternatives analysis presented in the DEIR provides a range of reasonable alternatives to the project that would avoid or substantially lessen any of the significant effects of the project, as required by CEQA. No unmitigated significant impacts to biological resources were determined to result from project implementation. Thus, the project alternative proposed by the commentor is not required. As stated in the DEIR, under Alternative 1, the impacts to sensitive resources through encroachment and trespass by the public will continue unabated, resulting in continuing disturbance and degradation of habitat. For species such as Blochman's dudleya, the proposed project will establish conservation areas for rare plants and other species, and a management program for their protection and survival.

43-54 Refer to Response to Comment 43-53, above.

43-55 The NCCP/HCP has an MMRP.

43-56 With the exception of Coulter's atriplex, the NCCP/HCP fully mitigates impacts to biological resources. A mitigation measure for Coulter's atriplex impacts will be added to the EIR text and MMRP. The project is a participant in the NCCP/HCP, which has conserved several thousands of acres of habitat in the coastal zone, and elsewhere for the protection of sensitive plant and animal species. Finally, the Project Design Features and Project Conditions further reduce the potential for impacts, as discussed in the DEIR.

44. COMMENTS FROM COUNTY OF ORANGE

County of Orange
Planning & Development Services Department

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 20 8 55 AM '01

THOMAS B. MATHEWS
DIRECTOR

300 N. FLOWER ST.
SANTA ANA, CALIFORNIA

MAILING ADDRESS:
P.O. BOX 4048
SANTA ANA, CA 92702-4048

NCL 01-100

November 19, 2001

Mr. Edward M. Knight, Director
City of Dana Point
Community Development Department
33282 Golden Lantern
Dana Point, CA 92629

SUBJECT: DEIR for the Headlands Development and Conservation Plan

Dear Mr. Knight:

The above referenced item is a Draft Environmental Impact Report (DEIR) for the City of Dana Point. The project site is located at Pacific Coast Highway and Street of the Green Lantern. The Headlands Development and Conservation Plan (HDCP) proposes development of 125 single family residential lots, a maximum 110,750 square feet of Visitor/Recreational Commercial and uses composed of a 65 room inn, and a 40,000 square foot commercial site, at the corner of Green Lantern and Pacific Coast Highway. Other components of the project include 30.3 acres of Conservation Open Space that have public safety constraints, environmental resources, and/or scenic value, and 31.7 acres of recreation open space that include a trail system, public parks, a public beach, and a series of public recreation visitor facilities. On-site circulation and parking are provided for these uses. 44-1

The County of Orange has reviewed the DEIR and offers the following comments:

OPEN SPACE/RECREATION

1. Page 4.1-7/ HDCP Figure 4.12.6, Conceptual Wall and Fencing Plan; cannot be found within the DEIR. We recommend the document be revised to incorporate this figure. 44-2

2. Page 4.1-7/ Figures 4.12.7 though 4.12.11; are not within the DEIR. The revised document should address this oversight. 44-3

3. Page 4.1-8/ PC 1-1; the DEIR does not stipulate when and to whose approval the landscape plans are submitted by a State licensed landscape architect. 44-4

4. Page 4.1-8/ Section 4.1.2.2 Project Conditions: text references extensive guidelines for development to be implemented in conjunction with the proposed project as well as City and County Standard Conditions of approval. We recommend the DEIR cite subject conditions to analyze the adequacy of the DEIR. At minimum, these conditions/guidelines should be located within the Technical Appendices. 44-5

5. Page 4.1-24/ "View 2: Dana Point-Bridge View"; additional views westerly from subject bridge should be added to the view analysis from Dana Point Harbor. One viewshed point precludes analyses of views from Dana Point Harbor roadways, and from within the boating facility and anchorage, all public views of the proposed project. 44-6

6. Figure 4.1.2(View 2 from Dana Point Harbor) and Figure 4.1.3 (View 3-from Heritage Park); both views depict future conditions wherein the Seaside Inn within Planning Area 9 is shown as green. A worst-case scenario should depict the inn painted a light color much like existing and commercial development depicted on both views, in the immediate vicinity to the north, to more realistically evaluate view impacts of the proposed inn. 44-7

7. Page 4.3-23/PC 3-3 "Adherence to the Project Park and Open Space Management Plan, including the Fuel Modification Plan"; subject plans should be included within DEIR Technical Appendices. 44-8

8. Section 4.7.2 "Project Design Features/Project Conditions" (Hydrology): 44-9

   a. PC 7-1 through PC 7-8; subject project conditions should indicate a timing mechanism.

   b. Page 4.7-8/PC 7-3, drainage facilities on adjacent properties; a drainage acceptance and maintenance agreement, and maintenance easement, for an appropriate entity to be responsible for the functionality and the maintenance of proposed facilities within the Dana Point Harbor Parking Lot wherein a sand filter is to be sited, and at "Baby Beach" wherein drainage is to continue to be accepted, as well as for new drainage facilities to end at Strand Beach should be acknowledged and stipulated. The drainage acceptance and maintenance agreement, and maintenance easement for Dana Point Harbor should occur prior to the installation of subject sand filter and prior to acceptance of an Irrevocable Offer of Dedication to the County of Orange for Strand Beach. 44-10

   c. Subject acceptance and maintenance agreement (s) and maintenance easement (s) should be incorporated within the DEIR as a condition of approval for the proposed project. 44-11

9. Page 4.9-21, last paragraph (HDCP Guidelines-Section 4.12); does the maintenance citation for public parks include Strand Beach? The DEIR should be specific about this point. 44-12

Conveyance of Strand Beach:

10. The applicant proposes to dedicate Strand Beach to the County of Orange. The irrevocable offer of dedication for the beach area should exclude the revetment area. Prior to Board of Supervisors consideration of acceptance of the beach by separate instrument and ultimate conveyance, the County requires an agreement be entered into by the applicant and/or the City of Dana Point and the County of Orange defining long-term maintenance and monitoring responsibilities, and maintenance easement (s) as they relate to the following Strand Beach items:

    a. Revetment reconstruction, monitoring and maintenance.

    b. Public access reconstruction, operation and maintenance.

    c. Storm drain outlet and diversion design, operation and maintenance.

    d. Vertical drop energy dissipaters or similar devices operation and maintenance (to be installed prior to the outlets to Strand Beach to decrease water velocity and prevent beach erosion).

    e. Water quality Monitoring Plan and Best Management Practices (BMP's) implementation are necessary to meet the requirements of the storm water permit.

    f. Post-construction marine biological monitoring.

    g. Bluff stabilization maintenance above Stand Beach.

    The above items should be incorporated within the DEIR as a condition of project approval for the proposed project.

44-13

11. Page 4.15-11/PDF 16-1; subject project design feature should indicate the revetment is sited on Strand Beach

44-14

12. Page 4.15-13/PC 5-6 "Prepare and Implement Drainage Plan" (into Dana Point Harbor); the DEIR should stipulate a project condition wherein the "drainage plan is subject to the approval of the County's Harbors, Beaches and Parks prior to commencement of construction activities for the drainage infrastructure".

44-15

13. Page 4.16-13/PDF 16-2 "Post-Construction Monitoring Plan for Coastal Processes Issues"; a project condition of approval within the DEIR should indicate approval of subject plan is subject to the approval of the County's Harbors, Beaches and Parks, and obtaining a County encroachment permit, prior to acceptance of an irrevocable offer of dedication for Strand Beach, and prior to commencement of construction of drainage structures, and sand trap, for Dana Point Harbor beach and parking lot. The Post-Construction Coastal Processes Monitoring Plan should, at a minimum, evaluate the

44-16

impact of changes in sand transport within the littoral cell that may occur as a result of the proposed project features. 44-16

14. Page 4.16-15/"Drainage Outlets" and "Public Pedestrian Walkway and Public AccessRamp"; a condition of approval for the proposed project within the DEIR should stipulate the design of all drainage outlets and public recreation facilities (pedestrian walkway, access ramp, restrooms, landscaping, etc) as they relate to Strand Beach, should be subject to the approval of the County's Harbors, Beaches and Parks, prior to commencement of construction activities. 44-17

15. Maintenance for bluff stabilization above the Ocean Institute and Dana Point Harbor parking lot, as it relates to the proposed project, should be the ongoing responsibility of the project proponent and/or the City of Dana Point. 44-18

16. Trails and Bikeways:

a. Page 4.12-1, first paragraph: Please change "regional hiking trails" to "regional trails and bikeways".

b. Page 4.12-7, second line from the top: Please change "PCH (Class I)" to "PCH (Class II)".

c. Page 4.12-12 (PDF 12-8): Please change "Class I bike lane on PCH" to "Class II bike lanes on PCH". 44-19

d. Figure 4.12.4:

To avoid confusion between paved/unpaved and on-road/off-road recreational routes for the Headlands and vicinity, we suggest using the following terms in the legend, as appropriate:

A. Unpaved trail (pedestrians only)

B. Unpaved trail (multi-use)

C. Class I bikeway (paved, off-road, multi-use) 44-20

D. Class II bikeway (on-road, striped lanes, bicyclists only)

In this case, "multi-use" would mean that both bicyclists and pedestrians are allowed.

Class I bikeways must be at least 10 feet wide---preferably 12 feet---to accommodate both bicycle and pedestrian use. Unpaved, multi-use trails should also be at least 10 feet wide. (Pedestrian-only trails can be narrower.)

As an example of what may need to be changed in Figure 4.12.4, the "trails" along PCH implies that the routes are off-road. Instead, these should be identified

as Class II bike lanes. Also, "bikeway and pedestrian trail" are two different things---a bikeway is paved, a trail is typically unpaved. 44-20

CULTURAL/HISTORICAL

17. We recommend the mitigation measures related to cultural resources state that the project proponent shall prepare any finds to the point of identification and be required to pay potential curation fees. (PC 4-1; MM 4-1.A; MM 4-1.B; MM 4-1.C) 44-21

18. The County of Orange is in the process of developing a model curation program, establishing policy and procedures which, once adopted, will mean that the County warehouse facility will no longer accept unprepared collections or materials that are donated without curation fees to cover their ongoing maintenance. 44-22

TRANSPORTATION

19. The proposed project will add significant traffic to arterial highways providing access to Dana Point Harbor and the adjacent Marine Life Refuge. The Traffic Impact Analysis (TIA) should address how traffic from the proposed development will impact existing and future operation of these facilities. The analysis should take into account the cumulative build-out traffic impacts of the recently approved marine refuge improvement project and on-going and proposed improvements within Dana Point Harbor. The TIA should also examine how access to and traffic near Dana Point Harbor, the Marine Life Refuge, and Doheny State Beach will be affected by the construction of the median on Pacific Coast Highway. 44-23

20 The TIA states that Pacific Coast Highway north of Crown Valley Parkway is over the link volume threshold capacity. However, the adjacent intersection operates at Level of Service (LOS) A during AM/PM peak hours. It appears that there is an inconsistency in the LOS analysis of this intersection and the adjacent links that need to be addressed. 44-24

21. A traffic growth rate of 3% annually is typical for Orange County. However, this traffic study assumes only a 1% annual growth rate. This analysis, therefore, may greatly underestimate the traffic impact of the proposed project on the circulation system in this area. The TIA should use a 3% annual growth rate or provide a rationalization for the 1% rate in addition to the unnamed previous study. 44-25

22. The TIA includes a summer AM/PM peak hour projection analysis, but does not discuss the methodology used to arrive at the basis for the summer values. This should be included in the report. 44-26

ENVIRONMENTAL HEALTH

23. The San Diego Regional Water Quality Control Board regulates Aboveground Storage Tanks (AST). Typically, an AST of less than 660 gallons and/or on a nursery is exempt. Inquiries on the AST should be directed to this Regional Board. 44-27

24. The "several 55 gallon steel drums containing moly grease" need to be removed by a registered Hazardous Waste hauler, and the property owner is responsible for the proper treatment, storage and disposal of the waste.

44-28

25. For the potential of encountering other Hazardous Wastes, you may want to contact the Orange County Environmental Health Division/Voluntary Clean up Program at (714) 667-3717 for "Request for Remedial Action Supervision", which is typically an expedited clean-up/remediation process.

In conclusion, the County's Environmental Health Division will monitor implementation of the mitigation measures pertaining to this Division to remediate potential public health risks associated with the Headlands Development & Conservation Plan.

44-29

Thank you for the opportunity to respond to the DEIR. If you have any questions, please contact Charlotte Harryman at (714) 834-2522.

Sincerely,

for Tim Neely, Manager
Environmental Planning Services Division

ch

44. RESPONSES TO COMMENTS FROM COUNTY OF ORANGE

44-1 Comment noted. The comment is a summary of the proposed project.

44-2 Please refer to the HDCP, which is incorporated by reference.

44-3 Please refer to the HDCP, which is incorporated by reference. It is not necessary to include the requested figures in the DEIR. Copies of the HDCP were available for public review at the City of Dana Point during the public review period.

44-4 The City of Dana Point will review landscape plans submitted by the developer.

44-5 Please refer to the HDCP, which is incorporated by reference. Sections 4.12, 4.14, and 4.16 contain the Design Guidelines, the Open Space Management Plan and the Master Landscape and Irrigation Guidelines.

44-6 An additional view west from other points within the Dana Point Harbor (the bridge view is already included in View 2) may provide a slightly different angle, but would not add any perspective that would substantially change the view analysis or its conclusions. The bridge view was provided as a simulation that would be representative of general views from the harbor. The project does not significantly alter views from the harbor, as represented in the simulation of View 2. In many areas, the mature landscaping makes clear views of the Headlands problematic. Due to topography, no views of the project area are visible from the Ocean Institute at the west end of the harbor.

44-7 The color of the individual buildings does not have a substantial effect on the analysis in the EIR. Thresholds of significance included in Section 4.1. The City of Dana Point has ultimate review authority over project design, color, and landscaping, subject to the HDCP design guidelines. The controls on project design are inherent in the HDCP, and the City's review authority will ensure that visual effects of the project are similar to the representative view simulations included in the DEIR. The Design Guidelines in the HDCP encourage the use of natural materials; roofs are required to complement the color of the native earth; vibrant hues on exteriors are prohibited.

44-8 Comment noted. The fuel modification plan is discussed in detail on pages 4.11-7 through 4.11-12. For additional information on the open space management plan, see Section 4.14 of the HDCP, incorporated by reference.

44-9 Comment noted. The City of Dana Point is the reviewing body for each PC included in the DEIR. Timing of implementation is included in the Mitigation Monitoring and Reporting Program, Chapter 7.0 of the DEIR.

44-10 Comment noted. The implementation agreements, maintenance easements, and details on physical connections of facilities are project details to be addressed at final project approval, and subject to the review and approval of various public agencies, including the County of Orange. Such agreements, easements, and facility connections are not environmental concerns subject to CEQA review. Because these issues are between the County of Orange and the developer and are controlled by the County through the County's project approval process, these project details can be applied to the project by the County independent of the EIR process and are typically treated as conditions of approval. It would be inappropriate for the City of Dana Point to add these requirements to the project through the EIR process. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

44-11 The EIR is not the appropriate mechanism to add a condition of approval to the project. See Response to Comment 44-10 for further explanation.

44-12 The HDCP includes the development and implementation requirements for the Headlands Property. As such, when subsequent submittals are made, such as a tentative subdivision map or master coastal development permits, the submittals will be reviewed in the context of the HDCP. With reference to the question concerning whether there is a specific maintenance citation in Section 4.12 of the HDCP for Strand Beach, there is not. The EIR makes reference to maintenance of the park areas and does not address beach maintenance. This issue is best addressed between the County and the developer prior to County consideration of acceptance of the beach area. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

44-13 The revetment maintenance will not be the responsibility of the County. The HOA is responsible for the revetment. This issue is best addressed between the County and the developer prior to County consideration of acceptance of the beach area. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further. Further input from the County on this issue may occur during the tentative map and Coastal Development Permit process for the project.

44-14 Although not explicitly stated in PDF 16-1, it is clear throughout the DEIR that the revetment is sited on Strand Beach. The clarification is noted. The comment does not bring up any environmental concern or issue that should be addressed in the EIR. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

44-15 Please see Response to Comment 44-10.

44-16 The implementation agreements, maintenance easement, and details on physical connections of facilities are project implementation details, and are not environmental concerns subject to CEQA environmental analysis. Because these issues are between the County of Orange and the developer and are controlled by the County through the County's permit approval process, this issue is best addressed between the County and the developer prior to County consideration of acceptance of the beach area. The construction monitoring of coastal

processes does require that a Beach Characteristics Study be conducted both pre-construction and post-construction. See PDF 15-2, page 4.15.12.

44-17 See Responses to Comments 44-10, 44-13, and 44-16. The EIR is not the appropriate mechanism to add a condition of approval to the project. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

44-18 Appropriate responsibility for bluff maintenance is determined by property ownership law and liability law. No improvements on the bluff face are proposed by the project. The City will own Harbor Point Park. The EIR is not the appropriate mechanism to add a condition of approval to the project. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

44-19 Comment noted. The citations indicated are herewith incorporated into the Final EIR. However, there is a Class I bike lane on the northeast side of PCH between Blue Lantern and Selva Road. Regarding the Headlands trails, not all trails proposed for bikes will be paved. However, all bikeways will be paved.

44-20 Comment noted. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

44-21 Comment noted. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

44-22 See Response to Comment 44-21.

44-23 The short-term traffic analysis did take into account the proposed Dana Point Harbor expansion as part of the cumulative project traffic analysis. Arterial Highway Roadway links and intersections have been analyzed in the vicinity of the Dana Point Harbor and have been addressed with respect to level of service and improvements required for both short-term and build out conditions. It is not clear what the commentor is referencing with regards to the Pacific Coast Highway median construction and its affect upon Dana Point Harbor, Marine Life Refuge, and Doheny State Beach. This project is not directly related to the Headlands project. It does not appear that any of the Pacific Coast Highway improvements associated with the Headlands project would affect the Dana Point Harbor area.

44-24 The AM/PM peak hour analysis takes into account the specific turning movements and actual lane configurations at the intersection of Pacific Coast Highway at Crown Valley Parkway. The generalized daily link capacities are only a "rough estimate" of roadway capacity, and a variety of factors can influence the daily capacity of a highway link. This is especially true on a roadway such as Pacific Coast Highway, which may not follow the typical peak hour to daily traffic volume relationships. A roadway such as Pacific Coast Highway accommodates traffic throughout the day and does not necessarily peak as much as other highways. As a result, the daily capacity value would be greatly underestimate the daily capacity of the roadway based upon peak hour conditions. The daily capacity analysis was based upon the conservative link capacity values that are used throughout the County of Orange. The most appropriate analysis procedure is to address the peak hour intersection capacity, which has

been done as part of the traffic analysis and which indicates that the intersection can operate at acceptable levels of service.

44-25 The one percent growth factor has been based upon the previous traffic analysis (Austin Foust & Associates Inc, July 19, 1998) for the Headlands development in the City of Dana Point. This has been based upon historical growth on City streets, including Pacific Coast Highway. Historically, Pacific Coast Highway traffic in this area has been reduced in volume as a result of major additions to the Regional Transportation System. Since the City of Dana Point is nearly built out, the one percent growth rate is appropriate and is used in other cities that are more fully build out.

44-26 Conversion of weekday to summer AM/PM peak hour projections was based upon the previous Headlands Traffic Study prepared by Austin-Foust Associates, Inc. In that study, historical counts during typical weekday and weekend conditions were reviewed based upon the previous Traffic Study for the Headlands project prepared by Austin-Foust Associates, Inc. (July 19, 1998); the summer peak hour volumes at the intersections along Pacific Coast Highway were ten percent higher on average than nonsummer peak hour volumes. This was based upon a comparison of summer counts to non-summer counts. At the intersection of Street of the Golden Lantern/Dana Point Harbor Drive, summer peak hour volumes were 33 percent higher than the nonsummer volumes. These factors were utilized in assessing peak summer conditions.

44-27 Comment noted. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

44-28 Comment noted. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

44-29 Comment noted. Because there is no environmental issue brought up in the comment, there is no requirement in CEQA to respond further.

45. COMMENTS FROM LUTE ELDRIDGE & ASSOCIATES

LUTE ELDRIDGE & ASSOCIATES
Management/Marketing Services

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24616 Moonfire Dr.
Dana Point, CA 92629

RECEIVED
CITY OF DANA POINT
DEVELOPMENT
DEPARTMENT
Nov 20 8 55 AM '01

19 November 2001.

Mr. Edward Knight
Director of Community Development
33282 Golden Lantern
Dana Point, CA 92629

Subject : Comments on Headlands Draft Environmental Impact Report & Headlands Development Conservation Plan

Reference: Recent Articles In The Dana Poit News, & Letters From The Developer

Dear Mr. Knight:

Having been in this area since 1927, and watched with a great deal of dismay the unprofessional, inept, sometimes scandalous decisions made by the Dana Point City Council, since the City's inception, relative to the "development" of our so-called city; and now, to continue to watch two of the council members, who have somehow managed to continue to get elected, attempt to manuever the residents of Dana Point into another series of undoable mistakes, is not only appalling but unbelieveable!! 45-1

WE, the D.P. residents have been led to believe that a thorough geological survey, and soil test has been doneon the Headlands. I DON'T BELIEVE IT!. Where is the report that shows core samplings taken down to at least 100 feet, throughout the top levels of the Headlands? There is none, and without it, you may not be around, but this community could well suffer the same fate as the bluffs in South Dana Point and San Clemente, in the future. 45-2

TRAFFIC: Figure 4.7.1 and through the report/plans emphatically indicate that Green Lantern and Cove Road CANNOT handle the anticipated traffic to transit from PCH to reach a hotel, spa, restaurant, shops, (2) 2000 sq. ft. meeting and exhibition buildings and ancillary buildings and parkland. 45-3

HOTEL: Sec.#3.3.1, and throughout the Plan. WE DO NOT NEED A sixty five (65) key hotel, plus spa, restaurants, shops and other tourist amenities at the corner of Scenic Drive and Green Lantern. Given the horrendous impact of traffic, foot and driving, not to mention the negative effect on the residents, this location is not conducive to having another BOMB built in our midst! 45-4

COMMERCIAL: (SEE N.O.P.), and, again, throughout the Report and PlanInstalling a traffic signal at the crest of the hill before Green Lantern, and placing the facility entrance at the corner of Green Lantern and PCH, all contibute to creating a safety hazard, due to the fact that, [as all of you know] one cannot adequatly see oncoming traffic, which is one of the major reasons Green Lantern is presently closed to north bound traffic, prior to reaching PCH. 45-5

RELINQUISHMENT OF EASEMENT AND LAND RIGHTS : (SEE DRAWINGS) The City of Dana Point gives up these rights to the benefit of the developer! Another sad commentary on the unconscionable behavior and attitudes of theCouncil: NOT THOUGHT OF TAKING SIGNIFICANT PORTIONS OF EXISTING RESIDENTIAL PROPERTY, IN ORDER TO WIDEN THE ROAD, AND SATISFY THE CONTINUING SELFISH WHIMS OF [SOME] COUNCIL MEMBERS!! 45-6

Sincerely,

45. RESPONSES TO COMMENTS FROM LUTE ELDRIDGE & ASSOCIATES

45-1 Comment noted. The opinion of the author will be forwarded to the decision makers for their consideration.

45-2 As briefly summarized in Section 3.0 of AMEC's August, 2001, report, a total of six borings was drilled, sampled, and logged as a part of AMEC's investigation of the Upper Headlands, Harbor Point, and Headlands Promontory areas of the project site (see Plate IV of AMEC's August, 2001, report). These exploratory borings ranged in depth from 10 to 85 feet and included collection of relatively undisturbed drive samples at a vertical spacing that was typically less than five feet. Core/Pitcher sampling of the bedrock was also performed at four of these locations, including samples collected to a depth of 85 feet in the Harbor Point area. The boring logs and associated geotechnical evaluations and stability analyses are summarized in AMEC's reports dated October 15, 1999, and February 21, 2000 (see Section 8.0, References, of AMEC's August, 2001, report).

This subsurface information supplements geologic mapping and field testing of the extensive exposures of the underlying bedrock that are present in the sea cliffs that rim this portion of the site. Additional geologic information is also available from previous geotechnical reports in the adjacent areas (see Sections 2.0 and 8.0 of AMEC's August, 2001, report).

The highlands that form the Dana Point headland and the upper portions of the project site are underlain by San Onofre Breccia bedrock that is covered locally by a mantle of marine terrace deposits. The relative competence and erosion resistance of the Breccia account for the prominence of the Dana Point headland, and the Breccia bedrock provides a stable foundation for the proposed project. Please refer to the referenced AMEC reports for additional information regarding the local geologic conditions.

As briefly outlined in AMEC's recommended mitigation measures (AMEC, August, 2001), additional subsurface exploration, testing, and analyses are planned as a part of the final design process for the project.

45-3 See General Response 1 and Responses to Comments 24-2 through 24-6.

45-4 The opinion of the author regarding the appropriateness of the hotel at the proposed location will be forwarded to the decision makers for their consideration. Traffic impacts of the proposed project, inclusive of the hotel, are included in the Traffic Analysis Report, Appendix H, and are reported in Section 4.13. Significant traffic impacts are mitigated to a level less than significant. See EIR Section 4.13 for the full analysis.

45-5 Installation of a traffic signal at "A" Street and Pacific Coast Highway is planned as part of the Headlands development. A traffic signal was projected to be warranted based upon

Caltrans warrants and the forecasted traffic. The traffic signal would be required to be designed to Caltrans standards, including visibility and all safety requirements based upon Caltrans Traffic Manual and Standard Plans and Specifications. The traffic signal design will include sufficient traffic signal heads to be seen at the appropriate distances in advance of the traffic signal. Installation of the traffic signal will also have the benefit of providing additional gaps in traffic to make entering Green Lantern from Pacific Coast Highway easier than existing conditions without the traffic signal. An extensive discussion of the traffic signal installation at Pacific Coast Highway and Street "A" is contained on pages 9-5 through 9-9 of the Traffic Study (Appendix H). The benefits of the traffic signal are enumerated in that document. Refer to General Response 3 – New Intersection at Street "A" and PCH.

45-6 Comment noted. The opinion of the author will be forwarded to the decision makers for their consideration.

46. COMMENTS FROM STATE CLEARINGHOUSE

STATE OF CALIFORNIA

Governor's Office of Planning and Research

State Clearinghouse

RECEIVED
GOVERNOR'S OFFICE OF PLANNING & RESEARCH
Oct 19 8 52 AM '01

Gray Davis
GOVERNOR

Steve Nissen
DIRECTOR

ACKNOWLEDGEMENT OF RECEIPT

DATE: October 15, 2001

TO: Mr. Edward M. Knight
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

RE: The Headlands Development and Conservation Plan (HDCP)
SCH#: 2001071015

This is to acknowledge that the State Clearinghouse has received your environmental document for state review. The review period assigned by the State Clearinghouse is:

Review Start Date: October 5, 2001
Review End Date: November 19, 2001

We have distributed your document to the following agencies and departments:

California Coastal Commission
California Highway Patrol
Caltrans, District 12
Department of Conservation
Department of Fish and Game, Region 5
Department of Housing and Community Development
Department of Parks and Recreation
Department of Water Resources
Native American Heritage Commission
Office of Historic Preservation
Regional Water Quality Control Board, Region 8
Resources Agency
State Lands Commission
State Water Resources Control Board, Division of Water Quality

The State Clearinghouse will provide a closing letter with any state agency comments to your attention on the date following the close of the review period.

Thank you for your participation in the State Clearinghouse review process.

46. RESPONSES TO COMMENTS FROM STATE CLEARINGHOUSE

46-1 No response is necessary. The letter indicates that the DEIR has circulated to State agencies, and the public review period was from October 5, 2001, to November 19, 2001.

47. COMMENTS FROM BRIAN YAKLICH

November 19, 2001

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 21 9 30 AM '01

Dear City Council; Planning Commission - City of Dana Point

I am opposed to the proposed Dana Point Headlands Development for the following issues 47-1

- Endangered Species / plants animals

The pocket mouse / gnatcatcher, California sage - the proposed open natural ~~habitat~~ will not allow for these creatures to survive. More space must be designated for nat. habitat 47-2

- Houses on Headlands -

Proposed 121 houses on the Headlands. This will negatively impact my view to the ocean from my home and destroy natural habitat. 47-3

- Traffic entry to Beach housing -

- the road to the lower beach front properties should enter north guard (present site) to alleviate traffic on south selva area. 47-4

I will work against the proposed development due to the negative impact to the community. 47-5

[illegible] 24122 Aliso Creek 248 9549

47. RESPONSES TO COMMENTS FROM BRIAN YAKLICH

47-1 Comment noted. The opinion of the author will be forwarded to the decision makers for their consideration.

47-2 See General Response 6.

47-3 See General Response 10.

47-4 Regarding traffic on Street of the Green Lantern, see General Response 1. Traffic issues on Selva Road are addressed in General Response 2.

47-5 Comment noted. The opinion of the author will be forwarded to the decision makers for their consideration.

48. COMMENTS FROM CALIFORNIA COASTAL COMMISSION (3 PARTS)

STATE OF CALIFORNIA - THE RESOURCES AGENCY GRAY DAVIS, Governor

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

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
Nov 26 2 33 PM '01

November 21, 2001

Ed Knight
Director of Community Development
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629-1805

RE: **Headlands Development and Conservation Plan Draft EIR Comments**
State Clearinghouse No. 2001071015

Dear Mr. Knight:

Commission staff received the Draft Environmental Impact Report for the Headlands Development and Conservation Plan (EIR) on October 9, 2001. This draft EIR is in support of the proposed *"Headlands Development and Conservation Plan"* (HDCP). The HDCP consists of various components (requiring City approval as well as Commission approval), which include: a General Plan Amendment, a Planned Development District, a Local Coastal Plan Amendment, and a Development Agreement. The HDCP proposes the development of 125 single-family residential lots, a maximum of 110,750 sq. ft. of Visitor Recreational Commercial land uses including a 65 room inn. Other project components include 30.3 acres of Conservation Open Space and 31.7 acres of recreational open space amenities which include a trail system, public parks, a public beach, and visitor-serving facilities. This letter focuses on the draft EIR. Comments on the proposed LCP amendment will be provided through a separate letter. 48A-1

Commission staff will be utilizing the policies of the Coastal Act as the standard of review in evaluating the draft EIR since the development contemplated in the EIR requires an amendment to the City's Local Coastal Program. Pursuant to Section 30512 of the Coastal Act, an amendment to a land use plan is evaluated against the Chapter 3 policies of the Coastal Act. 48A-2

Commission staff, at this time, does not believe that the EIR contains an adequate analysis of the proposed project's impact on the environment which would allow staff to support the preferred alternative. Rather, Alternative 3 (Reduced Intensity Alternative), as modified[1] to avoid potentially hazardous geological areas and to avoid encroachment into coastal sage scrub habitat, appears to be more consistent with the Coastal Act than the preferred alternative. 48A-3

Commission staff's principal concerns relate to the identified impacts on environmentally sensitive habitat areas (ESHA) and to the draft EIR's approach regarding siting and design 48A-4

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[1] Commission staff notes that an alternative to avoid potentially hazardous geological areas and to avoid impacts into coastal sage scrub was dismissed from further consideration in Section 5.2 of the draft EIR.

of the proposed development. The draft EIR has taken the approach that extraordinary engineering solutions and the application of the NCCP/HCP process provide adequate mitigation for the proposed development. Such an approach is inconsistent with the requirements of Section 30253 and Section 30240 of the Coastal Act. These two policies advocate siting and designing the proposed development to minimize adverse impacts to the environment through avoidance. Additional potential issues, not evaluated include scenic resources, impacts of future landscaping on native habitat, public views and building heights, traffic and parking. Comments concerning water quality (including erosion controls and drainage) are attached as a separate memo. 48A-4

Section 30240 requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values and only uses dependent on the environmentally sensitive habitat will be allowed within those areas. The Commission's staff biologist for southern California has reviewed the biological data and notes that the site contains environmentally sensitive habitat (ESHA)[2]. Consequently, the proposed development must be sited and designed to avoid impacts to ESHA. However, the development proposes to mitigate adverse impacts by utilizing the NCCP/HCP process rather than avoiding impacts as is required by Section 30240 of the Coastal Act. According to the Biological Resources report (September 2001) prepared by URS, the purpose of the NCCP/HCP process is to create a defined reserve system that will allow developers to mitigate, some if not all, adverse biological impacts from proposed development off-site. *"The NCCP/HCP Program allows for the loss of sensitive species and their habitats as a result of development of the Project Site for a combination of residential, visitor serving commercial, recreational, and open space uses."* According to this Biological Resources report, *"roughly 30 acres of coastal sage scrub"* will be removed which will also affect the species dependent on the coastal sage scrub habitat. This *"take"*, according to the report, facilitates the proposed development by allowing the developer to have *"flexibility in the location, intensity, and type of land use on the Project Site."* Section 30240 of the Coastal Act does not permit the elimination of an ESHA since it must be protected from significant adverse impacts. This was upheld on April 16, 1999 by the appellate Court (Bolsa Chica Land Trust v. Superior Court (1999) 71 Cal. App.4th 493) when the Court ruled that an ESHA could not be eliminated and re-created elsewhere (off-site) to facilitate proposed residential development at Bolsa Chica. The proposed residential development could not be allowed in an ESHA since it was not a use dependent on the ESHA. If allowed, the appellate court found that there must be some showing that the destruction of the ESHA was needed to serve some other interest recognized by the Coastal Act. Based on the foregoing narrative, Commission staff does not believe the proposed development is consistent with the requirements of Section 30240 of the Coastal Act. 48A-5 48A-6

Section 30253 of the Coastal Act requires that new development in hazardous areas be sited and designed to minimize landform alteration and to avoid dependence on the use of 48A-7

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[2] See attached letter and memo from Jon Allen, Coastal Commission.

protective devices. The proposed development does not appear to conform with the requirements of Section 30253 of the Coastal Act because the proposed residential development in the *"Strand"* is dependent on extensive engineering solutions such as re-building the existing revetment, and undertaking extensive grading to stabilize the slope. Page 4.5-7 of the draft EIR states that approximately two thirds of the Strand is comprised of ancient landslide deposits[3]. According to the *"Geotechnical Evaluation For Environmental Impact Report Headlands Project, Dana Point, California"* (August 2001) by AMEC Earth & Environmental Inc., remedial grading, including extensive landslide removal, will be required to provide adequate slope stability. However, an assessment of the implications of the grading operation could not be made by Commission staff due to image degradation of Plates III and IV which depicted the depth of the landslides and grading. According to the narrative on Page 9 of the report, the removal and replacement of the existing landslide will result in a fill thickness of 20 to 60 feet across the Strand site. This constitutes significant landform alteration. Based on the large scale grading proposed to make the site suitable for residential development, a lower priority use under the Coastal Act, Commission staff does not believe that the project has been sited and designed to be consistent with the requirements of Section 30253 of the Coastal Act. 48A-7

As documented above, Commission staff has significant concerns with the draft EIR's proposed mitigation strategy for resolving adverse impacts to ESHA areas and with the proposed landform alterations proposed to make the Strand residential development *"safe"*. Additional related points are discussed below. 48A-8

NCCP/HCP Regulatory Approval: The language of the draft HDCP and draft EIR imply that the NCCP/HCP programs have been *"approved"* by the regulatory agencies as adequate mitigation for the proposed development. For example, the land use plan amendment section states: *"In conjunction with the Central Coastal Orange County Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP) adopted in 1996, the Headlands property owners have executed a binding Implementation Agreement with the California Department of Fish and Game and U.S. Fish and Wildlife Service. The property owners have also been issued an Endangered Species Act, Section 10(a) permit for the Headlands that deals specifically with anticipated impacts to federally listed endangered species and required conditions."* This assertion is restated in slightly modified language in Table 5.4 of the HDCP and on Pages 4.9-74 and 4.9-75 of the draft EIR. Commission staff, however, does not believe that the preceding text is an accurate representation of the regulatory process as the Coastal Commission will be undertaking its own evaluation of the proposed development's environmental impacts based on the standards of the Coastal Act. 48A-9

Commission staff believes it is inappropriate to use language in the EIR which leads the reader to assume that adverse impacts have been addressed through the NCCP/HCP

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3 The Geotechnical Evaluation by AMEC Earth & Environmental, Inc. notes that there is a liquefaction potential on the Strand beach should an earthquake occur.

process, through its silence on the necessity to obtain Coastal Commission approval for the proposed development through the LCP amendment process. Language which implies that conformance with the NCCP/HCP satisfies mitigation requirements, wherever it appears in the HDCP and EIR, should be revised to state that the Commission will be evaluating the proposed development following the submission of the LCP amendment based on the policies of the Coastal Act. Consequently, any language which, through its silence on the Commissions regulatory involvement concerning the NCCP/HCP, must be revised to clearly articulate that Coastal Commission approval of the proposed development has not been granted and remains to be obtained. 48A-9

Proposed Reconstruction of the Revetment to Protect Existing Development: The proposed development contemplates the reconstruction of an existing 2,400 foot long revetment at the base of the *"Strand"* (shown as Planning Areas 1 & 2 on Figure 3.4 in the draft EIR). According to the draft EIR a ninety-unit mobile home park, including the revetment, was constructed during the 1950's. The mobile home park was closed in 1988. Some of the old infrastructure to serve the mobile home park remains, but in a substantially degraded condition.

To allow the reconstruction of the revetment, Policy 2.14 of the Land Use Element has been proposed for revision by adding the following text: *"For the Headlands, the potential for coastal slope erosion shall be minimized and public safety and coastal access protected by reconstruction of the existing revetment."* This proposed policy revision raises several concerns. The first concern is that the proposed revision would allow extraordinary engineering solutions to be pursued for purposes of constructing residential development in a hazardous area inconsistent with the mandates of Section 30253 of the Coastal Act. As stated in the introductory comments above, the proposed revision to Policy 2.14 is one example of many policies[4] where mitigation is to be obtained by implementing an engineering solution to achieve a development objective rather than avoiding the impact to minimize adverse environmental effects as required by the Coastal Act. 48A-10

Next, the draft EIR asserts that the *"Revetment protects existing structures, graded terraces, and other improvements associated with the former mobile home park."* Consistent with the requirements of Section 30253 of the Coastal Act, Commission staff does not believe that the purpose of the revetment is the protection of *"existing"* development since it has apparently reached the end of its economic life and it will be removed to facilitate grading operations as part of overall site preparation. As previously stated, an ancient landslide comprises 75% of the Strand and the graded fill slopes will be in the neighborhood of 20 to 60 feet deep. Figure 4.11.1 identifies the Conceptual Grading Plan. It appears that the entire Strand will be graded and none of the existing development will remain. If no development is to remain, the existing revetment will no longer be protecting existing development.

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[4] Policies 2.8, 3.1, and 3.7 are additional policies which have been proposed for revision.

Additionally, Commission staff notes that the revetment is *"underdesigned"* and must be *"reconstructed"*. Reconstructing the revetment constitutes new development as the existing unsuitable revetment is being removed and replaced with a new engineered revetment. Section 30253 of the Coastal Act mandates that new development, such as the proposed residential development, be sited and designed not to depend on the use of protective structures, such as a revetment. Consequently, the proposed development is not consistent with Section 30253 of the Coastal Act. 48A-11

Third, the EIR is silent regarding the apparent fact that the revetment and new retaining walls are an engineering necessity to undertake the residential development, as proposed. According to the background narrative, *"The remedial grading operation will stabilize the terraced slopes in the Strand area and excess earth will be transferred to the Upper Headlands Residential site to create ocean view building sites in that location."* If this preceding statement is valid, then why would the revetment be necessary? In any event, as previously stated, the proposed landform alteration and protective devices are for the benefit of new residential development, a lower priority use in the Coastal Zone. Section 30253 of the Coastal Act clearly stipulates that new development in hazardous areas minimize landform alteration and not depend on the use of protective structures. The proposed residential development on the Strand is inconsistent with this mandate. Commission staff consequently recommends that the existing revetment be removed and that proposed development be sited and designed to minimize landform alteration or the potential use of protective devices. 48A-12

<u>Fuel Modification Plan:</u> The fuel modification plan is for the benefit of the proposed development which includes residential development which is a lower priority use in the coastal zone. The fact that a fuel modification plan is required implies that project site is considered to be in a high fire hazard area. To provide fire protection for the proposed development, fuel modification programs, including vegetation removal and artificial irrigation, are often proposed. The discussion of the fuel modification plan is inadequate.

In this case, the Fuel Modification Plan (Figure 4.14.1) calls for irrigation within the Strand as well as other areas of the project site. The fuel modification plan also proposes to remove some native vegetation which is believed to possess a high flammability factor. Apparently, the development has not been sited to avoid fire hazards because the development requires mitigation in the form of irrigation and vegetation removal. Irrigation and vegetation removal, in turn, have potentially significant adverse impacts upon erosion, water quality, geologic stability and sensitive habitat areas. For example, the Strand has been identified as geotechnically hazardous due to the presence of landslides. The percolation of water into a hillside slope, even though subdrains are proposed, could still have a de-stabilizing effect upon the slope. Thus the draft EIR has not disclosed the full impacts of the fuel modification program on existing ESHA. 48A-13

Next, the removal of native vegetation, even if replaced with less flammable native vegetation, could still have significant adverse habitat impacts. For example, native

species which provide critical habitat may be removed because they are considered flammable and replaced with natives not providing critical habitat. Fuel modification in support of residential or commercial development having this type of adverse impact on habitat would not be a use dependent on the resource. Consistent with the requirements of Sections 30240 and 30253 of the Coastal Act, the development must be sited to minimize or avoid the necessity of fuel modification such that the fuel modification plan will not contribute to geologic hazards or affect the habitat values of ESHA areas. 48A-13

Residential Development: The project which is the subject of the draft EIR proposes to construct 125 single family residences. The Coastal Act establishes that residential development is a lower priority use in the coastal zone. Section 30222 states: *"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."* Section 30221 states: *"Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area."* And Section 30223 states: *"Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible."*

The proposed projects consistency with the Coastal Act is presented in Section 4.9 and Table 4.9 of the draft EIR. This table recognizes the public benefits that will be derived from designating 62 acres of open space for purposes of conservation, public parks, and recreation; and designating 4.4 acres for visitor serving uses. However, Table 4.9 also makes the assertion that *"The amount of residential development proposed in the HDCP is acceptable when balanced against the significance of the visitor serving development described in the HDCP."* 48A-14

Though the project is proposing significant public benefits, the assertion that residential development in the proposed location is justifiable is unsubstantiated. As discussed previously, the proposed residential development on the Strand requires significant landform alteration and the use of protective structures to make the site suitable for residential development. A better use of the Strand, considering geological constraints and the presence of ESHA areas, may be as open space. For example, the current property owner could utilize the Strand as a mitigation[5] site by other developers. Furthermore, consistent with the requirements of Section 30221, an analysis must be prepared to demonstrate that existing and anticipated future demand for public or

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5 The legend for Figure 4.3.1 of the draft EIR which depicts the vegetation and jurisdictional waters of the U.S. is unclear. The color pattern for disturbed ruderal habitat and southern coastal bluff scrub appear identical. Consequently, the reader can not distinguish between these two entirely different habitat types. Commission staff requests that this figure be corrected.

commercial recreational activities is already adequately provided in the area, before a lower priority use, such as residential development may be allowed. Such an analysis was not provided in Table 4.9. 48A-14

Thank you, for the opportunity to comment on the draft EIR. Please note that the comments provided should not be construed as either a final or complete review of the proposed plan as an additional review will be conducted when the LCP amendment is submitted to the Commission. Commission staff has largely focused on topical comments to provide guidance rather than making specific wording revisions. Commission staff has also attached a letter from the Water Quality Unit and the letter on the draft LCP amendment to this letter. More specific comments will be made as more information becomes available and the LCP amendment develops into a final form. We hope that the proposed development will be revised in response to the comments provided. If you have any questions, please contact me at the above office.

Sincerely,

Stephen Rynas, AICP
Orange County Area Supervisor

Cc: State Clearinghouse

\\HAMMERHEAD\srynas$\Letters\City of Dana Point\Headlands EIR Comments.doc

STATE OF CALIFORNIA – THE RESOURCES AGENCY
GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641 - 0142

Summary of Ecological Findings for the Dana Point Headlands LCP/EIR:

J. C. Allen
Staff Ecologist/Biologist

There is no doubt that the proposed project will cause impacts to ESHA. The project will impact 28 acres of Coastal Sage Scrub (CSS) at Dana Point Headlands (DPH) containing eight listed species of plants and animals including the federally threatened Coastal California Gnatcatcher (CCGN) (*Polioptilla californica californica*), and the CNPS 1B listed Blockmann's Dudleya (*Dudleya blockmaniae* ssp. *blockmaniae*). There are eight CCGN territories, five of which will be developed, and there are thirteen Blockmann's Dudleya locations, eight of which will be developed. In addition, one of only four remaining small populations of the federally endangered Pacific Pocket Mouse (PPM) (*Perognathus longimembris pacificus*) is present at the site. It is proposed that the mapped PPM population area be placed in a 'temporary' preserve whose final fate (within eight years) depends upon purchase and/or translocation by CDFG or USFWS. While a fence would be built around the temporary PPM preserve, the development of 125 residential lots surrounding the preserve would surely increase impacts through increased human activities, automobiles, and pets. The EIR/HDCP proposal document acknowledges these impacts and proposes to mitigate the effects by participation in the Natural Community Conservation Plan (NCCP) for Orange County by contributing to the Orange County Preserve Conservation area. These contributions amount to $350,000 for PPM recovery efforts and $500,000 toward expansion and maintenance of the conservation area, but the details of explicitly what would be done is not very clear and is to a large extent left to the CDFG and USFWS. 48B-1

Whereas Habitat Conservation Plans and Natural Community Conservation Planning at the landscape level are good ecological strategies providing a large perspective, they can be used to allow significant impacts to ESHA in the Coastal Zone. Such is the case with the current project. As an ecologist it is my opinion that while large scale planning is a very good ecological strategy that should be encouraged, it is not an ultimate panacea for all that ails our environment. There is so much variation between individual species in their landscape requirements that a simple assumption that they will all achieve a net gain by expanding preserve areas at the expense of coastal fragments is risky. Examples of this in the present case are the gnatcatcher and the pocket mouse, differing very greatly in their dispersal abilities. What is an isolated fragment for one is apparently a stepping stone link for the other, and so assumptions about their needs are quite different, and simply mitigating for impacts by expanding a preserve is a greatly oversimplified approach.

STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641 - 0142

To: Steve Rynas

From: Jon Allen,
Staff Ecologist/Biologist

Subject: Dana Point Headlands LCP/EIR

Applicant: City of Dana Point

Date: 11/5/01 2:44 PM

Documents Reviewed:

1. Draft EIR, Headlands Development and Conservation Plan, Volume I, City of Dana Point, 33282 Golden Lantern, Dana Point, CA. 92629. Contact: Mr. Edward Knight (949) 248-3567. Prepared by LSA Associates, Inc., One Park Plaza, Suite 500, Irvine, CA., 92614.
2. Draft EIR, Headlands Development and Conservation Plan, Volume II: Appendices, City of Dana Point, 33282 Golden Lantern, Dana Point, CA. 92629. Contact: Mr. Edward Knight (949) 248-3567. Prepared by LSA Associates, Inc., One Park Plaza, Suite 500, Irvine, CA., 92614.

Project Description:

This project is to rezone a 121.3-acre site on Dana Point headlands to allow development of 52.4 acres of the site for 125 residential lots, 4.4 acres to commercial (a 65-room hotel) and 64.5 acres of open space of which 24.2 acres will be in a conservation park.

Biological Resources on the Site:

The project area consists of the following types of vegetation habitats:

Non-Sensitive habitats:

1. Developed Ornamental	46.79 acres
2. Disturbed /Ruderal Habitat	3.21 acres
3. Non-Native Grassland	2.93 acres

Potentially Sensitive Habitats:

1. Coastal Sage Scrub (CSS)	48.07 acres
2. Disturbed CSS	2.33 acres

3. Southern Mixed Chaparral 2.69 acres
4. Maritime Succulent Scrub 0.61 acres
5. Southern Coastal Bluff Scrub 3.34 acres
6. Sandy Beach 5.22 acres
7. Rocky Intertidal/Bluff Face 6.11 acres

The term *potentially* sensitive is used because in the case of disturbed habitat, the relative degree of disturbance, location, explicit presence of a listed species, etc. may play a role in the ESHA determination. In making ESHA determinations one must apply the Coastal Act definition of ESHA :

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. 48B-2

There are three main points of comparison to consider:

(1) Is a habitat or species rare or especially valuable?
(2) Does the habitat or species have a special nature or role in the ecosystem?
(3) Is the habitat or species easily disturbed or degraded by human activities and developments?

Biological Analysis of Dispersal by the Gnatcatcher and Pocket Mouse

The Environmental Impact Report and Headlands Development and Conservation Plan (EIR/HDCP v1) (Document 1 above) states that the project will impact 79.2 acres of the 121.3-acre site. This will result in the loss of 28.0 acres of CSS, 1.83 acres of disturbed CSS, 0.61 acres of maritime succulent scrub and 0.06 acres of southern coastal bluff scrub. Although accurate estimates are difficult to obtain, it is believed that only about 10-15% of the original CSS habitat in California remains today, most being lost to development, (Bolger et al 1997). This remaining habitat is much more highly fragmented and sensitive than the original CSS distribution (Bolger et al 1997, CDFG 1993), and additionally, about 100 listed species utilize CSS as habitat (Atwood 1993, CDFG NCCP 1993). So good quality CSS habitat is rare and performing an important ecological function in providing potential refuge for many listed species and therefore qualifies as ESHA under the Coastal Act. 48B-3

Two very sensitive species that will be impacted by this project that are of particular interest are the federally threatened Coastal California Gnatcatcher (CCGN) (*Polioptila californica californica*) and the federally endangered Pacific Pocket Mouse (PPM) (*Perognathus longimembris pacificus*). These two species are important for a landscape scale ESHA determination because of the great differences in their apparent dispersal abilities. The relevance of this is that the whole point of the NCCP preserve strategy is to create more contiguous habitat from fragmented habitat and these two 48B-4

species represent relatively great differences in what might constitute fragmented habitat biologically speaking.

The PPM is represented by only four known small populations, three of which reside on Camp Pendleton Marine Base, the other being the impacted population at Dana Point. The Dana Point population is surrounded by a large urban developed area and on the order of ten miles from the Camp Pendleton populations that are connected by more contiguous habitat. The PPM is thought to move very little with territory sizes being on the order of an acre (Friesen and Mock 2001, Hall 1981, Chew and Butterworth 1964). Kenagy (1973) observed movements of less than 50 meters (165 ft). So the evidence suggests that this species moves very little, and is probably quite isolated on Dana Point.

Compared to the pocket mouse, the gnatcatcher is a very strong disperser as a fledgling leaving the nest. While adults tend to be site-faithful to a territory, the fledglings disperse and average distance of 1.6 miles, and many go much farther (Fig. 1). The median distance comes out to be about 1.73 miles, i.e., half of them go this far or more from the parent's territory. The data for Figure 1 were obtained on the Palos Verdes Peninsula in fragmented habitat. Dispersal may be even greater. Selected examples show numerous cases where the juvenile birds traveled 7-9 km (4.4-5.6 miles) from the nest site to the new territory site (Atwood et al 1998a, Table 8). Data by Atwood et al (1998b, p.35) show that, contrary to expectation, juvenile survival was actually *better* when the birds dispersed over more fragmented habitat than in 'natural' habitat. Just what this data means is not clear yet, and we can only conclude that there are no overwhelming negative effects of dispersal through fragmented habitat. Bailey and Mock (1998) have observed juveniles dispersing through noncoastal sage scrub habitats including riparian, mulefat scrub, grassland ruderal, and suburban landscaping as dispersal corridors. So the data for gnatcatcher, suggest that Dana Point is not as isolated as one might think because of this bird's strong dispersal capabilities. 48B-4

Whether the Dana Point Headlands (DPH) is part of a connected system of habitat depends on the dispersal ability of the species involved. Connected habitat is very different for gnatcatchers and pocket mice, and while the Dana Point Headlands may be isolated for the pocket mouse, it may not be for the gnatcatcher. And regardless of these arguments, both species are there now and have been for some time.

Population viability analysis (PVA) by Friesen and Mock (2001) in document 1 above suggested that the PPM would most likely go extinct on Dana Point in the next 10-15 years if the population is not relocated elsewhere. The parameter estimates used in these analyses however are always somewhat suspect due to the extreme difficulty in getting accurate estimates from such small sensitive populations under field conditions. Using their demographic parameter estimates for the Leslie projection matrix, one obtains a generation population factor (R_o) of about 0.76 offspring per female per generation. That is the population is being reduced to 76% of its previous level each generation, so it is hardly surprising that it goes extinct fairly rapidly. The real question 48B-5

is whether one can really trust these predictions and use them safely in important management decisions in the real world. 48B-5

Impacts to Sensitive Habitat and Species Under NCCP

The NCCP approach is to take a landscape perspective and assume that a contiguous preserve is preferable to more fragmented disorganized habitat, and therefore impacts and loss of local fragments are more than mitigated by increases in the size of the preserve. This automatic assumption of relatively low habitat value for an impacted fragment should really be adjusted to species requirements and with the landscape setting. So while generally contiguous habitat is to be preferred over fragmented habitat (Murphy 1989), the details in each case are important. Work by Bolger et al. (1997) has shown that several species of closely related birds in the San Diego area can be rated as edge/fragmentation (1) enhanced, (2) reduced or (3) insensitive. If the whole range of fragmentation sensitivity can be observed within a closely related bird taxon, then what sort of differences might one expect across other more diverse plant and animal taxa? In fact in the present case the gnatcatcher was observed to be edge/fragmentation insensitive by Bolger et al. (1997), and in addition it is a strong disperser (Fig. 1), while the pocket mouse apparently moves much less and operates on a much smaller spatial scale. That is, the degree of fragmentation is not only scale dependent physically speaking, but the effect of the fragmentation scale itself varies enormously from species to species. Given this, it seems a bit hasty to conclude that one can always mitigate for impacts to a habitat fragment like Dana Point Headlands by investing in a more contiguous preserve system elsewhere. So the NCCP approach to mitigation for loss of habitat fragments needs to be assessed in particular cases with regard to the particular species involved and their unique biological requirements. More often than not the particular biological needs of sensitive species are poorly understood at the landscape scale with regard to edge/fragmentation sensitivity, and so the assumption that one can adequately mitigate for fragment loss by expanding a preserve somewhere else is risky. Whereas some species may benefit from such changes, others may not. 48B-6

In the case of the gnatcatcher and the pocket mouse at Dana Point Headlands (DPH), one can make the case that neither species will benefit from the proposed project. That is, since the gnatcatcher is relatively insensitive to fragmentation and a good disperser (Bolger et al. 1997 and Fig. 1), DPH may be part of a functioning metapopulation for this species, and its continued presence at DPH supports this conclusion. For the pocket mouse, the DPH population is relatively very isolated and represents one of only four remaining small subpopulations and therefore local impacts are even more risky for this highly sensitive endangered species. The proposed temporary preserve for the pocket mouse is certainly a very minimum level of protection, and a more permanent arrangement should be required with more definite guarantees for this species protection and recovery. 48B-7

Gnatcatcher Dispersal Data:

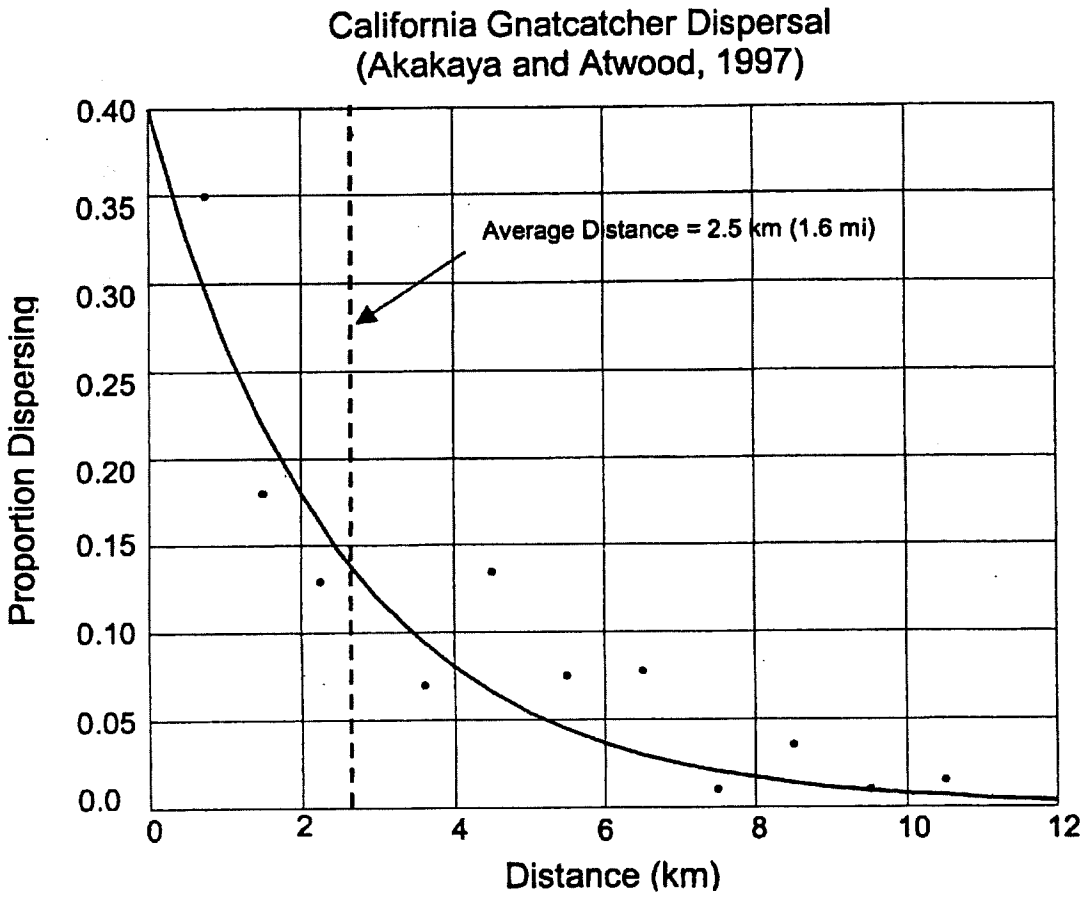


Figure 1. Proportion of fledged juveniles of the California gnatcatcher (*Polioptila californica californica*) that disperse different distances from the nest site.

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STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

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MEMORANDUM

November 13, 2001

TO: Edward Knight
Community Development Director
City of Dana Point

FROM: Janna Shackeroff
Water Quality Unit
California Coastal Commission

SUBJECT: Water Quality Analysis of Headlands Development and Conservation Plan Draft Environmental Impact Report

The water quality staff of the California Coastal Commission appreciates the opportunity to comment on the Draft Environmental Impact Report of the Headlands Development and Conservation Plan ("DEIR"). Because of it's proximity to the Dana Point and the Niguel Marine Life Refuges, as well as a number of beaches that frequently rate poorly in Heal the Bay's beach water quality report card, the Dana Point Headlands is an area of great concern to us. Without proper siting, design, structural and non-structural best management practices ("BMPs"), and vigilant monitoring and maintenance, this development could potentially pose a significant threat to coastal water quality. The DEIR analysis concludes that with the Project Design Features and Project Considerations listed, the water quality impact will be "less than significant." However, the staff of the Coastal Commission believes that a more thorough investigation of project siting and design is necessary before this conclusion is could be justified. 48C-1

The Coastal Act provides the California Coastal Commission and its staff with a broad basis to protect and enhance marine resources and coastal waters that are adversely impacted by polluted runoff. Section 30230 of the Coastal Act states that "marine resources shall be maintained, enhances, and where feasible, restored." Section 30231 demands that development "minimiz[es] adverse effects of waste water discharges and entrainment, controlling runoff." Our analysis of the DEIR rests on the philosophy: to 48C-2

protect coastal water quality to the best of our abilities. While mitigation is important, avoidance of impact is even more so. 48C-2

Thus, the Final EIR should outline the means by which project siting and design *avoid* adverse impacts to coastal water quality, rather than simply *mitigating* the impacts. Moreover, it cannot be said, as has been done in this case, that a development will have a "less than significant impact on water quality" without first knowing what types of commercial development will occur and designing best management practices to treat the pollutants particular to the type of development. 48C-3

Analysis of Project Design

The Project Design Features fail to demonstrate that the developers and architects had water quality objectives in mind while designing the Headlands Development and Conservation Plan. The successful nonpoint source pollution prevention plan requires thorough pollution prevention at every step of the development process, including project design. The unsuccessful—and ultimately more costly and undesirable—strategy focuses on pollutant treatment rather than prevention. The DEIR did not discuss nor demonstrate the extent to which project design incorporated water quality goals. We believe that the least significant impact from development is only possible with a concerted effort to incorporate the following principles into design: 48C-4

1. Minimize impervious surfaces
    - Cluster development
    - Minimize road width
    - Shared driveways
    - Reduce land coverage of buildings by building taller and narrower footprints
    - Maintain parking strips with vegetation, trees, and non-compacted soil
    - Consider whether paved sidewalks, curbs, and gutters are necessary on both sides of the street or at all
    - Encourage the shared use of parking areas

48C

- Use parking structures to concentrate parking
- Promote beach shuttles during weekends, using business parking away from the beach
- Provide bicycle lanes and convenient bike storage
- Encourage transit use, provide bus stops

48C-4

While some of these design features such as bicycle lanes and walking trails seem to already be a part of this development, features such as clustering development and road width are not delineated in the EIR. We suggest including such analyses in the Final EIR for public review.

2. Site and design development that respects natural drainage features, site topography, fragile soil and native vegetation.
   - Analyze natural resources and hazardous constraints of planning areas and individual development sites to determine locations most suitable for development. Cluster development in these areas.
   - Preserve significant trees and as much native vegetation as possible
   - Avoid building on steep slopes, unstable areas, and erosive soils
   - Retain natural root structures as soil anchors
   - Limit land disturbance activities such as clearing, grading, and cut and fill, to reduce the potential for erosion and sediment loss.

48C-5

The use of native, drought tolerant vegetation is a fantastic Best Management Practice already outlined in the DEIR. A more full investigation of the water quality impacts of building on more geologically stable site or site location, should include a detailed water quality analysis of the benefits of a more stable environment. Such a measure can potentially include the important design considerations listed above.

48C-6

Analysis of Best Management Practices (Project Design Features)

It is difficult for Coastal Commission staff to fully analyze the extent of the BMPs listed in the DEIR without more specific information about the commercial businesses. Because

48C-7

there is no capacity for percolation, and thus natural filtration, it is imperative to address the potential water quality impacts for each land use, including but not limited to such developments as restaurants, automotive repair shops, retail gasoline outlets, and dry cleaning facilities. Moreover, the cumulative impact from the commercial, residential, and hotel uses of this land as well as the unexpected impacts can pose more of a threat than anticipated. Best Management Practices should take this into account. The development of the Dana Point headlands presents an optimum opportunity to implement progressive water quality goals and BMPs. We encourage the applicants to go above and beyond what they have developed thus far, and consider strategies like the suggestions we have listed below. 48C-7

The Draft EIR's suite of structural and non-structural BMPs for construction and post-construction development provides a good foundation but is far from complete. The Coastal Commission staff encourages the expansion of this list to include the following components:

1. Enhance the suite of structural BMPs that treat or filter runoff to include a suite of structural BMPs designed to treat or filter all expected pollutants from this particular site. We propose that sand filters alone are not sufficient to handle the types of pollutants that will likely flow from this site. The limitations of sand filters are substantial: Sand filters often clog and are rather difficult to access and maintain properly. Moreover, they are known to release a "slug" of pollutants while being cleaned. According to the California BMP Handbooks, sand filters remove sediments and floatables at a high efficiency; however, they are only moderately efficient at removing nutrients, heavy metals, oxygen demanding substances, oil and grease, and bacteria and viruses. They have no impact on toxic materials. We suggest considering the an alternative to sand filters, or perhaps filtering the runoff with a different type of structural BMP prior to running it through the sand filter. The applicant may want to consider such alternatives as lined vegetated swales, which will filter but not infiltrate water, and/or continuous deflection separators. 48C-8
2. Utilize a regenerative air vacuum street sweeper for all sweeping and cleaning of 48C-9

roads and parking lots. This is the most efficient technology to remove street debris, including trash, sediments, and automotive-related pollutants. 48C-9

3. If a restaurant is built in the commercial zone, it shall be outfitted with a grease trap or grease interceptor and maintained according to manufacturers specifications. 48C-10
4. The HOA should be required to hire only certified green landscapers who minimize the use of chemicals to the maximum extent practicable and utilize integrated pest management practices. Said chemicals should not be toxic to fish or wildlife. Herbicides shall be applied by limited spraying or by other methods that inhibit migration into coastal waters. The HOA should encourage as strongly as possible the same BMPs on single family residence garden. 48C-11
5. The applicant may want to consider building a centralized car washing area, outfitted with proper BMPs to contain the soaps and solvents, in the residential development, as well as prohibiting washing cars in the residential streets. 48C-12
6. Pools in the hotel and the residential development should not be drained into the storm sewer system unless completely dechlorinated. All chlorinated waters should be sent through the sanitary sewer system. 48C-13
7. Include a provision that requires the water quality management plan, including the source control BMPs, to remain operational and dynamic for the life of the development. 48C-14
8. Include a provision for the developer to work with the Home Owner's Association for at least 15 years to maintain and update the BMPs as site conditions necessitate. 48C-15

In addition to the above thoughts, Coastal Commission staff proposes the following comments on the Project Design Features. They have been delineated below according to the numeric system in the DEIR.

Project Design Features

7-1. No comments.

7-2. No comments.

7-3. Water flowing onto the beach should not cause beach erosion, nor an increase in volume or velocity of runoff. 48C-16

7-4. Same as above.

7-5. Conveyance of commercial development storm water or nuisance flow straight onto Strand Beach is not appropriate for certain land uses with a high potential for pollutant generation, such as retail gasoline outlets, automotive repair facilities, restaurants, etc. Structural BMPs such as hydrocarbon filters designed specific to the commercial developments should be considered in the EIR. To do so, the EIR should state what types of commercial developments will be located on the project site. 48C-17

7-6. We suggest the use of a regenerative air vacuum street sweeper. Please provide additional information regarding the standards the HOA will meet, and how these standards will be updated given the dynamics of the site. 48C-18

7-7. Ensure that only drought-tolerant, native vegetation is used in common area landscaping as well as in residential units. 48C-19

7-8. No comments.

7-9. No comments.

8-1. Please provide a more explicit description of water quality goals related to BMPs for public review. 48C-20

8-2. Include user-friendly handouts, brochures, radio spots, as well as workshops for homeowners. 48C-21

8-3. Be more specific in Final EIR. 48C-22

8-4. Ensure construction and landscaping preserves as much existing, native vegetation as possible. 48C-23

8-5. No comments.

8-6. No comments

8-7. All new restaurants and remodels exceeding $100,000 must be equipped with a grease interceptor, and all other restaurants must be equipped with grease traps. 48C-24

8-8. It does not appear that the water sent through the low flow diversions is treated prior to being pumped through the Wastewater Treatment Plant. The sanitary sewer may not remove contaminants like metals, oil and grease, pesticides, and excess nutrients, and these can be carried out through the sewer pipes to offshore waters. 48C-25

Therefore, it is imperative that the nuisance flows run through a structural treatment BMP prior to discharge to the sanitary sewer. 48C-25

8-9. Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate, or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs. 48C-26

8-10. See above sand filter analysis. 48C-27

8-11. All development has the potential to degrade water quality. The cumulative effect of development falling under the minimum threshold established in the Orange County SUSMP (prepared by the San Diego RWQCB) can significantly impact coastal water quality. The DEIR should analyze all development, regardless of size and including those which fall under the minimum SUSMP threshold, with appropriate structural and non-structural BMPs. In this example, structural BMPs should be implemented for all parking lots of all sizes, not just those greater than 5,000 square feet. 48C-28

8-12. Great, but make sure they are used all over the site. 48C-29

8-13. Excellent, progressive idea. 48C-30

Review of Alternatives

The water quality unit suggests the applicant more fully investigate Alternative 3—Reduced Intensity Alternative. In the dismissal of this project alternative, the EIR states that 48C-31

> Although Alternative 3 would result in less development on the project site, the impacts to water quality would be similar. Surface water quality impacts during and after construction activities would be mitigated through the implementation of project design features and project conditions... neither this nor the proposed project creates a significant effect on water quality. (p. 5-16)

Although Best Management Practices (BMPs) utilize the most technologically advanced practices and design features and are created to reduce impacts to water quality to the maximum extent practicable, they are not 100% effective. Logically, the larger the development, the greater the adverse effect to coastal water quality, and although 48C-32

BMPs may be implemented and designed to completely reduce water quality impacts, there inevitably will be adverse effects. Thus a building alternative with 40% reduction in development correspondingly will see substantially reduced intensity of use. The applicant should strongly consider Alternative 3, for it presents a much less disruptive alternative to this development project. 48C-32

Inclusion of Water Quality Section in the LCP Amendment

The current Local Coastal Program of Dana Point is outdated in terms of its protection of water quality. The foundation of contemporary society's approach to water quality science, management, and policy has greatly expanded in the past sixteen years since the Dana Point LCP was certified. Perhaps the single most important action regarding water quality that the applicant can take at this time would be to include a water quality section in the LCP amendments. Coastal Commission staff is currently working on guidance documents for water quality amendments to LCPs, and we would be happy to share our work with the City of Dana Point. 48C-33

48A. RESPONSES TO COMMENTS FROM STEPHEN RYNAS, ORANGE COUNTY AREA SUPERVISOR

48A-1 No response necessary.

48A-2 So noted. To further aid California Coastal Commission (CCC) staff, the City will also compare and contrast the components of the proposed plan, and its coastal environmental benefits, with the existing certified LCP. The proposed plan, in the geographic area now certified, has merits that provide substantial benefits consistent with Coastal Act policies, particularly when compared to the certified LCP.

48A-3 The EIR does contain an adequate analysis of the proposed project's impacts on the environment. This analysis is summarized in Table 1.6.A, Summary of Project Impacts, Mitigation Measures, and Level of Significance, pp. 1-5 to 1-24. Table 1.6.A lists 71 categories of "Potential Environmental Effect," which are supported by the appropriate technical studies, reports, and text as found in the EIR.

It is noteworthy that, as detailed in the EIR, the site contains geological "constraints" but has not been identified as "hazardous" and that this area of the coast, at large, has been subject to past CCC review and approval. Consistent with CEQA and CCC staff request, an alternative that avoided what may be geologically constrained areas and coastal sage scrub was considered in the EIR. This alternative was subject to extensive analysis and failed to meet the project objectives, hence determined infeasible. Although CEQA Guidelines merely call for the identification of such an alternative and, if infeasible, its dismissal after a brief explanation, the EIR provides a lengthy analysis. The EIR specifically describes the reasons why this alternative is infeasible, and, in fact, details the alternative impacts to such a degree that it could constitute a project alternative given full consideration in the EIR.

Additionally, a number of projects previously approved by the CCC have been equally or more geologically unstable than the subject area, including projects directly adjacent to the subject site, such as the Ritz Cove and Niguel Shore residential projects. The contention that the alternative of avoiding all of the "hazardous geological areas" and coastal sage scrub is a feasible project alternative is unsupported. In fact, such an alternative is essentially the "No Project" alternative, which is analyzed separately in the EIR.

48A-4 The CCC staff letter expresses concern regarding the siting and design of the proposed project. It characterizes the enhancement of an existing revetment and remedial grading to stabilize an ancient landslide complex, i.e., no apparent detectable landslide movement for a period of 11,000 to 30,000 years (see Technical Appendix D, p. 10) as "extraordinary" engineering solutions not consistent with Section 30253 of the Coastal Act. However, such practices are neither uncommon nor extraordinary, nor are they inconsistent with the Coastal Act.

The EIR evaluates the alternative treatments of the existing revetment (see Technical Appendix J) and concludes not only that the revetment is essential to protect existing coastal resources and natural landforms, but also that removal or deterioration will have serious adverse impacts. The repair and upgrading of the revetment as part of the project is an appropriate element to ensure that certain existing conditions, as well as proposed development, continue to be adequately protected. As detailed in the EIR, removal of the revetment or no treatment of the existing revetment results in significant future damages to the existing landforms along the coast, including areas adjacent to but outside of the project site.

Moreover Section 30253 only prohibits the construction of revetment devices where such devices "would substantially alter natural landforms along bluffs and cliffs." This project proposes to repair and upgrade an existing revetment system that provides protection for the existing and natural landforms, including beaches, public pathways and ramps, terraces, and adjacent residential development. Other than the beaches, the existing natural landforms were substantially altered in conjunction with the 1950s construction of the abandoned mobile home residential community. The proposed upgraded shoreline protection will not substantially alter natural landforms and will, in fact, continue to protect them. While new residential development will be facilitated by these repairs to replace a dilapidated existing residential site, the upgrading of the revetments is essential for the avoidance of impacts on the existing development, as well as on neighboring developments. Therefore, the EIR properly concludes that the repair and reconstruction of the existing revetment comprise the least environmentally damaging alternative for the project.

Also of note, several area projects that incorporate design features similar to the proposed project have been previously approved by the CCC. For example, for the nearby County Salt Creek Park, the Ritz Cove residential project, and the directly contiguous Niguel Shores residential project, the CCC authorized the construction of an extensive revetment structure, which, in fact, combines to form discrete components of a larger integrated system. The subject project, as detailed in the EIR, proposes to replace the existing portion of this system within the project site with an upgraded, reengineered element.

Pursuant to Section 30253, the site design, as documented in the EIR, evaluates impacts to visual and scenic resources, public views, traffic, and parking, and provides criteria and facilities far in excess of typical Coastal Act standards. Furthermore, it minimizes impacts to existing and natural landforms primarily by locating development in areas that formerly were subject to development (i.e., the former mobile home area, the commercial storage areas, etc.), while also assuring stability and structural integrity. Geologic instability is reduced by incorporating standard grading procedures for projects within this region, as detailed in Appendix D. Significant landforms, such as the 30-acre area commonly referred to as the "Headlands," are preserved in their entirety.

As relates to the EIR, the document analyzed and documented the plant, animal, and riparian resources through survey and samplings on the resources mapped (see pages 4.3-1 to 4.3-42). As a result, the proposed project incorporated features to reduce to less than

significant levels or eliminate the potential impacts to those resources. The NCCP/HCP for the region was part of a broad, regional planning process and concluded that the project site was not suitable for long-term habitat preservation and that development was appropriate providing certain mitigating measures were implemented.

As opposed to project-by-project mitigation on an ad hoc basis, the NCCP/HCP process reviews land planning decisions on a broad planning horizon and identifies where superior habitat and habitat linkage exists in a given subregion. The process to develop an NCCP/HCP is a public process that addresses the policy mandates of multiple public agencies and in that manner it takes into account various factors prior to arriving at an overall habit conservation plan.

In approving the project and certifying the EIR, the City as Lead Agency must determine whether the mitigation meets the standards set out in CEQA. The CCC can then determine in its review (as any other agency with jurisdiction) the consistency of the project with their organic law including but not limited to resolving the conflicting policies as applied to the site inherent in that law.

48A-5 Insofar as the NCCP/HCP process is concerned, CEQA requires that the City disclose that the NCCP/HCP, Central/Coastal Subregion, provides a context for determining the federal and state requirements for regulating this area. CCC staff's current concern regarding the use of the NCCP/HCP in this area runs counter to at least three past CCC staff comments that supported the use of NCCP programs as an important resource planning mechanism: first, in the comments by the CCC to the project NCCP/HCP program (see Attachment 48A1, Coastal Commission Letter Dated January 29, 1996); second, in the reliance on the same NCCP/HCP in the Newport Coast LCP; and most recently, with regard to the City of Carlsbad HCP process.

The 1986 certified LCP approved extensive development over the subject property, including the majority of the coastal sage scrub habitat areas. A similar level of development was assumed in the NCCP/HCP EIR/EIS impact analysis. The NCCP/HCP serves as an important element in the understanding of the significance of the resources on this property, especially since it addressed such resources in the NCCP/HCP EIR/EIS, and the CCC interposed no objection as a Responsible Agency under CEQA.

It is agreed that, in addition to the requirement to consider the NCCP/HCP, Section 30240 of the Coastal Act must be considered. The EIR addresses this issue (see p. 4.9-73). It is also true under the Coastal Act that avoidance is the preferred approach to protecting coastal resources. However, the issue presented here is whether or not avoidance conflicts with other Coastal Act policies, and whether or not ESHA designations are appropriate. The CCC certified the 1986 LCP, and commented on the NCCP/HCP EIR/EIS, with documentation that rare plants, coastal sage scrub, and gnatcatchers were present, with no ESHA designation given to the resources. Since the CCC comment letter on the NCCP/HCP was supportive at a time when the CCC could have interposed an objection on the basis of the Coastal Act, it now seems contradictory to suggest that the NCCP/HCP is inconsistent with the Coastal Act.

The referenced memo from Dr. Jon Allen, attached to CCC staff comments, appears to be more of an expression of criticism of the NCCP that raises questions about connectivity and dispersal which, based on the information supplied, cannot support the stated conclusions. A separate response to Dr. Allen's questions is provided below (see additional Comments in Response to J.C. Allen Memo); however, the conclusion that this habitat is an ESHA and creates significant impacts appears to be based on a preliminary analysis.

48A-6 The CCC staff suggestion that the project must be sited and designed to avoid impacts pursuant to the Bolsa Chica decision overstates both the CCC role in the local planning process and the holding in the Bolsa Chica decision. Under this interpretation, if all impacts to coastal sage scrub were avoided, a project would provide no public parks or coastal recreation opportunities under Section 30210. In addition, ongoing bluff top erosion would continue to degrade surrounding water quality and impact the continuing geological stability.

As CCC staff notes, the Coastal Act allows the removal of ESHA if there is a balancing of Coastal Act objectives pursuant to Section 30007.5. As reported in the EIR, the proposed plan offers overwhelming advantages when compared with the certified LCP, which remains an alternative development scheme if this project is not approved. The advantages of the proposed plan include, but are not limited to: (1) a significantly greater number of coastal access and recreation opportunities (five public parks, three miles of public trails, five lower cost visitor recreation facilities, 20 scenic overlooks, two new beach access paths, and enhancements to the existing accessways); (2) a comprehensive water quality program that prevents pollution on site, and filters and treats regional storm flows from approximately 30 off-site, developed acres; (3) a significantly greater amount of natural resource protection, including the permanent conservation of the 24.2 ac. Headlands Conservation Park and the establishment of a managing trust and endowment; (4) a significant reduction in residential density from as many as 487-522 homes to 125 homes, with a commensurate reduction in traffic, air quality impacts, landform alteration, etc.; (5) a more suitably scaled commercial component; and (6) project development conditions that ensure that public parks, trails, and amenities are completed and opened to the public prior to any private development occupancy. Thus the comment that the project must be sited to avoid all impacts to potential ESHA resources is inaccurate, since complete avoidance in this case may create other Coastal Act policy concerns that the CCC must balance under Section 30007.5 pursuant to the Bolsa Chica decision.

48A-7 The CCC staff states: "Section 30253 of the Coastal Act requires that new development in hazardous areas be sited and designed to minimize landform alterations and to avoid dependence on the use of protective devices." What Section 30253 states is new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The distinction is important. First, the staff's statement refers to siting of development, but the statutory provision does not. What the statute calls for is to minimize risks to life and property in areas of high geologic, flood, and fire hazard. This is a different emphasis—the minimization of exposure of people or property to high hazards. Staff's comments are indicative of hazards that do not exist on the subject property. For example, those associated with *active* landslide areas. As stated earlier, the Strand landslide complex is considered *ancient,* dating to a period between 11,000 and 30,000 years ago. The question is, do such hazards exist on the property now? The geotechnical experts involved in the analysis conclude that the condition of the Strand should be considered a geologic constraint, one that can be addressed through proper analysis and engineering. They do not consider the site a geologic hazard, especially within the meaning of this section of the Coastal Act. This area of the property was graded and improved, and people lived there for nearly 40 years without incident. The improvements included a revetment along the toe of the terraced slope. In fact in 1984, the Coastal Commission staff actually recommended nearly the identical improvement for this revetment, but the improvement request was withdrawn by the landowners for other reasons. Dozens of members of the public utilize the privately owned Strand Beach every day, right on the toe of the landslide. Moreover, no areas of fire hazard are identified on the site, and any potential flood hazards can only be mitigated by either the existing revetment system or proposed improvements.

In subsection (2) of Section 30253, the statute requires that stability and structural integrity be assured without creating or contributing significantly to erosion. The proposed improvement to the Strand portion of the project, together with the rehabilitation of the existing protective device, ensures the structural integrity and stability. Furthermore, as documented in the EIR, not only will such a device arrest deteriorating erosion with or without the project, removing the device will significantly accelerate erosion (see the Noble & Associates, Coastal Processes report, and Dr. Scott Jenkins peer review letter in Technical Appendix J).

The Coastal Act prohibits the construction of protective devices only when it can be shown that the construction of such a device substantially alters landforms in specific locations. First, one must question whether the rehabilitation of the existing device is construction or repair. Clearly, in the 1984 reconstruction application, the CCC staff did not choose to treat the rehabilitation as a prohibited matter. Second, even if the reconstruction is considered "new," it does not substantially alter natural landforms because such extensive alteration of the Strand area has previously occurred that it could not be considered a natural landform. Moreover, when completed, the site will still consist of a series of terraces, stepping up from the beach, which is the current condition. Therefore, the repair of this revetment can be found in conformity with the Coastal Act.

48A-8 Please see Response to Comment 48A-7. There is nothing "unsafe" about the Strand development. Neither the EIR nor the CCC staff letter provides any evidence to the contrary.

48A-9 Please see Responses to Comments 48A-4, 48A-5, and 48A-6, above. The EIR does conclude that CCC approval of a Local Coastal Program Amendment must occur. The commentor is referred to page 4 of the EIR for the discussion of this process:

> Upon City Council approval of the GPA and LCP Amendment, the project will conform to the LCP/LUP. Coastal Commission action will be required to complete the process.

48A-10 Please see Responses to Comments 48A-4 and 48A-7, above. Also, please note that *all*, not *some*, of the infrastructure for the former mobile home park remains on site, as do all of the buildings that were constructed with foundations. As detailed in the EIR, "mitigation" is not being required in contravention of Coastal Act policies. The justification for the revetment improvement is not due solely to presence of existing or future development. The revetment currently protects the existing infrastructure and related improvements on site, as well as the adjoining County of Orange beach, coastal access stairway, emergency ramp, terraces and existing, adjacent residential development. The revetment improvement is further justified because it does not substantially alter natural landforms. A review of Figure 4.3.1 shows the appearance of the rebuilt revetment compared to the existing structure.

48A-11 Please see Responses to Comments 48A-4, 48A-7, and 48A-10, above. The commentor incorrectly states that the existing revetment will be removed and replaced. Much of the revetment stone is satisfactory, but it needs to be placed into an updated, engineered structure. Existing undersized stone will be placed into voids as reconstruction takes place. The intent is to utilize the existing revetment stone. As noted in Response to Comment 48A-7, the Coastal Act does not state that new development may not "depend" on the use of protective structures.

48A-12 Please see Responses to Comments 48A-4, 48A-7, 48A-10, and 48A-11, above. Additionally, without CCC approval for development in this area, none of the proposed public access and recreational benefits shall be provided which include the public dedication of the 5.2 acre, privately owned Strand beach, and the existing revetment and adjacent dilapidated mobile home site—with its attendant erosion and public hazard implications—will remain.

48A-13 The fuel protection plan in the EIR (see Figure 4.11.3, not 4.14.1 as stated in the CCC letter) is part of a comprehensive Public Services Section, which includes police and fire protection, along with the full range of emergency services in order to demonstrate that the project will be maintained in compliance with requirements of the Orange County Fire Authority (OCTF) and applicable building codes. The CCC staff letter maintains that "apparently, the development has not been sited to avoid fire hazards because the development requires mitigation in the form of irrigation and vegetation removal." The purpose of the OCFA's standard is a requirement for any development. OCFA has not designated any part of the subject property as a high fire hazard area.

The fuel modification plan was developed through an "alternate means and methods" process in conjunction with OCFA, the project's biologist, and SWA Landscape Architects.

It is unique to the project site and specifically responds to existing conditions. The program is part of the comprehensive open space management program identified in Section 4.14 of the HDCP. It is also closely associated with the native revegetation program. Fuel modification typically occurs in areas that either are already disturbed or will be disturbed as part of the grading for the proposed project. The program accounted for impacts to various vegetative communities, and the fuel modification zones fall within the impacted areas, or developed envelope, for the project.

Plant species for the fuel modification/revegetation program were selected primarily for their habitat value, drought tolerance, and native species characteristics. The plants utilized for the fuel modification areas will be native plant species. Please refer to the Headlands Revegetation Palette in the Technical Appendices and the HDCP. For instance, many existing areas of the site, especially the upper slopes at the south end of the Strand, are extensively covered with acres of ice plant, a non-native, invasive species. These areas are proposed for revegetation with native species. Irrigation is proposed for the establishment of the plantings, and in selected locations, to ensure that some moisture is retained in plants during periods of little rain. Please refer to the detailed irrigation guidelines in the HDCP, which stipulate low flow devices, minimization of irrigation water usage, the use of moisture sensors, and other measures.

The CCC staff letter states that removal of certain flammable arid vegetation may contribute to potential landslides. The EIR notes that the Strand area had an ancient age of failure (11,000 to 30,000 years ago) but that "no recent evidence of slide activities has been observed" (see p. 4.5.20). While the EIR notes that seismic activity and liquefaction are factors that may contribute to landslide activity—as is true in most areas in California—these particular geologic conditions are not related to fuel modification or revegetation with less flammable native species. Seismic conditions are addressed by the inclusion of other mitigation measures as proposed in the Geology and Soils Section of the EIR.

The inclusion of irrigation and sub-drains in various sections of the project is cited as possibly having a destabilizing effect. This is not the case; rather, the opposite is true. The areas proposed for revegetation with native species include irrigation to ensure the establishment of the species, and in select locations, to ensure that some moisture is retained in plants during periods of little rain. Please refer to the detailed irrigation guidelines in the HDCP, Section 4.16, which stipulate low-flow devices, minimization of irrigation water usage, moisture sensors, and other measures. These factors plus the subdrains referenced by the commentor will prevent potentially uncontrolled groundwater levels. The existing infrastructure on the site includes streets, pads, retaining walls, septic, water, and storm drainage facilities that currently contribute to erosion potentially destabilizing the site. As noted in the EIR, the improvement of these facilities remedies the current condition and does not create a significant environmental impact.

48A-14 The currently approved LCP for the City, and the corresponding land use designation authorizes new residential development for this site at a density of 6.5 to 12.5 dwelling units/ac and 6.5 to 18 dwelling units/ac. Additionally, the LCP/LUP certified by the CCC authorizes this residential use in combination with visitor/recreational and recreation open space. The proposed project significantly reduces this currently authorized residential

density to 0 to 2.5 dwelling units/ac. and 0 to 3.5 dwelling units/ac., while providing visitor and recreational amenities in excess of those contemplated in the LCP. Moreover, the total amount of residential development authorized under the certified LCP includes up to 487 homes (please note that this encompasses only approximately 75 percent of the site), with approximately 29 residential dwelling units certified as an allowable use in the Strand area. The proposed project limits the total amount of residential development to 125 dwelling units for the entire 121.3 acre project.

While the CCC staff comments note that residential uses are a "lower priority use," they should also note that residential use at this site was expressly contemplated in the LCP previously approved by the Commission. The very sections of the Coastal Act cited in the current CCC staff letter were considered at great length as part of the original LCP approval process. In that process, residential use at this site was considered an appropriate use in context of the entire LCP, and was encouraged in combination with other recreational uses. The Commission comments regarding anticipated and future demand for these uses were also part of the LCP and zoning approval process and do not need to be revisited for CEQA or LCP amendment purposes. In addition, the surrounding developments adjacent to this portion of the proposed project consist exclusively of residential uses, and the site has historically accommodated residential uses in this area as the former residential mobile home community. Therefore, the residential component of this project is both justifiable and permissible under relevant Coastal Act policies.

It is precisely because of the City and the applicant's awareness and desire to maximize public benefits in the project that they are proposing to dramatically reduce the allowable density. The project reduces the residential component while maintaining and even increasing the public amenities in the Plan. The CCC staff letter also suggests that the entire Strand area would be better used as a mitigation site for other developers. This suggestion raises constitutional issues. There is no basis to suggest that the permissible uses in the approved LCP should be displaced to mitigate impacts for unknown third parties.

Attachment 48A1

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

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RECEIVED
JAN 29 1996
EMA/ZA

January 29, 1996

Gary Hedeiros
County of Orange
Environmental Management Agency
300 N. Flower Street
P.O. Box 4048
Santa Ana, CA 92702-4048

Re: Central and Coastal Subregion Natural Community Conservation Plan/Habitat Conservation Plan Joint Programmatic Environmental Impact Report No. 553 and Environmental Impact Statement

Dear Mr. Hedeiros:

Thank you for supplying the South Coast office of the California Coastal Commission with the Natural Community Conservation Plan(NCCP)/Habitat Conservation Plan (HCP), hereinafter referred to as the NCCP/HCP, for the County of Orange. It is our intent to supply you with our concerns regarding the NCCP/HCP proposal in the context of our jurisdictional authority, the California Coastal Act. Because our jurisdiction does not extend beyond the coastal zone boundary, our comments will pertain primarily to the project's impact on natural resources in the coastal zone.

The NCCP/HCP has as its stated goal the protection of coastal sage scrub habitat and "the long-term biological protection and management of multiple species and associated habitats at a subregional level." The three main target species of the reserve are the California gnatcatcher, the cactus wren and the orange-throated whiptail, however, the reserve would also provide coverage for some 39 other species and numerous habitats.

The NCCP/HCP has evolved as an alternative to the single-species concept of protection afforded by the federal Endangered Species Act. The impetus for the NCCP/HCP is the potentially contentious and divisive legal battles over the listing of the California Gnatcatcher as an endangered species and reflects the current thinking in conservation biology of conserving large connected segments of habitat. The NCCP/HCP approves the incidental take of coastal sage scrub and California gnatcatcher in reserve areas for participating members

The NCCP/HCP promulgates a plan for establishing a 39,000 acre coastal sage scrub habitat reserve in central and coastal Orange County, 18,105 acres of which are in the coastal segment. The coastal reserve area consists of 18,105 acres in and around the San Joaquin Hills from Aliso and Trabuco Creeks in

south Orange County to the Upper Newport Bay Reserve and Regional Park. The reserve would extend inland to the I-405 freeway. Of these 18,105 acres, 15,500 are public lands and 2,605 are private lands.

The key elements of the NCCP/HCP include: a publicly owned reserve system, special linkages connecting blocks of coastal sage scrub habitat, existing use areas operating under existing regulations, an adaptive management program for monitoring and maintenance, an interim management plan for land to be included in the reserve at a future date, funding for the adaptive management program, and a mitigation fee option for landowning non-participants.

The NCCP/HCP adaptive management plan basically implements the goals of the plan. This adaptive management plan consists of: monitoring of biological resources; restoration, enhancement and elimination of exotic and invasive species; native species enhancement, propogation and re-introduction; fire management; public access and recreation; maintenance of existing uses; interim management of reserve lands prior to dedication, and mitigation by non-participating landowners.

The structure of the NCCP/HCP would be as follows. The reserve lands are managed by the public agencies which own the land. Management of the reserve system is coordinated by a non-profit corporation with a reserve manager and a Board of Directors composed of representatives from participating private or non-profit entities and landowning public agencies, the California Department of Fish and Game, and the United States Fish and Wildlife Service.

In addition, the non-profit reserve would have an operating fund of approximately 10 million dollars which would be used to oversee and implement the adaptive management plan.

Coastal Act Policies

The two major areas of concern to us are public access and recreation and environmentally sensitive habitat areas (ESHAs).

Section 30240 of the Coastal Act contains the policies regarding ESHAs. It states:

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

Environmentally Sensitive Habitat

Section 30240 basically states that environmentally sensitive habitat shall be protected and only uses dependent upon these resources shall be allowed. Generally speaking, therefore, the NCCP/HCP fulfills these two criteria in that large sections of land are set aside as reserves for endangered species and their associated habitats and the creation of the reserve is an allowable use.

The NCCP process attempts to balance habitat protection with development. However, in some cases the HCCP process may be more liberal than the Coastal Act because it would allow development in some areas that qualify as ESHA in exchange for the protection and enhancement of other ESHA areas; this is an issue which must be carefully analyzed. The large blocks of proposed NCCP reserve are connected by linkage or wildlife corridor areas, most of which are located outside the coastal zone. Linkage areas in the coastal zone are included in agreements for open space/conservation easements. Several critical corridors provided for under the plan are the linkage of the San Joaquin Marsh and the Upper Newport Bay preserve with the major open space areas of the Irvine Coast and Laguna Wilderness, and the linkage of the open space areas of Aliso and Wood Canyons with the major wilderness and park areas of Laguna. Thus the NCCP/HCP Reserve does link up the major open space components of lands within the coastal zone. In addition, the plan provides for several wildlife crossings of the San Joaquin Hills Transportation Corridor linking up inland and coastal areas of the coastal segment.

The NCCP/HCP non-profit management organization would act as an umbrella for the private and public participants. The various participants would agree to cooperate in implementing the various policies, goals and implementing actions of the reserve plan. However, the actual ownership and maintenance of these reserve lands remains with the participant that owns them or the agency which accepts any dedicated lands.

The Central reserve portion is far inland of the Coastal Zone and there are no connectors between the coastal and inland reserves. Because there are no connections between the coastal and inland segments, the Coastal segment, albeit 18,000 acres, is isolated. This fact highlights the necessity for protection of the existing resources and the need for expansion of coastal sage scrub in the coastal segment. The fragility of coastal resources is complicated by the increasing demands placed upon it for recreation and the fact that increases in population in the coastal area will add to the existing problems. For instance, what impact will the NCCP/HCP have on areas in the coastal zone, such as Upper Newport Bay, which are currently undergoing system stress and degradation? Will the fact that the Reserve is proposed as mitigation for incidental take of the California gnatcatcher and coastal sage scrub provide a mandate for local agencies to actively enforce existing park regulations concerning unauthorized access and unauthorized use by domestic animals? If a local agency does not currently have the staff levels or funding levels to actively enforce park regulations, will inclusion into the Reserve System change this or will inclusion in the NCCP/HCP reserve system mean that the status quo will be maintained?

The implementation of the NCCP/HCP, while coordinated by a Board of Directors, is essentially left up to the public, private or non-profit agencies which own the land making up the reserve. An area of concern is the fact that the Board of Directors of the NCCP Reserve is composed predominantly of members of the principal landowners and managers and the Board of Directors "will not have enforcement powers or authority over local jurisdictions or over the individual reserve owners/managers." Although the California Department of Fish and Game and the United States Fish and Wildlife Service have to approve certain of the management plans required by the NCCP/HCP, these agencies do not have discretionary authority under the NCCP/HCP, short of judicial recourse or reassertion of the Endangered Species Act provisions. In most instances where reserves are established, oversight of the reserve is conducted by independent persons, usually experts in the field. The degree to

which the plan is implemented is directly tied to the funding, staffing and enforcement capabilities of the local jurisdictions, as is discussed in the previous paragraph.

The Dana Point Headlands is also an area of concern. However, this parcel is currently isolated from other portions of the reserve and is scheduled for development under the NCCP scenario, thereby potentially minimizing its value as habitat reserve. The Chandis/Sherman Company which owns the headlands is a participant in the NCCP/HCP process. As such, incidental take of the California gnatcatcher on this site is allowed. However, the plan does contain provisions for protection of the Pacific pocket mouse. There have been proposals at the local level to develop the Headlands site. Participation of the Chandis/Sherman Company in the NCCP/HCP affirms their commitment to develop the property. Additionally, preservation of the site for resource protection is not practical in terms of the site's isolation from other large segments of functioning native habitat. A specific plan proposal has not yet been submitted for Coastal Commission deliberation and any future submittal should include the provisions of the Implementing Agreement.

The provisions of the implementing agreement for the NCCP/HCP does provide for an eight year, 22-acre temporary Pacific pocket mouse preserve on the Headlands site. Our concern is for the loss of environmentally sensitive habitat loss in the coastal zone. Our concern regarding the mouse and the Blochman's dudleya is that when these resources get relocated, that they be relocated to a location within the coastal zone. In the past, public resource agencies have not been willing to accept sensitive resources which are mitigation for private development projects. The loss of environmentally sensitive habitat and the disposition of the Pacific pocket mouse and the Blochman's dudleya are issues which should be addressed in the submittal of any plan to the Coastal Comission.

In conclusion, the NCCP/HCP reserve plan is comprehensive and includes the necessary implementing components, but appears to be weak in the area of oversight and assurances of implementation.

Access and Recreation

Section 30210 of the Coastal Act contains the policies regarding access and recreation. It states:

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

Coastal Act section 30210 provides for maximum access consistent with, among other factors, the need to protect natural resource areas from overuse. The reserve areas in the coastal zone include many parks, Crystal Cove State Park, Upper Newport Bay Regional Park, Aliso/Woods Canyon, Salt Creek, James Dilly Greenbelt, and Laguna Laurel, which have existing recreational elements in place or will be open for passive recreation. Allowable passive recreational uses include hiking, equestrian and bicycling trails, picnicking, nature interpretation, parking, overnight camping, concessions and other forms of recreation consistent with a formal resource management plan required of each jurisdiction and landowner under the NCCP/HCP Adaptive Management Plan. The

NCCP/HCP also includes categories of recreation which are not permitted, including: active sports facilities, golf courses, sports facilities, motorized recreation vehicle activities and hunting. The NCCP/HCP recognizes that public recreation and habitat protection must be balanced in that the plan mandates formulation of resource management plans and provisions for monitoring and correcting any conflicts between access and habitat protection.

Local Coastal Programs

It would be beneficial, from the point of view of the Coastal Commission, for the NCCP/HCP to include a map indicating the coastal zone boundary.

Much of the Adaptive Management Plan of the NCCP/HCP involves programs such as fire management, recreation management, grazing management and resource management will take place in the Coastal Zone. Local jurisdictions in the Coastal Zone include areas where the Coastal Commission issues development permit and areas where there are certified Local Coastal Programs and the Coastal Commission has review of development only upon appeal. In appeal areas and permit jurisdiction areas any activity, which is considered development as defined in the Coastal Act, proposed for a specific site under these adaptive management plans may require either a coastal development permit or a Local Coastal Program amendment.

Areas of particular concern where permits may be required are the Upper Newport Bay, the San Joaquin Marsh, Dana Point Headlands, and Crystal Cove State Park. Areas where amendments to LCPs may be required are the Irvine Coast, City of Laguna Beach, Aliso Viejo, and Aliso Woods. Any plans required by the NCCP/HCP to implement the provisions of the Adaptive Management Program may have to be submitted as amendments to the certified LCPs. In addition, there may be some portions of the proposed reserve where the underlying zoning or land use designations may currently allow uses which are not compatible with the NCCP/HCP. These underlying zoning or land use designations would have to be amended to eliminate any incompatible uses.

Conclusion

The formulation of the NCCP/HCP represents an innovative approach to the preservation, enhancement and restoration of coastal sage scrub habitat and the endangered and sensitive native species which are dependent upon it. The elements of the NCCP/HCP, particularly the Adaptive Management Plan and the Implementing Agreement, contain the elements necessary to implement the goals of the program.

We appreciate the opportunity to comment upon the plan and look forward to participating in the implementation of the plan in the future.

Sincerely yours,

Chuck Damm

Chuck Damm
South Coast District Director

6204F

48B. RESPONSES TO COMMENTS FROM J.C. ALLEN, STAFF ECOLOGIST/BIOLOGIST

48B-1 Please see Response to Comment 48A-5, above. The commentor begins the memo by concluding that impacts to ESHA will occur prior to determining if, how, where, and in what capacity such impacts exist. Presence of a species does not necessarily imply that the occupied habitat patch is a regionally important landscape linkage. Regional linkages were assessed during the NCCP/HCP process and, in particular, in the certified EIR/EIS and Implementation Agreement that accompanied the NCCP/HCP. A number of personal opinions are expressed that do not address specific environmental impacts, but rather comment on the general NCCP process. However, the commentor does specifically note, in regard to NCCP/HCPs, that "they can be used to allow significant impacts to ESHA in the Coastal Zone."

48B-2 As used in the commentor's memorandum, the definition of an ESHA is not sufficiently precise to be consistently applied at a project specific scale. The NCCP program developed an extensive assessment that prioritized habitat areas at a local and regional scale for habitats and species evaluated. The project site was not included in the NCCP reserve system due to its small size, isolated location, degraded habitats, and existing ongoing edge conditions. The proposed project site's role in the ecosystem is specifically discussed in the EIR.

48B-3 The NCCP program identified the areas with the best quality CSS habitat at a landscape scale in order to design a functional preserve network that will be sustainable within the practical constraints of habitat management activities necessary to retain crucial ecosystem functions and species viability. The basic conclusions of Bolger et al. 1997 and the preponderance of other conservation literature is that small, isolated habitat fragments do not fare well over time due to their small size, isolation and commonly occurring edge effects in the absence of intensive habitat management activities. Large (thousands of acres in size) habitat reserves are a superior investment, since the required habitat management is scaled over a larger area and a significant economy of scale is achieved. At the scale of the project site (121.3 acres), the largest and most intact CSS habitat supporting Pacific Pocket Mouse and California Gnatcatcher is conserved in the Conservation Park (24.2 acres). Existing edge effects associated with the existing residential enclaves are unavoidable conditions that will be minimized by the substantial habitat management program funded by an endowment.

48B-4 The differences in dispersal capability between small mammals and songbird are well documented. However, the fact that species have access to a site is just one factor in determining the regional value of the site. The presence of California gnatcatcher at the Headlands site indicates that a regular influx of dispersing individuals is able to reach the site. How they fare on the site is not known, since intensive monitoring of their breeding success has not been documented at the project site. It is very possible that the site is

sufficiently suitable for occupation by gnatcatchers; their reproductive output is less than that required to match the annual mortality of breeding adults. The population would then be maintained by external immigration, and outward emigration could be minimal. This situation is called a "habitat sink" whereby the sink habitat is an "attractive nuisance" diverting successfully dispersing individuals away from suitable unoccupied habitat within the larger preserve areas. Conservation biologists generally consider small habitat fragments, such as the Headlands site, more likely to be habitat sinks than much larger habitat patches that are demonstrably connected at the landscape scale.

From a landscape perspective, the Headlands site is not along the most likely route gnatcatchers would take between the large areas of occupied habitat north and east of the Headlands site. The attached figure shows that the shortest route is less than four miles through a landscape matrix dominated by developed land uses. The route through the Headlands is longer with lesser amounts of natural habitats along the route. The primary regional habitat linkage between the coastal and inland preserve areas is located further north in the central portion of the NCCP preserve, several miles north of the Headlands site. Dr. Allen presumes that the Headlands site can export a substantial number of dispersing individuals to contribute to the function of the metapopulation. This presumption has not been verified, but it still would not necessarily imply that the Headlands site is a critical linkage needed to maintain wildlife movement between large preserve areas.

48B-5 The results for the PVA are consistent with the best available information about the population ecology of PPM. As stated in the PVA document, additional data regarding survival and reproduction rates of PPM populations would allow for a refinement of the model's input parameters. Whether more accurate data will result in an increased estimate of population survival rate is speculative. The current population growth rate does appear to be negative given that fewer PPM individuals have been detected during the most recent surveys with a substantially greater trapping effort than the original population survey in the early 1990s.

48B-6 The detailed assessment conducted by the NCCP program did evaluate the species' ecological requirements during the preserve design process. It was concluded that the overall benefits accrued by the NCCP preserve configuration, size, and long-term management mitigated the habitat loss to development allowed outside the preserve. To claim that the Headlands site's habitat values can be sustained without an intensive habitat management program is counter to the many studies demonstrating adverse effects of habitat fragmentation and edge conditions; hence the movement toward establishing large-scale preserves rather than postage stamp reserves.

48B-7 The proposed Conservation Park is a permanent solution that does not require the FWS to purchase the temporary preserve after the eight year period and includes an endowment for long-term habitat management. The existing PPM population and sufficient habitat for three to five gnatcatcher territories will be conserved and managed. The NCCP preserve includes over 740 acres of potential PPM habitat that can be used to start new PPM populations through a translocation program once the known PPM populations are enhanced and stabilized. The NCCP program includes funding for PPM ecological research necessary for the recovery of the species. The NCCP preserve is a major regional

contribution toward conserving a network of managed lands in Southern California that will support a viable gnatcatcher metapopulation. The Headlands site is not critical to the long-term viability of the gnatcatcher metapopulation due to the site's small size and relative isolation. The Headlands site is over 5.5 km away from a relatively large patch of conserved CSS habitat (see Attachment 48B1, Regional Vegetation). Based on dispersal-distance curves published by Bailey and Mock (1998) and Akcakaya and Atwood (1997), between five and ten percent of a sample of successfully dispersing gnatcatchers will make it beyond 5 km from their natal territory. The actual dispersal rate is likely to be lower for landscape matrices that include only a small amount of suitable habitat, as is the case for the area surrounding the Headlands site (see attached figure). Large expanses of developed lands are considered barriers to sustainable wildlife movement.

10 KILOMETER
9 KILOMETER
8 KILOMETER
7 KILOMETER
6 KILOMETER
5 KILOMETER
4 KILOMETER
3 KILOMETER
2 KILOMETER
1 KILOMETER

LEGEND:

- Parsimonious Landscape Route
- 1-Kilometer Distance Contours
- NCCP Reserve & Special Linkage Areas
- Agriculture
- Cactus Scrub
- Chaparral
- Cliff/Rock Outcrop
- Coastal Bluff Scrub
- Coastal Sage Scrub
- Developed
- Disturbed
- Freshwater Marsh
- Grassland
- Marine Subtidal/Intertid
- Martime Succulent
- Oak Woodland
- Open Freshwater
- Riparian Scrub
- Riparian Woodland
- Saltmarsh
- Seasonal Wetland
- Unvegetated Channel

SOURCES: Jones & Stokes (vegetation), LSA Associates, Inc. (NCCP Information).

REGIONAL VEGETATION

URS

2000 0 2000 4000 Feet

SCALE: 1" = 4,000' (1:48,000)

CHECKED BY:	DATE: 11-28-01	FIG. NO: 1
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Attachment 48B1

48C. RESPONSES TO COMMENTS FROM JANICE SHACKERHOFF, WATER QUALITY UNIT

48C-1 The applicant has acknowledged the environmental sensitivity of the project location and has incorporated features into the project design not only to minimize potential impacts to water quality, but also to improve the water quality of an adjoining urbanized off-site area of approximately 30 acres. Rather than providing mitigation measures to treat water quality problems as they occur, the project is designed to prevent those problems by providing features and educational programs that prevent the pollution at its source. Regardless of the extent of education and prevention measures (non-structural BMPs), it is assumed that runoff from the site will still require treatment and, therefore, structural BMPs are proposed. The siting of the project is based on site topography and geology. The project is designed to reduce runoff flows to the maximum extent possible (DEIR Section 4.7, Table 4.7.C) and shows a reduction in peak flows to the harbor and some areas of the ocean from the existing condition. Water quality modeling shows a substantial decrease in runoff constituents from the existing to the developed condition for the majority of the constituents expected in runoff from the site and the developed off-site areas with proposed structural BMPs in place. Nitrate-N and dissolved phosphorus runoff are targeted in source control BMPs (PDFs 8-2, 8-4, 8-5, and 8-7 and PCs 8-8 and 8-10). The commentor is correct that maintenance and monitoring are extremely important, and these issues are addressed in the HDCP and in PDFs 8-10 and 8-13. Maintenance schedules for the sand filter and the catch basin filters will be provided in the WQMP as required by the Regional Water Quality Control Board (RWQCB) and approved by the City. The specific constituents to be monitored will be outlined in the WQMP and approved by the City.

48C-2 Mitigation measures, as defined by CEQA, are not necessary to reduce impacts to water quality because there are no significant water quality impacts with the implementation of the PDFs and PCs. The applicant does not wish to treat water quality problems after the fact. The project is designed to reduce impacts to the coastal water quality utilizing features incorporated into the project design and standard conditions with the primary emphasis on source control. The project will minimize adverse effects of wastewater discharges and entrainment, controlling runoff.

48C-3 Refer to Response to Comment 48C-2. The types of commercial development are stated in the Project Description (DEIR Section 3.0), as well as in the HDCP.

48C-4 Project Design Features that minimize impervious surfaces are as follows:

- Cluster Development - Residential or commercial development has been limited to less than one-half of the 121.3 acre project site, while areas devoted to open space or recreational uses are provided on the remainder of the site. In addition, the single family residential development proposed within the majority of the developed areas

will contain a large percentage of pervious area in the form of front and year yards, and common landscaped areas.

- Minimize Road Width - The majority of the streets proposed for the project site will be private, and as such will have a reduced street width when compared to similar local public streets. Figure 4.13.6B of the DEIR, Circulation Plan Street Sections, illustrates the reduced street proposed for a majority of the street sections within the project site.
- Reduce Land Coverage of Buildings by Building Taller and Narrower Footprints - No specific building footprints are proposed as part of the HDCP. However, taller buildings with narrower footprints are not appropriate at this site. Residential building heights are proposed to be limited to one and two stories in order to minimize impacts on public views. Taller buildings would conflict with this goal.
- Maintain Parking Strips with Vegetation, Trees, and Non-Compacted Soil – The project has been designed to include the least amount of impervious surface area as practicable. The commercial parking areas will have an underground or covered component.
- Consider Whether Paved Sidewalks, Curbs, and Gutters are Necessary on Both Sides of the Street or at All - Curbs and gutters are required to minimize erosion on the site. All but one of the residential streets in the project are single loaded, with parking and sidewalks limited to only one side of the street to further limit impervious surfaces. Most of the trails on site will be surfaced with decomposed granite where feasible.
- Encourage the Use of Shared Parking Areas - Shared parking is not appropriate for residential uses of the project. Shared parking may not be practical for the commercial uses, but could be considered at the time specific development is proposed for those planning areas.
- Use Parking Structures to Concentrate Parking – At least one level of underground parking is anticipated to be part of the ultimate design for the Seaside Inn Visitor/Recreation Commercial use.
- Promote Beach Shuttles During Weekends, Using Business Parking Away From the Beach - A shuttle for guests at the inn is a good idea. The applicant is open to consideration of this concept.
- Provide Bicycle Lanes and Convenient Bike Storage - New bike trails, with connections to off-site bike trails, and bike storage racks are planned as part of the project.
- Encourage Transit Use; Provide Bus Stops - Two bus stops on PCH are located within two blocks of the project site.

As described above, the project contains many design features that reduce the amount of impervious surfaces, and therefore runoff, from the project site. Further discussion of this issue is not necessary in the DEIR.

48C-5 The project has been designed to respect significant natural features while at the same time remediating existing geologic hazards and respecting significant landforms. These design features are touched on below and described more fully in the appropriate sections of the HDCP and the DEIR.

As stated above, over 50 percent of the site is designated for parks and public open space, maximizing coastal access. The project proposes to preserve the most biologically significant vegetation and open space on the site at the Headlands Conservation Park, the coastal bluffs, and portions of Hilltop Park, Harbor Point Park, and other locations on site.

Figure 3.4, Land Use Planning Areas (DEIR), shows that development of the site has been clustered to preserve significant habitat areas (the Headlands Conservation Park and the Headlands coastal bluffs) and to protect significant landforms (the Hilltop Park, the Headlands Promontory, and Harbor Point Park). Residential development is proposed in the Strand Residential area where a previous mobile home park was located. Residential development is also proposed in an area that was previously utilized for greenhouses, storage, parking, and commercial horticulture. Visitor Recreation Center (VRC) uses are sited to maximize visitor convenience and to provide quality experiences.

Land disturbance is limited to those areas proposed for improvements necessary to implement the project. Incorporation of erosion control measures will minimize erosion and sediment loss. A Stormwater Pollution Prevention Plan (SWPPP) will be prepared and followed during construction. The project will comply with PC 8-7, which requires erosion control measures during and after construction. Typical construction BMPs are listed in Table 4.8.C (p. 4.8-17) of the DEIR. Implementation of the project will correct existing erosion that is occurring above Dana Point Harbor and Strand Beach.

The project proposes remediation of existing potential unstable areas in the Strand Residential area, where substantial erosion currently occurs due to the present disturbed condition of the site. Implementation of the project would stabilize the area and reduce erosion of the area. Refer to DEIR Section 4.8, Water Quality, for a discussion of erosion control measures proposed as part of the project. The project includes several features to minimize post-construction erosion on site such as public education (PDF 8-2), water efficient landscaping (PDF 8-4), automatic rain gauges and irrigation controllers (PDF 8-12), storm drain improvements (PDF 7-2), and energy dissipaters (PDF 7-4).

Natural root structures and soils are being retained where they do not conflict with other improvements proposed as part of the plan. In large portions of the site, invasive non-native vegetation will be removed and replaced with appropriate drought tolerant and native species. New landscaping proposed as part of the project will ultimately act as soil anchors once established.

48C-6 In the existing condition, erosion on the slopes and terraces above Strand Beach is considerable due to an inadequate and damaged storm drain system resulting in part from uncontrolled off-site storm flows that enter the property. Not developing the site will result in a continuation of the existing erosion problems both at Strand Beach and above the harbor. As part of the project, these areas will be contoured and designed to current engineering standards to minimize the potential for erosion, taking into account soil types, topography, drainage flow, and other considerations. The project will utilize modern

stormwater conveyance systems that reduce velocities, reduce siltation, and minimize water quality impacts.

48C-7 Table 3.4.3, page 3-21, of the HDCP identifies all of the allowable commercial uses for the two proposed commercial sites. Automotive repair shops, gasoline filling stations, and similar uses are not allowed uses per the zoning for these sites. Restaurants, hotels, retail shops, inns, and professional offices (second floor only) are the anticipated uses. Extensive analysis has been conducted both for the on-site proposed uses and the existing water quality conditions in the approximately 30 acres off site in which the Headlands shares its watersheds. By minimizing water quality issues not only on site but also for the developed 30 acres off site, the potential for cumulative impacts will also be reduced.

48C-8 BMPs were selected for the site based on the municipal permit standard of "maximum extent practicable" for the expected pollutants from a primarily residential development with some commercial uses. Sand filters were a recommendation from the RWQCB due to studies that indicated high constituent removal rates, including bacteria. The site's geology and hydrology limit the types of structural BMPs that can be used. More recent research (1997, 2001, citations in Technical Appendix K) than that provided in the California BMP Handbooks showed that sand filters are quite effective at removing metals, suspended solids, total phosphorus, and bacteria among others. Oil and grease are expected to be more of an issue in the parking lots and will be captured by the catch basin filters prior to sand filter treatment. Viruses that adhere to suspended solids will be captured by the sand filters. Toxic materials of concern in runoff at the site are pesticides, and proper use and disposal are addressed in the public awareness program. Sand filters do have a potential to clog (like every filtration BMP), and regular maintenance as specified in the EIR and HDCP is essential. Maintenance will not involve backflushing of the sand filter (which releases a "slug" of pollutants). Pretreatment in the sedimentation chamber upstream of the sand filter allows sediment to settle out and not clog the filter bed. On their NPDES website, the EPA states that underground sand filters "are well suited to highly urbanized areas." Sand filters also have the added benefit of detaining the first flush flows for an extended period, gradually releasing the treated stormwater over a period of up to 40 hours. This has the effect of minimizing the effect of the storm flow into the receiving water. Infiltration BMPs (lined vegetated swales) are not practical due to the steep topography and the limited infiltration capability of the on-site soils in the areas away from the beach. Continuous deflection separators are effective in removing litter and gross solids but not dissolved pollutants, are prone to clogging, and tend to allow pollutants to be resuspended during major storms.

48C-9 The City of Dana Point utilizes regenerative air vacuum street sweepers on City streets. These will be used at the project site as well. PDF 8-1 (p. 4.8-11) refers to street vacuuming.

48C-10 Grease traps or grease interceptors are required to be installed laterally in the sewer system at restaurants (refer to Table 4.8.E, Project Design Post-Construction Structural or Non-Structural BMPs, p. 4.8-21 of EIR).

48C-11 The applicant will comply with the County of Orange Management Guidelines for Use of Fertilizers and Pesticides (PC 8-10, p. 4.8-14 of EIR). Table 4.8.E and PDF 8-2 (p. 4.8-11) of the EIR describe the public awareness program, which addresses proper use of irrigation, fertilizers, and pesticides. The comment regarding certified green landscapers is noted.

48C-12 It is not anticipated that residential car washing will be a significant source of pollutants, given the small number of homes and the expectation that most homeowners would utilize professional car wash facilities. The public awareness program (Public Education Table 4.8.E) will include discussions on use of non-toxic, biodegradable soaps and cleaners. There is no planned common area that is readily available for centralized car washing.

48C-13 Pool water from the development shall be dechlorinated prior to discharge to the storm drain system as required by the municipal NPDES permit and City ordinance (Municipal Code, Chapter 15.10, Stormwater and Urban Runoff Pollution Controls).

48C-14 The WQMP is required to identify long-term maintenance responsibilities (PC 8-6, p. 4.8-13 of EIR).

48C-15 Long-term maintenance of the structural BMPs is required by City standard conditions (PC 8-6) and the municipal NPDES permit. The structural BMPs may need to be repaired or replaced, but they will not need to be updated for the life of the development unless zoning and land use change.

48C-16 (PDF 7-3, 7-4) Unlike the existing storm drain outlets to Strand Beach, which are uncontrolled, as described on page 4.7-16, energy dissipators and reconstructed riprap revetment will be installed at the three storm drain outlets to Strand Beach. The Drainage Study for the Headlands has determined that the dissipaters will reduce water velocity sufficiently to prevent beach erosion. Also refer to Section 4.16, Coastal Processes (p.4.16-27 to 30).

48C-17 (PDF 7-5) As stated above, there are no retail gasoline outlets, automotive repair facilities, or other potentially hazardous uses planned as part of the project and they are not allowed per City zoning. Traditional retail commercial/professional office uses are proposed in the HDCP. Runoff from parking lots greater than 5,000 sq. ft. will be pretreated by catch basin filters to remove metals and hydrocarbons before it enters the settlement basin and then the sand filters (PDF 8-11, Section 4.8.5.1, and Table 4.8.D, Considered Structural Best Management Practices).

48C-18 (PDF 7-6) Refer to Response to Comment 48C-11. It is assumed that structural BMPs will require more frequent maintenance during the rainy season than during the dry season. BMPs will be inspected and cleaned as necessary at least once between May and October each year and as needed between October and April, including one inspection/cleaning prior to the first storm event of the year. These intervals are the same as those required in the municipal NPDES permit for the copermittees. Maintenance intervals will be stipulated in the WQMP and approved by the City.

48C-19 (PDF 7-7) Native and drought-tolerant vegetation is required for common areas and open space through the project site, as specified in the landscape guidelines of the HDCP Section 4.16. Private residences are not required to comply with these guidelines, but design guidelines will be developed during the tentative map and master coastal development permit for landscaping and irrigation.

48C-20 (PDF 8-1, 8-11) The water quality goals of the project are to comply with the Basin Plan objectives and the guidance values of the EPA and to address the 303(d) listing (refer to p. 4.8-7 and 4.8-8 of the EIR), as well as reduce pollutants of concern to the maximum extent practicable. Not only does the project meet the above objectives, overall it will reduce the amount of pollutants in runoff as compared to the existing condition. See the attached GPA portion of the HDCP, Goals and Policies for Water Quality.

48C-21 (PDF 8-2 and Table 4.8.E) The public awareness program includes handouts, brochures, and signage.

48C-22 Refer to Response to Comment 48C-20.

48C-23 The project is designed to preserve an extensive amount of existing native vegetation. Over 50 percent of the site is designated as open space in the proposed project. Disturbed areas are proposed for revegetation with native species. Refer to Response to Comment 48C-5.

48C-24 Refer to Response to Comment 48C-10.

48C-25 Refer to Response to Comment 21-3. Sampling and analysis will be conducted in accordance with South Orange County Wastewater Authority (SOCWA) requirements prior to any discharge of nuisance water to the sewer. The discharge will be required to meet SOCWA standards before any diversions are allowed.

48C-26 The sand filters and other structural BMPs will be sized to treat the water quality volume generated by a 24 hour 85th percentile storm event (refer to p. 4.8-22 of the EIR). If approved, the new draft municipal permit for South Orange County requires structural volume based BMPs to capture 0.8 inch in a 24 hour period (an approximate average for the Orange County area), which would be the design standard.

48C-27 Refer to Response to Comment 48C-20.

48C-28 Refer to Response to Comment 48C-7. The sand filters and other structural BMPs will treat runoff from the entire project site, as well as approximately 30 acres of off-site development. Catch basin filters are proposed for 5,000 sq. ft. parking lots to catch oil and grease, which tends to collect in these areas. Modeling results demonstrate that except for dissolved phosphorus and nitrogen, overall water quality is better after project implementation than the existing condition. Dissolved phosphorus and nitrogen will be addressed through non-structural BMPs (PDFs 8-2, 8-5, 8-6, and 8-12). The Water Quality Section of the DEIR evaluated impacts of all proposed development.

48C-29 Comment noted. Automatic rain gauges are proposed for all common areas of the development.

48C-30 Comment noted.

48C-31 Comment noted.

48C-32 An increase in impervious area generally increases runoff flows and pollutant concentrations. A 40 percent reduction in development does not necessarily equate to a 40 percent reduction in impervious area. Since Alternative 3 proposes the same types of development as the proposed project, it is expected to generate the same types of pollutants in runoff. Water quality modeling shows that the project design will reduce runoff constituent concentrations to below that of the existing condition for most constituents, while non-structural BMPs will address the remaining constituents. For this reason, the difference in runoff water quality from Alternative 3 and from the proposed project was not considered significant. Furthermore, Alternative 3 was determined to be infeasible and it would not meet most of the project objectives. If not for the project as proposed, the revenue necessary to filter and treat the 30 acres of off-site development would not be available, which could result in higher water quality impacts overall.

48C-33 The water quality improvement features are included as part of the implementation program of the HDCP (refer to HDCP Section 4.7, Conceptual Drainage Plan), which is an integral part of the proposed Local Coastal Program.

49. COMMENTS FROM CAPISTRANO UNIFIED SCHOOL DISTRICT

Capistrano Unified School District

Excellence in Education

32972 Calle Perfecto, San Juan Capistrano, California 92675 Telephone (949) 489-7000/FAX 248-8546

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November 15, 2001

Edward Knight, Community Development Director
33282 Golden Lantern
Dana Point, CA 92629

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DIVISION OF FACILITIES PLANNING

DAVID A. DOOMEY
Assistant Superintendent

CARY BROCKMAN
Director

BOB SENDZIK
Manager

SUBJECT: RESPONSE TO DRAFT EIR FOR THE HEADLANDS DEVELOPMENT AND CONSERVATION PLAN, CITY OF DANA POINT, CA

Dear Mr. Knight:

Thank you for the opportunity to respond to the Draft Environmental Impact Report (DEIR) for the proposed Headlands Development and Conservation Plan project in the City of Dana Point, California. The proposed development is within the jurisdictional boundaries of Capistrano Unified School District (CUSD), and the District is committed to providing educational facilities for all future students generated by new developments.

As indicated in the DEIR, the proposed development includes 125 residential housing units, and 150,750 square feet of commercial facilities (i.e., hotel and commercial use). Based upon current student generation data for the District, the residential units are projected to generate 62 students (i.e., 37 elementary school students, 13 middle school students, and 12 high school students). The proposed commercial facilities are projected to generate 32 students (i.e., 19 elementary school students, 5 middle school students, and 8 high school students). Therefore, the total number of students that may be generated by the Headlands project is 94 students (i.e., 56 elementary school students, 18 middle school students, and 20 high school students).

These additional students will impact the existing schools within this region, and CUSD will require full mitigation of this impact through an executed agreement providing for 100% of the costs associated with housing new students generated from this development. All CUSD schools have enrollments that exceed the original design capacities of the permanent building construction, and most schools now include relocatable classrooms to accommodate students beyond these original capacities. CUSD requests that the City not issue building permits for the development until such time that a mitigation agreement between the developer and the District can be resolved.

This letter supports my prior correspondence for previous proposals for this property, indicating a requirement for full mitigation to accommodate new students generated by the development. We appreciate the opportunity to review and comment on the DEIR. If you have any questions or concerns regarding this letter, please do not hesitate to contact me at (949) 489-7094.

Sincerely,

Cary D. Brockman

Cary D. Brockman
Director, Facilities Planning

DRUG USE IS LIFE ABUSE

50. COMMENTS FROM ENDANGERED HABITATS LEAGUE

ENDANGERED HABITATS LEAGUE
Dedicated to Ecosystem Protection and Improved Land Use Planning

Dan Silver • Coordinator
8424-A Santa Monica Blvd., #592
Los Angeles, CA 90069-4267
TEL 323-654-1456 • FAX 323-654-1931
dsilverla@earthlink.net

COMMUN ENT
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November 23, 2001

Edward Knight
Community Development Dept.
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

RE: DEIR for Headlands Development and Conservation Plan

Dear Mr. Knight:

The Endangered Habitats League wishes to forward comments from Dr. Phillip Brylski, who rediscovered the Pacific pocket mouse on the Headlands property in 1993. Please include these comments in the administrative record.

Sincerely,

Dan Silver, MD
Coordinator

Enclosure

Letter dated Nov. 21, 2001 from Phillip Brylski to Edward Knight

51. COMMENTS FROM PHILLIP BRYLSKI, PH.D.

November 21, 2001

Mr. Edward Knight
Community Development Dept.
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

RE: DEIR for Headlands Development and Conservation Plan

Dear Mr. Knight:

I am writing in response to the draft environmental impact report for the Headlands Development and Conservation Plan.

I note that the plan has made substantial progress in addressing the need for a preserve that would be created and maintained for the Pacific pocket mouse. My sole comment on the draft EIR is that chances for management of sustainable population management of the pocket mouse population will be increased importantly by maximizing suitable habitat and population numbers.

One way to assist in this area would be to manage or re-create habitat inland of Marguerite Road for pocket mice, either as part of the preserve or as "buffer" habitat between the preserve and proposed development. Based on my studies of the project site that date from 1993, there is potential high quality habitat inland of the existing Marguerite Road, specifically between the road and the perimeter fence around the existing development.

sincerely,

Phillip Brylski, Ph.D.
Washington DC

52. COMMENTS FROM RUBY L. NETZLY

To Edward Knight, Director, Community Development
Page 6 of Comments on DEIR

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CITY OF CARLSBAD
COMMUNITY DEVELOPMENT
DEPARTMENT
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roads etc. described and shown in Exhibit "E". Inadequate information has been provided for the public to make a judgment. This information appears to be missing from the DEIR.

4.34 & 4.91

DEIR FIGURES 4.1B, $.34 & $.19, and Section 4.5 Geology and Soils and page 4.9-63 (2nd area)

Page 4.9-63 refers to "coastal bluff top" in addressing the southern portion of the Strands Beach area. The DEIR Figures show the planned lots for new homes as extending into this area. Address and show proof that the purchasers of these residential lots can be assured and guaranteed the geologic stability of such lot sites.

DEIR Table 3.A & Figure 3.3 & 4, etc - Open Space

DEIR, Table 3.A as well as other sections of the Report shows 30.3 plus 30.7 acres of Open Space for a total of 62 acres. The DEIR needs to break that down in an exhibit and illustration showing the amount of usable Open Space available to the public as well as that acreage inside the residential areas inaccessible to public use, space used for parking lots, the 2000 square foot building shells and most importantly the bluff face acreage and the open space which the City has legal Easements, Right-Of Ways, and or irrevocable offers to dedicate as referred to on Page 13, Section of the Headlands Development Agreement captioned 3.12. Also clearly show the mouse preserve being established to preserve that species.

It is obvious that this will end up with a much smaller amount of Open Space available to the general public.

NOTE
It is impossible to adequately address this lengthy and technical DEIR Report in the time frame allotted. It would appear that an extension of the time frame should be allowed in order to show fairness to the public. I respectfully request that this be considered and publicized.

All of the above comments are respectfully submitted for your consideration. With more time, I could have made them more concise. Thank you for your consideration.

Sincerely,

Ruby L. Metzloy

roads etc. described and shown in Exhibit "E". Inadequate information has been provided for the public to make a judgment. This information appears to be missing from the DEIR.

DEIR FIGURES 4.1B, 4.3.4 & 4.9.1 and Section 4.5 Geology and Soils and page 4.9-63 (2nd area)

Page 4.9-63 refers to "coastal bluff top" in addressing the southern portion of the Strands Beach area. The DEIR Figures show the planned lots for new homes as extending into this area. Address and show proof that the purchasers of these residential lots can be assured and guaranteed the geologic stability of such lot sites.

DEIR Table 3.A & Figure 3.3 & 4, etc - Open Space

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All of the above comments are respectfully submitted for your consideration. With more time, I could have made them more concise. Thank you for your consideration.

Sincerely,

Ruby L. Matzley

53. COMMENTS FROM STATE CLEARINGHOUSE

STATE OF CALIFORNIA

GOVERNOR'S OFFICE of PLANNING AND RESEARCH

State Clearinghouse

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Dec 7 12 35 PM '01

Gray Davis
GOVERNOR

Steven A. Nissen
DIRECTOR

November 21, 2001

Mr. Edward M. Knight
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Subject: The Headlands Development and Conservation Plan (HDCP)
SCH#: 2001071015

Dear Mr. Edward M. Knight:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on November 19, 2001, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Terry Roberts

Terry Roberts
Senior Planner, State Clearinghouse

Document Details Report
State Clearinghouse Data Base

SCH# 2001071015
Project Title The Headlands Development and Conservation Plan (HDCP)
Lead Agency Dana Point, City of

Type EIR Draft EIR

Description The HDCP proposes development of 125 residential lots, a 65 room inn, and a maximum of 150,750 square feet of visitor/recreation commercial use, 62 acres of public open space, including 30.3 acres of natural resources conservation and associated infrastructure on 121.3 gross acres of land in the west-central portion of the City of Dana Point. The Land Use Plan provides for the development and/or conservation of: 31.7 acres of Recreation Open Space that includes a trail system, public parks, and a public beach; 30.3 acres of Conservation Open Space that have public safety constraints, environmental resources, and/or scenic value, 4.4 acres of Visitor/Recreation Commercial land uses intended to attract local and regional visitors; and 52.1 acres of residential use providing a maximum of 125 residential lots. Project entitlements being requested of the lead agency include: General Plan Amendment, Planned Development District, Development Agreement, Amendment to the Zoning Code and Zoning Map, Zone Change, Local Coastal Program Amendment, Tentative Tract Map(s), Master Coastal Development Permit(s), Coastal Development Permits, Master Site Development Permit(s), Site Development Permits, Public Financing District, Tract Maps and/or Parcel maps, grading permits, street vacations, building permits, and various implementing permits and actions. Actions by Responsible Agencies and federal agencies will be required.

Lead Agency Contact

Name Mr. Edward M. Knight
Agency City of Dana Point
Phone 949-248-3567 **Fax**
email
Address 33282 Golden Lantern
City Dana Point **State** CA **Zip** 92629

Project Location

County Orange
City Dana Point
Region
Cross Streets Pacific Coast Highway and Green Lantern Street
Parcel No. Multiple
Township 8S **Range** 8W **Section** 21 **Base** SB

Proximity to:

Highways 1
Airports
Railways
Waterways Pacific Ocean, Dana Point Harbor, San Juan Creek
Schools Multiple
Land Use Residential (3.5 to 7 dwelling units per acre), Visitor/Recreation Commercial, Recreation/Open Space

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Coastal Zone; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; California Coastal Commission; Department of Conservation; Department of Fish and Game, Region 5; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 12; Department of Housing and Community Development; State Water Resources Control Board, Division of Water

Document Details Report
State Clearinghouse Data Base

Quality; Regional Water Quality Control Board, Region 8; Native American Heritage Commission; State Lands Commission

Date Received 10/05/2001 ***Start of Review*** 10/05/2001 ***End of Review*** 11/19/2001

ERRATA

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B – EIR SECTION 4.3, TERRESTRIAL BIOLOGICAL RESOURCES ERRATA
C – JANUARY 18, 2002, MEMORANDUM – CLARIFICATION OF FINAL EIR ERRATA

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HEADLANDS DEVELOPMENT AND CONSERVATION PLAN EIR ERRATA

INTRODUCTION

This HDCP EIR Errata is provided to clarify, refine, and provide supplemental information for the HDCP Draft Environmental Impact Report (Draft EIR). Many of the EIR changes are corrections or clarifications to the text of the original Draft EIR. Other changes to the EIR clarify the analysis in the EIR based upon the information and concerns raised by commentors during the public comment period. None of the information contained in this EIR Errata constitutes significant new information or changes the analysis or conclusions of the HDCP Draft EIR.

The information included in the errata resulting from the public comment process and the City's normal planning process does not constitute substantial new information that requires the recirculation of the Draft EIR. CEQA Guidelines Section 15088.5 states:

> 15088.5 Recirculation of an EIR Prior to Certification.
>
> (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:
>
> (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
>
> (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
>
> (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
>
> (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.
>
> (b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

The changes to the Draft EIR included in this errata **do not** constitute "significant" new information because:

1. No new significant environmental impact would result from the project or from a new mitigation measure;

2. There is no substantial increase in the severity of an environmental impact that would result because mitigation measures have been adopted that reduce the identified significant impacts to a level of insignificance;
3. No feasible project alternative or mitigation measure considerably different from others previously analyzed has been proposed or identified that would clearly lessen the significant environmental impacts of the project; and
4. The Draft EIR is not fundamentally or basically inadequate or conclusory in nature such that meaningful public review and comment were precluded.

Therefore, recirculation of the Draft EIR is not required because the new information added to the EIR through this Errata clarifies or amplifies or makes insignificant modifications to the already adequate Draft EIR.

For simplicity, the errata below are in the same order that they are found in the EIR. (New text is underlined, deleted text is ~~struck out~~.) The applicable page numbers from the DEIR are also provided where necessary for easy reference.

1.0 EXECUTIVE SUMMARY

Table 1.6.A: Summary of Project Specific Impacts, Mitigation Measures, and Level of Significance

POTENTIAL ENVIRONMENTAL EFFECT	MITIGATION MEASURE	LEVEL OF SIGNIFICANCE AFTER MITIGATION
4.2 Air Quality *Asbestos Removal* Existing buildings proposed for demolition may have asbestos containing materials.	No mitigation required.	Compliance with PC 2-3 reduces the project impact to less than significant.
4.3 Terrestrial Biological Resources *Direct Impacts to Riparian Habitat or Other Sensitive Natural Community* The proposed project will directly impact 79.2 acres (65 percent) of the project site, which includes 45.11 acres of Developed/Ornamental, 2.42 acres of Disturbed Ruderal, 0.58 ~~and 2.23~~ acres of Disturbed Grassland, and 1.65 acres of Disturbed Southern Needlegrass Grassland. Of the sensitive habitats on site, a total of 28.0 acres of coastal sage scrub, 1.83 acres of disturbed CSS, 0.61 acre of maritime succulent scrub, and 0.06 acre of southern coastal bluff scrub will be impacted by the proposed project.	~~No mitigation required.~~MM 3-1	Implementation of the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement and Mitigation Measure 3-1 will reduce direct impacts to sensitive habitats and sensitive plant species' habitats to below a level of significance.

POTENTIAL ENVIRONMENTAL EFFECT	MITIGATION MEASURE	LEVEL OF SIGNIFICANCE AFTER MITIGATION
Indirect Impacts to Vegetation and Wildlife The proposed project may result in indirect impacts to vegetation and wildlife which could extend from the development edge into conserved habitat due to such activities as excessive landscape irrigation, fuel modification, vegetation trampling outside of marked trails, and introduction of non-native species. Additional indirect impacts will result from residential noise and lighting and temporary impacts to wildlife as a result of construction activities.	MM 3-1~~No mitigation required.~~	Implementation of the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement and Mitigation Measure 3-1 will reduce indirect impacts to vegetation and wildlife to below a level of significance.
Species Interaction and Ecosystem Function Ecological interactions between species on the Headlands site are limited and constrained due to the relatively small size of the project area, and fragmented configuration of the native habitat patches, the amount of urban habitat interface that can cause adverse edge effects, and the site's isolated condition within the surrounding urbanized landscape. The developer's participation in the NCCP/HCP, which includes the 37,000+ acre Orange County Nature Reserve, offsets the project's impacts to terrestrial biological resources.	No mitigation required.	Implementation of the Project Design Features and Project Conditions and Mitigation Measure 3-1 addresses all impacts to terrestrial biological resources.
Coulter's saltbush The proposed project will impact up to ten individuals of Coulter's saltbush (*Atriplex coulteri*), a sensitive plant on CNPS List 1B that is not explicitly addressed by the NCCP/HCP as an "Identified Species."	MM 3-1	Implementation of Mitigation Measure 3-1 reduces direct, indirect, and cumulative impacts to the species to below a level of significance.

POTENTIAL ENVIRONMENTAL EFFECT	MITIGATION MEASURE	LEVEL OF SIGNIFICANCE AFTER MITIGATION
Cumulative Impacts The proposed project, when combined with other proposed or approved projects in the region, contributes to cumulative impacts to terrestrial biological resources.	MM 3-1	Participation in the NCCP/HCP Program (PC 3-4 to PC 3-16) and implementation of PDF 3-1 to PDF 3-8 and PC 3-1 to PC 3-3 and Mitigation Measure 3-1 will reduce the project's cumulative impacts to terrestrial biological resources to below a level of significance.
4.8 Water Quality *Groundwater Quality* The proposed project may affect shallow groundwater, which is most susceptible to contamination from the high pollutant loads in dry-weather runoff and the "first flush" of a storm event.	~~MM 5-5~~No mitigation required.	Implementation of ~~Mitigation Measure 5-5 and~~ the proposed project design features will reduce impacts to groundwater quality to below a level of significance.
4.10 Noise *On-Site Traffic Noise Impacts – Planning Area 6 adjacent to PCH.* Some of the residences in Planning Area 6 (PA 6) would potentially be exposed to traffic noise from Pacific Coast Highway exceeding the 65 dBA CNEL (area within 338 feet of the Pacific Coast Highway centerline) exterior noise standard for residential uses. Without a solid six foot high block wall between the noise source (PCH) and the residences, this long-term noise impact would be significant. There are no other areas on site that would be significantly impacted by traffic noise.	MM 10-1	Implementation of Mitigation Measure 10-1 and Project Design Feature 10-1 will reduce exterior noise levels on the residential lots to below 65 dBA CNEL.

POTENTIAL ENVIRONMENTAL EFFECT	MITIGATION MEASURE	LEVEL OF SIGNIFICANCE AFTER MITIGATION
4.13 Transportation/Traffic *Parking and Internal Circulation* The provision of additional accessways to Strand Beach and the other proposed public recreational areas may increase the demand for additional public parking adjacent to these accessways. The project will provide parking consistent with the City's Zoning Code requirements.	No mitigation measures are required.	Less than significant. Parking and circulation are adequate to meet the needs of the development as required by Project Design Features 13-1 through 13-4, Project Conditions 13-1 through 13-10~~, and Mitigation Measure 13-1.~~
4.14 Utilities *Utility Availability* The proposed project will result in an increase in demand for utility service (potable water, reclaimed water, wastewater, electricity, natural gas, telephone, and cable television). However, these service providers have indicated the ability to adequately serve the proposed project.	No mitigation required.	Less than significant.
Cumulative Impacts The project will contribute to cumulative local and regional demand for utilities; however, each provider of these services confirmed that these cumulative demands can be accommodated without significant impacts.	No mitigation required.	Less than significant with implementation of Project Design Features and Project Conditions.

These changes to the Draft EIR are refinements to the text for consistency with the other changes in the EIR Errata, and have no material effect on the analysis or findings of the EIR other than as discussed elsewhere in the EIR Errata.

4.3 TERRESTRIAL BIOLOGICAL RESOURCES

In response to comments received, several clarifications were made to the Biological Resources Report (URS 2001) which is contained in Appendix C of the EIR. These changes and clarifications relate to the characterization of sensitive plant species and vegetation on the site. These changes are included as Attachment A and are hereby incorporated into the EIR. Because much of Section 4.3 of the DEIR summarizes or directly quotes from the Biological Resources Report, Section 4.3 of the EIR has been revised to reflect the changes included in Attachment A. The changes to Section 4.3, Biological Resources, are included as Attachment B.

These changes to the Draft EIR result in an increase in the severity of a significant impact of the project to terrestrial biological resources, already identified in the DEIR as an adverse impact. The project will result in an increase in the severity of impacts to sensitive plants that were not previously identified on the site in the Draft EIR. However, the addition of a new mitigation measure (Mitigation Measure 3-1, Translocation and Propagation of Coulter's Saltbush) will reduce the significant impact to below a level of significance. Therefore, recirculation of a subsequent EIR is not required per Section 15088.5 (a)(2) of the CEQA guidelines.

4.7 HYDROLOGY

4.7.5.1 Less Than Significant Impact – Flooding and Erosion. Flooding and erosion impacts were evaluated based on the three primary drainage zones: Dana Point Harbor, Strand Beach, and the bluffs at Dana Point and Harbor Point. Flooding of downstream properties is a concern only in the Dana Point Harbor area, as runoff will drain directly to the Pacific Ocean at Strand Beach and at the bluffs. Erosion is a concern in all three drainage zones.

> **Dana Point Harbor.** As shown in Table 4.7.C, the peak flow for Area A to Dana Point Harbor will decrease slightly for the developed condition. However, the volume of runoff for the proposed project above Cove Road will increase slightly over existing conditions. In order to prevent erosion in this area or property south of Cove Road, Project Design Feature (PDF) 7-2 will be implemented. This PDF entails construction of catch basins in Scenic Drive, the Seaside Inn site, and Street of the Green Lantern as well as a storm drain pipe extending from Street of the Green Lantern to a new junction structure and inlet to the pipe at Cove Road (PDF 7-2). The existing headwall and sandbags at this location will be replaced with the junction structure and inlet in order to provide a permanent structure that will prevent the potential for overtopping the headwall and erosion of the bluff face. The runoff flows for 85th percentile storm events will be diverted to the sand filter for treatment and then will be discharged to Dana Point Harbor through an existing 24 inch RCP drain outlet located near the fishing pier (Figure 4.7.3). It will take a number of hours for the stormwater to pass through the sand filter treatment system, further reducing peak flow to the harbor. ~~This design is consistent with GPP 7-3 and GPP 7-4.~~ **[DEIR, p. 4.7-14]**

This change to the Draft EIR is a refinement to the text and has no material effect on the analysis or findings of the EIR.

4.8 WATER QUALITY

Surface Water Quality After Construction. As part of the project development, structural and non-structural BMPs are proposed by the proponent or are required through existing regulation so that pollutants and runoff from the proposed development will be reduced, and will not cause or contribute to the degradation of receiving water quality objectives. The structural BMP selection process included an evaluation of the site conditions (surface water, groundwater, soils, geology, and terrain), proposed land uses, and applicable regulatory guidelines. Infiltration BMPs are not practicable at the project site due to the steep topography and the need to minimize uncontrolled subsurface flow (refer to discussions in Section 4.5, Geology and Soils, and Section 4.7, Hydrology). ~~Mitigation Measure 5-5, installation of subdrain system, is required in order to prevent uncontrolled levels of groundwater that would lead to ground instability and related problems.~~ Table 4.8.D, Considered Structural Best Management Practices, provides a list of BMPs considered for incorporation into the project. **[DEIR, p. 4.8-16]**

This change to the Draft EIR is a refinement clarifying that Mitigation Measure 5-5 (Installation of a Subdrain System) is not required to reduce the project's water quality impacts to below a level of significance. This change has no material effect on the analysis or findings of the EIR.

Table 4.8.D: Considered Structural Best Management Practices (Continued) [DEIR, P. 4.8-19]

BMP	Description	Selected?
Multi-chambered treatment train	This is a three chambered mechanism consisting of a screening process, a settling chamber, and a media filter.	No. • Heavy maintenance requirement • More susceptible to clogging than a sand filter • Sand filter provides similar ~~[same]~~ functions
Hydrodynamic separator/Drain inlet insert (CDS units)	This is a flow through structure with a settling or separation unit that removes sediments and other pollutants.	No. • Limited information regarding effectiveness • Requires frequent inspections and maintenance • Sand filter provides similar ~~[same]~~ functions
Energy Dissipation Device	This device slows down the movement of runoff to prevent erosion of unlined channels or beach erosion	Yes. This design is described in Section 4.7, Hydrology.
Diversion/split flow structure	This device mechanically balances flows to minimize erosion and divert stormwater away from sensitive resources	Yes • Little or no maintenance required • Low "tech" • High reliability
Nuisance water diversion structure	This device diverts non-stormwater flows to the sanitary sewer system for treatment	Yes • Remove flows completely out of the stormwater system

This change to the Draft EIR is a refinement to the text and has no material effect on the analysis or findings of the EIR.

Table 4.8.B: Model Results For Developed Conditions With ~~Sand Filter And~~ Street Sweeping ~~BMPs~~ for the Bluffs[1]

[DEIR, p. 4.8-27]

Constituent Modeled[2]	Units	Existing Watershed Conditions	Developed Watershed Conditions	Developed Watershed Conditions With BMPs[3] (1-day)	Developed Watershed Conditions With BMPs[4] (6-day)	Percent Reduction From Existing to Developed Watershed Conditions[5]	Consistent with Applicable Water Quality Guidelines
TSS	mg/l	53	55	54	55	-2%	Yes
TDS	mg/l	23	24	24	24	-2%	Yes
BOD5	mg/l	15	15	15	15	0%	Yes
COD	mg/l	33	33	33	33	0%	Yes
Nitrate-N	mg/l	0.44	0.44	0.44	0.44	0%	Yes
TKN	mg/l	0.79	0.81	0.80	0.80	-1%	N/A
Total P	mg/l	0.10	0.11	0.11	0.11	-2%	Yes
Dissolved P	mg/l	0.04	0.04	0.04	0.04	0%	N/A
Total Cd	µg/l	0.30	0.30	0.30	0.30	0%	Yes
Total Cu	µg/l	23	23	23	23	0%	Yes[6]
Total Zn	µg/l	130	132	132	132	-1%	Yes
Total Pb	µg/l	18	18	18	18	0%	Yes

This change to the Draft EIR is a refinement to the text and has no material effect on the analysis or findings of the EIR.

Groundwater Quality. As stated previously, the quality of groundwater in the lower San Juan Basin is considered to be relatively poor. In addition, the project site is not a groundwater recharge area due to local geology and sea water intrusion. Like surface waters, shallow groundwater is most susceptible to contamination from the high pollutant loads in dry-weather runoff and the "first flush" of a storm event. Project design features will be incorporated to divert dry-weather runoff to the sewer system and to hold and treat the first flush generated by a 85th percentile storm event. Several project design features such as automatic irrigation controllers, water efficient landscaping, efficient irrigation systems, sewer connections for food service facility washdown areas, diversion of dry-weather "nuisance" runoff, and the sand filter BMPs are provided in order to limit infiltration and thereby protect groundwater quality. ~~Mitigation Measure 5-5 (installation of subdrain system) is required in order to prevent uncontrolled levels of groundwater that would lead to ground instability (refer to Section 4.5, Geology and Soils, and Section 4.7, Hydrology).~~ These measures will effectively reduce impacts to groundwater quality to less than significant levels. **[DEIR, p. 4.8-28, 29]**

This change to the Draft EIR is a refinement clarifying that Mitigation Measure 5-5 (Installation of a Subdrain System) is not required to reduce the project's water quality impacts to below a level of significance. This change has no material effect on the analysis of findings of the EIR.

4.9 LAND USE

Table 4.9.E: Development Policies Consistency Analysis [DEIR, p. 4.9-79, 80]

Coastal Act Policies	Implementation Method of the HDCP
New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard, (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs, (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development, (4) Minimize energy consumption and vehicle miles traveled, and (5) where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses (Coastal Act § 30253).	The HDCP provides for the development of the project site in a manner that minimizes risks to life and property through the implementation of site specific recommendations and specifications prepared by professional engineers and others. Such recommendations and specifications include bluff setback requirements, remedial grading criteria, fuel modification plans, hydraulic calculations and designs, and similar measures. The HDCP will be developed in accordance with such recommendations and specifications. In doing so, not only are stability and structural integrity assured, but also conditions associated with erosion, geologic instability, and other adverse conditions are not created. The existing revetment on site extends some 2,140 feet along the man-made terraces of the former trailer park area. The revetment currently minimizes the potential for coastal erosion, protecting the terraces and the on-site

Coastal Act Policies	Implementation Method of the HDCP
	infrastructure (storm drains, septic systems, pavement, buildings, utilities, etc.) that remains in this area. Based on the recommendations of professional engineers, the revetment needs to be rebuilt to bring the structure up to current engineering standards and to minimize issues associated with erosion and geological stability and to enhance public safety and public access. As discussed in Section 4.5, Geology and Soils, Section 4.16, Coastal Processes, and Section 4.1, Aesthetics, the reconstruction of the revetment will not alter natural landforms along bluffs and cliffs. In fact, reconstruction of the revetment will enhance geological stability, protect existing and proposed improvements and protect new and existing coastal access. The development of the property will be conducted consistent with federal, State, and local rules and regulations addressing public health and safety, including requirements from the South Coast Air Quality Management District (SCAQMD). The HDCP will create, preserve, and protect visitor serving recreation opportunities.
New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route l in rural areas of the coastal zone remain a scenic two lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, State, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not	~~The development of the property will be conducted consistent with federal, State, and local rules and regulations addressing public health and safety, including requirements from the South Coast Air Quality Management District (SCAQMD). The HDCP will create, preserve, and protect visitor serving recreation opportunities.~~ Public works facilities will be designed to serve the needs of the proposed development. No special districts will be formed in conjunction with this project that would induce new development inconsistent with this division. No planned public works facilities have been identified as a limitation to development. Sufficient services for coastal dependent land uses, recreation, essential public services, and

Coastal Act Policies	Implementation Method of the HDCP
be precluded by other development (Coastal Act § 30254).	visitor serving land uses are available and will be provided for in the project.
Notwithstanding any other provision of law, the Commission may not impose any term or condition on the development of any sewage treatment plant that is applicable to any future development that the Commission finds can be accommodated by that plant consistent with this division. Nothing in this section modifies the provisions and requirements of Sections 30254 and 30412 (Coastal Act § 30254.5).	No sewage treatment plant is proposed as a part of this project.
Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal dependent developments shall not be sited in a wetland. When appropriate, coastal related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support (Coastal Act § 30255).	No coastal-dependent developments will be impacted by the proposed development project.

This change to the Draft EIR is a refinement or clarification to the land use consistency of the project, and has no material effect on the analysis or findings of the EIR.

4.9.7 Cumulative Impacts

When combined with the other projects that are proposed, approved, or under construction, including the Dana Point Harbor Revitalization Plan, expansion of the Orange County Ocean Institute, Monarch Beach Resort, Ritz Pointe, Capistrano By the Sea, St. Edwards Church, Bade Property, and Monarch Bay Plaza, the proposed project incrementally adds to the completion of development of the City of Dana Point. **[DEIR, p. 4.9-81]**

This change to the Draft EIR is a refinement or clarification to a project included in the discussion of cumulative projects, and has no material effect on the analysis or findings of the EIR.

4.13 TRANSPORTATION/TRAFFIC

The traffic impact analysis also finds that the on-site access and circulation proposed by the project are adequate to meet the needs of the development as conditioned through application of PDFs 13-1 through 13-4, PCs 13-1 through 13-10~~, and Mitigation Measure 13-1~~.
[DEIR, p. 4.13-22]

This change to the Draft EIR is a refinement providing a clarification to the text and has no material effect on the analysis or findings of the EIR.

4.14 UTILITIES

PDF 14-2 Interior and exterior water conservation measures will be incorporated into all Planning Areas. These will include, but are not limited to, low flush toilets, low-flow facets, water conserving dishwashers, maintenance of supply line water pressure at ~~50~~ 80 psi or less by means of pressure reducing valves, use of reclaimed water, if available, for common area irrigation purposes, and efficient irrigation systems to minimize runoff and evaporation. **[DEIR, p. 4.14-4]**

PC 14-2 The applicant shall submit a sanitary sewer plan for review and approval by the SCWD. SCWD will forward copies of the approved plans to the City's Director of Public Works. The plan shall show line size, flow line elevations, and connection(s) to existing lines. All sanitary sewer facilities shall be constructed to the specifications of SCWD ~~and the Director of Public Works~~. Said facilities shall be dedicated to SCWD. Applicable sewerage capacity and connection fees shall be paid as required by SCWD. **[DEIR, p. 4.14-4]**

PC 14-3 The applicant shall submit a water plan for review and approval by the SCWD. SCWD will forward copies of the approved plans to the City's Director of Public Works. The plan shall show line size, flow line elevations, and connection(s) to existing lines. Water supply facilities shall be constructed to the specifications of SCWD ~~and the Director of Public Works~~. Applicable water capacity and connection fees shall be paid as required by SCWD. **[DEIR, p. 4.14-4]**

These changes to the Draft EIR is a refinement or clarification to a Project Design Feature and two Project Conditions, and has no material effect on the analysis or findings of the EIR.

4.14.5.1 Level Of Significance After Mitigation

With the Project Design Features ~~project design features~~ and Project Conditions, ~~standard conditions,~~ prescribed in this section, all utility impacts are less than significant. **[DEIR, p. 4.14-9]**

This change to the Draft EIR is a refinement providing a clarification to the text and has no material effect on the analysis or findings of the EIR.

7.0 MITIGATION MONITORING AND REPORTING PROGRAM

Project Design Features, Project Conditions, and Mitigation Measures	Responsible Party	Timing for Mitigation Measure
4.3 Terrestrial Biological Resources		
Mitigation Measures ~~No mitigation measures are required.~~**Translocation and Propagation of Coulter's Saltbush.** Prior to any site preparation or other project-related activities that would impact the species, the project site shall be surveyed for the presence of extant individuals of Coulter's saltbush. The location of the individuals shall be identified and fenced as a temporary protection measure. Care shall be taken to avoid impacts on the individuals of Blochman's dudleya (that are located in close proximity), which shall also be identified and protected. Cuttings and seed collection of Coulter's saltbush shall be undertaken prior to translocation to ensure that the genetic resource is conserved. The individuals shall be transplanted to suitable, protected areas on site in the Hilltop area and also in the Conservation Park, if appropriate soils are present in this area. If approved by the project biologist, the extant individuals shall be translocated by removing the soil and associated microbiota in blocks by digging down to a depth of approximately 12 inches. This likely will increase the potential for success by keeping the microhabitat conditions intact when moving Coulter's saltbush to the translocation area. Where appropriate, a combination of signage, fencing, and/or planting of Prickly Pear, Coast Prickly Pear, or Coast Cholla (consistent with the Headlands Revegetation Plant Palette) shall be installed to preclude trampling of the translocation sites. The same protection measures shall be provided for the remaining dudleya and translocated dudleya remaining on the project site. The Project Applicant will assure adequate funding for a qualified botanist to monitor the translocation sites for a period up to five years after translocation and to be able to take appropriate corrective management actions (additional seeding, cuttings, etc.) to support to the success of the translocation effort.	Director, Community Development Department	Prior to any site preparation or any other project related activities that would impact the species, and monitoring up to five years after translocation.
4.14 Utilities		
PC 14-2 The applicant shall submit a sanitary sewer plan for review and approval by the SCWD. SCWD will forward copies of the approved plans to the City's Director of Public Works. The plan shall show line size, flow line elevations, and connection(s) to existing lines. All sanitary sewer facilities shall be constructed to the specifications of SCWD ~~and the Director of Public Works~~. Said facilities shall be dedicated to SCWD. Applicable sewerage capacity and connection fees shall be paid as required by SCWD.	Director, Public Works Department, and South Coast Water District	Prior to approval of the sewer improvement plans.

	Project Design Features, Project Conditions, and Mitigation Measures	Responsible Party	Timing for Mitigation Measure
PC 14-3	The applicant shall submit a water plan for review and approval by the SCWD. SCWD will forward copies of the approved plans to the City's Director of Public Works. The plan shall show line size, flow line elevations, and connection(s) to existing lines. Water supply facilities shall be constructed to the specifications of SCWD ~~and the Director of Public Works~~. Applicable water capacity and connection fees shall be paid as required by SCWD.	Director, Public Works Department, and South Coast Water District	Prior to approval of the water improvement plans.

These changes to the Draft EIR are refinements to the text for consistency with the other changes in the EIR Errata, and have no material effect on the analysis or findings of the EIR other than as discussed elsewhere in the EIR Errata.

ATTACHMENT A

BIOLOGICAL RESOURCES REPORT ERRATA

ERRATA – Existing Conditions – Page 3-2 Paragraph 2

The coastal sage scrub within the Project Site is dominated by California sagebrush and flat-topped buckwheat (*Eriogonum fasciculatum*). Other less dominant shrubs include orangebush monkeyflower (*Mimulus aurantiacus*), California encelia, coastal goldenbush (*Isocoma menziesii*), coastal prickly pear (*Opuntia littoralis*), lemonadeberry, and coyote bush. In some locations, the herbaceous cover within the openings between the shrubs, is dominated by southern needlegrass. The main elements of this herbaceous layer include purple needlegrass (*Nassella pulchra*), needlegrass (*N. lepida*), fascicled tarplant (*Deinandra fasciculata*), *Vulpia myuros*, purple false brome (*Brachypodium distachyon*) and golden-rayed pentachaeta (*Pentachaeta aurea*). Purple needlegrass and non-native grasses are also present in the area that supports Blochman's dudleya (*Dudleya blochmaniae*) and are scattered throughout the coastal sage scrub onsite.

ERRATA – Existing Conditions – Page 3-2 Paragraph 5

Southern Mixed Chaparral (2.69 acres) is found along the eastern boundary of the site on east-facing slopes. This association consists of a mix of chaparral species and occurs below 5,000 feet in elevation. The dominant species found in this plant community are toyon (*Heteromeles arbutifolia*), laurel sumac (*Malosma laurina*), and lemonadeberry with a large patch of the non-native, ornamental *Hypericum canariense* in the chaparral in the northwest corner of the site.

ERRATA – Existing Conditions – Insert Between Paragraphs 5 and 6

Disturbed Southern Needlegrass Grassland (1.65 acres) is found along the northeastern boundary of the site. Southern needlegrass grassland is characterized by a relatively low (< 30 percent) to dense herbaceous cover of the perennial, tussock-forming species, purple needlegrass (*Nassella (Stipa) pulchra*). Native and introduced annuals occur between the needlegrass, often actually exceeding the bunchgrass in cover (Holland 1986). This association generally occurs on fine-textured clay soils that are moist or wet in winter, but very dry in summer. Shrubs are infrequent, probably due to the unstable clay soils. The degree of habitat quality in native grasslands varies greatly, depending on the history of grazing, cultivation, or other disturbance factors. The disturbed southern needlegrass grassland onsite is comprised of purple needlegrass, foothill needlegrass (*N. lepida*), melic grass (*Melica imperfecta*) common goldenstar (*Bloomeria crocea*), and blue dicks (*Dichelostemma capitatum*) with a significant cover of non-native annual grasses such as *Vulpia myuros*, brome grasses (*Bromus* spp.) and purple false brome (*Brachypodium distachyon*).

ERRATA Existing Conditions Page 3-2 Paragraph 4

Maritime Succulent Scrub (0.61 acres) occurs on south-facing slopes in the northeastern portion of the project site. This community is a low, open vegetation type with a poorly developed understory (Holland 1986). The dominant shrub species in this community include some of the coastal sage scrub dominants, as well as a high percentage of coastal cholla (*Opuntia prolifera*) and prickly pear (*O. littoralis*).~~number of cacti and other succulent species. Typical shrub and~~

~~suffrutescent species include California sagebrush, California copperleaf (Acalypha californica), Shaw's agave (Agave shawii), and California encelia (Encelia californica). Cacti include velvet cactus (Bergerocactus emoryi), coast barrel cactus (Ferocactus vividescens), coastal prickly pear, and coastal cholla. Stands of jojoba (Simmondsia chinensis) are also scattered within this community in the southern portion of the study area.~~

ERRATA Existing Conditions Page 3-5 Paragraph 1

Southern Coastal Bluff Scrub

Southern coastal bluff scrub is a low, sometimes prostrate scrub that occurs at localized sites along the California coast south of Point Conception. Dominant plants are mostly woody or succulent and include such species as saltbush (*Atriplex* spp.), coastal prickly-pear (*Opuntia littoralis*), lemonadeberry (*Rhus integrifolia*), dudleya (*Dudleya* spp.), cliff spurge, woolly sea blite, and California box-thorn ~~and giant and San Diego sea dahlia (*Coreopsis gigantea* and *C. maritima*).~~ Development along the southern California coastline has reduced this geographically restricted plant community throughout its limited range.

ERRATA Existing Conditions Page 3-5 Paragraph 3

Blochman's Dudleya (CNPS List 1B, ~~2-2-2~~3-3-3) is a late spring-blooming (May-June) herbaceous perennial that occurs in dry stony places below 450 m (1500 ft) elevation. It is associated with coastal sage scrub and is found near the coast from San Luis Obispo County south to northern Baja California. In Southern California, this species is rare (less than 20 known locations). A population of 250 plants was reported by PSBS (1991) near the hilltop in the eastern portion of the project site. The Blochman's Dudleya are in unprotected areas of the property either in or adjacent to areas of disturbed coastal sage scrub. This area currently has heavy foot traffic and occasional bicycle traffic from site visitors. URS biologists confirmed this species' presence in January 2000, and LSA biologists reconfirmed the locations in April 2001.

ERRATA Existing Conditions Page 3-5 Paragraph 6

Palmer's Grapplinghook (CNPS: List ~~2~~4, 1-2-1) is a widely distributed, diminutive annual that occurs in Los Angeles, Orange, Riverside, and San Diego counties, on San Clemente Island, in Arizona, Baja California, and Sonora, Mexico. This species generally occurs on clay slopes and recent burns below 1000 m (3280 ft) elevation and flowers from February to April. Less than 10 plants were found on the Project Site in 1983. URS biologists surveyed for this species in 2000, but no individuals were observed.

ERRATA Existing Conditions Page 3-5 Paragraph 7

Prostrate Spineflower (*Chorizanthe procumbens*) (Formerly CNPS: List 4) occurs within openings of scrub and chaparral associations. The prostrate spineflower's range includes southern California and Baja California. The CNPS has removed this species form its sensitive plant rankings which indicates that this species is sufficiently widespread and abundant or insulated from significant impacts so as to be relatively secure in the forseeable future. This

plant species was identified on bluffs at the Project Site prior to 1998, but not found in the 1999 and 2000 surveys performed by URS.

ERRATA Existing Conditions Page 3-5 Paragraph 2

Focused surveys were conducted for plant species that are considered sensitive according to the CNDDB for the regional area of the Project Site. Plants are considered sensitive if they are rare, listed by the California Native Plant Society (CNPS), or listed as federally threatened or endangered. Blochman's dudleya (*Dudleya blochmaniae ssp blochmaniae*), Coulter's saltbush (*Atriplex coulteri*) Nuttall's scrub oak (*Quercus dumosa*), western Dichondra (*Dichondra occidentalis*), Palmer's grappling hook (*Harpagonella palmeri*), ~~and~~ cliff spurge (*Euphorbia misera*) California box-thorn (*Lycium californicum*), golden rayed pentachaeta (*Pentachaeta aurea*), vernal barley, and woolly sea blite (*Suaeda taxifolia*) were detected in 1991, 1998, 2000 and/or 2001 (Figure 4).

ERRATA Existing Conditions Page 3-5 Insert after Paragraph 3

Coulter's saltbush (CNPS List 1B) is a perennial herb that flowers from March-October. It inhabits coastal bluff scrub, coastal dunes, and alkaline grasslands from Santa Barbara County south to Baja California and is on many of the Channel Islands. Coulter's saltbush is rare and declining in its range. In Orange County it is known from fewer than 12 occurrences and perhaps only 6 are extant. Two known populations are within the Central/Coastal Subregion of the Nature Reserve of Orange County established by the NCCP/HCP. This species was reported onsite by Mr. Fred Roberts and verified by URS Corporation in November 2001. The Coulter's saltbush (< 10 individuals onsite) is in an unprotected area co-occurring with Blochman's dudleya. This area currently has heavy foot traffic and occasional bicycle traffic from site visitors.

ERRATA Existing Conditions Page 3-5 Insert after Paragraph 5

California box-thorn (CNPS List 4) is a rigidly branched shrub that flowers in March-April. It inhabits coastal bluff scrub and coastal sage scrub from Santa Barbara County to Baja California and is on many of the Channel Islands. This species was observed onsite in 1991, 1998, and 2000 in the coastal bluff scrub along the sea cliffs and one large individual was found in the coastal sage scrub co-occurring with Blochman's dudleya.

Golden-rayed pentachaeta (CNPS List 4) is a small annual that flowers in March-July. It inhabits grassy areas, openings in coastal scrub, and cismontane woodland and forests from San Bernardino County to Baja California. This species was observed onsite in 1991 and 2000 in the coastal sage scrub north of the access road.

Vernal barley (CNPS List 3) is an annual grass that flowers in March-June. It inhabits grasslands and vernal pool areas from Mono County west to San Mateo County and south into Baja California. This species was not detected during surveys in 1991, 1998, and 2000, but was

observed onsite by a biologist in 1996 (T. Bomkamp pers. comm.). The biologist reported that there are less than 100 plants total onsite in two small patches.

Woolly seablite (CNPS List 4) is an evergreen shrub that inhabits coastal bluff scrub, coastal dunes and marshes from Santa Barbara County to San Diego County and on many of the Channel Islands. Depending on local site conditions, woolly seablite can flower at any time during the year. Woolly seablite was observed along the sea bluffs in 1991.

Small-flowered microseris (CNPS List 4) is a small, annual that inhabits grassland and coastal sage scrub and flowers March – May. This species was not observed on the Headlands during the past surveys and its presence has not been confirmed. Therefore, it was not addressed in the Biological Resources Report. However, Harmsworth Associates (1999) reports that a population of small-flowered microseris was observed on the Headlands in 1998.

Additional plant species that were not observed, but have the potential to occur onsite due to the presence of suitable habitat are Aphanisma (*Aphanisma blitoides*, CNPS 1B), Pacific saltbush (*Atriplex pacifica*, List 1B), and Robinson's peppergrass (*Lepidium virginicum* var. *robinsonii*, List 1B).

ERRATA Impact Assessment Page 4-3 Paragraph 3

The impact on 1.65 acres of disturbed southern needlegrass grassland is not significant due to the small size of the impact and the isolated condition of the Headlands site. Moreover, the NCCP/HCP EIR/EIS anticipated the loss of this grassland as part of the proposed project. In addition, within the 37,000 acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone), there are approximately 8,055 acres of grassland in the Reserve (including over 1,300 acres in the coastal zone), Special Linkage, and Non-reserve Open Space of which approximately 3,067 acres are designated as "High" or "Moderate" quality (Harmsworth Associates 1999). The Adaptive Management endowment allows for further enhancement and restoration of needlegrass grassland in the Central/Coastal Nature Reserve of Orange County. Moreover, there are approximately 720 acres of southern needlegrass grassland in the 8,000 acre Foothill Transportation Corridor (South) Study Area in southern Orange County and 100's of acres of native perennial grassland in the Southern Subregion of the Orange County NCCP/HCP (Tony Bomkamp pers. comm.). Finally, the impact on 1.65 acres of disturbed southern needlegrass grassland does not meet or exceed a "significant effect on the environment" pursuant to the standard CEQA Significance Criteria that are provided in the Biological Resources Report Section 4.1. The mitigation requirements included in the NCCP/HCP Program and Implementation Agreement are discussed in further detail in the mitigation section of this document (Section 3).

The remainder of the direct impacts will affect ~~52.32~~48.91 acres of common native (mixed chaparral) and non-native habitats that are not considered biologically significant. Rocky intertidal areas will not be directly affected by the proposed development associated with the proposed project (see Marine Resources technical report for further discussion). The chaparral habitat that is impacted in the northeastern portion of the Project Site will be revegetated as coastal sage scrub, adding approximately 0.74 acre to the overall amount of coastal sage scrub that will be conserved on the Project Site. The project will also convert Marguerita Avenue and adjoining area to coastal sage scrub as shown in Figure 5. Approximately 9.9 acres of

revegetation is available within the proposed project design. Impacts to these common and non-native habitats are not considered significant.

ERRATA – Impact Analysis – Page 4-5 Paragraph 3

The following sensitive plant species on the Project Site could be adversely impacted by the proposed project: Blochman's dudleya, Coulter's saltbush western dichondra, a single Nuttall's scrub oak, cliff spurge, historic Palmer's grappling hook and prostrate spineflower locations. ~~However,~~ Impacts to Blochman's dudleya, cliff spurge, prostrate spineflower, western dichondra, Nuttall's scrub oak and Palmer's grappling hook ~~impacts to these plant species~~ were specifically analyzed and impacts deemed adequately mitigated under the NCCP plan to less than significant levels and consistent with the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement and Adaptive Management Program. As part of the NCCP/HCP EIR/EIS mitigation, onsite or offsite translocation of the Blochman's dudleya will occur in accordance with approvals from CDFG. Potential onsite translocation sites for this species have been proposed (Figure 5).

Coulter's saltbush is known from approximately 45 occurrences on the Channel Islands and mainland California combined. There are at least 34 documented occurrences on Santa Cruz Island (29 documented occurrences), Santa Rosa Island (2 occurrences), and San Miguel Island (3 occurrences) combined (CalFlora Database 2001). These occurrences are presumed extant and conserved due to the designation of these islands as part of Channel Islands National Park. On the mainland, there are approximately 12 known occurrences, of which, at least 6 are in Orange County. Within the Central/Coastal Subregion of the Nature Reserve of Orange County, there is a population in Upper Bommer Canyon and two occurrences in Newport Backbay (Harmsworth Associates 1999). The current status of the populations within Newport Backbay is unclear due to potential disturbance from flood control activities. Two other occurrences of Coulter's saltbush are within the proposed reserve area of the Southern Subregion NCCP/HCP of Orange County. These two southern populations are found in Chiquita Canyon and Cristinos Canyon. Other known populations include Newport Beach behind the Main Public Library (Harmsworth Associates 1999).

Impacts to Coulter's saltbush will be mitigated to less than significant by implementing Mitigation Measure 3-1 which is as follows: Prior to any site preparation or other project-related activities that would impact the species, the project site shall be surveyed for the presence of extant individuals of Coulter's saltbush. The location of the individuals shall be identified and fenced as a temporary protection measure. Care shall be taken to avoid impacts on the individuals of Blochman's dudleya, (that are located in close proximity), that shall also be identified and protected. Cuttings and seed collection of Coulter's saltbush shall be undertaken prior to translocation to ensure the genetic resource is conserved. The individuals shall be transplanted to suitable, protected areas onsite in the Hilltop area and also in the Conservation Park, if appropriate soils are present in this area. It is recommended that the extant individuals be translocated by removing the soil and associated microbiota in blocks by digging down to a depth of approximately 12 inches. This will increase the potential for success by keeping the microhabitat conditions intact when moving Coulter's saltbush to the translocation area. Where appropriate, a combination of signage, fencing, and/or planting of Prickly Pear, Coast Prickly Pear, or Coast Cholla (consistent with the Headlands Revegetation Plant Palette) shall be installed to preclude trampling of the translocation sites. The same protection measures shall be

provided for the remaining dudleya and translocated dudleya remaining on the project site. The Project Applicant will assure adequate funding for a qualified botanist to monitor the translocation sites for a period up to 5 years after translocation and to be able to take appropriate corrective management actions (additional seeding, cuttings, etc.) to support to the success of the translocation effort. The establishment of a translocated population of Coulter's saltbush would reduce impacts on this species to below a level of significance. This mitigation requirement and other mitigation requirements that pertain to species included in the NCCP/HCP Program and Implementation Agreement are discussed in further detail in the mitigation section of the DEIR. Other sensitive plant species that occur onsite are California box-thorn, golden rayed pentachaeta, vernal barley, California groundsel, and woolly seablite. These species are not explicitly addressed in the NCCP/HCP program because they were not designated sensitive species at that time. They are now CNPS List 3 (vernal barley) and List 4 species and direct, indirect, and cumulative impacts on these species would be less than significant as described below.

Most of the individuals of California box-thorn (List 4) occur along the coastal bluffs and will be conserved onsite with cliff spurge and woolly seablite. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Bomkamp (pers. comm.) reports that California box-thorn is still common on coastal bluffs in Orange County and occurs in Crystal Cove State Park, Newport Back Bay, Bolsa Chica Reserve, and Fairview-Talbert Park in Costa Mesa. The NCCP/HCP program, through the creation of the 37,000 acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management benefits this species. For these reasons potential direct, indirect, and cumulative impacts to California box-thorn are less than significant.

Golden-rayed pentachaeta is more widespread and common in San Diego County and has also been documented in Los Angeles, San Bernardino, Orange, and Riverside Counties. This List 4 species is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. Although not explicity covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, direct, indirect, and cumulative impacts to golden-rayed pentachaeta are less than significant and its change in CNPS status does not affect our assessment under CEQA.

There are two small patches of vernal barley with less than 100 individuals total onsite. Harmsworth Associates (1999) reports that there are 21 known locations of vernal barley in the Central/Coastal Subregion of which 13 are within the Central/Coastal Nature Reserve, Special Linkage, or Non-reserve Open Space. Specifically, vernal barley is known within the Reserve at Aliso Canyon (several occurrences), Bommer Canyon (several occurrences), and the Ecological Reserve at UC-Irvine. Harmsworth Associates (1999) also notes that vernal barley is "much more common than previously thought" and is often misidentified, thereby resulting in a further under reporting of its abundance. Vernal barley is a CNPS List 3 species (a review list where more information is required to determine conservation status) and will be benefited by the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and

which provides an adaptive management program. For these reasons, potential direct, indirect, and cumulative impacts to vernal barley are less than significant.

California groundsel was not detected onsite during past surveys and its presence has not been confirmed. This species was reported to be onsite by Roberts (pers. comm.). Regardless, this is a CNPS List 4 ("watch list") species. This species was formerly a List 2, but is now known to be more widespread and abundant and its status has been adjusted. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Although not explicitly covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County and provides an adaptive management program which can be used to benefit this species, if appropriate. For these reasons, if the species is onsite, direct, indirect, and cumulative impacts on California groundsel are less than significant and its current CNPS status does not affect our assessment under CEQA.

Most or all of the individuals of woolly seablite onsite occur along the coastal bluffs and will be conserved with cliff spurge and California box-thorn. This List 4 species is still relatively common (occurs at Bolsa Chica, Newport Back Bay, etc.), but is considered by CNPS to be in potential need of monitoring in the future. In addition, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program. For these reasons, direct, indirect, and cumulative impacts (if any) to woolly seablite are less than significant.

ERRATA Table 2 – Page 4-6

Table 2
DIRECT IMPACTS ON VEGETATIVE COMMUNITIES

Vegetation Association	Existing Area (acres)	Affected Area (acres)*	Designated Natural Open Space (acres)
Coastal sage scrub	48.07	26.17	21.9
Disturbed coastal sage scrub	2.33	1.83	0.5
Coastal bluff scrub	3.34	0.06	3.3
Maritime succulent scrub	0.61	0.61	0
Disturbed So. Needlegrass Grassland	1.65	1.65	0
Southern mixed chaparral	2.69	0.74	1.95
Non-native grassland	~~2.93~~ 1.28	~~2.23~~ 0.58	0.704
Developed/Ornamental	46.79	45.11	1.68
Disturbed/Ruderal habitat	3.21	2.42	0.794
Sandy Beach	5.2	0.06**	5.14

Rocky Beach/Bluff Face	6.11	0	6.11
Total	121.3	79.23	42.07

* Includes graded areas and fuel modification zones.

** See Marine Biology Technical Report regarding impact assessment associated with Sandy Beach.

ERRATA Impact Analysis – Page 4-9 Paragraph 2

Existing Ecological Function of Project Site as a Whole

The small size and isolated condition of the site within an urbanized landscape severely compromises the existing ecological functioning of the project site as a whole (i.e., without the project). Properly functioning natural ecosystems, not subjected to the severe limitations shown on the Headlands site, can provide certain "services," such as serving as potential source of biodiversity, mediating the hydrologic cycle, ameliorating local climates, building soil, controlling erosion, detoxifying wastes, and providing recreational opportunities. The 37,000+-acre Orange County Nature Reserve provides all of these ecological services by developing a conservation program that shifts away from the current focus on project-by-project, single species protection to conservation and management of many species and multiple habitats on a sub-regional level. Some of these functions are more predominant than others for certain ecosystems. The coastal scrub communities existing on the Headlands site are important in moderating water runoff, soil erosion, a nominal contribution to biodiversity, and some degree of passive recreation (Brussard et al. 1993). ~~Three~~ Four rare species that occur onsite (Pacific pocket mouse, Blochman's Dudleya, Coulter's saltbush and Cliff Spurge) are restricted to coastal areas of southern California. Retention of these narrow endemic species on-site is a goal of the proposed project open space design and long-term habitat management program. The isolated condition of the site and its location within the urbanized landscape precludes the site from functioning as habitat linkage between larger natural habitat areas that support source populations of sensitive species. The potential for the site to act as an "ecological sink" is likely due to the small size of the site and the extensive habitat edge conditions that typically prevail in small isolated habitat patches (Alberts et al. 1993, Bolger et al. 1991, 1997a, 1997b, Lovio 1996, Crooks and Soulé 1999, Crooks et al. 2001). The surrounding urban development has also modified the natural fire ecology of the site with subsequent ecological effects (Zedler et al. 1983, O'Leary 1990).

ERRATA Impact Analysis - Page 4-10 Paragraph 2

With the project, the site would continue to provide opportunities for occupation by California Gnatcatcher. The proposed biological open space and habitat buffer areas will provide sufficient habitat for three to five gnatcatcher territories. Blochman's dudleya, Coulter's saltbush ~~and~~ cliff spurge and woolly seablite can continue to exist as the dudleya and saltbush can be successfully translocated into protected open space onsite. The cliff spurge and woolly seablite will persist due to its location on the steep cliffs of the site within project designated conserved open space.

ERRATA Impact Assessment – Page 4-12 Paragraph 4

The coastal California gnatcatcher and the Pacific pocket mouse are both sensitive species and are species covered by the approved NCCP/HCP Program (i.e. 'take' of these species and their habitats is authorized on the Project Site and has been analyzed under CEQA). Therefore,

impacts to these species are considered to be mitigated to a level of insignificance. Other species considered sensitive by the resource agencies documented on the Project Site, treated as Identified Species under the NCCP plan and analyzed under CEQA include orange-throated whiptail, and ~~Coronado island skink~~, ~~northern harrier~~, ~~sharp-shinned hawk,~~ cactus wren, and ~~red diamond rattlesnake~~. Plant species found on the Project Site that are explicitly covered under the NCCP plan include Nuttall's scrub oak, Blochman's dudleya, cliff spurge, Palmer's grappling hook, prostrate spineflower, and western dichondra. Direct, ~~and~~ indirect, and cumulative effects on these species were considered to be adverse and significant due to loss of sensitive coastal sage scrub habitat. However, mitigation in the NCCP/HCP Program reduces the impacts to these species associated with development of the Project Site to a less than significant level.

Coulter's saltbush is a List 1B species that is not explicitly covered under the NCCP/HCP Program. However, direct, indirect, and cumulative impacts on this species are considered to be reduced to a less than significant level through the application of specific Project Design Features, Project Conditions and mitigation measures (translocation) and through the project's consistency with the NCCP/HCP and IA. Coulter's saltbush is known from approximately 45 occurrences on the Channel Islands and mainland California combined. There are at least 34 documented occurrences on Santa Cruz Island (29 documented occurrences), Santa Rosa Island (2 occurrences), and San Miguel Island (3 occurrences) combined (CalFlora Database 2001). These occurrences are presumed extant and conserved due to the designation of these islands as part of Channel Islands National Park. On the mainland, there are approximately 12 known occurrences, of which, at least 6 are in Orange County. Within the Central/Coastal Subregion of the Nature Reserve of Orange County, there is a population in Upper Bommer Canyon and two occurrences in Newport Backbay (Harmsworth Associates 1999). The current status of the populations within Newport Backbay is unclear due to potential disturbance from flood control activities. Two other occurrences of Coulter's saltbush are within the proposed reserve area of the Southern Subregion NCCP/HCP of Orange County. These two southern populations are found in Chiquita Canyon and Cristinos Canyon. Other known populations include Newport Beach behind the Main Public Library (Harmsworth Associates 1999).

Other sensitive plant species that occur onsite are California box-thorn, golden rayed pentachaeta, California groundsel, small-flowered microseris, vernal barley, and woolly seablite. They are not explicitly addressed in the NCCP/HCP program because they were not designated sensitive species at that time. They are now CNPS List 4 species except for vernal barley (List 3). The construction of the site will not significantly directly, indirectly, or cumulatively impact these species for the reasons described below.

Most of the individuals of California box-thorn (List 4) occur along the coastal bluffs and will be conserved onsite with cliff spurge and woolly seablite. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Bomkamp (pers. comm.) reports that California box-thorn is still common on coastal bluffs in Orange County and occurs in Crystal Cove State Park, Newport Back Bay, Bolsa Chica Reserve, and Fairview-Talbert Park in Costa Mesa. The NCCP/HCP program, through the creation of the 37,000 acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program benefits this species. For these reasons potential direct, indirect, and cumulative impacts to California box-thorn are less than significant.

Golden-rayed pentachaeta is more widespread and common in San Diego County and has also been documented in Los Angeles, San Bernardino, Orange, and Riverside Counties. This List 4 species is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. Although not explicity covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, direct, indirect, and cumulative impacts to golden-rayed pentachaeta are less than significant.

California groundsel was not detected onsite during past surveys and its presence has not been confirmed. This species was reported to be onsite by Roberts (pers. comm.). Regardless, this is a CNPS List 4 ("watch list") species. This species was formerly a List 2, but is now known to be more widespread and abundant and its status has been adjusted. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Although not explicitly covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, if the species is onsite, direct, indirect, and cumulative impacts on California groundsel are less than significant.

Small-flowered microseris was not observed on the Headlands during the past surveys and its presence has not been confirmed. Therefore it was not addressed in the Biological Resources Report. However, Harmsworth Associates (1999) reports that a population of small-flowered microseris was observed on the Headlands in 1998. Small-flowered microseris is known from 22 localities within the Central/Coastal Subregion and 14 of these occurrences are within the Reserve, Special Linkage, or Non-reserve Open Space. Small-flowered microseris is a CNPS List 4 ("watch list") species that is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. This species is benefited by the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, potential direct, indirect, and cumulative impacts to small-flowered microseris are less than significant.

Two small patches of vernal barley with less than 100 individuals total are onsite. One patch occurs within the Blochman's dudleya population and the other patch is adjacent to Scenic Drive in Planning Area 8A (Harbor Point Park). Harmsworth Associates (1999) reports that there are 21 known locations of vernal barley in the Central/Coastal Subregion of which 13 are within the Reserve, Special Linkage, or Non-reserve Open Space. Specifically, vernal barley is known within the Reserve at Aliso Canyon (several occurrences), Bommer Canyon (several occurrences), and the Ecological Reserve at UC-Irvine. Harmsworth Associates (1999) also notes that vernal barley is "much more common than previously thought" and is often misidentified thereby resulting in a further under reporting of its abundance. Vernal barley is a CNPS List 3 species (a review list where more information is required to determine conservation status) and will be benefited by the NCCP/HCP program, which provides suitable habitat for this

species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, potential direct, indirect, and cumulative impacts to vernal barley are less than significant.

Most or all of the individuals of woolly seablite onsite occur along the coastal bluffs and will be conserved with cliff spurge and California box-thorn. This List 4 species is still relatively common (occurs at Bolsa Chica, Newport Back Bay, etc.), but is considered by CNPS to be in potential need of monitoring in the future. In addition, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, direct, indirect, and cumulative impacts (if any) to woolly seablite are less than significant.

ERRATA Impact Assessment – Page 4-13 Paragraph 1

No Project/No Development: The No Project/No Development alternative results in maintaining the status quo of the Project Site. No new development would occur, including any project-related environmental effects from such development. The temporary pocket mouse preserve would not be expanded by an additional 2.2 acres and set aside as permanent conservation open space, and Marguerita Avenue would not be removed and the creation of a minimum 100-foot wide buffer adjacent to the pocket mouse preserve would not occur. This allows the current uses of the Project Site to continue, which include continued unregulated human uses, bicycle and dog traffic through the Hilltop and ridgeline coastal sage scrub and maritime succulent scrub habitats, causing further unchecked disturbance to the area, and erosion from runoff from Marguerita Avenue and Dana Strand Road. Long-term habitat management activities to assist in the conservation of the Pacific pocket mouse within the 22-acre Pacific pocket mouse preserve would cease and the landowners ~~would~~ could withdraw from participation in the NCCP/HCP. Blochman's dudleya, Coulter's saltbush, and other sensitive species will still be subject to disturbance from trampling by human and bicycle traffic. Edge effects will continue to accrue in the area now used as a temporary pocket mouse preserve from the adjoining residential enclaves, from Marguerita Avenue and from unauthorized human activities.

ERRATA – Mitigation – Page 5-3 Paragraph 2

The Project Site Participating Landowner shall offer to relocate any population of Blochman's dudleya that would be directly affected by project grading, in accordance with the terms set forth in the Implementation Agreement. The project applicant may opt to undertake a seed collection and planting program in lieu of translocation, if such a plan meets the approval of the CDFG and USFWS as outlined in greater detail in the Implementation Agreement. Translocation sites for the Blochman's dudleya have been proposed and are shown on Figure 5. This area would also be a suitable translocation site for Coulter's saltbush. In addition to translocation, cuttings of Coulter's saltbush would be taken if appropriate given the condition of extant individuals and seed would be collected for planting in the mitigation area. Although not addressed in the Orange County Central/Coastal Subregion NCCP/HCP, impacts to Coulter's saltbush are

covered under CEQA and will be mitigated to insignificant levels as described above. Coulter's saltbush is known from approximately 45 occurrences on the Channel Islands and mainland California combined. There are at least 34 documented occurrences on Santa Cruz Island (29 documented occurrences), Santa Rosa Island (2 occurrences), and San Miguel Island (3 occurrences) combined (CalFlora Database 2001). These occurrences are presumed extant and conserved due to the designation of these islands as part of Channel Islands National Park. On the mainland, there are approximately 12 known occurrences, of which, at least 6 are in Orange County. Within the Central/Coastal Subregion of the Nature Reserve of Orange County, there is a population in Upper Bommer Canyon and two occurrences in Newport Backbay (Harmsworth Associates 1999). The current status of the populations within Newport Backbay is unclear due to potential disturbance from flood control activities. Two other occurrences of Coulter's saltbush are within the proposed reserve area of the Southern Subregion NCCP/HCP of Orange County. These two southern populations are found in Chiquita Canyon and Cristinos Canyon. Other known populations include Newport Beach behind the Main Public Library (Harmsworth Associates 1999).

Direct, indirect, and the proposed project's incremental contribution to the cumulative impacts on coastal sage scrub, maritime succulent scrub, and coastal bluff scrub and associated sensitive plant (except Coulter's saltbush) and wildlife species are considered to be mitigated to insignificant levels and consistent with the NCCP guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement (USFWS 1996).

ERRATA – Revegetation Plant Palette – Pages E1, E2

Botanical Name	Common Name
Antirrhinum nuttalinum	Nuttall snapdragon
Baccharis pilularis	Coyote brush
Baccharis salicifolia (glutinosa)	Mulefat
Bromus carinatus	California Brome
Camissonia cheiranthifolia	Beach Evening Primrose
Ceanothus spp.	Ceanothus spp.
Comarostaphylis diversifolia	Summer Holly
Croton californicus	California Croton
Dichelostemma capitatum	Wild Hyacinth
Dudleya lanceolata	Coastal Dudleya
Dudleya pulverulenta	Chalk Dudleya
Encelia californica	California Sunflower
Epilobium californica	California Cottonweed
Eriophyllum confertiforum	Golden Yarrow
Eschscholzia californica	California Poppy
Garraya elliptica	Silktassel

Botanical Name	Common Name
Gnaphalium californicum	California Everlasting
Heteromeles arbutifolia	Toyon
~~*Isocoma menziesii*~~	~~Goldenbush~~
Isomeris arborea	Bladderpod
Iva hayesiana	Marsh Elder
Lasthenia California	Goldfields
~~*Lavandula dentate*~~	~~French Lavender~~
Lotus scoparius	Coastal Deerweed
Lupinus spp.	Lupine
Mirabilis californica	Wishbone Bush
Mimulus aurantiacus	Monkey Flower
Nassella (Stipa) lepida	Foothill Needle Grass
Nassella (Stipa) pulchra	Purple Needle Grass
Nemophila mensiesii	Baby Blue Eyes
Opuntia littoralis	Coast Prickly Pear
Opuntia oricola	Prickly Pear
Opuntia prolifera	Coast Cholla
Penstemmon sp.	Penstemmon
Plantago erecta	Dot-seed Plantain
Prunus ilicifolia	Holly Leaf Cherry
Rhamnus californica	California Coffeeberry
Rhamnus crocea	Spiny Redberry
Rhus integrifolia	Lemonadeberry
Ribes speciosum	Fuchsia-flowered Gooseberry
Romneya coulteri	Matilija Poppy
Sambucus mexicana	Elderberry
Sisyrinchium bellum	Blue-eyed Grass
Solanum douglasii	Douglas Nightshade
Trichostema lanatum	Wooly Blue Curls
Umbellularia californica	California Laurel
Atriplex lentiformis breweri	Coastal quail bush

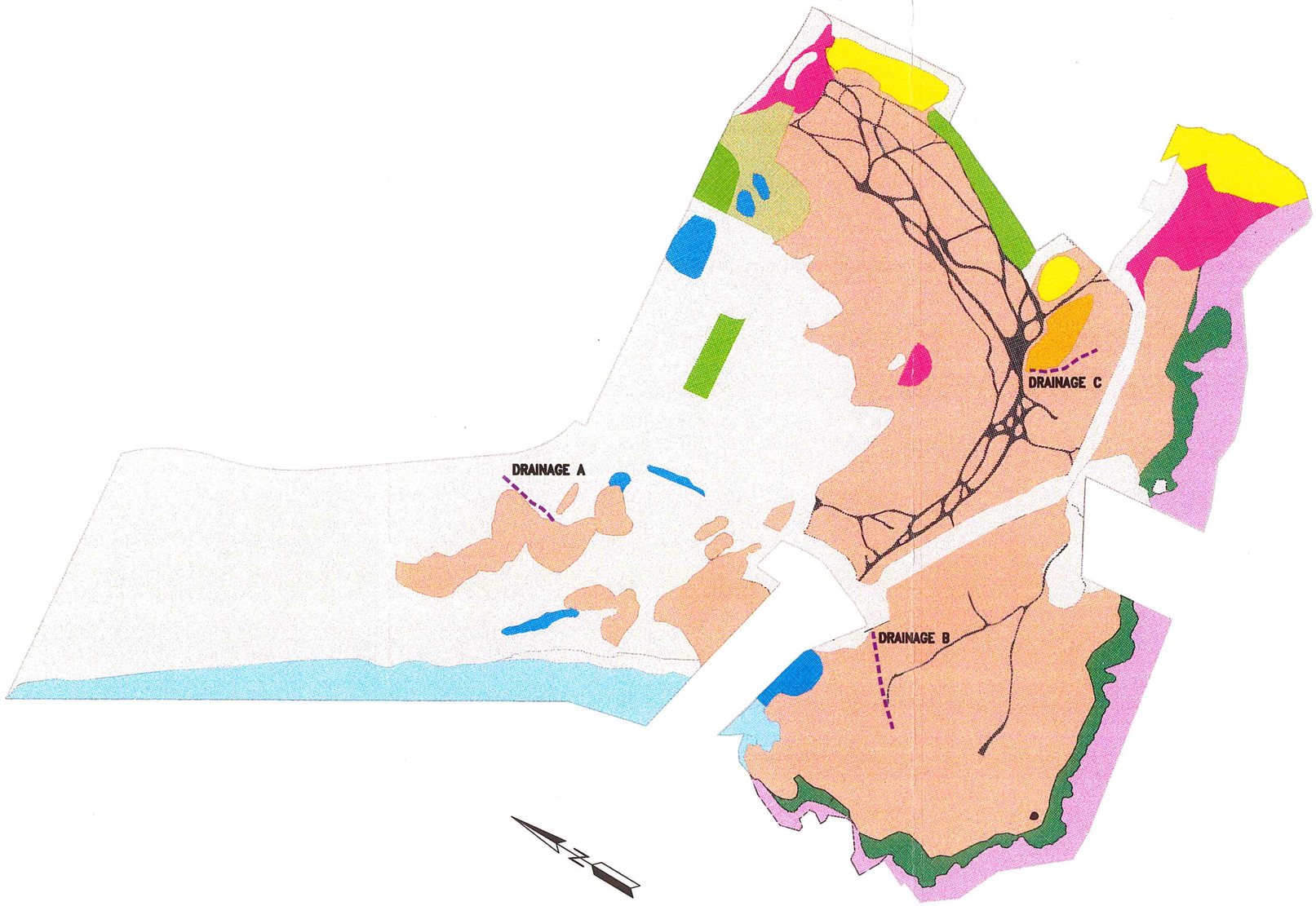
ERRATA – Addition of Figure 6 - Vegetation, Species, and Jurisdictional Waters of the U.S. Headlands

ERRATA – References – Insert on Page 6-1

CalFlora Database http://www.calflora.org/

LEGEND:

- DEVELOPED/ORNAMENTAL
  46.79 ACRES
- DISTURBED/RUDERAL HABITAT
  3.21 ACRES
- NON–NATIVE GRASSLAND
  1.28 ACRES
- COASTAL SAGE SCRUB
  48.07 ACRES
- DISTURBED COASTAL SAGE SCRUB
  2.33 ACRES
- SOUTHERN MIXED CHAPARRAL
  2.69 ACRES
- MARITIME SUCCULENT SCRUB
  0.61 ACRES
- SOUTHERN COASTAL BLUFF SCRUB
  3.34 ACRES
- SANDY BEACH
  5.22 ACRES
- ROCKY INTERTIDAL/BLUFF FACE
  6.11 ACRES
- DISTURBED SOUTHERN NEEDLEGRASS GRASSLAND
  1.65 ACRES
- JURISDICTIONAL CHANNELS



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APPROXIMATE GRAPHIC SCALE
(FEET)

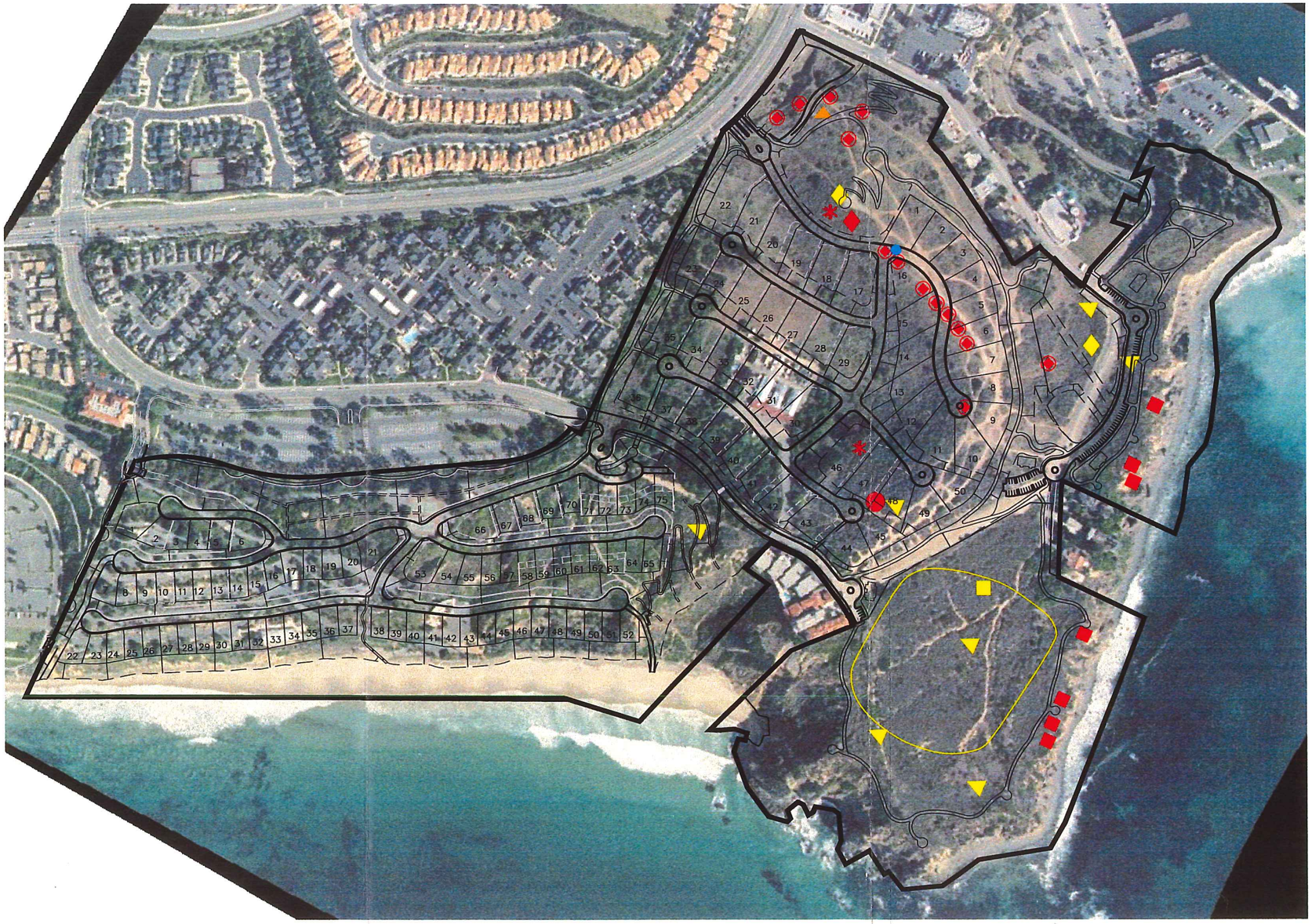
VEGETATION AND JURISDICTIONAL WATERS OF THE U.S. HEADLANDS

URS	CHECKED BY:	DATE: 11–27–01	FIG. NO: 3
	PM: PM	PROJ. NO: 58–00161052.01	

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LEGEND:

- SENSITIVE SPECIES
- CACTUS WREN (HISTORICAL)
- OCCUPIED PACIFIC POCKET MOUSE HABITAT
- CALIFORNIA GNATCATCHER (PAIR)
- CALIFORNIA GNATCATCHER (HISTORICAL PAIR)
- ORANGE–THROATED WHIPTAIL (HISTORICAL)
- WESTERN DICHONDRA (HISTORICAL)
- BLOCHMAN'S DUDLEYA
- NUTTALL'S SCRUB OAK
- CLIFF SPURGE
- PALMER'S GRAPPLING HOOK (HISTORICAL)
- COULTER'S SALTBUSH (Atriplex coulteri)
- PROJECT BOUNDARY



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APPROXIMATE GRAPHIC SCALE
(FEET)

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SENSITIVE SPECIES HEADLANDS

URS	CHECKED BY:	DATE: 12–3–01	FIG. NO: 4
	PM: PM	PROJ. NO: 58–00161052.01	

LEGEND:

DEVELOPED/ORNAMENTAL
46.79 ACRES

DISTURBED/RUDERAL HABITAT
3.21 ACRES

NON–NATIVE GRASSLAND
1.28 ACRES

COASTAL SAGE SCRUB
48.07 ACRES

DISTURBED COASTAL SAGE SCRUB
2.33 ACRES

SOUTHERN MIXED CHAPARRAL
2.69 ACRES

MARITIME SUCCULENT SCRUB
0.61 ACRES

SOUTHERN COASTAL BLUFF SCRUB
3.34 ACRES

SANDY BEACH
5.22 ACRES

ROCKY INTERTIDAL/BLUFF FACE
6.11 ACRES

DISTURBED SOUTHERN
NEEDLEGRASS GRASSLAND
1.65 ACRES

JURISDICTIONAL CHANNELS

SENSITIVE SPECIES

CACTUS WREN (HISTORICAL)

OCCUPIED PACIFIC POCKET MOUSE HABITAT

CALIFORNIA GNATCATCHER (PAIR)

CALIFORNIA GNATCATCHER (HISTORICAL PAIR)

ORANGE–THROATED WHIPTAIL (HISTORICAL)

WESTERN DICHONDRA (HISTORICAL)

BLOCHMAN'S DUDLEYA

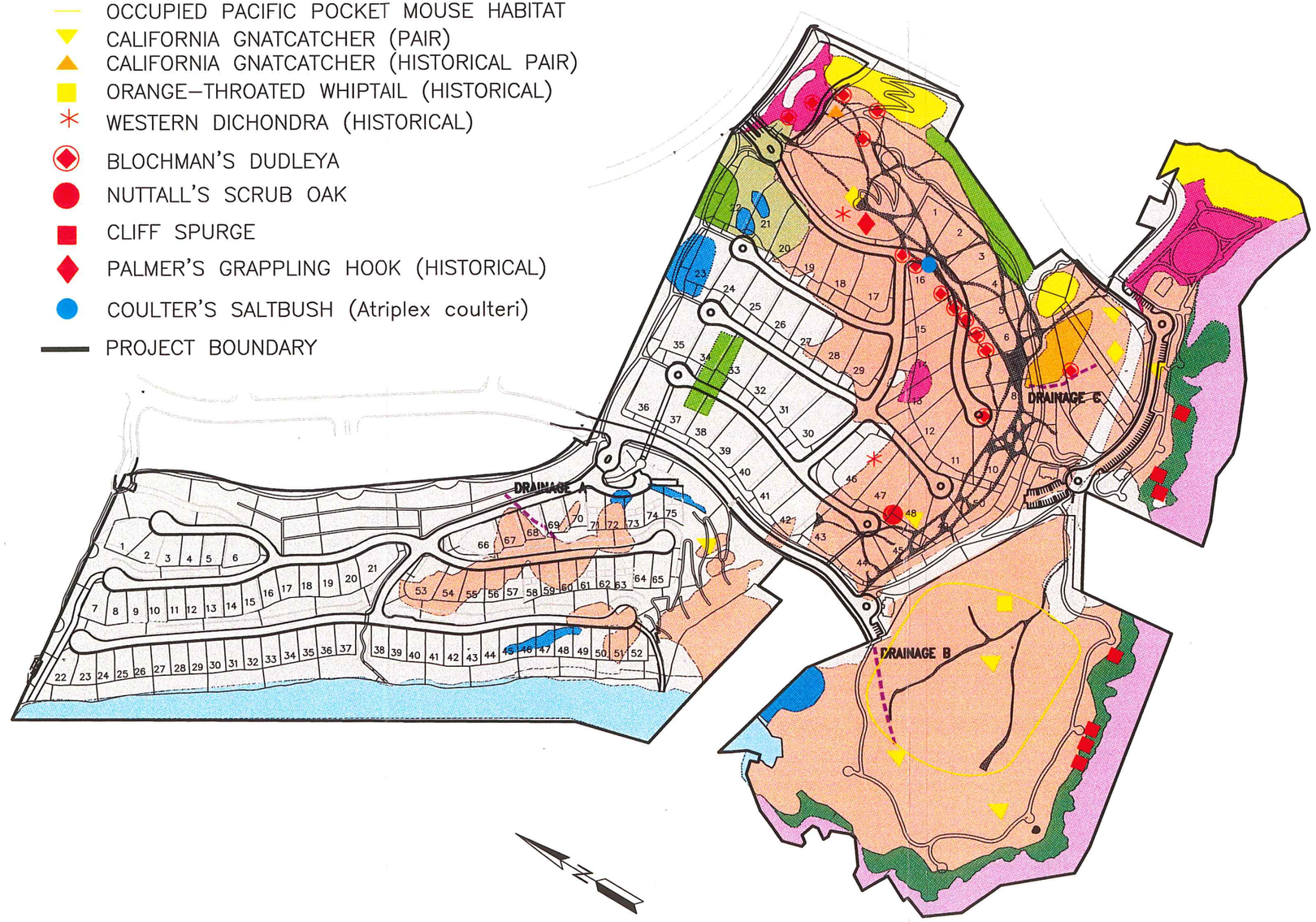
NUTTALL'S SCRUB OAK

CLIFF SPURGE

PALMER'S GRAPPLING HOOK (HISTORICAL)

COULTER'S SALTBUSH (Atriplex coulteri)

PROJECT BOUNDARY



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APPROXIMATE GRAPHIC SCALE
(FEET)

VEGETATION, SPECIES AND JURISDICTIONAL WATERS OF THE U.S.
HEADLANDS

URS	CHECKED BY:	DATE: 12–2–01	FIG. NO: 6
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ATTACHMENT B

EIR SECTION 4.3, TERRESTRIAL BIOLOGICAL RESOURCES ERRATA

4.3 TERRESTRIAL BIOLOGICAL RESOURCES

This section discusses the terrestrial biological resources on site and the project's impacts on these resources. Marine biological resources in the surrounding ocean waters are discussed in Section 4.15, Marine Biological Resources. The analysis in this section is excerpted from the Biological Resources Report prepared by URS (2001), which is included in its entirety in Appendix C. In addition, this section summarizes the findings of the jurisdictional delineation prepared by Glenn Lukos Associates (2001). A copy of the delineation is provided in Appendix C.

4.3.1 Existing Environmental Setting

As described in more detail in Project Description, Section 3.0, the existing land uses on the project site consist of a former plant nursery, a storage area, greenhouses, and the remains of a mobile home park and the privately owned Strand Beach, vacant land, and an on-site road network. Existing improvements associated with these past and present land use activities include storm drainage systems, water systems, septic systems, underground and aboveground utilities, catch basins, a gate guard house, tennis court, garages, parking lots, shore revetment, street paving, curbs and gutters, greenhouse commercial structures, several terraced pads, retaining walls, street lighting, water hydrants, fencing, stormwater outfalls, irrigation, and ornamental landscaping. The vacant land supports both native and exotic vegetation.

Surrounding land uses are built out with urbanized development, primarily residential uses. However, both visitor serving commercial and residential uses are present on Selva Road and Street of the Green Lantern. Dana Point Harbor, owned and maintained by the County of Orange, lies east of the project site.

The topography of the project site is varied, with coastal bluffs, man-made terraces, and knolls overlooking the Pacific Ocean. Elevations range from approximately sea level to 288 feet above mean sea level (MSL).

4.3.1.1 Vegetation. Many of the vegetation communities found on the project site are native to the Southern California area (Holland 1983), while others are present due to past human disturbance and the installation of ornamental landscaping (Figure 4.3.1, Vegetation). Southern coastal bluff scrub and California coastal sage scrub dominate the southwest portion of the project site. The southeast portion of the project site supports coastal sage scrub, disturbed coastal sage scrub, southern coastal bluff scrub, southern mixed chaparral, and rocky intertidal/bluff face. The northeastern portion of the project site contains coastal sage scrub, maritime succulent scrub, southern mixed chaparral, disturbed southern needlegrass grassland, and non-native grassland. The northern portion of the project site consists of heavily disturbed vegetation, ornamental plantings, disturbed coastal sage scrub, and nonnative grassland.

The vegetation communities present on the site are described below. The amount of the project site occupied by each habitat is also provided.

LEGEND:

DEVELOPED/ORNAMENTAL
46.79 ACRES

DISTURBED/RUDERAL HABITAT
3.21 ACRES

NON-NATIVE GRASSLAND
1.28 ACRES

COASTAL SAGE SCRUB
48.07 ACRES

DISTURBED COASTAL SAGE SCRUB
2.33 ACRES

SOUTHERN MIXED CHAPARRAL
2.69 ACRES

MARITIME SUCCULENT SCRUB
0.61 ACRES

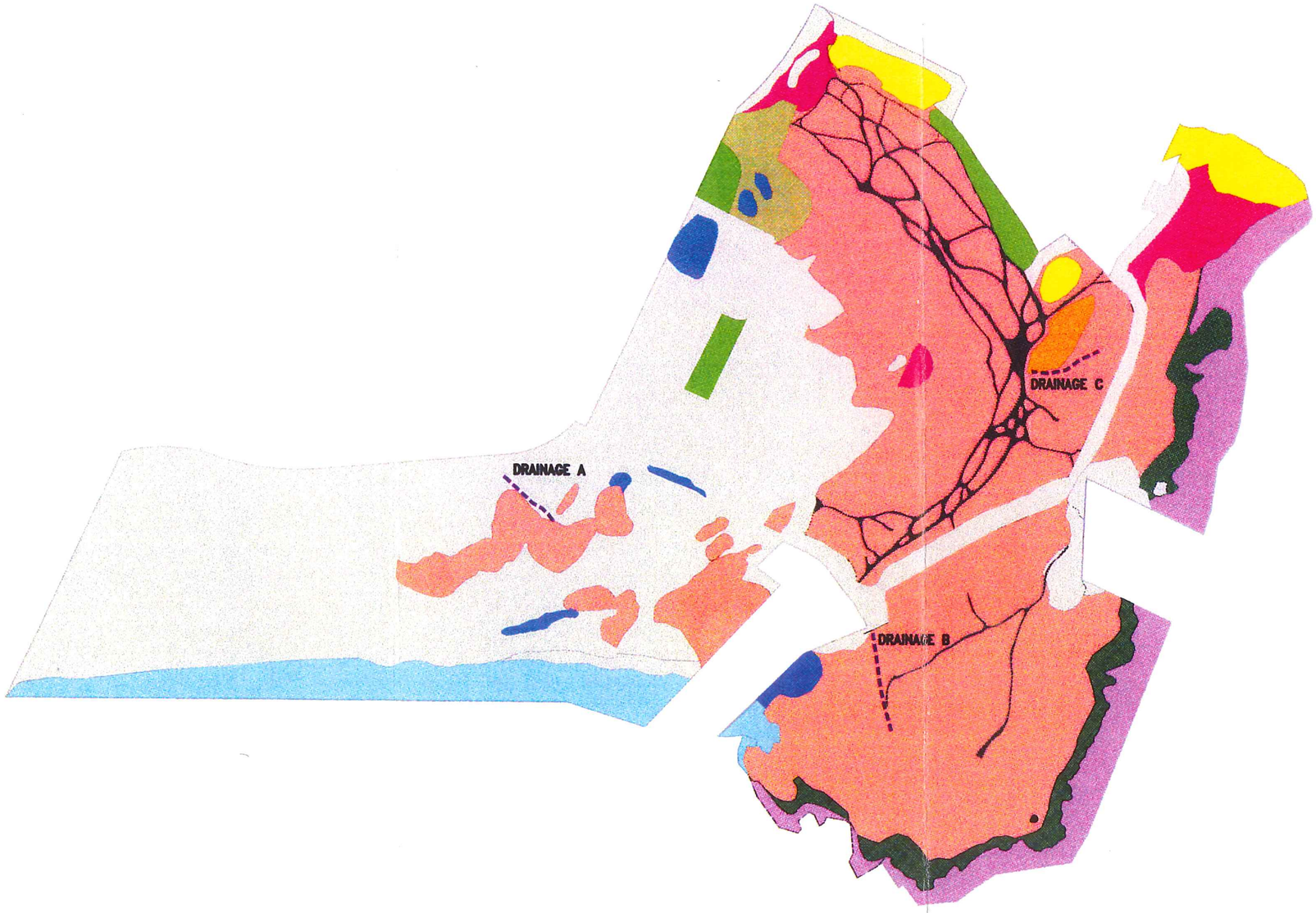
SOUTHERN COASTAL BLUFF SCRUB
3.34 ACRES

SANDY BEACH
5.22 ACRES

ROCKY INTERTIDAL/BLUFF FACE
6.11 ACRES

DISTURBED SOUTHERN
NEEDLEGRASS GRASSLAND
1.65 ACRES

JURISDICTIONAL CHANNELS



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SOURCE: URS

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FIGURE 4.3.1

HDCP EIR
Vegetation and Jurisdictional Waters of the U.S.

Vegetation Communities

Southern Coastal Bluff Scrub (3.34 acres) is composed of prostrate woody and/or succulent plants that are found on the cliffs, ridgelines, and bluffs adjacent to the ocean on the western and southern edges of the project site. The coastal bluff scrub found on the project site consists of common plants such as lemonadeberry (*Rhus integrifolia*), coastal cholla (*Opuntia prolifera*), dudleya (*Dudleya* spp.), ice plant (*Carpobrotus* spp.), bladderpod (*Isomeris arborea*), California encelia (*Encelia californica*), coyote bush (*Baccharis pilularis*), and California sagebrush (*Artemisia californica*), as well as less common species such as cliff spurge (*Euphorbia misera*) and California box thorn (*Lycium californicum*).

Coastal sage scrub (48.07 acres) is composed of low, soft-woody subshrubs to about one meter (3 ft) high, many of which are facultatively drought-deciduous. This association is typically found on dry sites, such as steep, south facing slopes. Dominant shrub species in this vegetation type may vary depending on local site factors and levels of disturbance.

The coastal sage scrub within the project site is dominated by California sagebrush and flat-topped buckwheat (*Eriogonum fasciculatum*). Other less dominant shrubs include orangebush monkeyflower (*Mimulus aurantiacus*), California encelia, coastal goldenbush (*Isocoma menziesii*), coastal prickly pear (*Opuntia littoralis*), lemonadeberry, and coyote bush. In some locations, the herbaceous cover within the openings between the shrubs is dominated by southern needlegrass. The main elements of this herbaceous layer include purple needlegrass (*Nassella pulchra*), needlegrass (*N. lepida*), fascicled tarplant (*Deinandra fasciculata*), *Vulpia myuros*, purple false brome (*Brachypodium distachyon*) and golden-rayed pentachaeta (*Pentachaeta aurea*). Purple needlegrass and non-native grasses are also present in the area that supports Blochman's dudleya (*Dudleya blochmaniae*) and are scattered throughout the coastal sage scrub on site. ~~Also present in small areas in the understory is purple needle grass (*Nassella pulchra*).~~

Disturbed coastal sage scrub (2.33 acres) is also present within the project site. A disturbed qualifier is placed on coastal sage scrub (or any other native habitat) based on mechanical disturbance (e.g., brushing or clearing, heavy utilization by hikers and bicycles, and off-road vehicle activity). Disturbed coastal sage scrub typically has a high percent cover of nonnative species and is fragmented to some degree. The species present in the disturbed coastal sage scrub on the project site include California sagebrush, flat-topped buckwheat, deerweed (*Lotus scoparius*), and nonnative species such as mustard (*Brassica* spp.) and tarweed (*Hemizonia* spp.).

Maritime Succulent Scrub (0.61 acres) occurs on south facing slopes in the northeastern portion of the project site. This community is a low, open vegetation type with a poorly developed understory (Holland 1986). The dominant shrub species in this community include some of the coastal sage scrub dominants, as well as a high percentage of coastal cholla (*Opuntia prolifera*) and prickly pear (*O. littoralis*)~~number of cacti and other succulent species. Typical shrub and suffrutescent species include California sagebrush, California copperleaf (*Acalypha californica*), Shaw's agave (*Agave shawii*), and California encelia (*Encelia californica*). Cacti include velvet cactus (*Bergerocactus emoryi*), coast barrel cactus (*Ferocactus viridescens*), coastal prickly pear, and coastal cholla. Stands of jojoba (*Simmondsia chinensis*) are also scattered within this community in the southern portion of the study area~~.

Southern Mixed Chaparral (2.69 acres) is found along the eastern boundary of the site on east facing slopes. This association consists of a mix of chaparral species and occurs below 5,000 feet in elevation. The dominant species found in this plant community are toyon (*Heteromeles arbutifolia*), laurel sumac (*Malosma laurina*), and lemonadeberry with a large patch of the non-native, ornamental *Hypericum canariense* in the chaparral in the northwest corner of the site.

Disturbed Southern Needlegrass Grassland (1.65 acres) is found along the northeastern boundary of the site. Southern needlegrass grassland is characterized by a relatively low (< 30 percent) to dense herbaceous cover of the perennial, tussock-forming species, purple needlegrass (*Nassella* (*Stipa*) *pulchra*). Native and introduced annuals occur between the needlegrass, often actually exceeding the bunchgrass in cover (Holland 1986). This association generally occurs on fine-textured clay soils that are moist or wet in winter, but very dry in summer. Shrubs are infrequent, probably due to the unstable clay soils. The degree of habitat quality in native grasslands varies greatly, depending on the history of grazing, cultivation, or other disturbance factors. The disturbed southern needlegrass grassland on site is composed of purple needlegrass, foothill needlegrass (*N. lepida*), melic grass (*Melica imperfecta*), common goldenstar (*Bloomeria crocea*), and blue dicks (*Dichelostemma capitatum*) with a significant cover of non-native annual grasses such as *Vulpia myuros*, brome grasses (*Bromus* spp.) and purple false brome (*Brachypodium distachyon*).

Nonnative Grassland (1.28 ~~2.93~~ acres) is characterized by dense to sparse cover of annual grasses, often with native and nonnative annual forbs (Holland 1986). This habitat is a disturbance-related community most often found in old fields or openings in native scrub habitats. This association may have replaced native grassland and coastal sage scrub at many localities throughout the project site. Typical grasses include wild oat, soft chess (*Bromus mollis*), red brome, ripgutgrass (*Bromus diandrus*), and foxtail fescue (*Vulpia megalura*). Characteristic forbs include red-stem filaree (*Erodium cicutarium*), mustard (*Brassica* spp.), tarweed (*Hemizonia* spp.), California goldfields (*Lasthenia chrysostoma*), and owl's clover (*Orthocarpus purpurascens*).

Developed/Ornamental (46.79 acres). Developed areas support no native vegetation due to past disturbances associated with the presence of buildings, roads, and other infrastructure. The level of soil disturbance is such that only the most ruderal plant species would be expected. Ornamental areas include historically maintained landscaped areas that support species from previous developments (e.g., ice plant, myoporum, etc.). Species found in these areas include pepper tree (*Schinus molle*), ice plant (*Gasoul crystallinum*), and Eucalyptus (*Eucalyptus* sp.). Some of these areas are mixed with developed areas. These areas on site include an abandoned mobile home park, portions of a plant nursery, and roads.

Disturbed/Ruderal Habitat (3.21 acres) is any land on which the native vegetation has been significantly altered by land clearing activities, and the species composition and site conditions are not characteristic of any disturbed phase of native plant association. Such habitat is typically found in recently cleared areas, vacant lots, roadsides, and construction staging areas, and is dominated by a lack of vegetation or an inclusion of non-native broadleaf species, including castor bean (*Ricinus communis*) and tree tobacco (*Nicotiana glauca*).

Sandy Beach (5.2 acres) is the flat, sandy area along the immediate coastline that occurs between mean tide and the revetment, or the furthest inland reach of storm waves on the northwestern portion of the project site. This habitat is characterized by high exposure to salt spray and sandy substrate with a low organic content and water holding capacity. Plant species occurring on the upper portion of beaches include sea-rocket (*Cakile* spp.) and beach saltbush (*Atriplex leucophylla*).

Rocky Intertidal/Bluff Face (6.11 acres) is the tidally influenced hardscape habitat along the southern and southeastern end of the project site. This habitat association includes the talus cliff edge and rocky intertidal areas at the base of the cliffs.

A total of 182 plant species have been recorded on the project site, including 72 non-native species. A complete list of the floral species detected on the project site is provided in the Biological Resources Report in Appendix C.

4.3.1.2 Wildlife. Wildlife species that have been recorded on the project site include Pacific tree frog, western fence lizard, side-blotched lizard, mourning dove, California gnatcatcher, white-throated swift, western kingbird, American crow, northern mockingbird, orange-crowned warbler, deer mouse, Pacific pocket mouse, western harvest mouse, San Diego desert woodrat, cactus mouse, California vole, house mouse, California ground squirrel, and desert cottontail. Feral and domestic cats and domestic dogs are also believed to be present on the project site. No raptor nests were observed on-site during surveys; however, nesting activity likely occurs in the project vicinity. A total of 92 wildlife species have been recorded on the project site since 1993. A complete list of the vertebrate species detected on the project site is provided in the Biological Resources Report in Appendix C.

4.3.2 Sensitive Species

The following is a brief discussion of sensitive species designations, including State and federal designations that afford protection to sensitive biological species.

4.3.2.1 Federal Designations. A federally endangered species is a species facing extinction throughout all or a significant portion of its geographical range. A federally threatened species is one likely to become endangered within the foreseeable future throughout all or a significant portion of its range. The presence of any federally threatened or endangered species in a project site often imposes constraints on development, particularly if development would result in "take" of the species or its habitat. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in such conduct. Harm in this sense can include any disturbance to habitats used by the species during any portion of its life history. Following rigorous analysis and subject to appropriate mitigation measures, a Section 10(a) Permit may be issued to authorize take of a species. A 10(a) Permit has been issued for the Headlands project, as discussed in Section 4.3.7.

Proposed species are those officially proposed by the U.S. Fish and Wildlife Service (USFWS) for addition to the federal threatened and endangered species list. Because proposed species may soon be listed as threatened or endangered, these species could become listed prior to or during

implementation of a proposed project. Federal threatened and endangered species are protected against take in the absence of incidental take authorization from the USFWS. However, the Headlands project area is addressed by the Orange County Central/Coastal Natural Community Conservation Plan and Habitat Conservation Plan (NCCP/HCP), which provides for the potential impacts of the project, including any necessary take authorization (see Section 4.3.7.4).

A federal species of special concern includes taxa that should be given consideration during the planning process. However, this designation is a term of art used to replace the former Category 2 Candidate Species designations.

4.3.2.2 State Designations. The State of California considers an endangered species as one whose prospects of survival and reproduction are in immediate jeopardy. A threatened species is one present in such small numbers throughout its range that it is likely to become an endangered species in the near future in the absence of special protection or management. A "rare" species is one present in such small numbers throughout its range that may become endangered if its present environment worsens. The rare category applies only to California native plants. State threatened and endangered species are protected against "take"[1] in the absence of incidental take authorization from the California Department of Fish and Game (CDFG). However, the Headlands project area is addressed by the NCCP/HCP, which provides for the potential impacts of the project, including any necessary take authorization (see Section 4.3.7.4).

Species of Special Concern is an information designation used by the CDFG for some declining wildlife species that are not designated threatened or endangered. This designation does not provide legal protection, but signifies that these species are recognized as sensitive by the CDFG.

Species that are California fully protected include those protected by special legislation for various reasons, such as the white-tailed kite.

4.3.2.3 California Natural Diversity Database. In addition to providing an inventory of sensitive plant and animal species, the California Natural Diversity Database (CNDDB) also provides an inventory of plant communities that are considered sensitive by State and federal resource agencies, academic institutions, and various conservation groups (such as the CNPS). Determination of the level of sensitivity is based on the Nature Conservancy Natural Heritage Network Program Status Ranks that rank both species and plant communities on a global and statewide basis according to the number and size of remaining occurrences as well as recognized threats (e.g., proposed developments, habitat degradation, and invasion by nonnative species). The CNDDB community descriptions follow Holland (1986).

4.3.2.4 Other Designations. The California Native Plant Society (CNPS) is a statewide resource conservation organization that has developed an inventory of California's sensitive plant species (Skinner and Pavlik, 1994). This inventory is the summary of information on the distribution, rarity,

[1] "Take" is defined by the State to mean hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

and endangerment of California's vascular plants. This sensitive plant inventory is composed of four lists. CNPS presumes that List 1A plant species are extinct in California because they have not been seen in the wild for many years. CNPS considers List 1B plants as rare, threatened, or endangered throughout their range. List 2 plant species are considered rare, threatened, or endangered in California but more common in other states. Plant species for which CNPS needs additional information are included on List 3. List 4 plant species are those of limited distribution in California whose susceptibility to threat appears low at this time.

4.3.3 Sensitive Habitats

Sensitive habitats are plant communities, associations, or subassociations that are considered rare or seriously declining within the region, are listed by the CNDDB, or are habitats that support concentrations of sensitive plant or wildlife species are of relatively limited distribution, or are of particular value to wildlife (CDFG 1995). Although sensitive habitats are not afforded legal protection, potential impacts on them may be cause for concern in some circumstances and may require mitigation to satisfy any applicable resources agency permitting requirements. Sensitive upland habitats on the project site encompass 56.6 acres and include coastal sage scrub (48.07 acres) and disturbed coastal sage scrub (2.33 acres), maritime succulent scrub (0.61 acre), and southern coastal bluff scrub (3.34 acres). Figure 4.3.2, Sensitive Species, depicts the sensitive species that have been observed on the project site. These sensitive species are discussed below.

4.3.3.1 Coastal Sage Scrub. Coastal sage scrub is considered sensitive by the CNPS, CDFG, and USFWS, and is present on the project site. Impacts on coastal sage scrub habitat are considered significant since this habitat is ranked as "very threatened" on the CNDDB. Coastal sage scrub is of particular importance in Southern California because it provides habitat for the federally threatened coastal California gnatcatcher, as well as approximately 100 other sensitive species. The USFWS estimated that coastal sage scrub habitat has been reduced by over 70 percent of its historical extent, due primarily to agriculture and urban development.

Additional evidence of the decline of this once common habitat is the growing number of declining plant and animal species dependent upon it, including the California gnatcatcher, cactus wren, California rufous-crowned sparrow, orange-throated whiptail, and several sensitive plant species, such as Blochman's dudleya and western dichondra. Dominant plants in this community include California sagebrush, flat-top buckwheat, laurel sumac, white sage, and black sage.

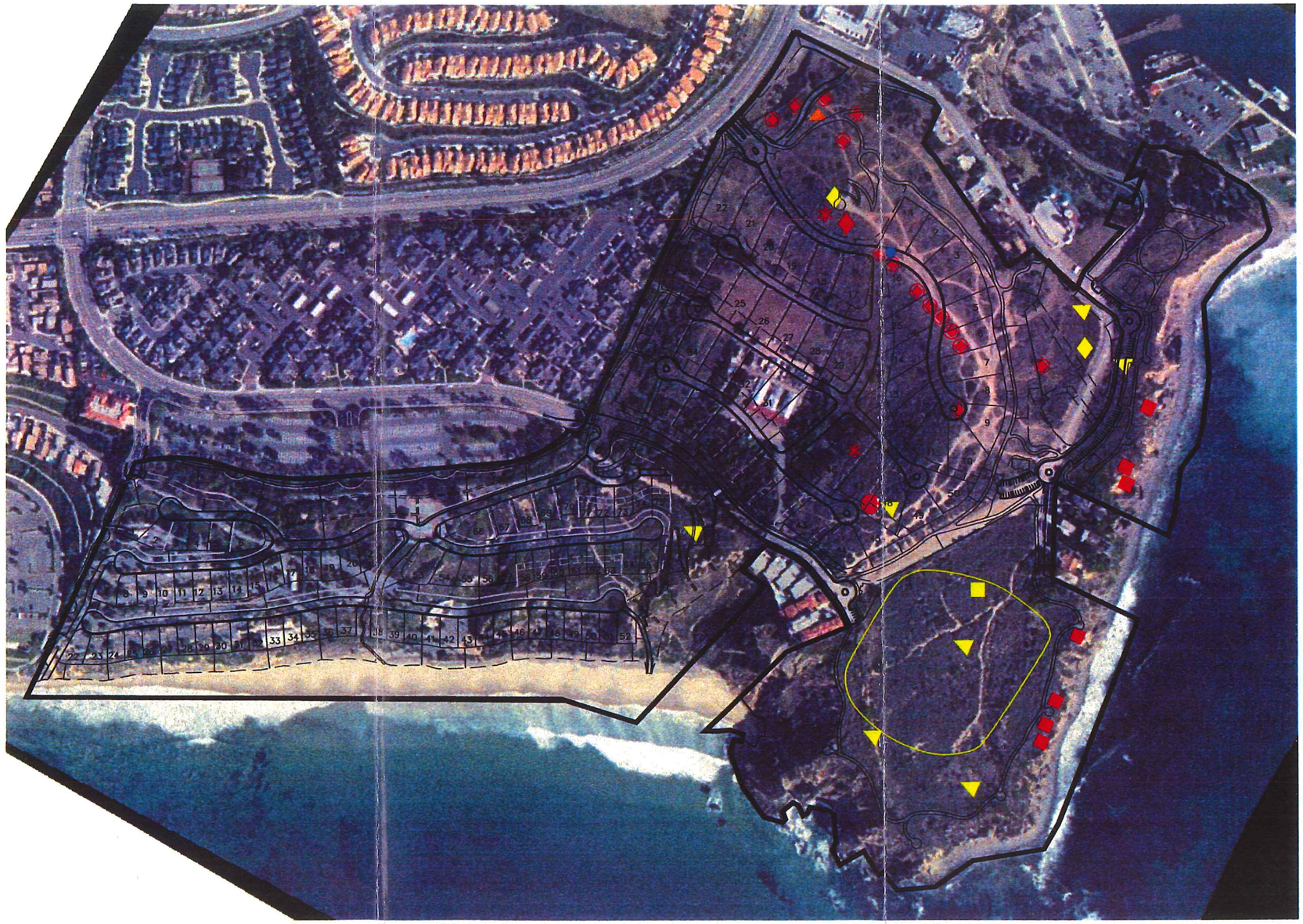
4.3.3.2 Maritime Succulent Scrub. Maritime succulent scrub is the least prevalent habitat to occur on the project site. This coastal-restricted habitat supports many plant species considered sensitive by the CDFG and CNPS.

4.3.3.3 Southern Coastal Bluff Scrub. Southern coastal bluff scrub is a low, sometimes prostrate scrub that occurs at localized sites along the California coast south of Point Conception. Dominant plants are mostly woody or succulent and include such species as saltbush, coastal prickly-pear, lemonadeberry, dudleya, ~~and giant and San Diego sea-dahlia~~cliff spurge, woolly seablite, and

LEGEND:

SENSITIVE SPECIES

- CACTUS WREN (HISTORICAL)
- OCCUPIED PACIFIC POCKET MOUSE HABITAT
- CALIFORNIA GNATCATCHER (PAIR)
- CALIFORNIA GNATCATCHER (HISTORICAL PAIR)
- ORANGE–THROATED WHIPTAIL (HISTORICAL)
- WESTERN DICHONDRA (HISTORICAL)
- BLOCHMAN'S DUDLEYA
- NUTTALL'S SCRUB OAK
- CLIFF SPURGE
- PALMER'S GRAPPLING HOOK (HISTORICAL)
- COULTER'S SALTBUSH (Atriplex coulteri)
- PROJECT BOUNDARY



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SOURCE: URS

FIGURE 4.3.2

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Sensitive Species

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California box-thorn. Development along the Southern California coastline has reduced this geographically restricted plant community throughout its limited range.

4.3.4 Sensitive Plants

Focused surveys were conducted for plant species that are considered sensitive according to the CNDDB for the regional area of the project site. Plants are considered sensitive if they are State listed as rare, threatened or endangered, listed by the CNPS, or federally listed as threatened or endangered. Blochman's dudleya, Coulter's saltbush, Prostrate Spineflower, Nuttall's scrub oak, western Dichondra, Palmer's grappling hook, ~~and~~ cliff spurge, California box-thorn, golden rayed pentachaeta, vernal barley, small-flowered microseris, and woolly seablite were detected in ~~either or both of~~ the 1991, 1998, ~~and~~ 2000, and/or 2001 surveys (Figure 4.3.2).

Blochman's Dudleya (CNPS: List 1B, 3-3-3~~2-2-2~~) is a late spring-blooming (May-June) herbaceous perennial that occurs in dry stony places below 1,500 feet in elevation. It is associated with coastal sage scrub and is found near the coast from San Luis Obispo County south to northern Baja California. In Southern California, this species is rare (less than 20 known locations). A population of 250 plants was reported by PSBS (1991) near the hilltop in the eastern portion of the project site. URS biologists confirmed this species' presence in January, 2000, and LSA biologists reconfirmed the locations in April, 2001. The Blochman's dudleya are in unprotected areas of the property, either in or adjacent to areas of disturbed coastal sage scrub. These areas currently have heavy foot traffic and occasional bicycle traffic from site visitors.

Coulter's saltbush (CNPS: List 1B) is a perennial herb that flowers from March-October. It inhabits coastal bluff scrub, coastal dunes, and alkaline grasslands from Santa Barbara County south to Baja California and is on many of the Channel Islands. Coulter's saltbush is rare and declining in portions of its range. Coulter's saltbush is known from approximately 45 occurrences on the Channel Islands and mainland combined. Thirty-four documented occurrences on the Channel Islands are presumed extant and conserved due to the designation of these islands as part of Channel Islands National Park. On the mainland, there are approximately 12 known occurrences, of which at least six are in Orange County. Within the Central/Coastal Subregion of the Nature Reserve of Orange County, established by the NCCP/HCP, there is a population in Upper Bommer Canyon and two occurrences in the Upper Newport Bay Ecological Preserve. This species was reported on site by Mr. Fred Roberts and verified by URS Corporation in November 2001. The Coulter's saltbush (< 10 individuals on site) is in an unprotected area co-occurring with Blochman's dudleya. This area currently has heavy foot traffic and occasional bicycle traffic from site visitors.

Cliff Spurge (CNPS: List 2, 2-2-1) is an irregularly branched shrub that is restricted to sea bluffs in southern coastal bluff scrub. Its coastal range extends from Corona Del Mar to Baja California and the Channel Islands. PSBS (1991) reported several thousand individuals on the coastal bluffs of the project site. The presence of this species was confirmed in January, 2000, by URS biologists.

Nuttall's scrub oak (CNPS: List 1B, 2-3-2) is a species of scrub oak that has declined in proportion to the level of coastal development. Populations are restricted to coastal sage scrub and chaparral habitats typically within ten miles of the coast. A single individual Nuttall's scrub oak occurs near the former plant nursery on the project site.

Vernal barley (CNPS: List 3) is an annual grass that flowers in March-June. It inhabits grasslands and vernal pool areas from Mono County west to San Mateo County and south into Baja California. This species was not detected during surveys in 1991, 1998, and 2000, but was observed on site by a biologist in 1996 (T. Bomkamp pers. comm.). The biologist reported that there are less than 100 plants total on site in two small patches.

California box-thorn (CNPS: List 4) is a rigidly branched shrub that flowers in March-April. It inhabits coastal bluff scrub and coastal sage scrub from Santa Barbara County to Baja California and is on many of the Channel Islands. This species was observed on site in 1991, 1998, and 2000 in the coastal bluff scrub along the sea cliffs, and one large individual was found in the coastal sage scrub co-occurring with Blochman's dudleya.

Golden-rayed pentachaeta (CNPS: List 4) is a small annual that flowers in March-July. It inhabits grassy areas, openings in coastal scrub, and cismontane woodland and forests from San Bernardino County to Baja California. This species was observed on site in 1991 and 2000 in the coastal sage scrub north of the access road.

Woolly seablite (CNPS: List 4) is an evergreen shrub that inhabits coastal bluff scrub, coastal dunes and marshes from Santa Barbara County to San Diego County and on many of the Channel Islands. Depending on local site conditions, woolly seablite can flower at any time during the year. Woolly seablite was observed along the sea bluffs in 1991.

Small-flowered microseris (CNPS: List 4, 1-2-2) is a low annual wildflower that blooms from March to May in grasslands on heavy clay soils from Los Angeles County to Baja California. This species was not observed on the Headlands during the past surveys, and its presence has not been confirmed. However, Harmsworth Associates (1999) reports that a population of small-flowered microseris was observed on the Headlands in 1998.

Palmer's Grapplinghook (CNPS: List 42, 1-2-1) is a widely distributed, diminutive annual that occurs in Los Angeles, Orange, Riverside, and San Diego counties, on San Clemente Island, in Arizona, Baja California, and Sonora, Mexico. This species generally occurs on clay slopes and recent burns below 1,000 m (3,280 ft) elevation and flowers from February to April. Fewer than ten plants were found on the project site in 1983. URS biologists surveyed for this species in 2000 but no individuals were observed.

Prostrate Spineflower (Formerly CNPS: List 4) occurs within openings of scrub and chaparral associations. The prostrate spineflower's range includes Southern California and Baja California. The CNPS has removed this species from its sensitive plant rankings, which indicates that this species is sufficiently widespread and abundant or insulated from significant impacts so as to be relatively secure in the foreseeable future. This plant species was identified on bluffs at the project site prior to 1998, but was not found in the 1999 and 2000 surveys performed by URS.

Western dichondra (CNPS: List 4, 1-2-1) is a perennial herb that is found in chaparral, scrub associations, and rock outcrops in grasslands and is often found in recent burn areas. Two populations of this species were located in 1991 beneath coastal sage scrub and also west of the high knoll in open habitat. URS biologists surveyed for this species in 2000 but it was not detected on the project site.

Additional sensitive plant species that were not observed, but have the potential to occur on site due to the presence of suitable habitat, are Aphanisma (*Aphanisma blitoides*, CNPS: List 1B), Pacific saltbush (*Atriplex pacifica*, List 1B), and Robinson's peppergrass (*Lepidium virginicum* var. *robinsonii*, List 1B).

4.3.5 Sensitive Wildlife

Focused surveys were conducted for all wildlife species that are considered sensitive by the CNDDB in the vicinity of the project site. Listed animal species detected on site were coastal California gnatcatcher and Pacific pocket mouse. Cactus wren and orange-throated whiptail, both California Species of Concern, are also historically recorded on the project site.

The USFWS lists the coastal California gnatcatcher as a threatened species and the CDFG considers the bird a species of special concern. The coastal California gnatcatcher population is estimated at nearly 5,000 pairs within the U.S. (USFWS, 2000). The primary cause of this species' decline is the cumulative loss of coastal sage scrub vegetation to urban and agricultural development. This species is declining proportionately with the continued loss of coastal sage scrub habitat in the four remaining Southern California counties located within the coastal plain. The territory size requirements of the gnatcatcher varies with habitat quality and proximity to the coast. Documented home ranges have varied from as small as 2 acres on the coast to 45 acres or more in inland areas[1] Studies of the species' habitat preferences in San Diego County indicate that California sagebrush and flat-topped buckwheat are the primary plants used by gnatcatchers when foraging for insects (Mock and Bolger, 1992; Weaver, 1998; Campbell et al., 1998). The gnatcatcher survey conducted by URS biologists on February 9, 2000, resulted in confirmation of seven of the eight previously documented gnatcatcher territories.

Cactus wren, a Natural Community Conservation Planning (NCCP) target species, were detected in 1991 efforts but none were detected in the 1998 or 2000 surveys, although suitable habitat is present on site. This species' characteristic nests were lacking in the 2000 site survey.

Historically, the Pacific pocket mouse was endemic to the coast of Southern California from Marina del Rey and El Segundo in Los Angeles County, south to the Mexican border in San Diego County. Currently, only four populations of the Pacific pocket mouse are known to exist in Southern California. One population was originally detected on the project site in 1993, and 10 to 25 individuals were still present at the project site in 1999 (S. Montgomery, pers. comm., 1999). The remaining populations occur on U.S. Marine Corps Base Camp Pendleton in three geographically distinct populations. This subspecies is restricted to sandy substrates within open coastal sage scrub habitats, less than 2.48 miles away from the coast (USFWS, 1998). The USFWS listed this subspecies as an endangered species in 1994, and has developed a recovery plan since its detection on the project site. The CDFG lists the Pacific pocket mouse as a Species of Concern.

Orange-throated whiptail is a Species of Special Concern in California. This species utilizes open areas of coastal sage scrub with gravelly soils in San Bernardino, Orange, Riverside, and San Diego

[1] Mock, Patrick. Memorandum to Rob Balen regarding California gnatcatcher territory size in relation to distance for the coast, August 31, 2001 (contained in Appendix C).

counties. A single whiptail was observed on site in 1991 surveys; however, this species may be present in the coastal sage scrub habitats throughout the site. No observations of the orange-throated whiptail were made during the 2000 surveys by URS biologists.

Predatory birds, such as northern harrier, sharp-shinned hawk, white-tailed kite, and Cooper's hawk, potentially use the habitat within the project site. Nonsensitive raptor species (an American kestrel and a pair of red-tailed hawks) were detected on site in 2000. No raptor nesting sites have been detected on site.

Coronado skink is a species of special concern known from San Diego County and Baja California. It is most commonly found in open areas, sparse brush, and in oak woodlands, usually under rocks, leaf litter, logs, debris or in the shallow burrows it digs (Zeiner et al., 1988). Prey consists of insect eggs and larval insects. This species was not detected and has not been previously recorded on the project site.

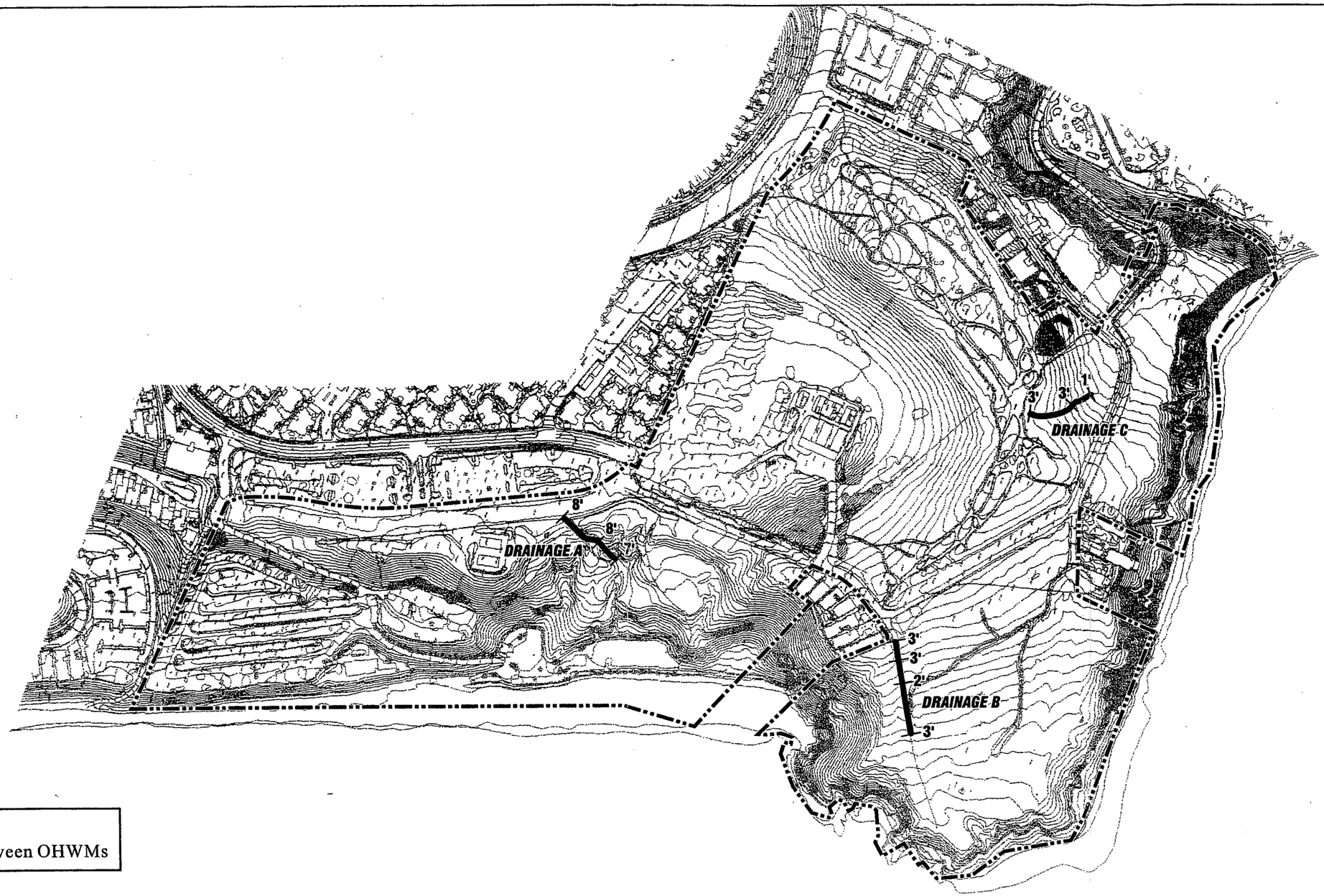
The northern red diamond rattlesnake is a species of special concern that is restricted to Southern California and Baja California from Morongo Pass to the tip of the Baja Peninsula, with the majority of its California range in San Diego County. Habitat preferences include dense vegetation in rocky areas with a supply of burrowing rodents for prey. It is often found in chaparral, coastal sage scrub, along creek banks, and in rock outcrops or piles of debris. This species was not detected and has not been previously recorded on the project site.

Figure 4.3.2 shows the distribution of sensitive species found on site, including current and historical locations of California gnatcatcher and historical locations of cactus wren. Information from surveys of the Pacific pocket mouse on the Headlands in 1997 and 1998 by S.C. Dodd Biological Consulting was used to map the Pacific pocket mouse-occupied habitat in this figure.

4.3.6 Jurisdictional Delineation

The delineation of jurisdictional waters on the site was conducted by Glenn Lukos Associates, Inc. (GLA). On September 28, 2000, a regulatory specialist from GLA surveyed and mapped the jurisdictional "waters of the U.S." present on the site pursuant to accepted U.S. Army Corps of Engineers (Corps) regulations and jurisdictional streambed areas subject to CDFG regulations. Additionally, the site was evaluated for the presence of wetlands subject to the jurisdiction of the California Coastal Commission (CCC), as defined by the California Coastal Act. The survey determined that the site contains no jurisdictional wetlands, including any wetland subject to Coastal Commission jurisdiction, but does contain three ephemeral drainage channels totaling 0.073 acres of Corps and CDFG jurisdiction. None of the areas supported vegetated riparian habitat. The three ephemeral drainages are described below and are depicted on Figure 4.3.3, Jurisdictional Drainages.

4.3.6.1 Drainage A. Drainage A originates near the eastern boundary of the "panhandle" portion of the property where a culvert discharges storm runoff onto the site. The runoff has eroded a deep ravine, exhibiting a sandy bottom and extending for approximately 230 feet to where an Ordinary High Water Mark (OHWM) is no longer discernible. In the upper portions of the ravine, the presence of an OHWM was indicated by shelving, destruction of terrestrial vegetation, and the presence of litter and debris. In these areas, the drainage varies in width from six to eight feet, and Corps



LSA

FIGURE 4.3.3

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FEET

SOURCE: GLENN LUKOS ASSOCIATES

HDCP EIR

Jurisdictional Drainages

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jurisdiction associated with the drainage totals approximately 1,840 square feet (0.042 acre). The banks of the drainage/ravine are vegetated with hottentot fig and scattered individuals of coastal sagebrush.

4.3.6.2 Drainage B. Drainage B originates within the southwest portion of the site and extends in a southwesterly direction along an old fenceline. From its point of origin, the drainage extends for approximately 330 feet to where an OHWM is no longer discernible at a point where the drainage sheet flows across a broad flat area. Where present, the OHWM was indicated by shelving, distribution of terrestrial vegetation, and the presence of litter and debris. The drainage varies in width from one to three feet, and Corps jurisdiction associated with the drainage totals approximately 750 square feet (0.017 acre). The banks of the drainage are vegetated with coastal sage scrub species including coastal sagebrush and California buckwheat.

4.3.6.3 Drainage C. Drainage C originates within the southeast portion of the site and extends in a southeasterly direction. From its point of origin, the drainage extends for approximately 260 feet to where an OHWM is no longer discernible, as the shallow channel disappears. The presence of an OHWM was indicated by shelving, destruction of terrestrial vegetation, and the presence of litter and debris. The drainage varies in width from one to three feet, and Corps jurisdiction associated with the drainage totals approximately 600 square feet (0.014 acre). The banks of the drainage are vegetated with coastal sage scrub species, including coastal sagebrush and California buckwheat.

CDFG jurisdiction associated with the Headlands site totals approximately 0.073 acre and is coincident with Corps jurisdiction. None of the drainages support riparian vegetation.

4.3.7 Existing Policies And Regulations

The following is a brief summary of the regulatory context within which biological resources are managed at the federal and State levels. Agencies with responsibility for protection of biological resources on the project site include the following:

- USFWS (federally threatened and endangered species and migratory birds; implementation of natural community conservation plans; habitat conservation plans)
- Corps (wetlands and other waters of the United States)
- CDFG (streams, rivers, lakes; State threatened and endangered species; and other protected plants and wildlife, establishment and control of wildlife and fishing management programs)
- City of Dana Point (implementation of Local Coastal Program [LCP] policies associated with Coastal Zone conservation and development)
- California Coastal Commission (Coastal Zone area without a certified LCP)
- California Resources Agency (signatory to the NCCP/HCP)

A number of federal and State statutes, including the California Environmental Quality Act (CEQA), provide the regulatory structure that guides the protection of biological resources. The following discussion provides a summary of those laws that are most relevant to biological resources in the vicinity of the project site.

4.3.7.1 U.S. Fish and Wildlife Service. The USFWS implements the Migratory Bird Treaty Act (16 USC Section 703-711), the Bald and Golden Eagle Protection Act (16 USC Section 668), and the Federal Endangered Species Act (FESA; 16 USC 15 et seq.). The USFWS has a lead role in approving and implementing natural community conservation plans and habitat conservation plans.

Projects that would result in the "take" of any federally listed threatened or endangered species are required to obtain prior authorization from the USFWS through either Section 7 (interagency consultation) or Section 10a (Incidental Take Permit) of the FESA, depending on the involvement of the federal government. "Take" under the federal definition means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Proposed species do not have the full protection of FESA; however, the USFWS advises project applicants that such species could be elevated to listed status at any time. For this reason, federal proposed species have also been addressed in this analysis.

4.3.7.2 U.S. Army Corps Of Engineers. Under Section 404 of the Clean Water Act, the Corps has authority to regulate activities that could result in the discharge of dredge or fill material into wetlands or other waters of the United States. Perennial, intermittent, and some ephemeral creeks are considered waters of the United States and are within the regulatory jurisdiction of the Corps, which is intended to preserve both wetland values and acreage. In achieving the goals of the Clean Water Act, the Corps seeks first to avoid or to minimize adverse impacts and second to offset unavoidable adverse impacts on existing aquatic resources. Any dredge, fill, or adverse modification of waters of the United States may require a permit from the Corps prior to the start of work. Typically, where wetlands are involved, permits issued by the Corps condition a project with mitigation to offset unavoidable impacts in a manner that achieves the goal of no net loss of wetland acres and values, embodied in Executive Order 11990 ("no net loss" policy).

4.3.7.3 California Department of Fish And Game. The CDFG derives its authority from the California Fish and Game Code, which collectively includes the California Endangered Species Act, Natural Community Conservation Plan Act, Streambed Alteration Regulations, Native Plant Protection Act, and the California Public Resources Code. The CDFG has an active role in implementing natural community conservation plans and habitat conservation plans in California.

The California Endangered Species Act (CESA: Fish and Game Code Section 2050 *et. seq.*) prohibits the unauthorized take of a State listed threatened or endangered species; however, take is allowed if long-term protection of a species is provided in an approved natural communities conservation plan. The CDFG also has authority to administer the Native Plant Protection Act (Fish and Game Code Section 1900 *et. seq.*). The Act requires CDFG to establish criteria for determining whether a species, subspecies, or variety of native plant is threatened, endangered, or otherwise rare. Under Section 1913(c) of the Act, the owner of land where a rare, threatened, or endangered native plant is present must notify the department at least ten days in advance of changing the land use to allow for salvage of these species.

CDFG, through provisions of the Fish and Game Code Section 1600 et. seq., is empowered to issue agreements for any alteration of a river, stream or lake where fish or wildlife resources may be adversely affected. Streams (and rivers) are defined by the presence of a channel bed and banks, and

at least a periodic flow of water. CDFG regulates wetland areas only to the extent that those wetlands are part of a river, stream, or lake as defined by CDFG. CDFG also regulates non-wetland riparian communities that are associated with jurisdictional waters of the U.S.

4.3.7.4 Natural Community Conservation Planning (NCCP) Act. California's NCCP effort was established in 1991 through adoption of the NCCP Act. The purpose of the statewide natural community conservation effort is to provide for regional protection and long-term perpetuation of the State's native wildlife diversity while allowing compatible and appropriate development and growth. The NCCP Act intends that these goals be achieved through the implementation of Subregional NCCPs. These plans are designed to provide an alternative to (and thereby replace) the single species, project by project conservation efforts otherwise imposed by formulating regional and subregional, natural community based habitat protection programs to protect the numerous species inhabiting the targeted natural communities and to provide for their long-term conservation by establishing a permanent Habitat Reserve System (NCCP/HCP EIS/EIR Implementation Agreement [IA]; USFWS et al., 1996).

The Conservation Guidelines indicate that NCCP regional planning is to be conducted, approved, and implemented on the basis of subregional planning areas that may proceed independent of one another. Thus, habitat essential to the conservation of the coastal sage scrub species is to be addressed at the subregional and regional levels (NCCP/HCP EIS/EIR IA; USFWS et al., 1996). Habitat to be permanently conserved in a subregion will have biological linkages to other permanent natural conservation lands in other adjoining subregions, thereby enhancing the long-term conservation value of these lands and maximizing mitigation. Criteria specified by the USFWS in designating critical habitat for listed species are included in Section 424.12 of the FESA regulations and include "those physical and biological features that are essential to the conservation of a given species and that may require special management considerations or protection" (50 C.F.R. 424.12[b]). In connection with the development and implementation of the Central/Coastal Orange County NCCP, the State of California (through the California Resources Agency, California Department of Fish & Game, California Department of Forestry, and California Department of Parks and Recreation), the County of Orange, and the federal government, through the United States Fish & Wildlife Service, determined that the most appropriate and biologically valuable method for the long-term preservation of the sensitive coastal resources in central Orange County was not achieved by applying biological mitigation on a project by project basis, but rather by analyzing specific development proposals on a collective and regional/subregional basis and developing and implementing a comprehensive and synergistic conservation program to mitigate the biological impacts from these projects under the applicable state and federal biotic resources protection laws.

Orange County Central/Coastal Natural Community Conservation Planning. The USFWS and CDFG were active participants in the formulation of the Orange County Central/Coastal NCCP/HCP Program, as well as the California Resources Agency, California Department of Forestry, and California Department of Parks and Recreation, and the Orange County Environmental Management Agency. An NCCP/HCP Program was adopted by the County of Orange and approved by the CDFG and USFWS for a subregion including the project site in 1996.

The Orange County Central/Coastal Subregional NCCP/HCP has described its primary purposes as follows:

> The primary goal of the NCCP/HCP is to protect and manage habitat supporting a broad range of plant and animal populations that now are found within the Central and Coastal [Orange County] Subregion. To accomplish this goal, the NCCP/HCP creates a subregional habitat reserve system and implements a coordinated program to manage biological resources within the habitat reserve. Creating a defined reserve system will provide certainty to the public and to affected landowners with respect to the location of future development and open space within the subregion. Specific project purposes of the NCCP/HCP [include]:
>
> - planning for the protection of multiple species and multiple habitats within the coastal sage scrub habitat mosaic by creating a habitat reserve system that contains substantial coastal sage scrub, chaparral, grasslands, riparian, oak woodlands, cliff and rock, forest and other habitats;
> - developing a conservation program that shifts away from the current focus on project-by-project, single species protection to conservation and management of many species and multiple habitats on a subregional level;
> - allowing social and economic uses within the subregion that are compatible with the protection of Identified Species and habitats;
> - protecting the federally-listed coastal California gnatcatcher in a manner consistent with Section 10(a) of the FESA and the Special 4(d) Rule for the gnatcatcher while providing for future incidental take of the species;
> - protecting the other two "target species," the coastal cactus wren and orange-throated whiptail lizard, by treating them "as if they were listed" under Section 10(a) of FESA and allowing incidental take of these species;
>
> * * *
>
> - protecting non-CSS habitat within the CSS habitat mosaic at a level comparable to the protection provided for CSS, thereby contributing to the protection of a broader range of species than just the target species or CSS species;
> - addressing the habitat needs of the non-target species within the subregion and the non-CSS habitats, including protecting six other federally-listed species consistent with the FESA Section 10(a) and treating 33 other "identified" species "as if they were listed" under Section 10(a) of the FESA.
>
> * * *
>
> - addressing the conservation of sensitive species located on the Dana Point Headlands site, including the coastal California gnatcatcher, Pacific pocket mouse, other Identified Species and five designated plant species;

* * *

- building upon prior regional open space planning that has occurred in Orange County and integrating that open space planning into the creation of the Habitat Reserve System and subregional conservation strategy;
- addressing impacts to CSS and non-CSS habitats and related NCCP/HCP species addressed in the joint EIR/EIS in a manner that will be used and relied upon in conjunction with future environmental reviews and documents

Orange County NCCP/HCP Executive Summary, April, 2000.

The Orange County Central/Coastal NCCP is based on the principles of conservation biology articulated in the State of California's NCCP Process Guidelines and the NCCP Conservation Guidelines. These Guidelines were published by the CDFG and prepared by the Department in coordination with the USFWS and the State's NCCP Scientific Review Panel (SRP). The SRP was made up of the following experts in the field of conservation biology:

- Dr. John F. O'Leary, Department of Geography, San Diego State University. Specializes in vegetation geography and geographic information systems.
- Dr. Dennis D. Murphy, Center for Conservation Biology, Department of Biological Sciences, Stanford University. Chairman of the Scientific Review Committee and experienced in conflict and resolution in conservation planning for many species. Extensive experience in planning for conservation.
- Dr. Peter F. Brussard, Department of Biology Chair, University of Nevada. Extensive experience in habitat-based conservation programs.
- Dr. Michael S. Gilpin, Department of Biology, University of California, San Diego. Computer modeling and development of population viability analysis programs.
- Dr. Reed Noss, Department of Biology, Oregon State University. Experience with a number of habitat and species conservation programs. Editor of the Journal of the Society of Conservation Biology.

The fundamental assumptions and the technical documentation supporting the Conservation Guidelines are found in Southern California Coastal Sage Scrub Natural Communities Conservation Plan, Scientific Review Panel Conservation Guidelines and Documentation, April 1993, published by California Department of Fish and Game and California Resources Agency. This publication, also known as "the Grey Book," is a compilation of the technical papers, interim publications, distribution maps, and bibliographies used by the Scientific Review Panel to develop the NCCP conservation guidelines. The cited literature, maps, and documentation include references to nearly 400 sources specific to the coastal sage scrub and species in Southern California.

Initial planning of the Orange County Central and Coastal Subregion NCCP/HCP identified the existing status of habitats and species in the context of the existing biological setting in Orange County. This was done by compiling information derived from a number of biological surveys

and information in existing databases as well as information developed in numerous EIR/EISs for previous projects.

According to a March 17, 1995, joint letter from the USFWS and CDFG:

> "After a subregional NCCP has been prepared and approved, project related impacts to CSS and target species (including all species receiving regulatory coverage under the NCCP) shall be considered to be mitigated to insignificant levels and consistent with the NCCP Guidelines if the project and its related impacts to CSS/target species are carried out (siting, mitigation, etc.) consistent with the subregional or subarea NCCP and its associated Implementing Agreement. This is based upon the Department, Service, and lead agency for a subregional NCCP making a finding that the approved subregional or subarea NCCP . . . creates a system of interconnected reserves designed to:
>
> - promote biodiversity
> - provide for high likelihoods for persistency of target species in the subregion, and
> - provide for no net loss of habitat value from the present, taking into account management and enhancement. No net loss of habitat value means no net reduction in the ability of the subregion to maintain viable populations of target species over the long term.
>
> Within the context of the approved subregional NCCP, it is neither necessary nor appropriate to attempt to determine the level of significance of CSS impacts on a project by project basis if the project is consistent with the approved subregional or subarea NCCP and associated Implementing Agreement."

The USFWS, CDFG, and the County of Orange determined that the overall Central/Coastal NCCP/HCP Program provides a comprehensive, habitat based approach to the protection of coastal sage scrub species and their coastal sage scrub habitats as well as other habitats consistent with both FESA and CESA and qualifies as a habitat conservation plan for a variety of sensitive species under the FESA and CESA. The NCCP/HCP Program established an approximately 37,000 acre Habitat Reserve System and Adaptive Management Program that includes 17,200 acres within the coastal subarea and 10,964 acres within the coastal zone, and maintains net habitat value for coastal sage scrub species within the Central/Coastal Subregion on a long-term basis. It protects more than 19,800 acres of CSS habitat (5,670 acres in the coastal zone), but is also designed to function as a multiple-habitat system. In addition to CSS habitat, it also contains about 7,300 acres of chaparral, 6,100 acres of grasslands, 1,800 acres of riparian, 950 acres of woodland, 200 acres of forest habitat and significant portions of six other habitat types now existing within the subregion. In terms of target bird species, the Reserve contains 381 coastal California gnatcatcher sites and 674 coastal cactus wren sites. The USFWS has found that the critical habitats for coastal sage scrub species within Central/Coastal Orange County Subregion are all located within the 37,000 acre Reserve System that was established by the NCCP/HCP Program.

The NCCP/HCP has implemented a comprehensive habitat management program designed to protect the biological resources within the Reserve system over the long term. Based on the principals set

forth in the NCCP Planning Guidelines, this management regime is called "adaptive management." It literally means that management actions within the Reserve will be monitored closely and modified (adapted) over time to respond to new scientific information, and changing conditions and habitat needs. A non-wasting adaptive management endowment of approximately $11 million, which ultimately may grow as much as two to five times as large, has been established for the Reserve.

The project site was included in the analysis for the NCCP/HCP EIS/EIR as a planning mechanism to determine mitigation requirements for future development on the project site under applicable State and federal law regulating biological resources. The NCCP program determined that the project site was not well-suited as a long-term species and habitat preservation site or as a component of a long-term habitat/sensitive species reserve system due to the small, fragmented patches of natural vegetation extant on the project site, its significant exposure to existing surrounding urbanization, and the isolation of the project site from areas offering long-term conservation potential for sensitive species and their habitats. With the exception of the Pacific pocket mouse population, no regionally significant core populations of sensitive species occur on the project site; the Headlands' small size and proximity to existing urbanization renders the Headlands ill-suited for the long-term conservation of a Pacific pocket mouse population. The nearest available large open space is several miles away, separated by extensive suburban/urban development. However, with the single exception of the Coulter's saltbush, the sensitivity of, and impacts to, the species found on the project site was addressed in the NCCP/HCP, and the mitigation for impacts to these species and their habitats was identified in the NCCP/HCP EIS/EIR. The final EIR contains Mitigation Measure 3-1, which reduces the impacts to Coulter's saltbush to below significance.

Because the project site is included in the Orange County Central/Coastal NCCP as a "Covered Project" and the proposed project is included as a "Planned Activity" of a "Participating Landowner," authorized development impacts on federal and State listed species, "Covered Species" designated in the NCCP/HCP EIS/EIR, "Covered Habitats" designated in the NCCP/HCP, removal of approximately 30 acres of coastal sage scrub, as well as impacts on species dependent upon or associated with the "Covered Habitats," are considered mitigated to insignificant levels and are consistent with the NCCP guidelines under the NCCP Act, FESA and CESA, CEQA. An Endangered Species Act Incidental Take Permit (#TE810581-1) that authorizes incidental take of 44 covered species was issued to Headlands Reserve, LLC. on January 21, 2000. Table 4.3.A lists the NCCP/HCP "Identified Species" and designates which species have been identified on the site, those potentially present on the site, as well as the "Identified Species" that are not expected to occur on the site. Satisfactory implementation of the NCCP/HCP EIS/EIR and the terms of the IA (together with Mitigation Measure 3-1 for the Coulter's saltbush) would result in no additional mitigation being deemed necessary or required under FESA, CESA, and CEQA, and the NCCP Act for impacts on the identified sensitive species on the project site and their habitats.

It is important to note that the biological mitigation measures provided by the Covered Projects/ Planned Activities within this NCCP Subregion operate in an integrated and synergistic fashion. For example, in some instances multiple Planned Activities contribute to common reserve system set-asides or management endowments. Some Planned Activities contribute more than their proportionate share or proportionate impact for certain biological impacts and may rely, to a certain extent, on mitigation measures provided by other Planned Activities for other biological impacts. For instance, the Headlands Planned Activity mitigations are mitigating for Pacific pocket mouse impacts from other Covered Projects and future development of other property within the subregion. This

Table 4.3.A: NCCP/HCP Identified Species Present or Potentially Present On Site

Identified Species	Present	Potentially Present	Not Expected
Plants			
Catalina mariposa lily			X
Coulter's matilija poppy			X
Foothill mariposa lily			X
Heart-leaved pitcher sage			X
Nuttall's scrub oak[1]	X		
Santa Monica Mountains dudleya			X
Small-flowered mountain mahogany			X
Tecate cypress			X
Blochman's dudleya	X		
Cliff spurge	X		
Palmer's grapplinghook		X	
Prostrate spineflower (historical)		X	
Western dichondra		X	
Invertebrates			
Riverside fairy shrimp			X
San Diego fairy shrimp			X
Quino checkerspot butterfly			X
Amphibians			
Arroyo toad			X
Arboreal salamander			X
Black-bellied slender salamander			X
Reptiles			
Coastal rosy boa			X
Coastal western whiptail lizard			X
Coronado skink	~~X~~	X	
Orange-throated whiptail (historical)		X	
Red diamond rattlesnake		X	
San Bernardino ringneck snake		X	
San Diego horned lizard		X	
Western spadefoot toad			X

[1] Nuttalls' scrub oak is also referred to as coastal scrub oak in USFWS et al. (1996), Table 2-ES. Therefore, a total of 43 distinct species are addressed by the NCCP on the project site.

Identified Species	Present	Potentially Present	Not Expected
Birds			
American peregrine falcon		X	
Coastal California gnatcatcher	X		
Least Bell's vireo			X
Southwestern willow flycatcher			X
Cactus wren (historical)		X	
Golden eagle			X
Northern harrier	~~X~~	X	
Prairie falcon		X	
Red-shouldered hawk		X	
Rough-legged hawk			X
Sharp-skinned hawk		X	
Southern California rufous-crowned sparrow			X
Mammals			
Pacific pocket mouse	X		
Coyote		X	
Gray fox		X	
San Diego desert woodrat	X		

Source: USFWS, et al. (1996)

approach results in a maximization of biological conservation benefits for the subregion, but also underscores the importance of recognizing that each Planned Activity was essential to ensuring the establishment of the 37,000 acre Habitat Reserve System for the Subregion.

4.3.8 Project Design Features/Project Conditions

4.3.8.1 Project Design Features. The proposed project has designed a variety of features to reduce or eliminate potential impacts to environmental resources. The following Project Design Features (PDF) are assumed to be in place when evaluating the characteristics of the proposed project and the potential environmental impacts to biological resources resulting from its implementation. Detailed information is presented in the HDCP, City of Dana Point (2001).

PDF 3-1 **Creation of the Headlands Conservation Park.** The designation of this permanent 24.2 acre conservation open space excludes development and provides for the long-term preservation and management of habitat for sensitive species, including the Pacific pocket mouse, three California gnatcatcher territories, and other flora and fauna. No development is allowed within this area, except a perimeter trail and ancillary improvements designed to provide coastal access.

PDF 3-2 **Designation of Additional Acreage to Expand the Existing Pacific Pocket Mouse Preserve Area.** An additional 2.2 acres of area in Planning Area 7, the Headlands Conservation Park, was added to the 22 acres for the temporary PPM preserve established by the NCCP Program, resulting in a total of 24.2 acres dedicated to this conservation use.

PDF 3-3 **Creation of a Nonprofit Trust for Management of the PPM Preserve.** A nonprofit trust will be established to manage the Headlands Conservation Park in conjunction with the USFWS and CDFG. The recording of easements, deed restrictions, and additional measures will ensure that the Headlands Conservation Park remains permanently designated as conservation open space. The nonprofit trust will retain an experienced natural resource manager to oversee the operation of the preserve.

PDF 3-4 **Contribution of an Endowment to Provide Funding for Long-Term Management of the Headlands Conservation Park.** An endowment for the Headlands Conservation Park (as budgeted by the Center for Natural Lands Management) shall be provided to fund the park's perpetual protection, long-term maintenance, and management.

PDF 3-5 **Incorporation of a 100 foot wide Buffer Zone between the PPM Reserve and Planned Residential Areas.** A minimum 100 foot wide greenbelt buffer has been designated in adjoining Planning Area 5 to separate the designated Headlands Conservation Park and residential development in the Upper Headlands.

PDF 3-6 **Use of Native Plant Materials for Development Landscaping and Restoration.** The site development and revegetation approach calls for preferential use of native vegetation in designated open space, in revegetation of natural areas disturbed during construction, and in fuel modification areas. Approximately 9.9 acres are available for revegetation. Extensive native vegetation restoration and management guidelines are provided in the HDCP, City of Dana Point (2001).

PDF 3-7 **Implementation of a Monitoring Program for Biological Resources**. A dedicated monitor and other needed technical experts required to implement the open space management guidelines in the Management Program will be retained throughout the project construction period and for three years following construction of the project. These individuals will be responsible for implementing the project management guidelines within both the park areas and natural open space. Monitoring of construction activities throughout the project site, and long-term monitoring of revegetation efforts and conservation success, is also included in project planning. The endowment for the Headlands Conservation Park provides for permanent management, oversight and maintenance of the park.

PDF 3-8 **Implementation of a Three-Year Maintenance Program to Facilitate the Successful Establishment and Restoration of Native Plant Species.** A three-year maintenance program will be implemented to facilitate the successful establishment and restoration of self-sustainable native habitats and plant species. Pursuant to the Coastal Resources Maintenance Program, the City and the Developer will be responsible for implementing the measures during the first three years following installation (HDCP, City of Dana Point, 2001).

4.3.8.2 Project Conditions. Numerous controls are imposed on new developments through the permitting process. In general, public agencies regulate development (and reduce potential biological resources impacts) under the requirements of the conservation planning elements, natural community and habitat conservation planning, local land use policies and zoning, and project specific mitigation measures. The project proponent has developed extensive guidelines for development that will be implemented in conjunction with the proposed project. Existing applicable NCCP and City of Dana Point conditions of approval for development projects are also described. The following Project Conditions (PC) are assumed to be in place when evaluating the characteristics of the proposed project and the potential environmental impacts to biological resources resulting from its implementation.

PC 3-1 **Adherence to the Project Landscape Plan.** The Landscape Plan provides design guidelines for each project Planning Area. The Landscape Plan includes sensitive plant species relocation, preferential use of native vegetation, native vegetation restoration and management guidelines (HDCP, City of Dana Point, 2001).

PC 3-2 **Adherence to the Project Irrigation Plan.** The Irrigation Plan provides irrigation guidelines that are designed to promote vegetation relocation, recovery, and enhancement; define appropriate irrigation use in the different planning areas and vegetation types for habitat, aesthetic, and safety purposes; minimize unwarranted or wasteful water use; and avoid throughout the project site any potential erosion and structural problems associated with overwatering (HDCP, City of Dana Point, 2001).

PC 3-3 **Adherence to the Project Park and Open Space Management Plan, including the Fuel Modification Plan.** The Park and Open Space Management Plan is described in Section 4.14 of the HDCP (City of Dana Point, 2001). The Park and Open Space Management Plan determines the type, location, and extent and coverage of native and other vegetation in each of the project planning areas.

PC 3-4 **NCCP Conditions Regarding Development on the Headlands.** The NCCP defined the assumed acreages affected by the anticipated development of the Headlands area and the biological mitigation conditions associated with implementation of a development project on the site.

PC 3-5 **Assumptions of Impact.** The proposed project is based on assumed areas of disturbance from the implementation of the Planned Activity associated with the NCCP/HCP, which authorized an "Incidental Take" of specified species and loss of certain sensitive habitats and included mitigation to offset these impacts. As a result, the proposed project is required to limit impacts to the following, as specified in the NCCP/HCP IA:

- "about 30 acres of CSS habitat," with no additional restrictions on the location or configuration of CSS Take;
- less than one acre of Southern coastal bluff scrub; and
- 55 acres of annual grassland and disturbed annual grassland.

The specifications included establishing the PPM temporary preserve of 22 acres in 1996, and specified the trapping and relocation of PPM from the temporary preserve, if subsequently graded.

Prior to issuance of grading permits, the Director of Community Development shall review grading plans to ensure compliance with the above specified provisions and the NCCP/HCP in general.

PC 3-6 **NCCP/HCP Endowment Fund.** The Headlands project site Participating Landowner shall pay a total of $500,000 to the Nature Reserve of Orange County (NCCP/HCP Endowment Fund). The payments will be made as annual installments of $100,000 for five years, with the first payment due within seven days of the issuance of a grading permit for the project site. The remaining four payments will be made annually on the anniversary of the first payment. The NCCP/HCP funding will assist in the establishment of the approximately 37,000 acres of permanent open space in the Reserve System, including 17,200 acres within the Coastal subarea, of which 10,964 acres are in the coastal zone, and allow for the continued implementation of the Adaptive Management Program for the Nature Reserve of Orange County, which includes provisions for restoration and enhancement of the areas within the Reserve System.

PC 3-7 **Translocation of Blochman's Dudleya.** The Headlands project site Participating Landowner shall commit to relocating any population of Blochman's Dudleya that would be directly affected by project grading, in accordance with the terms set forth in the IA (USFWS et al., 1996). The project applicant may opt to undertake a seed collection and planting program in lieu of translocation, if such a plan meets the approval of the CDFG and USFWS as outlined in greater detail in the IA. Translocation sites for the Blochman's Dudleya have been proposed and are shown on Figure 4.3.4.

LEGEND:

DEVELOPED/ORNAMENTAL
46.79 ACRES

DISTURBED/RUDERAL HABITAT
3.21 ACRES

NON-NATIVE GRASSLAND
1.28 ACRES

COASTAL SAGE SCRUB
48.07 ACRES

DISTURBED COASTAL SAGE SCRUB
2.33 ACRES

SOUTHERN MIXED CHAPARRAL
2.69 ACRES

MARITIME SUCCULENT SCRUB
0.61 ACRES

SOUTHERN COASTAL BLUFF SCRUB
3.34 ACRES

SANDY BEACH
5.22 ACRES

ROCKY INTERTIDAL/BLUFF FACE
6.11 ACRES

DISTURBED SOUTHERN
NEEDLEGRASS GRASSLAND
1.65 ACRES

JURISDICTIONAL CHANNELS

SENSITIVE SPECIES

- CACTUS WREN (HISTORICAL)
- OCCUPIED PACIFIC POCKET MOUSE HABITAT
- CALIFORNIA GNATCATCHER (PAIR)
- CALIFORNIA GNATCATCHER (HISTORICAL PAIR)
- ORANGE-THROATED WHIPTAIL (HISTORICAL)
- WESTERN DICHONDRA (HISTORICAL)
- BLOCHMAN'S DUDLEYA
- NUTTALL'S SCRUB OAK
- CLIFF SPURGE
- PALMER'S GRAPPLING HOOK (HISTORICAL)
- COULTER'S SALTBUSH (Atriplex coulteri)
- PROJECT BOUNDARY

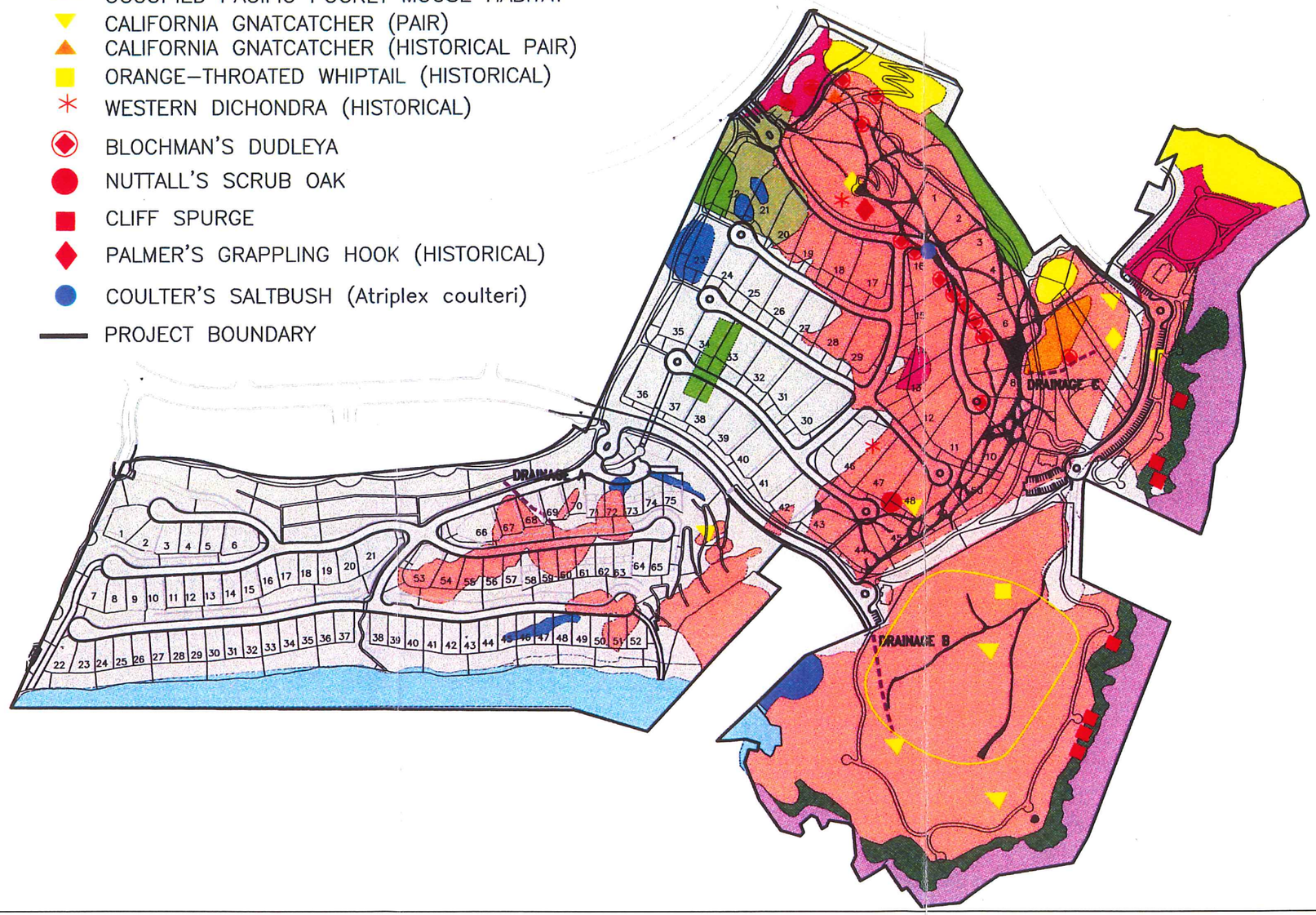


FIGURE 4.3.4

LSA

N

0 200 400
FEET

SOURCE: URS

Note: Plan is diagrammatic in nature and is intended to show the proposed project's changes to the existing biological resources on-site. It is subject to change based on final engineering, planning, and design.

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PC 3-8 **Temporary Reserve Area for the Pacific Pocket Mouse.** A temporary preserve for the Pacific pocket mouse shall be established on an approximately 22 acre area depicted in the NCCP/HCP Program.

PC 3-9 **Access to the Pacific Pocket Mouse Conservation Area.** The Participating Landowner shall continue to allow access to the Pacific pocket mouse preserve area for eight years (with the potential for four one-year extensions), according to the specific terms of the IA, commencing on July 10, 1996, to the CDFG, USFWS, County of Orange, or their authorized biological consultant, for the purpose of conducting Pacific pocket mouse propagation and relocation efforts.

PC 3-10 **Extension of Access to the Pacific Pocket Mouse Conservation Area.** Under certain circumstances more particularly described in the IA (USFWS et al., 1996), the CDFG and USFWS have the right to exercise up to four one-year extensions with the property owner to extend the life of the temporary preserve as they seek to acquire this area. If the USFWS determines that translocation or captive breeding of the Headlands population of the Pacific pocket mouse is not feasible and continuance of the preserve is necessary to ensure the survival and recovery of the species, USFWS shall take all steps within its legal authority to acquire the preserve area at or prior to expiration of the eight year temporary preserve period. [This condition would be obviated by the PDFs designating the PPM preserve in perpetuity and providing for long-term management and controlled access to the preserve area.]

PC 3-11 **Long-Term Management of the Pacific Pocket Mouse Preserve Area.** If the temporary preserve area is not acquired for conservation (or conserved as a project feature through approval of the project as proposed) at the expiration of the temporary preserve period, and Pacific pocket mice remain in designated open space on the project site, the project applicant shall post information signs regarding the status of the Pacific pocket mouse and its conservation needs in areas near the location of the former temporary preserve and shall post signs at entry points into the remaining natural open space prohibiting pets into these areas. Under these circumstances, portions of the 22 acre temporary preserve area are authorized for incidental take of sensitive species consistent with residential/commercial development in a portion of the 22 acre area as described in the NCCP/HCP. In addition, public use of any remaining open space areas within the former 22 acre temporary preserve area, which remain after the implementation of the proposed project and are occupied by the Pacific pocket mouse, shall be limited to designated walkways. [This condition would be obviated by the PDFs designating the PPM preserve in perpetuity and providing for long-term management and controlled access to the preserve area.]

PC 3-12 **Long-Term Disposition of the Pacific Pocket Mouse Preserve Area.** Upon expiration of the temporary preserve period, unless USFWS and CDFG have acquired the temporary Pacific pocket mouse preserve area, the take of all Identified Species shall be permitted anywhere within the former preserve area in accordance with Planned Activities described in the NCCP/HCP, with the following conditions: 1) trapping of Pacific pocket mice in areas to be directly affected by grading within the former temporary preserve area will be conducted by an authorized biologist for three days prior to any earthmoving

activities (if a longer period of trapping is necessary, USFWS will assume the additional trapping costs); 2) any captured Pacific pocket mice will be relocated to suitable areas designated by USFWS at the time of capture with funding from the NCCP Pacific pocket mouse research and recovery budget or other USFWS sources. [This condition would be obviated by the PDFs designating the PPM preserve in perpetuity and providing for long-term management and controlled access to the preserve area.]

PC 3-13 **Monitoring of Impacts to Pacific Pocket Mouse Populations During Project Construction.** During the temporary preserve period, the following construction management practices shall be required, as indicated in the IA (USFWS et al., 1996): 1) monitoring of Pacific pocket mice during construction activities within 300 feet of occupied habitat within the preserve area and, if significant adverse impacts on Pacific pocket mice are determined, practicable operational modifications to the construction activities will be explored; 2) all areas of occupied habitat within the temporary preserve area will be marked, equipment operators will be informed of these marked areas, and to the maximum extent practicable operational techniques will be employed to prevent unintended impacts on Pacific pocket mice within the preserve area; 3)if it is deemed necessary to restrict grading during a specific time of the year for the benefit of the PPM, grading will be avoided immediately adjacent to occupied habitat during that time period (not to exceed four months). If the grading period restrictions for the PPM fall outside of the parameters of any CSS related construction measures described in the NCCP/HCP EIR/EIS, the PPM grading restriction will supersede any other grading restriction for any other species.

PC 3-14 **Funding for Pacific Pocket Mouse Conservation Efforts.** Following issuance of the Incidental Take Permit [now issued, see 10(a) permit included in Appendix C] and CDFG Management Authorization for the Headlands project site, the Participating Landowner shall provide to either CDFG, USFWS, Orange County, or an appropriate conservation organization, a total of $350,000 to fund Pacific pocket mouse propagation, enhancement, recovery, and relocation efforts on the project site, to be paid in yearly payments of $50,000 for six years after the initial payment.

PC 3-15 **Construction Related Minimization Measures.** The NCCP/HCP requires certain construction related minimization measures to assure that development/ construction activities, which remove CSS, be undertaken in a manner that minimizes impacts on gnatcatchers presently using or in close proximity to the habitat to be removed. These minimization measures would also be expected to benefit other Identified CSS Species. The following construction related minimization measures are listed in Section 7.5.3 of the NCCP/HCP EIS/EIR (County of Orange, 1996d) and shall be implemented as part of the project:

a. To the maximum extent practicable, and provided that the biological needs of the PPM do not require restrictions on grading any time between July 15 and February 15 of the following year, no grading of CSS habitat that is occupied by nesting gnatcatchers will occur during the breeding season (February 15 through July 15).

b. It is expressly understood that the foregoing provision and the remaining provisions of these "construction-related minimization measures," are subject to

public health and safety considerations. These health and safety considerations include unexpected slope stabilization, erosion control measures, and emergency facility repairs. In the event of such public health and safety circumstances, the project applicant will provide USFWS/CDFG with the maximum practicable notice (or such notice as is specified in the NCCP/HCP) to allow for capture of gnatcatchers, cactus wrens, and any other CSS Identified Species that are not otherwise flushed and will carry out the following measures only to the extent practicable in the context of the public health and safety considerations.

c. Prior to the commencement of grading operations or other activities involving significant soil disturbance, all areas of CSS habitat to be avoided under the provisions of the NCCP/HCP shall be identified with temporary fencing or other markers clearly visible to construction personnel.

d. Additionally, prior to the commencement of grading operations or other activities involving disturbance of CSS, a survey will be conducted to locate gnatcatchers and cactus wrens within 100 feet of the outer extent of project soils disturbance activities, and the locations of any such species shall be clearly marked and identified on the construction/grading plans.

e. The landowner will advise USFWS/CDFG at least seven (7) calendar days (and preferably fourteen [14] calendar days) prior to the clearing of any habitat occupied by Identified Species to allow USFWS/CDFG to work with the monitoring biologist in connection with bird flushing/capture activities.

f. A monitoring biologist acceptable to USFWS/CDFG will be on site during any clearing of CSS.

g. The monitoring biologist will flush Identified Species (avian or other mobile Identified Species) from occupied habitat areas immediately prior to brush clearing and earthmoving activities. If applicable birds cannot be flushed, they will be captured in mist nets, if feasible, and relocated to areas of the site being protected or to the NCCP/HCP Reserve System. It will be the responsibility of the monitoring biologist to assure that Identified Species (bird) will not be directly impacted by brush clearing and earth moving equipment in a manner that also allows for construction activities on a timely basis.

h. All areas of CSS habitat to be avoided by construction equipment and personnel will be marked with temporary fencing or other appropriate markers clearly visible to construction personnel.

i. No construction access, parking, or storage of equipment or materials will be permitted within such marked areas.

j. Waste dirt or rubble will not be deposited on CSS adjacent to development sites that are identified in the NCCP/HCP for protection.

k. Preconstruction meetings involving the monitoring biologist, construction supervisors, and equipment operators will be conducted and documented to ensure maximum practicable adherence to these measures.

PC 3-16 **Treatment of Future Listed Species.** Consistent with Section 8.3.1 of the Implementation Agreement, concurrent with execution of the Implementation Agreement, USFWS also authorized future Take of each "Identified Species" incidental to Planned Activities on the project site. In the event that an "Identified Species" is listed subsequent to the effective date of the NCCP/HCP, the Section 10(a) Permit will become effective as to the particular species concurrent with the listing of such species as an endangered or threatened species.

There are currently no state listed species in the subregion authorized for Take under the NCCP/HCP. In the event that the California Fish and Game Commission subsequently lists an Identified Species or a species that is resident within one of the non-CSS "covered" habitats, as a candidate, threatened or endangered species, the Implementation Agreement constitutes a valid Management Authorization for the Take of Identified Species on the project site (refer to Section 8.4 of the Implementation Agreement). In the event any of the five sensitive plant species identified for the Headlands site are subsequently listed, these species will be treated in the same manner as Identified Species and incidental take of these species is authorized on the project site.

PC 3-17 **Preservation/Creation/Restoration of Jurisdictional Areas.** Prior to impacting jurisdictional areas, the applicant shall notify the Army Corps of Engineers pursuant to the NWP No. 39, and obtain authorization from the following agencies: 1) California Department of Fish and Game: Section 1603 Streambed Alteration Agreement, and 2) San Diego Regional Water Quality Control Board: Section 401 Permit, unless such agencies waive such requirements.

4.3.9 Thresholds of Significance

The CEQA Guidelines define "significant effect on the environment" as a "substantial, or potentially substantial adverse change in the environment." The CEQA Guidelines further indicate that there may be a significant effect on biological resources if the project will:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance;

- Conflict with the provisions of the adopted NCCP/HCP or other approved local, regional, or state habitat conservation plan.

For an additional discussion of the significance thresholds pursuant to an approved NCCP, see Section 4.3.7.4, NCCP Act, regarding the March 17, 1995, joint letter from the USFWS and CDFG.

4.3.10 Impacts and Mitigation

Direct impacts to biological resources occur when natural resources are altered or destroyed during the course of, or as a result of, project implementation. General examples of such impacts include removal of sensitive vegetation, filling of wetland habitats, or severing or physically restricting the width of wildlife corridors. Other direct impacts may include loss of foraging or nesting habitat and loss of individual species as a result of habitat clearing. Indirect impacts may occur due to elevated levels of noise or lighting, change in surface water hydrology within a floodplain, and increased erosion or sedimentation. These types of indirect impacts can affect vegetation communities or their potential use by sensitive wildlife species.

4.3.10.1 Less Than Significant Impact.

Direct Impacts to Sensitive Wildlife Species. The Natural Community Conservation Planning effort was established by California law under the Natural Communities Conservation Planning Act. The purpose of this regional conservation planning effort is to provide for regional protection and perpetuation of natural wildlife diversity while allowing compatible and appropriate development and growth. The NCCP Act intends that these goals be achieved through the implementation of Natural Community Conservation Plans. These plans are designed to provide an alternative to current single species and individual project-by-project conservation efforts by formulating regional, natural community-based habitat protection programs to protect the numerous species inhabiting the targeted natural communities.

The County of Orange, along with the state and federal wildlife resource agencies, other State and local jurisdictions, utility companies, the University of California, the Transportation Corridor Agency, and major private landowners including the Headlands property owners, prepared a multi-habitat based subregional NCCP/HCP Program for the Central/Coastal Orange County Subregion to ensure the long-term survival of the coastal California gnatcatcher and other sensitive coastal sage scrub-dependent plant and animal species in accordance with state-sanctioned NCCP/HCP Program guidelines. This plan, which includes the Headlands Project Site, was approved July 10, 1996. The NCCP/HCP Program anticipated the development of the Project Site with a total of 370 residential dwelling units, a 400 room resort hotel, 2.7 acres of additional commercial uses and 55 acres of public open space, which is a project of larger size and intensity than the current project.

The coastal California gnatcatcher and the Pacific pocket mouse are both sensitive species and are species covered by the approved NCCP/HCP Program (i.e. "take" of these species and their habitats is authorized on the project site and has been analyzed and mitigated under CEQA). Therefore, direct impacts to these species and their habitats are considered to be mitigated to insignificant levels. Other species considered sensitive by the resource agencies, documented on

the project site and treated as Identified Species under the NCCP plan include orange-throated whiptail, Coronado skink, northern harrier, sharp-shinned hawk, cactus wren, and red diamond rattlesnake. Sensitive plant species identified as Identified Species include: Blochman's duldleya, cliff spurge, Palmer's grappling hook, western dichondra, Nuttall's scrub oak, and prostrate spineflower. Impacts to these species and their habitats have also been mitigated to a level of insignificance under the NCCP/HCP.

Sensitive wildlife species would be adversely impacted by implementation of the project. As stated in the Biological Resources Report (URS 2001), the project will directly impact 79.2 acres (65 percent) of the project site, resulting in the loss of approximately 28.7 acres of sensitive vegetation communities that provide habitat for several sensitive wildlife species, as well. Impacts to the sensitive wildlife species are described below. Five of the eight current or historical gnatcatcher territories would be directly affected by the proposed development of the project site, leaving three territories associated with the 24.2 acre area of the proposed Headlands Conservation Park to be preserved in perpetuity as natural open space and managed to conserve the sensitive native species. Historical cactus wren locations would be directly affected by the proposed development plan. These impacts would be considered significant and adverse; however, as discussed above, impacts to these species are considered to be reduced to less than significant levels and consistent with the NCCP Guidelines under the NCCP/HCP Program and IA with the implementation of the applicable project conditions and design features and the creation of the 37,000 acre Reserve System including 10,964 acres in the Coastal Zone. Application of PDFs 3-1 through 3-5 and adherence to PC 3-4, PC 3-15, and the other PDFs and PCs results in the reduction of the potential impact to sensitive wildlife to a less than significant level.

The Pacific pocket mouse population and the single historical orange-throated whiptail location will not be directly affected by the proposed project because they are designated for protection within the area proposed as conservation open space. Any take of these two species outside the proposed conservation open space has been reduced to a level below significance through the NCCP/HCP. In addition, the 22 acre temporary Pacific pocket mouse preserve, designated in the NCCP/HCP EIS/EIR, has been expanded by 2.2 acres as the 24.2 acre Headlands Conservation Park. Further, the Project proposes the removal of existing Marguerita Avenue, which is currently immediately adjacent to the temporary pocket mouse preserve. This area will be regraded and revegetated with native species including coastal sage scrub to form a minimum 100-foot buffer outside and contiguous to the Headlands Conservation Park (Figure 4.3.4). Under the NCCP/HCP EIS/EIR, all necessary buffers for the temporary Pacific pocket mouse preserve were incorporated within the original 22 acre preserve boundaries.

Potential future adverse direct impacts to the Pacific pocket mouse population within the proposed Preserve area were included in the NCCP/HCP EIS/EIR analysis and are considered reduced to less than significant levels and consistent with the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement and Adaptive Management Program. Mitigation requirements for these impacts are described under Subsection 4.3.8, Project Design Features/Project Conditions. A population viability analysis was performed for the Pacific pocket mouse (PPM) at the Dana Point site by URS biologists Patrick Mock, Ph.D. and Richard Friesen, Ph.D. (included in Appendix C). These analyses support previous qualitative assessments (Erickson 1996; Spencer 2000) suggesting that the

Pacific pocket mouse population on the 22 acre Temporary Preserve may be below the Minimum Viable Population threshold for long-term survival. Although the temporary 22 acre preserve area includes an internal habitat buffer of approximately 18.3 acres, as originally established and approved by the wildlife agencies in conjunction with the 1996 NCCP/HCP EIR/EIS, several factors continue to limit the long-term viability of the Pacific pocket mouse.

In 1993, PPM occupied Headlands habitat was restricted to 3.75 acres, consisting of a single patch of open coastal sage scrub with fine, sandy soil (Brylski 1993). The Temporary Preserve incorporated an additional 18.3 acres to provide opportunities for population expansion and to minimize impacts associated with adjacent existing development, as well as the future proposed development. Specifically, the buffer zone provides physical distance from direct impacts to Pacific pocket mouse occupied habitat from human activities occurring on the site, by forming a barrier to public access to the core of the occupied habitat. Concomitantly, it reserved approximately 10.1 acres supporting PPM-suitable soils to allow for future expansion of occupied habitat. The buffer also served to ensure that the future adjacent uses, such as those contemplated in the 1996 EIR/EIS for the Project Site, were compatible with the conservation of the PPM-occupied habitat.

In addition to those lands previously set aside as part of the Temporary Preserve, the current development proposal, the HDCP incorporates an additional 2.2 acres of land into the proposed Headlands Conservation Park, bringing the total preserve area to 24.2 acres. Directly adjacent to the proposed Conservation Park, a 100-foot wide buffer zone designated as a greenbelt encompassing approximately 2.7 acres is also included in the current proposal. Thus, the HDCP proposes an additional total of 4.9 acres of habitat buffer and/or expansion area, which, when combined with the current 18.3 acre buffer and expansion area within the Temporary Preserve, serve to ensure that significant adverse effects associated with future development are minimized. However, the ongoing edge effects from the existing residential enclaves that are privately held and not subject to the approved NCCP/HCP, the isolated nature of the project site from other meaningful natural open space areas, the level of urbanization surrounding the project site, and the small population size still pose a threat to the long-term viability of the species on site. In sum, Drs. Mock and Friesen conclude in their 2001 PPM Viability Study (see Appendix C) that the small initial population size and the extensive existing development edge appear to be major constraints to improving the viability of the population at this site. Translocation of individuals of PPM from the Headlands to a more biologically suitable site or to a captive breeding program would contribute to the goals of the Pacific pocket mouse recovery plan.

The proposed project would not interfere substantially with the movement of any native resident or migratory wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. Given the level of urban development that surrounds the project site and the project vicinity, there are no wildlife corridors or other biotic linkages between the property and the core terrestrial natural open space communities located several miles from the project site. The resource agencies and empirical studies recommend that established core preserves have wildlife corridor linkages with widths of 400 to 1,000 feet for effective wildlife corridor functioning (e.g., seed dispersal, genetic exchange, migration, and immigration). To be effective, wildlife corridors typically need to have greater than 250 feet of undisturbed native habitats. Such wildlife corridors do not exist to link any core preserve to the

project site nor can the project site be enlarged to be a core preserve given its relatively small size and surrounding urbanized land uses.

There are no extant wildlife corridors between the project site and other biological open space. The Headlands is surrounded by suburban/urban development and is bounded by the Pacific Ocean on the west and south sides of the property. The nearest large available biological open space is approximately four miles north of the project site and is separated from the project site by extensive suburban/urban development. No impacts on wildlife corridors would occur.

Therefore, direct impacts to sensitive wildlife species would be adverse; however, as discussed above, impacts to these species are considered to be reduced to less than significant levels through compliance with the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and IA, along with implementation of the PDFs and PCs.

Direct Impacts to Riparian Habitat or Other Sensitive Natural Community. Riparian habitat would not be affected by this proposal since this type of habitat is not present on-site. Coastal sage scrub and other sensitive scrub habitats will be directly and indirectly affected by the proposed project. This impact is mitigated through the provisions of the NCCP/HCP and its Implementation Agreement, which includes assistance with establishing the approximately 37,000 acre Orange County Reserve and adaptive management program, payment of $850,000 to the NCCP/HCP Program, translocation of Blochman's duldleya, commitment to set aside the 22 acre Pacific pocket mouse preserve area for 8 years, onsite conservation of open space, and other measures. Participation in the NCCP/HCP Program has resulted in the preservation of approximately 18,500 acres of coastal sage scrub and approximately 7,000 acres of chaparral habitat in the Orange County Central/Coastal Reserve. In addition, some 10,964 acres of the reserve have been established with the Coastal Zone of which 5,670 acres are coastal sage scrub.

Figure 4.3.4, Biological Resources Impacts, depicts the area of direct impact that will occur on the project site due to vegetation clearing or grading activities and implementation of fuel modification zones for the proposed project. Native habitat restoration areas are also shown. The total area disturbed by the project totals 79.23 acres (65 percent), which includes 45.11 acres of Developed/Ornamental, 2.42 acres of Disturbed Ruderal, 1.65 acres of Disturbed Southern Needlegrass Grassland, and 0.58 acre ~~2.23 acres~~ of Disturbed Grassland. The project will directly impact 52.32 acres of common native (mixed chaparral) and nonnative habitats (including previously developed areas and other areas of common/ornamental vegetation) that are not considered biologically significant. Rocky intertidal areas will not be directly affected by the proposed development associated with the proposed project (see Section 4.15, Marine Biological Resources, and the marine biology technical report for further discussion). Some of the chaparral habitat that is impacted in the northeastern portion of the project site will be revegetated as coastal sage scrub, adding approximately 0.74 acre to the overall amount of coastal sage scrub that will be conserved on the project site. The project will also revegetate Marguerita Avenue and the adjoining area to coastal sage scrub, as shown on Figure 4.3.4. (Refer to the Biological Resources Report in Appendix C for the revegetation plant palette.) The total area of CSS revegetation proposed is 9.9 acres. Table 4.3.B, Direct Impacts on Vegetation Communities, compares the amount of existing vegetation to the amount of vegetation that will be affected by the proposed project.

Table 4.3.B: Direct Impacts on Vegetation Communities

Vegetation Association	Existing Area (acres)	Affected Area (acres)[1]	Designated Natural Open Space (acres)
Coastal sage scrub	48.07	26.17	21.9
Disturbed coastal sage scrub	2.33	1.83	0.5
Southern coastal bluff scrub	3.34	0.06	3.3
Maritime succulent scrub	0.61	0.61	0
Disturbed Southern Needlegrass Grassland	1.65	1.65	0
Southern mixed chaparral	2.69	0.74	1.95
Nonnative grassland	~~2.93~~1.28	~~2.23~~0.58	0.704
Developed/Ornamental	46.79	45.11	1.68
Disturbed/Ruderal habitat	3.21	2.42	0.794
Sandy Beach	5.2	0.06[2]	5.1
Rocky Beach/Bluff Face	6.11	0	6.11
Total	121.3	79.23	42.07

1 Includes graded areas and fuel modification zones.
2 See Section 4.15, Marine Biological Resources and the Marine Biology Technical Report regarding impact assessment associated with Sandy Beach.

Of the sensitive habitats on site, a total of 28.0 acres (52 percent) of coastal sage scrub will be impacted by the proposed project, including fuel modification, public access, and bluff top trails. Of the 28.0 acres of coastal sage scrub that will be affected, 1.83 acres are currently classified as disturbed coastal sage scrub. Impacts to this habitat are considered significant and adverse; however, as discussed previously, impacts to approximately 30 acres of this habitat are considered to be reduced to a less than significant level, subject to compliance with the Orange County Central/Coastal Subregion NCCP/HCP EIR/EIS and IA. Application of PDFs 3-1 through 3-8 and PCs 3-1 through 3-16 results in the reduction of the potential impact to these sensitive natural communities to a less than significant level.

Approximately 0.61 acre of maritime succulent scrub and 0.06 acre of southern coastal bluff scrub habitat will be affected by site clearing/grading activities on the project site. These two plant communities support sensitive plant species. Impacts to this habitat will be mitigated to less than significant levels subject to compliance with the provisions of the NCCP/HCP EIR/EIS and IA. Application of PDFs 3-1 through 3-8 and PCs 3-1 through 3-16 results in the reduction of the potential impact to these sensitive natural communities to a less than significant level.

The impact on 1.65 acres of disturbed southern needlegrass grassland is not significant due to the small size of the impact and the isolated condition of the Headlands site. Moreover, the NCCP/HCP EIR/EIS anticipated the loss of this grassland as part of the proposed project. In addition, within the 37,000 acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone), there are approximately 8,055 acres of grassland in the Reserve (including over 1,300 acres in the Coastal Zone), Special Linkage, and Non-reserve Open Space of which approximately 3,067 acres are designated as "High" or "Moderate" quality (Harmsworth Associates 1999). The Adaptive Management endowment allows for further enhancement and restoration of needlegrass grassland in the Central/Coastal Nature Reserve of Orange County. Moreover, there are approximately 720 acres of southern needlegrass grassland in the 8,000 acre Foothill Transportation Corridor (South) Study Area in southern Orange County and hundreds of acres of native perennial grassland in the Southern Subregion of the Orange County NCCP/HCP (Tony Bomkamp pers. comm.). Finally, the impact on 1.65 acres of disturbed southern needlegrass grassland does not meet or exceed a "significant effect on the environment" pursuant to the thresholds of significance in Section 4.3.9.

With the exception of cliff spurge, which will remain largely intact, ~~all of the~~ sensitive plant species on the project site, including Blochman's Dudleya, western dichondra, a single Nuttall's scrub oak, historic prostrate spineflower, and Palmer's grappling hook, would be adversely impacted by the proposed project. However, impacts to these species are considered to be reduced to less than significant levels and consistent with the NCCP/HCP and IA. Application of PDFs 3-1 through 3-8 and PCs 3-1 through 3-16 results in the reduction of the potential impact to these sensitive plant species to a less than significant level. While not explicitly addressed in the NCCP/HCP Program because they were not designated species at that time, direct, indirect, and cumulative impacts to Golden-rayed penlachaeta, vernal barley, small-flowered microseris, California groundsel, California box-thorn, and woolly seablite are less than significant because 1) although placed on a watch-list by CNPS, the rarity and degree of threat to these species has not yet been established, 2) the number of individuals that could be impacted on the project site is relatively small, and 3) the NCCP/HCP program provides suitable habitat for these species within

the 37,000 acre Central/Coastal Nature Reserve of Orange County. The Nature Reserve includes approximately 11,000 acres in the Coastal Zone and provides for an adaptive management program that can be used to benefit these species. Therefore, all impacts to these species are considered less than significant. Impacts to these species are discussed in more detail below.

Cliff spurge will remain largely undisturbed in the designated Conservation Open Space, Planning Area 7, Headlands Conservation Park, and Planning Area 8B, Harbor Point Park; therefore, no significant impacts to cliff spurge are anticipated as a result of the proposed project.

California box-thorn, golden rayed pentachaeta, vernal barley, small-flowered microseris, California groundsel, and woolly seablite are not explicitly addressed in the NCCP/HCP program because they were not designated sensitive species at that time. They are now CNPS List 3 (vernal barley) and List 4 species, and direct, indirect, and cumulative impacts on these species would be less than significant as described herein.

Most of the individuals of California box-thorn (List 4) occur along the coastal bluffs and will be conserved on site with cliff spurge and woolly seablite. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Bomkamp (pers. comm.) reports that California box-thorn is still common on coastal bluffs in Orange County and occurs in Crystal Cove State Park, Newport Back Bay, Bolsa Chica Reserve, and Fairview-Talbert Park in Costa Mesa. The NCCP/HCP program, through the creation of the 37,000 acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and an adaptive management program, benefits this species. For these reasons, potential direct, indirect, and cumulative impacts to California box-thorn are less than significant.

Golden-rayed pentachaeta is more widespread and common in San Diego County and has also been documented in Los Angeles, San Bernardino, Orange, and Riverside Counties. This List 4 species is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. Although not explicitly covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, direct, indirect, and cumulative impacts to golden-rayed pentachaeta are less than significant.

There are two small patches of vernal barley with less than 100 individuals total on site. Harmsworth Associates (1999) reports that there are 21 known locations of vernal barley in the Central/Coastal Subregion of which 13 are within the Central/Coastal Nature Reserve, Special Linkage, or Non-reserve Open Space. Specifically, vernal barley is known within the Reserve at Aliso Canyon (several occurrences), Bommer Canyon (several occurrences), and the Ecological Reserve at UC-Irvine. Harmsworth Associates (1999) also notes that vernal barley is "much more common than previously thought" and is often misidentified, thereby resulting in a further underreporting of its abundance. Vernal barley is a CNPS List 3 species (a review list where more information is required to determine conservation status) and will be benefited by the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and which provides an adaptive management program. For these reasons, potential direct, indirect, and cumulative impacts to vernal barley are less than significant.

California groundsel was not detected on site during past surveys, and its presence has not been confirmed. This species was reported to be on site by Roberts (pers. comm.). Regardless, this is a CNPS List 4 ("watch list") species. This species was formerly a List 2, but is now known to be more widespread and abundant and its status has been adjusted. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Although not explicitly covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, if the species is on site, direct, indirect, and cumulative impacts on California groundsel are less than significant.

Most or all of the individuals of woolly seablite on site occur along the coastal bluffs and will be conserved with cliff spurge and California box-thorn. This List 4 species is still relatively common (occurs at Bolsa Chica, Newport Back Bay, etc.), but is considered by CNPS to be in potential need of monitoring in the future. In addition, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, direct, indirect, and cumulative impacts (if any) to woolly seablite are less than significant.

Small-flowered microseris was not observed on the Headlands during the past surveys, and its presence has not been confirmed. However, Harmsworth Associates (1999) reports that a population of small-flowered microseris was observed on the Headlands in 1998. Small-flowered microseris is known from 22 localities within the Central/Coastal Subregion and 14 of these occurrences are within the Reserve, Special Linkage, or Non-reserve Open Space. Small-flowered microseris is a CNPS List 4 ("watch list") species that is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. This species benefits from the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, potential direct, indirect, and cumulative impacts to small-flowered microseris are less than significant.

Therefore, as stated above, direct, indirect, and cumulative impacts to these sensitive plant species, while not explicitly addressed by the NCCP/HCP Program because they were not designated species at the time, are considered less than significant. Impacts to Coulter's saltbush, another sensitive plant, are discussed under Section 4.3.10.3, Significant Impacts, below.

The City of Dana Point does not have a tree preservation ordinance. The trees present on the Project Site are not naturally occurring and consist of ornamental species including some species that are native to California but not native to the region. ~~The lone exception is the Nuttall's scrub oak near the nursery.~~ Other plant and animals species present are conserved through the NCCP/HCP Program, and the NCCP/HCP Program specifically anticipated that development of the Project Site would occur in a manner of higher development intensity than the proposed project. Thus, the proposed project does not conflict with any local policy or ordinance protecting natural resources.

The NCCP/HCP EIR/EIS (County of Orange, 1996d) assumed impacts to vegetation on the project site (see PC 3-5). Projected direct impacts from the project (Table 4.3.A) include 28.0 acres of disturbed CSS and CSS, 0.06 acre of southern coastal bluff scrub, and 0.61 acre of maritime succulent scrub. The total "scrub" habitat disturbed is less than the loss of 30 acres of CSS habitat and less than one acre of southern coastal bluff scrub assumed by the NCCP/HCP. Development will result in 25.7 acres of "scrub" habitat remaining on site, plus an additional 9.9 acre of CSS revegetation

The proposed development activities and uses are consistent with, and anticipated by, the NCCP/HCP Program and have been permitted under the state and federal ESAs and state NCCP Act. Therefore, the proposal would not conflict with the provisions of the NCCP/HCP Program or other Habitat Conservation Plan. In reliance on the IA, the property owner has fulfilled its obligations for monetary contributions and for establishment of the temporary Pacific pocket mouse preserve and study of the Pacific pocket mouse.

Therefore, direct impacts to vegetation communities, including sensitive habitats, sensitive animal species, and sensitive plant species would be adverse; however, as discussed above, impacts to these habitats and species are considered to be reduced to less than significant levels through compliance with the NCCP Guidelines the NCCP/HCP Program and IA, along with implementation of the PDFs and PCs. However, impacts to Coulter's saltbush are significant and require mitigation, as discussed in Section 4.3.10.3, Significant Impacts.

Indirect Impacts to Vegetation and Wildlife. There is the potential for indirect impacts to occur as a result of implementation of the proposed project. The areas where indirect impacts have the potential to occur could extend from the development edge into conserved habitat due to such activities as excessive landscape irrigation, fuel modification, vegetation trampling outside of marked trails, and introduction of non-native species (e.g., argentine ants, cats). Therefore, some of the proposed naturalized open space has the potential to be affected by indirect impacts. Most of this area is already exposed to and affected by such impacts by existing residential enclaves and other land uses occurring on or adjacent to the project site, as well as the numerous visitors to portions of the project site. The existing edge effects are demonstrated by the presence of non-native ornamental vegetation on the project site in the vicinity of the two residential enclaves and the homes along Street of the Green Lantern. In addition, numerous visitors to the site, including bicyclists and occasional off-road vehicle drivers, have resulted in denuded vegetation along numerous trails and pathways in the vicinity of the hilltop and along the nearby crest.

Additional indirect impacts include potential impacts to wildlife from residential noise and lighting and temporary impacts to wildlife as a result of construction activities. Lighting of the developed area within the project site could result in an indirect effect on the behavior patterns of nocturnal and crepuscular (active at dawn and dusk) wildlife in adjacent open space areas. Of greatest concern is the effect on small ground dwelling animals (i.e., Pacific pocket mouse) that use the darkness to hide from predators. These impacts are considered potentially significant. Lighting impacts shall be minimized by directing lighting fixtures downward and by providing other shielding to minimize the potential for glare to impact open space areas. Lighting in

parking areas adjacent to the Headlands Conservation Park shall be minimized. (Refer to Chapter 4.1, Aesthetics, for a complete discussion of lighting in parks.)

Any indirect impacts, such as noise, lighting, and edge effects, to California gnatcatcher and cactus wren species and any other sensitive species have been identified, assumed, and included in the NCCP/HCP EIS/EIR analysis and are considered mitigated to less than significant levels and consistent with the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement and Adaptive Management Program. Furthermore, noise impacts on California gnatcatchers have been studied extensively throughout Southern California since 1993 and these studies indicate that noise is not a biologically relevant issue in determining productivity. Construction monitoring programs have documented successfully breeding gnatcatchers directly adjacent to construction sites (Ogden Environmental 1989-1995; Dudek & Associates; Levine 1994-1997), and a large number of gnatcatcher territories occur adjacent to major arterial roadways and airport runways. Productivity of these birds is similar to birds in quieter locations (Awbrey and Hunsaker 1997; Awbrey 1991; Awbrey et al. 1995; Hunsaker et al. 1993; Mock, et al., 1995-2001).

Potential indirect impacts to the Pacific pocket mouse could result during the construction of trails and fencing around the preserve area, as well as use of the trails by humans and domestic animals (pets), as described above (refer to PC 3-13 and PC 3-15). Potential future adverse indirect impacts to the Pacific pocket mouse population within the proposed Preserve area were included in the NCCP/HCP EIS/EIR analysis and are considered reduced to less than significant levels and consistent with the NCCP Guidelines under the NCCP/HCP Program and Implementation Agreement and Adaptive Management Program. The construction impacts are considered short term and are subject to monitoring/minimization measures. Access by humans and pets can have long-term implications, unless mitigated. The HDCP specifies standards for barriers, signage, and lighting at the margin of the Headlands Conservation Park, and along trails, to protect wildlife habitat, exclude unwanted animals, promote public education, and enhance public safety. Application of PDFs 3-1 through 3-8 and PCs 3-1 through 3-16 results in the reduction of the potential impact to sensitive natural communities and wildlife to a less than significant level.

Due to the small patch size and extensive amount of areas that constitute the existing and future development edge, the proposed naturalized open space has a greater potential to be dominated by edge affected habitats; however, as discussed above, these indirect edge effect impacts have been included in the NCCP/HCP EIS/EIR analysis and are considered mitigated to less than significant levels and are consistent with the NCCP Guidelines under the NCCP/HCP Program.

Therefore, indirect impacts to vegetation and wildlife would be adverse; however, as discussed above, impacts to vegetation and wildlife are considered to be reduced to less than significant levels through compliance with the NCCP Guidelines under the NCCP/HCP Program and IA, along with implementation of the PDFs and PCs.

Impacts to Jurisdictional Waters. A jurisdictional delineation of the project site was performed by Glenn Lukos Associates as part of the Biological Assessment. The delineation quantified 0.073 acre of ephemeral drainage channels as subject to Corps and CDFG jurisdiction. There are

no wetlands on the site as defined by the California Coastal Act; therefore, there would be no impacts to wetlands subject to the jurisdiction of the CCC. Implementation of the project would impact two of the drainages, Drainages A and C, totaling 0.056 acre (refer to Figure 4.3.3). The third ephemeral drainage, Drainage B, will be preserved on site as part of the Headlands Conservation Park. None of the drainage channels support riparian vegetation.

Due to the small size, lack of riparian vegetation and ephemeral nature of the drainages, these impacts are not considered significant under CEQA. For impacts of less than 0.10 acre to Waters of the U.S., the Corps Nationwide Permit (NWP) No. 39, only requires preconstruction notification. However, CDFG requires habitat preservation/creation/restoration for all impacts to drainages (i.e., well defined channels), regardless of the area of impact. Although for CEQA purposes no mitigation is required because the impact has been determined to be not significant, the amount of on-site or off-site habitat that will need to be preserved, created, or restored in order to satisfy CDFG will be determined as part of the CDFG 1603 Streambed Alteration Agreement process. Project Condition 3-17 implements this requirement. Therefore, no mitigation measure is required.

Species Interaction and Ecosystem Function.

Existing Ecological Interactions Between Species On The Site. Ecological interactions between species on the Headlands site are limited and constrained due to the relatively small size of the project area, the fragmented configuration of the native habitat patches, the amount of urban habitat interface that can cause adverse edge effects (Paton 1993), and the site's isolated condition within the surrounding urbanized landscape (Dickman 1987, Sanders et al. 1990, Bolger et al. 1991, 1997a, 1997b). The current site conditions, and isolation caused by the surrounding developed lands that extend more than two miles beyond the site, adversely affect predator-prey interactions and opportunities for typical population migration processes. The food web matrix currently existing on the site is expected to be simplified and truncated, with the higher trophic levels (top native predators) likely to be absent or well below the local habitat carrying capacity (Kareiva 1987, Estes at al. 2001). Energy and nutrient cycles can be adversely affected by this food web simplification. Human subsidized nonnative predators (domestic cats) have been observed on site and may exceed local habitat carrying capacity and adversely affect prey (songbird and rodent) populations on site (Vissman 1993, Crooks 1998, Crooks and Soulé 1999).

The small size and isolated condition of the site will also adversely affect plant pollinator interactions due to the local extirpation of pollinator populations, resulting in the disruption of species reproductive processes. This may be the case for such species as prostrate spineflower, Palmer's grapplinghook, and cactus wren, species detected in the early 1990s, but not detected in recent site surveys. Small isolated populations have higher likelihood of becoming extirpated from an area than populations located in large open space preserves. Competition between native species and invasive nonnative species is a current condition on the site. Argentine ants currently may be adversely affecting native ant populations on site and potentially reducing local food availability for native lizards (Suarez et al. 1998, Bolger et al. 2000). Ice plant is an invasive exotic plant that dominates relatively large portions of the Headlands site. Past disruption of site

soil conditions may have limited the distribution of soil endemic species, such as Blochman's Dudleya.

The site's small size and its isolated condition within the surrounding urbanized landscape compared to other subregional areas of biological open space suggest that it is incapable of any sustained ecological functioning even if left in an "as is" condition. In analyzing the NCCP program for the Orange County Central/Coastal subregion, the USFWS, CDFG and County of Orange determined that the Pacific pocket mouse population on the Headlands site was likely to become extirpated from the site unless very active management of the site was immediately undertaken and, even then, the species' ability to maintain a viable population was very much in doubt.

One example of adverse ecological trends on this site is the increasing density of both native and nonnative plant species. Studies on the site to date suggest that unless habitat manipulation methods are employed periodically, increasing vegetation density may result in, in and of itself, eventual extirpation of the pocket mouse from the site. Other sensitive species, such as the cactus wren, Palmer's grapplinghook, Western Dichondra, and prostrate spineflower have either become extirpated from the site over the last ten years or are able to maintain only a very tenuous hold on the site, further evidencing the site's compromised ecological functioning.

The constant exposure to and damage from chronic human trespass also adversely affects the ecological functioning of the site related to the successful preservation of various sensitive species on the site. For example, the Blochman's dudleya could soon be extirpated from the site, given its current location in areas often used by trespassers from the adjacent developed residential areas. The dichondra, spineflower, and grapplinghook, if still present, may also be experiencing this kind of current exposure to uncontrolled trespassers trampling the vegetation.

Existing Ecological Function Of Project Site As A Whole. The small size and isolated condition of the site within an urbanized landscape severely compromises the existing ecological functioning of the project site as a whole (i.e., without the project). Properly functioning natural ecosystems, not subjected to the severe limitations shown on the Headlands site, can provide certain "services," such as serving as potential source of biodiversity, mediating the hydrological cycle, ameliorating local climates, building soil, controlling erosion, detoxifying wastes, and providing recreational opportunities. The 37,000+-acre Orange County Nature Reserve provides all of these ecological services by developing a conservation program that shifts away from the current focus on project by project, single species protection to conservation and management of many species and multiple habitats on a subregional level. Some of these functions are more predominant than others for certain ecosystems. The coastal scrub communities existing on the Headlands site are important in moderating water runoff, soil erosion, a nominal contribution to biodiversity, and some degree of passive recreation (Brussard et al. 1993). ~~Three~~ Four rare species that occur on site (Pacific pocket mouse, Blochman's dudleya, Coulter's saltbush, and cliff spurge) are restricted to coastal areas of Southern California. Retention of these narrow endemic species on site is a goal of the proposed project's open space design and long-term habitat management program. The isolated condition of the site and its location within the urbanized landscape precludes the site from functioning as habitat linkage between larger natural habitat areas that support source populations of sensitive species. The potential for the site to act

as an "ecological sink" is likely due to the small size of the site and the extensive habitat edge conditions that typically prevail in small isolated habitat patches (Alberts et al. 1993, Bolger et al. 1991, 1997a, 1997b, Lovio 1996, Crooks and Soulé 1999, Crooks et al. 2001). The surrounding urban development has also modified the natural fire ecology of the site with subsequent ecological effects (Zedler et al. 1983, O'Leary 1990).

Ecological Functioning Of The Site With The Proposed Project. Given the site's constrained ecological functioning baseline, the postproject functioning is expected to be equal to or better than current conditions. The project will establish and maintain in perpetuity a 24.2 acre Conservation Park on the Headlands that will be actively managed for the benefit of sensitive coastal species, including Pacific pocket mouse, California gnatcatcher, and certain rare native plants. A substantial monetary endowment will be established to ensure that adaptive management techniques can be applied to the Conservation Park for the benefit of the native species on site. Nonnative invasive species will be reduced, and conditions for native species will be enhanced. A minimum 100 foot buffer between the proposed residential development and the Conservation Park is included in the proposed design. Public access will be managed so as to benefit biological resources conserved on site by establishing and limiting coastal access to a clearly delineated public trail system that includes conservation and safety fencing.

Currently the Pacific pocket mouse population has, at best, a tenuous hold on the project site, and the ecological functioning of the site is limited by the above referenced factors. In contrast, the implementation of the proposed project will provide the greatest possibility to maintain the viability of the Pacific pocket mouse population, either by establishing the permanent 24.2 acre Conservation Park on the Headlands site or, if later determined by the Wildlife Agencies, by translocating Pacific pocket mouse elsewhere within the Orange County Nature Reserve. Without the proposed project, the Headlands property owners may withdraw from the NCCP/HCP, and the Pacific pocket mouse population would not have active protection or management resources assigned to the Headlands site. Without the proposed project: (1) current proactive conservation and management actions on the site would be jeopardized, (2) significant funding for habitat acquisition for the Nature Reserve of Orange County and adaptive management activities would be lost, (3) the opportunity to protect Blochman's dudleya population from extirpation due to unrestricted human trespass would be lost, and (4) the opportunity to preserve a Pacific pocket mouse population within the property or coastal subregion of Orange County would be lost, or at a minimum severely compromised.

With the project, the site would continue to provide opportunities for occupation by the California gnatcatcher. The proposed biological open space and habitat buffer areas will provide sufficient habitat for three to five gnatcatcher territories. Blochman's dudleya, Coulter's saltbush, ~~and~~ cliff spurge, and woolly seablite can continue to exist, as the dudleya and saltbush can be successfully translocated into protected open space on site. The cliff spurge and woolly seablite will persist due to ~~its~~ their locations on the steep cliffs of the site within project designated conserved open space.

Ecosystem Function Within The Subregion's Coastal Zone With And Without Project. A primary function of the Orange County NCCP program is to protect habitat types found within

the Orange County coastal subregion in sufficient numbers and distributions to ensure their long-term conservation and proper ecological functioning, and thereby also ensure the long-term conservation of the particular species that utilize those habitat types. Specifically, as noted in the NCCP/HCP Final Environmental Impact Report/Environmental Impact Statement (County of Orange 1996), the specific project purposes of the NCCP/HCP are:

(1) planning for the protection of multispecies and multiple habitats within the coastal sage scrub habitat mosaic by creating a Habitat Reserve System that contains substantial coastal sage scrub, chaparral, grasslands, riparian, oak woodlands, cliff and rock, forest, and other habitats;

(2) developing a conservation program that shifts away from the current focus on project by project, single species protection to conservation and management of many species and multiple habitats on a subregional level;

(3) allowing social and economic uses within the subregion that are compatible with the protection of identified species and habitats;

(4) protecting the federally listed coastal California gnatcatcher in a manner consistent with Section 10(a) of the FESA and the Special 4(d) Rule for the gnatcatcher while providing for future incidental take of the species;

(5) protecting the other two "target species," the coastal cactus wren and orange-throated whiptail lizard, by treating them "as if they were listed" under Section 10(a) of FESA and allowing incidental take of these species;

(6) protecting non-CSS habitat within the CSS habitat mosaic at a level comparable to the protection provided for CSS, thereby contributing to the protection of a broader range of species than just the target species or CSS species;

(7) addressing the habitat needs of the non-target species within the subregion and the non-CSS habitats, including protecting six other federally listed species consistent with FESA Section 10(a) and treating 33 other "identified" species "as if they were listed" under Section 10(a) of the FESA;

(8) addressing the conservation of sensitive species located on the Dana Point Headlands site, including the coastal California gnatcatcher, Pacific pocket mouse, other identified species and five designated plant species;

(9) building upon prior regional open space planning that has occurred in Orange County and integrating that open space planning into the creation of the Habitat Reserve System and subregional conservation strategy; and

(10) addressing impacts to CSS and non-CSS habitats and related NCCP/HCP species addressed in the Joint EIR/EIS in a manner that will be used and relied upon in conjunction with future environmental reviews and documents.

By meeting these goals, the Headlands development and conservation project, as a primary participant in the County's Central/Coastal NCCP/HCP Subarea Plan, was instrumental in ensuring the long-term conservation of functioning ecosystems in the coastal subarea, including the Coastal Zone. The Central/Coastal Subarea Plan assures the conservation of nearly 11,000 acres of interconnected sensitive habitats in the Coastal Zone, and over 18,800 acres of coastal sage scrub, 7,300 acres of chaparral, 6,100 acres of grasslands, 1,800 acres of riparian, 950 acres

of woodland, 200 acres of forest habitat, and significant portions of six other habitat types now existing within the subregion. The Central/Coastal Subarea Plan also provides a nonwasting adaptive management endowment of approximately $11 million—which ultimately may grow as much as two to five times as large. The NCCP Subregional Habitat Reserve protects and manages viable, connected habitats in the coastal zone and the coastal subarea that have been configured to provide for the mobility, foraging, breeding, genetic exchange, and refugia needs of sensitive and listed species both within the Coastal Zone and within the larger subregion. In contrast, without the participation of the Headlands owners and other participating landowners in the NCCP/HCP, the ecosystem functioning of the subregion would be significantly diminished.

In its current condition, the site does not contribute significantly to the healthy ecosystem functioning of other open space areas of the subregion. The site's isolation from these other areas by significant urbanization precludes such contributions. The relative value of the site as gnatcatcher breeding habitat is suspect due to its isolation and the extensive edge effects currently present on site.

The site is one of four known populations of Pacific pocket mouse. However, it is unlikely to support this population in the medium to long term (10 to 20 years), and the population is likely to become extirpated from the site even sooner without the proposed active program for Pacific pocket mouse protection and habitat management. With the proposed project, the Wildlife Agencies have the opportunity to provide ongoing protection and management, and should they deem it necessary for the long-term survival of this Pacific pocket mouse population, to translocate the members of the population to more suitable and secure habitat within the Orange County Nature Reserve or to San Diego County.

4.3.10.~~3~~2 Level of Significance After Mitigation. Implementation of PDF 3-1 to PDF 3-8 and PC 3-1 to PC 3-17 will reduce the project's impacts to terrestrial biological resources to below a level of significance, with the exception of Coulter's saltbush, which is discussed below. Therefore, no mitigation measures are required for species other than Coulter's saltbush.

4.3.10.3 Significant Impacts

Impact 3-1. Direct Impacts to Coulter's saltbush. Less than ten individuals of Coulter's saltbush are extant in an area co-occurring with Blochman's dudleya. These individuals would be directly impacted by the project, as they are located within Planning Area 6, Upper Headlands Neighborhood, as shown in Figure 4.3.4.

Coulter's saltbush is known from approximately 45 occurrences on the Channel Islands and mainland California combined. There are at least 34 documented occurrences on Santa Cruz Island (29 documented occurrences), Santa Rosa Island (2 occurrences), and San Miguel Island (3 occurrences) combined (CalFlora Database 2001). These occurrences are presumed extant and conserved due to the designation of these islands as part of Channel Islands National Park. On the mainland, there are approximately 12 known occurrences, of which at least 6 are in Orange County. Within the Central/Coastal Subregion of the Nature Reserve of Orange County, there is a population in Upper Bommer Canyon and two occurrences in the Upper Newport Bay

Ecological Preserve (Harmsworth Associates 1999). The current status of the populations within the Upper Newport Bay Ecological Preserve is unclear due to potential disturbance from flood control activities. Two other occurrences of Coulter's saltbush are within the proposed reserve area of the Southern Subregion NCCP/HCP of Orange County. These two southern populations are found in Chiquita Canyon and Cristinos Canyon. Other known populations include Newport Beach behind the Main Public Library (Harmsworth Associates 1999). Impacts to Coulter's saltbush will be mitigated to less than significant by implementing Mitigation Measure 3-1.

Mitigation Measure 3-1. Translocation and Propagation of Coulter's Saltbush. Prior to any site preparation or other project-related activities that would impact the species, the project site shall be surveyed for the presence of extant individuals of Coulter's saltbush. The location of the individuals shall be identified and fenced as a temporary protection measure. Care shall be taken to avoid impacts on the individuals of Blochman's dudleya (that are located in close proximity), which shall also be identified and protected. Cuttings and seed collection of Coulter's saltbush shall be undertaken prior to translocation to ensure that the genetic resource is conserved. The individuals shall be transplanted to suitable, protected areas on site in the Hilltop area and also in the Conservation Park, if appropriate soils are present in this area. If approved by the project biologist, the extant individuals shall be translocated by removing the soil and associated microbiota in blocks by digging down to a depth of approximately 12 inches. This likely will increase the potential for success by keeping the microhabitat conditions intact when moving Coulter's saltbush to the translocation area. Where appropriate, a combination of signage, fencing, and/or planting of Prickly Pear, Coast Prickly Pear, or Coast Cholla (consistent with the Headlands Revegetation Plant Palette) shall be installed to preclude trampling of the translocation sites. The same protection measures shall be provided for the remaining dudleya and translocated dudleya remaining on the project site. The Project Applicant will assure adequate funding for a qualified botanist to monitor the translocation sites for a period up to five years after translocation and to be able to take appropriate corrective management actions (additional seeding, cuttings, etc.) to support to the success of the translocation effort.

Level of Significance After Mitigation. Mitigation Measure 3-1, along with implementation of PDF 3-1 to PDF 3-8 and PC 3-1 to PC 3-17, reduces direct, indirect, and cumulative impacts to Coulter's saltbush to below a level of significance.

4.3.11 Cumulative Impacts

Other approved or proposed projects affecting biological resources within the City of Dana Point include the Monarch Beach Resort, the Capo-by-the-Sea project; and the former Bade property, which is the westernmost three lots in the southern residential enclave adjacent to the project site. ~~On the Bade property, three new homes have been approved where one home and ancillary uses currently exist.~~ The development of the project site at a level of development higher than that of the proposed project was included in the analysis for the Orange County Central/Coastal Subregion NCCP/HCP EIS/EIR. The NCCP/HCP Program is intended to mitigate cumulative impacts on biological resources at the subregional level. Therefore, the proposed project's incremental contribution to a cumulative impact to sensitive habitats and associated sensitive species will be reduced to a less than

significant level by participation in the NCCP/HCP Program (PC 3-4 to PC 3-16) and implementation of Mitigation Measure 3-1.

Direct, indirect, and the proposed project's incremental contribution to the cumulative impacts on coastal sage scrub, maritime succulent scrub, and southern coastal bluff scrub and associated sensitive plant and wildlife species are considered to be reduced to less than significant levels, and are consistent with the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and IA (USFWS et al., 1996).

The coastal California gnatcatcher and the Pacific pocket mouse, ~~together with all~~and other sensitive species, are covered by the approved NCCP/HCP Program (i.e., "take" of these species and their habitats is authorized on the project site and has been analyzed under CEQA). Therefore, impacts to these species are considered to be reduced to less than significant levels. Other species considered sensitive by the resource agencies documented on the project site and treated as covered species under the NCCP plan include orange-throated whiptail~~, Coronado skink, northern harrier, sharp-shinned hawk,~~ and cactus wren~~, and red diamond rattlesnake~~. Sensitive plant species currently or previously found on the project site that are explicitly covered under the NCCP include Nuttall's scrub oak, Blochman's dudleya, cliff spurge, Palmer's grappling hook, prostrate spineflower, and western dichondra. Direct, ~~and~~ indirect, and cumulative effects on these species were considered to be potentially adverse and significant due to loss of sensitive coastal sage scrub habitat. However, implementation of conservation measures consistent with the NCCP/HCP Program reduces the project's impacts to a less than significant level. ~~Therefore, the project would not contribute to significant cumulative impacts to terrestrial biological resources with the implementation of the proposed measures.~~

Coulter's saltbush is a List 1B species that is not explicitly covered under the NCCP/HCP Program. However, potential cumulative impacts on this species are considered to be reduced to a less than significant level through compliance with the NCCP/HCP and IA and the application of the Project Design Features, Project Conditions, and Mitigation Measure 3-1, which provides for the continuation of the species on the project site.

Other sensitive plant species that occur on site are California box-thorn, golden rayed pentachaeta, California groundsel, small-flowered microseris, vernal barley, and woolly seablite. They are not explicitly addressed in the NCCP/HCP program because they were not designated sensitive species at that time. They are now CNPS List 4 species except for vernal barley (List 3). Implementation of the project will not significantly cumulatively impact these species for the reasons described below.

Most of the individuals of California box-thorn (List 4) occur along the coastal bluffs and will be conserved on site with cliff spurge and woolly seablite. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Bomkamp (pers. comm.) reports that California box-thorn is still common on coastal bluffs in Orange County and occurs in Crystal Cove State Park, Newport Back Bay, Bolsa Chica Reserve, and Fairview-Talbert Park in Costa Mesa. The NCCP/HCP program, through the creation of the 37,000 acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and an adaptive management program, benefits this species. For these reasons, potential cumulative impacts to California box-thorn are less than significant.

Golden-rayed pentachaeta is more widespread and common in San Diego County and has also been documented in Los Angeles, San Bernardino, Orange, and Riverside Counties. This List 4 species is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. Although not explicitly covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, potential cumulative impacts to golden-rayed pentachaeta are less than significant.

California groundsel was not detected on site during past surveys and its presence has not been confirmed. This species was reported to be on site by Roberts (pers. comm.). Regardless, this is a CNPS List 4 ("watch list") species. This species was formerly a List 2, but is now known to be more widespread and abundant and its status has been adjusted. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Although not explicitly covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, if the species is on site, cumulative impacts on California groundsel are less than significant.

Small-flowered microseris was not observed on the Headlands during the past surveys, and its presence has not been confirmed. However, Harmsworth Associates (1999) reports that a population of small-flowered microseris was observed on the Headlands in 1998. Small-flowered microseris is known from 22 localities within the Central/Coastal Subregion and 14 of these occurrences are within the Reserve, Special Linkage, or Non-reserve Open Space. Small-flowered microseris is a CNPS List 4 ("watch list") species that is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. This species benefits from the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, potential cumulative impacts to small-flowered microseris are less than significant.

Two small patches of vernal barley with less than 100 individuals total are on site. One patch occurs within the Blochman's dudleya population and the other patch is adjacent to Scenic Drive in Planning Area 8A (Harbor Point Park). Harmsworth Associates (1999) reports that there are 21 known locations of vernal barley in the Central/Coastal Subregion of which 13 are within the Reserve, Special Linkage, or Non-reserve Open Space. Specifically, vernal barley is known within the Reserve at Aliso Canyon (several occurrences), Bommer Canyon (several occurrences), and the Ecological Reserve at UC-Irvine. Harmsworth Associates (1999) also notes that vernal barley is "much more common than previously thought" and is often misidentified, thereby resulting in a further underreporting of its abundance. Vernal barley is a CNPS List 3 species (a review list where more information is required to determine conservation status) and will be benefited by the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, potential cumulative impacts to vernal barley are less than significant.

Most or all of the individuals of woolly seablite on site occur along the coastal bluffs and will be conserved with cliff spurge and California box-thorn. This List 4 species is still relatively common (occurs at Bolsa Chica, Newport Back Bay, etc.), but is considered by CNPS to be in potential need of monitoring in the future. In addition, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres are in the Coastal Zone) and provides an adaptive management program that can be used to benefit this species, if appropriate. For these reasons, potential cumulative impacts (if any) to woolly seablite are less than significant.

4.3.11.1 Level of Significance After Mitigation. Participation in the NCCP/HCP program (PC 3-4 to PC 3-16) and implementation of PDF 3-1 to PDF 3-8 and PC 3-1 to PC 3-3 and Mitigation Measure 3-1 will reduce the project's cumulative impacts to terrestrial biological resources to below a level of significance.

ATTACHMENT C

JANUARY 18, 2002, MEMORANDUM - CLARIFICATION OF FINAL EIR ERRATA

LSA

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MEMORANDUM

DATE: January 18, 2002

TO: Ed Knight, Community Development Director

FROM: Steven D. Ross, AICP, Project Manager

SUBJECT: EIR Errata

LSA was recently made aware of some minor clarifications that should be noted in the Final EIR Errata. The errata are described below and are shown in the attached tables.

1. Cumulative Air Quality Impacts were not included in the EIR Summary Table (Table 1.6.A). However, the cumulative air quality impacts are disclosed in EIR Section 4.2, Air Quality, and in Section 2.5, Significant and Unavoidable Impacts. This impact is shown as underlined text in the attached Errata Table 1.6.A.

2. The EIR Errata dated December, 2001, included a revised Section 4.3, Terrestrial Biological Resources, which added Mitigation Measure 3-1, Translocation and Propagation of Coulter's Saltbush. The EIR Summary Table (Table 1.6.A) included in the Errata listed Mitigation Measure 3-1 as applying to each of the biological impacts listed. Actually, the mitigation measure only directly applies to two of the impacts—Coulter's saltbush and Cumulative Impacts—consistent with the revised Section 4.3. The revised EIR Errata Table is attached.

3. The number of Mitigation Measure 3-1 was omitted from the Mitigation Monitoring and Reporting Program (Section 7.0) included in the EIR Errata. The number is included in the revision shown below.

Attachments

1.0 EXECUTIVE SUMMARY

Table 1.6.A: Summary of Project Specific Impacts, Mitigation Measures, and Level of Significance

POTENTIAL ENVIRONMENTAL EFFECT	MITIGATION MEASURE	LEVEL OF SIGNIFICANCE AFTER MITIGATION
4.2 Air Quality *Asbestos Removal* Existing buildings proposed for demolition may have asbestos containing materials.	No mitigation required.	Compliance with PC 2-3 reduces the project impact to less than significant.
Cumulative Air Quality Impacts The South Coast Air Basin remains a nonattainment zone for CO, ROC, and NO_x. Implementation of the mitigation measures and project conditions would reduce the project's contribution to cumulative CO, ROC, and NO_x impacts; however, these impacts would remain significant and unavoidable.	MM 2-3.A through 2-3.D	Significant unavoidable impact

POTENTIAL ENVIRONMENTAL EFFECT	MITIGATION MEASURE	LEVEL OF SIGNIFICANCE AFTER MITIGATION
4.3 Terrestrial Biological Resources *Direct Impacts to Riparian Habitat or Other Sensitive Natural Community* The proposed project will directly impact 79.2 acres (65 percent) of the project site, which includes 45.11 acres of Developed/Ornamental, 2.42 acres of Disturbed Ruderal, 0.58 ~~and 2.23~~ acres of Disturbed Grassland, and 1.65 acres of Disturbed Southern Needlegrass Grassland. Of the sensitive habitats on site, a total of 28.0 acres of coastal sage scrub, 1.83 acres of disturbed CSS, 0.61 acre of maritime succulent scrub, and 0.06 acre of southern coastal bluff scrub will be impacted by the proposed project.	No mitigation required.	Implementation of the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement will reduce direct impacts to sensitive habitats and sensitive plant species' habitats to below a level of significance.
Indirect Impacts to Vegetation and Wildlife The proposed project may result in indirect impacts to vegetation and wildlife which could extend from the development edge into conserved habitat due to such activities as excessive landscape irrigation, fuel modification, vegetation trampling outside of marked trails, and introduction of non-native species. Additional indirect impacts will result from residential noise and lighting and temporary impacts to wildlife as a result of construction activities.	No mitigation required.	Implementation of the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement will reduce indirect impacts to vegetation and wildlife to below a level of significance.

POTENTIAL ENVIRONMENTAL EFFECT	MITIGATION MEASURE	LEVEL OF SIGNIFICANCE AFTER MITIGATION
Species Interaction and Ecosystem Function Ecological interactions between species on the Headlands site are limited and constrained due to the relatively small size of the project area, and fragmented configuration of the native habitat patches, the amount of urban habitat interface that can cause adverse edge effects, and the site's isolated condition within the surrounding urbanized landscape. The developer's participation in the NCCP/HCP, which includes the 37,000+ acre Orange County Nature Reserve, offsets the project's impacts to terrestrial biological resources.	No mitigation required.	Implementation of the Project Design Features and Project Conditions addresses all impacts to terrestrial biological resources.
Coulter's saltbush The proposed project will impact up to ten individuals of Coulter's saltbush (*Atriplex coulteri*), a sensitive plant on CNPS List 1B that is not explicitly addressed by the NCCP/HCP as an "Identified Species."	MM 3-1	Implementation of Mitigation Measure 3-1 reduces direct, indirect, and cumulative impacts to the species to below a level of significance.

7.0 MITIGATION MONITORING AND REPORTING PROGRAM

Project Design Features, Project Conditions, and Mitigation Measures		Responsible Party	Timing for Mitigation Measure
4.3 Terrestrial Biological Resources			
Mitigation Measures			
3-1	~~No mitigation measures are required.~~**Translocation and Propagation of Coulter's Saltbush.** Prior to any site preparation or other project-related activities that would impact the species, the project site shall be surveyed for the presence of extant individuals of Coulter's saltbush. The location of the individuals shall be identified and fenced as a temporary protection measure. Care shall be taken to avoid impacts on the individuals of Blochman's dudleya (that are located in close proximity), which shall also be identified and protected. Cuttings and seed collection of Coulter's saltbush shall be undertaken prior to translocation to ensure that the genetic resource is conserved. The individuals shall be transplanted to suitable, protected areas on site in the Hilltop area and also in the Conservation Park, if appropriate soils are present in this area. If approved by the project biologist, the extant individuals shall be translocated by removing the soil and associated microbiota in blocks by digging down to a depth of approximately 12 inches. This likely will increase the potential for success by keeping the microhabitat conditions intact when moving Coulter's saltbush to the translocation area. Where appropriate, a combination of signage, fencing, and/or planting of Prickly Pear, Coast Prickly Pear, or Coast Cholla (consistent with the Headlands Revegetation Plant Palette) shall be installed to preclude trampling of the translocation sites. The same protection measures shall be provided for the remaining dudleya and translocated dudleya remaining on the project site. The Project Applicant will assure adequate funding for a qualified botanist to monitor the translocation sites for a period up to five years after translocation and to be able to take appropriate corrective management actions (additional seeding, cuttings, etc.) to support to the success of the translocation effort.	Director, Community Development Department	Prior to any site preparation or any other project related activities that would impact the species, and monitoring up to five years after translocation.
4.14Utilities			
PC 14-2	The applicant shall submit a sanitary sewer plan for review and approval by the SCWD. SCWD will forward copies of the approved plans to the City's Director of Public Works. The plan shall show line size, flow line elevations, and connection(s) to existing lines. All sanitary sewer facilities shall be constructed to the specifications of SCWD ~~and the Director of Public Works~~. Said facilities shall be dedicated to SCWD. Applicable sewerage capacity and connection fees shall be paid as required by SCWD.	Director, Public Works Department, and South Coast Water District	Prior to approval of the sewer improvement plans.

ADDITIONAL INFORMATION

ADDITIONAL INFORMATION: TABLE OF CONTENTS

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- RESPONSE TO EHL COMMENT LETTER
- RESPONSE TO CNPS COMMENT LETTER

RK ENGINEERING GROUP, INC.
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AMEC EARTH AND ENVIRONMENTAL, INC.
- RESPONSE TO COMMENTS

HEADLANDS RESERVE
- RESPONSE TO COMMENTS REGARDING LIGHTHOUSE

URS

Memorandum

Date: December 3, 2001

To: Steve Ross, LSA

From: Patrick J. Mock, Ph.D.

Subject: **Response to EHL comment letter on Headlands DEIR**

ENDANGERED HABITATS LEAGUE

1. The City and applicant appreciate the Endangered Habitat League's (EHL) constructive participation in the project planning process.

2. As the commentator notes and supports, management actions in excess of those required pursuant to the NCCP/HCP and the 10(a) endangered species taking permit, including minimization of ongoing impacts to PPM habitat and habitat restoration, are an important component of the EIR and the HDCP. Marguerita Road will be removed as part of the project, as outlined in the Project Description, Chapter 3.0 of the EIR.

3. Biological impacts have been fully disclosed. The PPM trapping surveys have been limited to the trapping program overseen by the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) pursuant to the establishment of the 22-acre Temporary Preserve in conjunction with the NCCP/HCP. Results of this trapping program from 1993 and 1997 through the 2000 season were reviewed for the EIR assessment. No documented trapping effort outside the temporary preserve boundary is reported in the agency reports for the trapping program. An anecdotal report of a single pocket mouse potentially detected outside the temporary preserve occurred in 1997 (A. Hartzell, pers. comm.).

   The County of Orange (County), CDFG and USFWS, in the 1996 NCCP/HCP EIR/EIS, acknowledged the potential for incidental take of PPM and the loss of potential PPM habitat outside of the 22-acre temporary preserve area, but concluded that this impact had been reduced to a level below significance, particularly as the then occupied habitat consisted of 3.75 acres. Additionally, the USFWS concluded that the NCCP/HCP's conservation plan for the PPM on the project site minimized and mitigated the impacts to the PPM to the maximum extent practicable. The USFWS also concluded that any impacts to PPM outside of the 22-acre temporary reserve area and any loss of potential PPM habitat beyond the 22-acre reserve area would not appreciably reduce the likelihood of the survival or recovery of the PPM in the wild.

   The 24.2-acre area proposed for the Headlands Conservation Park encompasses the best quality PPM habitat on the project site, and includes the entire 22-acre temporary preserve. Active

management of permanently conserved potential habitat, although not required under the existing NCCP/HCP, is a key component of the EIR, and deemed sufficient to increase and stabilize the PPM population on the Headlands site.

4. The proposed project and the range of alternatives are consistent with, and as noted in comments 2 and 3 above, exceed the 1996 NCCP/HCP EIR analysis, from which this EIR is tiered. The 1996 NCCP/HCP program EIR/EIS concluded that the impacts to these particular species had been reduced to a level below significance, in conjunction with numerous mitigation measures that continue to be implemented by the property owners. Therefore, no further mitigation is necessary or appropriate under CEQA. Compared to the 1996 NCCP/HCP EIR, the proposed project has enlarged the PPM preserve by 2.2 acres with habitat restoration areas to enhance the habitat quality within the Conservation Park. In addition, the habitat buffer has been extended between the Conservation Park boundary and the proposed development in Planning Area 6, by approximately 2.7 acres. A fully endowed habitat management program is included in the proposed project. Therefore, direct and indirect impacts have been avoided and minimized where practicable.

5. The CDFG and the USFWS analyzed the views of the scientific community during the NCCP/HCP preparation, and, in particular, during the EIR/EIS process and certification. The USFWS, CDFG and many third party scientists noted that the PPM were unlikely to survive, even in the short term, without intensive, proactive management efforts. After considering all available scientific information, the wildlife agencies concluded that translocation of some or all of the PPM from the Headlands site may be necessary, at some future date, due to the inherent characteristics of the property that were not ideal for the long-term conservation of the PPM, regardless of whether future development activities occurred. At the time of the NCCP/HCP program EIR/EIS, the Headlands property was the only known occupied habitat for the PPM. Since then, three additional occupied habitats have been discovered: (1) 54 PPM on an area as large as 865 acres, north of Santa Margarita River in Camp Pendleton Marine Corps Base; (2) 37 PPM on 2 acres, north of San Mateo Creek in Camp Pendleton; and (3) 20 PPM on 32 acres, south of San Mateo Creek in Camp Pendleton. These areas contain larger numbers of the species and/or larger occupied habitats than those found on the subject property (i.e., 9-32 PPM, originally found on 3.75 acres).

   The Headlands PPM population currently faces a number of significant threats to its continued existence, threats that are magnified given the population's small size and current project site characteristics. In the absence of active management measures, this population is likely to become extirpated from the site. The proactive management measures that have been implemented under the NCCP/HCP are intended to enhance the chances of the survival and recovery of the Pacific pocket mouse. The NCCP/HCP provides for the establishment of a Sub-Regional Reserve System which includes over 8,000 acres within the Coastal zone, some of which may be found to be occupied by the mouse, or be suitable for translocation. In addition, the NCCP/HCP established an Adaptive Management Program to provide for enhancement, restoration, and monitoring of the habitat and the species, provides access to a currently substantially threatened population of the Pacific pocket mouse, and provides funds to conduct recovery studies and undertake needed management actions.

While the Headlands site is a significant site for the pocket mouse, there is a clear need for development of additional information on this little known species, and expansion of the species' range in locations suitable for long-term conservation of this species. Once the NCCP/HCP-enabled research studies and management activities are further developed, it should become clearer whether the Headlands site is indeed essential for the long-term survival and recovery of the species. Retaining the PPM onsite is one option for the wildlife agencies, as discussed in the NCCP/HCP. The proposed project will not preclude this option, and, in fact, promotes this option. The potential carrying capacity of the proposed Conservation Park currently exceeds the current population of PPM, allowing for an increase in the current population size. The proposed project, if approved, enables the proactive conservation and management activities to continue beyond the 2003 sunset provision of the temporary preserve. Without the current project, the proactive measures terminate, unless the agencies purchase the property at fair market value.

Additional mitigation (requiring a larger PPM habitat conservation park) is not required to offset the effects of the project on the PPM population since these impacts were determined to be fully mitigated under the 1996 NCCP/HCP EIR (See Appendices: Wildlife agencies' March 1995 joint letter discussing CEQA determinations of significant impacts under the NCCP program).

6. Through the design of the project, impacts to PPM have been avoided and minimized. Enlarging the temporary preserve by 2.2 acres, providing additional habitat buffers, and provision of a habitat management endowment are not mitigation, but are project features that will further enhance PPM viability. The no-project alternative is considered a more impactive alternative in regards to PPM conservation. The 1996 NCCP/HCP program EIR/EIS concluded that sufficient high quality PPM habitat was conserved for the future management of the PPM population on the Headlands and that the impacts to these particular species had been reduced to a level below significance. Therefore, no further mitigation is necessary or appropriate under CEQA. The area of 3.75 acre PPM-occupied habitat was temporarily conserved with a substantial and adequate habitat buffer included to minimize potential indirect effect of development. The proposed project adds additional acreage to this habitat area and a surrounding buffer to further minimize potential impacts to PPM-occupied habitat. The quality of potential PPM habitat outside the proposed Conservation Park is much more variable due to past and ongoing disturbance activities. No information is provided in the comment to dispute the findings of the DEIR. Because the project provides sufficient high quality PPM habitat, providing additional habitat does not provide further avoidance nor does it lessen project effects. Therefore, requiring additional mitigation is not warranted or required by CEQA.

   Under Cal. Pub. Resources Code Sect. 21085, the excess biological mitigation (via avoidance) and related reduction in housing units is unlawful, as the NCCP/HCP program has identified an alternative feasible biological mitigation program resulting in less than significant impacts but allowing more significantly housing units. Moreover, the NCCP/HCP authorizes approximately 35 future residential housing units within nearly two-thirds of the proposed 24.2-acre Conservation Park, including those areas presently set aside by the temporary preserve.

7. The commentor's statements are counter to the conclusions of the Pocket Mouse Viability Assessment (PVA) prepared for the biological assessment (Appendix D). The current potential carrying capacity of the Headlands site is likely to be insufficient for the long-term maintenance of the PPM population onsite. Incremental additions of potential habitat area to the preserve do not substantially improve the viability of the Headlands PPM population. In addition, as stated in Responses to Comments No. 5 and 6 above, additional mitigation is not necessary and is not required by CEQA. No consensus of evidence, particularly for a potential site that is less than forty acres, suggests that a larger, on-site conservation park would provide a meaningful "cushion of adverse events" or "greater management flexibility." Rather, the scientific consensus is that larger, integrated natural communities, such as the NCCP/HCP Reserve System which literally incorporates thousands of acres including potential PPM habitat, give rise to the cushion and management flexibility that the commentator is suggesting.

8. See Response to Comments No. 4, 6, and 7 above. Any mitigation measure must not exceed the "rough proportionality" standard of *Dolan*. The proposed project provides proactive long-term management and maintenance of PPM, gnatcatcher, and sensitive native biotic resources onsite. Given the small, isolated size of the project site, and existing edge effects, such active measures for conservation are necessary (compared with a benign neglect which would result from a no-project alternative) for the PPM and gnatcatcher and sensitive plants to have a moderate prospect for long-term conservation. The fuel modification zones will be managed to promote habitat values (see Section 4.14 – parks and open space management plan, in the HDCP).

9. The entire Conservation Park, including the majority portion of the 24.2 acres that are not presently occupied by PPM, will be fenced to control public access (see the HDCP, Figure 4.12.6, Wall and Fencing Plan). The park consists of both environmental and safety fencing. The proposed Conservation Park environmental fencing exceeds the requirements of the approved NCCP/HCP and accompanying 10(a) endangered species "take" permits. All potentially occupied areas have been subject to the scientific criteria established by the NCCP/HCP EIR/EIS (see Response to Comments No 4,6,7, and 8 above). Without substantial evidence that significant adverse effects to PPM are likely to result from the proposed conservation and mitigation elements, the City cannot require additional mitigation.

10. Section 4.3 of the EIR, Terrestrial Biological Resources, determined that the project's direct, indirect, and cumulative impacts to terrestrial biological resources would be reduced to below a level of significance through the implementation of the proposed Project Design Features and Project Conditions. CEQA Guidelines Section 15126.6(b) states that "Because an EIR must identify ways to mitigate or avoid significant effects that a project may have on the environment, (Public Resources Code Section 21002.1) the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." Because the project does not result in significant

adverse impacts to terrestrial biological resources, it was not necessary to analyze an alternative that further reduced impacts on biological resources.

The Alternatives Analysis evaluated four alternatives that had the potential to reduce the significant environmental impacts of the project. Alternative 3, the Reduced Intensity Alternative, is considered the Environmentally Superior Alternative because it lessens significant impacts, including eliminating sufficient CO emissions to lessen the significant long-term CO impact of the project. The EIR does not include an alternative to reduce biological impacts because this is not a requirement of CEQA. The proposed project is environmentally better than the no-project alternative since without the project: (1) the goals of the NCCP will not be accomplished; (2) no permanent habitat conservation is assured; (3) no endowment is established for long-term habitat management and restoration; (4) no active control of public access and other existing edge effects would be implemented; and (5) natural processes, such as increasing density of coastal sage scrub, are working to negatively impact the PPM population.

11. The City appreciates the commentators qualified support for the project. The proposed project has benefited from its ongoing dialogue with EHL. In particular, many of the current project design features are in direct response to positive input from EHL. The Conservation Park, as well as its endowment and the endowment manager, the Center for Natural Lands Management, were designed in concert with the EHL's advice. The project applicant and the City have benefited from the professional, straightforward approach of EHL.

    Additional modifications to the project design must be balanced by the multiple needs of both the City and the applicant. In particular, the City recognizes that the conservation of the PPM habitat is extremely important, and, as a result, the proposed plan preserves this habitat and does so in excess of the requirements of both CEQA and the NCCP/HCP. At the same time, the passive recreational, coastal access, and educational needs of the general public, from both a regional and local level must be addressed in a project such as the Headlands. Coastal resources in Orange County are extremely limited. A number of competing interests must be balanced, and, in the final analysis, the project must be able to financially provide the multiple public benefits that are proposed. Please note, unlike many recent projects that received approval along Orange County's coast, this project does not require City, County, State, or federal subsidies to create and provide the numerous parks, public facilities, amenities, and management programs (see HDCP, Development Agreement and compare to Treasure Island project in Laguna Beach or the Water Front Hilton project in Huntington Beach).

    The proposed project has made a number of significant concessions, including reductions in authorized density and intensity of development, commitments to numerous public facilities and amenities, and dedication and preservation of over fifty percent of the project site to parks and open space. As a result, we trust that the EHL will understand how far forward the design has actually evolved in light of the underlying certified LCP, the NCCP/HCP, the City General Plan, as well as how rare an opportunity the City and the entire public community has in front of it, and actively support the project as proposed.

URS Memorandum

Date: December 17, 2001

To: Steve Ross, LSA

From: Patrick J. Mock, Ph.D.

Subject: **Response to CNPS comment letter on Headlands DEIR**

California Native Plant Society, Orange County Chapter

43-1

The City appreciates CNPS's constructive participation in the planning process for the project.

43-2

The EIR does note that substantial development has occurred in the coastal zone throughout California.

43-3

In the case where impacts to rare plants have already been reduced to a level below significance, CEQA does not require more mitigation. Under Cal. Pub. Resources Code Sect. 21085, the additional biological mitigation being proposed and related reduction in housing units is unlawful. The NCCP/HCP program has identified an alternative feasible biological mitigation program resulting in less than significant impacts through the conservation of regionally important and higher quality habitat areas set aside in the Central/Coastal Nature Reserve of Orange County, but allowing development to occur in lower quality, isolated habitat on the Headlands.

43-4

In the case where impacts to rare plants or endangered species (such as PPM and prostrate spineflower) have already been reduced to a level below significance, CEQA does not require more mitigation. Under Cal. Pub. Resources Code Sect. 21085, the additional biological mitigation being proposed and related reduction in housing units is unlawful. The NCCP/HCP program has identified an alternative feasible biological mitigation program resulting in less than significant impacts through the conservation of regionally important and higher quality habitat areas set aside in Central/Coastal Nature Reserve of Orange County, but allowing development to occur in lower quality, isolated habitat on the Headlands.

The CDFG, USFWS and the NCCP/HCP EIR/EIS carefully evaluated the needs of the PPM and the biological and habitat characteristics of the 121-acre project site and determined that establishing a 22-acre temporary preserve (an area within the 24.2 acre proposed conservation park) would be sufficient for the PPM in terms of trying to conserve a PPM population on the Headlands site. The USFWS and the EIR/EIS concluded that the NCCP/HCP's conservation plan for the PPM on the project site

minimized and mitigated the impacts to the PPM to the maximum extent practicable. The USFWS also concluded that any impacts to PPM outside of the 22-acre temporary reserve area and any loss of potential PPM habitat beyond the 22-acre reserve area within the project site would not appreciably reduce the likelihood of the survival or recovery of the PPM in the wild. The CDFG concluded that the NCCP/HCP EIR/EIS conservation plan for the dudleya adequately provided for the conservation, protection, restoration, enhancement, and management of the Blochman's dudleya in the Central/Coastal subregion of Orange County. (See Section 8.4 of NCCP/HCP Implementing Agreement.).

Without the proposed project, the 22-acre temporary PPM preserve will not be expanded by 2.2 acres, permanently conserved and the PPM population will not receive habitat management, monitoring, and protection efforts made possible through a perpetual, fully funded endowment. If the project isn't approved, the property owner would have no benefit from continuing to participate in the NCCP/HCP program, resulting in the termination of the onsite habitat management and population recovery efforts occurring in the temporary PPM reserve. Such efforts are essential if the population is to have any reasonable chance of persisting even in the short-term on the project site. The project site's existing conditions render the site unlikely to be able to maintain a PPM population on the site in the long-term. See the response to comments for Letter 7, Endangered Habitats League. Rare plants will be conserved onsite in the Headlands Conservation Park, in Harbor Point Park, and in the Hilltop Park. These areas are also suitable as translocation sites for rare plants.

43-5

The DEIR contains the appropriate analysis, including review of all available relevant information regarding onsite resources, as documented in the Biological Technical Report. Figure 4.3-5 has been added to the FEIR that identifies the development area overlain on the vegetation and resource map. The impacts to rare plants are fully described in the assessment. (For example, see the NCCP/HCP and the USFWS's Biological Opinion for the Section 10(a) permits issued under the NCCP/HCP program). For further discussion of Coulter's atriplex, see Response No. 43-39 below. Impacts to rare plants and their associated habitats were deemed adversely impacted by the proposed project. However, impacts to these species are considered to be reduced to less than significant levels through application of specific Project Design Features and Project Conditions and through the project's consistency with and participation in the NCCP/HCP and IA (DEIR, page 4.3-35).

43-6

LSA to respond.

43-7

As part of the NCCP/HCP EIR/EIS, the USFWS, together with the CDFG, conducted an extensive information review and biological analysis to determine that the NCCP/HCP's mitigation measures for the proposed project's impacts to the Blochman's dudleya reduced such impacts to a less than significant level. Some of this information and analysis is contained in the biological opinion prepared by the USFWS for the NCCP/HCP Orange County Central/Coastal Subarea Plan. The USFWS concluded that the NCCP/HCP's conservation plan for the dudleya on the project site

minimized and mitigated the impacts to the dudleya to the maximum extent practicable. The CDFG concluded that the NCCP/HCP's conservation plan for the dudleya adequately provided for the conservation, protection, restoration, enhancement, and management of the Blochman's dudleya in the Central/Coastal subregion of Orange County. (See Section 8.4 of NCCP/HCP Implementing Agreement.)

The NCCP/HCP mitigation does not call for the elimination of dudleya from the HCP area as suggested. It is not uncommon for there to be disagreements among biologists as is apparently is the case here with CNPS biologists disagreeing with biologists from USFWS and CDFG. The Blochman's dudleya on the project site currently is subjected to significant human impacts from the small, infill nature of the project, its location, and active use by the public as a hiking area and dog run. The NCCP/HCP recognized that population numbers and sizes for all "covered species", including the Blochman's dudleya, would be expected to fluctuate from year to year and that the analysis of impact levels and conservation measures were not being analyzed and designed based simply on a single snap-shot in time population size or distribution estimate, but rather were being analyzed and designed based on the knowledge that such fluctuations would be expected over time. The NCCP/HCP found that the impact to Blochman's dudleya on the project site had been reduced to a level less than significant.

43-8

See response to 43-7, above. As part of the NCCP/HCP EIR/EIS, CDFG and USFWS found the mitigation measures for impacts to the Blochman's dudleya as a result of the proposed project to be appropriate. The commentor has not accurately described the mitigation plan, which is set forth at Section 8.3.2(b) of the NCCP/HCP Implementing Agreement. The mitigation measure does not limit translocation to 250 individuals. Moreover, a seed collection and planting program may be used to mitigate for individuals of the species expected to be impacted by site development. The CDFG, as a practical matter, has already had much more than a year to locate receptor sites. The mitigation measure also allows for individuals to be translocated into open space within the project site itself. The information from the commentor regarding possible receptor sites was known to USFWS, CDFG and the County at the time the mitigation measure for the NCCP/HCP was formulated and adopted.

43-9

The NCCP/HCP recognized that population numbers and sizes for all "covered species", including the Blochman's dudleya, would be expected to fluctuate from year to year and that the analysis of impact levels and conservation measures were not being analyzed and designed based simply on a single snap-shot in time population size or distribution estimate, but rather were being analyzed and designed based on the knowledge that such fluctuations would be expected over time. The NCCP/HCP found that the impact to Blochman's dudleya on the project site to have been reduced to a level less than significant. The commentor is incorrect in its statement that the NCCP assumed that the proposed project would impact only 250 individuals. For example, the USFWS Biological Opinion for the NCCP/HCP notes that the project may impact 1,000-2,000 or more individuals of the species.

43-10

See responses to comments 43-3, 43-4, 7-4. A purpose of the Orange County Central/Coastal NCCP/HCP was to establish the complete set of mitigation measures necessary for biological impacts of the "PlannedActivities" (such as the proposed project) for the sensitive species covered by this program. The USFWS concluded that the NCCP/HCP's conservation plan for the covered species minimized and mitigated impacts to those species to the maximum extent practicable and would not appreciably reduce the likelihood of survival and recovery of these species in the wild. The CDFG concluded that the NCCP/HCP measures for these species adequately provides for their conservation, protection, restoration, enhancement , and management. The impact assessment completed for the NCCP/HCP was accurate and adequate. No modification to the NCCP/HCP is necessary. The City intends to implement the HCP and IA as written, as modified by the Project Conditions in the FEIR. Measures to reduce impacts to Coulter's saltbush to less than significant levels have been added to the FEIR as Mitigation Measure 3-1.

43-11

The HDCP as proposed includes a number of polices and guidelines to ensure the proper long-term management of the designated open space onsite. These policies include revegetation, irrigation, landscaping guidelines, fuel modification, and management requirements. Also refer to Comment 43-10.

43-12

The fuel modification plan was developed through an "alternate means and methods" process in conjunction with OCFA, the project's biologist and SWA Landscape Architects. The fuel modification program is part of the comprehensive open space management program identified in Section 4.14 of the HDCP. The fuel modification program is closely associated with the native revegetation program. Fuel Modification will typically occur in areas that either are already disturbed or will be disturbed as part of the grading for the proposed project. In quantifying the impacts to various vegetative communities, the fuel modification program was accounted for. In other words, the fuel modification falls within the development envelope for the project.

Plant species for the fuel modification/revegetation program were selected primarily for their habitat value, drought tolerance and native species characteristics. The plants utilized for the fuel modification areas will be native plant species. Please refer to the Headlands Revegetation Palette in the Technical Appendices and the HDCP. For instance, many areas of the site, especially the upper slopes at the south end of Strand Beach are extensively covered with literally acres of ice plant, a non-native, invasive plant species. These areas are proposed for complete revegetation with native species. Irrigation is proposed for the establishment of the plantings, and in selected locations, to ensure some moisture is retained in plants during periods of little rain. Please refer to the detailed irrigation guidelines in the HDCP that stipulate low flow devices, minimization of irrigation water usage, the use of moisture sensors and other measures.

43-13

Irrigation is proposed for the establishment of the plantings, and in selected locations, to ensure some moisture is retained in plants during periods of little rain. Please refer to the detailed irrigation guidelines in the HDCP that stipulate low flow devices, minimization of irrigation water usage, the use of moisture sensors and other measures. Active management of the irrigated open space area will ensure no areas, including areas of coastal sage scrub, are watered inappropriately. The habitat islands will blend with the compatible adjoining native species and, pursuant to the HDCP, will be subject to management and maintenance to ensure their establishment and viability. No Zone A or Zone B fuel modification is proposed for the Hilltop Area.

43-14

The current plant palettes for Planning Areas 4 and 5 will be modified per CNPS suggestions to enhance potential habitat for existing rare plants. Specifically, the plant palette for Area 5 can be modified to include southern needlegrass species. During final design of the project habitat restoration program, specialists with experience in the local flora will be consulted to further ensure a successful restoration program.

43-15

The plant palette for Area 4 (Table 4.14.2) will be modified to incorporate the species suggested by CNPS and delete the chaparral and/or mesic montane canyon species as well as French lavender (*Lavendula dentate*) and goldenbush (*Isocoma menziesii*). The plant palette for PA5 outside of Area 4 will be modified to include the "low growing grasses and herbs" suggested by CNPS. See response to comment 43-14 above. CNPS input is welcomed.

43-16

See response to comments 43-7 through 43-10. A key Project Feature is a long-term habitat management program that includes monitoring of any restoration efforts. The NCCP/HCP provides for certain monies for Blochman's dudleya translocation. If monitoring is necessary beyond that which can be provided by the funding contributed by the Project Applicant pursuant to the NCCP/HCP, CDFG and USFWS may undertake such monitoring and management actions pursuant to the NCCP/HCP and IA. Also, the NCCP/HCP will enable long term monitoring of any Blochman's dudleya translocated into the Central/Coastal Nature Reserve of Orange County. The Project Applicant is providing $500,000 to the Adaptive Management Program of the Central/Coastal Nature Reserve of Orange County, these monies or other reserve endowment monies, can be used to monitor and maintain populations of Blochman's dudleya translocated into the preserve.

43-17

The best and most current information regarding Blochman's dudleya translocation methods will be used. The revegetation guidelines in the HDCP include requirements that topsoil and duff be removed and placed in the revegetation site in manner similar to that recommended by the commentor.

43-18

URS Corporation and Fred Roberts reviewed the vegetation map of the Headlands during a site visit on November 28, 2001. The vegetation map was independently verified in the field by qualified biologists in 1999 and 2000 and is considered adequate, and accurate for the purposes of CEQA. The widely used Holland vegetation classification system developed by CDFG was used in the vegetation mapping.

43-19

CNPS is suggesting a different habitat classification system. It is relatively common for differences of opinion between biologists to exist in regard to vegetation classification. Hence, the DEIR elected to use the widely accepted Holland vegetation classifications developed by CDFG. For the Final EIR, a text notation will be added indicating that a grassland component is found in openings in certain areas between the shrubs in the text description of "coastal sage scrub."

43-20

See response to comments 43-18 and 43-19. The vegetation map was independently verified in the field by qualified biologists in 1999 and 2000 and is considered adequate and accurate for the purposes of CEQA.

43-21

See response to comments 43-18 and 43-19. The polygons mapped, as "southern mixed chaparral" will not be changed. This habitat was mapped using the Holland Code and is adequate and accurate. In the Final EIR, the text description for this habitat will be modified by noting the presence of the ornamental plant *Hypericum canariense* within the patch of the otherwise native chaparral habitat. This text change only applies to the "southern mixed chaparral" polygon in the northwest corner of the site. *Hypericum canariense* is not found in the two other sumac chaparral polygons.

43-22

See response to comments 43-18 and 43-19. The area at issue was reviewed in the field with the CNPS representative. The labeling for the approximately 1.65 acre polygon in the extreme northern area of the Headlands that is mapped as "non-native grassland" will be revised. The Final EIR document will be changed to include a 1.65 acre polygon of "disturbed southern needlegrass grassland" due to the relative abundance (about 30% cover) of native perennial grasses such as *Nassella* and *Melica* within an area otherwise dominated by non-native grasses. The impact on 1.65 acres of disturbed southern needlegrass grassland is not significant due to the small size of the impact and the isolated condition of the Headlands site. Moreover, the NCCP/HCP EIR/EIS anticipated the loss of this grassland as part of the proposed project. In addition, within the 37,000 acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone), there are approximately 8,055 acres of grassland in the Reserve (1,300 acres in the Coastal Zone), Special Linkage, and Non-reserve Open Space of which approximately 3,067 acres are designated as "High" or "Moderate" quality (Harmsworth Associates 1999). The Adaptive Management endowment allows for further enhancement and restoration of needlegrass grassland in the Central/Coastal Nature Reserve of

Orange County. Moreover, there is approximately 720 acres of southern needlegrass grassland in the 8,000 acre Foothill Transportation Corridor in southern Orange County and 100's of acres of native perennial grassland in the proposed Southern Subregion of the Orange County NCCP/HCP (Tony Bomkamp pers. comm.). Finally, the impact on 1.65 acres of disturbed southern needlegrass grassland does not meet or exceed a "significant effect on the environment" pursuant to the standard CEQA Significance Criteria that is provided in the Biological Resources Report Section 4.1.

43-23

The botanical section of the Final EIR will be revised to reflect the recent (Summer 2001) changes appearing in the 6th edition of the CNPS Inventory of Rare Plants. These changes do not change our assessment under CEQA since all of the "new" sensitive plants, but for Coulter's atriplex, are CNPS List 4 and the impacts to these "watch list" species are less than significant.

43-24

The vegetation map and text will be modified to include a description of "disturbed southern needlegrass grassland" (1.65 acres). A "resurvey" of the area is not necessary. The site was visited by the CNPS representative and URS Corporation on November 28, 2001. This change to the Final EIR does not change our assessment under CEQA because the impact on this small area of disturbed southern needlegrass grassland is not significant. Please see Response to Comment 43-22 explaining why this impact is not significant.

43-25

The text descriptions of "southern coastal bluff scrub" and "maritime succulent scrub" will be modified in the Final EIR to more accurately describe the Orange County form of these habitats.

43-26

The Quino Checkerspot Butterfly is a "conditionally covered species" pursuant to the NCCP/HCP and its IA. Quino Checkerspot is currently known only from locations in San Diego, western Riverside Counties and northwestern Baja California, Mexico and was last observed in Orange County in 1967. This species is not expected to occur onsite due to the isolated and fragmented condition of the site – site conditions that are very different from that occurring in 1936 when the species was last documented. For a project site such as the Headlands, any small population of this species, even if it were to occur onsite, could be impacted without causing a significant impact through implementation of the NCCP/HCP.

43-27

See response 43-23 above.

43-28

See responses 43-19, 43-20 and 43-24.

43-29

An additional figure displaying the rare species locations in relation to the development footprint has been prepared and will be included as Figure 4.3-5 in the FEIR. The Draft Biological Resources Report maps are sufficient to allow accurate interpretation to impacts onsite.

43-30

A brief discussion of the seven sensitive plant species that occur onsite and the three species with potential to occur (Aphanisma (*Aphanisma blitoides*), Pacific saltbush (*Atriplex pacifica*), and Robinson's peppergrass (*Lepidium viginicum* var. *robinsonii*) will be added to the text of the Final EIR. This change to the Final EIR does not alter our assessment under CEQA. These three List 1B species aphanisma, Pacific saltbush, and Robinson's peppergrass were not detected during surveys in 1991, 1998 or 2001. The level of survey effort was deemed adequate for approval of the NCCP/HCP.

43-31, 43-32, 43-33, 43-34

Blochman's dudleya is a covered species under the 1996 NCCP Agreement and the discussion of this species in the Biological Resources Report is sufficient. Additional surveys for Blochman's dudleya are not necessary because adequate surveys were performed by PSBS in 1991, and verified by URS Corporation in 2000 and LSA in 2001. The USFWS, CDFG, and County were aware of the Blochman's dudleya issues when the NCCP/HCP EIR/EIS was prepared. The NCCP/HCP EIR/EIS assumed that as many as 1,000-2.000 individuals of the species could be impacted. A portion of the dudleya population will not be impacted by the proposed development. See responses to 43-7, 43-8, and 43-9.

43-35

The presence and approximate distribution of cliff spurge on the Headlands was verified by URS Corporation in 2000 and is reported in the Draft Biological Resources Report. No changes to the document are necessary.

43-36

The CNPS Inventory of Rare Plants status of Palmer's grappling hook will be changed to a "List 4 species" to reflect the 6th edition. This change to the Final EIR does not alter our assessment under CEQA. List 4 is a "watch list" for species that are still relatively common, but are in potential need of monitoring in the future.

43-37

The CNPS Inventory of Rare Plants status designation for prostrate spineflower will be changed to reflect the 6th edition. This species is no longer listed in the CNPS Inventory.

43-38

The Draft Biological Resources Report assesses western dichondra as currently occurring on the Headlands. Western dichondra is a CNPS List 4 species and is a covered species under the 1996 NCCP/HCP and its Implementing Agreement. Impacts to this species from the proposed project are consistent with the impacts anticipated under the NCCP/HCP program Further discussion or additional surveys for this species are not necessary since it is addressed in the NCCP/HCP program.

43-39

The presence of Coulter's saltbush (*Atriplex coulteri*) was verified on the Headlands during a site visit with Fred Roberts on November 28, 2001. The species was difficult to detect at this time of year, but four individuals were found in a cluster on the ridgeline adjacent to the Blochman's dudleya (*Dudleya blochmaniae*) population. Mr. Roberts estimated that total population onsite was likely to be no more than ten individuals of Coulter's saltbush, all co-occurring near the Blochman's dudleya population. This small population is within an area proposed for development. Impacts to rare plants and their associated habitats were deemed adversely impacted by the proposed project. However, impacts to these species are considered to be reduced to less than significant levels through application of specific Project Design Features and Project Conditions and are consistent with the NCCP/HCP and IA (DEIR, page 4.3-35). Coulter's saltbush is known from approximately 45 occurrences on the Channel Islands and mainland California combined. There are at least 34 documented occurrences on Santa Cruz Island (29 documented occurrences), Santa Rosa Island (2 occurrences), and San Miguel Island (3 occurrences) combined (CalFlora Database 2001). These occurrences are presumed extant and conserved due to the designation of these islands as part of Channel Islands National Park. On the mainland, there are approximately 12 known occurrences, of which, at least 6 are in Orange County. Within the Central/Coastal Subregion of the Nature Reserve of Orange County, there is a population in Upper Bommer Canyon and two occurrences in Newport Backbay (Harmsworth Associates 1999). The current status of the populations within Newport Backbay is unclear due to potential disturbance from flood control activities. Two other occurrences of Coulter's saltbush are within the proposed reserve area of the Southern Subregion NCCP/HCP of Orange County. These two southern populations are found in Chiquita Canyon and Cristinos Canyon. Other known populations include Newport Beach behind the Main Public Library (Harmsworth Associates 1999).

Since Coulter's saltbush is on CNPS List 1B, loss of this small population is considered significant, but mitigable. Translocating the small population of Coulter's saltbush to suitable habitat (same general location as for Blochman's dudleya) into protected open space will mitigate this nominal increase in the severity of the environmental impact of the proposed project to less than significant. The translocation and propagation of Coulter's saltbush is described in Mitigation Measure 3-1 in the DEIR and is as follows: Prior to any site preparation or other project-related activities that would impact the species, the project site shall be surveyed for the presence of extant individuals of Coulter's saltbush. The location of the individuals shall be identified and fenced as a temporary protection measure. Care shall be taken to avoid impacts on the individuals of Blochman's dudleya, (that are located in close proximity), that shall also be identified and protected. Cuttings and seed collection of Coulter's saltbush shall be undertaken prior to translocation to ensure the genetic resource is conserved. The individuals shall be transplanted to suitable, protected areas onsite in the Hilltop area and also in the Conservation Park, if appropriate soils are present in this area. It is recommended that the extant individuals be translocated by removing the soil and associated microbiota in blocks by digging down to a depth of approximately 12 inches. This will increase the potential for success by keeping the microhabitat conditions intact when moving Coulter's saltbush to the translocation area. Where appropriate, a combination of signage, fencing, and/or planting of Coast Prickly Pear, or Coast Cholla (consistent with the Headlands Revegetation Plant Palette) shall be installed to preclude trampling of

the translocation sites. The same protection measures shall be provided for the remaining dudleya and translocated dudleya. The Project Applicant will assure adequate funding for a qualified botanist to monitor the translocation sites for a period up to 5 years after translocation and to be able to take appropriate corrective management actions (additional seeding, cuttings, etc.) to support the success of the translocation effort.

43-40

Vernal barley (CNPS List 3) was not detected during surveys in 1991 and 1998. Therefore it was not addressed in the Biological Resources Report. Vernal barley was observed onsite by a biologist in 1996, but this information was not conveyed prior to the submittal of the DEIR (T. Bomkamp pers. comm., 2001). This information will be added to the FEIR. Two small patches of vernal barley with less than 100 individuals total are onsite (T. Bomkamp pers. comm., 2001). One patch occurs within the Blochman's dudleya population and the other patch is adjacent to Scenic Drive in Planning Area 8A (Harbor Point Park). Harmsworth Associates (1999) reports that there are 21 known locations of vernal barley in the Central/Coastal Subregion of which 13 are within the Reserve, Special Linkage, or Non-reserve Open Space. Specifically, vernal barley is known within the Reserve at Aliso Canyon (several occurrences), Bommer Canyon (several occurrences), and the Ecological Reserve at UC-Irvine. Harmsworth Associates (1999) also notes that vernal barley is "much more common than previously thought" and is often misidentified, thereby resulting in a further under reporting of its abundance. Vernal barley is a CNPS List 3 species (a review list where more information is required to determine conservation status) and will be benefited by the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program. For these reasons, potential direct, indirect, and cumulative impacts to vernal barley are less than significant.

43-41

California box-thorn was observed onsite in 1991 and its CNPS status has recently changed to List 4 "watch list" since the submittal of the Biological Resources Report was prepared. This change will be reflected in the Final EIR text. Most of the individuals of this species occur along the coastal bluffs and will be conserved onsite with cliff spurge and woolly seablite. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. T. Bomkamp (pers. comm.) reports that California box-thorn is still common on coastal bluffs in Orange County and occurs in Crystal Cove State Park, Newport Back Bay, Bolsa Chica Reserve, and Fairview-Talbert Park in Costa Mesa. The NCCP/HCP program, through the creation of the 37,000 acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and adaptive management program benefits this species and its current CNPS status does not affect our assessment under CEQA. For these reasons potential direct, indirect, and cumulative impacts to California box-thorn are less than significant.

43-42

Small-flowered microseris was not observed on the Headlands during the past surveys and its presence has not been confirmed. Therefore it was not addressed in the Biological Resources Report. However, Harmsworth Associates (1999) reports that a population of small-flowered microseris was observed on the Headlands in 1998. Small-flowered microseris is known from 22 localities within the Central/Coastal Subregion and 14 of these occurrences are within the Reserve, Special Linkage, or Non-reserve Open Space. Small-flowered microseris is a CNPS List 4 ("watch list") species that is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future. This species is addressed by the NCCP/HCP program, which provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program. For these reasons, potential direct, indirect, and cumulative impacts to small-flowered microseris are less than significant.

43-43

Golden-rayed pentachaeta was observed onsite in 1991 and its CNPS status was recently changed to List 4 since the submittal of the Biological Resources Report. This change will be reflected in the Final EIR text. This species is more common in San Diego County and has also been documented in Los Angeles, San Bernardino, Orange, and Riverside Counties. This List 4 species is still relatively common, but is considered by CNPS to be in potential need of monitoring in the future.Although not explicity covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program. Its change in status does not affect our assessment under CEQA. For these reasons, direct, indirect, and cumulative impacts to golden-rayed pentachaeta are less than significant.

43-44

California groundsel was not detected onsite during past surveys and its presence has not been confirmed. Therefore it was not addressed in the Biological Resources Report. This species was reported to be onsite by Roberts (pers. comm.). Regardless, this is a CNPS List 4 ("watch list") species. List 4 species are still relatively common, but are considered by CNPS to be in potential need of monitoring in the future. Although not explicitly covered, the NCCP/HCP program provides suitable habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone) and an adaptive management program that can assist this species, if necessary. Its current CNPS status does not affect our assessment under CEQA. For these reasons, if the species is onsite, direct, indirect, and cumulative impacts on California groundsel are less than significant.

43-45

Woolly seablite was observed onsite in 1991 and its CNPS status has changed to List 4 since the submittal of the Biological Resources Report. This CNPS status change will be reflected in the Final EIR text. Most or all of the individuals of woolly seablite onsite occur along the coastal bluffs and will be conserved with cliff spurge and California box-thorn. This List 4 species is still relatively common (occurs at Bolsa Chica, Newport Back Bay, etc.), but is considered by CNPS to be in potential need of monitoring in the future. In addition, the NCCP/HCP program provides suitable

habitat for this species within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone). Its change in CNPS status does not affect our assessment under CEQA. For these reasons, direct, indirect, and cumulative impacts (if any) to woolly seablite are less than significant.

43-46

The Quino Checkerspot Butterfly is a "conditionally covered species" pursuant to the NCCP/HCP and its IA. Quino Checkerspot is currently known only from locations in San Diego, western Riverside Counties and northwestern Baja California, Mexico and was last observed in Orange County in 1967. This species is not expected to occur onsite due to the isolated and fragmented condition of the site – site conditions that are very different from that occurring in 1936 when the species was last documented in the project vicinity. CEQA does not require an analysis of conditions that no longer exist. For a project site such as the Headlands, any small population of this species, even if it were to occur onsite, could be impacted without causing a significant impact through implementation of the NCCP/HCP (see, for example, NCCP/HCP IA Section 8.3.2 (a) (5) and USFWS Biological Opinion for Central/Coastal Subregion NCCP/HCP).

43-47

The FEIR text will be revised where appropriate.

43-48, 43-49

The purpose of a program EIR like that for the NCCP/HCP for biological resources is to be able to avoid unnecessary duplication of analysis when the impact was known and analyzed in the first tier EIR, such as the case here. Proposed impacts are consistent with those addressed in the NCCP/HCP EIR. The benefits of the NCCP program mitigate the impacts associated with this project at both the project level and cumulative level. The proposed project is consistent with the NCCP/HCP and IA.

43-50 LSA to respond.

43-51

Cliff spurge will be protected within 24.2 acre Conservation Park and the Harbor Park open space area. The long-term habitat management program will preclude significant indirect impacts to biological resources. Refer to response to Comment 43-39 for additional details regarding prevention of indirect impacts. The inaccessible location of the cliff spurge and fencing along to bluff will preclude trampling and other similar impacts. Under the NCCP/HCP program, indirect impacts to dudleya will either be addressed through management and oversight provided through the translocation funding provided by the project applicant, or if these funds are insufficient, theneither CDFG or USFWS, as partners in the NCCP/HCP program, will be able to provide additional management, maintenance, and conservation measures. The NCCP/HCP EIR/EIS concluded that direct, indirect, and cumulative impacts to Blochman's dudleya were reduced to below a level of signficance through the measures in the NCCP/HCP (see Response 43-16)

43-52

The NCCP/HCP did consider cumulative impacts to dudleya and other covered species and found cumulative impacts to be reduced to a level below significance. The large NCCP habitat preserves benefit regional biological resources at a cumulative level. Cumulative impacts on California groundsel are not significant because it is a List 4 species that is still relatively common, there is suitable habitat (coastal scrub and cismontane woodland) within the 37,000-acre Central/Coastal Nature Reserve of Orange County (11,000 acres are in the Coastal Zone), and it could further benefit from the adaptive management plan that is part of the NCCP/HCP program.

Cumulative impacts on Coulter's saltbush are not significant because the onsite population will be translocated, monitored and maintained pursuant to Mitigation Measure 3-1 (see Response 43-39). In addition to translocating the extant individuals in the population, with the collection of cuttings and seeds and adaptive management, the population size (currently < 10 individuals in heavily used area) may increase.

43-53, 43-54

The alternatives analysis presented in the DEIR provides a range of reasonable alternatives to the project which would avoid or substantially lessen any of the significant effects of the project, as required by CEQA. No unmitigated significant impacts to biological resources were determined to result from project implementation. Thus, the project alternative proposed by the commentor is not required. As stated in the DEIR, under Alternative 1, the impacts to sensitive resources through encroachment and trespass by the public will continue unabated, resulting in continuing disturbance and degradation of habitat. For species such as Blochman's dudleya, the proposed project will establish conservation areas for rare plants and other species, and a management program for their protection and survival.

43-55

The NCCP/HCP has an MMP.

43-56

With the exception of Coulter's atriplex, The NCCP/HCP fully mitigates impacts to biological resources. A mitigation measure for Coulter's atriplex impacts will be added to the EIR text and MMP. The project is a participant in the NCCP/HCP, which has conserved several thousands of acres of habitat in the coastal zone, and elsewhere for the protection of sensitive plant and animal species. Finally, a number of project design features and project conditions further reduce the potential for impacts, as discussed in the DEIR.

RK engineering group, inc.

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November 26, 2001

Mr. Rob Balen
LSA ASSOCIATES, INC
One Park Plaza, Suite 500
Irvine, CA 92614

Subject: City of San Juan Capistrano Response to Comments on Draft Environmental Impact Report (EIR) for the Headlands Development and Conservation Plan

Dear Balen:

RK ENGINEERING GROUP, INC. has reviewed the City of San Juan Capistrano letter dated November 19, 2001 regarding the Draft Environmental Impact Report (EIR) for the Headlands Development and Conservation Plan for the City of Dana Point. Following are responses to the comments included in the November 19, 2001 letter:

Comment 36-1

Although the Home Depot Draft EIR, traffic study, as specified by the City of Dana Point in response to our Notice of Preparation, includes a project study area which incorporates a significant area of Dana Point and has been completed consistent with Dana Point traffic study guidelines and LOS criteria. The Headlands Draft EIR traffic study, on the other hand, has not even addressed our similar specification outlined in our response to the Notice of Preparation for this project.

Response 36-1

The Dana Point Headlands traffic study dated August 24, 2001 in the draft EIR has followed the County of Orange Congestion Management Criteria with respect to the determination of the appropriate study area and analysis procedures. An existing, short-term and buildout traffic analysis along with a weekday and weekend analysis has been included in the traffic study. The intersection and link analysis followed both the City and County of Orange Congestion Management requirements.

Comment 36-2

Furthermore, the traffic study inexplicably limits the project area to exclude potentially impacted streets and intersections, especially Stonehill Drive. Stonehill Drive is a designated primary arterial within your city and presently operates at a LOS "D", well below your City's minimum standard of LOS "C". Under this condition, the proposed Headlands project will have incremental impacts to this roadway which warrant analysis in the traffic study. Our specific comments are as follows:

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Response 36-2

A 1% analysis has been performed to determine where the project had the potential to increase traffic by 1%. The City of San Juan Capistrano has specifically referenced Stonehill Drive within the City of San Juan Capistrano. In this area, it has been projected by the City's model that the Dana Point Headlands project would contribute between 50 and 72 ADT (Average Daily Traffic) on Stonehill Drive between Del Obispo Street and Camino Capistrano. Within the segment included within the City of San Juan Capistrano east of San Juan Creek, the project contributes 50 ADT and the projected future traffic volume is 37,000 ADT. The Dana Point Headlands project represents 0.14% of total traffic within this segment. This is significantly under the threshold which would require intersection analysis or inclusion in the study area. The project similarly contributes less than 1% of the total projected traffic to other segments of Stonehill Drive within the City of Dana Point.

Comment 36-3

In our Notice of Preparation (NOP) comment letter, we advised you that the project must comply with the State-mandated Congestion Management Plan (CMP) and that we expected that the EIR traffic analysis will include ICU and HCM analysis of those arterial intersections within our City at which the project would increase traffic volumes by at least 1% consistent with the City of San Juan Capistrano policies. The Draft EIR is wholly deficient because it does not provide analysis to demonstrate whether such an impact may occur and provides no HCM analysis. Consequently, the traffic analysis does not demonstrate compliance with the Congestion Management Plan (CMP), and requires revision to address the same and recirculation for public review and comment, prior to being considered for final action.

Response 36-3

As previously noted, the traffic study did analyze the study area with respect to the Congestion Management Plan (CMP) requirements based upon the 1% threshold. The traffic study did not find that the proposed project would increase traffic volumes by over 1% in the City of San Juan Capistrano. The project would contribute significantly less than 1% of the traffic volume to Del Obispo Street south of Camino Del Avion and as previously mentioned in response 36-2 the project would contribute significantly less than 1% of the traffic to Stonehill Drive in the City of San Juan Capistrano. Based upon the CMP guidelines, the project would not be required to analyze traffic impacts in these areas. The traffic study did use the ICU (Intersection Capacity Utilization) method to analyze signalized intersections in the study area. This is the appropriate capacity method stipulated in the CMP for TIA (Traffic Impact Analysis) reports utilized by the County of Orange and by the City of Dana Point.

Comment 36-4

The Headlands project will generate approximately 4,600 daily vehicle trips, with approximately 79% of the traffic with regional origin/destination, many of which would likely be outside of the City of Dana Point. The project trip distribution, as provided on Page 5-5 of the traffic study demonstrates 38% of the regional traffic utilizing Pacific Coast Highway to the east and south with 8% splitting north to Blue Lantern, 3% splitting north on Golden Lantern and 2% north onto

Del Obispo Street, and 25% of the traffic continuing on Pacific Coast Highway to the south. It also shows 41% of the traffic going to the north, with 6% splitting onto Selva Road, 17% split north on Niguel Road, 10% split off to Crown Valley Parkway, and 8% continuing north on Pacific Coast Highway. The traffic study indicates that the distribution was completed using the City of Dana Point Traffic Model. That model evidently does not track regional (intercommunity) trips and is inadequate to provide an accurate distribution. We demand that the traffic analysis be completed using a trip distribution which tracks regional trips and provide an accurate trip distribution.

Response 36-4

The traffic study has utilized the City of Dana Point General Plan Buildout Traffic Model which was developed by the same consultant (Austin-Foust Associates, Inc.) that developed the traffic model for the City of San Juan Capistrano. The project traffic engineer utilized the select zone loading from the Dana Point Traffic Model provided by Austin-Foust Associates, Inc. for the Dana Point Headlands area to determine the local and regional trip distribution of the project. The Dana Point Traffic Model **does** take into account regional traffic, since it is based on the regional OCTAM (Orange County Traffic Analysis Model) model. Intercommunity trips are taken into account based upon the interface with the regional traffic model. The model does take into account regional traffic and through trips since its origin was the Orange County Traffic Analysis Model which has a trip table that links locally generated trips with cordon stations outside of the City of Dana Point.

Comment 36-5

The 25% of traffic oriented south on Pacific Coast Highway has the potential of entering San Juan Capistrano. However, the analysis of these trips stops at the city of Dana Point's border and no regional interpretation of these trips is provided by the traffic study. Based on trip volumes disclosed in the traffic study, the Headlands project could generate as many as 1150 daily trips and approximately 100 evening peak hour trips on this link. In addition, based on the trip distribution, there is a potential for 34% of the project traffic which will utilize Stonehill Drive, generating as many as 1,564 daily trips and 135 evening peak hour trips. Combined, this totals 2,714 daily and 235 evening peak hour trips. Combined, this totals 2,714 daily and 235 evening peak hour trips. Based on the demand to access the I-5 Freeway, it is possible that many of these trips will impact city of San Juan Capistrano arterial roadways, such as Stonehill Drive, Del Obispo Street or Camino Capistrano.

Response 36-5

The primary destination for the 25% of the trips shown in the project trip distribution is the Pacific Coast Highway connection to the I-5 Freeway. These trips do not impact any City of Dana Point or San Juan Capistrano intersections, since they enter the controlled access Pacific Coast Highway connection to I-5 Freeway. The project contribution to any of the arterial highways in this area is significantly less than 1% criteria. The project contributes 522 ADT to the I-5 Freeway north of the PCH connection and 402 ADT to the south of the PCH connection

to the I-5 Freeway. Project contribution to the I-5 Freeway is significantly under a 1% traffic impact.

Comment 36-6

The traffic study predicts 10% of Crown Valley Parkway traffic stops short of Camino del Avion and represents approximately 460 daily trips and 40 evening trips. It is reasonable to assume that some of this traffic will have a regional influence on the City of San Juan Capistrano. However, the traffic study does not follow through on this distribution of external trips, so it is difficult to assess the true potential impacts beyond that analyzed by the document provided. We find that the EIR is wholly deficient in this regard.

Response 36-6

Based upon the detailed traffic assignments, the project traffic contribution in the vicinity of Crown Valley Parkway and Camino del Avion has been reviewed. The project traffic on Crown Valley Parkway north of Pacific Coast Highway is 462 ADT, however, the project traffic is reduced to 137 ADT by the time it reaches Camino del Avion. This represents 0.42% of the total traffic on this link. The project traffic on Camino del Avion east of Crown Valley Parkway is 223 ADT or 0.95% of the total traffic. Both of these contributions are under the 1% threshold for inclusion in the study area. Based upon the traffic study, the study area intersections ended at the intersection of Crown Valley Parkway and Pacific Coast Highway because the project had less than 1% impact to locations beyond this intersection.

Comment 36-7

The analysis of cumulative projects includes traffic generated from projects within the City of Dana Point and is provided on page 7-2 and 7-3 of the traffic study. However, Table 7-1 does not include South Coast Water District's Master Planned Development. Additionally, the City of San Juan Capistrano has regionally significant projects, presently under consideration, which would influence this study. Specifically the proposed Home Depot and the SunCal-Pacific Point projects must be included in the cumulative analysis.

Response 36-7

The traffic analysis for the Dana Point Headlands project has been based upon several time frames, including existing conditions, short range conditions and build out conditions. Identification of cumulative projects for short term conditions were based upon projects known to the City of Dana Point at the time of preparation of the traffic study and which would directly impact the study area. Neither the proposed Home Depot nor the Suncal project fall into this category. Other projects, particularly those outside the City of Dana Point, are accounted for in the "ambient growth rate" which adds an additional 10% (1% per year for 10 years) to the existing traffic volumes. The buildout projections address the long term build-out of the general plans of the City and adjoining areas and, therefore, takes into account other areawide growth anticipated with the region.

RK ENGINEERING GROUP, INC. appreciates this opportunity to provide these comments to LSA ASSOCIATES, INC. for the Dana Point Headlands project.

If you have any questions regarding this, please give me a call at (949) 474-0809.

Sincerely,

RK ENGINEERING GROUP, INC.

Robert Kahn, P.E.
Principal

RK:rd/639
JN:1110-99-01

xc: Mr. Steven Ross, LSA ASSOCIATES, INC.

RK engineering group, inc.

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November 26, 2001

Mr. Rob Balen
LSA ASSOCIATES, INC.
One Park Plaza, Suite 500
Irvine, CA 92614

Subject: Response to Comments on Draft Environmental Impact Report (EIR) for Headlands Development and Conservation Plan Comment #22-3 from Regatta Homeowners Association

Dear Mr. Balen:

RK ENGINEERING GROUP, INC. has reviewed Comment #22-3 submitted by the Regatta Homeowners Association. Following is our response to that comment:

Comment 22-3, Regatta Homeowner's Association, November 15, 2001

We believe this intersection is unnecessary and that a simple, less expensive alternative exists. First, the access for the housing area can be modified to come from the current end of Selva Road. This area was originally designed for such increased traffic loads this development could produce. Table 4.13.B shows Selva at PCH would remain a LOS A even with the project load. It was designed in fact to carry the loads of a much larger development than is proposed here. Not to take advantage of its design is inappropriate and wasteful. Secondly, the access to the commercial building can be accommodated off Green Lantern simply by changing the point of access to the site from Green Lantern. This would, of course, require the location of the structure on the site to be moved to the west side of the parcel. The current document does not consider these alternatives and assumes no impact would result by adopting the proposed design. Further, there are no other comments other than to discount the impacts of noise created by acceleration to the extent the control signal could reduce noise by reducing speeds overall. A discussion/evaluation of this issue must occur. See attached documents for additional information on this issue.

Response 22-3

The plan for the Headlands Development and Conservation Plan has been developed after careful consideration of the potential impacts from a traffic, circulation, land use and open space standpoint. The plan provides for a separate access point to the Upper Headlands Residential area (Planning Area 6) and the Pacific Coast Highway Visitor/Recreation Commercial Area (Planning Area 4) to "A" Street at Pacific Coast Highway. The residential development in Planning Area 6 is a separate neighborhood within the Headlands development that will be served by "A" Street, which takes access from Pacific Coast Highway. In order to distribute traffic from the development so that no single existing area is impacted, access is provided to Selva Road, "A" Street, Green Lantern and Cove Road. Green Lantern cannot viably serve the

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commercial area, since it is limited to inbound (westbound) traffic only and does not provide full turning movements, which is important for the economic viability of the commercial area (Planning Area 4). Due to turn movement conflicts, traffic using any Headlands access on Green Lantern would conflict with existing access to Blue Lantern Plaza (Pacific Room Restaurant). This could cause traffic to back up onto Pacific Coast Highway and also into Santa Clara due to the short distance between Pacific Coast Highway and Santa Clara.

Taking access from Green Lantern as suggested would require a greater amount of grading in the vicinity of the hilltop landform and would require the commercial pad to drain to either Pacific Coast Highway or Dana Point Harbor. Caltrans has prohibited drainage to Pacific Coast Highway. The harbor is an impaired body of water; draining in that direction will affect the water quality program for the project site. Furthermore, providing an access to Pacific Coast Highway via "A" Street greatly reduces traffic impacts to Green Lantern, which is a concern to the existing residents along this roadway. The advantages of a traffic signal at "A" Street and Pacific Coast Highway are described below:

1. Provides direct, safe, signal controlled access to the commercial (Planning Area 4) and residential (Planning Area 6) areas of the Headlands project at a single point on PCH.

2. The proposed signalized intersection meets or exceeds Caltrans standard sight distances.

3. The projected traffic counts meet Caltrans warrants for a traffic signal. (See attached warrant sheet).

4. Provides a point of vehicular access to PCH as identified on the adopted Dana Point Local Coastal Program and the City's general plan.

5. Accommodates access as shown on Caltrans R.O.W. Map No. P_2 3976-1 and on Tract Map No. 697, circa 1924, which preceded conveyance of the right-of-way easements to the State of California for PCH in 1925 and 1930, and avoids creation of land locked parcels.

6. Eliminates the need for driveways along PCH to serve the proposed commercial site.

7. Provides controlled access and crossing of PCH for pedestrians and bicycles directly to the proposed Headlands Trail system, which provides coastal access.

8. Provides an intermediate observable traffic signal between Selva Road and Blue Lantern which will transition the 50 mph speed limit north of the Headlands, to the 35 mph speed limit zone that will now begins just south of the Green Lantern/PCH intersection.

9. Avoids loading traffic onto Green Lantern, a restricted access roadway.

10. Allows a customer driving on PCH to make a visual connection between the Headlands commercial site and the physical point of access.

An extensive discussion of the traffic signal installation at Pacific Coast Highway and "A" Street is contained on pages 9-5 thru 9-9 of the traffic study (Appendix "H").

If you have any questions regarding this, please give me a call at (949) 474-0809.

Sincerely,

RK ENGINEERING GROUP, INC.

Robert Kahn, P.E.
Principal

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JN:1110-99-01

xc: Steven Ross, LSA ASSOCIATES, INC.

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November 26, 2001

Rob Balen
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Subject: Headlands DEIR Response to Comments – Other Letters

Dear Mr. Balen:

RK ENGINEERING GROUP INC. appreciates this opportunity to provide the response to comments on various letters that have been transmitted regarding the Draft EIR for the Headlands project. We previously provided you a detailed set of comments on the City of San Juan (letter #36) in our November 21, 2001 response to comments. Following is our response to comments on other letters received on the Draft EIR.

Letter #8: Steven and Carol Hoffman – November 15, 2001

Comment 8-1

We have a very difficult and dangerous situation with ingress and egress from our home because of the blind curve on southbound Green Lantern. The problem is not just the blind curve but also the speed with which many cars come around the corner. We are sure that you are fully aware that Green Lantern is a small, narrow two-way street. With the current construction, the continuing construction by S.D.G. & E. and the proposed construction with respect to the Headlands we are becoming very frustrated that our voices are not being listened to.

Response 8-1

The current sight distance situation on Green Lantern is a pre-existing condition that has existed since the construction of the homes in the area. Drivers who currently exceed the posted speed limit, exacerbating the problem, are an issue of local vehicle enforcement. The City of Dana Point should review accident data, the sight distance and current conditions in the area to determine whether there needs to be change in access or improvements in sight distance for homes in this area. The construction by SDG&E is substantially complete at this time. The new construction of the proposed project which is 18 months or more away, will be required to follow the current City of Dana Point design standards with respect to access and sight distance.

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Comment 8-3

I am not against the development of the Headlands and indeed appreciate the rights of the owners to develop their land. However, the City of Dana Point has distinct responsibility to see that there is enough access to all of these amenities that are contained within the development itself. To just dump 10 times the traffic onto a 2-lane narrow road and provide only 1 more way in and out is certainly not acceptable as far as we are concerned.

We suggest that Green Lantern end at Cove Road. It will continue to handle all of the traffic that it presently handles (except for Dana Strand) and let the new access road be sufficient for the Headlands development. We also suggest speed bumps and traffic warnings be placed on Green Lantern to slow the traffic down and prevent someone from being injured or killed.

Response 8-3

The proposed Headlands development plan includes several points of access to the overall development. These include the southerly extension of Selva Road, a new signalized access on Pacific Coast Highway at the south end of the development ("A" Street), a connection to the harbor via Cove Road and access to Green Lantern through Cove Road and Street of the Blue Lantern. These multiple access points are sufficient to accommodate the projected traffic as anticipated from the proposed development. By removing Marguerita Avenue and extending Selva Road to serve the northerly enclave and eliminating the current uses at the Greenhouses on site, approximately 300 existing ADT will be removed from Green Lantern/Cove Road. The circulation plan has been developed to meet the needs of existing community, the proposed residential, commercial and open space areas contained within the proposed Headlands development. Existing vehicles that are traveling at an excessive or unsafe speed is a local vehicle code enforcement issue. The residents in the Green Lantern area could request the City install speed humps or other traffic calming devises to address their existing traffic conditions.

Letter #17: John D. Taylor/Marion Cook, November 19, 2001

Comment 17-4

B. Traffic Movement: Scenic Drive, Vehicular roundabout, Access Road. The conceptual vehicular roundabout terminating Scenic Drive on Figure 4.4.8 is poorly designed. The design does not encourage orderly traffic flow. The poor design of the vehicular roundabout negatively impacts the residents whose only means of accessing their residences is via the roundabout.

The roundabout as currently shown must accommodate two-way traffic from three separate locations (Scenic Drive, Nature Interpretive Center Parking Lot, and Access Road), as well as bus and passenger vehicle pick-up and drop-off. The multiple points of exit, entry and pullover are excessive, confusing and potentially unsafe.

No provisions are made in the plan for the Drop-Off are to be set aside from other traffic movements. The lack of a lay-by area exclusively for pick-up and drop-off causes the design to be unsafe.

The vehicular roundabout is not integrated with a pedestrian circulation system showing how pedestrians will move safely from the drop-off area to the Nature Interpretive Center or the Conservati7on Trail.

The remaining residential enclave Access Road meets the roundabout at an oblique angle. The roundabout should be redesigned and reconfigured so that it will meet the Access Road at a 90-degree angle in order to create safe traffic movement design.

Cars that mistakenly turn down the remaining residential enclave roadway have no recourse but to use existing private residential driveways as means to turn-around.

It is possible that visitors will simply park on the residential enclave roadway because the roadway remains outside parking restrictions which are designated for Scenic Drive, thus impacting the residents to a greater degree. The HDCP does not account for the negative impact of increased traffic volume on the residential enclave roadway.

Response 17-4

The vehicular "roundabout" will function as a typical cul-de-sac with drive access to serve adjoining properties. The design shown on the land plan is conceptual at this time and requires further refinements in terms of final design to be incorporated at the time that improvement plans are completed for the project. The cul-de-sac should incorporate all vehicular and pedestrian movements and should be based upon City of Dana Point and County standards with respect to design elements. The projected traffic volumes within the area are relatively low and will be easily accommodated within the proposed roadway system and proposed cul-de-sac.

Letter #24: Dan Bianca, November 18, 2001

Comment 24-9

Possible consideration to ease the traffic load on Green Lantern area (a) the Circulation Plan should be revised to have a primary connection from Street A direct to the Hotel, Restaurant, and the three Visitor Centers. (b) Cove Road could be made one way for traffic reduction and to allow space for a safe pedestrian/bike trail. (c) Green Lantern could be closed at PCH to discourage through traffic.

Response 24-9

The "A" Street connection to Pacific Coast Highway cannot be extended to serve the Seaside Inn, Visitor Recreation facilities and parks as a result of physical and topographic constraints, impacts to open space areas and the fact that the residential (Planning Area 6) is a private gated community. Making Cove Road a one-way roadway would have the benefit of reducing traffic on Cove Road; however, it would increase traffic on Green Lantern, since traffic bound for Dana Point Harbor would have to use Green Lantern as a result of the one-way flow on Cove Road. The closure of Green Lantern totally at Pacific Coast Highway would increase traffic on Blue Lantern and would limit access to the existing commercial and residential development along Green Lantern. This roadway is already limited in function, since it provides only one-way flow from Pacific Coast Highway. In addition, the project proposes the removal of Marguerita Avenue and the extension of Selva Road to serve the northerly residential enclave. Traffic from these condominiums and the existing uses on site at the greenhouses (about 300 ADT) will no longer utilize Green Lantern/Cove Road with the implementation of the project.

Letter # 29: James Slark, November 19, 2001

Comment 29-8

2-A. The study ignores Dana Point CIP's. Specifically, two have an impact on existing traffic conditions. The first addresses traffic flows through the central city. This CIP proposes reducing the number of traffic lanes on PCH (SR-1) within the central city area, and introducing lane parking. The intent is to slow down traffic flows on PCH through the city center. While this is notable goal, the impacts of this are ignored in the analysis. The study does not specifically address the impact of this restriction on traffic flows, although the results may be included in the analysis numbers.

Response 29-8

The traffic study has been based upon the existing lane configurations and the existing City of Dana Point General Plan Roadway Classifications. The traffic study indicates that on PCH and Del Prado there is a significant amount of additional capacity available from Street of the Golden Lantern to Street of the Blue Lantern to allow for a restriction in through lanes in this segment. Changes to the existing and proposed circulation network would be addressed in the specific Dana Point CIP project for these changes. Several discretionary actions on the part of the City and by Caltrans are required before reconfiguration of PCH or Del Prado could occur. It would be speculative to anticipate a specific outcome at this time. A traffic study of the CIP project has been proposed in a separate document (get reference from the City).

Comment 29-13

3-A. The study implies that all freeway-bound traffic flowing to and from the Headlands' Project will flow through the intersection of DP Harbor Drive and PCH. While this may be true for traffic going south on the I-5, it can be shown that northbound traffic will flow to Selva at PCH north to Blue Lantern, then to Stonehill then to the freeway north.

Traffic to/from the project to the I-5 north projected to use SR-1 (PCH) will encounter strong incentives to take an alternate route. One is that to get to the I-5 north on PCH will require motorists to pass through at least nine traffic lights. The same trip via Selva to Blue Lantern to Stonehill will require motorists to pass through two stop signs and five stop lights. One of the stoplights is a right hand turn and can be traversed quite easily (run). That particular light is at the intersection of Blue Lantern and Stonehill. That is, at Dana Hills High School.

Another disincentive for traffic to use PCH is the impact of the CIP as discussed above. Traffic speeds will be slowed significantly from what they currently are. No such restrictions currently exist on Blue Lantern; traffic speeds are very high, and apparently not enforced.

Response 29-13

The project trip distribution is based upon the Dana Point Traffic Model. This model takes into account the shortest time path and various destinations within and outside of the City of Dana Point. The Traffic Model does take into account congestion and does reroute traffic accordingly. The detailed select zone assignments, does show that some traffic utilizes Stonehill Drive connection, however, the majority of traffic bound for the I-5 Freeway utilize the PCH connection. This is probably caused by the higher classification of Pacific Coast Highway and the Freeway connection in comparison to Stonehill Drive. Also, there are six (6) traffic signals on the route that the commenter referenced, rather than five (5). Blue Lantern also has speed humps installed and a posted speed limit of 25 mph which would further make it an undesirable route.

Comment 29-14

The study ignores another factor when it does not address the number of lanes of traffic in the City Center. PCH traffic is shown as 4D and 5D on PCH below the intersection of Green Lantern and PCH (E). It does not show the number of lanes from the intersection of Blue Lantern and PCH to Green Lantern. The CIP proposes to reduce the number of lanes of PCH in this area; why isn't it addressed?

Response 29-14

As discussed above in 29-8, the traffic study was based upon the existing and proposed City of Dana Point Master Plan Circulation System. The CIP traffic study (get reference from the City) has addressed the change in lane configuration that may occur as a result of reducing the number of lanes on Pacific Coast Highway and Del Prado. As shown in the traffic report, there is excess capacity along several segments of Pacific Coast Highway from Street of the Golden Lantern to Street of the Blue Lantern which could accommodate the reduced number of through lanes on this highway. The Proposed Headlands project is not proposing to reduce the number of lanes along Pacific Coast Highway or Del Prado, and this is more appropriately addressed in the CIP traffic studies. The proposed median landscaping project is not being proposed by the Headlands project and would not directly affect the implementation or impacts of the project.

Comment 29-15

Conclusion

Based on the analysis presented above, I believe the Project Avg Daily Traffic percentage estimates for Selva between PCH and Blue Lantern, and on Blue Lantern north of PCH (total 14%) are substantially understated. A more probable estimate might be a total of in excess of 20%, or .2 4599 = 920 trips total, based on redistributed traffic flows as a direct result of accurate analysis of PCH flows to the I-5 north.

Response 29-15

The project distribution as previously noted has been based upon the Dana Point Traffic Model, which considers the future buildout of the City of Dana Point along with the general plan of other adjacent Cities and the County of Orange. Even if the distribution to Selva Road and Street of the Golden Lantern were increased by 6%, this would represent a maximum of 276 ADT which would be distributed between these two roadways. Assuming the same portional distribution as the traffic model has projected, it would add an additional 118 ADT to Selva Road and 158 ADT to Street of the Blue Lantern. This would represent only minor increases in traffic on Selva Road and Street of the Blue Lantern based upon the buildout the project traffic projections as shown in the traffic study. Selva Road would increase from 10,000 ADT to 10,118 ADT and Street of the Blue Lantern would increase to 3,000 ADT to 3,158 ADT. These do not represent significant changes in the volume and can be accommodated by the capacity of these roadways.

Comment 29-16

In addition, the above analysis suggests an actual reduction in traffic flown on Selva east of Blue Lantern as a result of the implementation of the CIP. A conservative estimate of increase in traffic on Blue Lantern might be 300 to 500 trips a day, although I believe the actual figure may be considerably higher than that. Anyone want to make a guess why the city would want to reduce traffic on one of the most important feeder streets in the city? With little visibility in this study?

This totals out to be from 1220 to 1420 additional trips per day directly to Blue Lantern. This increase is on a street the city has chosen to ignore in the analysis of substantial traffic impacts.

Response 29-16

As stated in the response to comment 29-15, even if there were an additional distribution of traffic to Selva Road and Blue Lantern only minor increases in traffic would occur. The commentator mentions an actual reduction of traffic flow on Selva Road and Blue Lantern. The buildout traffic volumes identified in the traffic study do show increases in comparison to existing conditions on both Selva Road and Blue Lantern as a result of City wide regional growth and the proposed project. As noted above, only a minor increase in traffic from what was previously projected would occur with the suggested redistribution of traffic to Selva Road and Street of the Blue Lantern.

Letter #44: Orange County Planning and Development Services Department, November 20, 2001

Comment 44-23

The proposed project will add significant traffic to arterial highways providing access to Dana Point Harbor and the adjacent Marine Life Refuge. The Traffic Impact Analysis (TIA) should address how traffic from the proposed development will impact existing and future operation of these facilities. The analysis should take into account the cumulative build-out traffic impacts of

the recently approved marine refuge improvement project and on-going and proposed improvements within Dana Point Harbor. The TIA should also examine how access to and traffic near Dana Point Harbor, the Marine Life Refuge, and Doheny State Beach will be affected by the construction of the median on Pacific Coast Highway.

Response 44-23

The short-term traffic analysis did take into account the proposed Ocean Institute and Dana Point Harbor expansion as part of the cumulative project traffic analysis. Arterial Highway Roadway links and intersections have been analyzed in the vicinity of the Dana Point Harbor and have been addressed with respect to level of service and improvements required for both short-term and buildout conditions. It is not clear what the commentator is referencing with regards to the Pacific Coast Highway median construction and its affect upon Dana Point Harbor, Marine Life Refuge and Doheny State Beach. The proposed median landscaping project for PCH is not directly related to the Headlands project. It does not appear that any of the Pacific Coast Highway improvements associated with the Headlands project would affect the Dana Point Harbor area.

Comment 44-24

The TIA states that Pacific Coast Highway north of Crown Valley Parkway is over the link volume threshold capacity. However, the adjacent intersection operates at Level of Service (LOS) A during AM/PM peak hours. It appears that there is an inconsistency in the LOS analysis of this intersection and the adjacent links that need to be addressed.

Response 44-24

The AM/PM peak hour analysis takes into account the specific turning movements and actual lane configurations at the intersection of Pacific Coast Highway at Crown Valley Parkway. The generalized daily link capacities are only a "rough estimate" of roadway capacity and a variety of factors can influence the daily capacity of a highway link. This is especially true on a roadway such as Pacific Coast Highway which may not follow the typical peak hour to daily relationship traffic volume relationships. A roadway such as Pacific Coast Highway accommodates traffic throughout the day and does not necessarily peak as much as other highways. As a result of that, the daily capacity value would greatly underestimate the daily capacity of the roadway based upon peak hour conditions. The daily capacity analysis has been based upon the conservative link capacity values which are used throughout the County of Orange. The most appropriate analysis procedure is to addressed the peak hour intersection capacity which has been done as part of the traffic analysis. It indicates that the intersection can operate at acceptable levels of service.

Comment 44-25

A traffic growth rate of 3% annually is typical for Orange County. However, this traffic study assumes only a 1% annual growth rate. This analysis, therefore, may greatly underestimate the traffic impact of the proposed project on the circulation system in this area. The TIA should use a 3% annual growth rate or provide a rationalization for the 1% rate in addition to the unnamed previous study.

Response 44-25

The 1% growth factor has been based upon the previous traffic analysis (Austin Foust & Associates Inc, July 19, 1998) for the Headlands development in the City of Dana Point. This factor is based upon historical traffic growth on City's streets including Pacific Coast Highway. Historically, Pacific Coast Highway traffic in this area has actually been reduced in volume as a result of major additions to the Regional Transportation System. Since the City of Dana Point is nearly buildout, the 1% growth rate is appropriate and is used in other cities which are nearly fully buildout.

Comment 44-26

The TIA includes a summer AM/PM peak hour projection analysis, but does not discuss the methodology used to arrive at the basis for the summer values. This should be included in the report.

Response 44-26

Conversion of weekday to summer AM/PM peak hour projections has been based upon the previous Headlands traffic study (July 19, 1998) prepared by Austin-Foust Associates, Inc. In that study, a review of historical counts during typical weekday and weekend conditions was made based upon the summer peak hour volumes at the intersections along Pacific Coast Highway being 10% higher on average than non-summer peak hour volumes. At the intersection of Street of the Golden Lantern/Dana Point Harbor Drive, summer peak hour volumes were 33% higher than the non-summer volumes. These factors were utilized in assessing peak summer conditions.

Letter #31: Dr & Mrs. Louis Bruggeman, November 19, 2001

Comment 31-2

I. TRAFFIC AND CIRCULATION

LOCAL TRAFFIC VOLUMES ARE INCOMPLETE. Figure 4.13.3 shows existing average daily traffic volumes on affected streets. There are no volume measurements submitted for the Street of the Green Lantern south of Santa Clara, where the street width is extremely limited and is two-way, nor are there any for Scenic Drive or Cove Road. Projections made for traffic volumes on these roads due to the project development are based on a 1991 city of Dana Point General Plan Traffic analysis. Given the substantial amount of development that has occurred since

1991, these estimates are unreliable and unlikely to include appropriate baseline calculations or comply with current modeling requirements. New trip generation rates of 919 trips per day are estimated on Scenic Drive. It is unclear whether the "dwelling units" ascribed to this calculation (4.13.D) allow for the unique location and popularity of the community facilities/visitors/recreation proposals that are planned. Figure 4.13.11 has no data referring to the existing Plan Project Average Daily Traffic after development to the above mentioned streets.

Response 31-2

Numerous traffic volume counts were taken in conjunction with the preparation of the traffic study. The traffic study focused on arterial highway roadway segments and intersections in the study area pursuant to CMP traffic guidelines. It is estimated that Street of the Green Lantern traffic volumes south of Santa Clara are less than 2,000 ADT when compared to other similar traffic counts in the area. The buildout traffic analysis has been based upon the City General Plan Traffic Model as updated at the time of preparation of traffic study near 2001. The traffic model has included all refinements in the traffic model since 1991 City of Dana Point General Plan Traffic Analysis. The traffic model has taken into account the future projected land uses within the city as currently proposed in the City's latest general plan, as well as all known proposed projects. Appropriate trip generation rates have been developed in part of the modeling effort.

Letter # 45-5: Lute Eldridge & Associates, November 19, 2001

Comment 45-5

COMMERCIAL: (SEE N.O.P.), and, again, throughout the Report and Plan. Installing a traffic signal at the crest of the hill before Green Lantern, and placing the facility entrance at the corner of Green Lantern and PCH, all contribute to creating a safety hazard, due to the fact that, [as all of you know] one cannot adequately see oncoming traffic, which is one of the major reasons Green Lantern is presently closed to north bound traffic, prior to reaching PCH.

Response 45-5

Installation of a traffic signal at "A" Street and Pacific Coast Highway has been planned as part of the Headlands development. A traffic signal has been projected to be warranted based upon Caltrans warrants and the forecasted traffic. The traffic signal would be designed to Caltrans standards, including visibility, stopping sight distance and all safety requirements based upon the Caltrans Traffic Manual and Standard Plans and Specifications. The signal design will include sufficient traffic signal heads to be seen at the appropriate distances in advance of the traffic signal. Installation of the traffic signal will also have the benefit of providing additional gaps in traffic to make entering Green Lantern from Pacific Coast Highway easier than existing conditions without the traffic signal. An extensive discussion of the traffic signal installation at Pacific Coast Highway and Street "A" is contained on pages 9-5 thru 9-9 of the traffic study (Appendix "H"). The benefits of the traffic signal are numerated in that document.

If you have any questions regarding this, please give me a call at (949) 474-0809.

Sincerely,

RK ENGINEERING GROUP, INC.

Robert Kahn, P.E.
Principal

RK:rd/641
JN:1110-99-01

xc: Mr. Steven Ross, LSA ASSOCIATES, INC.

RK engineering group, inc.

transportation planning ▪ traffic engineering
acoustical / air quality studies

November 26, 2001

Mr. Rob Balen
LSA ASSOCIATES, INC.
One Park Plaza, Suite 500
Irvine, CA 92614

Subject: Response to Comments Mr. James Slark

Dear Mr. Balen:

RK ENGINEERING GROUP, INC. is pleased to submit these response to comments for the Mr. James Slark, November 19, 2001 letter. The following are the comments and responses:

Comment 29-1

I believe that the conclusions put forward within Transportation/Traffic section (4.13) are seriously flawed, to the extent that one may question the credibility of the entire document. In my opinion it is flawed in what it doesn't say as well as what it does say. My reasons for this opinion follow.

Response 29-1

The Transportation/Traffic section of the Draft EIR has been based upon a traffic study that has been reviewed by the City of Dana Point and has been based upon established procedures and evaluation methodology. The traffic study included updated traffic counts and an evaluation of existing, short-term and buildout traffic impacts of the project based upon the City of Dana Point's Adopted Traffic Model. The traffic model has been based upon the City's buildout general plan and has been utilized for other projects, including the City's general plan.

Comment 29-2

1. This study ignores ignores traffic flows on Stonehill Drive and the Street of the Blue Lantern between Selva and Stonehill. See discussion.

Response 29-2

The traffic study did review traffic impacts on the Street of the Blue Lantern north of Pacific Coast Highway. Based upon the relatively low traffic projections for this link, no level of service problem is anticipated for this roadway segment. Reviewing the segment of Blue Lantern north of Pacific Coast Highway, the projected buildout with project traffic volumes is 3,000 ADT. This projected traffic volume is substantially under the Level of Service "C" capacity of Street of the Blue Lantern at 5,000 ADT. This information is contained on Table 8-2, Page 8-5 of the traffic study (Appendix "I"). Short range with project roadway segment analysis with the project is

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shown in Table 7-4. Again, the projected traffic volume with the project is 2,200 ADT which is, again, substantially under the Level of Service "C" capacity of that roadway. Further to the north, the project traffic is reduced substantially and lower project impacts would be anticipated.

Comment 29-3

2. The study references Dana Point CIP's to mitigate projected traffic problems while it totally ignores these while analyzing and projecting impacts of Headlands Project traffic flows.

Response 29-3

The traffic study has identified roadway improvements necessary to accommodate both short-term and long-term buildout traffic conditions within the study area. Where there are potential CIP projects, they are discussed in the traffic transportation section as a potential means of future mitigation. The traffic study has evaluated traffic conditions based upon the existing geometrics at study area intersections at the time of the "Notice of Preparation" for the DEIR.

Comment 29-4

3. The study implies that all traffic flowing to the I-5 will flow from the Headlands south on SR-1 (PCH). This assumption can be shown to be totally false and misleading. Redistribution of these traffic flows in turn will show extremely negative impacts for those streets that will in fact absorb the redistributed traffic.

Response 29-4

The project trip distribution is based upon the City of Dana Point's Adopted Traffic Model. This model takes into account the shortest time route for various destinations throughout the study area. Trip distribution patterns are not an assumption, but an output from the traffic model which evaluates various land uses and circulation routes throughout the study area.

Comment 29-5

Draft Environmental Impact Report, Vol. II, APPENDICES

A. Existing Avg Daily Traffic (ADT) Exhibit 3-B, page 3-9
B. Project Avg Daily Traffic (PDT) Exhibit 5-C, page 5-6
C. Existing Plus Project Avg Daily Traffic Exhibit 6-A, page 6-2
D. Project Trip Distribution Exhibit 5-B, page 5-5
E. Build-Out Lane Requirements Exhibit 8-K, page 8-17

Response 29-5

So noted.

Comment 29-6

1-A. This study fails to analyze traffic flows on Stonehill Drive, and on The Street of the Blue Lantern, specifically between Selva and Stonehill.

On any given day it may be seen that very significant traffic flows from Dana Point to the I-5 freeway north use the freeway interchange at the intersection of Stonehill Drive and Camino Capistrano. Over a period of more than an hour traffic backs up for over a quarter of a mile every weekday morning. The intersection and the freeway on-ramp handle traffic flows smoothly and effectively; it may be concluded that they could handle a significant increase in flow.

Note that a Dana Point CIP will implement median strips on Stonehill; however, it will remain a four lane divided highway. (Ref E)

Response 29-6

See response to 29-2.

Comment 29-7

The Street of the Blue Lantern between Selva and Stonehill is classified 'Residential', and as such is limited to traffic speeds of 25 MPH. The street is about 36 feet wide, with traffic lanes only 10 feet wide north and south. DP General Plan policies state that as such traffic is supposed to be restricted to local flows; no through traffic is allowed.

In fact Dana Point government has failed to enforce speed limits on this street, and allows large volumes of through traffic, in violation of these policies. Residents suffer the impacts of these decisions; large numbers of children constantly present in daylight hours are severely in danger. There are many additional negative impacts.

I the morning and evening much of the through traffic on Blue Lantern can be shown to have a destination of the I-5 north at the interchange at Stonehill and Camino Capistrano. The city has refused to address this problem; even now the city is awaiting an analysis from the traffic engineer, pending for several weeks, expedited because of the danger to the children.

Response 29-7

The projected traffic flows on Street of the Blue Lantern between Selva Road and Stonehill Drive for buildout conditions is approximately 3,000 ADT. This is substantially below the City's Level of Service "C" guidelines for this type of street of 5,000 ADT. As a public street, it is not restricted to local or through traffic. However, due to the traffic calming measures and the narrower street width, these would naturally discourage through traffic from using it as a bypass route in lieu of other more substantial arterial highways.

Enforcement of speed limits in the City is under the City's control. This is an existing issue that must be addressed by local law enforcement and City policy.

A review of the traffic calming measures that can be implemented on the Street of the Blue Lantern is ongoing by the City. All available methods will be reviewed and analyzed as part of the City's ongoing review of the local street system within Dana Point.

The various CIP projects that the City is proposing are not being proposed or are required for the Headlands project. Separate traffic evaluations have been conducted in conjunction with the CIP projects to establish the potential benefit and impacts of such changes in roadway geometry, including reducing the number of traffic lanes and introducing parking lanes.

Again, the proposed median on Selva Road is not being proposed by the Headlands project and a separate CIP project is being planned by the City. The introduction of a median would not reduce roadway capacity as long as the number of lanes are maintained. At this time, no lane reductions are being proposed for Selva Road north of Pacific Coast Highway. It should be noted that the 12 foot lane widths are standard lane widths for through lanes.

Comment 29-10

The Project Trip Distribution (D) shows project increased flows of 6% on Selva from PCH, and 8% on Blue Lantern. It shows no increase from these streets feeding to Selva, which is the natural flow. This is in line with what is expected from implementing the CIP on Selva (D).

Response 29-10

The traffic percentages referenced in the Comment 29-10 represent the direction of project traffic distribution to the circulation system, as noted on Exhibit 5-B, Page 5-5 of the traffic study (Appendix "I"). It does not mean that the project increases these street volumes by 6 or 8 percent, it only indicates that 6 or 8 percent of the project traffic would utilize these roadways. Again, the project does not contribute significant traffic to the side streets along these roadways.

Comment 29-11

The study totally ignores where this traffic will go. The only outlet is to Blue Lantern to Stonehill; directly into a street where traffic flows are now in violation of the General Plan, and where large numbers of children are constantly present. Also, this result shunts traffic directly to the Dana Hills High School area.

Response 29-11

It is not true that the only outlet of the project is to Blue Lantern to Stonehill Drive. There are numerous access roads to the project to distribute traffic within and outside the City of Dana Point. These roadways include Pacific Coast Highway, Niguel Road, Crown Valley Parkway to the north, Street of the Golden Lantern and Del Obispo Street to the south. Some project traffic will use Street of the Blue Lantern, however, as indicated in the traffic study, projected traffic volumes on Street of the Blue Lantern are still projected to be under the City's Level of Service "C" standard for this type of roadway.

Comment 29-12

In fact the study probably ignores an additional impact as a result of the CIP on Selva. The reduction of the east-west lanes of traffic on Selva to the Stonehill to the freeway will be incentive for more traffic to flow onto Blue Lantern to Stonehill, as it is unregulated in traffic speed and volume of traffic flow. Because of this I believe the Existing Plus Project Avg Daily traffic (C) significantly overstates the expected volume of traffic on Selva after implementation of the CIP. There will be further analysis on this later.

Response 29-12

In discussions with the City, plans for the Silva Road CIP project have not been finalized or adopted by the City. The proposed improvements are primarily related to the installation of a raised median with landscaping and sidewalk improvements. There are no plans to reduce the number of through lanes along Selva Road north of Pacific Coast Highway.

Comment 29-17

I believe the issues I have brought forward can lead anyone to conclude the study is indeed flawed. I don't proposed that this is a result of less than due diligence on the part of the engineering firm that did the study; I personally believe that the flaws are at least in part due to the data, assumptions and expectations provided by the City of Dana Point.

Response 29-17

The traffic study has followed recognized procedures and methodologies in evaluating the traffic impacts from the project. The traffic study was based upon the City's Adopted Traffic Model which has been utilized for the City's general plan and other developments throughout the City.

If you have any questions regarding this, please give me a call at (949) 474-0809.

Sincerely,

RK ENGINEERING GROUP, INC.

Robert Kahn, P.E.
Principal

RK:rd/656
JN:1110-99-01
xc: Steven Ross, LSA ASSOCIATES, INC.

RK engineering group, inc.

transportation planning ▪ traffic engineering
acoustical / air quality studies

December 7, 2001

DEC 1 1 2001

Mr. Rob Balen
LSA ASSOCIATES, INC.
One Park Plaza, Suite 500
Irvine, CA 92614

Subject: Headlands Response to Traffic Comments from the December 5, 2001 Planning Commission Meeting

Dear Mr. Balen:

INTRODUCTION

During the December 5, 2001 Planning Commission meeting, a couple of items came up regarding traffic issues related to Street of the Green Lantern in the Headlands Development. The two primary items were as follows:

1. Traffic safety at the intersection of Green Lantern and Cove Road.
2. Traffic conditions on Green Lantern between Cove Road and Santa Clara.

GREEN LANTERN AT COVE INTERSECTION

Concerns were raised by the Planning Commissioner Goodkind regarding the safety aspects of the intersection of Green Lantern and Cove Road. RK ENGINEERING GROUP, INC. has obtained accident records from the City of Dana Point for the period of January 1997 to October 2001 (almost five years) and has field reviewed the intersection. A summary of the accidents at this intersection are included in Appendix "A". During that time, a total of two (2) reported non-injury accidents have occurred at this intersection. One of these accidents (9/12/99) occurred as a result of the "driving under the influence of alcohol/drugs" and most likely had nothing to do with the design of the intersection. A third non-injury accident occurred on Cove Road and near Dana Point Harbor Drive. In any event, the limited number of accidents at this intersection indicate that it is not a significant accident problem based upon existing geometric conditions and traffic control.

The intersection is controlled by an All-Way Stop, which provides positive traffic control at the intersection. Although Cove Road approaches the intersection on a steep grade, sight distance at the intersection itself is adequate and will be improved in the future with the development of the Headlands when the existing fence and shrubbery is removed and replaced with additional improvements. Other improvements to Scenic

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Drive near the Headlands Seaside Inn would also improve sight distance at this intersection.

GREEN LANTERN TRAFFIC IMPACTS

Several concerns were raised about existing traffic operations along Green Lantern. This roadway currently serves residential and commercial (restaurant) uses within the segment of Green Lantern between Cove Road and Santa Clara. Traffic volumes are not excessive in this area and the two lane roadway is currently operating under its design capacity.

In order to reduce traffic speeds and discourage through traffic, traffic calming techniques could be implemented along this roadway now, which would help to relieve the existing concerns of the homeowners in this area. Traffic calming techniques could include the following:

- Speed Humps
- Pavement Texture Strips
- Rumble Strips
- Pavement Enhancements

These types of devices can help to reduce speeding and discourage through trips on this roadway. A copy of the City of Dana Point Speed Hump policy is included in Appendix "B" for reference. If approved by the City, these types of roadway design features can help to reduce speeds and discourage through traffic.

CONCLUSIONS

RK ENGINEERING GROUP, INC. has reviewed the intersection of Green Lantern and Cove Road and Green Lantern from Cove Road to Santa Clara. The intersection of Green Lantern at Cove Road does not have an existing traffic safety problem based upon a review of accident records at this intersection for the past 5 years. The existing All-Way Stop at this intersection adequately controls the intersection from a traffic standpoint. Future improvements to the Headlands area will eliminate the existing fence and overgrown shrubbery which will improve sight distance at the intersection. The residents concerns of existing traffic on Green Lantern from Cove Road to Santa Clara can be mitigated by the use of traffic calming techniques such as speed humps, pavement textures, or other measures to reduce traffic speed and through traffic.

RK ENGINEERING GROUP, INC. appreciates this opportunity to work with LSA ASSOCIATES, INC. on this project. If you have any questions regarding this, please give me a call at (949) 474-0809.

Sincerely,

RK ENGINEERING GROUP, INC.

Robert Kahn, P.E.
Principal

RK:wg/671
JN:1110-99-01

APPENDIX A

ACCIDENT SUMMARY
GREEN LANTERN AT COVE ROAD

Community Development Department
33282 Golden Lantern
Dana Point, CA 92629
(949) 248-9890
FAX (949) 248-7372

City of Dana Point

Fax

553-0935

To: ~~Peter Vanek~~ BOB KAHN **From:** Ed Knight

Fax: [Click here and type fax number] 474-0902 **Pages:** 2

Phone: [Click here and type phone number] **Date:** 12/7/2001

Re: Collision History Green Lantern **CC:** [Click here and type name]

☐ **Urgent** x **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

Peter,

Here is the collision history for the corner of Green Lantern and Cove Road. Not too much in the way of accidents.

Ed

CITY OF DANA POINT
MEMORANDUM

DATE: **DECEMBER 7, 2001**

TO: **MATTHEW SINACORI, INTERIM DEPUTY CITY ENGINEER**

FROM: **RON KENNEDY, COMMUNITY SUPPORT DEPUTY**

SUBJECT: **GREEN LANTERN AND COVE ROAD COLLISION STATISTICS**

Collision history (3 total) between 1-1-97 and 10-1-01:

Green Lantern

Date	Day	Time	Location
5-3-98	Sun	12:50 am	Green Lantern @ Cove Road

Type: Non-injury - Hit and Run
Cause: Unknown
Report #: 98-21005

9-12-99	Sun	7:20 pm	Green Lantern 41' n/of Cove Road

Type: Non-injury
Cause: CVC 23152 - Driving under the influence of alcohol and/or drugs
Report #: 99-43156

Cove Road

Date	Day	Time	Location
9-21-00	Thu	5:55 pm	Cove Road 393' w/of Dana Point Harbor Drive

Type: Non-injury
Cause: CVC 23152 - Driving under the influence of alcohol and/or drugs
Report #: 00-201788

cc: Gus De La Torre, Chief of Police Services

APPENDIX B

CITY OF DANA POINT
SPEED HUMP POLICY

33282 Golden Lantern Dana Point, CA 92629
Voice (949) 248-3598 Fax (949) 248-7372

CITY OF DANA POINT

Fax

To:	Bob Kahn	**From:**	Paul Cook (949) 248-3598
Fax:	(949)474-0902	**Pages:**	5
Phone:	(949)474-0809	**Date:**	December 7, 2001
	Speed Hump Policy	**CC:**	

☐ **Urgent** ☐ **For Info** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Comments:

Bob,

Per your request, here is the City's speed hump policy.

Paul Cook
City Traffic Engineer

IF YOU HAVE A PROBLEM RECEIVING THIS TRANSMISSION PLEASE NOTIFY SENDER IMMEDIATELY.

City of Dana Point
Department of Public Works
33282 Golden Lantern ☺ Dana Point, California 92629
(949) 248-3598 ☺ (FAX) 248-7372

CITY OF DANA POINT
SPEED HUMP POLICIES, GUIDELINES AND PROCEDURES

Policies

1. Speed humps will only be installed upon approval of the City Council, after a public hearing and in conformance with the standard design in effect at the time of installation.

2. Speed humps are still considered experimental roadway features. Therefore, additions, alterations, or removals of any or all speed humps may occur at any time.

Guidelines

The installation of speed humps will be considered only if the following five conditions are satisfied:

1. A speed survey must show that a minimum of 15 percent of the daily traffic exceeds the posted speed limit by 8 mph or more.

2. The section of road must have no more than two traffic lanes, must have a paved width of 40 feet or less, and must have no stop signs.

3. The average traffic volume must be between 1,000 and 3,200 vehicles per day, total in both directions, in a 24-hour period on an average weekday.

4. The use of a radar display board has been tried for at least ten days at the location and a speed survey taken between two and four weeks after the display board posting does not show a noticeable reduction in speed.

5. Adequate signage has been installed for a period of 4 months and a speed survey does not show a noticeable reduction in speed.

And if, in the opinion of the Traffic Improvement Commission, the following conditions are met:

6. The street segment on which speed humps are proposed should be at least 1/4 mile long and should be a residential street defined as follows:

    a. A street having 13 or more buildings fronting on one side of the street or 16 or more buildings fronting on both sides of the street, within a distance of 1/4 mile. Buildings must be located within 75 feet of the street curb face or edge of pavement and they must face and gain access from the street, to be considered as "fronting on the street".

    b. Buildings, as used above, include separate dwelling houses, churches, apartment buildings, or multiple dwelling houses.

c. The street should not appear on the City's Master Plan of Arterial Highways.

7. The street should be determined by the City Engineer to have adequate vertical and horizontal alignment and sight distance to safely accommodate the installation.

8. The street should have adequate street lighting and sidewalk on at least one side.

9. The street should not be on an Orange County Transit Authority route.

10. The location should be approved by the Police and Fire Departments.

11. Written requests along with a petition should show a majority of the household representatives of the street (and adjacent parallel streets which in the opinion of the City Engineer may also be affected) favor the installation.

Procedures

Requests for and approval of speed hump installations shall conform to the following procedures:

1. After a request is received, the City will:

   a. Obtain necessary traffic data including traffic volumes, traffic speeds, and accident history.

   b. Determine compliance with all criteria.

2. The City will publish notice of a public hearing and mail a notice to all property owners within 500 feet of the proposed location.

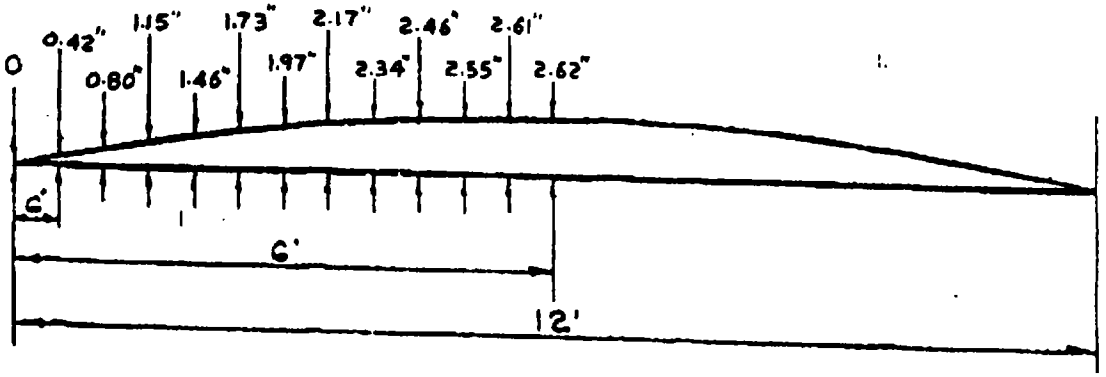
3. The request will be presented to the Traffic Improvement Commission at a noticed public hearing. If the Traffic Improvement Commission approves the requested installation, the City Council will decide if the requested speed humps will be installed. If the installation is approved by the City Council and if funding is available, the City will design and install the speed humps. In addition to consideration of various other design criteria, pavement markings and warning signs will be utilized so that speed humps will be clearly identified.

4. The exact placement of signs, speed humps and markings shall be determined in the field by the City Engineer to insure that aesthetic visual impacts are minimized.

Requests for and approval of speed hump removals shall conform to the installation procedures outlined above.

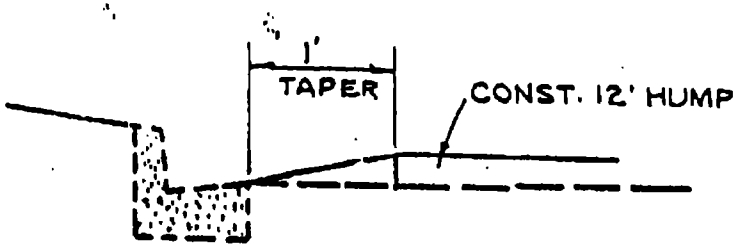
Revised: November 23, 1993

H:\0928sphp\jas



SECTION A-A

NOT TO SCALE



SECTION B-B

NOT TO SCALE

PLANS PREPARED BY:

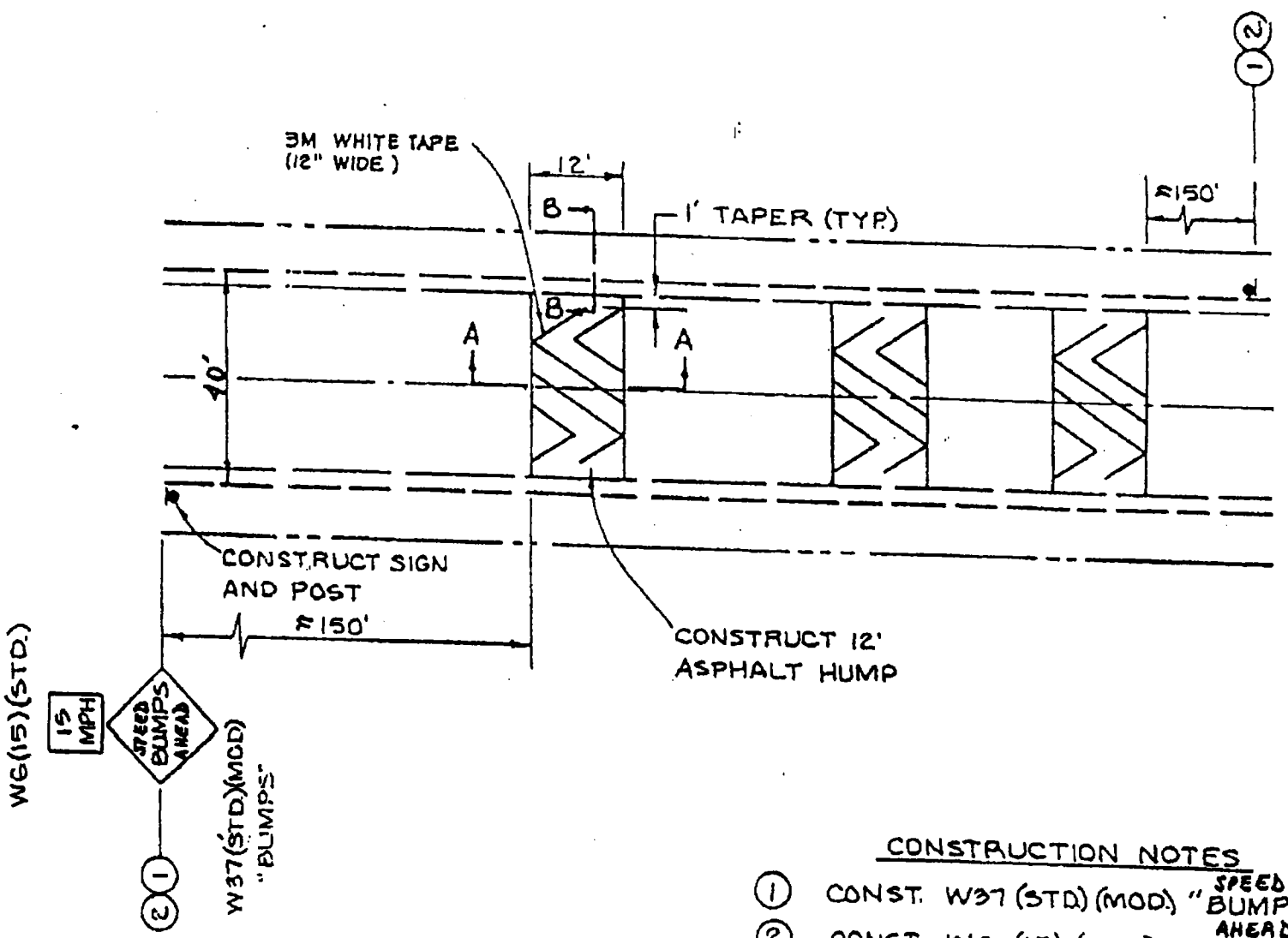
WILLDAN ASSOCIATES

12900 CROSSROADS PARKWAY SOUTH, SUITE 200

INDUSTRY, CA 91746-3499

(210) 695-0551

EXHIBIT C



CONSTRUCTION NOTES

1. CONST. W37 (STD) (MOD) "SPEED BUMPS AHEAD"
2. CONST. W6 (15) (STD.)

NO SCALE

PLANS PREPARED BY:
WILLDAN ASSOCIATES
12900 CROSSROADS PARKWAY SOUTH, SUITE 200
INDUSTRY, CA 91746-3499

EXHIBIT A

December 3, 2001
Job No. 9-212-306100

LSA Associates
One Park Plaza
Suite 500
Irvine, California 92614

Attention: Mr. Rob Balen

Re: **Response To Comments**
Draft Environmental Impact Report (DEIR, 10/01)
Headlands Development And Conservation Plan
Dana Point, California
SCH #2001071015

1 INTRODUCTION

As requested, AMEC Earth & Environmental, Inc. (AMEC) has prepared a response to selected comments received by LSA Associates (LSA) as a part of the DEIR review process. Six comments were selected by LSA for a response by AMEC on the basis of the geotechnical content. The selected comments were provided via fax on November 20, 27 and 28, 2001. Copies of the information/comments sent to AMEC are attached as an appendix to this response letter to facilitate reference.

The author and the text for each comment are shown below with the corresponding response from AMEC. Each comment and response is identified with a number designation that identifies the comment letter/author and the selected comment within the letter. These comment designations follow the format outlined in LSA's fax transmittals (see Appendix).

Reference is made to AMEC's geotechnical evaluation report in support of the EIR process dated August, 2001, which is attached as Appendix D in Volume II of the subject DEIR. A complete list of references, including those cited below, is attached following the text of AMEC's August, 2001 report.

2 RESPONSE TO SELECTED DEIR COMMENTS

2.1 COMMENT NO. 10-2 FROM MR. EDWARD GALLAGHER

2.1.1 Comment Re: Potential Instability During Construction

"The proposed stabilization and/or remediation necessary for the dangers inherent in the ancient landslide(s) complex at the South end of Planning Area 2 are not sufficiently detailed to

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1290 N. Hancock Street, Suite 102
Anaheim, California 92807
Tel +1 714-779-2591
Fax +1 714-779-8377
www.amec.com

enable reasonable assurance that life and safety concerns of the future are adequately addressed."

"Attempted stabilization and/or remediation of the dangers inherent in the ancient landslide(s) complex at the South end of Planning Area 2 may cause instability of the land underlying the nearby existing residences along Selva Road and Dana Strand Road. That this is possible (even probable) is sufficiently evidenced by similar situations in other areas in the past. There is insufficient consideration in the DEIR of these possible impacts on the future life and safety concerns for those nearby residents and property owners. There seems to be inadequate information on this subject to enable any confident judgment by legislative authorities."

2.1.2 AMEC's Response

As presented in Section 2.0 of AMEC's geotechnical evaluation report in support of the EIR process (August, 2001), the Strand area (i.e., Planning Areas 1, 2 and 3) has been the subject of extensive previous geologic/geotechnical evaluation beginning in 1983-84. These evaluations have included 20 exploratory borings, 39 exploratory trenches/test pits, 9 ground penetrating radar profiles, and extensive analyses of the stability conditions that considered both the planned interim construction slopes and the proposed final design configuration. As summarized in Section 2.0 of AMEC's August, 2001 report, information and analyses specific to stability conditions in Planning Area 2 are presented in AMEC's reports dated: November 29, 1984 (Job No. 384-414), March 4, 1988 (Job No. 387-584); October 15, 1999 (Job No. 9-212-306100), February 4, 2000 (Job No. 9-212-306100), and March 21, 2000 (Job No. 9-212-306100).

Stability evaluations and recommendations regarding planned temporary slopes during grading construction were compiled from the referenced reports and are outlined in Section 6.4.2.1 of AMEC's August, 2001 report. Recommended mitigation measures outlined in the report include provisions for additional geotechnical evaluations as a part of the final grading and foundation design process. These additional evaluations are intended to refine and enhance the preliminary construction slope design that was evaluated in the referenced AMEC reports.

AMEC's reports specific to the current preliminary grading design have been reviewed and ultimately approved by the City of Dana Point's geotechnical consultant, Zeiser Kling Consultants (ZKC). AMEC's report dated February 4, 2000 was prepared in response to review comments made by ZKC and includes requested additional data and analyses specific to the temporary construction slope stability. Brief summaries of similar landslide stabilization projects that were successfully completed nearby, including the adjoining Niguel Shores residential tract, are also presented in that report.

In summary, AMEC's reports which are included in the DEIR by reference provide sufficient data and analyses to demonstrate that the geotechnical constraints to the project can be appropriately mitigated.

2.2 COMMENT NO. 10-5 FROM MR. EDWARD GALLAGHER

2.2.1 Comment Re: Safety Of Steep Bluffs – Harbor Point/Headlands Promontory

"Potentially dangerous impacts upon life and safety at the bottom of the bluffs (and their remediation) are not addressed. There is obvious danger to the public at and near the Marine Institute, the tide pools, and sandy beach below the steep Southerly bluffs due to inappropriate actions of people or animals at the top of these bluffs, or by accidents or nature. This is especially true at this end of the Headlands due to the steepness of these bluffs and the degree of public activity below them. Better means need to be adopted (and described in the DEIR) by which falling rocks, portions of bluff faces, or falling persons, objects or equipment would be prevented from impacting those below."

2.2.2 AMEC's Response

As summarized in Section 6.1.3 of AMEC's August, 2001 report, from a geotechnical standpoint, avoidance based on accepted standards and appropriate geotechnical recommendations is the only practical mitigation measure with regard to potential rockfall/shallow landsliding of the bluffs and steep sea cliffs that rim the Harbor Point and Headlands Promontory areas. Information, evaluations and recommendations specific to the bluff areas are summarized in AMEC's reports dated February 21, 2000 and July 9, 2001.

Public access to the area above the bluffs is currently restricted by fencing along Scenic Drive, which was installed about 15 years ago. The proposed project will remove this fencing and will provide greater public access to the area overlooking the harbor and ocean. Access to the area along the base of the bluffs is currently unrestricted and no specific changes to this status are currently anticipated as a part of the proposed project.

The height and steepness of the bluff in the Harbor Point and Headlands Promontory areas is similar to the sea cliffs that rim the westerly and northerly sides of the Dana Point Harbor area. A minor difference is that most of the area along the top of the bluff in the harbor area is private property. However, public access is provided at several commercial sites (restaurants and hotels) and at public view points near the ends of old Golden Lantern, Street of the Blue Lantern, Street of the Amber Lantern, and Street of the Violet Lantern. At each of these locations, access to the actual bluff face is typically restricted by fencing at the top of the bluff, and some signs may also be present to point out the obvious dangers and safety concerns. Public view points and associated facilities are common along coastal southern California, including those at Point Loma, Torrey Pines, Del Mar, Encinitas, Point Fermin, Rancho Palos Verdes etc. In the nearby harbor area although signs are present at some locations along the base of the bluff public access is generally not restricted, and public facilities such as roadways and picnic tables are present below the bluff. Access to tide pools and beaches below coastal bluff areas in other areas of southern California are also generally unrestricted.

As summarized in Section 6.1.3 of AMEC's August, 2001 report, a minimum shallow foundation setback of 50 feet from the top of the bluff is recommended for any proposed permanent structures/buildings in the subject area (see also AMEC's report dated February 21, 2000). Specific recommendations regarding drainage/soil moisture control in the subject area are also

addressed in AMEC's February 21, 2001 report. However, the design of public viewpoints and other facilities in the vicinity of the bluff-top is currently conceptual, and specific details regarding these improvements will be developed during the final design process. At the present time, it is anticipated that public safety concerns will be addressed in a manner similar to that in the adjoining harbor area, and to that in other areas of coastal southern California. Signs and fencing will likely be included in the design of public improvements near the top of the bluff, and signs will also likely be planned along the base of the bluff to warn of possible safety concerns. Illegal, inappropriate or unsafe activities in the vicinity of the bluff would ultimately be regulated by law enforcement officials.

2.3 COMMENT NO. 24 – 10 FROM JIM AND BETTY FOLK AND DAN AND FRAN BIANCA

2.3.1 Comment Re: Dana Cove Fault And Potential Ground Failure Affecting Street of the Green Lantern

"Another unaddressed issue is the seismology in the Green Lantern area. It should be remembered a significant slide occurred at Cannon's Restaurant a number of years ago and Cove Road was closed for several years due to the slide. Approximately 150 feet of Green Lantern has its street edge as the bluff. A ground failure in this area due to heavy construction traffic, heavy rains or earth movement at the adjacent known Dana Cove Fault would render Green Lantern and Cove Road unusable. See page 4.5-6 and 4.5-9 regarding faults. Residents south of this area would lose all ingress/egress capabilities."

2.3.2 AMEC's Response

The subject portion of the Street of the Green Lantern does not adjoin the project site. However, this roadway will provide access for the proposed visitor/recreation/commercial and recreation/open space areas of Harbor Point and the Headlands Promontory.

As briefly discussed in Section 5.4.2 of AMEC's 2001 report, the northerly trending Dana Cove fault is located near Pacific Coast Highway at the northeast corner of the project site. The fault crosses beneath Cannon's restaurant and along the westerly edge of a former landslide area above Cove Road that was reconstructed/stabilized in 1987. Exposures observed during construction of the restaurant in 1971 and subsequent grading associated with the slope stabilization work in 1985-87 indicated that the fault is truncated by an ancient wave-cut bench in the bedrock at elevation 160 feet. No apparent displacement of this wave-cut erosion surface is evident, indicating that fault movement pre-dates deposition of the overlying marine terrace sediments (i.e. probably at least 125,000 years ago). The presence of soft-sediment deformation features observed in these construction exposures also suggests that primary movement along the fault may have occurred as much as 5 to 10 million years ago, shortly after deposition of the sediments. On the basis of these exposures the Dana Cove Fault is considered inactive (Kerwin 1987).

The Dana Cove Fault separates two distinct rock types: the San Onofre Breccia and the Capistrano Formation. Dana Cove is a shoreline re-entrant caused by differential erosion and coastal retreat along the fault. The relatively competent and resistant San Onofre Breccia forms the headland and the weaker, less resistant, Capistrano Formation has been eroded away to

form the inner margin of the harbor/cove (see AMEC, 8/01, Plate IV or DEIR, Figure 4.5.2). Deformation and attendant shearing of the Capistrano Formation near the fault has made it susceptible to landsliding, but the Breccia has remained relatively undisturbed (Kerwin, 1987). Grading and other stabilization measures incorporated in the slope restoration work performed above Cove Road in 1985-87 has removed and/or supported the portions of the Capistrano Formation below Street of the Green Lantern that were previously susceptible to landsliding. The remainder of the slope below Street of the Green Lantern is comprised of San Onofre Breccia with a thin mantle of terrace deposits above about elevation 160 feet. These materials are generally not susceptible to significant landsliding and are additionally supported by the previous slope stabilization measures.

The outside edge of the Green Lantern roadway in this area is supported by a retaining wall that was likely constructed as a part of the original road construction. No information is readily available regarding the condition or design of the retaining wall. Previous observations have shown no obvious evidence of problems with the existing wall. The wall and adjoining roadway are presumably subject to routine maintenance by the appropriate City and/or County agency.

In summary, the portions of the slope below the Street of the Green Lantern that were previously susceptible to landsliding were removed or are supported by the slope reconstruction work/remedial grading performed in 1985-87. Although erosion and minor surficial failure of this slope may occur in the future, no significant landsliding is anticipated that would affect the existing roadway.

2.4 COMMENT NO. 26-7 FROM RUBY L. NETZLEY

2.4.1 Comment Re: Potential Slide Area Below Green Lantern

"Cove Road is a narrow winding road that cannot safely carry traffic and it passes directly below the potential slide area abutting Green Lantern next to the former slide area below Cannons. Green lantern Street is narrow, subject to a potential slide and presently too crowded with traffic, especially on weekends and when there are meetings at the Chart House. Certainly, the project must not be built and then require road widening that will negatively impact property owners on Green Lantern Street by impinging on their property rights. property values and quality of life.

2.4.2 AMEC's Response

AMEC's previous geotechnical work in and around the westerly end of Dana Point Harbor included landslide stabilization evaluations that were performed for the County of Orange as a part of the Cove Road Slope Restoration Project between 1983 and 1987 No evidence of potential landslides beyond the portion of the slope that was previously repaired/stabilized was observed in the area below Street of the Green Lantern during AMEC's investigation and extensive field work Please refer to AMEC's response to Comment No 24-10 for additional discussion regarding the geologic conditions in this area

The remainder of this comment appears to focus primarily on traffic engineering concerns, which are not AMEC's field of expertise.

2.5 COMMENT NO 26-14 FROM RUBY L. NETZLEY

2.5.1 Comment Re: Coastal Bluff And Geologic Stability At South End Of Strand Area

"Page 4.9-63 refers to "coastal bluff top" in addressing the southern portion of the Strands Beach area. The DEIR Figures show the planned lots for new homes as extending into this area. Address and show proof that the purchasers of these residential lots can be assured and guaranteed the geologic stability of such lot sites."

2.5.2 AMEC's Response

The cited reference to the "coastal bluff top" on page 4.9-63 of the DEIR refers to the area above the sea cliffs that form the Headlands Promontory and Harbor Point areas of the project site (see Section 4.1.1.4, page 4.1-2 of the DEIR). No residential lots are proposed in these areas.

Residential lots are, however, planned in the southerly portion of the Strand area (i.e. Planning Area 2). AMEC's evaluations of the stability conditions in Planning Area 2 are briefly summarized in the response to Comment No. 10-2, under Section 2.1 of the preceding text.

2.6 COMMENT NO. 33-14 FROM JEFF SEGALL

2.6.1 Comment Re: Recommended foundation setbacks in Harbor Point Area

"The 2000 DEIR recommends a 50-foot setback in the Harbor Point Area unless "specific design" measures are taken (Page 4.5-18). Presumably, this would include the proposed Cultural/Arts Center, which appears to be very close to the California Coastal Commission's mandated 25-foot setback. The plan also calls for the realignment of this public-right-of-way. It appears that this realignment of Scenic Drive would move it right up to the 50-foot setback recommended here."

"The 1999 FEIR recommended a 200-foot structural setback in this area as seen in Figure 1 of the letter. Among the pieces of evidence cited to support this larger setback include:

a) the over 100 feet of lateral sea cliff/bluff retreat along the south- southwest- and west-facing bluffs during two major storm events in 1938 and 1941 (Zeiser Geotechnical, 1990).

b) the near vertical bluff faces near the Harbor breakwall with active wave scour at the toe of the bluff (see figure 4 2-8 of the 1999 FEIR) and

c) The geotechnical report (Petra 1997) documenting 25 feet of bluff top retreat between 1947 and 1997 at a residence in the southern enclave (see page 2-25 of Volume3, 1999 FEIR)."

"Note that the southern enclave in the context of the 1999 FEIR, as well as for this comment letter, refers to the existing single family residential area along Scenic Drive."

"With either the large episodic bluff failures noted in the Zeiser report or with the more steady 1-ft/year bluff retreat documented in the Petra report, it is obvious that the public-right-of-way, if relocated as proposed, is likely to be at risk in about 50 years. The proposed cultural facility would be at risk even sooner, which would result in an unacceptable safety hazard."

2.6.2 AMEC's Response

Recommended shallow foundation setbacks presented in the DEIR are based on AMEC's subsurface exploration, testing and stability analysis in the Harbor Point area. As a part of AMEC's evaluations, the bluff erosion history was also evaluated using aerial photographs and topographic maps, including reference materials cited by Zeiser Geotechnical, in their "Coastal Erosion Technical Report" (1990) that was prepared for the City of Dana Point's General Plan.

Although aerial photographs provide a reasonable means of assessing large scale erosion events, direct comparison to evaluate long-term incremental deterioration of the bluff face is very difficult. Aerial photographs taken in February, 1929 were therefore used to compile a topographic base map of the project area at a scale of 1" = 100. The accuracy of the 1929 topographic map has some limitations because of the age and scale of the photographs, etc. However, the resulting topographic contours can be compared directly to the current topographic base, thus providing the most definitive source of information that is available for assessing long-term changes in the local topography. The 1929 topographic conditions in the Harbor Point area are shown superimposed on the current topographic base (1998) on the Geologic Map and Sections enclosed with AMEC's February 21, 2001 report. Review of these topographic maps for the area around the headland, and specific to the subject Harbor Point area, indicates there is no evidence that substantial retreat of the bluff has occurred. On the basis the available information, bluff retreat is within the estimated precision of the topographic contours, and appears to have been less than about 10 feet during the previous 70 years. AMEC's February 21, 2000 report also summarizes exploration, testing, analysis, conclusions and recommendations regarding bluff setback evaluations in the Harbor Point area.

On basis of AMEC's review, Zeiser's previous bluff retreat interpretations of over 100 feet of bluff retreat in 1938-41 storm periods are considered to be unfounded and incorrect (see comparison of 1929 and 1998 topographic maps, AMEC, 2/21/00). Those unfounded bluff erosion interpretations provide the basis for subsequent development of recommended 200-foot setbacks that were presented as a part of a previous Final Program EIR (1999) for the site, which was ultimately not adopted. No site specific exploration, testing, analyses or evaluations were presented in support of those recommendations, and the setbacks were developed solely on the basis of an inappropriate manipulation of Zeiser's mistaken bluff erosion interpretations. The previous bluff erosion interpretations and resulting setback recommendations are therefore considered invalid.

In Petra's report for 34567 Scenic Drive (10/28/97), local bluff retreat is characterized as "relatively minor" and is estimated to have been 15 to 25 feet over the previous 50 years. Considering the fact that the subject residence and other nearby residences are serviced by onsite sewage disposal systems, the estimated degree of bluff erosion could be considered relatively minor. The existing systems discharge effluent into friable terrace sands that comprise the upper portions of the bluff, and the presence of this subsurface discharge behind

the bluff face would tend to reduce the local stability of the slope. This residence was originally constructed prior to 1929 and the long term effects of uncontrolled drainage/irrigation may also have had some influence on the local bluff erosion described in Petra's report.

Petra recommended a minimum building setback of 25 feet from the top of the bluff on the basis of their investigation, with the provision that deep foundations should be installed in the area closest to the bluff face. Those setback/foundation recommendations, and the proposed project for construction of three single-family residences on the property, were subsequently reviewed and approved by the City of Dana Point in 1998.

In summary, the recommended shallow foundation bluff setbacks presented in the subject DEIR are based on AMEC's exploration, testing, analyses and conclusions, as presented in a report for the Harbor Point area dated February 21, 2000. On the basis of these data and conclusions, the locations of proposed improvements shown on the preliminary design plan presented in the DEIR are considered to have appropriate foundation setbacks, provided that the recommendations presented in AMEC's February 21, 2000 report are implemented. However, the design of pubic facilities in the vicinity of the bluff-top is currently conceptual, and specific details regarding the design and location of these improvements will be developed during the final design process. As recommended in AMEC's February 21, 2000 report, site specific design evaluation will be performed for the various design elements of the proposed improvements in the Harbor Point area. This work will include additional subsurface exploration, laboratory testing and analyses specific to the location and type of foundations proposed for the final design. These final design evaluations are subject to review and approval by the City of Dana Point prior to issuance of grading/building permits.

2.7 COMMENT NO. 33-15 JEFF SEGALL

2.7.1 Comment Re: Revisions to General Plan Exhibit

"Interestingly, some supporting evidence for more extensive setback requirements appears within the 2001 DEIR itself. Figure 4.9.9 Open Space for Public Health and Safety shows all of the erosion/flood hazard areas. For the southern residential enclave along Scenic Drive, this would imply a bluff setback requirement of 150-200 feet. the distance from the bluff edge to the property lines in that area. For the western enclave along Dana Strand Road. the distance from the bluff edge to the property lines is approximately 100 feet."

"Curiously, Figure 4.9.9 shows that on either side of both residential enclaves that the zone of erosion constraints becomes much narrower. This dramatic change appears right at the property lines that separate the residential enclaves and the landowner/developer's land. The rationale for this sudden discontinuity in geologic hazards is unclear This situation is even more puzzling in light of the evidence shown in the 1999 FEIR documenting the greater relative stability of bluff at the southern enclave compared to the bluff farther to the east. closer to the harbor breakwall (see pages 4 2a-6. Figures 4 2-7 and 4 2-8 of the 1999 FEIR). The less stable bluffs near the breakwall are in the region Harbor Point park area, Cultural Arts facility and the areas where public-right-of-way are relocated closer to the bluff edge. The apparent contradiction between the wide area for the residential enclaves and the dramatically narrower strip claimed by the developer needs to be addressed."

2.7.2 AMEC's Response

Figure 4.9.9 is an exhibit that was produced as a part of the City of Dana Point's original General Plan. The quality and detail of the original exhibit are essentially as shown on Figure 4.9.9, with the exception that some revisions were made within the project site as a part of the proposed General Plan Amendment. Revisions to the erosion constraints were made on the basis of updated evaluations (see page 4.9-50 of the DEIR). Although the scale and detail of the base map are relatively poor, the intent of the revisions in the Headlands Promontory and Harbor Point areas is to identify the erosion constraints associated with the bluff areas. No changes were made to the portions of the exhibit beyond the project site, including the area of the two residential enclaves along Dana Strand Road and Scenic Drive. The methodology and basis for identification of erosion constraints in those offsite properties is not known, and is apparently not available in the existing documentation for the original General Plan.

The utility of the subject exhibit is severely limited by the scale and quality of the drawing. Bluff erosion constraints in the Harbor Point area are addressed in greater detail in AMEC's report dated February 21, 2000 (see also the response to Comment 33-14 in Section 2.7 above).

2.8 COMMENT NO. 45-2 FROM LUTE ETHRIDGE & ASSOCIATES

2.8.1 Comment Re: Exploratory Borings/Geotechnical Evaluation Of The Upper Headlands, Harbor Point and Headlands Promontory Areas

"We, the D.P. residents have been led to believe that a thorough geological survey, and soil test has been done on the headlands. I DON"T BELIEVE IT! Where is the report that shows core samplings taken down to at least 100 feet, throughout the top levels of the Headlands? There is none, and without it, you may not be around, but this community could well suffer the same fate as the bluffs in South Dana Point and San Clemente, in the future."

2.8.2 AMEC's Response

As briefly summarized in Section 3.0 of AMEC's August, 2001 report, a total of six borings have been drilled, sampled and logged as a part of AMEC's investigation of the Upper Headlands, Harbor Point, and Headlands Promontory areas of the project site (see Plate IV of AMEC's August 2001 report). These exploratory borings ranged in depth from 10 to 85 feet and included collection of relatively undisturbed drive samples at a vertical spacing that was typically less than 5 feet. Core/Pitcher sampling of the bedrock was also performed at four of these locations, including samples collected to a depth of 85 feet in the Harbor Point area. The boring logs, and associated geotechnical evaluations and stability analyses, are summarized in AMEC's reports dated October 15, 1999 and February 21, 2000 (see Section 8.0 References of AMEC's August, 2001 report).

This subsurface information supplements geologic mapping and field testing of the extensive exposures of the underlying bedrock that are present in the sea cliffs that rim this portion of the site. Additional geologic information is also available from previous geotechnical reports in the adjacent areas (see Sections 2.0 and 8.0 of AMEC's August, 2001 report).

The highlands that form the Dana Point headland and the upper portions of the project site are underlain by San Onofre Breccia bedrock that is covered locally by a mantle of marine terrace deposits. The relative competence and erosion resistance of the Breccia account for the prominence of the Dana Point headland, and the Breccia bedrock provides a stable foundation for the proposed project. Please refer to the referenced AMEC reports for additional information regarding the local geologic conditions.

As briefly outlined in AMEC's recommended mitigation measures (AMEC, August, 2001), additional subsurface exploration, testing and analyses are planned as a part of the final design process for the project.

3 CLOSURE

The responses provided above are intended to briefly summarize large portions of the data, evaluations and analyses that are presented in AMEC's previous reports for the project site, and that are also contained the referenced publications. This documentation should be referenced directly for a more thorough understanding of the local geologic/geotechnical conditions.

In summary, on the basis of the data, analyses and conclusions presented in the referenced reports, it is AMEC's opinion that the project can be safely implemented, as proposed, provided that the recommended mitigation measures presented in AMEC's reports are incorporated in the planning, design, construction and operation of the project. Please contact Scott Kerwin if you have any questions, comments, or require additional assistance in this regard.

Respectfully submitted,

Douglas Dahncke
Senior Engineer
GE 2279 (Expires December 31, 2003)

Scott T. Kerwin
Principal Engineering Geologist
CEG 1267

DD/STK/dc

Encl.: Appendix: LSA Associates Faxes of 11/20/01, 11/27/01 and 11/28/01 (14 pages)

c: Mr. Rob Balen, Addressee (3)

APPENDIX

LSA

LSA ASSOCIATES, INC.
ONE PARK PLAZA, SUITE 500
IRVINE, CALIFORNIA 92614-5987

949.553.0666 TEL
949.553.8076 FAX

FAX TRANSMITTAL

NAME: Scott Kerwin, C.E.G.

DATE: November 20, 2001

FIRM: AMEC Earth & Environmental, Inc.

PROJECT NUMBER: HLR130

FAX NUMBER: (714) 779-8377

PROJECT NAME: Headlands

FROM: Steven Ross

SENT BY: _____

NUMBER OF PAGES INCLUDING COVER: 11

CC: _____

☒ URGENT
☐ AT YOUR REQUEST
☐ FOR YOUR INFORMATION
☒ FOR YOUR REVIEW
☐ FOR YOUR APPROVAL
☐ HARD COPY TO FOLLOW
☐ OTHER _____

COMMENTS:

Scott, Attached are the remaining comments to the Headlands EIR. Please prepare a technical memorandum responding to all of the comments noted to your attention. LSA will prepare responses to the remaining comments, as noted. We will be numbering responses with the Comment Letter # (hyphen) Comment #. For example, Comment #1 on Comment Letter #23 would be numbered 23-1. A complete list of comment letters is attached for your reference. The corresponding comment letter number appears in the upper right hand corner of the comment. Please provide your response memorandum to LSA by Saturday, November 24, via e-mail or fax, and put the original in the mail. Rob Balen and I will be working both Saturday and Sunday, so feel free to call and discuss this with us. Thanks.

Headlands DEIR Letters

#	Name	Date Received	Date Faxed
1	Derith Madden	October 11, 2001	October 16, 2001
2	SCAG	October 19, 2001	October 19, 2001
3	Frank Persides	October 22, 2001	October 22, 2001
4	Jean Badraun	October 22, 2001	October 22, 2001
5	Charlene O'Connell	November 6, 2001	November 6, 2001
6	Coleen Reily	November 13, 2001	November 13, 2001
7	Dan Silver (Endangered Habitats League)	November 14, 2001	November 14, 2001
8	Steven & Carol Hoffman	November 15, 2001	November 15, 2001
9	Derith Madden	November 16, 2001	November 16, 2001
10	Edward Gallagher	November 16, 2001	November 16, 2001
11	Caltrans	November 16, 2001	November 16, 2001
12	Terry Goller	November 16, 2001	November 16, 2001
13	Nancy Knipe	November 16, 2001	November 16, 2001
14	Winston Goller	November 16, 2001	November 16, 2001
15	Tom Brabeck	November 18, 2001	November 19, 2001
16	Kent Welton	November 19, 2001	November 19, 2001
17	John D. Taylor/Marion Cook	November 19, 2001	November 19, 2001
18	Mark Cousineau (Surfrider)	November 19, 2001	November 19, 2001
19	Frank Persides	November 19, 2001	November 19, 2001
20	Mavis Crick	November 19, 2001	November 19, 2001
21	South Orange County Wastewater Authority (SOCWA)	November 19, 2001	November 19, 2001
22	Regatta HOA	November 19, 2001	November 19, 2001
23	Robert and Rona Lindl	November 19, 2001	November 19, 2001
24	Jim & Betty Folk/ Dan & Fran Bianca	November 19, 2001	November 19, 2001
25	Donna Watkins	November 19, 2001	November 19, 2001
26	Ruby Netzley	November 19, 2001	November 19, 2001
27	Grant Bjornestad	November 19, 2001	November 19, 2001
28	U.S. Fish & Wildlife	November 19, 2001	November 19, 2001
29	James Slark	November 19, 2001	November 19, 2001
30	Christopher J.P. Nicoll	November 19, 2001	November 19, 2001
31	Dr. & Mrs. Lewis Bruggeman	November 19, 2001	November 19, 2001
32	Edward Gallagher	November 19, 2001	November 19, 2001
33	Jeff Segall	November 19, 2001	November 19, 2001
34	Barbara Brabeck	November 19, 2001	November 19, 2001
35	South Coast Water District	November 19, 2001	November 19, 2001
36	City of San Juan Capistrano	November 19, 2001	November 19, 2001

#	Name	Date Received	Date Faxed
37	Ron & Lee Cohan	November 19, 2001	November 19, 2001
38	J. Richard Faulk	November 19, 2001	November 19, 2001
39	Celia Kutcher	November 19, 2001	November 19, 2001
40	Bob Larwood	November 19, 2001	November 19, 2001
41	Bette J. Courtney	November 19, 2001	November 19, 2001
42	Selva Owner	November 19, 2001	November 19, 2001
43	Fred Roberts (O.C. Chapter CA Native Plant Society)	November 19, 2001	November 19, 2001
44	Orange County Planning & Dev't Services Dept	11/20/01	11/19/01
45	Lute Eldridge & Assc.	11/20	11/19 sent
46	State Clearinghouse		

LSA

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ONE PARK PLAZA, SUITE 600 949.553.0666 TEL
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FAX TRANSMITTAL

FIRM: AMEC
ATTENTION: Scott Kerwin
FAX NUMBER: 714 779-8377

DATE: Nov 27
PROJECT NUMBER: HLR 130
PROJECT NAME: Headlands

FROM: Steven Ross
SENT BY: Jeff Gunderson

NUMBER OF PAGES INCLUDING COVER: 9
CC:

- ☐ URGENT
- ☐ AT YOUR REQUEST
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- ☐ OTHER

COMMENTS: Comment letters

10

November 15, 2001

Mr. Edward Knight; Community Development Director
City of Dana Point, 33282 Street of the Golden Lantern
Dana Point, Ca. 92629

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT
NOV 16 3 38 PM '01

Subject: Draft Environmental Impact Report – Headlands Development & Conservation Plan

Dear Mr. Knight:

The following are some of my comments regarding the subject DEIR of October 2001:

(1) It is not possible to really know or accurately guess at the true environmental impacts of the proposed development based upon the information in the subject DEIR. Among other reasons for this are:

(A) The diagrams and Figures in the DEIR made available to the public are just too small and not sufficiently detailed to enable reasonably accurate evaluation and judgements.

(B) The diagrams and Figures in the DEIR made available to the public are too small and not sufficiently detailed to even enable sufficiently intelligent questions to be raised with respect to potential impacts.

(C) Some of the information that is portrayed in the diagrams and/or Figures contradicts some of the information in the text of the DEIR.

(D) Most, or all, of the diagrams and Figures include the statement: "Note: Plan is diagrammatic in nature and intended to show the general location of land use planning areas. It is subject to change based on final engineering, planning and design." It is not reasonable to try to predict, analyse or intelligently question impacts based upon generalities involving incomplete information that is subject to change.

10-1

(2) The proposed stabilization and/or remediation necessary for the dangers inherent in the ancient landslide(s) complex at the South end of Planning Area 2 are not sufficiently detailed to enable reasonable assurance that life and safety concerns of the future are adequately addressed.

(3) Attempted stabilization and/or remediation of the dangers inherent in the ancient landslide(s) complex at the South end of Planning Area 2 may cause instability of the land underlying the nearby existing residences along Selva Road and Dana Strand Road. That this is possible (even probable) is sufficiently evidenced by similar situations in other areas in the past. There is insufficient consideration in the DEIR of these possible impacts on the future life and safety concerns for those nearby residents and property owners. There seems to be inadequate information on this subject to enable any confident judgement by legislative and approval authorities.

10-2 AMEL

(4) The phrase "Approval of the project as proposed" in paragraph PC 3-11 on page 4.3-26 is not defined and is sufficiently ambiguous as to render everything else in the project plans indefinite. Obviously, it is impractical, if not impossible, for the project to be approved exactly as proposed and the test of "reasonableness" may be inadequate here. This destroys the required validity of the associated plans and DEIR and makes any plan approval by the authorities having jurisdiction a matter of guesswork, whim or bias.

10-3

(5) The drainage method proposed for the "Seaside Inn" area is not clear from either the text or from Figure 4.16.8. Therefore, the potential impacts cannot be appraised.

10-4

(Cont'd on page 2)

10

Mr. Edward Knight - Community Development Director - City of Dana Point (11/15/01) (page 2 of 2)
Comments on DEIR – Headlands Development & Conservation Plan of October 2001 (continued)

(6) Potentially dangerous impacts upon life and safety at the bottom of the bluffs (and their remediation) are not addressed. There is obvious danger to the public at and near the Marine Institute, the tide pools, and sandy beach below the steep Southerly bluffs due to inappropriate actions of people or animals at the top of these bluffs, or by accidents or nature. This is especially true at this end of the Headlands due to the steepness of these bluffs and the degree of public activity below them. Better means need to be adopted (and described in the DEIR) by which falling rocks, portions of bluff faces, or falling persons, objects or equipment would be prevented from impacting those below. 10-5 AMEC

(7) The public path and lookout so closely adjoining the existing Southern residential Enclave by Scenic Drive appear to be dangerously close to that Enclave. This degree of obnoxious proximity could endanger the public since the existing residence would be an attraction for children and unstable or immature adults on that path and lookout area. The bedroom windows and patio of this adjoining existing residence would be temptingly located just "a step away" from the public path and lookout which are all precariously located atop a dangerous cliff. The presence of residential pets could increase the temptation to children to climb across the inadequate buffer area between the path/lookout and the existing residential target (exposing the children to the steep cliff). The inadequate buffer also seems to be a strange attempt to adversely impact the privacy and safety of the existing resident(s). 10-6

Both the public and the residential occupants would be much better and more safely served by relocating the public path and lookout farther away from the existing residential area. Instead of starting at the traffic circle, the path should start at the approximate location of the proposed Cultural Centre and maintain at least a fifty-foot buffer space, with landscape screening, between the trail and the adjoining residence. The other end of this residential Enclave should be similarly buffered.

(8) Neither Volume I nor Volume II of the subject DEIR describes the grading aspects of the proposed plan in enough detail to allow valid legislative judgement of the potential environmental impacts. Building lot elevations and the extent and degree of any cuts and fills are not sufficiently described. Comprehensive and detailed Elevations and Sections through all directions and portions of all the proposed developed areas (showing also their spatial relationship to all adjoining areas) are needed together with firm restrictions on the proposed grading details. A map showing the limits of grading is required for reasonably valid legislative judgements regarding potential impacts. 10-7

(9) The impacts on Strands public Beach and associated public maintenance costs due to the severe drainage outfalls on the sand are not addressed sufficiently. Directing so much of the drainage from the upper Headlands to the beach sands could severely erode this beach to the extreme detriment of the public. Since the areas above the sandy beach are proposed for development (eliminating the historical source of sand replenishment from erosion of the landslide areas) the beach could quickly waste away absent ongoing and expensive sand replenishment enterprises at great public cost. 10-8

Thank you for the opportunity to comment and please keep me informed of any developments, City actions, proposed public hearings or other publicly available information regarding the Headlands and its planning.

Sincerely,

Edward L. Gallagher
34365 Dana Strand Road #3
Dana Point, Ca. 92629

Green Lantern currently has a traffic circulation problem because it is a narrow two lane residential street which has three operating restaurants and a large visitor shopping plaza. Exacerbating the problem, is that Southbound traffic on PCH headed for the Harbor have two choices (a) chance encountering five traffic lights on the PCH/Golden Lantern route or (b) use Green Lantern/Cove Rd. with no traffic light exposure. More and more vehicles are using the Green Lantern/Cove Rd. route to save time and because they are transiting the area they tend to be speeding. This creates a definite safety hazard for Green Lantern residents entering and exiting their parking facilities and also causes a higher level of noise pollution from the increasing traffic flow. 24-6

There is no question Green Lantern residents can anticipate an ever increasing amount of traffic on our street generated by planned new homes for the Headlands and the surrounding areas and the expectation of future hotels along Green Lantern and PCH. We can also expect numerous tour buses bringing visitors to the three proposed recreation centers at the terminus of Green Lantern/Scenic Drive. To have a Light-house in this area is ludicrous. It will be nothing more than a sham tourist attraction. These facilities will generate additional commercial traffic and at the same time provide venues for social events such as weddings, etc. creating even more traffic. 24-7

Dana Point already has several locations within our city that have major traffic circulation problems. This has caused a great deal of discontent to the area residents, ill will toward the City, and a significant financial cost to the City budget as well. Why create another monster when it can be easily avoided with proper planning. Once a project is implemented the impacts of environmental changes cannot be reversed. 24-8

Possible consideration to ease the traffic load on Green Lantern are (a) the Circulation Plan should be revised to have a primary connection from Street A direct to the Hotel, Restaurant, and the three Visitor Centers. (b) Cove Road could be made one way for traffic reduction and to allow space for a safe pedestrian/bike trail. (c) Green Lantern could be closed at PCH to discourage through traffic. 24-9

Another unaddressed issue is the seismology in the Green Lantern area. It should be remembered a significant slide occurred at Cannon's Restaurant a number of years ago and Cove Road was closed for several years due to the slide. Approximately 150 feet of Green Lantern has its street edge at the bluff. A ground failure in this area due to heavy construction traffic, heavy rains or earth movement at the adjacent known Dana Cove Fault would render Green Lantern and Cove Road unusable. See page 4.5-6 and 4.5-9 regarding faults. Residents south of this area would lose all ingress/egress capabilities. 24-10 AMEC

Drainage issues are not addressed as to provisions for surface water flowing toward our residences from the buffer area behind our homes. 24-11

As you know we have been actively involved in all of the previous plans relating to the Headlands and we have to say this is the first time we feel very uncomfortable with the process thus far. It seems everything has been predetermined between the developer and the City with a high level of secrecy. In the past we could always get information from Lance Schulte, John Ballou or Dan Bott. Currently we have no person readily available to provide us with assistance or to directly address our concerns. We are hopeful this will change. 24-12

Sincerely,

Dan and Fran Bianca

Jim & Betty Falk
34361 Green Lantern St.
Dana Point, Ca 92629

26

Only positive environmental impacts must result from this development. Our environment, including but not limited to water and air quality, habitat, endangered species and native vegetation, natural land formations, and open space must be protected. Future lot owners who will build on the vacant lots sold on this property must be assured of geological stability. The EIR must recognize that this unique land formation on the shore of the Ocean is the last such land in Dana Point and on the southern coast of California. 26-3

Please prove, assure, and make clear that this EIR is accomplishing such goals.

DEIR and HDCP Table 3.3.1 Headlands Development and Conservation Plan Objectives

Comments: There is a fatal flaw in the Plan Objectives since there is no objective to assure safety. Also, a listed objective is to ensure adequate vehicle access and circulation, while minimizing impacts to residential areas. This is not accomplished in the DEIR or the HDCP. 26-4

DEIR, Table 1.6.A, page 1-17, Potential Environmental Effect - Vehicular Traffic Noise

Comment: Green Lantern Street, PCH, and the full length of Blue Lantern and side streets leading to the freeway are ignored. Residential areas of Green Lantern from PCH to the intersection of Scenic Drive and Cove Road will be greatly impacted. PCH and Blue Lantern will be impacted.

DEIR, Table 1.6.A, page 1-18, Fire Protection and Emergency Medical Service 26-5

The occupants of the residential enclave homes and the proposed hotel, as well as the public at the recreation and meeting facilities on Scenic Drive, will be negatively impacted since they have only one road out that connects with Green Lantern and Cove Road. Both roads are narrow and congested and will be an increased hazard to their safety with the increase of use of these roads to reach the hotel and other amenities just past Cove Road.

DEIR, Table 1.6.A, page 1-21, Cumulative Traffic Impacts

Comments: There isn't any way that the additional traffic impacts from the Project on Green Lantern and Cove can be mitigated without eliminating the 65 (key) room hotel with spa, restaurant and other amenities from the Project Plan. The 2.8 acres of land proposed to be used for a hotel could be offered for sale to the City. This could result in decreased traffic congestion and noise and improve safety. It could also increase open space. With the construction of the St Regis Hotel, the need for City revenue from hotels has diminished also. 26-6

Cove Road is a narrow winding road that cannot safely carry traffic and it passes directly below the potential slide area abutting Green Lantern next to the former slide area below Cannons. Green Lantern Street is narrow, subject to a potential slide and presently too crowded with traffic, especially on 26-7 AmEC

26

weekends and when there are meetings at the Chart House. Certainly, the project must not be built and then require road widening that will negatively impact property owners on Green Lantern Street by impinging on their property rights, property values and quality of life. 26-7 AmEC

A road from Scenic Drive through the new residential area to PCH would greatly diminish the safety hazards in this area to numerous persons, including children. Certainly the safety of our residents and visitors should be of prime concern. 26-8

DEIR, 4.0, Environmental Analysis, page I, and HDCP, Sec. 4.0, page 4-11, Planning Area 5 Hilltop Park and Greenbelt Linkage (Recreation Open Space)
DEIR Figure 4.1.A & 4.1.B & 4.3.3, DEIR page 4.9.18 Preservation of Natural Resources
Goal 4 Encourage the preservation of the natural resources of the City of Dana Point

These areas, among other things, address the Hilltop Park and Greenbelt Linkage. It claims to preserve a significant landform and provide integrated trails. It references Section 4.4 Park and Open Space Plan, which among other things, states that the Project site has been carefully planned ...to preserve coastal bluffs and other significant landforms and conserve sensitive habitat. Figure 4.4.1 and 4.4.3 does not provide sufficient detail to determine if the natural land formation of the ridge which runs parallel to Marguerite Road and Scenic Drive, then turns and goes to the hilltop park, is being preserved. However, Figure 4.1.A Clearly shows the ridge/ridge line from the second group of residences at the end of Marguerite to the hilltop park. Figure 4.4.6 appears to indicate that the historical natural-landform of the ridge (with a trail at the highest elevation on the ridge, its current walking trail) is not being preserved. 26-9

It is important that this natural land formation be preserved, consistent with the City's General Plan provision for preservation of natural landforms. This was a subject of a recent proposed development in Monarch Beach. Also, the DEIR and HDCP for this project recognize and stress such preservation.

Not only is this a natural landform, it has a trail along its highest elevation that has been used by the public for many years (enough to establish prescriptive rights). It is also critical that the sensitive habitat on this ridge and its descending ridge face be preserved. Ridge and habitat area are needed to help assure the preservation of the endangered pocket mouse species. In previous conversations with an expert from the Endangered Habitats League, it was made clear that additional land contiguous to the pocket mouse area north of Marguerite Road to the top of the ridge is necessary for preservation of this species. The pocket mouse needs room to migrate where natural habitat and conditions exist. 26-10

DEIR Figure 3.4, PA 4, 1.6 acres, PCH Visitor/Recreation Commercial
Table 3A, 40,00 sq. ft. of Visitor/Recreational Commercial at PA 4 26-11

roads etc. described and shown in Exhibit "E". Inadequate information has been provided for the public to make a judgment. This information appears to be missing from the DEIR. 26-13

DEIR FIGURES 4.1B, $.34 & $.19.1and Section 4.5 Geology and soils and page 4.9-63 (2nd area)

Page 4.9-63 refers to "coastal bluff top" in addressing the southern portion of the Strands Beach area. The DEIR Figures show the planned lots for new homes as extending into this area. Address and show proof that the purchasers of these residential lots can be assured and guaranteed the geologic stability of such lot sites. 26-14 AmEC

DEIR Table 3.A & Figure 3.3 & 4, etc - Open Space

DEIR, Table 3.A as well as other sections of the Report shows 30.3 plus 30.7 acres of Open Space for a total of 62 acres. The DEIR needs to break that down in an exhibit and illustration showing the amount of usable Open Space available to the public as well as that acreage inside the residential areas inaccessible to public use, space used for parking lots, the 2000 square foot building shells and most importantly the bluff face acreage and the open space which the City has legal Easements, Right-Of Ways, and or irrevocable offers to dedicate as referred to on Page 13, Section of the Headlands Development Agreement captioned 3.12. Also clearly show the mouse preserve being established to preserve that species. 26-15

It is obvious that this will end up with a much smaller amount of Open Space available to the general public.

NOTE
It is impossible to adequately address this lengthy and technical DEIR Report in the time frame allotted. It would appear that an extension of the time frame should be allowed in order to show fairness to the public. I respectfully request that this be considered and publicized. 26-16

All of the above comments are respectfully submitted for your consideration. With more time, I could have made them more concise. Thank you for your consideration.

Sincerely,

Ruby L. Retzloff

LUTE ELDRIDGE & ASSOCIATES
Management/Marketing Services

Phone: (949) 661-0980
Fax: (949) 240-1175

24616 Moonfire Dr.
Dana Point, CA 92629

RECEIVED
CITY OF DANA POINT
DEPARTMENT
NOV 20 8 55 AM '01

19 November 2001.

Mr. Edward Knight
Director of Community Development
33282 Golden Lantern
Dana Point, CA 92629

Subject : Comments on Headlands Draft Environmental Impact Report & Headlands Development Conservation Plan

Reference: Recent Articles In The Dana Point News, & Letters From The Developer

Dear Mr. Knight:

Having been in this area since 1927, and watched with a great deal of dismay the unprofessional, inept, sometimes scandalous decisions made by the Dana Point City Council, since the City's inception, relative to the "development" of our so-called city; and now, to continue to watch two of the council members, who have somehow managed to continue to get elected, attempt to manuever the residents of Dana Point into another series of undoable mistakes, is not only appalling but unbelieveable!! 45-1

WE, the D.P. residents have been led to believe that a thorough geological survey, and soil test has been doneon the Headlands. I DON'T BELIEVE IT!. Where is the report that shows core samplings taken down to at least 100 feet, throughout the top levels of the Headlands? There is none, and without it, you may not be around, but this community could well suffer the same fate as the bluffs in South Dana Point and San Clemente, in the future. 45-2 AMEC

TRAFFIC: Figure 4.7.1 and through the report/plans emphatically indicate that Green Lantern and Cove Road CANNOT handle the anticipated traffic to transit from PCH to reach a hotel, spa, restaurant, shops, (2) 2000 sq. ft. meeting and exhibition buildings and ancillary buildings and parkland. 45-3

HOTEL: Sec.#3.3.1, and throughout the Plan. WE DO NOT NEED A sixty five (65) key hotel, plus spa, restaurants, shops and other tourist amenities at the corner of Scenic Drive and Green Lantern. Given the horrendous impact of traffic, foot and driving, not to mention the negative effect on the residents, this location is not conducive to having another BOMB built in our midst! 45-4

COMMERCIAL: (SEE N.O.P.), and, again, throughout the Report and PlanInstalling a traffic signal at the crest of the hill before Green Lantern, and placing the facility entrance at the corner of Green Lantern and PCH, all contibute to creating a safety hazard, due to the fact that, [as all of you know] one cannot adequatly see oncoming traffic, which is one of the major reasons Green Lantern is presently closed to north bound traffic, prior to reaching PCH. 45-5

RELINQUISHMENT OF EASEMENT AND LAND RIGHTS : (SEE DRAWINGS) The City of Dana Point gives up these rights to the benefit of the developer! Another sad commentary on the unconscionable behavior and attitudes of theCouncil: NOT THOUGHT OF TAKING SIGNIFICANT PORTIONS OF EXISTING RESIDENTIAL PROPERTY, IN ORDER TO WIDEN THE ROAD, AND SATISFY THE CONTINUING SELFISH WHIMS OF [SOME] COUNCIL MEMBERS!! 45-6

Sincerely,

LSA

LSA ASSOCIATES, INC.
ONE PARK PLAZA, SUITE 500
IRVINE, CALIFORNIA 92614-5987

949.553.0666 TEL
949.553.8076 FAX

FAX TRANSMITTAL

NAME: Scott Kerwin
FIRM:
FAX NUMBER: 714 779-8377

DATE: 11/28
PROJECT NUMBER: HLR 130
PROJECT NAME: Headlands

FROM: Steve Koss
SENT BY:

NUMBER OF PAGES INCLUDING COVER: 3
CC:

☒ URGENT
☐ AT YOUR REQUEST
☐ FOR YOUR INFORMATION
☒ FOR YOUR REVIEW
☐ FOR YOUR APPROVAL
☐ HARD COPY TO FOLLOW
☐ OTHER

COMMENTS:

Scott,
I came across another geotech issue in the letter from Jeff Segall (#33). Some of the issues are the same as the others you addressed in other responses. However, I'd like you to specifically respond to comments 33-14 & 33-15 which refer to info in the previous City EIR. For comment 33-14, I suggest just referring to the letter you've already prepared. Sorry for the late notice - we passed over this geotech comment in our initial review

C) Cumulative Impacts

The 2001 DEIR refers to an approved development for 3 houses on the former Bade property. This appears to be based on out-of-date information. It is my understanding that the development permits for that project lapsed some time ago. 11 33-12

Additional comments applicable to Terrestrial Biological Resources are made below in reference to the Alternatives analysis of the 2001 DEIR. 12 33-13

4.5 Geology and Soils

A) Landslide Hazards

The 2001 DEIR neither mentions nor analyzes the 1981 slope failure underneath Cannon's Restaurant. This landslide slope failure is significant for the proposed project. It was a large slope failure immediately adjacent to the Headlands property that resulted in a disabling closure of Cove Road for many months, reopening only after considerable investment of public funds and the construction of the present unsightly retaining wall. Cove Road would be a key access route to all of the proposed public amenities in the proposed project.

Part of the Street of the Green Lantern, the only other access to this region of the proposed project, as well as existing residential housing and VC/R uses, runs right along the bluff edge above Cove Road, close to the Cannon's bluff failure. A slope failure in this area could close both Green Lantern and Cove Road, completely isolating from traffic and emergency services the proposed VC/R hotel/restaurant, cultural arts center and other proposed public amenities, as well as existing residential and commercial uses dependent on those streets. This would have a crucial, significant impact. The bluff failed in this area before and such a recurrence is reasonably foreseeable. 14 33-15

The 2001 DEIR recommends a 50-foot setback in the Harbor Point Area unless "*specific design*" measures are taken (Page 4.5-18). Presumably, this would include the proposed Cultural/Arts Center, which appears to be very close to the California Coastal Commission's mandated 25-foot setback. The plan also calls for the realignment of Scenic Drive much closer to the bluff edge than the current alignment of this public-right-of-way. It appears that this realignment of Scenic Drive would move it right up to the 50-foot setback recommended here.

The 1999 FEIR recommended a 200-foot structural setback in this area as seen in Figure 1 of this letter. Among the pieces of evidence cited to support this larger setback include: 15 33-16

AMEC

a) the over 100 feet of lateral sea cliff/bluff retreat along the south-, southwest- and west-facing bluffs during two major storm events in 1938 and 1941 (Zeiser Geotechnical, 1990),

b) the near vertical bluff faces near the Harbor breakwall with active wave scour at the toe of

33

the bluff (see Figure 4.2-8 of the 199 FEIR), and

c) The geotechnical report (Petra, 1997) documenting 25 feet of bluff top retreat between 1947 and 1997 at a residence in the southern enclave (see page 2-25 of Volume 3, 1999 FEIR).

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AMEC

Note that the southern enclave in the context of the 1999 FEIR, as well as for this comment letter, refers to the existing single family residential area along Scenic Drive.

With either the large episodic bluff failures noted in the Zeiser report or with the more steady ~1 ft/year bluff retreat documented in the Petra report, it is obvious that the public-right-of-way, if relocated as proposed, is likely to be at risk in about 50 years. The proposed cultural facility would be at risk even sooner, which would result in an unacceptable safety hazard.

Interestingly, some supporting evidence for more extensive setback requirements appears within the 2001 DEIR itself. Figure 4.9.9, Open Space for Public Health and Safety shows all of the area contained within the two residential enclaves along Dana Strand Road and Scenic Drive as erosion/flood hazard areas. For the southern residential enclave along Scenic Drive, this would imply a bluff setback requirement of 150-200 feet, the distance from the bluff edge to the property lines in that area. For the western enclave along Dana Strand Road, the distance from the bluff edge to the property lines is approximately 100 feet.

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AMEC

Curiously, Figure 4.9.9 shows that on either side of both residential enclaves that the zone of erosion constraints becomes much narrower. This dramatic change appears right at the property lines that separate the residential enclaves and the landowner/developer's land. The rationale for this sudden discontinuity in geologic hazards is unclear. This situation is even more puzzling in light of the evidence shown in the 1999 FEIR documenting the greater relative stability of bluff at the southern enclave compared to the bluff farther to the east, closer to the harbor breakwall (see pages 4.2a-6, Figures 4.2-7 and 4.2-8 of the 1999 FEIR). The less stable bluffs near the breakwall are in the region Harbor Point park area, Cultural Arts facility and the areas where public-right-of-way are relocated closer to the bluff edge. The apparent contradiction between the wide areas for the residential enclaves and the dramatically narrower strip claimed by the developer needs to be addressed.

4.9 Land Use

A) Land use conflicts

The 2001 DEIR fails to acknowledge land use conflicts between VC/R and residential uses in the Headlands development plan.

The City of Dana Point's General Plan states:

33-18

Land Use Element Compatibility and Enhancement Among Land Uses, Policy 2.2:
"Visitor serving commercial uses shall not intrude into existing residential communities. (Coastal Act/30250)"

HEADLANDS RESERVE LLC

December 7, 2001

Chairman Scott Schoeffel
Planning Commissioners
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Re: Headlands Planning Commission Hearing, December 5, 2001

Dear Chairman Schoeffel:

There were a couple of issues raised in the referenced hearing regarding the proposed Maritime Historical Center, which will be constructed to replicate an early California lighthouse.

The first issue was that the lighthouse would serve no functional purpose. In fact, we have had several discussions with the U.S. Coast Guard regarding the lighthouse serving as a "private aid to navigation." Once this designation is established, the lighthouse will be shown on official navigational charts.

Second was the issue of a light beacon shining back into the residences on Green Lantern. This will not occur. The light would be directed east towards the Harbor and west towards the Pacific Ocean only. The light will be designed to serve its purpose as the private aid to navigation for boats offshore, and not to create light spillage to areas onshore, including habitat areas nearby.

Please let us know if we can provide additional information.

Sincerely,

HEADLANDS RESERVE LLC

Kevin Darnall /ob

W. Kevin Darnall

cc: Ed Knight
Peter Vanek

24849 Del Prado ■ Dana Point, California 92629 ■ 949-488-8800 ■ 949-488-8808 Fax
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FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

CANDIDATE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR HEADLANDS DEVELOPMENT AND CONSERVATION PLAN DANA POINT, CALIFORNIA

STATE CLEARINGHOUSE NO. 2001071015

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1. INTRODUCTION

1.1 Findings of Fact and Statement of Overriding Considerations

CEQA requires that the environmental impacts of a project be examined before a project is approved. Specifically, regarding findings, CEQA Guidelines Section 15091 provides:

(a) No public agency shall approve or carry out a project for which an EIR has been completed which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects on the environment.

2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can or should be, adopted by that other agency.

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

Regarding a Statement of Overriding Considerations, CEQA Guidelines Section 15093 provides that "CEQA requires the decisionmaker to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.'"

Having received, reviewed and considered the Final Environmental Impact Report for Headlands Development and Conservation Plan, SCH No. 2001071015 ("FEIR"), as well as all other information in the record of proceedings on this matter, the following Findings and Statement of Overriding Considerations Regarding the Final Environmental Impact Report for Headlands Development and Conservation Plan ("Findings") are hereby adopted by the City of Dana Point ("City") in its capacity as CEQA Lead Agency. These Findings set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the Headlands Development and Conservation Plan ("HDCP"). These actions are collectively referred to herein as the Project.

1.2 Legal Effect of Findings

To the extent that these Findings conclude that various proposed Project Design Features ("PDF"), Project Conditions ("PC"), and mitigation measures outlined in the FEIR are feasible and have not been modified, superseded or withdrawn, the City hereby binds itself to implement these PDFs, PCs and mitigation measures. These Findings constitute a binding set of obligations that will come into effect when City decisionmakers formally approve the Project. The PDFs, PCs, and mitigation measures are referenced in the Mitigation Monitoring and Reporting

Program ("MMRP") adopted concurrently with these Findings, and will be effectuated through the process of constructing and implementing the Project.

1.3 Document Format

These Findings have been organized into the following sections:

(1) Section 1 provides an introduction to these Findings.

(2) Section 2 provides a summary of the Project and overview of other discretionary actions required for the Project, and a statement of Project objectives.

(3) Section 3 provides a summary of those activities that have preceded the consideration of the Findings for the Project as part of the environmental review process, and a summary of public participation in the environmental review for the Project.

(4) Section 4 sets forth findings regarding those environmental impacts identified in the Initial Study and Notice of Preparation ("NOP") which were determined not to be relevant to the Project or which were determined to clearly not manifest at levels that were determined to be significant for consideration at the project-specific level.

(5) Section 5 sets forth findings regarding those potentially significant environmental impacts identified in the FEIR which the City has determined to be less than significant with the implementation of PDFs and/or PC included in the Project's MMRP.

(6) Section 6 sets forth findings regarding those significant or potentially significant environmental impacts identified in the FEIR which the City has determined can feasibly be mitigated to a less than significant level through the imposition of mitigation measures included in the Project's MMRP.

(7) Section 7 sets forth findings regarding those significant environmental impacts identified in the FEIR which will or which may result from the Project and which the City has determined cannot feasibly be mitigated to a less than significant level.

(8) Section 8 sets forth findings regarding growth inducement impacts.

(9) Section 9 sets forth findings regarding alternatives to the Project.

(10) Section 10 sets forth findings regarding the Project's MMRP.

(11) Section 11 sets forth other relevant findings adopted by the City with respect to the Project.

(12) Section 12 consists of a Statement of Overriding Considerations, which sets forth the City's reasons for finding that specific economic, legal, social, technological, and other considerations associated with the Project outweigh the Project's potential unavoidable environmental effects.

The Findings set forth in each section herein are supported by findings and facts identified in the administrative record of the Project.

1.4 Custodian and Location of Records

The documents and other materials which constitute the administrative record for the City's actions regarding the Project are located at City of Dana Point City Hall, 33282 Golden Lantern, Dana Point, California 92629. The City is the custodian of the administrative record for the Project.

2. PROJECT SUMMARY

2.1 Project Location

The Project site is located at Pacific Coast Highway ("PCH") and Street of the Green Lantern, in the west-central portion of the City, in the County of Orange. The Project site is bounded by: the Pacific Ocean, including the Dana Point Marine Life Refuge and the Niguel Marine Life Refuge, to the west and south; Breaker Isle, Niguel Terrace, Niguel Shores, and Chelsea Point residential areas and County owned Strand Beach parking lot to the north and northeast; and PCH and visitor serving commercial uses, such as the office building on Selva Road and Blue Lantern Plaza, and the Cannons and Chart House restaurants, to the east and southeast. Regional access to the vicinity of the Project site is provided by Interstate 5 ("I-5") to the southeast, the San Joaquin Hills Transportation Corridor ("State Route 73" or "SR-73") to the northeast, and PCH adjacent to the eastern boundary of the Project site. Local access to the Project site is provided via Selva Road to the northeast, Street of the Green Lantern to the southeast, Cove Road to the south, and PCH to the east.

The Project site is situated in an area of the City with urban development that ranges from residential development at densities of 5 to 22 dwelling units per acre to commercial and visitor/recreation commercial land uses typical of those associated with PCH and the Street of the Green Lantern. The majority of the Project site overlooks the Pacific Ocean, with areas in the eastern portion overlooking Dana Point Harbor. The Project site surrounds two existing residential enclaves on which several Tract Maps were recorded in the early 1920s that dedicated street easements and created lots of varying sizes. Over the years, several of these lots were sold and developed. These enclaves are encompassed by and take access through the Project site but are not part of the Project.

The 121.3-acre Project site includes: (i) a coastal promontory (Dana Point) that forms a series of bluffs, and an adjacent series of sloping terraces that descend to the ocean; (ii) a sandy beach area; and (iii) a hilltop that overlooks the coast. These site features form three distinct planning areas: the Headlands Promontory Area; the Strand Beach Area; and the PCH/Hilltop Area.

The Headlands Promontory Area is the most southern portion of the Project site, consisting of steep coastal bluffs and the gently sloping plateau above the ocean. This area is completely

fenced and inaccessible to the public. The bluffs are visible for several miles up and down the coast.

The Strand Beach Area of the Project site consists of a sandy beach surrounded by terraced slopes. The Strand Beach Area was formerly developed as a 90-lot mobile home park, which closed in 1988. This fenced area is in a degraded condition with abandoned buildings; parking lots; asphalt streets; structural pads; walls; and septic, water, and storm drainage facilities. Beginning in the 1950s, a riprap revetment was installed along the edge of the former mobile home park adjacent to the beach to protect slopes and improvements in this area from coastal erosion. The Strand Beach Area is fenced on all four sides and, except for the actual sandy beach, is not accessible to the public.

The PCH/Hilltop Area is located in the northeast portion of the site. This area is surrounded by urban development and directly fronts PCH. This portion of the Project site is currently occupied by commercial storage facilities and contains structures that were formerly used for horticultural operations. This area contains a hilltop that, at 288 feet above mean sea level, is the highest elevation on the Project site and provides a 360-degree view of the Pacific Ocean and the City. Approximately two thirds of this area is fenced and inaccessible to the public.

2.2 Project Description

The Project provides for the orderly development and conservation of resources on the Project site. The Project responds to the physical characteristics of the Project site and establishes public and private development opportunities.

The proposed Land Use Plan for the Project emphasizes coastal access and public safety; the conservation of natural resources; the provision of public parks, open space, and recreational opportunities; and the development of high quality visitor recreational facilities, visitor commercial, and residential uses. The proposed development is separated into four basic land use types: (1) recreation open space; (2) conservation open space; (3) visitor/recreation commercial; and (4) residential. The Land Use Plan provides for the development of 125 single family residential lots; a maximum 4.4 acres of Visitor/Recreational Commercial ("V/RC") land uses comprised of a 65-room inn on 2.8 acres and a 1.5 V/RC site adjacent to PCH; 30.3 acres of Conservation Open Space ("CON/OS") that have public safety constraints, environmental resources, and/or scenic value, and 31.7 acres of Recreation Open Space ("REC/OS") that include a trail system, public parks, a public beach, and a series of public recreational visitor facilities. On-site circulation and parking are provided for these uses. Vehicular access will occur through a new intersection at PCH, an extension at Selva Road, and extension of Cove Road and Street of the Green Lantern.

2.3 Discretionary Actions

Project implementation may include, but is not limited to, the following discretionary actions by the City and Responsible Agencies having jurisdiction by law upon the Project site and/or the resources contained thereon:

(1) Certification of the FEIR;

(2) Adoption of the MMRP;

(3) Approval of an Amendment to the City General Plan (GPA 01-02);

(4) Approval of an Amendment to the Zoning Code and Zoning Map (ZTA 01-02/ZC 01-01);

(5) Approval of a Planned Development District (PDD 01-01);

(6) Approval of an Amendment to the Dana Point Local Coastal Program (LCPA 01-02);

(7) Approval of a Development Agreement (DA 01-01);

(8) Additional permits and approvals, including but not limited to the following:

(a) tentative tract maps and/or parcel maps;

(b) Master Coastal Development Permit and Coastal Development Permits;

(c) Public Finance District;

(d) Master Site Development Permit and Site Development Permits;

(e) street vacations;

(f) grading permits, building permits and street work permits;

(g) NPDES compliance review; and

(h) other ministerial permits/approvals and compliance reviews or inspections required for the Project;

2.4 Record of Proceedings

For purposes of CEQA and these Findings, the Record of Proceedings for the Project consists of the following documents and other evidence, at a minimum:

(1) The NOP and all other public notices issued by the City in conjunction with the Project;

(2) The Draft Environmental Impact Report;

(3) The FEIR;

(4) All comments submitted by agencies or members of the public during the public comment period on the FEIR and during the public review comment period for the FEIR;

(5) All comments and correspondence submitted to the City with respect to the Project, in addition to timely comments on the FEIR;

(6) The MMRP;

(7) All findings and resolutions adopted by the City's decisionmakers in connection with the Project, and all documents cited or referred to therein;

(8) All final reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the City, consultants to the City, or responsible or trustee agencies, with respect to the City's compliance with the requirements of CEQA and with respect to the City's actions on the Project;

(9) Documents submitted to the City by other public agencies or members of the public in connection with the Project, up through the close of the public hearing;

(10) Minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the Project;

(11) Any documentary or other evidence submitted to the City at such information sessions, public meetings, and public hearings;

(12) Matters of common knowledge to the City, including, but not limited to federal, state, and local laws and regulations; and

(13) Any documents expressly cited in these Findings, in addition to those cited above; and

(14) Any other materials required to be in the record of proceedings by Section 21167.6 (e) of CEQA.

2.5 Statement of Objectives

The specific objectives associated with the Project are as follows:

2.5.1 General Objectives

(1) To be consistent with the goals, policies, and objectives of the City's General Plan, as proposed to be amended.

(2) To implement the plans, policies, and programs of Section 4.0, Development Guidelines.

(3) To be consistent with the goals, policies, and objectives of the California Coastal Act through the implementation of the Dana Point Local Coastal Program, as amended to include the HDCP.

2.5.2 Conservation Objectives

(1) To establish significant public open space, parks, and trails.

(2) To establish, preserve, and protect coastal access and recreation.

(3) To conserve significant natural resources consistent with the Natural Community Conservation Plan/Habitat Conservation Plan.

(4) To mitigate drainage impacts to marine environments adjoining the Project site, including Dana Point Harbor.

(5) To regulate landform alteration to reduce adverse aesthetic impacts.

(6) To create and preserve public coastal access and view opportunities.

2.5.3 Development Objectives

(1) To increase public coastal access through an integrated design of parks, open space, trails, and visitor facilities.

(2) To construct public visitor educational facilities that encourage public access and recreational improvements that enhance the open space and coastal experience. The facilities shall create a series of cultural, historical, conservation, and natural interpretive programs.

(3) To provide public trails and greenbelts to link and buffer different land uses.

(4) To ensure adequate vehicle access and circulation, while minimizing traffic impacts to adjacent residential areas.

(5) To provide high quality visitor/recreation commercial and residential land uses.

(6) To increase the acreage devoted to public open space, parks, and sensitive natural resources by designing development areas that incorporate ocean views.

(7) To provide for the early delivery and construction of public facilities as provided for in the HDCP and the Development Agreement.

(8) To create a positive fiscal impact to City revenues.

3. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

On June 29, 2001, a NOP was distributed by the City for the Project. The State of California Clearinghouse issued a project number for the Headlands Development and Conservation Plan EIR, SCH No. 2001071015.

In accordance with CEQA Guidelines Section 15082, the NOP was circulated to interested agencies, groups, and individuals for a period of 30 days, during which comments were solicited and received, pertaining to environmental issues/topics that the Draft EIR should evaluate.

The City held an advertised public scoping meeting on July 25, 2001 to review the proposed Project and to solicit input from interested individuals regarding Project issues that should be addressed in the Draft EIR. In addition, the City held a second scoping meeting for public agencies on July 25, 2001. Caltrans and the County of Orange participated in this scoping meeting. The major issues and concerns raised at the scoping meetings included: (1) traffic impacts from the proposed development on PCH and surrounding residential neighborhood streets including the Regatta neighborhood; (2) visual effects on adjoining neighborhoods; (3) parks and beach access effects and Americans with Disabilities Act compliance; (4) traffic management during construction; (5) coordination with Caltrans regarding proposed PCH signal and other improvements required as mitigation; (6) open space and beach easements; (7) storm water drainage effects on Dana Point Harbor; and (8) publicly accessed trails, open space, and visitor amenity issues.

On October 5, 2001 the Draft EIR was circulated for public review, as required under CEQA Guidelines Sections 15105 and 15087. During this review period, interested agencies, groups and members of the public were invited to submit written comments on the Draft EIR. The 45-day public review of the Draft EIR concluded on November 19, 2001.

All written comments received by the City during the public review period were assembled and included in the FEIR. Written responses to these comments which raised issues regarding the Project and its potential environmental effects are incorporated therein. In addition to responding to the comment letters received, the City prepared a Volume III: Responses to Comments, Errata and Additional Information to the FEIR (Errata) to clarify, refine and provide supplemental information for the Draft EIR.

The Planning Commission held a duly noticed public hearing to consider certification of the FEIR and approval of the Project on December 5, 2001. A staff report was presented to the Planning Commission explaining the various components of the Project. Following the staff's report, the Planning Commission opened the public hearing and took testimony from 41 citizens and from the applicant. Subsequent to that public testimony, the Planning Commission closed the public hearing and continued the consideration of the Project to a further Planning Commission on December 12, 2001 for further deliberation. Following the Planning Commission's review, the Planning Commission formulated its recommendations regarding the Project and its accompanying CEQA documentation, and forwarded those recommendations to the City Council for consideration. Those recommendations included recommending: (i) City Council certification of the FEIR and adoption of the MMRP and these Findings, and (ii) City Council approval of the General Plan Amendment; Zone Text Amendment and Zone Change; Planned Development District and related Development Guidelines; and Development Agreement.

The City Council held a noticed public hearing to consider certification of the FEIR and approval of the Project on January __, 2002. Subsequent to public testimony, the City Council closed

public hearing and continued the consideration of the Project to a further City Council hearing on January __, 2002. At that hearing, the City again considered the recommendations of the Planning Commission, the information presented in the FEIR, including the Errata, and the record for the Project, and public comments and testimony received at the hearing.

4. FINDINGS REGARDING ENVIRONMENTAL IMPACTS DETERMINED NOT TO BE SIGNIFICANT BASED UPON THE INITIAL STUDY AND NOP

Based on the Project's Initial Study and responses to the Project's NOP, the following environmental issues were determined by the City to be either inapplicable to the Project based upon the nature of the Project and/or the absence of any potential impact upon that issue or because the issue was potentially impacted to a degree determined to be less than significant and, therefore, not warranting further consideration in the FEIR. In addition, during preparation of the Draft EIR, the following environmental issues were determined to have no potentially significant cumulative impact and therefore to not warrant further consideration in the FEIR: Aesthetics, Hydrology, Water Quality, Land Use, Public Services, Recreation, and Coastal Processes. No substantial evidence has been presented to or identified by the City which would modify or otherwise alter the City's less than significant determination for each of the following environmental issues: (1) Agricultural Resources (direct and cumulative); (2) Mineral Resources (direct and cumulative); (3) Population and Housing (direct and cumulative); (4) Aesthetics (cumulative); (5) Hazardous Materials (cumulative); (6) Hydrology (cumulative); (7) Water Quality (cumulative); (8) Land Use (cumulative); (9) Public Services (cumulative); (10) Recreation (cumulative) and (11) Coastal Processes (cumulative).

5. FINDINGS REGARDING POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS ANALYZED IN THE FEIR AND DETERMINED TO BE LESS THAN SIGNIFICANT

The City finds, based upon the analysis presented in Section 4.0 of the FEIR, that the following environmental effects of the Project will not manifest at levels which have been determined by the City to be significant after the PDFs and/or PCs are incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to a less than significant level.

5.1 Aesthetics

5.1.1 Less Than Significant Impact: Visual Changes. Project development activities potentially could have effects on the visual character or quality of the site and its surroundings. Changes will result from removal of existing vegetation. The Seaside Inn and Upper Headlands Neighborhood will be visible in the view to the northwest from the Dana Point Harbor Bridge toward the south project boundary and in the view northwest from the City Heritage Park. The two-story buildings and associated landscaping in the PCH Visitor/Recreation Commercial center is visible in the middle ground views to the west from the intersection of PCH and Street of the Green Lantern. The view from PCH looking to the north, which includes a partial blue water view of the ocean, would be altered slightly by a reduction in the view of the ocean and by the introduction of ornamental landscaping and the proposed single-family residential homes

within the adjoining Upper Headlands Residential Neighborhood. Views of the Project site from the privately owned Hilltop Area and west toward the Pacific Ocean will be slightly altered in the middle ground because of removal of buildings associated with horticultural uses and on-site vegetation.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The proposed Project will primarily impact approximately 56.8 acres of the 121.3-acre site which are planned for commercial and residential development. No structural development will take place in those areas designated as conservation/open space. Changes from removing existing vegetation are not significant because the landscaping will be replaced with a master planned planting program providing themed neighborhood character. The proposed guidelines in Chapter 4.0 of the HDCP (see PDFs 1-1 and 1-2) ensure that visual and scenic quality of the coastal area will be improved and the visual character of the surrounding public areas will be improved. Because the proposed homes closest to the beach will be about 40 vertical feet above mean sea level ("msl") and inland 120-220 feet horizontally from the mean high tide, the height and distance from Strand Beach will mean that the proposed Strand Neighborhood will not significantly affect the visual experience from Strand Beach. The Project site is distant enough from the view to the northwest from the Dana Point Harbor Bridge toward the south project boundary and from the view northwest from the City Heritage Park that the minimal visible change to the horizon view with the addition of the Seaside Inn and the Upper Headlands Neighborhood, and the overall view of the Project site from that view, will not be significant. The PCH Visitor/Recreation Commercial center buildings are similar in size and scale to the existing adjacent commercial uses along PCH and Street of the Golden Lantern and thus will not significantly impact views to the west from the intersection of PCH and Street of the Green Lantern. The partial blue ocean view from PCH to the north that would be slightly altered by the Project would not be significant because southbound vehicles on PCH do not have a direct view of the ocean; rather, vehicle occupants must turn their heads 60 to 90 degrees to view the ocean and, as a result, the view opportunity is limited to a glimpse of the ocean horizon. The view is not visible to northbound vehicles on PCH because of a change in elevation. Moreover, this view is not identified as a view corridor in the adopted Dana Point Local Coastal Program. Given the limited existing and post-project view opportunity from this location, the reduction in view from PCH vehicles is not significant. Slight alterations to views from the Hilltop Area and extending west to the ocean are not significant because the views to the ocean and the horizon are not affected from this vantage point. In sum, development of the Project consistent with the HDCP will enhance the existing visual quality of the Project site. The site-specific Development Guidelines tailored to the Project and site characteristics complement the General Plan policies for the Project site, provide a greater level of detail and refinement than otherwise would be available under the existing General Plan and therefore provide enhanced visual access for the public from numerous locations within the site.

Existing views from private properties are not protected under a City ordinance and under CEQA, therefore restrictions on development for the sole purpose of protecting private views is not required, and can be re-analyzed at the time a Coastal Development Permit is considered by the City for the Project.

The following PDFs and PCs, which are set forth on pages 4.1-5 through 4.1-8 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 1-1; PDF 1-2; PC 1-1; and PC 1-2. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.1.4.1.

5.1.2 Less Than Significant Impact: Removal of Existing Vegetation and Proposed Vegetation. Project development proposes site clearing, demolition of existing structures, and grading over the Project's development areas.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The existing ornamental landscaping throughout the Project site has limited aesthetic value because it is not planned or coordinated, is overgrown, and inhibits ocean and horizon views in many areas. The existing overgrown and unkempt plantings will be removed and replaced with plantings organized according to the HDCP Guidelines (Section 4.0). Adherence to concepts proposed in the Development Guidelines (PDF 1-1) will ensure that the proposed site will be landscaped with materials and design character that enhance site aesthetics by maximizing coastal views, maintaining appropriate scale, creating visual buffers and transitions between land uses, using native and drought tolerant plant materials, and creating pedestrian-friendly environments. Replacing the existing vegetation with the proposed development will, when analyzed in the aggregate, enhance visual access for the public from numerous locations within the site.

The following PDFs and PCs, which are set forth on pages 4.1-5 through 4.1-8 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 1-1; PDF 1-2; PC 1-1; and PC 1-2. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.1.4.1.

5.1.3 Less Than Significant Impact: Light and Glare. Implementation of the proposed Project is expected to result in increases in light and glare intensities when compared with the existing horticultural uses and former mobile home uses on the Project site. The proposed uses will create lighting associated with development such as street lighting, security lighting, and lighting from vehicles traveling within the Project area. In addition, without height limits shadows could encroach on public views.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The HDCP Development Guidelines include lighting development guidelines for specific areas of the HDCP. Specifically, at the parking areas for the Seaside Inn and the PCH/Visitor Recreation Commercial lighting shall be kept to a minimum to maintain safety and accessibility. Where feasible, all lighting standards shall be of a pedestrian scale. At the Upper Headland and Strand residential areas lighting shall be concealed and directed onto plant or architectural features. In addition, proposed landscaping within the proposed Project will shield most of the proposed light sources; as a result, those light sources will not create a substantial amount of light and glare viewable from the public access view points or scenic vistas. The proposed landscaping will be planted according to HDCP guidelines (PDF 1-2), and will include shrubs and trees of various sizes and maturity that, after the first and second years, will be sized sufficiently to screen the lighting sources. In addition to the landscape screening, all security, outside structure, public access lighting, and street lighting will be shielded and light will be directed toward the ground, as specified by HDCP standards, Section 4.12, Design Guidelines. The HDCP identifies maximum building heights to limit the encroachment of public views that otherwise could result from shadow encroachment.

Adherence to concepts proposed in the HDCP Development and Design Guidelines will ensure that the Project site will be landscaped with materials and design character that reduce potential impacts from light and glare intensities to a less than significant level.

The following PDFs and PCs, which are set forth on pages 4.1-5 through 4.1-8 of the FEIR and incorporated by reference herein, were in place when evaluating the Project characteristics and potential environmental impacts: PDF 1-1; PDF 1-2; PC 1-1; and PC 1-2. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance; therefore, no mitigation is required.

Reference: FEIR § 4.1.4.1.

5.2 Air Quality

5.2.1 Less Than Significant Impact: Long-Term Microscale Projections. The Project will add vehicular trips to future traffic volumes that will contribute to congestion at intersections and roadway segments in the Project vicinity. carbon monoxide ("CO") is a direct function of vehicle idling time caused by impaired traffic flow conditions.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Although existing CO concentrations in the immediate Project vicinity were not available, ambient CO levels monitored at the Saddleback Valley Station, the closest area with monitored CO data, have reported the highest recorded one hour concentration of 6.0 ppm (state standard is 20 ppm) and eight hour concentration of 4.0 ppm (state standard is 9 ppm) during the past five years. Actual background CO concentrations in the Project vicinity would likely be lower than concentrations at the Saddleback Valley Station because the Project is further from the urbanized Orange County area, thus the Saddleback Valley Station figures give a conservative basis for the analysis.

Because the highest CO concentrations occur during peak traffic hours, CO impacts calculated under peak traffic conditions represent a worst-case analysis. Modeling of the CO hot spot analysis was based on projected build out year afternoon peak hour traffic levels generated in the Project area with and without the Project as well as traffic volumes for the peak summer season. The FEIR modeling identified localized concentrations of CO, or "hot spots," using the California Air Resources Board ("CARB") approved CALINE4 air quality model, which allows microscale CO concentrations to be estimated along roadway corridors or near intersections. The analysis was performed for the worst-case wind angle and wind speed condition. For conservative purposes, the existing CO background concentrations were used for future years in the Project area. Neither the monitored nor the projected ambient one-hour CO concentrations in the Project area nor the monitored and projected eight-hour CO concentrations at the Saddleback Valley Station exceed federal or state one-hour CO standards.

As shown on Tables 4.2.D and 4.2.E of the FEIR, the projected one-hour CO concentration near all ten intersections analyzed ranges from 7.1 to 8.3 ppm or, for the summer peak, 7.2 to 8.5 ppm -- much lower than the federal CO standard or the stricter 20 ppm state CO standards. The eight-hour CO concentration ranges from 4.3 to 5.1 ppm, or, for the summer peak, from 4.3 to 5.3 ppm -- also much lower than the federal standard or the stricter 9.0-ppm state standard. Tables 4.2.D and 4.2.E also show that the Project traffic would add up to 0.1 ppm to the one hour and the eight hour CO concentrations, even at peak summer conditions. At many receptor locations, the Project would not cause any measurable change in the CO concentrations. These de minimus changes in CO concentrations are considered less than significant. Moreover, because no

CO hotspots were identified, no nearby sensitive receptors would be affected by Project-related local air quality impacts.

The following PDFs and PCs, which are set forth on pages 4.2-11 through 4.2-12 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 2-1; PDF 2-2; PC 2-1; and PC 2-2; PC 2-3; and PC 2-4. Based on the FEIR's analysis, adherence to these PDFs and PCs ensures that this potential impact will not be significant and, therefore, no mitigation is required.

Reference: FEIR § 4.2.4.1.

5.2.2 Less Than Significant Impact: Air Quality Management Plan. The Air Quality Management Plan ("AQMP") is based on projections from local General Plans. Because this Project amends the General Plan on which the AQMP is partially based, there is a potential for inconsistency with the AQMP.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: One criteria for consistency is comparing the estimated current population of the city in which the Project is located with the applicable population forecast in the AQMP. If the estimated current population does not exceed the forecast, a Project's indirect emissions are deemed to be consistent with the AQMP.

The General Plan designates the site for 261 to 522 homes and 12.5 acres of V/RC. The proposed Project will not directly or indirectly induce substantial growth in the area. The proposed Project will include new homes. There were 14,910 households in the City in 1998, thus the proposed 125 residential lots are less than 1 percent of the existing households and therefore not considered substantial direct growth. As an in-fill development the Project does not extend new services to an area of the City not already served, thus will not create indirect growth. In addition, the Project's overall contribution to growth and emissions in the City, County, and air basin is less than has been assumed in growth projections, because the Project is building out only one-half the number of residences currently allowed in the General Plan and thus in the growth projections.

The proposed Project will include new businesses located in two V/RC areas. The PCH V/RC area will allow approximately 40,000 square feet of V/RC development. The V/RC area will allow the development of a 65 room Seaside Inn with up to 110,750 square feet of floor area. The businesses that will occupy this space do not represent substantial direct new growth nor will they be anticipated to create indirect growth in the City due to the small size of the new businesses and the limited number of new employees that would potentially be hired for these businesses.

The Project is an "in-fill" parcel within an existing developed community. No significant population growth impact would occur as a result of the proposed Project, therefore no mitigation is necessary. The increase in population is well within the City's and the Southern California Association of Governments ("SCAG")'s projections for the area. In addition, the results of the CO hot spot analysis discussed above show that no violation of the federal and State CO standards would occur as a result of the proposed Project. Therefore, the proposed Project is considered to be consistent with the AQMP.

The following PDFs and PCs, which are set forth on pages 4.2-11 through 4.2-12 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 2-1; PDF 2-2; PC 2-1; and PC 2-2; PC 2-3; and PC 2-4. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.2.4.1.

5.2.3 Less Than Significant Impact: Asbestos Removal. Several on-site buildings/structures have asbestos-containing materials which could be released during demolition activities.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Demolition of the buildings/structures with asbestos-containing materials requires permits from the South Coast Air Quality Management District ("SCAQMD"). SCAQMD Rule 1403, Asbestos Emissions From Demolition/Renovation Activities, will be followed during the demolition process should asbestos be determined to be present, requiring the contractor to obtain a demolition permit from SCAQMD within ten days prior to the demolition of any asbestos containing buildings/structures. Adherence to PC 2-3 will ensure that potential asbestos impacts would be adequately addressed during demolition activities conducted at the Project site. Compliance with the SCAQMD Rule 1403 is considered by the SCAQMD to lessen the emissions to a level of insignificance.

The following PDFs and PCs, which are set forth on pages 4.2-11 through 4.2-12 of the FEIR and incorporated by reference herein, were assumed to be in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 2-1; PDF 2-2; PC 2-1; and PC 2-2; PC 2-3; and PC 2-4. Based on the FEIR's analysis, adherence to these PDFs and PCs ensures that this potential impact will not be significant, thus no mitigation is required.

Reference: FEIR § 4.2.4.1.

5.3 Terrestrial Biological Resources

5.3.1 Less Than Significant Impact: Direct Impacts to Sensitive Wildlife Species. The proposed Project will directly impact 79.2 acres (65 percent) of the Project site, resulting in the loss of approximately 28.7 acres of sensitive vegetation communities that provide habitat for several sensitive wildlife species. Five of the 8 current or historic gnatcatcher territories would be directly affected by the development of the Project site, as would historical cactus wren locations and potentially to the PPM ("PPM") population.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Natural Community Conservation Planning effort was established by California law under the Natural Communities Conservation Planning Act ("NCCP Act"), to provide for regional protection and perpetuation of natural wildlife diversity while allowing compatible and appropriate development and growth. The NCCP Act intends that these goals be achieved through the implementation of Natural Community Conservation Plans/Habitat Conservation Plans ("NCCP/HCP"), designed to provide an alternative to current single species and individual project-by-project conservation efforts by formulating regional, natural community-based habitat protection programs to protect the numerous species inhabiting the targeted natural communities.

The County of Orange, along with the state and federal wildlife resource agencies, other State and local jurisdictions, utility companies, the University of California, the Transportation Corridor Agency, and major private landowners including the Headlands property owners, prepared a multi-habitat based subregional NCCP/HCP Program for the Central/Coastal Orange County Subregion to ensure the long-term survival of the coastal California gnatcatcher and other sensitive CSS-dependent plant and animal species in accordance with state-sanctioned NCCP/HCP Program guidelines. This plan, which includes the Project site, was approved July 10, 1996. The NCCP/HCP Program anticipated the development of the Project site with a total of 370 residential dwelling units, a 400-room resort hotel, 2.7 acres of additional commercial uses and 55 acres of public open space -- a more dense and intense development than the current Project.

Because the Project site is included in the Orange County Central/Coastal NCCP as a "Covered Project" and the proposed Project is included as a "Planned Activity" of a "Participating Landowner," authorized development impacts on federal and State listed species, "Covered Species" designated in the NCCP/HCP EIS/EIR, "Covered Habitats" designated in the NCCP/HCP, removal of approximately 30 acres of coastal sage scrub ("CSS") as well as impacts on species dependent upon or associated with the "Covered Habitats," are considered mitigated to insignificant levels and are consistent with the NCCP guidelines under the NCCP Act, Federal Endangered Species Act, the California Endangered Species Act and CEQA. An Endangered Species Act Incidental Take Permit

(#TE810581-1) that authorizes incidental take of 44 covered species was issued to Headlands Reserve, LLC. on January 21, 2000. Satisfactory implementation of the NCCP/HCP EIS/EIR and the terms of the IA would result in no additional mitigation being deemed necessary or required under FESA, CESA, and CEQA, and the NCCP Act for impacts on the identified sensitive species on the Project site and their habitats.

The coastal California gnatcatcher and the PPM are both sensitive species covered by the approved NCCP/HCP. Therefore, direct impacts to these species and their habitats are mitigated to insignificant levels under the NCCP/HCP Program. Other species considered sensitive by the resource agencies documented on the Project site and treated as Identified Species under the NCCP plan include orange-throated whiptail, Coronado skink, northern harrier, sharp-shinned hawk, cactus wren, and red diamond rattlesnake. Sensitive plant species identified as Identified Species include: Blochman's dudleya, cliff spurge, Palmer's grappling hook, western dichondra, Nuttall's scrub oak, and prostrate spineflower. Impacts to these species and their habitats have also been mitigated to a level of insignificance under the NCCP/HCP.

Three current or historic gnatcatcher territories associated with the 24.2-acre area of the proposed Headlands Conservation Park will be preserved in perpetuity as natural open space and managed to conserve the sensitive native species. These impacts are reduced to less than significant levels, consistent with the NCCP Guidelines under the NCCP/HCP Program and Implementation Agreement ("IA"), with the implementation of the applicable PDFs and PCs and the creation of the 37,000-acre Reserve System including 10,964 acres in the Coastal Zone. Application of PDFs 3-1 through 3-5 and adherence to PC 3-4, PC 3-15, and the other applicable PDFs and PCs reduces the potential impact to sensitive wildlife to a less than significant level.

The PPM population and the single historical orange-throated whiptail location will not be directly affected by the proposed Project because they are designated for protection within the area proposed as conservation open space. Any take of these two species outside the proposed conservation open space has been reduced to a level below significance through the NCCP/HCP. The PPM was found to occupy an area encompassing 3.75 acres of the proposed Headlands Conservation Park. To promote population expansion and to minimize impacts associated with adjacent existing development as well as future development, an additional 18.3 acres was incorporated into the Temporary PPM Preserve. The HDCP incorporates an additional 2.2 acres of land into the proposed Headlands Conservation Park, bringing the total preserve area to 24.2 acres. Marguerita Avenue is directly adjacent to the proposed Headlands Conservation Park. The Project would remove that avenue and re-grade and re-vegetate the area with native species, including CSS, to form a minimum 100-foot designated greenbelt buffer encompassing about 2.7 acres outside and contiguous to the Headlands Conservation Park. Thus, the HDCP proposes an additional total of 4.9 acres of habitat buffer and/or expansion area which, when combined with the 18.3 acre buffer and expansion area within the Temporary Preserve, ensures that significant adverse effects to the PPM population associated with future development are minimized.

Potential future adverse direct impacts to the PPM population within the proposed Preserve area were included in the NCCP/HCP EIS/EIR analysis and are reduced to less than significant levels and consistent with the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and IA and Adaptive Management Program. PDFs and/or PCs for these impacts are described on pages 4.3-19 through 4.3-29 of the FEIR.

In 1993, PPM occupied Headlands habitat was restricted to 3.75 acres. The Temporary Preserve incorporated an additional 18.3 acres to provide opportunities for population expansion and to minimize impacts associated with adjacent existing development, as well as the future proposed development, providing physical distance from direct impacts to PPM-occupied habitat from human activities occurring on the site by forming a barrier to public access to the core of the occupied habitat. Concomitantly, it reserved approximately 10.1 acres supporting PPM-suitable soils to allow for future expansion of occupied habitat. The buffer also served to ensure that the future adjacent uses, such as those contemplated in the 1996 EIR/EIS for the Project site, were compatible with the conservation of the PPM-occupied habitat.

In addition, the current development proposal incorporates an additional 2.2 acres of land into the proposed Headlands Conservation Park, bringing the total preserve area to 24.2 acres, and provides the previously described 100-foot wide buffer zone. Thus, the HDCP proposes an additional total of 4.9 acres of habitat buffer and/or expansion area, which, when combined with the current 18.3 acre buffer and expansion area within the Temporary Preserve, serve to ensure that significant adverse effects associated with future development are minimized. A population viability analyses performed for the PPM suggests that the PPM population on the Temporary Preserve may be below the Minimum Viable Population threshold for long-term survival. The ongoing edge effects from the existing residential enclaves that are privately held and not subject to the approved NCCP/HCP, the isolated nature of the Project site from other meaningful natural open space areas, the level of urbanization surrounding the Project site, and the small population size still pose a threat to the long-term viability of the species on site. In sum, the small initial population size and the extensive existing development edge appear to be major constraints to improving the viability of the population at this site. Translocation of individuals of PPM from the Headlands to a more biologically suitable site or to a captive breeding program would contribute to the goals of the PPM recovery plan.

The proposed Project would not interfere substantially with the movement of any native resident or migratory wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. Given the level of urban development that surrounds the Project site and the Project vicinity, there are no extant wildlife corridors between the Project site and other biological open space. As a result, no impacts on wildlife corridors would occur.

The following PDFs and PCs, which are set forth on pages 4.3-19 through 4.3-29 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 3-1 through PDF 3-8; PC 3-1 through PC 3-17. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs, as well as compliance with the NCCP/HCP Program described above, ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.3.10.1.

5.3.2 Less Than Significant Impact: Impacts to Riparian Habitat or Other Sensitive Natural Community. The proposed Project will disturb 79.23 acres (65%) of the Project site, which includes 45.11 acres of Developed/Ornamental, 2.42 acres of Disturbed Ruderal, 1.65 acres of Disturbed Southern Needlegrass Grassland, and 0.58 acres of Disturbed Grassland. The Project will directly impact 52.32 acres of common native (mixed chaparral) and nonnative habitats. The Project will impact 28.0 acres of CSS (52%), of which 1.83 acres are disturbed CSS. Approximately 0.61 acre of maritime succulent scrub and 0.06 acre of southern coastal bluff scrub will be impacted by the Project's site clearing/grading activities. The Project would adversely affect all of the sensitive plant species on the Project site except cliff spurge. In addition to these previously identified impacts, comments received on the Draft EIR revealed a potential increase in the severity of impacts to sensitive species because it identified a potential impact to the Coulter's saltbush, a sensitive plant species on the Project site, which is discussed in section 6.2.1 below.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project through PDFs and/or PCs which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: There is no riparian habitat on-site. Impacts to CSS and other sensitive scrub habitats will be mitigated through the provisions of the NCCP/HCP and its IA, which includes assistance with establishing the approximately 37,000 acre Orange County Reserve and adaptive management program, payment of $850,000 to the NCCP/HCP Program, translocation of Blochman's dudleya, commitment to set aside the 22-acre PPM preserve area for eight years, onsite conservation of open space, and other measures. Participation in the NCCP/HCP Program has resulted in the preservation of approximately 18,500 acres of CSS and approximately 7,000 acres of chaparral habitat in the Orange County Central/Coastal Reserve. In addition, some 10,964 acres of the reserve have been established with the Coastal Zone of which 5,670 acres are CSS.

Some of the chaparral habitat that is impacted in the northeastern portion of the Project site will be revegetated as CSS, adding approximately 0.74 acre to the overall amount of CSS that will be conserved on the Project site. The Project will also revegetate

Marguerita Avenue and the adjoining area to CSS, bringing the total area of CSS revegetation to 9.9 acres.

Impacts to CSS habitat, maritime succulent scrub and southern coastal bluff scrub habitat are reduced to a less than significant level, subject to compliance with the Orange County Central/Coastal Subregion NCCP/HCP EIR/EIS and IA. In addition, application of PDFs 3-1 through 3-8 and PCs 3-1 through 3-16 reduces the potential impact to these sensitive natural communities to a less than significant level.

The impact on 1.65 acres of disturbed southern needlegrass grassland is not significant due to the small size of the impact and the isolated condition of the Headlands site. Moreover, the NCCP/HCP EIR/EIS anticipated the loss of this grassland as part of the proposed Project. In addition, within the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres of which are in the Coastal Zone), there are approximately 8,055 acres of grassland in the Reserve (including more than 1,300 acres in the Coastal Zone), Special Linkage, and Non-reserve Open Space of which approximately 3,067 acres are designated as "High" or "Moderate" quality. The Adaptive Management endowment allows for further enhancement and restoration of needlegrass grassland in the Central/Coastal Nature Reserve of Orange County. Moreover, there are approximately 720 acres of southern needlegrass in the 8,000-acre Foothill Transportation Corridor (South) Study Area in southern Orange County and hundreds of acres of native perennial grassland in the Southern Subregion of the Orange County NCCP/HCP. Finally, the impact on 1.65 acres of disturbed southern needlegrass grassland does not meet or exceed a "significant effect on the environment" pursuant to the thresholds of significance in Section 4.3.9 of the FEIR.

Impacts to the sensitive plant species on the Project site, including Blochman's Dudleya, western dichondra, Coulter's saltbush, historic prostrate spineflower, Palmer's grappling hook, California box-thorn, golden rayed pentachaeta, vernal barley, small-flowered microseris and woolly seablite are reduced to less than significant levels by compliance with the NCCP/HCP and IA. In addition, application of PDFs 3-1 through 3-8 and PCs 3-1 through 3-16 results in the reduction of the potential impact to these sensitive plant species to a less than significant level. Cliff spurge will remain largely undisturbed in the designated Conservation Open Space, Planning Area 7, Headlands Conservation Park, and Planning Area 8B, Harbor Point Park and no significant impacts to cliff spurge are anticipated as a result of the proposed Project. In addition, while not explicitly addressed in the NCCP/HCP Program because they were not designated species at that time, direct, indirect and cumulative impacts to Golden-rayed pentachaeta, vernal barley, small-flowered microseris, California groundsel, California box-thorn, and woolly seablite are less than significant because the NCCP/HCP program provides suitable habitat for these species within the 37,000-acre Central/Coastal Nature Reserve of Orange County. The Nature Reserve includes approximately 11,000 acres in the Coastal Zone and provides for an adaptive management program that can be used to benefit these species. Thus, impacts to these species are less than significant.

The Project will translocate the small population of Coulter's saltbush to suitable habitat into protected open space, as is discussed in Section 6.2 below. This translocation will mitigate the nominal increase in the severity of the Project's impacts to sensitive plant species to less than significant levels.

As set forth in PC 3-5, the NCCP/HCP EIR/EIS assumed impacts to vegetation on the Project site. Projected direct impacts from the Project include 28.0 acres of disturbed CSS and CSS, 0.06 acre of southern coastal bluff scrub, and 0.61 acre of maritime succulent scrub. The total "scrub" habitat disturbed is less than the loss of 30 acres of CSS habitat and less than one acre of southern coastal bluff scrub assumed by the NCCP/HCP. Development will result in 25.7 acres of "scrub" habitat remaining on site, plus an additional 9.9-acre of CSS revegetation

The proposed development activities and uses are consistent with, and anticipated by, the NCCP/HCP Program and have been permitted under the state and federal ESAs and state NCCP Act. Therefore, the proposed Project would not conflict with the provisions of the NCCP/HCP Program or other Habitat Conservation Plan. In reliance on the IA, the property owner has fulfilled its obligations for monetary contributions and for establishment of the temporary PPM preserve and study of the PPM.

The City has no tree preservation ordinance. Plant and animals species present are conserved through the NCCP/HCP Program, and the NCCP/HCP Program specifically anticipated that development of the Project site would occur in a manner of higher development intensity than the proposed Project. Thus, the proposed Project does not conflict with any local policy or ordinance protecting natural resources.

As discussed above, direct impacts to vegetation communities, including sensitive habitats and sensitive plant species, would be adverse; however, impacts to these habitats and species are considered to be reduced to less than significant levels through compliance with the NCCP Guidelines the NCCP/HCP Program and IA, along with implementation of the PDFs and PCs identified in the FEIR.

The following PDFs and PCs, which are set forth on pages 4.3-19 through 4.3-29 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 3-1 through PDF 3-8; and PC 3-1 through PC 3-16. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs, as well as compliance with the NCCP/HCP Program described above and Mitigation Measure 3-1 described herein, ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Project Design Features: Based upon the analysis presented in Section 4.3 of the FEIR, which is incorporated herein by reference, as well as the further analysis set forth in the Responses to Comments, Errata and Additional Information made a part of the FEIR, PDF 3-1 through PDF 3-8, PC 3-1 through PC 3-16, which are set forth in the FEIR and

incorporated by reference herein, in combination with compliance with the NCCP/HCP Program, avoid or substantially lessen the significant environmental effect on riparian habitat or other sensitive natural community to below a level of significance.

Reference: FEIR § 4.3.10.1.

5.3.3 Less Than Significant Impact: Indirect Impacts to Vegetation and Wildlife. The proposed Project may result in indirect impacts to vegetation and wildlife which could extend from the development edge into conserved habitat due to such activities as excessive landscape irrigation, fuel modification, vegetation trampling outside of marked trails, and introduction of non-native species. Additional indirect impacts to wildlife may result from residential noise and lighting and, temporarily, from construction activities. Lighting of the developed area within the Project site could result in an indirect effect on the behavior patterns of nocturnal and crepuscular (active at dawn and dusk) wildlife in adjacent open space areas. Of greatest concern is the effect on small ground dwelling animals (i.e., PPM) that use the darkness to hide from predators. These impacts are considered potentially significant. Potential indirect impacts to the PPM could result during the construction of trails and fencing around the preserve area, as well as use of the trails by humans and domestic animals (pets).

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The potentially impacted area already is exposed to and affected by indirect edge effect impacts due to existing residential enclaves and other land uses occurring on or adjacent to the Project site, as well as the numerous visitors to portions of the Project site. The existing edge effects are demonstrated by the presence of non-native ornamental vegetation on the Project site in the vicinity of the two residential enclaves and the homes along Street of the Green Lantern. In addition, numerous visitors to the site, including bicyclists and occasional off-road vehicle drivers, have resulted in denuded vegetation along numerous trails and pathways in the vicinity of the hilltop and along the nearby crest.

Impacts from residential lighting shall be minimized by directing lighting fixtures downward, by providing other shielding to minimize the potential for glare to impact open space areas and by minimizing lighting in parking areas adjacent to the Headlands Conservation Park, in accordance with the HDCP Development and Design Guidelines, PDFs and PCs discussed in Chapter 4.1 and Section 5.1.2 above.

Any indirect impacts to California gnatcatcher and cactus wren species and any other sensitive species have been identified, assumed, and included in the NCCP/HCP EIS/EIR analysis and are considered mitigated to less than significant levels and consistent with the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and Implementation Agreement and Adaptive Management Program. Furthermore, noise impacts on California gnatcatchers have been studied extensively

throughout Southern California since 1993 and these studies indicate that noise is not a biologically relevant issue in determining productivity. Construction monitoring programs have documented successfully breeding gnatcatchers directly adjacent to construction sites, and a large number of gnatcatcher territories occur adjacent to major arterial roadways and airport runways. Productivity of these birds is similar to birds in quieter locations.

PCs 3-13 and 3-15 provide construction-related minimization practices to reduce the potential impact from construction to a less than significant level. Potential future adverse indirect impacts to the PPM population within the proposed Preserve area were included in the NCCP/HCP EIS/EIR analysis and are reduced to less than significant levels consistent with the NCCP Guidelines under the NCCP/HCP Program and IA and Adaptive Management Program. The construction impacts are considered short term and are subject to monitoring/minimization measures. Access by humans and pets can have long-term implications, unless mitigated. The HDCP specifies standards for barriers, signage, and lighting at the margin of the Headlands Conservation Park, and along trails, to protect wildlife habitat, exclude unwanted animals, promote public education, and enhance public safety. In addition, application of PDFs 3-1 through 3-8 and PCs 3-1 through 3-16 results in the reduction of the potential impact to sensitive natural communities and wildlife to a less than significant level.

Due to the small patch size and extensive amount of areas that constitute the existing and future development edge, the proposed naturalized open space has a greater potential to be dominated by edge affected habitats; however, as discussed above, these indirect edge effect impacts have been included in the NCCP/HCP EIS/EIR analysis and are considered reduced to less than significant levels and are consistent with the NCCP Guidelines under the NCCP/HCP Program.

The following PDFs and PCs, which are set forth on pages 4.3-19 through 4.3-29 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 3-1 through PDF 3-8; PC 3-1 through PC 3-16. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs, as well as compliance with the NCCP/HCP Program described above, ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.3.10.1.

5.3.4 Less Than Significant Impact: Impacts to Jurisdictional Waters. Implementation of the proposed Project will impact two jurisdictional drainages totaling 0.056 acre.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: There are no wetlands on the site as defined by the California Coastal Act; therefore, there would be no impacts to wetlands subject to the jurisdiction of the CCC. There are 0.073 acre of ephemeral drainage channels subject to jurisdiction of the U.S. Army Corps of Engineers ("Corps") and California Department of Fish and Game ("CDFG"). None of the drainage channels support riparian vegetation. One of the ephemeral drainages, Drainage B, will be preserved on site as part of the Headlands Conservation Park. Due to the small size, lack of riparian vegetation and ephemeral nature of the drainages, impacts to the other two drainages are not considered significant under CEQA. For impacts of less than 0.10 acre to Waters of the U.S., the Corps Nationwide Permit ("NWP") No. 39, only requires preconstruction notification. However, CDFG requires habitat preservation/creation/restoration for all impacts to drainages (i.e., well defined channels), regardless of the area of impact. Although for CEQA purposes no mitigation is required because the impact has been determined to be not significant, the amount of on-site or off-site habitat that will need to be preserved, created, or restored in order to satisfy CDFG will be determined as part of the CDFG 1603 Streambed Alteration Agreement process. PC 3-17 implements this requirement. Therefore, impacts to jurisdictional waters are less than significant.

The following PDFs and PCs, which are set forth on pages 4.3-19 through 4.3-29 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 3-1 through PDF 3-8; PC 3-1 through PC 3-16. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs, as well as compliance with the CDFG 1603 Streambed Alteration Agreement (PC 3-17) process described above, ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.3.10.1.

5.3.5 Less Than Significant Impact: Species Interaction and Ecosystem Function. The Project may impact ecological interactions between species on the Project site as well as the existing ecological function of the Project site as a whole, the ecological functioning of the site with the Project, and the ecosystem function within the subregion's coastal zone with and without the Project.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Ecological interactions between species on the Headlands site are limited and constrained due to the relatively small size of the Project area, the fragmented configuration of the native habitat patches, the amount of urban habitat interface that can cause adverse edge effects, and the site's isolated condition within the surrounding urbanized landscape. The current site conditions, and isolation caused by the surrounding developed lands that extend more than two miles beyond the site, adversely

affect predator-prey interactions and opportunities for typical population migration processes. The food web matrix currently existing on the site is expected to be simplified and truncated, with top native predators likely to be absent or well below the local habitat carrying capacity. Energy and nutrient cycles can be adversely affected by this food web simplification. Domestic cats have been observed on site and may exceed local habitat carrying capacity and adversely affect prey (songbird and rodent) populations on site.

The small size and isolated condition of the site will also adversely affect plant pollinator interactions due to the local extirpation of pollinator populations, resulting in the disruption of species reproductive processes, including prostrate spineflower, Palmer's grapplinghook, and cactus wren. Small isolated populations have higher likelihood of becoming extirpated from an area than populations located in large open space preserves. Competition between native species and invasive nonnative species is a current condition on the site. Argentine ants currently may be adversely affecting native ant populations on site and potentially reducing local food availability for native lizards. Ice plant is an invasive exotic plant that dominates relatively large portions of the Headlands site. Past disruption of site soil conditions may have limited the distribution of soil endemic species, such as Blochman's Dudleya.

The site's small size and its isolated condition within the surrounding urbanized landscape compared to other subregional areas of biological open space suggest that it is incapable of any sustained ecological functioning even if left in an "as is" condition. In analyzing the NCCP program for the Orange County Central/Coastal subregion, the USFWS, CDFG and County of Orange determined that the PPM population on the Headlands site was likely to become extirpated from the site unless very active management of the site was immediately undertaken and, even then, the species' ability to maintain a viable population was very much in doubt.

One example of adverse ecological trends on this site is the increasing density of both native and nonnative plant species. Studies on the site to date suggest that unless habitat manipulation methods are employed periodically, increasing vegetation density may result in, in and of itself, eventual extirpation of the pocket mouse from the site. Other sensitive species, such as the cactus wren, Palmer's grapplinghook, Western Dichondra, and prostrate spineflower have either become extirpated from the site over the last ten years or are able to maintain only a very tenuous hold on the site, further evidencing the site's compromised ecological functioning.

The constant exposure to and damage from chronic human trespass also adversely affects the ecological functioning of the site related to the successful preservation of various sensitive species on the site. Species potentially exposed to human trespass and trampling include Blochman's dudleya, dichondra, spineflower, and grapplinghook.

The small size and isolated condition of the site within an urbanized landscape severely compromises the existing ecological functioning of the Project site as a whole (i.e., without the Project). Properly functioning natural ecosystems can provide certain

"services," such as serving as potential source of biodiversity, mediating the hydrological cycle, ameliorating local climates, building soil, controlling erosion, detoxifying wastes, and providing recreational opportunities. The 37,000+-acre Orange County Nature Reserve provides all of these ecological services by developing a conservation program that shifts away from the current focus on project-by-project, single species protection to conservation and management of many species and multiple habitats on a subregional level. The coastal scrub communities existing on the Headlands site are important in moderating water runoff, soil erosion, a nominal contribution to biodiversity, and some degree of passive recreation. Four rare species that occur on site (PPM, Blochman's dudleya, Coulter's saltbush and cliff spurge) are restricted to coastal areas of Southern California. Retention of these narrow endemic species on site is a goal of the proposed Project's open space design and long-term habitat management program. The isolated condition of the site and its location within the urbanized landscape precludes the site from functioning as habitat linkage between larger natural habitat areas that support source populations of sensitive species. The potential for the site to act as an "ecological sink" is likely due to the small size of the site and the extensive habitat edge conditions that typically prevail in small isolated habitat patches.

Given the site's constrained ecological functioning baseline, the post project functioning is expected to be equal to or better than current conditions. Implementation of PDF 3-1 to PDF 3-8 and PC 3-1 to PC 3-17 ensure that the Project will establish and maintain in perpetuity a 24.2 acre Conservation Park on the Headlands that will be actively managed for the benefit of sensitive coastal species, including PPM, California gnatcatcher, and certain rare native plants. A substantial monetary endowment will be established to ensure that adaptive management techniques can be applied to the Conservation Park for the benefit of the native species on site. Nonnative invasive species will be reduced, and conditions for native species will be enhanced. A minimum 100-foot buffer between the proposed residential development and the Conservation Park is included in the proposed design. Public access will be managed so as to benefit biological resources conserved on site by establishing and limiting coastal access to a clearly delineated public trail system that includes conservation and safety fencing.

Currently the PPM population has, at best, a tenuous hold on the Project site, and the ecological functioning of the site is limited by the above referenced factors. In contrast, the implementation of the proposed Project will provide the greatest possibility to maintain the viability of the PPM population, either by establishing the permanent 24.2 acre Conservation Park on the Headlands site or, if later determined by the Wildlife Agencies, by translocating PPM elsewhere within the Orange County Nature Reserve. Without the proposed Project, the Headlands property owners may withdraw from the NCCP/HCP, and the PPM population would not have active protection or management resources assigned to the Headlands site. Without the proposed Project: (1) current proactive conservation and management actions on the site would be jeopardized, (2) significant funding for habitat acquisition for the Nature Reserve of Orange County and adaptive management activities would be lost, (3) the opportunity to protect Blochman's dudleya population from extirpation due to unrestricted human trespass would be lost,

and (4) the opportunity to preserve a PPM population within the property or coastal subregion of Orange County would be lost, or at a minimum severely compromised.

In addition, the proposed biological open space and habitat buffer areas will provide sufficient habitat for three to five gnatcatcher territories. Blochman's dudleya, Coulter's saltbush, cliff spurge and woolly seablite can continue to exist, as the dudleya and Coulter's saltbush can be successfully translocated into protected open space on site and the cliff spurge and woolly seablite will persist due to their locations on the steep cliffs of the site within Project designated conserved open space.

The NCCP/HCP Final Environmental Impact Report/Environmental Impact Statement (County of Orange 1996) identifies the specific Project purposes of the NCCP/HCP. A primary function of the Orange County NCCP program is to protect habitat types found within the Orange County coastal subregion in sufficient numbers and distributions to ensure their long-term conservation and proper ecological functioning, and thereby also ensure the long-term conservation of the particular species that utilize those habitat types. By meeting these goals, the Headlands development and conservation Project, as a primary participant in the County's Central/Coastal NCCP/HCP Subarea Plan, was instrumental in ensuring the long-term conservation of functioning ecosystems in the coastal subarea, including the Coastal Zone. The Central/Coastal Subarea Plan assures the conservation of nearly 11,000 acres of interconnected sensitive habitats in the Coastal Zone, and over 18,800 acres of CSS, 7,300 acres of chaparral, 6,100 acres of grasslands, 1,800 acres of riparian, 950 acres of woodland, 200 acres of forest habitat, and significant portions of six other habitat types now existing within the subregion. The Central/Coastal Subarea Plan also provides a nonwasting adaptive management endowment of approximately $11 million—which ultimately may grow as much as two to five times as large. The NCCP Subregional Habitat Reserve protects and manages viable, connected habitats in the coastal zone and the coastal subarea that have been configured to provide for the mobility, foraging, breeding, genetic exchange, and refugia needs of sensitive and listed species both within the Coastal Zone and within the larger subregion. In contrast, without the participation of the Headlands owners and other participating landowners in the NCCP/HCP, the ecosystem functioning of the subregion would be significantly diminished.

In its current condition, the site does not contribute significantly to the healthy ecosystem functioning of other open space areas of the subregion. The site's isolation from these other areas by significant urbanization precludes such contributions. The relative value of the site as gnatcatcher breeding habitat is suspect due to its isolation and the extensive edge effects currently present on site.

The site is one of four known populations of PPM. However, it is unlikely to support this population in the medium to long term (10 to 20 years), and the population is likely to become extirpated from the site even sooner without the proposed active program for PPM protection and habitat management. With the proposed Project, the Wildlife Agencies have the opportunity to provide ongoing protection and management, and

should they deem it necessary for the long-term survival of this PPM population, to translocate the members of the population to more suitable and secure habitat within the Orange County Nature Reserve or to San Diego County.

The following PDFs and PCs, which are set forth on pages 4.3-19 through 4.3-29 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 3-1 through PDF 3-8; PC 3-1 through PC 3-17. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs, as well as compliance with the NCCP/HCP Program described above, ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.3.10.

5.3.6 Less Than Significant Cumulative Impact: Cumulative Impacts to Biological Resources. The proposed Project will incrementally contribute to a cumulative impact to sensitive habitats, including CSS, maritime succulent scrub and southern coastal bluff scrub, and associated sensitive species, including the coastal California gnatcatcher and the PMM, in the subregion.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Development of the Project site at a density and intensity higher than that of the proposed Project was included in the analysis for the Orange County Central/Coastal Subregion NCCP/HCP EIS/EIR. The NCCP/HCP Program is intended to mitigate cumulative impacts on biological resources at the subregional level. The coastal California gnatcatcher and the PPM, and other sensitive species, are covered by the approved NCCP/HCP Program (i.e., "take" of these species and their habitats is authorized on the Project site and has been analyzed under CEQA). Other species considered sensitive by the resource agencies documented on the Project site and treated as covered species under the NCCP plan include orange-throated whiptail and cactus wren. Sensitive plant species currently or previously found on the Project site that are explicitly covered under the NCCP include Nuttall's scrub oak, Blochman's dudleya, cliff spurge, Palmer's grappling hook, prostrate spineflower, and western dichondra. Direct, indirect and cumulative effects on these species were considered to be potentially adverse and significant due to loss of sensitive CSS habitat. However, implementation of conservation measures consistent with the NCCP/HCP Program reduces the Project's impacts to a less than significant level.

Coulter's saltbush is a List 1B species not explicitly covered under the NCCP/HCP Program but potential cumulative impacts to this species are reduced to less than significant levels through compliance with the NCCP/HCP and IA and the application of the PDFs, PCs, and Mitigation Measure 3-1, as is discussed in Section 6.2 below. Other

sensitive plant species that occur on-site that are not explicitly addressed in the NCCP/HCP Program because they were not designated sensitive species at that time are the California box-thorn, golden rayed pentachaeta, California groundsel, small-flowered microseris and woolly seablite (all CNPS List 4 species now) and the vernal barley (List 3). Most of the California box-thorn will be conserved on-site with cliff spurge and woolly seablite; moreover it is a List 4 species that is still relatively common. Through creating the 37,000-acre Central/Coastal Nature Reserve of Orange County (approximately 11,000 acres of which are in the Coastal Zone), the NCCP/HCP Program and adaptive management program benefit this species and therefore cumulative impacts to it are not significant. Similarly, the NCCP/HCP Program provides suitable habitat for the golden-rayed pentachaeta, another List 4 species, and provides an adaptive management program that can be used to benefit this species if appropriate, making cumulative impacts to this species less than significant. The presence of California groundsel and small-flowered microseris' presence on the site has not been confirmed. Both species benefit from the NCCP/HCP Program and the adaptive management program also can benefit these species, thus cumulative impacts to these species are less than significant as well. Two small patches of vernal barley with fewer than 100 individuals are found on the site. Vernal barley is a CNPS List 3 species and will benefit by the NCCP/HCP Program, which provides suitable habitat and provides an adaptive management program that can be used if appropriate. It also is often underreported and is more common than previously thought. Because of the NCCP/HCP and adaptive management program cumulative impacts to this species are less than significant. Most of the individuals of woolly seablite on the site occur on the coastal bluffs and will be conserved with cliff spurge and California box-thorn. The NCCP/HCP Program provides suitable habitat for the woolly seablite, another List 4 species, and provides an adaptive management program that can be used to benefit this species if appropriate, making cumulative impacts to this species less than significant.

The following PDFs and PCs, which are set forth on pages 4.3-19 through 4.3-29 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 3-1 through PDF 3-8; PC 3-1 through PC 3-16. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs, as well as compliance with the NCCP/HCP Program described above, ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.3.11.

5.4 Geology and Soils

5.4.1 Less Than Significant Impact:

Exposure of Project Facilities to Seismically Induced Fault Rupture. The Project potentially could be exposed to ground rupture from seismic activity from an active fault.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The proposed Project is not anticipated to result in any ground rupture due to seismic activity from an active fault because the Project is not in an area delineated on the Alquist-Priolo Earthquake Fault Zoning maps. The closest identified active fault is approximately two miles to the southwest. A concealed fault runs beneath the eastern margin of the site but is not considered active or potentially active. As a result, there is no potentially significant impact due to ground rupture caused by active faults.

Reference: FEIR § 4.5.4.1.

5.4.2 Less Than Significant Impact. Soil Subsidence. Soil subsidence may result from inadequate preparation and compaction of soils prior to construction of building or facility foundations.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The proposed Project is not anticipated to result in any subsidence of soils in the Project area as a result of Project implementation. Soil subsidence is generally the result of subsurface extraction of water, oil, gas, or other materials, none of which is planned for the proposed Project. Subsidence may also result from inadequate preparation and compaction of soils prior to construction of building or facility foundations. Adherence to the requirements of the UBC (PC 5-1) and any specific recommendations by the Project Geotechnical Consultant regarding grading, soil compaction, and site preparation will ensure that no potential impacts to facilities from soil subsidence will occur.

The following PDFs and PCs, which are set forth on pages 4.5-11 through 4.5-13 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 5-1; PDF 16-1; and PC 5-1 through PC 5-7. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.5.4.1.

5.4.3 Less Than Significant Impact: Seismically Induced Ground Shaking. Project facilities may be exposed to seismic induced ground shaking as a result of rupture or other seismic events at nearby faults. No active or potentially active faults are known to cross the Project site.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: A deterministic seismic hazard analysis was performed for the proposed Project which estimated peak ground motion parameters that might be generated at the Project site by the maximum credible earthquake ("MCE") for active faults within the 100 kilometer search radius. The largest estimated ground motion at the Project site would be associated with a MCE of Magnitude 6.9 on the nearby portion of the Newport-Inglewood Fault zone. A peak horizontal site acceleration of 0.41g (MCE) was estimated. Project structures are required to be designed to this force per UBC requirements. The fault type and estimated distance for the governing Newport-Inglewood Fault are based on a UBC publication prepared by the CDMG; other parameters are based on the 1997 Uniform Building Code.

To address this potential impact, appropriate seismic design provisions shall be implemented with Project design and construction in accordance with governing building codes. (PC 5-1). The incorporation of these features into the Project design as specified in PC 5-1, PC 5-2, PC 5-3, and PC 5-4 results in the reduction of the potential impact of seismic-induced ground shaking to a less than significant level.

The following PDFs and PCs, which are set forth on pages 4.5-11 through 4.5-13 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 5-1; PDF 16-1; and PC 5-1 through PC 5-7. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.5.4.1.

5.4.4 Less Than Significant Impact: Exposure of Project Facilities to Damage Resulting from Bluff Retreat/Seismically Induced Rockfall. The high, steep cliff faces that rim the Dana Point Headland present a relatively high potential for seismically induced rockfall and possibly local shallow landsliding of the bluff itself. The extent of these slope failures will tend to be localized and surficial in nature because of the high strength and generally massive character of the bedrock of the bluff.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the

Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Recent geological evaluations have recommended that structures have a minimum 50 foot setback for shallow foundations for the Harbor Point portion of the site. Proposed structures that would encroach on the shallow setback area shall require site specific design evaluation and installation of deep foundations (FEIR, Appendix D). In general, proposed Project facilities in the Harbor Point area are set back approximately 50 to 100+ feet from the bluff, with the area featuring only pedestrian walkways, visitor centers, parking, and open space uses. The Headlands Promontory area is planned as conservation open space; foundation setback recommendations are therefore not applicable to that area because no structures are planned.

In the case of the trail and overlooks on the Headlands Promontory, a 25 foot setback from the top of the bluff is considered adequate in order to protect the general safety of people who wish to enjoy the natural setting of the area. This minimum setback is based upon anticipated short-term erosion rates along the top of the bluff and potential episodic rockfalls, which could likely induce a catastrophic failure of the blufftop. Moreover, the California Coastal Commission requires a 25 foot minimum building setback from the top of the coastal bluff. Proposed Project design for pedestrian walkways and overlooks on the site is consistent with this criterion.

Consistent with the applicable geotechnical report, the Project includes PDFs that require bluff setbacks that will avoid placing structures in areas that may be subject to bluff failure. PDF-5-1 specifies this requirement and ensures that the proposed Project will provide adequate foundation setbacks from the bluff that will avoid this hazard. Adherence to PC 5-1 results in the reduction of the potential impact of seismic-induced rockfall to a less than significant level.

The following PDFs and PCs, which are set forth on pages 4.5-11 through 4.5-13 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the Project and the potential environmental impacts resulting from its implementation: PDF 5-1; PDF 16-1; and PC 5-1 through PC 5-7. Based on the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.5.4.1.

5.5 Hazardous Materials

5.5.1 Less Than Significant Impact: Reasonably Foreseeable Upset and Accidental Conditions Involving the Release of Hazardous Materials Into the Environment. If uncontrolled, upset or accident conditions could occur during the remediation and disposal of the trailer park and nursery facilities.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: PC 6-1 requires that the investigation, remediation, and disposal of the mobile home park and nursery facilities and materials be conducted in accordance with all applicable State and federal guidelines and requirements. With the implementation of PC 6-1, the potential impacts are less than significant.

PC 6-1, which is set forth on page 4.6-7 of the FEIR, was assumed to be in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from its implementation. Based upon the analysis presented in the FEIR, adherence to this PC ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.6.4.2.

5.5.2 Less Than Significant Impact: Emissions Within One-Quarter Mile of School. The northeastern boundary of the proposed Project site, adjacent to PCH, is within one-quarter mile of the grounds of Richard Henry Dana Elementary School at 24242 La Cresta Drive in Dana Point and, if not properly controlled, the proposed Project could potentially emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing school.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: On-site buildings are more than one-quarter mile from the school. Planned uses and activities on the proposed Project site will not normally or routinely transport, use, or dispose of hazardous materials, so foreseeable upset and accident conditions involving the release of hazardous materials into the environment would not occur. The only occasion when the school site may be subject to potential emissions of hazardous materials during Project implementation would be during the demolition and removal of the existing mobile home park buildings or the existing former nursery buildings on the Project site, both of which are more than one-quarter mile away from the school site. The school is located northeast of the buildings to be demolished, and may be downwind of the Project site during some wind conditions. As referenced above, demolition activities will be accomplished in accordance with applicable PC and will be conducted in accordance with all applicable State and federal guidelines and requirements.

It is possible that the mobile home park and/or nursery buildings, which were built before asbestos-containing materials ("ACM") were banned from construction materials, could contain ACM. ACM are not an environmental concern unless they are damaged or friable. In the South Coast Air Basin, any facility that is known to contain asbestos is required to have a written asbestos management plan, and removal of asbestos containing materials must be conducted in accordance with the requirements of the SCAQMD Rule 1403. Rule 1403 regulations require a survey of the facility prior to issuance of a permit by SCAQMD, notification of the SCAQMD prior to construction activity, removal in accordance with prescribed procedures, placement of collected asbestos in leak-tight containers or wrapping, and proper disposal.

As detailed in PC 6-1 above, prior to demolition of any on-site structures, an asbestos (and other regulated materials) survey shall be conducted and documented according to applicable agency guidelines and requirements. Any asbestos (or other materials) found shall be removed by a State certified containment contractor in accordance with all applicable regulations and requirements. As a result of adherence to PC 6-1, the potential impact as a result of emissions within one-quarter mile of a planned or existing school is less than significant.

The following PDFs and PCs, which are set forth on pages 4.6-6 through 4.6-7 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 6-1; and PC 6-1 through PC 6-3. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.6.4.2.

5.6 Hydrology

5.6.1 Less Than Significant Impact: Flooding and Erosion – Dana Point Harbor. The volume of runoff for the Project above Cove Road will increase slightly over existing conditions, which may create erosion. If not properly designed, the Project could result in a potential downstream flooding risk to developed properties in the Dana Point Harbor area at the base of Cove Road. Also, the Project will result in a slightly reduced peak flow rate to the Dana Point Harbor compared to the existing condition. Ponding is still expected in the parking lots, but the proposed Project will not contribute additional ponding to this area. No habitable structures are impacted by the harbor parking lot ponding.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: PDF 7-2 will prevent erosion in the Dana Point Harbor area or property south of Cove Road. PDF 7-2 entails construction of catch basins in Scenic Drive, the Seaside Inn site, and Street of the Green Lantern as well as a storm drain pipe extending from Street of the Green Lantern to a new junction structure and inlet to the pipe at Cove Road. The existing headwall and sandbags at this location will be replaced with the junction structure and inlet in order to provide a permanent structure that will prevent the potential for overtopping the headwall and erosion of the bluff face. The runoff flows for 85th percentile storm events will be diverted to the sand filter for treatment and then will be discharged to Dana Point Harbor through an existing 24 inch RCP drain outlet located near the fishing pier. It will take a number of hours for the storm water to pass through the sand filter treatment system, further reducing peak flow to the harbor.

To avoid potential downstream flooding risk to developed properties in the Harbor area at the base of Cove Road, storm flows for 1.5 acres of Area A (Planning Area 4, the location of the proposed commercial development at PCH and "A" Street) will be diverted out of the drainage area and toward Strand Beach. PDF 7-5 includes features to direct storm water from the proposed commercial development into the new storm drain system within the Project boundary, instead of onto PCH or Street of the Green Lantern where only limited storm drain improvements exist.

The Project will not be contributing additional ponding in the parking lots at the Dana Point Harbor, and the ponding does not impact any habitable structures. The Project will provide curbs and gutters along Scenic Drive and Street of the Golden Lantern within the Project limits as well as landscaping improvements and best management practices ("BMPs") that will minimize existing erosion in this area. Based upon the above improvements and adherence to applicable PDFs and PCs described above, the proposed Project will have less than significant impacts related to flooding and erosion in the Dana Point Harbor area.

The following PDFs and PCs, which are set forth on pages 4.7-7 through 4.7-10 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 7-1 through PDF 7-9; and PC 7-1 through PC 7-8. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.7.5.1.

5.6.2 Less Than Significant Impact: Flooding and Erosion – Strand Beach. The proposed Project could cause erosion in the Strand Beach drainage zone.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the

Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Portions of the former mobile home park at the proposed Project site have experienced considerable erosion as a result of upstream development and deterioration of the storm drain system built for the former mobile home park. PDF 7-3 includes an engineered storm drain system with energy dissipation structures and three outlets to Strand Beach, which will confine drainage on site to improved structures, thereby reducing existing on-site erosion in this area. In addition, the Project area will be landscaped and BMPs will be implemented to minimize the potential for erosion. (See FEIR Section 4.8, Water Quality, for a detailed discussion of BMPs for the proposed Project.)

As described in PDF 7-4, the three storm drain outlets will be equipped with vertical drop energy dissipators within the drainpipes to reduce flow velocity before the water is discharged. Additional velocity reduction will result from outletting onto the riprap adjacent to the beach. The new outlets will replace the existing outlets that have no energy dissipation devices incorporated. With the implementation of the PDFs and BMPs referenced above, no significant and permanent beach scouring will result from the planned drainage system and beach erosion impacts will be less than significant.

The following PDFs and PCs, which are set forth on pages 4.7-7 through 4.7-10 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 7-1 through PDF 7-9; and PC 7-1 through PC 7-8. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.7.5.1.

5.6.3 Less Than Significant Impact: Flooding and Erosion – Bluffs at Dana Point and Harbor Point. The proposed Project will have potential erosion impacts at the bluffs at Dana Point and Harbor Point drainage zone.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Development of the proposed Project will reduce the amount of runoff flowing over the bluffs. These areas are proposed as open space conservation and park lands, and the existing sheet flow condition will be maintained. The removal of existing pavement on Marguerita Avenue in Areas C and D will remove impervious area from the watershed. Approximately three acres, including the proposed parking lots in the vicinity of Scenic Drive and Street of the Green Lantern to serve the

open space, will be redirected to the storm drain system. The proposed Project will result in a reduction of the amount of runoff over the bluffs, thereby decreasing erosion potential in this area. As a result, no significant flooding or erosion impacts to the bluffs will result with implementation of the Project.

The following PDFs and PCs, which are set forth on pages 4.7-7 through 4.7-10 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 7-1 through PDF 7-9; and PC 7-1 through PC 7-8. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.7.5.1.

5.6.4 Less Than Significant Impact: Floodplain. There is a potential impact if the Project does not protect proposed structures from flooding during a 100-year storm event.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Project is not within a 100 year floodplain. All proposed structures will be protected from flooding during a 100 year storm. PDF 7-1 requires analysis of 100 year storm runoff to ensure that all pad elevations are a minimum of one foot above the 100 year flood elevation. With implementation of PDF 7-1, flooding on the Project site would be reduced to below a level of significance.

Reference: FEIR § 4.7.5.1.

5.6.5 Less Than Significant Impact: Seiche, Dam or Levee Failure. The Project could potentially be impacted by inundation by seiche or from dam or levee failure.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: No confined bodies of water in which a seiche could develop are present on, or in close proximity to, the Project that would lead to inundation by seiche. No dams or levees are located on or close enough to the Project to create a potential for inundation caused by failure of such dam or levee.

Reference: FEIR § 4.7.5.1.

5.7 Water Quality

5.7.1 Less Than Significant Impact: Surface Water Quality During Construction.
Construction activities such as grading, removal of vegetation, excavation and trenching would result in disturbance of soils at the Project site. Runoff from a construction site can contain sediments and other materials from these activities. Dust from construction sites could also be transported to other nearby locations, where it could enter the ocean or harbor receiving waters. Potential hydrocarbon spills or leaks from heavy equipment and machinery, staging areas, or building sites could also enter the runoff and receiving waters. Pollutants introduced in this way could include petroleum products and trace (heavy) metals from equipment, and products such as paints, solvents, and cleaning agents that could contain hazardous constituents. These effects could impact the quality of the marine receiving waters. If runoff containing contaminants reached Strand Beach, individuals might be exposed to potential hazards associated with construction-generated pollutants that could be present in the runoff. Development of any site has the potential to produce additional water quality impacts through: introduction of additional impervious area (which eliminates natural filtration of pollutants and can increase the flow and velocity of runoff); erosion during construction and from changing the topography of the site; and introduction of additional pollutants such as oil and grease and trace metals from cars, bacteria associated with pet waste, food waste and sewer system defects, nutrients from fertilizers, chemicals from household use, resident automobile washing and trash from improper disposal methods. PDFs implemented with the Project will address all components of drainage on the Project site, and include BMPs as well as replacement of the aged storm drain system currently on the Project site.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Project has been designed to include BMPs and drainage facilities which follow applicable regulations. Erosion and sediment control plans and related documents shall be in accordance with the Orange County Grading and Excavation Code as adopted by the City. All construction activity shall conform to the requirements of Section 8.0 of the Orange County Drainage Area Management Plan, the General Construction Activity Stormwater Permit (PC 8-5), and the requirements of the HDCP Coastal Resources Management Program. Table 4.8.C of the FEIR provides a detailed list of typical BMPs and the constituents of concern that they address. Examples of construction BMPs include desilting basins, berms, hay bales, silt fencing, hydro-seeding of temporary slopes, and related measures. BMPs used during construction shall be outlined in the SWPPP and the WQMP. As a result of implementation of applicable PDFs, PCs and BMPs described above, potential impacts to surface water quality during construction will be reduced to less than significant levels.

The following PCs, which are set forth on pages 4.8-13 through 4.8-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PC 8-1 and PC 8-2, PC 8-4 through PC 8-7, and PCs 8-12 and 8-13. Based upon the analysis presented in the FEIR, adherence to these PCs ensures that this potential impact is less than significant and therefore no mitigation is required.

Reference: FEIR § 4.8.5.1.

5.7.2 Less Than Significant Impact: Surface Water Quality After Construction. The Project could result in pollutants and runoff that could cause or contribute to the degradation of receiving water quality objectives.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Structural and non-structural BMPs will be put in place to ensure that pollutants and runoff from the Project will be reduced, and will not cause or contribute to the degradation of receiving water quality objectives. The structural BMP selection process included an evaluation of the site conditions (surface water, groundwater, soils, geology, and terrain), proposed land uses, and applicable regulatory guidelines. Infiltration BMPs are not practicable at the Project site due to the steep topography and the need to minimize uncontrolled subsurface flow (see discussions in FEIR Section 4.5, Geology and Soils, and Section 4.7, Hydrology). Installation of a subdrain system is required to prevent uncontrolled levels of groundwater that would lead to ground instability and related problems. In addition, the FEIR includes a list of BMPs considered for incorporation into the Project to ensure that surface water runoff will be reduced to a less than significant level. (See FEIR, Table 4.8.D.)

Based on the evaluation of available BMPs, 17 structural and non-structural BMPs have been incorporated into the Project, as identified in Table 4.8.F of the FEIR. Catch basin inserts are proposed to be installed in parking lots of 5,000 square feet or larger within the Project limits, spaced in accordance with the manufacturer's guidance for treatable area. As well as removing sediments, hydrocarbons, and trash, these catch basin inserts can remove constituents that are adsorbed to sediment (PDF 8-11).

Sand filters are common treatment BMPs that have been widely used both in Southern California and elsewhere in the country, and their effectiveness for removing target constituents is well documented. The sand filter two-stage treatment system is a complex process that involves interception, straining, flocculation, sedimentation, and detention. This design attenuates storm water discharge into the receiving waters. In addition, the size of the sand filters can be designed to retain the flow volume sizing criteria (85th

percentile storm) stipulated in the San Diego Municipal Permit. Sand filters were identified as the most appropriate mixed-use treatment control BMP for the Project.

Sand filters are susceptible to clogging due to the potential for sediment build up. Street sweeping will aid in removing sediment and debris that collects on streets and can potentially clog the filters. Maintenance intervals for sand filters are dependent on climatic conditions and land use and will be established in the Water Quality Management Plan for the Project and approved by the City.

Three underground sand filters are proposed upstream of the three storm drain outlets to Strand Beach under streets and the Strand Beach parking lot and another below the County parking lot at Dana Point Harbor. As a result of adherence to applicable PDFs, PCs and BMPs described above, runoff from a storm event will be collected by various catch basins located throughout the Project, flow into the storm drain system and into a diversion structure where it will be directed to the sand filters for treatment. The proposed sand filters will treat the runoff during the early stages of every storm event, commonly referred to as the "first flush." The proposed sand filters will be sized to treat the water quality volume generated by an 85th percentile storm event, i.e., runoff from 85 percent of all storms will be treated in their entirety. The initial runoff from the larger storms will also be treated. The sand filters will have the added benefit of detaining the first flush runoff for several hours within the treatment chamber.

Dry-weather ("nuisance") runoff and other non-storm runoff from all developed watershed areas of the Headlands including the adjacent off-site areas will be diverted through a mechanical diversion structure and released to the existing sanitary sewer system, with the sand filters serving as an available backup system should this diversion be interrupted. Approval for this connection has been obtained from the South Coast Water District. It will be a particularly important Project feature in reducing the levels of pathogen indicator bacteria as well as other runoff constituents entering Dana Point Harbor and reaching Strand Beach through dry-weather runoff. Likewise, it will eliminate the need for the County to manually plug the west Dana Point Harbor storm drain outlet and then pump the nuisance water into the sewer system for treatment. In addition, the diversion structure will eliminate the need to remove the existing plug in the event of a rainstorm to prevent flooding.

First flush from Area B1 will be diverted away from the marine life refuges to the central Strand Beach sand filter and outlet. During larger storms, after the first flush is captured for treatment, drainage from Area B1 will bypass the diversion structure and will flow to a split flow structure, which will divide the flow amongst the two southern outlets at Strand Beach. This will reduce potential beach erosion impacts at the central outlet and will equalize flows to minimize other potential impacts.

Existing conditions and proposed development conditions for the proposed Project were modeled by inputting land use characteristics such as slope of land, percent imperviousness, and the fractional distribution of land uses and published constituent

buildup rates adjusted to correlate the model with published event mean concentrations ("EMCs") for the San Diego and Los Angeles areas. The developed condition will result in a reconfiguration of the size and number of drainage areas from nine to eight.

Modeling was performed using buildup rates for pollutants, and applied using the design storm condition and time period using recorded precipitation data and other collected data for model input and calibration. It is difficult to model bacterial loading from storm water even with a build-up and wash-off modeling approach, because bacteria behave as a result of growth and decay over time. Even when bacterial modeling is predicted over a multiple year modeling period instead of over an eight day period as in this study, it is rarely successful. Accordingly, the developed condition bacterial concentration was evaluated based on removal efficiencies of the proposed BMPs (nuisance water diversion to the sanitary sewer, sand filter treatment, public education and street sweeping) and other qualitative best professional judgments.

The performance of street sweeping as a BMP was evaluated within the built-in options of the model. The advanced vacuum sweeping devices used in the City have greater sweeping efficiencies and likely have improved constituent removal efficiencies over those used in the model. Constituent removal associated with sand filters was assessed using the model results from the developed conditions with street sweeping included. The predicted effluent concentrations include the removal associated with sand filters and street sweeping. Results from the modeling show that for all runoff constituents except nitrate-N and dissolved phosphorus (and TDS and COD in one instance), the predicted effluent concentrations from the developed watershed conditions (with BMPs) are substantially lower than the existing conditions. Despite the predicted increases for nitrate-N, dissolved phosphorus, TDS, and COD, all of the resulting predicted values are below applicable agency water quality guidelines. In addition, when compared with the Los Angeles and San Diego area EMCs (weighted average based on land use) the effluent concentrations for all constituents from the developed conditions are equivalent or below the Los Angeles and San Diego EMC values.

The increase in the nitrate-N and the dissolved phosphorus is most likely due to the disassociation of organic or particulate bound nutrients while passing through the sand filter. In other words, nitrate-N and dissolved phosphorous are a function of Total Kjedahl Nitrogen ("TKN") and total phosphorus, respectively. Therefore, nonquantifiable, nonstructural BMPs that reduce TKN and total phosphorus would reduce the dissolved constituents. These nonstructural BMPs include irrigation and fertilizer controls and proper disposal of animal waste.

The predicted increases in TDS and COD at Strand Beach may be artifacts of the modeling process because no removal efficiencies for these constituents by sand filters are available and there are no published removal efficiencies for TDS by street sweeping. It is anticipated that street sweeping will reduce TDS, but this could not be quantified. It is also anticipated that COD will have decreased effluent concentrations in the developed condition due to its close relationship to BOD (which is reduced).

Based on the baseline water quality monitoring, the proposed source control and structural BMPs, and the water quality modeling, evaluations were made to compare pollutant loads in the existing and developed condition. The results of these evaluations indicate that adherence to applicable regulations and implementation of a combination of BMPs and PDFs will reduce the potential impacts involving water quality in the runoff and in the marine receiving waters to less than significant levels. In view of this, any potential ecological impacts to the adjacent marine habitats and marine life refuges from surface water runoff also would be reduced to less than significant levels. The Project complies with all applicable standards for water quality for surface runoff and for receiving water bodies.

PDFs implemented with the Project will address all components of drainage on the Project site, and include BMPs such as litter control and street sweeping, development of public and commercial use awareness programs, water efficient landscaping, use of low-flow devices, prevention of commercial waste and domestic waste from entering storm or sanitary systems, capture of first flush, and low flow diversions to the sanitary sewer system. In addition to these BMPs, the Project will replace the aged storm drain system currently on the Project site, including installation of energy dissipaters to reduce erosion potential below that which currently exists on the site.

The following PDFs and PCs, which are set forth on pages 4.8-11 through 4.8-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 8-1 through PDF 8-13; and PC 8-1 through PC 8-13. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.8.5.1.

5.7.3 Less Than Significant Impact: Groundwater Quality. The proposed Project may affect shallow groundwater, which is most susceptible to contamination from the high pollutant loads in dry-weather runoff and the "first flush" of a storm event.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The quality of groundwater in the lower San Juan Basin is considered to be relatively poor, and the Project site is not a groundwater recharge area due to local geology and sea water intrusion. Nonetheless, because shallow groundwater is susceptible to contamination from the high pollutant loads in dry-weather runoff and the "first flush" of a storm event, PDFs will be incorporated to divert dry-weather runoff to the sewer system and to hold and treat the first flush generated by a 85th percentile

storm event. Several PDFs such as automatic irrigation controllers, water efficient landscaping, efficient irrigation systems, sewer connections for food service facility washdown areas, diversion of dry-weather "nuisance" runoff, and the sand filter BMPs are provided in order to limit infiltration and thereby protect groundwater quality.

The following PDFs and PCs, which are set forth on pages 4.8-11 through 4.8-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 8-1 through PDF 8-13; and PC 8-1 through PC 8-13. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs and the BMPs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.8.5.1.

5.8 Land Use

5.8.1 Less Than Significant Impact: Consistency of Proposed Project with Applicable Plans and Policies From the General Plan, Zoning Ordinance and Local Coastal Plan. At build out, the Project's mixed-use development will include: 40,000 square feet of visitor/recreational commercial at PCH, a 65-room inn with associated amenities, 125 dwelling units, five public parks, including conservation and recreation areas, and related infrastructure on an 121.3 acre site. There is the potential that some of these uses will be inconsistent with an applicable Land Use plan, policy or regulation of an agency with jurisdiction over the Project that was adopted to avoid or mitigate an environmental effect; with the development, elimination, or conversation of a General Plan designated open space or recreation area to a more intensive land use without a compensating addition of similar or higher quality open space; cause the physical division of an established community; create a substantial conflict with an existing on-site land use or with existing adjacent land uses, especially in regards to uses for recreational, educational or scientific purposes or with significant wildlife, resource protection or hazard areas.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The City's development has been shaped by the three preincorporation Specific Plans approved by the County: Dana Point, Capistrano Beach, and South Laguna, and by the Planned Communities of Laguna Niguel, Dana Point Harbor and Bear Brand. The Specific Plan and Planned Community documents provided policy guidance and regulatory control both before the City incorporated and during the preparation of the City's General Plan and Zoning Ordinance.

The proposed Project will amend the City General Plan, resulting in lower development intensity and densities in all land use categories, creation of more public open space, and

relocation of specific land use areas. The HDCP also establishes the Planned Development District ("PDD") Zone Classification to the Zoning Code, which was specifically provided for in the GPA. The Project uses the PDD provisions to implement General Plan policy by establishing regulations, conditions, and programs within the HDCP.

The FEIR's consistency analysis, set forth on pages 4.9-10 through 4.9-57 and incorporated by reference herein, contains a detailed analysis regarding the Project's consistency with the General Plan's applicable elements, goals and policies. In general, if amended by the proposed actions, the Project will become consistent with the General Plan, as amended. As the FEIR discussion explains, the Project is consistent with the applicable goals and policies.

The Project requires an amendment to the Zoning Code. Currently, the Project site is designated as Specific Plan Overlay in the Zoning Code. The HDCP modifies the PDD zoning classification to the Zoning Code, and designates the site as a PDD. The plans, programs, and development standards contained in the HDCP are the required zoning standards for the property. The HDCP complies with and augments the existing City Zoning Code. Therefore, implementation of the proposed Project will not conflict with applicable Zoning Codes.

The Coastal Act establishes policies and procedures regulating the development and conservation of California's coast. The Coastal Act requires local governments to prepare Local Coastal Programs ("LCP") for areas located within the Coastal Zone. Local Coastal Programs are composed of the relevant portions of a local government's General Plan, zoning ordinances, zoning district maps, and other implementing actions, which, when taken together, meet the requirements of and implement the provisions and policies of the California Coastal Act at the local level.

The proposed Project requires an amendment to the certified Dana Point LCP. The HDCP will be submitted by the City to the Coastal Commission for certification as an amendment to the Dana Point LCP and as the adoption for that portion of the property that was formally within the uncertified Laguna Niguel LCP. The resulting Headlands LCP will replace the two previous documents. The HDCP, therefore, constitutes an amendment to the Dana Point LCP for the portions of the property subject to the Dana Point LCP and an LCP for those portions of the property not subject to the Dana Point LCP. Upon approval of the HDCP by the City and certification by the California Coastal Commission, the HDCP and the Dana Point LCP will constitute the LCP for all of the property. As a result, the proposed Project represents a substantial reduction in intensity of land use from that described in the Dana Point LCP and the Laguna Niguel LCP.

Section 4.9 of the FEIR provides provides an analysis of the proposed Project's consistency with the following Coastal Act policy provisions: Public Access, Recreation, Marine Environment, Land Resources and Development. As illustrated on pages 4.9-63 through 4.9-80 of the FEIR, which are incorporated by reference as if fully set forth herein, the corresponding implementation program for the HDCP is consistent with each

of the Coastal Act policies referenced in Tables 4.9.A through 4.9E. Included in the implementation programs under the HDCP are provisions for completion of approximately three miles of integrated trials that will be incorporated into the California Copastal Trail System, and the funding, dedication, design and construction of the visitor recreational facilities included in the proposed Project.

Implementation of the proposed Project will not effect existing established communities. The Project site surrounds two existing residential enclaves and is bounded on the north, east and southeast by existing residences and visitor commercial development. The Pacific Ocean and Dana Point Harbor are on the west and south of the Project site. The site forms a point, essentially protruding into the ocean. Both the existing development adjacent to the Project site and the proposed Project front on Selva Road, PCH or Street of the Green Lantern. These streets form the edge of current development/neighborhoods, and are not bisected by the proposed Project. Because the Project does not separate any of these areas but is being developed contiguous to the existing edge of development, it does not physically divide any established community.

The Project will not effect existing on-site land uses. Land use compatibility is defined as the potential adverse effects that occur with respect to physical changes resulting from the proposed Project to other existing or proposed uses on the site. The HDCP provides for the orderly development and conservation of resources on the Project site and minimizes impacts to the environment through sensitive land use planning and through the implementation of comprehensive site development standards. The HDCP replaces the existing and largely abandoned on-site development with recreation, preservation, conservation, and private development opportunities. Significant on-site open space habitat areas are conserved as detailed in the HDCP and are compatible with adjacent open space parks and recreation, visitor/recreation commercial, and residential uses. The HDCP transforms the site from a fenced, inaccessible property to uses that provide public parks, open space, conservation areas, public trails, coastal access, visitor/educational facilities, jobs and homes in conjunction with the goals, programs, and policies included in the City General Plan. Thus, the Project is compatible with existing on-site land uses.

The Project will not effect existing adjacent land uses. Land use compatibility and operational conflicts are considered significant if they lead to physical impacts on nearby properties or persons living or working in the area. Substantial nuisances, such as significant unmitigated increases in traffic, noise, odor, or substantial incongruity and conflict (physical and visual) characterize such incompatibilities and conflicts with the adjacent land use. The two existing residential enclaves adjacent to the Project have a zoning designations of RMF-22 (multiple family - up to) 22 dwelling units per acre and RMF-30 (multiple-up to 30 dwelling units per acre). The existing residential uses adjacent to the Project site have varying densities ranging from 5 to 23 dwelling units per acre. Current adjacent land uses include the following: Dana Point Harbor; Breaker Isle, Niguel Terrace, Chelsea Point residential areas; Visitor/Commercial uses located east of the Project site; multifamily and singe family residential located on the west side of Green Lantern; northern residential enclave; and southern residential enclave.

The Project provides cumulative land use benefits to the surrounding land uses through the dedication of 62 acres of nearby public parks and open space, public trails, overlooks, and coastal access (including the dedication of Strand Beach as a public beach) and five visitor recreational visitor centers. These elements increase coastal access, public recreation, and ocean and bluff top viewing opportunities.

Implementation of the numerous design features described in PDF 9-1 ensures that potential land use impacts are less than significant. The HDCP design concepts and PDFs will assist in reducing potential impacts on visual resources and, thus, increase land use compatibility. PDFs, such as extensive use of complementary landscape materials throughout the site, establishment of building setbacks and creation of view corridors, contribute to improving the visual resources of the site and provide a compatible development project adjacent to existing uses (FEIR Section 4.1, PDFs 1-1 and 1-2). In addition, its distance from any airport ensures that the Project would not result in a safety hazard for people residing or working in the Project area.

In sum, based upon the analysis presented in the FEIR, the proposed Project does not substantially contribute to conflicts with applicable land use plans adopted for the purpose of avoiding or mitigating an environmental effect, does not eliminate designated open space or a recreation area, does not physically divide an established community, and does not contribute to a substantial conflict with adjacent or other community land uses. Thus, the Project will not create any significant adverse land use impacts.

The following PDFs, which are set forth on pages 4.9-5 to 4.9-10 and 4.1-5 through 4.1-7 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 9-1 and PDFs 1-1 and 1-2. Based upon the analysis presented in the FEIR, adherence to these PDFs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.9.6.1.

5.9 Noise

5.9.1 Less Than Significant Impact: Short-Term Construction Related Noise.

Implementation of the proposed Project will result in short-term noise impacts associated with demolition, grading, and construction on site. Construction related short-term noise levels may be higher than the existing ambient noise levels in the area immediately adjacent to the Project site, but would no longer occur once construction of the Project is completed. Two types of short-term noise impacts could occur during construction of the proposed Project. First, the transport of workers and construction equipment/materials to the Project site would incrementally increase noise levels on access roads leading to the site. The second type of short-term noise impact is related to noise generated during excavation, grading, and construction on the Project site.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: There would be relatively high single event noise exposure potentials associated with passing trucks (up to a maximum of 87 dBA at 50 feet from the passing truck) from transport of workers and construction equipment/materials to the Project site, but the effect on long-term ambient noise levels would be small and less than significant (when averaged over a longer time period). Therefore, short-term construction related impacts associated with worker and equipment/material transport to the proposed Project site would result in a less than significant impact.

Existing residences adjacent to the Project site may be subject to short-term high intermittent noise generated by construction activities near the Project boundary noise during excavation, grading, and construction on the Project site. Depending on where active construction occurs, the exterior areas of adjacent residences may be affected by construction noise exceeding 90 dBA intermittently during construction. Construction is performed in steps, each of which has its own mix of equipment and, consequently, its own noise characteristics. These various sequential phases would change the character of the noise generated on the Project site and, therefore, the noise levels surrounding the site as construction progresses. Despite the variety in the type and size of construction equipment, similarities in the dominant noise sources and patterns of operation allow construction related noise ranges to be categorized by work phase. At the Project site, the loudest equipment that might be used would be a rock driller (99 dBA L_{max}) or pile driver (96 dBA L_{max}). The pieces of equipment may be used during discrete times during grading, potentially causing noise levels to be as high as 99 dBA L_{max} as a maximum at 50 feet from the source.

Each doubling of the sound sources with equal strength would increase the noise level by 3 dBA. Assuming each piece of construction equipment operates at some distance apart, the worst case combined noise level at the nearest residences during this phase of construction would be 91 dBA L_{max} at a distance of 50 feet from a typical active construction area. As site preparation, grading, and construction processes move around the site, the noise producing equipment will range from approximately 50 feet to up to several hundred feet away from existing residences. Due to the sound attenuation resulting from distance from the source, noise levels experienced at existing residences would decrease by three decibels at 100 feet and by another six decibels at 400 feet.

The site preparation phase, which includes demolition, excavation, and grading of the site and infrastructure construction, tends to generate the highest noise levels, other than rock drilling and pile driving, because the noisiest construction equipment is earthmoving equipment such as back fillers, bulldozers, excavators, front loaders, compactors, scrapers, and graders. Remedial and excavation grading activities on site will be staged

over a period of approximately 28 weeks. Typical operating cycles for these types of construction equipment may involve one or two minutes of full power operation followed by three to four minutes at lower power settings. Noise levels at 50 feet from earthmoving equipment range from 68 to 88 dBA. The primary noise source from earthmoving equipment would be from scraper movers. The maximum noise level generated by each earthmover on the proposed Project site is assumed to be 88 dBA at 50 feet from the operating earthmover. The maximum noise level generated by water and delivery trucks is approximately 86 dBA at 50 feet from these vehicles.

Standard residential construction in Southern California would provide 20 dBA (national average is 25 dBA) in exterior to interior noise reduction with windows closed and 12 dBA (national average is 15 dBA) with windows open. Interior noise levels at existing dwelling units closest to the Project site with direct line of sight to on-site construction activity, i.e., those that would be exposed to intermittent maximum noise levels of 90 dBA L_{max}, would potentially reach 65 dBA L_{max} with windows closed and up to 78 dBA L_{max} with windows open, at such times as the equipment is at the property line. As indicated above, these noise levels will drop off at a rate of three decibels per each doubling of distance (e.g., 100 feet, 200 feet, and 400 feet). Existing residences farther away from the Project site and those blocked by other existing structures would experience lower construction noise coming from the Project site. Typical noise levels indoors will range from the low to mid-50s to the low 60s dBA L_{max} noise levels with windows shut. Attenuation of the residential structure, ability to close windows for a short period of time, distance from the noise source, and the temporary and transitory nature of these activities lessen the possibility of noise impacts on adjacent residences, resulting in a less than significant impact at adjacent residents.

The City requires that all construction vehicles or equipment, fixed or mobile, be equipped with properly operating and maintained mufflers. All operations shall comply with the City's Noise Ordinance standards, and stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings. Construction activities are restricted to between 7:00 a.m. and 8:00 p.m. from Monday through Saturday. No construction activity will be permitted on Sundays and federal holidays (PC 10-1). Construction noise during the allowed construction time periods are exempted from the noise level provisions in the Noise Ordinance requirements.

During the construction period, existing residences to the north, east, south, and west that are directly adjacent to the Project site would potentially be exposed to high levels of noise for short periods of time. The exterior areas of these residences could experience construction noise levels exceeding intermittent maximum noise levels of 90 dBA L_{max} over very short periods of time when construction occurs near these residences. The areas of intermittent noise impacts will shift around the site as grading activities and earth moving shift from phased areas of cut and fill and as soil compaction proceeds. The shift of activities from one area to another as excavation is followed by filling and recompaction, and as the site is finished in one area and grading activities move to another area, will keep the noise levels from being a constant source of noise and will lessen noise levels as the grading moves away from adjacent residences.

Construction of the proposed Project could potentially result in intermittent exterior noise levels exceeding 90 dBA L_{max} at the closest residences during daytime hours only, but not on Sundays or federal holidays. Construction would be temporary and would affect the exterior areas directly adjacent to the active construction site. Compliance with the City's Noise Ordinance requirements (PC 10-1) would reduce short-term construction related noise impacts associated with the proposed Project to a less than significant level. The proposed Project will not result in significant construction noise impacts with implementation of PC 10-1, which requires compliance with the City's Noise Ordinance.

The following PDFs and PCs, which are set forth on pages 4.10-7 through 4.10-8 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 10-1; and PCs 10-1 through PC 10-2. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.10.5.1.

5.9.2 Less Than Significant Impact: Long-Term On-Site Operational Noise. The proposed Project potential could result in noise levels that are different or substantially above the ambient noise levels experienced in the Project vicinity.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The only portion of the Project that could result in noise different or substantially above ambient noise levels in the vicinity are the loading/unloading activities at the proposed commercial uses; however, those uses are surrounded by urban development and are buffered from adjacent residential uses or directly front PCH. The proposed residential uses are not expected to generate noise levels that are substantially different from those of the surrounding uses and are considered compatible with adjacent land uses. The proposed Visitor/Recreation Commercial (including the Seaside Inn) land uses would be similar to other current commercial uses along PCH and Green Lantern to the north/northeast and east of the Project site. Noise associated with Visitor/Recreation Commercial/inn land uses, such as air conditioning, loading/unloading, and parking lots, must comply with the maximum noise level (L_{max}) standards specified in the City's Noise Ordinance. Peak noise levels from the parking lots may be audible to nearby residential areas, but would be required to comply with the Noise Ordinance criteria. The noise levels produced adjacent to existing residences by existing commercial and residential development are common in an urban environment. Noise levels produced by existing residences themselves or by the existing

Visitor/Recreation Commercial uses on Green Lantern will continue. Given the Project's residential use to residential use interface, those areas will have similar noise effects and are considered to be noise compatible. At the residences adjacent to the proposed inn and Visitor/Recreation Commercial sites, compliance with the City's Noise Ordinance (PC 10-2) will maintain impacts to levels accepted by the City and are determined to be less than significant.

Reference: FEIR § 4.10.5.1.

5.9.3 Less Than Significant Impact: Off-Site Vehicular Traffic Noise. Existing and existing-plus-Project vehicular traffic could increase noise levels in the vicinity.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Federal Highway Administration ("FHWA") highway traffic noise prediction model (FHWA RD-77-108) was used to evaluate highway traffic related noise conditions in the vicinity of the Project site. The existing plus Project and future cumulative with and without Project scenarios were examined. Noise levels along the roadway links in the Project vicinity under the existing plus Project represent the worst case scenario, which assumes that no shielding is provided between the highway traffic and the location where the noise contours are drawn.

Two roadway links, Selva Road west of PCH and Street of the Blue Lantern from La Cresta Drive to PCH, would experience 1.2 and 1.1 dBA increase, respectively; otherwise, the increases in traffic noise levels would be 0.3 dBA or less. An increase of less than 3 dBA is not perceptible to the human ear, thus because these increases are less than 3 dBA, and the 65 dBA CNEL contour is confined within the roadway right-of-way, the Project related traffic noise impact is determined to be less than significant.

The following PDFs and PCs, which are set forth on pages 4.10-7 through 4.10-8 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 10-1; and PCs 10-1 through PC 10-2. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact is less than significant and therefore no mitigation is required.

Reference: FEIR § 4.10.5.1.

5.9.4 Less Than Significant Impact: Vehicular Traffic Noise at PCH and "A" Street Intersection. Traffic stopping and accelerating at the new traffic signal to be installed at PCH and "A" Street may generate noise higher than the existing conditions.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Except for the extreme conditions of cars with worn out brakes or older engines, the stop-and-go pattern vehicle noise generated by a traffic signal generally is lower than noise generated by vehicles driving by at 45 mph or higher. Therefore, implementation of a new traffic light is not anticipated to generate traffic noise higher than the no traffic light conditions and this impact is less than significant.

Reference: FEIR § 4.10.5.1.

5.9.5 Less Than Significant Impact: On-Site Traffic Noise Impacts (excluding Planning Area 6). Portions of the Project site could experience excessive noise from traffic on adjacent roads.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Project site is adjacent to a portion of PCH, Selva Road, and the Street of the Blue Lantern. The 65 dBA CNEL contour along Selva Road and the Street of the Blue Lantern in the Project vicinity would be confined within 50 feet of the centerline of the outermost travel lane. The portion of the Project site adjacent to these two roads would not be exposed to traffic noise exceeding the 65 dBA CNEL noise standard. Impacts to Planning Area 4 (PA 4), at the southwest corner of Street of the Green Lantern and PCH, would not be considered significant, because the area is designated for Visitor/Recreation Commercial use, and the standard does not apply. Therefore, potential on-site noise impacts in these locations are considered less than significant.

The following PDFs and PCs, which are set forth on pages 4.10-7 through 4.10-8 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the Project and the potential environmental impacts resulting from their implementation: PDF 10-1; and PCs 10-1 through PC 10-2. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.10.5.1.

5.10 Public Services

5.10.1 Less Than Significant Impact: Fire Protection and Emergency Medical Service. The Project includes preserving existing natural vegetation in the Headlands Conservation Park. Some slopes in the Upper Headlands area and in the southern portion of the Strands Beach area will also remain as open space, with different mixes of natural and planted vegetation. Structures located near these open areas may be exposed to fires. The Orange County Fire Authority ("OCFA") stated in a letter to the City that the Project may present significant impacts to existing fire and rescue services and, in order to mitigate such impacts, the Project applicant may be required to enter into a secured fire protection agreement with OCFA as a additional condition of development. Such an agreement likely would require the payment of impact fees to OCFA.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Since a potential fire hazard could exist with development adjacent to natural open space areas, a site specific Fuel Modification Plan has been prepared and approved by OCFA (PDF 11-1) to lessen or avoid the potential for fire hazards. The OCFA's other standard conditions also will be required as PDFs or PCs and, in addition, the developer must enter into a secured fire protection agreement with OCFA, maintain street widths and parking satisfactory to the OCFA and obtain various other OCFA or Fire Chief approvals (PC 11-15).
The following PDFs and PCs, which are set forth on pages 4.11-7 through 4.11-13 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the Project and the potential environmental impacts resulting from their implementation: PDF 11-1 through PDF 11-3; and PC 11-1 through PC 11-15. Based on the FEIR's analysis, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.11.4.1.

5.10.2 Less Than Significant Impact: Emergency Response and Evacuation Plan. The proposed Project resident and visitor populations will contribute incrementally to any evacuation from that part of the City and could create an impact if it impeded, blocked or otherwise physically interfered with the adopted emergency response plan or emergency evacuation route.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Project is at the terminus of roadways leading to it. The main access to the Project site is via the sometimes heavily congested PCH, but the number of vehicles entering or exiting the site at a given time is not significant enough to impair or interfere with emergency response routes, time, or capability. The Public

Safety Element of the General Plan and the City's Emergency Evacuation Plan provide for an emergency evacuation of the entire City. PCH to the northwest and/or east (east to Interstate Highway 5) is specified in the General Plan as the primary designated emergency evacuation route. Residents and visitors at the Project site would exit to PCH via "A" Street, Cove Road, Street of the Green Lantern, or Selva Road. In an emergency, access to and from the site will comply with emergency access requirements. The General Plan recognizes that PCH and Interstate Highway 5 are frequently congested, even under non-emergency traffic flow conditions; there is no designated emergency evacuation route that runs through the proposed Project site. The proposed Project would add to both the permanent and visitor population in the Project area (but significantly less than the current General Plan designation for the site) and would therefore incrementally increase the overall demand for emergency services and fire/paramedic response in the area, but would not physically interfere with the City's general evacuation or emergency plans. The proposed Project resident and visitor populations will contribute incrementally to any evacuation from that part of the City. However, the Project does not impede, block, or otherwise physically interfere with the adopted emergency response plan or emergency evacuation plan. Furthermore, the Project complies with OCFA, Police, and City emergency access requirements.

The following PDFs and PCs, which are set forth on pages 4.11-7 through 4.11-13 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 11-1 through PDF 11-3; and PC 11-1 through PC 11-15. Based on the FEIR's analysis, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and thus no mitigation is required.

Reference: FEIR § 4.11.4.1.

5.10.3 Less Than Significant Impact: Law Enforcement, Libraries, Public Transportation and Solid Waste.. The proposed Project will increase demand for law enforcement, library, public transportation and solid waste services.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Dana Point Police Services stated it has adequate response times and can call for additional service as part of the Countywide Mutual Aid Agreement, and that the Project would not adversely impact the current service levels or negatively impact traffic safety. Similarly, the Orange County Transportation Authority (OCTA) stated that the current level of service is adequate to meet the needs of the existing population. The proposed Project will not adversely impact the level of service presently provided due to the slight increase in ridership demand as a result of increased employment and residents at the Project site.

The service level for the Orange County Public Library system and local libraries is based on the population served. The 125 new Project residences will not increase the demand for library service enough to create a significant environment impact.

The Project will comply with City requirements regarding recycling. Project cul-de-sacs and bin locations and enclosures will be designed to accommodate solid waste collection vehicles and waste pickup. The City's solid waste disposal company has the capability and capacity to handle the Project's solid waste and recyclables, and the solid waste facilities receiving the projected waste indicate they can accommodate future solid waste produced by the Project, as well as within the County. Potential impacts to law enforcement, library, public transportation and solid waste services are thus determined to be less than significant and no mitigation measures are required.

Reference: FEIR § 4.11.4.1.

5.11 Recreation

5.11.1 Less Than Significant Impact: Park Acreage Need. The Project could impact public parks if it failed to set aside sufficient park acreage.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Project includes approximately 31.7 acres of Recreation Open Space and 30.3 acres of Conservation Open Space land uses. The City determines that 2.5 acres per 1,000 residents are needed for district parks and 1.5 acres per 1,000 residents are needed for school playgrounds. In 2010 the City estimates it will have a surplus of district park space of 15 to 32 acres and a deficit of school playground space of 17 to 31 acres. The Project will increase the demand for park space due to the planned 125 residential units, which are estimated to house from approximately 260 to 300 residents. This increase in demand will be offset, however, by the Project's provision for five parks totaling 62.0 acres using the total acreage of 4.0 acres per 1,000 residents. With an upper range population estimate of approximately 300 residents, the Project is required to provide 1.20 acres of park area, thus the Project significantly exceeds the required amount of park space.

In addition, the Development Agreement between the City and the Project applicant requires that the parks and open space on the Project site be improved and the ownership transferred to the receiving agency (i.e., City, County, or nonprofit trust) prior to the occupancy of the first dwelling unit (PDFs 12-1 through 12-8). Therefore, on-site and adjacent open space, park space, and regional park space would be immediately accessible to the public. Implementation of the proposed Project and the corresponding increase of up to 300 residents would not substantially increase the use of existing

neighborhood and regional parks or other recreational facilities such that substantial physical deterioration would occur or be accelerated. Therefore, no impacts to parks or other recreational facilities would occur as a result of the proposed Project.

The following PDFs and PCs, which are set forth on pages 4.12-7 through 4.12-12 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the Project and the potential environmental impacts resulting from their implementation: PDF 12-1 through PDF 12-8; and PC 12-1. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.12.4.1.

5.11.2 Less Than Significant Impact: Public Parking for Beach/Recreational Areas. The provision of additional public accessways to Strand Beach, the dedication of Strand Beach, and the other proposed public recreational areas may increase the demand for additional public parking adjacent to these accessways. Parking will not be available along PCH.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Project proposes open space related parking, dispersed relatively evenly and in close proximity to the coastal recreational opportunities, including approximately 62 parking spaces on site, along the Street of the Green Lantern, Scenic Drive, and in the parking lot adjacent to the Nature Interpretive Center to serve the uses in Harbor Point Park, the trails in the Conservation Park, and Hilltop Park. Approximately 60 spaces are proposed on site along the extension of Selva Road to serve as secondary parking for the Conservation Park, a portion of the trail system, overflow parking for the adjacent multifamily enclave, and Strand Beach. In addition to those 122 spaces, the County-owned Salt Creek parking lot (Selva Road) immediately adjoins the proposed Strand Vista Park. The parking lot on the west side of Selva Road will accommodate 593 vehicles. Current and historic data indicate that the Salt Creek parking lot, despite providing free parking, has extensive excess capacity. A parking survey was undertaken midday, in 1993 on four consecutive weekends in August, including Labor Day. Occupied parking spaces ranged from 125 (21%) to 463 (78%). In 2001, an updated survey was conducted during the last two weekends of August and the following Labor Day holiday weekend between the hours of 11:00 a.m. and 2:30 p.m.. Occupied parking spaces ranged from 196 (33%) to 277 (47%).

In addition to Niguel Shores Beach, the Salt Creek parking lot above Strand Beach was sized in anticipation that it would eventually also serve the recreational activities associated with Strand Beach. The proposed park and open space parking lot for the Headlands has been dispersed into coastal fronting locations that will meet the

requirements and serve the needs of the recreational activities proposed on site. Extensive additional parking is readily available at no charge at the Salt Creek parking lot. Excess capacity at this location will also serve the enhanced coastal access opportunities provided by the Project. In addition, parking stall for the physically disabled will be provided at the visitor recreation facilities (PC 12-1). Therefore, potential impacts associated with parking are determined to be less than significant and no mitigation measures are required.

The following PDFs and PCs, which are set forth on pages 4.12-7 through 4.12-12 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the Project and the potential environmental impacts resulting from their implementation: PDF 12-1 through PDF 12-8; and PC 12-1. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.12.4.1.

5.12 Transportation/Traffic

5.12.1 Less Than Significant Impact: Amendment to the General Plan Circulation Element. Implementation of the proposed HDCP Circulation Plan requires an amendment to the City's General Plan Circulation Element or would potentially have significant impacts. The Circulation Element's Master Plan Circulation System currently calls for Selva Road, a secondary arterial, to connect with Street of the Green Lantern, thereby providing a loop road connecting the Project site to PCH. The proposed General Plan Amendment would delete the Selva Road loop connection and instead construct Selva Road as a 30 foot right-of-way public street with two travel lanes.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Circulation Element's Master Plan Circulation System currently calls for Selva Road, a secondary arterial, to connect with Street of the Green Lantern, thereby providing a loop road connecting the Project site to PCH. The Project proposes, as part of its General Plan Amendment, to delete the Selva Road loop connection and instead construct Selva Road as a 30 foot right-of-way public street with two travel lanes. Primary access to the Project site will be provided through an extension of Selva Road and by a new street (interim name: "A Street") with a new intersection at PCH located between Street of the Green Lantern and Selva Road. Cove Road, Scenic Drive, and Street of the Green Lantern will provide secondary access to the site. A series of private streets will serve the Strand and Upper Headlands residential areas in Planning Areas 2 and 6, respectively. Approval of the proposed amendment to the City's General Plan Circulation Element, including the amendment deleting the Selva Road loop connection, will bring the Project into conformance with the City's General Plan. Selva

Road has already been deleted from the County of Orange Master Plan of Arterial Highways. Consistency with the General Plan is discussed in Section 4.9 of the FEIR.

Based on the analysis presented in the FEIR, approval of the proposed General Plan Amendment will bring the Project into conformance with the City's General Plan and hence this potential impact will not rise to a level of significance.

Reference: FEIR § 4.13.5.2.

5.12.2 Less Than Significant Impact: Parking. The provision of additional access to Strand Beach and other proposed public recreational areas may increase the demand for public parking near those uses.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The trip generation rates for parks and open space from the City's General Plan's EIR traffic model was used to estimate the parking demand for park and open space uses, resulting in a total of 354 average daily trips ("ADT"). ADT for the visitor recreational facilities located in the parks are included in this number. Assuming an average visit to the site is three hours, the estimated maximum amount of visitors occurring at any one time is assumed to be 60 percent of the daily total. Applying the 60 percent peak demand to the 177 inbound average daily trips results in a projected parking demand for the parks and recreational open space of 106 spaces.

Recreational opportunities in the Headlands Project are concentrated on the coastal edge of the Project from Harbor Point to Strand Beach. The Project proposes open space related parking dispersed relatively evenly and in close proximity to the coastal recreational opportunities. This includes approximately 62 parking spaces on site along the Street of the Green Lantern, Scenic Drive, and in the parking lot adjacent to the Nature Interpretive Center to serve uses in Harbor Point Park, the trails in the Conservation Park, and Hilltop Park. In addition, approximately 60 spaces are proposed on site along the extension of Selva Road, to serve as secondary parking for the Conservation Park, a portion of the trail system, and as overflow parking for the multifamily enclave and for Strand Beach.

In addition to these 122 spaces, the County-owned Salt Creek parking lot, which provides free parking along the west side of Selva Road, immediately adjoins the proposed Strand Vista Park. Current and historic data indicate that the Salt Creek parking lot has excess capacity. The County parking lot and the west side of Selva Road fronting the parking lot can accommodate approximately 593 vehicles, including approximately ten handicap spaces. Upon Project completion, the existing County maintained stairway and three pedestrian access ways to Strand Beach will be accessible from Strand Vista Park and the

adjoining parking lot. A parking survey conducted in August 1993 reported that, on four consecutive weekends, including Labor Day, occupied parking spaces ranged from 125 (21%) to 463 (78%). An updated survey conducted for the final three weekends in August and Labor Day weekend 2001 reported that between the hours of 11:00 a.m. and 2:30 p.m. occupied parking spaces ranged from 196 (33%) to 277 (47%).

The County has previously indicated to the City that, in addition to Niguel Shores Beach, the Salt Creek parking lot above Strand Beach was sized in the anticipation that it would eventually serve the recreational activities associated with Strand Beach.

The park and open space parking lot for the Headlands has been dispersed into coastal fronting locations that will meet the requirements of the on-site recreational activities. Extensive additional parking is readily available at no charge at the Salt Creek parking lot. Based upon the analysis presented above, potential impacts associated with parking are determined to be less than significant.

The following PDFs and PCs, which are set forth on pages 4.13-12 through 4.13-13 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the Project and the potential environmental impacts resulting from their implementation: PDF 13-1 through PDF 13-4; and PC 13-1 through 13-10. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that the access and parking proposed by the Project are adequate to meet the needs of the development and does not rise to a level of significance.

Reference: FEIR § 4.13.5.2.

5.12.3 Less Than Significant Impact: Project Trip Generation and Distribution. The traffic volumes on PCH north of Crown Valley Parkway are projected to exceed the City's theoretical link volume threshold.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The exceedance of the City's link volume threshold on PCH north of Crown Valley Parkway does not constitute a significant adverse impact for a number of reasons. First, the City's theoretical daily link volume thresholds are fundamentally based on the peak hour traffic volume adjusted to reflect assumed directional distribution, peak hour to daily volume factors, and twin lane utilizations. In actuality, however, the link volume thresholds are an indication of performance, which is superceded by an analysis of the local intersection performance. If the terminal intersections operate satisfactorily (and traffic moves at the two ends), the traffic flow along the segment (in the center) can flow satisfactorily. In the case of the segment of PCH north of Crown Valley Parkway, the intersection of PCH/Crown Valley Parkway is forecast to operate with satisfactory levels of service with little conflict along PCH.

Therefore, the subject segment of PCH will experience adequate flow from the intersection and will flow adequately north of Crown Valley Parkway. Furthermore, as demonstrated in Table 4.13.G of the FEIR, all intersections will be within the City's intersection LOS standards with improvements during both typical weekday and peak summer conditions.

The following PDFs and PCs, which are set forth on pages 4.13-12 through 4.13-13 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 13-1 through PDF 13-4; and PC 13-1 through 13-10. In sum, based upon the analysis presented in the FEIR, potential impacts regarding project-related trip generation and distribution are determined to be less than significant.

Reference: FEIR § 4.13.5.2.

5.13 Utilities

5.13.1 Less Than Significant Impact: Utility (Potable and Recycled Water, Wastewater, Electricity, Natural Gas, Telephone and Television) Services. The proposed Project will result in an increase in demand for utility service (potable water, reclaimed water, wastewater, electricity, natural gas, telephone, and cable television).

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Project will result in an estimated 79,000 gallon-per-day-increase in demand for potable water. The potable water supplier, the South Coast Water District (SCWD), has indicated that it has the capacity to serve the Project and therefore the increased demand for potable water will result in a less than significant impact. SCWD has planned for the construction of a reclaimed water line along PCH to service highway landscaping and the Project's irrigation of common landscaping within the public right-of-way and within the landscaped areas designated for Recreation Open Space (29 acres of the site). Based on a conservative estimate, the Project will use approximately 26,000 gallons per day of recycled water. The SCWD reclaimed water line will have the capacity to serve the Project and therefore the increased demand will be less than significant.

The Project's forecasted wastewater generation rate is an estimated 65,000 gallons per day. Because SCWD had planned for a larger development in the Project area based on the existing General Plan, infrastructure improvements have been sized to accommodate development larger than that required by the Project and thus SCWD has adequate capacity to accept additional wastewater generated by the Project and the Project's increased demand on wastewater facilities will be less than significant.

Sempra Energy is the current electrical service provider to the Project site and has indicated that it will serve the proposed development. The State of California has initiated a number of steps to ensure that California's energy needs are met now and in the future, including acceleration of approval and licensing of additional power plants and approval of long-term contracts with energy providers. These and other steps have been taken to ensure an adequate supply of electricity and the ability to meet peak loads demand in excess of forecasts of regional energy supplies. As a result of Sempra's ability to provide electrical service to the Project and the State's efforts to increase California's energy supply, the impact of the proposed Project on regional electrical energy supplies will remain below a level of significance.

Natural gas, telephone and cable television utilities already exist at the Project site. Each of these utility providers has indicated that it can accommodate increased demand on existing utilities and services at the Project site and, therefore, impacts as a result of the Project's increased demand on these utilities will be less than significant.

The following PDFs and PCs, which are set forth on pages 4.14-4 through 4.14-5 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 14-1 and PDF 14-2; PC 14-1 through PC 14-5. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and thus no mitigation is required.

Reference: FEIR § 4.14.4.1.

5.13.2 Less Than Significant Cumulative Impact: Cumulative Impact. The proposed development will contribute to the cumulative local and regional demand for potable and reclaimed water, wastewater, electricity and natural gas consumption, telephone, and cable television utility services.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Each utility service provider has confirmed that the Project can be accommodated with adequate service to meet the projected utilities demand. Therefore, there is not significant impact resulting from the forecast cumulative increases in demand for utility services. The following PDFs and PCs, set forth on pages 4.14-4 through 4.14-5 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the Project and the potential environmental impacts resulting from their implementation: PDF 14-1 and PDF 14-2; PC 14-1 through PC 14-5. Adherence to these PDFs and PCs ensures that cumulative impacts to utility services will not rise to a level of significance, thus no mitigation is required.

Reference: FEIR § 4.14.5.

5.14 Marine Biological Resources

5.14.1 Less Than Significant Impact: Beach Erosion and Impacts to Marine Biological Resources Resulting From Stormwater Discharges. Portions of the mobile home park formerly located on the Project site have experienced considerable erosion as a result of upstream development and deterioration of the storm drain system built for the former mobile home park. The proposed Project will result in storm water runoff on Strand Beach which has the potential to result in erosion which could in turn impact marine biological resources.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: As discussed in Section 4.7 of the FEIR (Hydrology), PDF 7-3 includes an engineered storm drain system with energy dissipation structures and three outlets to Strand Beach which will confine drainage on site to improved structures, thereby reducing existing on-site erosion in this area. In addition, the Project area will be landscaped and BMPs will be implemented to minimize the potential for erosion.

As specified in PDF 7-4, the proposed Project drainage facilities are designed with energy dissipaters to reduce the discharge velocity of storm water and minimize erosion on the beaches where storm water is discharged. The three storm drain outlets will be equipped with vertical drop energy dissipators within the drainpipes to reduce flow velocity before the water is discharged. Additional velocity reduction will result from outletting onto the riprap adjacent to the beach. The new outlets will replace the existing outlets that have no energy dissipation devices incorporated. Therefore, no significant and permanent beach scouring will result from the planned drainage system and beach erosion impacts will be less than significant. In addition, as discussed in Section 4.5 of the FEIR (Geology and Soils), an erosion control plan and a drainage plan will be prepared and implemented to ensure that surface/subsurface drainage does not contribute to erosion at the Project site (PCs 5-6 and 5-7).

The following PDFs and PCs, which are set forth on pages 4.15-11 through 4.15-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 16-1; PDF 7-4; PDF 8-8; PDF 8-9; PDF 8-11; PDF 15-1; PDF 15-2; PC 5-5 through PC 5-7; PC 8-5; and PC 8-6. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.15.5.2.

5.14.2 Less Than Significant Impact: Change to Beach Characteristics. Construction of the proposed revetment structure could potentially change the physical characteristics of Strand Beach.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Implementation of the proposed Project will not cause any significant loss of beach width or significant change in beach characteristics. As described in detail in Section 4.16 of the FEIR, to minimize slope erosion, enhance public safety, and protect the existing Project site, the existing riprap revetment at Strand Beach will be upgraded with a well-engineered revetment structure. In accordance with PDF 16-1, the structure will be reconstructed within a limit such that the toe of the upgraded revetment will not extend seaward beyond the existing revetment's footprint, except that which is necessary for public safety or public access (e.g., the ramps for the central and southern accessways). As a result of this design, the physical characteristics of the beach will not change substantially, and the beach will remain suitable for spawning activities by the California grunion. In addition, a monitoring program will be implemented to monitor the protection and maintenance of marine biological resources within and surrounding the Project site during and after construction of the Project (PDF 15-2).

The following PDFs and PCs, which are set forth on pages 4.15-11 through 4.15-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 16-1; PDF 7-4; PDF 8-8; PDF 8-9; PDF 8-11; PDF 15-1; PDF 15-2; PC 5-5 through PC 5-7; PC 8-5; and PC 8-6. Adherence to PDF 16-1 and PDF 15-2 will ensure that no significant impacts to beach characteristics occur after Project implementation.

Reference: FEIR § 4.15.5.2.

5.14.3 Less Than Significant Impact: Storm Drain Discharge. The proposed Project will result in discharges of runoff water from storm drains, which can enter the nearshore marine environment and affect marine biological resources through burial, increases in turbidity, or introduction of harmful pollutants.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Energy dissipaters will reduce storm water discharge velocity, thus reducing turbidity (PDF 7-4). As more fully described in Sections 4.7 and 4.8 of the FEIR, the Project will improve overall storm runoff water quality and decrease sediment volume in runoff water as a result of the Project's design and orientation of drainage areas, implementation of structural and nonstructural BMPs, and removal of existing broken storm drains causing slope erosion. The BMPs to be used include sand filters to capture and filter the "first flush" of storm water runoff, diversion of runoff from the marine life refuges and diversion of dry weather "nuisance" flows to the sewer system. Adherence to these PDFs will ensure that no significant impacts to water quality and marine biological resources due to storm drain discharges would occur after Project implementation.

The following PDFs and PCs, which are set forth on pages 4.15-11 through 4.15-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 16-1; PDF 7-4; PDF 8-8; PDF 8-9; PDF 8-11; PDF 15-1; PDF 15-2; PC 5-5 through PC 5-7; PC 8-5; and PC 8-6. Based upon the analysis presented in the FEIR, adherence to PDFs 8-8, 8-9 and 8-11 ensures that this potential impact does not rise to a level of significance and thus no mitigation is required.

Reference: FEIR § 4.15.5.2.

5.14.4 Less Than Significant Impact: Marine Biological Communities Affected by Shoreline Construction of Improved Revetment. Upgrading the existing revetment could change beach characteristics in a way that would affect marine biological communities.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Marine biological communities, including grunion spawning activity, could be affected by shoreline construction of the improved revetment. As more fully described in Section 4.16 of the FEIR, the existing riprap revetment at Strand Beach will be upgraded with a well-engineered revetment structure in a way that will minimize potential effects to marine biological resources. The structure will be reconstructed within a limit to ensure that the toe of the revetment will not extend seaward beyond the existing revetment's footprint except as necessary for public safety or public access. In addition, PDF 16-1 will ensure that equipment and materials handling activities will be restricted to the area above the mean higher high water ("MHHW") mark. Adherence to the construction NPDES permit for the Project, as described in Section 4.8 of the FEIR (PC 8-5), will prevent impacts from materials storage or runoff from the construction area. As described in Section 5.14.2 above, beach characteristics would not change as a result of the rebuilding of the revetment. The

continued suitability of the beach for grunion spawning activities and other marine biological resources will be confirmed by the monitoring activities specified in PDF 15-2.

The following PDFs and PCs, which are set forth on pages 4.15-11 through 4.15-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 16-1; PDF 7-4; PDF 8-8; PDF 8-9; PDF 8-11; PDF 15-1; PDF 15-2; PC 5-5 through PC 5-7; PC 8-5; and PC 8-6. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs will ensure that no significant impacts to marine biological resources occur during construction or after Project implementation.

Reference: FEIR § 4.15.5.2.

5.14.5 Less Than Significant Impact: Increased Visitor Usage Affecting Intertidal Marine Biological Resources. Visitation/use of the accessible areas of the Dana Point Marine Life Refuge ("MLR") and Niguel MLR by Project residents and visitors may affect intertidal communities in those areas. Combined with the intensification and expansion of the OI, increasing attendance from current levels of approximately 78,000 visitors to 135,000 visitors annually, an unknown number of additional visitors to the MLR will occur. As reported in the EIR for the expansion of the Ocean Institute (OI) (County of Orange EIR #579, April, 2000), additional visitors could lead to direct or indirect impacts upon the marine life within the MLR. These visitor-related impacts include litter, direct damage from foot traffic, harassment, and/or illegal removal of the protected MLR species.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Potential impacts to the MLR biological resources from the increase in visitors were determined to be less than significant by the County of Orange as reported in the certified Final EIR as a result of various program features consisting of education programs geared toward protection; signage; a buffer zone between the Harbor walk and the MLR; and planting of native vegetation. The currently proposed upgrade in status for the Dana Point MLR and Niguel MLR (CDFG, 2001) would restrict commercial and recreational fishing in the refuge. Restricting recreational fishing would lessen the taking of invertebrates as bait.

The incremental effect of use by the approximately 300 Project residents, plus visitors to the proposed recreation facilities, parks and commercial facilities, as well as guests at the planned Seaside Inn, equals less than a 1% increase compared to the existing impact on these resources. Moreover, as described in PDF 15-1, public awareness of the fragility and uniqueness of the intertidal resources in the Project area will be facilitated for residents, guests of the inn, and day users of the commercial areas of the Project through signs and the dissemination of informative displays and information materials regarding

the marine biological resources present in the Dana Point area, emphasizing their ecology and fragility, and the protected status of these resources as part of the State's MLR system. As with the OI, these measures will help to offset potential impacts on marine biological resources as a result of visitor usage from new residents and guests. Therefore, implementation of PDF 15-1 in conjunction with the proposed Project results in a less than significant impact on marine biological resources.

The following PDFs and PCs, which are set forth on pages 4.15-11 through 4.15-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 16-1; PDF 7-4; PDF 8-8; PDF 8-9; PDF 8-11; PDF 15-1; PDF 15-2; PC 5-5 through PC 5-7; PC 8-5; and PC 8-6. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.15.5.2.

5.14.6 Less Than Significant Cumulative Impact: Cumulative Effect to Marine Biological Resources. Of the potential impacts to marine biological resources considered in the FEIR, the only impact that could contribute to cumulative impacts would be the impact of additional visitors and beach/intertidal zone users on marine biological resources in the Project area. The beach/intertidal zones for both the Niguel MLR and the Dana Point MLR are currently experiencing impacts and resulting degradation due to visitors (resulting in trampling of individuals, habitat destruction, and other inadvertent damage) and illegal taking of organisms by visitors. The planned expansion of the OI is expected to result in an increase in the number of organized student group visits of 75 to 100 percent annually, and additional increases in visitor use will be expected as growth in south Orange County continues to add demand for coastal activities. The impact of the proposed Project, while not significant of itself, will incrementally add to the existing impact.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: This potential cumulative impact from increased visitor usage is offset by the Project features included in the OI and in the proposed Headlands HDCP described in Section 5.14.5 above, which offset the effects of increased visitation.

In addition, PDF 15-1 includes activities to increase public awareness through signs and the dissemination of educational information regarding the marine biological resources present in the Dana Point area, their ecology and fragility, and the protected status of these resources as part of the State's MLR system. As a result, potential cumulative impacts to marine biological resources are determined to be less than significant.

The following PDFs and PCs, which are set forth on pages 4.15-11 through 4.15-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 16-1; PDF 7-4; PDF 8-8; PDF 8-9; PDF 8-11; PDF 15-1; PDF 15-2; PC 5-5 through PC 5-7; PC 8-5; and PC 8-6. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.15.6.

5.15 Coastal Processes

5.15.1 Less Than Significant Impact: Effects from Installation of Storm Drain Outlets. The proposed Project will create a new drainage system that will be designed to ensure that floating debris and sediment would be removed from the first flush prior to the discharge of storm flows. New storm drains will outlet at Strand Beach. Potential scouring may occur as the flows meander through the beach. This could conceivably occur during severe rainfalls (e.g., 25 or 50 year return frequency), where peak flow discharges are larger than the 10 year return frequency flow rates. The resultant higher velocity residual flows may create a temporary scouring ditch, extending from the outlets to the ocean.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The existing, antiquated drainage system at the Project makes no provision for diversion of nuisance water, not even the runoff that currently flows onto Strand Beach from adjoining off-site areas. The current drainage pattern allows for potential scouring impacts to Strand Beach during severe rainfalls. The proposed drainage system consists of three new storm drains, which outlet at Strand Beach, each sized as a 42-inch pipeline to accommodate portions of the surface runoff for the proposed Project. Each storm drain will be equipped with an internal vertical drop or ring energy dissipator, along with a first flush desiltation, filtering and floating debris collection system located upstream of the outlet (PDFs 7-3 and 7-4). This collection system will be designed to ensure that floating debris and polluted solid particles would be removed prior to the discharge of storm flows. The estimated peak flow velocities at the outlets range from 5.3 to 6.1 feet per second as compared to the existing 42 inch drainage outlet, which has a flow discharge rate of 8.7 feet per second. Flow velocities are further reduced as they disperse through the revetment structure onto the beach.

Although the energy dissipating system would substantially reduce the peak flow velocities at the outlets, potential scouring may occur as the flows meander through the beach during severe rainfalls (e.g., 25 or 50 year return frequency). The resultant higher velocity residual flows may create a temporary scouring ditch, extending from the outlets to the ocean. The alongshore width of the scour may potentially exceed 42 inches, the

diameter of the three proposed drainage outlets located along Strand Beach; however, because of the sand trapping effect of Dana Point, the resulting configuration of Strand Beach creates a beach berm that is typically wider toward the south end of the beach than at the north end. As a result, storm waves during high tides run up across the shore and reach the revetment within the north shore reach where the north and central drains are located. Therefore, the onshore/offshore sediment transport mechanism would recover the temporary and localized scouring induced by infrequent high flows discharged onto Strand Beach.

At the southern drainage outlet, located within the southeastern shore reach where the beach berm is moderate to wide, the horizontal excursion of wave runups may not reach the revetment structure. Thus, the cross-shore sediment movement may not fill the entire scoured area, particularly immediately adjacent to the outlet location. In the event of the 25 or 50 year return frequency rainfall, a localized beach scouring impact may result near the southern outlet. This impact is not considered significant because the localized scouring would not disrupt the regional littoral transport regime within Strand Beach. As described in PDF 16-2, localized scouring and erosion will be minimized through implementation of the beach contouring program which includes prewinter channel cutting and postwinter beach recontouring programs. Furthermore, the proposed system is a material design improvement to the existing conditions associated with the existing Strand Beach storm drains, and is beneficial to water quality in the Project area.

The proposed drainage system also diverts dry season nuisance flows (April – October) resulting from irrigation and other domestic uses into the sewage treatment system operated by the South Coast Water District, rather than into the ocean. Thus, no nuisance water will be discharged onto Strand Beach during peak summer periods of public recreational usage. The proposed drainage system corrects the deficiencies of the existing drainage system, and the impact to local beaches as a result of storm drain outlet discharges is less than significant and beneficial to water quality in the Project area.

The following PDFs and PCs, which are set forth on pages 4.16-12 through 4.16-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 7-3; PDF 7-4; PDF 15-2; PDF 16-1; PDF 16-2; PC 5-6; and PC 5-7. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.16.4.

5.15.2 Less Than Significant Impact: Access Walkways and Ramp Landings. To provide public beach access, the Project would provide two new paths and would improve and partially reconstruct the existing public access path that lies immediately north of the property line. The two new paths terminate at Strand Beach in a six-foot wide stair/walkway and a 15-foot wide ramp/walkway. The six-foot walkway is located near the center of Strand Beach and replaces

the existing, private mobile home ramp. The 15-foot ramp is near the south end of Strand Beach and accommodates pedestrian and emergency vehicle access. Both public paths enter through the proposed Strand Vista Park, descend the terraced slope above Strand Beach, and terminate at beach level. The public walkway and ramp landing areas encroach slightly into the existing beach to enhance accessibility and provide proper slope gradients. In addition, in higher than typical wave conditions, the landing extension may result in localized scouring to the immediate adjoining upcoast and downcoast areas due to a gyration effect as wave runups encounter the trapezoidal configuration of the landing.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The landing extensions are designed to minimize the cross-shore encroachment. The walkway landing encroachment area encompasses approximately 1,770 square feet, with a maximum cross-shore distance of 30 feet. The ramp landing encroachment extends approximately 40 feet across the shore and occupies 1,065 square feet. The Central Strand Beach accessway will create a new opportunity for visitors to access Strand Beach. The access includes a walkway that crosses the revetment diagonally at the same location as an existing asphalt ramp. Potential loss of recreational beach area due to the walkway encroachment equals 0.6% (summer beach conditions) to 1.1% (winter beach conditions) of the total beach area. The walkway creates new beach access, and the seaward extent of the proposed beach encroachment remains landward of the existing revetment segment.

The proposed public access ramp landing, located about 1,000 feet southeast of the proposed walkway, encroaches approximately 1,064 square feet into the Strand Beach. The landing accommodates pedestrians and emergency vehicles arriving on the beach from the proposed south Strand Beach accessway, and its footprint extends an average shore length of 27.5 feet (ranging from 15 to 40 feet), with a cross-shore width of 40 feet. This ramp is in the wide, southern section of Strand Beach, approximately 170 feet from the water line surveyed during a spring beach condition. Given the typical 10 foot depth of sand in this location, a majority of the encroachment will be buried beneath the sand. The 1,064 square feet of impacted area equates to a small seasonal reduction of the Strand Beach recreational area; however, the proposed ramp will enhance beach access and public safety. Although in higher than typical wave conditions, the landing extension may result in localized scouring to the immediate adjoining areas due to a gyration effect from wave runups, the impact induced by the proposed access landing is considered local and would not alter the regional coastal processes offshore of Strand Beach.

The following PDFs and PCs, which are set forth on pages 4.16-12 through 4.16-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the Project and the potential environmental impacts resulting from their implementation: PDF 7-3; PDF 7-4; PDF 15-2; PDF 16-1; PDF 16-2; PC 5-6; and PC 5-

7. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance.

Reference: FEIR § 4.16.4.

5.15.3 Less Than Significant Impact: Revetment Reconstruction. The existing under-designed riprap revetment at Strand Beach may be damaged and stones dislodged onto the beach during a moderate to severe storm event. Unless action is taken to remedy the existing revetment condition, the adjacent terrace material slopes could be susceptible to wave attack and slope erosion, which could create a hazardous beach condition for the public and may undermine the existing dilapidated infrastructure, pavement, and buildings on site. To minimize slope erosion, enhance public safety, maintain public beach access, protect the existing public walkway/emergency access and storm drain immediately north of the project, and to protect the proposed coastal accessways and proposed storm drain outlet improvements, the existing riprap revetment will be reconstructed, as provided for in PDF 16-1. This reconstruction could interfere with grunion spawning activity or impact coastal resources.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Potential alternatives to reconstruction of the degraded revetment structure were analyzed in the FEIR. These are: (1) no action; (2) removal of existing revetment; (3) beach fill; (4) nearshore submerged breakwater; and (5) seawall. These alternatives have been considered and determined to be infeasible.

No Action Alternative. The original improvements of the mobile park, which include several buildings, pavement, septic systems, storm drain systems, utilities, etc., remain on the site. Unless action is taken to remedy the existing revetment condition, the terrace material slopes will be susceptible to slope erosion, as the existing under-designed revetment cannot adequately protect against wave attack. Consequently, the existing dilapidated infrastructure and improvements on site as well as those immediately to the north, including the existing public walkway/ramp and county storm drain outlet, may be undermined and damaged, and the loose debris and riprap stone would end up on the beach/ocean. This can create a hazardous beach condition for the public and can detrimentally impact nearshore water quality.

The No Action Alternative may also create potential geologic instability within the Strand area. Geologic stability modeling of the site's current condition indicates some areas of the landslide complex are in a marginally stable condition. In the Strand project area, the lower terrace, including the slope fronted by the beach, serves as a counter-balance to the higher rear segment of the landslide complex. Significant toe erosion of the lower terrace slope would result in a higher potential for geologic instability of the landslide complex which makes up the majority of the Strand area.

Bottom-up wasting of the lower slope and terrace, associated with wave induced erosion, may upset the current general landslide equilibrium present onsite. As a result, the No Action alternative is not a viable alternative.

Removal of Existing Revetment. If the on-site revetment structure is completely removed, the existing narrow backbeach berm at the north end of the Project site will provide essentially no buffer for storm protection. The undercut and erosion of the unprotected terrace slope described above in the No Action Alternative would be accelerated and may create a more detrimental hazardous beach condition and a more severe impact to nearshore water quality as compared to the No Action alternative.

The present on-site revetment and an approximately 155-foot off-site revetment segment north of the Project boundary form a continuous shore protective device to protect the existing public walkway, emergency ramp, and County storm drain outlet. The riprap shore protective device continues upcoast (northwest) for approximately 5,000 feet. The slope erosion resulting from the removal of the revetment would extend to the off-site revetment, exposing the public walkway/ramp and County storm drain to structure damage and substantially compromising the effectiveness of the existing off-site revetment. Consequently, the public walkway/ramp and the County storm drain may be damaged, and the provision of public coastal access and public safety impacted. Moreover, removal of the existing revetment would present a high risk project alternative that offers benefits of little consequence. Removal of the existing revetment would result in wave-induced undercutting of the lower terrace slopes in the Strand project area. Geotechnical analysis indicates that these slopes are part of an ancient landslide complex, and that undercutting by waves would lead to bottom up wasting of the slopes and terrace above the beach. Such an outcome would endanger people on the beach as well as upset private and public infrastructure in areas both inside and outside the Project boundaries. The Strand Beach is not a sand-starved beach and consequently there is no apparent need to provide additional sediment to this beach by way of slope/terrace retreat. Furthermore, because the landslide deposits will be eventually rendered unstable by removal the revetment, it does not seem possible to manage that slope/terrace retreat in a safe manner (*See* FEIR, Appendix J). Therefore, permanent removal of the revetment would result in a high probability for geologic instability and accelerate the adverse impacts identified in the No Action Alternative above. As a result of the above analysis, the Removal of Existing Revetment Alternative is not a viable alternative.

Beach Fill Alternative. A beach fill consists of an extensive placement of sand to widen the Strand Beach area for storm damage protection and recreational activity. A periodic replacement of sand may be required to maintain a design beach width. It is a rule of thumb that within the Orange County shoreline a minimum winter beach width required for storm wave protection is about 200 feet. The mean winter beach width averaged over five separate locations from historical aerial photographs was about 65 feet. Thus, to protect the terraced slope against storm wave attack, a beach fill of 135 feet in berm width would be necessary. An Orange County shoreline study indicates that a one-foot cross-shore beach position movement would equal 1.0 to 2.5

cubic yards of volumetric change per linear foot of shoreline, an average of 1.75 cubic yards per linear foot. Due to the thin littoral sediment lens observed within the Laguna Beach mini-cells, the volumetric conversion value would be closer to the lower limit. Applying the equivalent value of one cubic yard for a one foot change, a sand volume of 337,500 cubic yards would be required to accomplish a beach fill 135 feet wide and 2,500 feet long on Strand Beach. The sand sources would be the terrace deposits on site, if available, or an offshore borrow area. This magnitude of sand placement on Strand Beach would induce a number of coastal process changes and environmental impacts. A shoal located on the harbor side of the west breakwater of Dana Point Harbor requires regular dredging to maintain a navigable channel. The beach fill would increase the volume of sand passing around Dana Point and depositing along both sides of the breakwater. As a result, after completion of each dredging cycle the shoal would develop and expand within a shorter period, as compared to the present condition. The current maintenance dredging practice to remove the shoal would need to be conducted more frequently if the beach fill alternative were implemented on Strand Beach.

The Niguel MLR is located immediately offshore of Strand Beach, while the Dana Point MLR continues further downcoast to Dana Point Harbor. Both refuge areas contain sensitive marine species, such as surfgrass, that are dependent on the support of the intertidal and subtidal rocky environments. With the beach fill alternative, more available sands would be moved offshore to form sandbars during the winter as a consequence of seasonal wave climate. This would alter the nearshore rocky environments and would have a significant impact on these two marine refuge areas. As a result, the Beach Fill Alternative is not a viable alternative.

Nearshore Submerged Breakwater Alternative. A nearshore submerged breakwater is an offshore structure consisting of a mound of riprap stone placed parallel to the shoreline. Under this alternative, the breakwater would be designed to dissipate incident waves and protect the Strand Beach shore area. In addition, the lack of wave energy, which drives the littoral transport system, would result in a deposition of sediment behind the breakwater. This sand trapping effect would reduce the amount of sediment that is transported around Dana Point, disrupting the regional littoral transport regime. In addition, the loss of the footprint area required for the breakwater construction within the Niguel MLR would be detrimental to existing marine habitats. As a result, the Nearshore Submerged Breakwater Alternative would not be considered a viable alternative.

Seawall Alternative. Under this alternative, a vertical seawall would be constructed of poured-in-place concrete with internal steel rebar reinforcement founded in bedrock. The seawall structure placed along Strand Beach would be massive, since it must be built to resist the full force of incident waves. Unlike the proposed riprap revetment, which is porous and designed for absorbing and dissipating incident wave energy, the seawall structure reflects and amplifies the incident wave energy. This would have an effect on Strand Beach in that scour would be anticipated at the toe of

the structure. In addition, as the temporary short-term scouring occurs, the magnitude of wave forces acting on the seawall structure during a storm event will increase. Depending on the nature of the wave attack and the depth of bedrock, beach scour may form a trough in front of the seawall. At either end of the seawall structure, a localized scouring effect caused by the reflection of wave energy would be more severe as compared to the riprap revetment. As a result, the Seawall Alternative is not a viable alternative.

Preferred Alternative – Reconstruction of Existing Revetment. Compared to the alternatives identified above, reconstruction of the existing revetment presents the most suitable solution and is the preferred alternative, because it induces minimal coastal process changes and resulting environmental impacts. Revetment reconstruction in compliance with current engineering standards would extend only to the most northerly 2,100 foot segment, as compared to the existing length of 2,240 feet. The remaining 140 foot segment to the south is presently buried almost entirely in beach sand. Rather than disturb the beach area to remove the buried riprap stone, the 140 foot revetment structure would be left in its current condition. Except for the public walkway and ramp encroachment discussed above, the entire reconstructed revetment is designed to remain within the existing revetment footprint (PDF 16-1).

As discussed in Section 5.16.6 below, a wave runup analysis was conducted to determine the required height of the reconstructed revetment. Wave runups were computed from a depleted beach profile eroded to the bedrock level. The estimated return wave heights and breaking wave scenarios under water levels from +3.3 to +5.8 feet NGVD were used as the oceanographic conditions. The assumed highest water level at +5.8 feet NGVD is about 0.6 foot higher than the recorded highest water level at Scripps Pier. The top of the reconstructed revetment at +20 feet NGVD would prevent wave overtopping under virtually all storm events. Minor wave overtopping (slightly over a foot) may occur only under an extremely rare condition during which waves break near the toe of the revetment coincident with the selected highest water level at +5.8 feet NGVD. Occurrence of such an event, simultaneously including the eroded profile to bedrock, breaking waves, and the selected highest water level would be rarer than those storm events observed in the 1983 El Niño year. The return intervals for the 1983 El Niño storms and the selected highest water level of +5.8 feet NGVD are approximately 50 and 100 years, respectively.

Figure 4.16.13 of the FEIR illustrates the typical cross section of the proposed reconstructed revetment structure. A Class No. 2 bedding layer with filter fabric will be placed between the slope face and two layers of riprap stones. The revetment begins at elevation +0 feet NGVD and ends at +20 feet NGVD, for a total height of 20 feet. The reconstructed revetment is anticipated to be slightly higher than the existing revetment. A riprap apron at the toe would not be necessary because the bedrock on which stones are directly placed is highly resistant to erosion. The revetment will be approximately six feet thick, with four to five ton stones used for the two base levels to provide more resistance to wave attack. The upper levels to the height of +20 feet NGVD will be tapered to two ton stones. Allowing for seasonal

variance, approximately 40 percent of the revetment structure will be buried by sand, based upon an average sand elevation at +8 feet NGVD.

The proposed revetment reconstruction corrects the existing 26-foot linear offset associated with the existing ramp near the center of Strand Beach. The existing ramp creates a significant streamline break, inasmuch as the access runs parallel to the beach and the discontinuous revetment structures were not constructed along a consistent alignment. This creates an eddy effect with attendant beach scouring when waves reach the level of the revetment. The reconstructed revetment proposes to incorporate a public access path and a realignment of the resulting revetment structures that eliminate the eddy effect by forming a continuous structure system.

Except for the encroachment described above for public access and public safety, the proposed reconstructed revetment remains within the existing structure's seaward footprint, but would be 140 feet shorter. The revetment structure would not alter waves propagating from deep water into the nearshore zone at Strand Beach, since it would be located landward of the backshore. No impact to nearshore wave heights would result. The revetment replacement does not encroach upon any beach area, except for the public coastal access walkway improvement. Furthermore, the seaward extent of the transition revetment associated with the walkway facility remains landward of the existing revetment section located immediately south of the proposed walkway landing.

Currently, a gyration effect that induces localized beach scouring adjacent to the existing revetments at the existing private access ramp can occur during a winter storm due to an offset in the revetment. The proposed new 120-foot transition section of riprap revetment, streamlining the two existing out of alignment structures into a continuous one, will improve the identified scouring condition and provide for the construction of a pedestrian access way to the beach. In addition, the reengineered revetment incorporates updated engineering standards that reduce potential public safety issues associated with the existing revetment.

The revetment stones will be placed directly on bedrock to prevent any subsidence or slumping that may otherwise occur, during which sands could be temporarily scoured out and deposited offshore in a storm event. As is the case with the placement of the existing revetment, any short-term beach erosion would be restored by the benign waves afterward. Since the proposed revetment will be engineered to current design standards, the potential for dislodgement of the proposed revetment structure will be greatly reduced as compared to the existing system.

The revetment reconstruction is scheduled to occur concurrent with the Project's remedial grading operation. This schedule reduces the duration of the reconstruction and allows for coordination and job site efficiencies, thereby reducing potential short-term construction impacts. No unusual circumstances are associated with the revetment reconstruction process; it will be very similar to the revetment

reconstruction activities that occurred in the adjacent Niguel Shores and Ritz Cove projects. In fact, the existing revetment structure and the proposed revetment reconstruction are direct extensions of these two revetment systems. Therefore, the resulting regional coastal process impacts are expected to be minimal, if any.

Long-term structure maintenance may be required if riprap rocks on the upper layer are unseated during a severe storm event. This impact is not considered to be significant because, although structural maintenance has historically been required for the existing revetment, it is anticipated that required future maintenance will be less frequent. In addition, the reconstructed revetment will be designed to meet current engineering standards, minimizing the existing and future potential for slumping, subsidence, or displacement as described in PDF 16-2. In addition, PDF 16-1 ensures that revetment construction will not interfere with grunion spawning activity and PDF 6-2 ensures that a post-construction monitoring plan will be in place to identify specific measures for the protection of coastal resources, including a routine maintenance program for the revetment shore protection system.

The following PDFs and PCs, which are set forth on pages 4.16-12 through 4.16-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 7-3; PDF 7-4; PDF 15-2; PDF 16-1; PDF 16-2; PC 5-6; and PC 5-7. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that potential impacts to coastal processes as a result of revetment reconstruction are be less than significant.

Reference: FEIR § 4.16.4.

5.15.4 Less Than Significant Impact: Sediment Yield. The watershed type and areas for each drainage basin vary from the existing condition. The Project's total sediment delivery to the alongshore sediment budget is estimated at 13.6 cubic yards per year, since runoff flows within Basin A drain to the harbor. The impact due to the sediment yield reduction is potentially significant.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The difference in the sediment yield rate between the existing and proposed conditions -- 2.8 cubic yards per year -- is significantly less than 1% as compared to the total bluff sediment contribution of 1,800 cubic yards per year generated from Monarch Point to Dana Point. In addition, the total beach sand volume on Strand Beach extending from the riprap revetment to the approximate MHW line was estimated to be 48,300 cubic yards. The sediment yield reduction of 2.8 cubic yards per year would be a negligible quantity compared to the estimated average sand volume, even after a 25 year period (25x2.8/48,300 = 0.0014). Using the ratio of one cubic yard to a

one foot cross-shore beach, the equivalent beach loss over a 2,500 foot shoreline segment is virtually inconsequential. Sediment delivery to Dana Point Harbor is reduced by 0.5 cubic yard per year – this reduction in sediment transport to Dana Point Harbor is a benefit, since it would reduce the need for routine harbor dredging. Therefore, the impact due to the sediment yield reduction is considered less than significant.

Reference: FEIR § 4.16.4.

5.15.5 Less Than Significant Impact: Change to Beach Width or Characteristics. The mean beach widths at Strand Beach averaged over five separate locations range from 120 feet for the summer condition to 65 feet for the winter conditions, yielding an average seasonal beach width change of approximately 55 feet. The winter beach width fluctuates from one year to another. Construction of the proposed revetment structure may potentially cause a significant loss of beach width or significant change in beach characteristics.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: To minimize slope erosion, enhance public safety, and protect the proposed Project, the existing underdesigned riprap revetment at Strand Beach will be replaced with a well engineered revetment structure. As described in PDF 16-1, the structure will be constructed within a limit such that the toe of the reconstructed revetment will not extend seaward beyond the existing revetment's footprint, except as necessary to provide for public access or public safety, more particularly the two access ramps. Two public access ramps are planned on the beach with surface areas of 1,064 and 1,770 square feet, respectively. One of the ramps (the northernmost) will transition between the existing offset sections of the beach revetment, creating a more streamlined slope face, and effectively replaces an existing private access ramp. The southernmost ramp will be constructed to create an emergency and pedestrian accessway.

Except for the two ramp landings, the proposed riprap revetment reconstruction would be built within the existing structure's seaward footprint. The revetment rocks will be placed directly on bedrock to prevent any subsidence or slumping that may otherwise occur during which sands could be temporarily scoured out and deposited offshore in a storm event. As is the case with the existing revetment, it is expected that any short-term beach erosion would be restored by the benign waves afterward. During an extremely large storm event, there is a remote possibility that rocks in the revetment may be dislodged onto the beach, requiring heavy equipment to return the rocks to their original locations. Since the proposed revetment would be engineered to current standards, the chance of dislodgement for the proposed revetment structure would be greatly reduced as compared to the existing one. As described in PDFs 16-1 and 16-2, revetment improvements would be undertaken in a manner that will minimize potential impacts to recreation and sensitive resources.

Since the proposed revetment placement will not extend seaward of the toe of the existing revetment except for minor encroachments for the public access and emergency access ramps, its potential coastal impacts to the adjoining beach area will remain unchanged from those of the existing structure. Reconstruction of the revetment would occur concurrent with the remedial grading operation in a sequential manner, reducing the duration of the reconstruction and allowing for coordination and job site efficiencies, thereby reducing potential impacts. The proposed transition revetment structure for the pedestrian beach access conjoins the two out of alignment revetments into a continuous one, eliminating a potential localized gyration effect induced by the discontinuity of the existing revetments during a storm event and thereby reducing the potential for wave induced erosion and loss of sand during high water episodes.

Five storm drains of various sizes up to 42 inches in diameter are present within the Strand Beach area. The storm drain outlets were constructed in the same period as the revetment structure described above, and are not equipped with energy dissipaters. This drainage system cannot adequately serve the need for the proposed Project. To accommodate the storm flow runoff required to serve the upstream watershed, three new storm drain outlets would replace all existing outlets along Strand Beach, and would include energy dissipation measures to reduce flow velocities and avoid beach scouring (PC 5-6). Consistent with County of Orange requirements, the hydrologic design was based on a 10-year return peak runoff with the dissipated peak flow velocities estimated to be 6.1, 5.6, and 5.9 feet per second, respectively. The flow velocities will be further reduced as they flow across the revetment structure onto the beach. This design will minimize the potential for significant beach erosion during storm periods.

Adherence to PDFs 7-3 and 7-4 provide additional assurance that no significant beach erosion occurs during storm water drainage. Adherence to PDF 16-1 (repair/upgrade revetment within existing footprint and functional design) will ensure that no significant impacts to beach width or beach characteristics occur during Project construction or after Project implementation. Adherence to PDF 15-2 (beach profile monitoring) and PDF 16-2 (monitoring program for maintenance of the revetment structure) will ensure that no significant impacts to beach width or beach characteristics occur after Project implementation. The incorporation of these features into the Project design results in the reduction of the potential impact of loss of beach width or change in beach characteristics to a less than significant level.

The following PDFs and PCs, which are set forth on pages 4.16-12 through 4.16-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 7-3; PDF 7-4; PDF 15-2; PDF 16-1; PDF 16-2; PC 5-6; and PC 5-7. Adherence to these PDFs and PCs ensures that this potential impact will not be significant and thus no mitigation is required.

Reference: FEIR § 4.16.4.

5.15.6 Less Than Significant Impact: Modification or Interruption of alongshore Sand Transport. The Project will include structural and nonstructural measures during construction and operation periods to minimize the potential for erosion and transport of soil materials to the marine environment.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: As discussed in Sections 4.7 and 4.8 of the FEIR, structural and nonstructural measures will be implemented during the Project construction and operation periods to minimize the potential for erosion and transport of soil materials to the marine environment. Implementation of these measures will result in a slight decrease in the amount of eroded materials being contributed to alongshore sediment transport in the Project area.

Drainage Basin A that flows to Dana Point Harbor currently contributes approximately 4.0 cy/yr of sediment to the harbor. Under the proposed Project drainage scenario, approximately 3.5 cy/yr would occur, a reduction of 0.5 cy/yr. This reduction would be beneficial in that existing shoaling conditions in the inner part of the harbor near the storm water discharge would be reduced.

For the balance of the proposed Project and tributary drainages, approximately 16.4 cy/yr of sediments are contributed to coastal transport processes under existing conditions. Under the proposed drainage design, approximately 13.6 cy/yr would be contributed. This represents a reduction of approximately 2.8 cy/yr, versus the estimated 1,800 cy/yr of materials contributed by the coastline between Monarch Point and Dana Point and currently in coastal transport. The amount of material no longer contributed to the system under the Project represents less than 0.2 percent of the current total, thus does not represent a significant effect to beach replenishment or coastal transport processes.

No Project-related construction activities will take place in the marine environment and, to the maximum extent feasible, no revetment-related construction activities will take place on the beach below the MHHW mark. No structures or facilities will be located in the marine environment that could block or modify coastal transport processes. Thus, no significant effect to coastal processes will occur from Project construction or operation.

In addition, PDF 16-2 (monitoring for maintenance of the revetment structure) and PDF 15-2 (preoperation and postoperation monitoring for marine biology issues) will monitor conditions and curtail impacts to alongshore sand transport and other beach characteristics, should they occur after Project implementation. Adherence to these PDFs will reduce the potential for interruption of alongshore sand transport at the Project site to a less than significant level.

The following PDFs and PCs, which are set forth on pages 4.16-12 through 4.16-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 7-3; PDF 7-4; PDF 15-2; PDF 16-1; PDF 16-2; PC 5-6; and PC 5-7. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.16.4.

5.15.7 Less Than Significant Impact: Storm Induced Waves Damage. The proposed reconstruction of the coastal revetment on Strand Beach will not alter waves propagating from deep water into the nearshore zone at Strand Beach, since it is located landward of the backshore. However, a wave runup analysis was conducted which identified the potential for minor wave overtopping (slightly more than a foot) to occur under extremely rare conditions (every 500 years).

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that PDFs and/or PCs have been incorporated into the Project which avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Under extreme conditions, storm-induced waves may cause property damage and create a public safety risk. The proposed reconstruction of the coastal revetment on Strand Beach will not alter waves propagating from deep water into the nearshore zone at Strand Beach, as it is located landward of the backshore.; as a result, no impact to nearshore wave heights would result. Since no construction is taking place within the marine environment, there will be no structural alteration of the sea floor in the Project vicinity that would change the wave climate incident at the Project site.

A wave runup analysis was conducted to determine the height of the proposed reconstructed revetment. Wave runups were computed from a depleted beach profile that is eroded to the bedrock level. Estimated historical return wave heights and breaking wave scenarios under various water levels from +3.3 to +5.8 feet NGVD were used as the oceanographic conditions. The assumed highest water level, at +5.8 feet NGVD, is approximately 0.6 foot higher than the recorded highest water level at Scripps Pier. The top of the revetment at +20 feet NGVD would prevent wave overtopping under most storm events. Minor wave overtopping (slightly more than a foot) may occur only under an extremely rare occasion during which waves break near the toe of the revetment coincident with the selected highest water level at +5.8 feet NGVD. Occurrence of such an event, simultaneously including the eroded profile to the bedrock, breaking waves, and the selected highest water level, would be rarer than those storm events observed in the 1983 El Niño year. The return intervals for the 1983 El Niño storms and the selected highest water level of +5.8 feet NGVD are approximately 50 and 100 years, respectively.

All home lot pad levels for the proposed Project will be substantially higher in elevation (+35 feet NGVD) than the top of the revetment and will not be affected by storm induced waves even under the extreme scenarios considered.

As more fully described in Section 4.16 of the FEIR, adherence to PDF 16-1 (repair/upgrade revetment within existing footprint and functional design) will address the potential for coastal erosion to result in geologic instability, damage to property, coastal accessways, or storm drains, and risk to life from storm induced waves occurring after Project implementation. Incorporation of this PDF into the Project design reduces the potential for damage to property and risk to life from storm induced waves to a less than significant level.

The following PDFs and PCs, which are set forth on pages 4.16-12 through 4.16-14 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 7-3; PDF 7-4; PDF 15-2; PDF 16-1; PDF 16-2; PC 5-6; and PC 5-7. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs ensures that this potential impact does not rise to a level of significance and, therefore, no mitigation is required.

Reference: FEIR § 4.16.4.

6. FINDINGS REGARDING POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS WHICH CAN BE MITIGATED TO A LEVEL OF INSIGNIFICANCE

The City finds, based upon the threshold criteria for significance presented in the FEIR, that the following environmental effects of the Project will not manifest at levels which have been determined by the City to be significant or, if significant, feasible mitigation measures identified in the FEIR and adopted by the City as conditions of Project approval will result in the avoidance or substantial reduction of those effects to a level of insignificance. Based upon the environmental analysis presented in Section 4.0 of the FEIR, no substantial evidence has been submitted to or identified by the City that indicates that the following impacts would, in fact, occur at levels that would necessitate a determination of significance herein.

6.1 Aesthetics

6.1.1 Significant Direct Impact: Construction Impacts. The proposed Project requires a substantial amount of earthwork activities during its site preparation phase. On-site activity, including numerous trucks and vehicles, and open, unplanted earth will be visible from surrounding land uses and viewers from publicly accessible viewpoints.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The potential impact is limited by the fact that there are very limited public views from the Project site, and these views are restricted to the few public areas that intersect the property, primarily as street right-of-way. Views from most portions of the roads that are on the Project site and/or the right-of-way already are restricted by elevation, adjacent off-road vegetation, fencing, building structures and the like. Potential impacts to public views to construction activities that do exist will be mitigated by the require that during site preparation and construction the construction contractor install screened fencing on the Project site as required by Mitigation Measure 1-1 set forth below. This fencing will be placed in locations that will substantially block views of the Project site affected by site preparation and grading activities, and shall remain in place until Project construction is complete or interim site preparation and grading is no longer active. Because the impact would result from the public viewing active site preparation activities and unplanted earth, blocking such views so long as site preparation work and grading is active would prevent the impact from occurring. Open unplanted earth will be screened by this fencing as well, since the fencing will remain in place until site preparation and grading are no longer active, at which time the earth will be hydroseeded.

Mitigation Measure: Based upon the analysis presented in Section 4.1 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and is made binding through the MMRP:

Mitigation Measure 1-1: The construction contractor shall provide evidence to the Community Development Department that, during the Project site preparation and construction phases, screened fencing will be installed on the Project site. The screened fencing will be implemented to substantially block views of the Project site affected by site preparation and grading activities. Portions of the site not under construction or not visible from adjacent public view points are not required to be screened to block views of on-site construction activity. The screened fencing shall remain in place until construction of the proposed project is completed, or interim site preparation and grading is no longer active, subject to review and approval by the Director, Community Development Department.

Reference: FEIR § 4.1.4.2.

6.2 Terrestrial Biological Resources:

6.2.1 Increased Impact to Sensitive Habitat: Increased Impacts to Sensitive Habitat. In addition to the previously identified impacts to sensitive habitats, comments received on the Draft EIR revealed a potential increase in the severity of impacts to sensitive species because it identified a potential impact to the Coulter's saltbush, a sensitive plant species on the Project site. A November 28, 2001 site visit detected four individuals in a cluster on the ridgeline adjacent to the Blochman's dudleya population; it is estimated that no more than ten individuals of Coulter's saltbush are likely present on the site, all near the Blochman's dudleya population. This population is in an area proposed for development. There is a population of Coulter's saltbush within the Central/Coastal Subregion of the Nature Reserve of Orange County in the

Upper Bommer Canyon and two occurrences in the Upper Newport Bay Ecological Preserve, though the current status of the population in the Upper Newport Bay Ecological Preserve is unclear because of potential disturbance from flood control activities. Two other occurrences of the Coulter's saltbush are within the proposed reserve area of the Southern Subregion NCCP/HCP of Orange County, in Chiquita Canyon and Cristinos Canyon.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the incremental increase in the previously identified impact to terrestrial biological resources to below a level of significance.

Facts in Support of Finding: The Coulter's saltbush can be translocated to suitable, protected areas on-site in the Hilltop area and in the Headlands Conservation Park. Where appropriate, signage, fencing or plantings shall be installed to preclude trampling of the translocation sites, and a qualified botanist will monitor the translocation sites for up to five years and will take appropriate corrective management actions such as additional seedings or cuttings to support the success of the translocation efforts.

Project Design Features: Based upon the analysis presented in Section 4.3 of the FEIR, which is incorporated herein by reference, as well as the further analysis set forth in the Responses to Comments, Errata and Additional Information made a part of the FEIR, PDF 3-1 through PDF 3-8, PC 3-1 through PC 3-17, which are set forth in the FEIR and incorporated by reference herein, in combination with compliance with the NCCP/HCP Program and Mitigation Measure 3-1, avoid or substantially lessen the significant environmental effect on Coulter's saltbush to below a level of significance.

Mitigation Measure: Based on the analysis presented in Section 4.3 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 3-1: Prior to any site preparation or other project-related activities that would impact the species, the Project site shall be surveyed for the presence of extant individuals of Coulter's saltbush. The location of the individuals shall be identified and fenced as a temporary protection measure. Care shall be taken to avoid impacts on the individuals of Blochman's dudleya (that are located in close proximity), which shall also be identified and protected. Cuttings and seed collection of Coulter's saltbush shall be undertaken prior to translocation to ensure that the genetic resource is conserved. The individuals shall be transplanted to suitable, protected areas on site in the Hilltop area and also in the Conservation Park, if appropriate soils are present in this area. The extant individuals shall be translocated by removing the soil and associated microbiota in blocks by digging down to a depth of approximately 12 inches. This will increase the potential for success by keeping the microhabitat conditions intact when moving Coulter's saltbush to the translocation area. Where appropriate, a combination of signage, fencing, and/or planting of Prickly Pear, Coast Prickly Pear, or Coast Cholla (consistent with the Headlands Revegetation Plant Palette) shall be installed to preclude trampling of the

translocation sites. The same protection measures shall be provided for the remaining dudleya and translocated dudleya remaining on the Project site. The Project applicant will assure adequate funding for a qualified botanist to monitor the translocation sites for a period up to five years after translocation and to be able to take appropriate corrective management actions (additional seeding, cuttings, etc.) to support to the success of the translocation effort.

Reference: FEIR § 4.3.10.3.

6.2.2 Increased Cumulative Impacts to Terrestrial Biological Resources: Cumulative Impacts to Biological Resources. As discussed above, the proposed Project will incrementally contribute to a cumulative impact to sensitive habitats, including Coulter's saltbush.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the potentially significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Development of the Project site at a density and intensity higher than that of the proposed Project was included in the analysis for the Orange County Central/Coastal Subregion NCCP/HCP EIS/EIR. The NCCP/HCP Program is intended to mitigate cumulative impacts on biological resources at the subregional level. The Coulter's saltbush is a List 1B species that is not explicitly covered under the NCCP/HCP Program; however, potential cumulative impacts on this species are reduced to a less than significant level through compliance with the NCCP/HCP and IA and the PDFs, PCs and Mitigation Measure 3-1, which provides for the continuation of the species on the Project site. The proposed Project's incremental contribution to a cumulative impact to Coulter's saltbush are reduced to a less than significant level by participation in the NCCP/HCP Program and are consistent with the NCCP Guidelines under the Orange County Central/Coastal Subregion NCCP/HCP Program and IA.

The following PDFs and PCs, which are set forth on pages 4.3-19 through 4.3-29 of the FEIR and incorporated by reference herein, were in place when evaluating the characteristics of the proposed Project and the potential environmental impacts resulting from their implementation: PDF 3-1 through PDF 3-8; PC 3-1 through PC 3-16. Based upon the analysis presented in the FEIR, adherence to these PDFs and PCs, as well as compliance with the NCCP/HCP Program and Mitigation Measure 3-1, described above and incorporated herein by reference, ensures that this potential impact is reduced to a less than significant level.

Reference: FEIR § 4.3.11.

6.3 Cultural and Paleontological Resources

6.3.1 Significant Direct Impact: Impacts to Archaeological, Historical or Paleontological Resources. The primary archaeological resource on site is (CA-ORA-075). That site is entirely

within a proposed conservation open space, thus there is no potential impact to it other than potential impacts resulting from a trail and fence. In addition, the Project site could contain subsurface sensitive archaeological resources, particularly within the previously undisturbed portions of the Project site. Implementing the Project would disturbing the site and therefore could impact potentially unique archaeological resources. There are two middle to late Miocene marine lithologic units with accumulations of unconsolidated Quaternary sand on the Project site, and two small areas have the potential to produce valuable paleontological resources. The San Onofre Breccia may be exposed during grading and other earth-clearing construction activities, resulting in a potential impact to the fossiliferous fine grained facies that make up about 5% of the San Onofre Breccia. Loss of unknown scientifically important material would be considered potentially significant, given that disturbance or destruction of any known or unknown significant archaeological resource that contains information needed to answer important scientific research questions where there is demonstrable public interest in that information, or that has a special and particular quality or is associated with a scientifically recognized important prehistoric or historic event or person, is considered significant. Disturbance or destruction of any unique or scientifically important paleontological resource without scientific analysis and cataloging of such resource also is considered significant.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Site CA-ORA-75 will not be disturbed because the Project has been designed to place the Headlands Conservation Park open space in that location pursuant to PDF 4-1. Potentially significant impacts to known or unknown unique significant archaeological resources or to scientifically important paleontological resources will be mitigated by a combination of mitigation measures and PCs. A qualified archaeologist and paleontologist will attend each pregrading conference and will observe grading activities. The on-site archaeologist and/or paleontologist shall establish procedures for temporarily halting or redirecting work so that sampling and identification and evaluation of any potential archaeological or paleontological resources can be performed. If a unique significant archaeological resource or a scientifically important paleontological resource is unearthed during grading that cannot feasibly be left in its undisturbed state, the City will determine if studies or testing of the potential site have adequately recovered the scientifically consequential information about the unique archaeological resource. If not, the resource will be curated pursuant to PC 4-1.

Pursuant to PC 4-1, all excavated archaeological or paleontological finds will be offered to the County of Orange or its designee and properly preserved and placed. In addition, the archaeologist or paleontologist will write follow up reports for such resources which will include the period of inspection, a catalogue and analysis of the artifacts and fossils found, if any, and a repository listing for each found listing.

If human remains are encountered, no further disturbance shall occur until the County Coroner has been notified and has taken the appropriate action to notify the Native American Heritage Commissions if the remains are determined to be prehistoric. In addition, the archaeological and paleontological experts on-site will have the ability to conduct random checks of graded areas and make field assessment and recommendations for disposition should resources be unearthed. Because no scientifically important paleontological resource will be disturbed or destroyed without scientific analysis and cataloging and because no significant archaeological resource deemed unique will be disturbed or destroyed, no significant impacts to archaeological or paleontological resources will result.

Project Design Features and Project Conditions: Based upon the analysis presented in Section 4.4 of the FEIR, which is incorporated herein by reference, the PDF 4-1, which is set forth in the FEIR and is incorporated by reference herein, in combination with PC 4-1 and various Mitigation Measures described herein, avoid or substantially lessen the significant environmental effect on cultural resources to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.4 of the FEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and made binding through the MMRP:

Mitigation Measure 4-1.A: A qualified archaeologist and paleontologist approved by the City shall be present at all pregrade conferences, available to conduct random checks of graded areas and to provide field assessment and recommendation for disposition should unique cultural resource materials or fossil materials are unearthed.

Mitigation Measure 4-1.B: The developer/landowner shall submit written evidence to the satisfaction of the Director of Community Development that a certified paleontologist and archaeologist have been retained to observe grading activities and to salvage and catalog resources, should they be present. The paleontologist and archaeologist shall be present at the pregrade conference, shall establish procedures for paleontological and archaeological resource surveillance, and shall establish, in cooperation with the developer/landowner, procedures for temporarily halting or redirecting work to permit sampling and identification and evaluation of the findings.

Mitigation Measure 4-1.C: If a "unique archaeological/paleontological resource" is encountered during grading that cannot feasibly remain in an undisturbed state, the Director of Community Development will determine whether studies or testing of the potential site have adequately recovered the scientifically consequential information about the unique archaeological resource. A non-unique archaeological resource, artifact, object, or site need be given no further consideration in the CEQA process, other than the simple recording of its existence. The archaeologist and/or paleontologist shall submit a follow-up report for approval by the Director of Community Development, which shall include the period of inspection, a catalog and analysis of the artifacts found, and a repository listing for each of the found items.

Mitigation Measure 4-1.D: If human remains are encountered, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission ("NAHC"), which will determine and notify a Most Likely Descendant ("MLD"). With the permission of the owner of the land or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

Reference: FEIR § 4.4.4.2.

6.3.2 Significant Cumulative Impact: Cumulative Impacts to Cultural and/or Paleontological Resources. The proposed Project in conjunction with other past, present and reasonably foreseeable future projects could without mitigation result in a cumulative impact to Cultural Resources due to the loss of undiscovered archaeological and paleontological resources during grading and construction activities.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: As discussed in Section 6.2.1 above, there will be no significant direct impacts to archaeological or paleontological resources because potentially significant sites are being preserved within open space and disturbance or destruction of unknown unique archaeological/paleontological resources will be avoided through a combination of education by means of pre-grading conferences between construction contractors and an archaeological and a paleontological expert, procedures for surveillance during grading to ensure that such resources are avoided, procedures for halting grading to sample, identify and evaluate any findings of potentially unique archeological or paleontological resources, and preservation of any such resources in appropriate locations with appropriate follow-up reports. Incorporation of these measures and conditions reduces the Project's incremental contribution to this potential cumulative impact to a less than significant level.

Based upon the analysis presented in Section 4.4 of the FEIR, which is incorporated herein by reference, Project Design Feature 4-1, in combination with PC 4-1 and Mitigation Measures 4-1A through 4-1D, described above and incorporated by reference herein, substantially lessens the significant environmental effect on Cultural Resources to below a level of significance.

Reference: FEIR § 4.4.5.

6.4 Geology and Soils

6.4.1 Significant Direct Impact: Seismically Related Liquefaction/Ground Failure. Areas of loose sand are present on the site. If such sands become saturated or submerged, seismic ground shaking can cause the soils to liquefy and temporarily behave as a dense fluid. Near-surface soils and undocumented fill also are located in some areas of the Project site and, while well above the water table, may be subject to seismically induced ground settlement as well. Seismic related ground failure is therefore considered a potentially significant impact. In addition, one portion of the Project site -- the beach deposits along the Strand shoreline -- is identified as potentially susceptible to liquefaction during an earthquake under the April 17, 2001 California Department of Conservation, Division of Mines and Geology's "Preliminary Map of Seismic Hazard Zones - Dana Point Quadrangle." This map is designed to identify areas where appropriate geotechnical evaluations and, if required, mitigation measures should be considered as part of the planning and design process for proposed development because the area is otherwise susceptible to earthquake induced ground failure. The only proposed improvements in the Strand shoreline area identified in the map are reconstruction of the existing shoreline protection.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Appropriate seismic design provisions shall be implemented with project design and construction in accordance with governing building codes, including the Uniform Building Code ("UBC"). The UBC directly addresses the prevention of seismic-related impacts through its standards and requirements. Consistent with the applicable codes, potentially problematic soils such as existing fills or other loose surficial soils will be removed or replaced if they are intended for support of planned improvements and may become submerged in the future. For example, undocumented fills and other loose sands within the landslide complex will be removed in conjunction with the extensive landslide removals required to enhance the slope stability conditions. Similarly, construction work performed within public roadways or public properties adjacent to the Project site will comply with specifications presented in the latest edition of Standard Specifications for Public Works Construction (the Greenbook), which have been designed to address lessening the potential impacts that otherwise may result from seismically related liquefaction or ground failure. As for the planned riprap revetment, it will be founded on shale and siltstone below the beach deposits to prevent potential undermining by wave action and, therefore, will not be subject to possible liquefaction.

Engineering and design oriented geotechnical studies and refinements will be conducted as part of the design and construction of the proposed Project. In addition, a Project Geotechnical Report will be provided that will assess potential soil-related constraints and hazards such as localized slope instability, settlement, liquefaction, or related

secondary seismic impacts where determined to be appropriate. The report also shall include an evaluation of potentially expansive soils and recommend construction procedures and/or design criteria to minimize the effect of these soils on the proposed development.

Development proposed within the Project site shall be engineered to ensure that surface/subsurface drainage does not contribute to erosion or adversely affect the stability of project improvements. Unconsolidated soil and unknown fill that are intended for support of planned improvements shall be removed and replaced as compacted fill, which shall incorporate an appropriate subsurface drainage system, as required. Site specific final design evaluation and grading plan review shall be performed by the Project geotechnical consultant prior to the start of grading construction. Design and grading construction shall be performed in accordance with the UBC requirements, appropriate local grading regulations, and the recommendations of the Project geotechnical consultant of record, subject to review by the Director of Public Works. By removing the loose, granular soils or uncompacted fill from areas in which improvements will be developed, and by lessening the drainage to avoid saturated loose granular soils, will prevent people or structures from being exposed to seismic related ground failure or liquefaction and therefore mitigate the potential impact to a less than significant level.

Project Conditions: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, PCs 5-1, 5-2, 5-3, 5-4, 5-5, and 5-6, in combination with the Mitigation Measure described herein, avoid or substantially lessen the significant environmental effect on Geology/Soils to below a level of significance.

Mitigation Measure: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 5-1: Unconsolidated soil and unknown fill that are intended for support of planned improvements shall be removed and replaced as compacted fill, which shall incorporate an appropriate subsurface drainage system, as required. Site specific final design evaluation and grading plan review shall be performed by the project geotechnical consultant prior to the start of grading construction. Design and grading construction shall be performed in accordance with the requirements of the Uniform Building Code applicable at the time of grading, appropriate local grading regulations, and the recommendations of the project geotechnical consultant of record, subject to review by the Director of Public Works.

Reference: FEIR § 4.5.4.2.

6.4.2 Significant Direct Impact: Seismically Induced Landslides. The "Preliminary Map of Seismic Hazard Zones - Dana Point Quadrangle" by the California Department of Conservation, Division of Mines and Geology identifies a potential for earthquake-induced landslides on the coastal bluffs around the perimeter of Harbor Point and the Headlands Promontory, and at the

ancient landslide complex in the Strand area of the Project site. Portions of the ancient landslide complex are only marginally stable, and if groundwater levels were to rise substantially strong ground shaking from a large nearby earthquake could produce additional slide displacement that would affect project improvements and facilities. As a result, the possibility of seismically induced landslides to occur on the Project site is considered a potentially significant impact.

The lower terrace of the Strand project area, including the slope fronted by the beach, serves as a counterbalance to the higher rear segment of the landslide complex. Significant toe erosion of the lower terrace slope would create a higher potential for geological instability of the landslide complex. Bottom-up wasting of the lower slope and terrace associated with wave induced erosion could upset the current general landslide equilibrium.

Moreover, wave attacks on the existing revetment could increase the exposure of project facilities to geologic instability. If no action is taken to remedy the existing revetment, or if the revetment were removed, the terrace material slopes will be susceptible to slope erosion because the existing under-designed revetment cannot adequately protect against wave attack. Consequently, the existing infrastructure and on-site improvements as well as the existing public walkway/ramp and County storm drain outlet may be undermined and damaged. The loose debris and riprap stone would end up on the beach/ocean, creating a hazardous beach condition for the public and potentially harming nearshore water quality. It also could create potential geological instability within the Strand area itself. If the on-site revetment structure is completely removed, the existing narrow backbeach berm at the north end of the Project site will provide essentially no buffer for storm protection. The undercut and erosion of the unprotected terrace slope described above would be accelerated and may create an even worse hazardous beach condition and a more severe impact to nearshore water quality.

The present on-site revetment and an approximately 155 foot off-site revetment segment north of the Project boundary form a continuous shore protective device to protect the existing public walkway, emergency ramp, and County storm drain outlet. The slope erosion that would result from removal of the revetment would extend to the off-site revetment, exposing the public walkway/ramp and County storm drain to structure damage and compromising the existing off-site revetment's effectiveness. Consequently, the public walkway/ramp and the County storm drain could be damaged, and the provision of public coastal access and safety impacted. Thus, permanent removal of the revetment would result in a high probability for geological instability and would accelerate the adverse impacts that would occur if the revetment were not upgraded.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Appropriate seismic design provisions shall be implemented with project design and construction in accordance with governing building codes, including the UBC. Furthermore, reconstruction of the revetment, as described by PDF 16-1, will protect the site from wave induced erosion that could otherwise lead to

landslides at the site. Significant toe erosion of the lower terrace slope would be avoided by reconstructing the revetment, and wave attacks would not be a concern.

The UBC directly addresses the prevention of seismic-related impacts. Undocumented fills and other loose sands within the landslide complex will be removed in conjunction with the extensive landslide removals required to enhance the slope stability conditions. Engineering and design oriented geotechnical studies and refinements will be conducted as part of the design and construction of the proposed Project. In addition, a Project Geotechnical Report will be provided that will assess potential soil-related constraints and hazards such as localized slope instability, settlement, liquefaction, or related secondary seismic impacts where determined to be appropriate. The report also shall include an evaluation of potentially expansive soils and recommend construction procedures and/or design criteria to minimize the effect of these soils on the proposed development.

Site specific final design evaluation and grading plan review shall be performed by the project geotechnical consultant prior to the start of grading construction. Design and grading construction shall be performed in accordance with the UBC requirements, appropriate local grading regulations, and the recommendations of the project geotechnical consultant of record, subject to review by the Director of Public Works.

The Project will upgrade the existing revetment by reconstructing it within the seaward footprint of the existing structure, except as necessary to provide for public safety or public access in terms of providing appropriate ramp slopes and structurally bridging an existing gap between two sections of revetment.

Taken together, the PDF, PCs and the mitigation measure shall minimize the potential for landslide reactivation and therefore reduce potential impacts related to exposure of project facilities to seismically induced landslides to a less than significant level.

Project Design Features and Project Conditions: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, PDF 16-1, in combination with PCs 5-1 through 5-5 and Mitigation Measure 5-2 described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 5-2: The project will be designed to stabilize the ancient landslide complex in the Strand Beach area.

Primary remedial design measures included in the project Geotechnical Report will be to:

- redistribute the mass/forces acting on the landslide to a more stable configuration;
- lower and maintain the groundwater/pore pressure at levels that enhance the stability conditions with the installation of subdrain systems; and
- remove and replace appropriate portions of the landslide deposits with higher strength compacted fill.

Preliminary design evaluations and recommendations for the remedial grading were presented in AGRA (1999, 2000a, 2000c). The stability evaluation and preliminary design recommendations presented in these reports include pseudostatic analysis, which is a type of evaluation that considers the effects of seismic loading on the slope stability conditions. These design measures will be included in the recommendations for the final design of grading activities for the proposed project.

Additional geotechnical exploration, testing and evaluation shall be performed as a part of the final design phase of the project to refine and enhance the preliminary recommendations. Stability evaluations shall include appropriate analyses of potential seismic loading conditions.

Site specific final design evaluation and grading plan review shall be performed by the Project Geotechnical Consultant prior to the start of grading construction. Grading shall be performed in accordance with the requirements of the Uniform Building Code, appropriate local grading regulations, and the recommendations of the Project Geotechnical Consultant of record for the project in a final geotechnical and soils engineering report, subject to review by the Director, Public Works Department.

Reference: FEIR § 4.5.4.2.

6.4.3 Significant Direct Impact: Erosion. The graded areas of the Project may be subject to erosion during project construction and operation, which could impact the geotechnical stability of the site and the support of project improvements. Also, wave erosion caused by failure to upgrade the existing revetment could undermine the public access ways, storm drains and related infrastructure. Most of the graded area on the Project site will consist of compacted fill. If not properly compacted and protected, fills derived from the sandy terrace deposits will tend to be easily eroded under conditions of uncontrolled, concentrated surface runoff. If not properly designed, alteration of runoff patterns, erosion in unprotected drainage ways, and increased flow volumes due to increased impervious surfaces on the site may affect or influence surface erosion on the Project site, and are considered potentially significant impacts. (Additional information and evaluation regarding storm drain facilities and surface water hydrology and water quality are contained in Sections 4.6, Hydrology, and 4.7, Water Quality, of the FEIR.)

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or

incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Implementing the PCs and Mitigation Measure 5-3 will reduce impacts caused by exposing project facilities to uncontrolled erosion as a result of site grading or design to less than significant levels because they will reduce the factors that otherwise could contribute to erosion of soils. Appropriate drainage provisions would be incorporated in final design plans to mitigate the erosion potential of soils on the Project site. Design and construction of these drainage improvements would conform to the UBC requirements, appropriate local regulations, and the recommendations of the Project Civil Engineer and the Project Geotechnical Consultant. The grading plan for the Project must conform to City standards, and will have the objective of balancing cut and fill on-site to avoid export or import of soil. The Project improvements will be designed and engineered to ensure that surface/subsurface drainage does not contribute to erosion or adversely affect project improvements' stability. Erosion control plans will be provided for project grading and site preparation, which require special care to be taken during construction to prevent off-site siltation. Prior to removing any erosion control devices the area served must be protected by additional drainage facilities, slope erosion control measures and other methods as required by the Director of Public Works. In addition, the surficial stability/erosion potential of the proposed graded slopes shall be evaluated by the Project Geotechnical Consultant as a part of the geotechnical design evaluation and appropriate measures adopted based on that evaluation. Best management practices ("BMP") shall be used during construction to minimize the potential for erosion, therefore employing the best methods available to prevent erosion. Appropriate landscape planting shall be installed as soon as is practical after completion of grading, particularly in the graded slope areas, to minimize erosion. As necessary, additional geotechnical recommendations shall be developed to mitigate the erosion potential. Erosion control recommendations and design provisions shall be developed and incorporated in grading plans, and BMP development and implementation would be closely coordinated with the water quality requirements of the project construction and operation standard urban storm water mitigation plans SUSMP.") As a result of implementation of these conditions, features and measures to control erosion, the potential impact caused by exposure of project facilities to uncontrolled erosion is minimized to a less than significant level.

Project Conditions: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, PC 5-7, in combination with PCs 5-5 and 5-6 as set forth in the FEIR, along with Mitigation Measure 5-3 described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance:

Mitigation Measures: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 5-3: The surficial stability/erosion potential of the proposed graded slopes shall be evaluated by the Project Geotechnical Consultant as a part of the geotechnical design evaluation. BMP shall be employed during construction to minimize the potential for erosion. Appropriate landscape planting shall be installed as soon as is practical after completion of grading, particularly in the graded slope areas. As necessary, additional geotechnical recommendations shall be developed to mitigate the erosion potential. Erosion control recommendations and design provisions shall be developed and incorporated in grading plans prepared by the Project Civil Engineer for implementation during construction. Grading plans shall be reviewed and approved by the Project Geotechnical Consultant prior to the start of grading construction. (BMP development and implementation should be closely coordinated with the water quality requirements of the project construction and operation standard urban storm water mitigation plans "SUSMP").

Reference: FEIR § 4.5.4.2.

6.4.4 Significant Direct Impact: Site Modification Induced Landslides/Slope Instability. The proposed Project may be subject to slope and/or foundation instability due to landslides; proposed grading of cut or fill slopes; or compressible soils.

As discussed above, the only area of significant existing landslides within the Property is the Strand Beach area, approximately 70 percent of which is occupied by ancient failures that have occurred in the shaly and clayey siltstone that comprises the Monterey formation bedrock. Most of the landslide area is covered by marine terrace sands that were also displaced by the ancient landslide movement. Erosion and failure of the bluffs is limited primarily to incremental degradation and local rock/block falls.

Existing landslides in the Headland area are limited to a local rock/block failure of the slope face that occurred in the early 1980s near the southerly end of the off-site residential enclave above the Strand Beach area. Surficial landsliding is restricted to the bluff face, but could result in earth movement being triggered and/or public safety threatened.

The most significant cut slopes proposed for the Project are the temporary construction slopes that will be excavated during remedial grading of the ancient landslides in the Strand Beach area. A maximum temporary slope gradient of 2:1 is typically proposed for this grading, although the Project site boundary, the desire to minimize slope heights, and other factors, will require steepening of some areas up to 1.5:1. Temporary construction slopes for remedial grading in the Strand Beach area typically average in height from about 80 to 100 feet. Temporary cut slopes will be buried beneath compacted fill during grading construction of the finished ground surface. Other minor temporary construction slopes will also be required behind the proposed conventional retaining walls.

Pending final design evaluations, essentially all proposed permanent fill slopes within the planned grading area likely will consist of compacted fill. Un-reinforced fill slopes are planned at gradients that do not exceed 2:1. Any portion of a proposed fill slope with gradients steeper than 2:1 will be reinforced with geogrid, including proposed mechanically stabilized earth

("MSE") walls/slopes. The proposed MSE walls/slopes will essentially consist of geogrid reinforcement of the compacted fill behind the wall/slope face. Proposed wall facing will include an open design that allows landscape planting, with a typical wall gradient or batter of 1:4 or 1:6. As appropriate, conventional retaining walls will also be used in local areas. A contour graded slope is proposed for the southerly end of Strand Beach where the terraced ground surface approaches the adjoining off-site residential enclave. The slope's gradient would vary from about 2.5:1 to 1.5:1, but the overall gradient with the proposed drainage benches/beach access walkway would be approximately 2:1. The gradient of the existing fill/natural slope beyond the southerly edge of the proposed grading area is variable near the base, but typically averages about 1.6:1 in the upper portion. Geogrid reinforcement of the proposed slope would enhance the stability conditions and facilitate "sculpting" of the slope face to more natural rounded contours. Proposed fill slope heights between planned building tiers at the Project site are typically about 20 to 30 feet in height. The highest proposed fill slopes are located in the upper central portion of the Strand Beach and at the southerly end of the Strand Beach area. Proposed slope heights in these areas typically average about 70 feet and 100 feet, respectively.

Compressible earth materials at the Project site may produce slope and/or foundation instability. The apparently uncontrolled construction of undocumented fills at several locations on the Project site precludes accurate prediction of the future deformation behavior of these materials. Similarly, shallow surficial soils (i.e., the upper two to five feet) may also have highly variable compression characteristics. All earth materials exhibit some type of compression characteristics under heavy loading conditions. Fill thicknesses greater than about 30 to 40 feet impart relatively large loads to the underlying earth materials and to the lower portions of the fill itself. Variations in the thickness of the fill, and discrete changes or variations in the underlying earth materials, can produce a differential response to the fill loads and a commensurate amount of differential settlement of the overlying ground surface.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The slope stabilization measures included in the Project (AMEC, 2001) and other slope and soil stability measures included in the HDCP (Headlands HDCP, 2001), along with the PCs, minimize the risk of earth movement being triggered or public safety threatened.

Appropriate grading provisions will be incorporated in final design plans for the project to mitigate the potential for landslides or slope instability on the Project site. Design and implementation of these grading requirements would conform to the requirements of the UBC, appropriate local regulations, and also to the recommendations for the Project Civil Engineer and the Project Geotechnical Consultant. The incorporation of these features into the Project design, along with implementation of Mitigation Measures 5-4.A through

5-4.C, would reduce the potential impact of landslides or slope instability to a less than significant level.

Project Conditions: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, PCs 5-1 through 5-5, which are set forth in the FEIR, in combination with Mitigation Measures 5-4.A through 5-4.C, described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and made binding through the MMRP:

Mitigation Measure 5-4.A: Cut Slopes. In general, proposed temporary cut slopes shall not exceed a gradient of 1:1 (horizontal: vertical) and shall be reviewed by the Project Geotechnical Consultant during excavation. Pending future additional evaluation by the Project Geotechnical Consultant, temporary cut slopes associated with remedial grading in the Strand Beach area (i.e., landslide removals) shall not exceed a gradient of 1.5:1 (horizontal: vertical) and shall more typically maintain a maximum gradient of 2:1. Local groundwater or other geologic conditions may require flattening, dewatering or installation of appropriate slope reinforcement, such as rock anchors. Additional geotechnical evaluation shall be performed as a part of the final design process to refine and enhance the preliminary construction slope design that was evaluated in the referenced AMEC/AGRA reports. These preliminary slope stability evaluations assumed that the existing groundwater levels locally daylight in the proposed temporary slope face, and the final geotechnical evaluation shall, therefore, include an assessment of the type, extent, and location of construction dewatering for the grading. Site specific final design evaluation and grading plan review shall be performed by the Project Geotechnical Consultant prior to the start of grading construction. Design and grading construction of proposed cut slopes shall conform with the requirements of the Uniform Building Code, appropriate City grading regulations and the recommendations of the Geotechnical Consultant of record for the Project.

The proposed combination cut and fill slope at the southeastern perimeter of the Upper Headlands area shall be specifically evaluated for possible over excavation and construction of a fill blanket and/or a "loffel-type" landscaping wall. Design and grading of proposed cut slopes shall conform to the requirements of the Uniform Building Code, appropriate local grading regulations, and the recommendations of the Geotechnical Consultant of record for the Project.

Mitigation Measure 5-4.B: Fill Slopes. Un-reinforced fill slopes shall not exceed a gradient of 2:1 (horizontal: vertical). Proposed fill slopes steeper than 2:1, including proposed MSE walls/slopes, shall require site specific reinforcement design. Appropriate subdrain provisions shall be incorporated in the slope designs to maintain potential groundwater levels at acceptable elevations. Additional geotechnical evaluation shall be performed as a part of the final design process to refine and enhance the preliminary

slope designs evaluated in the referenced AMEC/AGRA reports. Site specific design evaluation and grading plan review shall be performed by the Geotechnical Consultant prior to the start of grading construction. Design and grading construction of proposed fill slopes shall conform to the requirements of the Uniform Building Code, appropriate City grading regulations and the recommendations of the Geotechnical Consultant of record for the project.

Mitigation Measure 5-4.C: Compressible Materials. All existing undocumented fill within the proposed development area shall be removed and replaced as compacted fill. Additional geotechnical evaluation shall be performed as a part of the final design process to assess the compressibility of the proposed foundation materials and to develop appropriate recommendations to minimize the differential settlement potential. Site specific final design evaluation and grading plan review shall be performed by the Project Geotechnical Consultant prior to the start of grading construction. Design and grading construction shall conform to the requirements of the Uniform Building Code, appropriate local grading regulations and the recommendations of the Project Geotechnical Consultant of record.

Reference: FEIR § 4.5.4.2.

6.4.5 Significant Direct Impact: Uncontrolled Groundwater. The proposed Project may be subject to possible moisture/surface seepage related problems, including soil liquefaction, and also possible slope and/or foundation instability, due to the presence of uncontrolled groundwater levels/flow. Projection of water levels from the Strand Beach observation wells suggests that groundwater levels may be at or near the top of the buried bedrock surface in the area to the east. Small amounts of groundwater flowing along the top of the buried bedrock surface is common along coastal California due to the difference in permeability between overlying sandy terrace materials and relatively impervious bedrock. Infiltrating surface water moving down though the terrace deposits tends to collect on the top of the bedrock. The generally seaward inclination of the ancient wave-cut erosion surface in the bedrock directs the accumulated water towards the coastline. although a northerly component of moisture migration could ultimately develop beneath the Upper Headland in the years following construction and landscaping of the proposed residences.

The lower portion of proposed temporary excavations for remedial grading in the Strand Beach area are below currently projected groundwater levels, thus construction dewatering likely will be required.

The boundary between the Upper Headlands and the adjoining Headlands Promontory and Harbor Point areas is a topographic drainage divide. This drainage divide is formed by an arc-shaped ridge of the San Onofre Breccia bedrock that forms a bowl-like topographic depression. This ridge of bedrock will essentially separate subsurface drainage beneath the proposed Upper Headland residential area from the surrounding bluff areas of the Headlands Promontory, Harbor Point and along Street of the Green Lantern. The bowl shape of this bedrock topography tends to concentrate subsurface drainage at the southerly end of Strand Beach in the vicinity of the

existing Selva Road cul-de-sac. Subdrain design must therefore consider possible northerly and southerly subsurface flow directions beneath the proposed Upper Headlands residential area. Potential subsurface moisture migration from the proposed commercial areas near PCH and Harbor Point must also be considered in design of the subdrain systems.

Proposed excavations in the Upper Headlands portion of the Project also could encounter localized seepage where the buried bedrock surface is exposed at lower relative elevations. Landscape irrigation associated with development, combined with storm water percolation, can create localized perched water conditions and rises in the local water levels. The permeability contrast between the sandy terrace materials and the finer grained bedrock materials also is applicable to the materials derived from these units. Local perched groundwater levels, therefore, also have the potential to form within proposed compacted fill.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Most of the planned excavations in this area are at relatively high elevations, so the probability of encountering localized seepage during grading is low. Nonetheless, three PCs combined with a mitigation measure will be required to mitigate this potential impact to exposure of project facilities to uncontrolled groundwater to below a level of significance.

Additional geotechnical evaluation shall be performed as a part of the final design process to further assess the groundwater conditions, evaluate construction dewatering parameters/alternatives, and develop appropriate subdrain/groundwater control designs. As appropriate, proposed subdrain systems shall be integrated with planned storm drains (see also Sections 4.7, Hydrology, and 4.8, Water Quality). This will allow site-specific final designs to be produced and evaluated, along with the grading plan. These designs will be reflected in a final Geotechnical Report, and will conform to UBC requirements and appropriate City grading regulations.

Subdrains shall be installed behind all fill slopes and retaining walls and shall be considered/evaluated for installation in other areas where the proposed ground surface is near the buried bedrock surface. These subdrains will prevent groundwater from being subject to moisture or surface seepage-related problems or slope or foundation instability due to groundwater. Local overexcavation of the bedrock and replacement with compacted fill will allow installation of subdrains to control potential local seepage/nuisance water.

Specific areas to be considered in the final design evaluation for overexcavation and installation of subdrain systems shall include:

- The area beneath Lots 1 through 7, Lots 9, 10, and 36 through 45, and Lots 48, 49, and 50 of the Upper Headlands Residential Area (see Plate II).

- The visitor/recreation/commercial areas at the northeast and southwest corners of the Upper Headland.

A subdrain system shall be designed and installed beneath the proposed Upper Headland fill area to collect and discharge potential future subsurface flow. The main elements of this subdrain system shall extend along the base of the buried bedrock ridge on the east, south, and west sides of this area. A subdrain shall also be considered during final design evaluation along the northerly boundary of the Upper Headland and implemented, if necessary, to maintain groundwater levels at or below acceptable levels to ensure stability.

A subdrain system shall also be designed and installed in the Strand Beach area to maintain groundwater levels at or below acceptable levels for stability. A combination of conventional subdrain designs along the back of the proposed removal excavation, and a high permeability sand drainage blanket across the lowest, low gradient portion of the proposed landslide removal area is proposed. Appropriate drainage/soil moisture control measures shall be designed, implemented, and maintained as a part of the proposed development to minimize future infiltration.

Project Conditions: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, PCs 5-1, 5-4 and 5-6, in combination with Mitigation Measure 5-5, described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 5-5: Installation of Appropriate Subdrains. Subdrains shall be installed behind fill slopes and retaining walls as determined in a final geotechnical report. As appropriate, proposed subdrain systems shall be integrated with planned storm drains (see also Sections 4.7, Hydrology, and 4.8, Water Quality). Site specific final design evaluation and grading plan review shall be performed by the Project Geotechnical Consultant prior to the start of grading construction. Design and grading construction requirements shall be reflected in a final Geotechnical Report. The final Geotechnical Report shall be reviewed by the Director of Public Works, and shall conform to the requirements of the Uniform Building Code and appropriate City grading regulations and the recommendations of the Project Geotechnical Consultant of record.

Reference: FEIR § 4.5.4.2.

6.4.6 Significant Direct Impact: Expansive Soils. Expansive soils contain types of clay minerals that occupy considerably more volume when they are wet or hydrated than when they are dry or dehydrated. Volume changes associated with changes in the moisture content of near surface expansive soils can cause uplift or heave of the ground surface when they become wet or,

less commonly, settlement when they dry out. Repeated cycles of wetting and drying in the vicinity of slopes composed of expansive soils can produce incremental lateral and downslope movement known as slope creep. Expansive earth materials at the Project site may produce slope and/or foundation instability, and is considered a potentially significant impact. Moreover, there is a wide range of expansion potential in the soils at the Project site, and such variations in the expansion characteristics of the proposed foundation materials could produce a differential response to future moisture changes, particularly in the near surface soils.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Appropriate grading provisions will be incorporated in final design plans for the Project to mitigate the potential for damaging ground deformation associated with expansive soils on the Project site. Design and implementation of these grading requirements would conform to UBC requirements, appropriate local regulations, and the recommendations for the Project Civil Engineer and the Project Geotechnical Consultant. Appropriate grading will prevent slope or foundation instability. By constructing relatively uniform soil conditions in the upper portion of the building areas, and by incorporating recommended moisture levels in the fill/foundation soils to minimize future volume changes, the expansion potential in the soils is reduced. Drainage provisions also will minimize future soil moisture changes to prevent "soil creep."

Project Conditions: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, PCs 5-1 through 5-5, in combination with Mitigation Measures 5-6 and 5-7, described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.5 of the FEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and made binding through the MMRP:

Mitigation Measure 5-6: Proposed grading shall strive to construct relatively uniform soil conditions in the upper portion of the building areas and incorporate recommended moisture levels. A moderate level of moisture shall be installed and maintained in the fill/foundation soils to minimize future volume changes, as recommended in the Final Geotechnical Report. Implementation of appropriate drainage provisions will also be required to minimize future soil moisture changes. Soil moisture control recommendations are summarized in AMEC (2000b) and shall be implemented.

Mitigation Measure 5-7: Site specific final design evaluation and grading plan review shall be performed by the Project Geotechnical Consultant prior to the start of grading construction. Design and grading construction requirements shall be reflected in a final geotechnical report. The final geotechnical report shall be reviewed by the Director of

Public Works. Design and grading construction shall conform to the requirements of the Uniform Building Code and appropriate City grading regulations and the recommendations of the Project Geotechnical Consultant of record.

Reference: FEIR § 4.5.4.2.

6.5 Hazardous Materials

6.5.1 Significant Direct Impact: Hazardous Material Handling. Prior to the start of construction, demolition, and cleanup, potentially hazardous materials must be removed from the Project site. Some 55 gallon steel drums containing molygrease used by the nursery formerly on the site will be removed, as will the waste oil AST and the concrete pad and cinder block secondary containment around the tank. The oil in the AST tank is potentially hazardous, and soils beneath the pad could be contaminated with waste oil. The nursery operations may have contaminated subsurface soils with chlorinated pesticides and/or herbicides. The High-voltage switches and electrical transformers on the Project site may contain PCBs, and buildings on the Project site may contain asbestos. In addition to the soils in the nursery area, five oil-filled, wall-mounted high-voltage switches in the former mobile home park, two floor mounted electrical transformers in the former mobile home park and two transformers mounted on a utility pole in the former nursery will be removed by professionals experienced in PCB handling, removal, and disposal. Also, as part of project construction, surface coatings, adhesives, paint and other finishing materials have the potential to be hazardous when not properly used and stored and the residuals disposed of properly.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Prior to the start of construction, demolition, cleanup, and remedial activities will be conducted, as recommended in the Phase I study. The 55 gallon steel drums in the former nursery area will be removed. The waste oil AST in the former nursery area will be removed, as will the concrete pad and cinder block secondary containment around the tank. As described in PC 6-1, required site investigations and any necessary remediation will be conducted according to applicable State and federal guidelines and requirements. During removal of the 55 gallon drums located south of the greenhouses, the underlying soils shall be inspected for any discoloration or staining. Where discoloration or staining is present, the underlying soil is required to be tested for contamination using such analytical methods as EPA 8260 (solvents/organic compounds), EPA 418.1 (total petroleum hydrocarbons), and California Title 22/EPA 7000 series (metals). If contamination is found, soil remediation measures as recommended by the Orange County Health Care Agency ("OCHCA") would be implemented. The empty drums shall be properly disposed of at a disposal facility permitted to accept waste oil containers. Mitigation Measure 6-1 requires testing of soils in the nursery area and remediation of any contaminated soils that may exist.

The five oil filled, wall mounted high-voltage switches in the former mobile home park, two floor mounted electrical transformers in the former mobile home park and two transformers mounted on a utility pole in the former nursery will be removed by professionals experienced in PCB handling, removal, and disposal. Soils beneath the utility poles and building floors where transformers were located will be tested for potential PCB contamination using such analytical methods as EPA 8080. If contamination is found, soil remediation measures as recommended by OCHCA would be implemented. Mitigation Measure 6-1 also requires the remediation and/or removal of these materials.

Prior to demolition of any on-site structures, an asbestos survey will be conducted (PC 6-1). Any asbestos found shall be removed by a State certified asbestos containment contractor in accordance with all applicable regulations.

As part of project construction, surface coatings, adhesives, paint and other finishing materials have the potential to be hazardous when not properly used and stored and the residuals disposed of properly. Adherence to PC 6-2 and PC 6-3 will ensure that no significant impacts result from these uses.

PDF 6-1 requires the Project proponent to prepare and implement an education program for all maintenance personnel and homeowners to address fertilizers, pesticides, and herbicides. The impact of any hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials due to the proposed project will be less than significant.

In addition, before grading the former nursery area, representative surface soil samples shall be collected and analyzed for chlorinated pesticides and herbicides. If such contaminants are found in significant amounts, a soil remediation plan shall be implemented prior to final grading. Similarly, during removal of the above ground storage tank and concrete pad, soils underneath the concrete pad shall be inspected for discoloration or staining. If discoloration or staining is present, the soil below and adjacent to the concrete pad shall be tested for contamination using such analytical methods as EPA 8015M and EPA 8020. If contamination is found, soil remediation measures as recommended by OCHCA shall be implemented. The oil filled, wall mounted high-voltage switches and floor-mounted electrical transformers in the former mobile home park, and the pole-mounted transformers in the former nursery shall be removed by professionals experienced in PCB handling, removal, and disposal. Soils beneath the utility poles and building floors where transformers were located shall be tested for potential PCB contamination using such analytical methods as EPA 8080. If contamination is found, soil remediation measures as recommended by OCHCA would be implemented.

In addition, by requiring that any finishing products used on the site meet applicable SCAQMD regulations for solvent content and that uses of solvents adhere to OSHA regulations for exposure of workers during construction activities the potential significant impacts are reduced to a less than significant level.

Project Design Features and Project Conditions: Based upon the analysis presented in Section 4.6 of the FEIR, which is incorporated herein by reference, PDF 6-1 and PCs 6-1, 6-2 and 6-3, in combination with the Mitigation Measure described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.6 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 6-1: If a determination is made that hazardous materials are present on site, removal of the contaminated soils or materials described below shall occur prior to issuance of grading permits, or if a grading permit is required to remove the contaminated soils or materials, such removals shall occur concurrent with grading, as approved by the Public Works Director.

- Prior to grading of the former nursery area, ten representative surface soil samples shall be collected at approximately one foot below the ground surface. These soil samples shall be analyzed for chlorinated pesticides and herbicides (that are listed in the EPA Region IX Preliminary Remediation Goals). If these contaminants are found to be present in significant amounts in subsurface soils, a soil remediation plan shall be submitted for approval to OCHCA. The approved remediation plan shall be implemented prior to issuance of final grading permits. During removal of the above ground storage tank and concrete pad, soils underneath the concrete pad shall be inspected for discoloration or staining. If discoloration or staining is present, the soil below and adjacent to the concrete pad shall be tested for contamination using such analytical methods as EPA 8015M (gasoline/diesel fuel) and EPA 8020 (benzene/toluene/ethyl benzene/xylene "BTEX" compounds). If contamination is found, soil remediation measures as recommended by OCHCA shall be implemented.

- Five oil filled, wall mounted high-voltage switches in the former mobile home park, two floor mounted electrical transformers in the former mobile home park and two transformers mounted on a utility pole in the former nursery shall be removed by professionals experienced in PCB handling, removal, and disposal. Soils beneath the utility poles and building floors where transformers were located shall be tested for potential PCB contamination using such analytical methods as EPA 8080. If contamination is found, soil remediation measures as recommended by OCHCA would be implemented.

Reference: FEIR § 4.6.4.3.

6.6 Hydrology

6.6.1 Significant Direct Impact: Inundation by Tsunami. Because the proposed Project is located along the coastline, there is the potential for inundation of proposed structures by tsunamis. The potential for tsunami damage to that portion of the Project site below about elevation 25 feet above mean sea level is potentially significant.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Orange County coastline is somewhat protected by the coastal configuration and by offshore islands. Nonetheless, all structures that are habitable will be constructed above the tsunami flooding zone of 20-25 feet above mean sea level. Structures to be built at a lower elevation, such as retaining walls, will be designed to withstand potential tsunami impacts.

Mitigation Measures: Based upon the analysis presented in Section 4.7 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 7-1: All proposed habitable structures shall be designed and constructed at elevations higher than about 20 to 25 feet above mean sea level. Design recommendations developed by the Project Coastal Engineer should be implemented for those elements of the proposed design and construction that are located at lower elevations along the shoreline.

Reference: FEIR § 4.7.2.

6.6.2 Significant Direct Impact: Inundation by Mudflow. Under uncontrolled drainage conditions, the sandy surficial soils on-site are susceptible to rapid erosion from a concentrated surface flow of water. This erosion could lead to mudflows under saturated soil conditions if surface and shall subsurface drainage were not controlled.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Mudflows are not present on the site and the type of surficial materials on the site are not conducive to the development of mudflows. As a result, mudflows only would occur if the sandy surficial soils eroded rapidly due to a concentrated surface water flow. Thus, controlling surface and shallow subsurface drainage will prevent sandy surficial soils from rapid erosion and therefore will prevent mudflows. Surface drainage is reduced and controlled by a storm drain system designed to handle the flow generated by a 100 year storm event. Subsurface drainage will be controlled via a subdrain system to prevent the uncontrolled flow of groundwater. The

PDFs for improvements to drainage, collections of surface drainage, storm water conveyances and water conservation methods by means of PDFs 7-2, 7-3, 7-5 and 7-8 and installation of appropriate subdrains as required by Mitigation Measure 5-5 set forth above, will prevent a concentrated surface flow of water from occurring. As a result, impacts from mudflows will be reduced to below a level of significance.

Project Design Features: Based upon the analysis presented in Section 4.7 of the FEIR, which is incorporated herein by reference, PDFs 7-2, 7-3, 7-5 and 7-8, in combination with Mitigation Measure 5-5 described above, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance:

Mitigation Measures: Based upon the analysis presented in Section 4.7 of the FEIR, which is incorporated herein by reference, Mitigation Measure 5-5 is feasible and made binding through the MMRP. The text of Mitigation Measure 5-5 is set forth in Section 6.4.5 above.

Reference: FEIR § 4.7.7.2.

6.6.3 Significant Direct Impact: Groundwater. Because the Project site receives subsurface drainage from upgradient properties, it is subject to the potential for uncontrolled levels and flow of groundwater. This could lead to moisture/surface seepage related problems and possible slope or foundation instability if it is not mitigated through subsurface drains and control of surface water.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The proposed storm drain system will collect storm water and lessen infiltration. Water efficient landscaping, automatic rain gauges, and irrigation controllers as required by PDF 7-7 and PDF 7-9 will prevent excess irrigation. Subdrains required by Mitigation Measure 5-5 to control infiltrated water in groundwater pooling areas and direct it to the storm drain system will help control subsurface water flows. The combination of PDFs and Mitigation Measure 5-5 will reduce the potential for uncontrolled levels and flow of groundwater to less than significant levels.

Project Design Features: Based upon the analysis presented in Section 4.7 of the FEIR, which is incorporated herein by reference, PDFs 7-7 and 7-9, in combination with Mitigation Measure 5-5 described above, avoid or substantially lessen the significant environmental effect on uncontrolled levels and flow of groundwater to below a level of significance.

Mitigation Measure: Based upon the analysis presented in Section 4.7 of the FEIR, which is incorporated herein by reference, Mitigation Measure 5-5 as set forth in Section 6.4.5 above is feasible and is made binding through the MMRP:

Reference: FEIR § 4.7.7.2.

6.7 Noise

6.7.1 Significant Direct Impact: On-Site Traffic Noise Impacts (Planning Area 6). Some of the residences in Planning Area 6 (PA 6) adjacent to PCH would potentially be exposed to traffic noise from PCH exceeding the 65 dBA CNEL (area within 338 feet of the PCH centerline) exterior noise standard for residential uses. Although a six foot high block wall along the residential planning area boundary (PA 6) in the vicinity of PCH and "A" Street within the 65 dBA CNEL impact zone would reduce exterior noise levels on the residential lots to below 65 dBA CNEL, interior noise levels within the residences, planned to be single story, would still exceed 45 dBA CNEL with the windows left open.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Construction of a six-foot perimeter wall will shield residential structures from the traffic noise that otherwise would exceed 65 dBA CNEL in the exterior portions of the residential area. In addition, air conditioning or other mechanical ventilation will be provided to homes within that noise contour to allow the residents to keep their windows closed and thereby attenuate the noise to below a level of 45 dBA CNEL in the interior of the homes. By allowing the residents to close their windows by means of mechanical ventilation Mitigation Measure 10-1 will mitigate potential impacts from noise to those residences to below a level of significance.

Project Design Features: Based upon the analysis presented in Section 4.10 of the FEIR, which is incorporated herein by reference, Project Design Feature 10-1, in combination with Mitigation Measure 10-1 described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Mitigation Measure: Based upon the analysis presented in Section 4.10 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 10-1: Mechanical Ventilation for Residences within the 65 dBA CNEL noise contour. Mechanical ventilation, such as air conditioning, shall be provided for those residences in Planning Area 6 (PA 6) that are within the 65 dBA CNEL noise contour.

Reference: FEIR § 4.10.5.2.

6.8 Public Services

6.8.1 Significant Direct Impact: Schools. The proposed Project is expected to generate approximately 94 new students within the CUSD.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The State legislature has concluded that payment of the mitigation fees set forth in the applicable statutes mitigate potential impacts to schools to below a level of significance. This Project would pay its statutory school fees prior to issuance of building permits and thereby would fully mitigate for any potential impacts to the schools in the area.

Project Conditions: Based upon the analysis presented in Section 4.11 of the FEIR, which is incorporated herein by reference, PC 11-16, in combination with Mitigation Measure 11-1 described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Mitigation Measure: Based upon the analysis presented in Section 4.11 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 11-1: The developer shall pay school fees required by Government Code Section 65996 prior to building permit issuance as described in PC 11-16.

Reference: FEIR § 4.11.2.

6.9 Recreation

6.9.1 Significant Direct Impact: Public Access to Strand Beach. Strand Beach is a private beach below the mean high tide line. The beach is accessed by a stairway at the north boundary of the Project site. The proposed project will reconstruct that north stairway access to the beach, which may result in temporary interruption of the access.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: The Project will be conditioned to develop a plan that enables pedestrians to access the coastal resources even during periods of construction operations to the existing north stairway access to the beach. As a result, since alternative access to the beach will be provided if the existing access is interrupted during construction, access to the beach will nonetheless be maintained and therefore no significant impact will occur.

Mitigation Measures: Based upon the analysis presented in Section 4.12 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 12-1: Prior to the issuance of any grading permits, the developer/ landowner shall prepare a plan for continuous public access to Strand Beach during periods of construction operations utilizing alternate pathways if necessary in a manner meeting the approval of the Director of Community Development.

Reference: FEIR § 4.12.4.2.

6.10 Transportation/Traffic

6.10.1 Significant Direct Impact: Local and On-Site Circulation. The Project could have internal or local impacts on the street system and traffic circulation. Without mitigation, the existing street system would not adequately accommodate modeled vehicle movements while also providing for movement of pedestrians and bicyclists across PCH. In addition, comments were raised as part of public testimony before the Planning Commission expressing concerns regarding the increase in traffic on Street of the Green Lantern, the capacity on Selva Road and its intersection with PCH and the possibility of taking access to the commercial center at Green Lantern and PCH from Green Lantern rather than from PCH.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Constructing intersection improvements, including a traffic signal at the PCH/A Street intersection, would allow pedestrian and bicyclists to move across PCH while at the same time accommodating Project traffic. Street improvements shall include construction of the signal and a 150 foot left turn lane for northbound PCH. The Project will fully fund construction of that traffic signal. By requiring installation and operation of the traffic signal prior to allowing left turn movements into the development from PCH, the Project would avoid any significant impact to that intersection. Should Caltrans not allow the signal to be installed; movement on the streets would not be significantly impacted only if turn movements were limited to right in/right out at that intersection. As a result, such a limit has been imposed on the Project as part of Mitigation Measure 13-1. Building all internal roadways to their ultimate cross section widths also will help prevent any impacts from traffic from becoming significant, as will construction of PCH adjacent to the Project site to its ultimate half-section width as a Major Arterial (120 foot right-of-way) and construction of all public street right-of-way and roadway widths in compliance with the street cross sections shown on the approved HDCP and as approved by the Director of Public Works.. Traffic entering the Project will not stack up in a way that backs traffic up into the public roadways as a result of the project design feature which sets back all entry gates from the near curb line of any public street a distance sufficient to provide a

minimum 100 feet of storage, or one foot per dwelling unit served, whichever is greater, of by provision of multiple entrance lanes. Intersections will perform adequate in part because "stop" controls shall be provided at the intersection of local streets with arterials streets as directed by the Director of Public Works. In addition, the Project will pay all applicable fees as prescribed in the Coastal Area Roadway Improvement and Traffic Signal ("CARITS") Fee Program, as required by the San Joaquin Hills Transportation Corridor Fee Program. These fee payments also will help ensure that adequate roadway infrastructure is in place when needed.

As for traffic on Green Lantern, the existing ADT on Green Lantern is approximately 2,600 and the intersection of Green Lantern and PCH operates at level of service A. This traffic would increase to approximately 3,400 ADT (800 ADT), which can be accommodated by the existing curb-to-curb width of 40 feet. The intersection would continue to operate at an acceptable level of service thus no additional mitigation is required. Moreover, research has revealed that there were only two collisions on Green Lantern between January 1, 1997 and October 1, 2001. To warrant consideration of improvements, an intersection must have at least three collisions within a 12-month period. In fact, as the lack of such accidents illustrates, the roadway operates under its design capacity.

Regarding Selva Road, with ADTs primarily attributable to the 75-unit Strand residential portion of the Project site and the existing residences adjacent to the Headlands Conservation Park, approximately 1,000 ADTs will be added to Selva Road at its intersection with PCH. The relevant portion of Selva Road has a capacity of 20,000 cars per day and current usage is 3,100 cars per day. Adding 1,000 trips will still create a volume of 4,100 trips, under the capacity of 20,000 trips. If the median is implemented, the road's capacity will be at least 10,000 ADT. With the Project and ultimate build out of the General Plan, even peak summer usage will be between 61% and 72% of capacity and the intersection will operate at a level of service of C, which is considered acceptable by the City. Thus, the highest intersection use is within the City standard of level of service C so there is sufficient capacity both on Selva Road and its intersection with PCH to accommodate the Project without modification to the road or the intersection.

As for a new intersection at Street A and PCH, Green Lantern cannot serve the Project's commercial area because it is limited to inbound traffic only and does not provide full turning movements, which is required for economic viability of a commercial area. Due to turn movement conflicts, traffic using any Headlands access on Green Lantern would conflict with existing access to Blue Lantern Plaza which could cause traffic to back up on PCH and into Santa Clara because of the short distance between PCH and Santa Clara.

Taking access from Green Lantern as suggested by public comment would require a greater amount of grading in the vicinity of the hilltop landform and would require the commercial pad to drain to either PCH or Dana Point Harbor. Caltrans has prohibited drainage to PCH. The harbor is an impaired body of water; draining in that direction will affect the water quality program for the Project site. Furthermore, providing an access to

PCH via "A" Street greatly reduces traffic impacts to Green Lantern, which is a concern to the existing residents along this roadway. The advantages of a traffic signal at "A" Street and PCH are described in the Errata to the Draft EIR (Responses to Comment) at page 6.

Project Design Features and Project Conditions: Based upon the analysis presented in Section 4.13 of the FEIR, which is incorporated herein by reference, PDFs 13-1 through 13-4 and PCs 13-1 through 13-10, in combination with Mitigation Measure 13-1 described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.13 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 13-1: Prior to the issuance of building permits for Planning Area 6, Upper Headlands Neighborhood, or Planning Area 4, PCH Visitor/Recreation Commercial, the applicant shall construct street improvements, including street infrastructure, wiring etc. to accommodate a traffic signal, at the PCH/Street "A" intersection. Street improvement plans for the intersection and traffic signal design shall be designed by a registered civil engineer and shall review and approved by Caltrans and the City Traffic Engineer prior to issuance of the first building permit for the project. Street improvements shall include construction of the signal and a 150 foot left turn lane for northbound PCH. Prior to allowing left turn movements into the development from PCH, the signal shall be installed and operational. Caltrans is a responsible agency with review and permitting rights for the proposed signal. Should the signal not be approved by Caltrans, turn movements would be limited to right in/right out.

Reference: FEIR § 4.13.5.3.

6.10.2 Significant Direct Impact: Construction Traffic. Construction traffic associated with implementation of the Project will result in a temporary increase in traffic during the construction phase of the Project.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Designing and implementing an adequate traffic control plan which includes a requirement that, for intersections affected by construction traffic, the City's threshold criteria not be exceeded or, if already exceeded prior to such construction traffic, that such exceedance not be worsened, will prevent any impacts from construction traffic on the local circulation system. The construction plan's mandates regarding traffic control for street closures, detours, or other disruptions to traffic circulation; its identification of the routes that construction vehicles will use to access the

site, the hours of construction traffic, traffic controls and detours, off-site vehicle staging and parking areas; and the proposed construction phasing plan for the Project, all will combine to prevent any significant impact to traffic circulation as a result of the Project's construction-related traffic issues.

Mitigation Measures: Based upon the analysis presented in Section 4.13 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 13-2: Prior to issuance of a grading permit, the applicant shall submit a construction area traffic management plan to the City Traffic Engineer for review and approval. The plan shall be designed by a registered civil engineer and shall address traffic control for any street closure, detour, or other disruption to traffic circulation. The plan shall identify the routes that construction vehicles will utilize to access the site, the hours of construction traffic, traffic controls and detours, off-site vehicle staging and parking areas, and proposed construction phasing plan for the project. The construction traffic management plan will ensure that no new exceedances or worsening of existing exceedances of the City's thresholds criteria for intersections are generated at intersections affected by construction traffic.

Reference: FEIR § 4.13.5.3.

6.10.3 Significant Cumulative Impact: Cumulative Traffic Impacts. Two intersections in the City are projected in the General Plan to require improvement in the long-range horizon to maintain satisfactory levels of service ("LOS") with or without the Project. These two intersections are: (1) Niguel Road/PCH and (2) Dana Point Harbor Drive/PCH. Traffic from the Project, in combination with cumulative traffic generated by build out of the City's General Plan, could result in traffic impacts.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Build out of the two impacted intersections to their ultimate configuration identified in the Circulation Element and the City's Capital Improvement Program ("CIP") will eliminate deficiencies in the intersections and result in an acceptable LOS at both intersections, thereby avoiding any significant impact to those intersections. The two intersections that are forecast to exceed LOS criteria will do so in the General Plan build out with or without the Project, and build out of the intersections as envisioned by the General Plan will eliminate the impact. Payment of fair share fees toward construction of the affected intersections commensurate with the Project's level of contribution contributes to improving the roadway network and intersections to ultimate General Plan build out configuration, as included in the City's Capital Improvement Program. These planned improvements adequately address the

proposed Project's contribution to cumulative traffic impacts. With that fair share payment, along with compliance with the PCs and PDFs that prevent other traffic impacts from occurring as a direct result of the Project, the Project's contribution to cumulative traffic impacts will be reduced to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.13 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 13-3: Prior to issuance of the first building permit for an occupied structure, the project applicant shall execute an agreement with the City to contribute a fair share portion of the total construction costs for street improvements identified at the intersections of Niguel Road and PCH and Del Obispo/Dana Point Harbor Drive and PCH illustrated on Figure 4.13.13. The amount of the fair share fees shall be commensurate with the project's contribution to these intersections (Table 4.13.I). These fees shall be determined by the Director, Public Works, based on estimates developed for the City's CIP, and shall be paid incrementally per lot or development site, prior to the issuance of Certificate of Occupancy for said structure. Fees shall be provided to the Director of Public Works.

Reference: FEIR § 4.13.6.

6.11 Marine Biological Resources

6.11.1 Significant Direct Impact: Marine Organism Movement or Migration. Lighting associated with Project facilities (homes, streetlights, path access lights) could affect grunion attempting to spawn on Strand Beach, given that grunion are sensitive to ambient light levels. This could result in interference with normal grunion movements or spawning. Movement or migration of marine organisms other than grunion also potentially could be impacted by the Project.

Finding: Pursuant to Public Resources Code § 20181(a) and State CEQA Guidelines § 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of Finding: Taking adequate measures to prevent an increase in ambient light in the beach or intertidal zone area prevents impacts to grunion that otherwise could occur with Project lighting. These measures include directing streetlights away from habitat areas and into areas frequented by residents or pedestrians instead, requiring indirect outdoor lighting in the Strand Beach area of the Project that potentially could cast light on the beach or intertidal zone and, where necessary, shielding outdoor lighting. Because lighting along all beach access paths as well as streetlights and outdoor lighting at residences in the Strand Beach area will be required to be shielded or otherwise designed so as to not increase the ambient light on the beach and intertidal zone, this potential impact will be mitigated to a less than significant level. Movement or

migration of marine organisms other than grunion will not be significantly impacted by the Project because implementation of the Project would take place onshore; not impacting the nearshore marine zone in any significant way. No construction or operation activities would take place within the marine environment.

Moreover, a Monitoring Plan shall be developed to monitor the protection and maintenance of natural resources within and surrounding the Project site during and following Project grading. This Monitoring Plan shall identify specific measures for the protection of the natural resources, monitoring procedures by which the City may determine plan compliance, and remedial actions by which the City may enforce plan compliance and/or rectify conditions that result from noncompliance. For the protection of marine biological resources, monitoring activities will include a Beach Characteristics Study (during both construction and post-construction periods). The monitoring program will address seasonal beach width, sand grain size distribution, and beach slope. Both construction and post-construction samples will be collected for comparison to samples collected at a reference area. Samples will be collected prior to commencement of grading and quarterly for three years following the completion of grading.

In addition, the existing coastal revetment will be upgraded and reconstructed for the proposed Project. The revetment will be reconstructed within the seaward footprint of the existing structure, except as necessary to provide for public safety or public access in terms of providing appropriate ramp slopes and structurally bridging an existing gap between two sections of revetment. Of the 2,240 foot length of the revetment, only the northernmost 2,100 feet of the existing revetment will be reconstructed. Construction activity shall not be allowed on the beach in excess of that required for revetment modification. To the maximum extent feasible, all construction activities on the beach shall be limited to the shoreline above the mean higher high water ("MHHW") mark. Construction activity on the beach that is required below that mark between the months of February and July shall include the participation of a biological monitor to determine the shoreward extent of grunion spawning activity and egg-laying; the monitor shall have the authority to divert construction activity to avoid such spawning and egg-laying areas. Any construction below the mean high tide line ("MHT") may require additional permits

Project Design Features: Based upon the analysis presented in Section 4.15 of the FEIR, which is incorporated herein by reference, PDFs 15-2 and 16-1, in combination with Mitigation Measure 15-1 described herein, avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Mitigation Measure: Based upon the analysis presented in Section 4.15 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and made binding through the MMRP:

Mitigation Measure 15-1: Specifications on Allowable Types of Lighting for Project Facilities. Streetlights shall be shielded to direct light away from habitat areas and into areas frequented by residents or pedestrians.

In areas of the Project that have the potential to cast light on the beach or intertidal zone (residences in the Strand Beach area), only indirect outdoor lighting may be utilized. Where necessary, shielding of outdoor lights will be used. This requirement will be mandatory for both streetlights and outdoor lighting at residences to reduce and/or eliminate the impacts from street and security outdoor lighting.

Requirements for lighting will be included in specifications submitted for the Site Plan Review of proposed HDCP infrastructure and common area facilities. Lighting orientation and shielding guidelines will be made part of the CC&Rs for the Strand residential area. Lighting along all beach access paths must meet the same requirements. In addition, each building permit for each structure shall be reviewed by the Community Development Director to ensure compliance with these measures.

Reference: FEIR § 4.15.5.3.

7. FINDINGS REGARDING SIGNIFICANT ENVIRONMENTAL IMPACTS THAT CANNOT FEASIBLY BE MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE

The City finds, based upon the threshold criteria for significance presented in the FEIR, that the following environmental effects of the Project will be significant and cannot be avoided or substantially lessened through mitigation to a level of insignificance. Nevertheless, as explained in the Statement of Overriding Considerations set forth below, these effects are considered to be acceptable when balanced against the economic, legal, social, technological, and other benefits of the Project. Environmental effects in the following areas were found to be significant: Air Quality (Direct and Cumulative) and Noise (Cumulative).

7.1 Air Quality

7.1.1 Significant Direct Impact: Short-Term Exhaust Emissions. The proposed Project will result in significant short-term construction-related combustion exhaust emissions from utility engines, heavy-duty construction vehicles, haul trucks, and vehicles transporting the construction crew as well as from soil disturbance emissions. Construction of buildings would not begin until after mass grading is complete, therefore there would be no overlap in emissions from grading and building construction. On a peak grading day, 100 haul truck and worker roundtrips would occur. Assuming an average 50 mile round trip for every worker and haul truck, emissions from the daily 5,000 miles traveled would generate 68.3 pounds per day (ppd) of CO, 5.6 ppd of ROC, 110.7 ppd of No_x, 3.3 ppd of SO_x and 7.4 ppd of PM_{10}. Peak grading day construction equipment emissions would exceed the SCAQMD daily thresholds for the criteria pollutant of No_x and PM_{10}. Emissions during the building construction phase of the construction would be below the emissions generated during grading.

Finding: The City hereby finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effects on the environment. However, despite such measures, the impacts will still be above a level of significance. Therefore, the City further finds that there are

no additional feasible mitigation measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the FEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations. (Public Resources Code Section 21081(a)(3), CEQA Guidelines § 15091(a)(3)).

Facts in Support of Finding: To reduce short-term construction impacts from emissions from equipment and vehicles, the General Contractor will organize construction activities so as not to interfere significantly with peak hour traffic and minimize obstruction of through traffic lanes adjacent to the site. This will minimize idling of engines and thereby reduce exhaust emissions. If necessary, a flag person shall be retained to maintain safety adjacent to existing roadways to keep the traffic running as smoothly as possible and thereby reduce idling time. Delivery of construction supplies and off-site hauling of debris also will be restricted to non-peak travel periods whenever feasible, except for concrete and earthwork related activities, to avoid idling due to peak hour traffic. Moreover, to further reduce exhaust emissions from vehicular trips, the General Contractor will encourage ridesharing and transit through providing of incentives for the construction crew such as free bus passes and preferred carpool parking. To reduce emissions from gasoline-powered engines, the General Contractor will use electric or diesel powered stationary equipment where feasible. Moreover, the workers will shut off equipment when not in use. All construction equipment must be tuned and maintained in accordance with the manufacturer's specifications, because equipment not operating properly is more likely to generate emissions. Construction equipment exhaust shall be minimized by use of NOx control technologies, such as fuel injection timing retard for diesel engines and air to air after cooling; low sulfur fuel (where available); well maintained equipment and proper planning to minimize trips/use; and logging of fuel use, hours of operation, and periodic maintenance. While these measures will lessen grading and building construction exhaust emissions; nonetheless, peak grading and construction emissions would exceed the SCAQMD thresholds for the criteria pollutants of No_x and PM_{10}.

Project Conditions: Based upon the analysis presented in Section 4.2.2.2 of the FEIR, which is incorporated herein by reference, PC 2-1 and 2-2, in combination with the Mitigation Measures described herein, avoid or substantially lessen the significant environmental effect on air quality to below a level of significance:

Mitigation Measures: Based upon the analysis presented in Section 4.2 of the FEIR, which is incorporated herein by reference, the following Mitigation Measures, in combination with the PDFs and PCs described herein, are feasible and made binding through the MMRP:

Mitigation Measure 2-1.A: In order to reduce short-term construction impacts from emissions from equipment and vehicles, prior to issuance of grading permits, the permit

applicant shall include the following measures on construction plans, to the satisfaction of the Director of Public Works:

- The General Contractor shall organize construction activities so as not to interfere significantly with peak hour traffic and minimize obstruction of through traffic lanes adjacent to the site; if necessary, a flag person shall be retained to maintain safety adjacent to existing roadways.
- The General Contractor shall provide ridesharing and transit incentives for the construction crew, such as free bus passes and preferred carpool parking.
- The General Contractor shall utilize electric or diesel powered stationary equipment in lieu of gasoline powered engines where feasible.
- The General Contractor shall provide a statement in construction grading plans that work crews will shut off equipment when not in use.

Mitigation Measure 2-1.B: The Civil Engineer shall include a statement on construction grading plans requiring that all construction equipment be tuned and maintained in accordance with the manufacturer's specifications. Prior to issuance of grading permits, the Director, Community Development Department, shall ensure that such a statement is on construction grading plans.

Mitigation Measure 2-2.B: A construction activity monitor satisfactory to the Director of Community Development shall be retained by the applicant prior to issuance of grading permit. The monitor shall monitor all activity on a daily basis, keep written daily records, and file monthly activity reports with the Director of Community Development, for the duration of grading and infrastructure construction. The monitor shall provide immediate notification of any violation to the Community Development Director. The monitor shall be employed by the applicant or the applicant's contractor. The monitor shall report on the following strategies:

- Construction equipment exhaust shall be minimized by use of:
    - NOx control technologies, such as fuel injection timing retard for diesel engines and air to air after cooling.
    - Low sulfur fuel (where available).
    - Well maintained equipment and proper planning to minimize trips/use.
    - Log fuel use, hours of operation, and periodic maintenance.
- Fugitive dust shall be controlled as specified in Mitigation Measure 2-2.A and SCAQMD rules and regulations.
- Restrict delivery of construction supplies and off-site hauling of debris to non-peak travel periods whenever feasible, except for concrete and earthwork related activities.
- Construction worker travel in carpools shall be encouraged by:
- Common carpool registry, maintained at the construction site and managed by the applicant or the applicant's contractor.

Reference: FEIR § 4.2.4.2.

7.1.2 Significant Direct Impact: Short-Term Fugitive Dust Emissions. Fugitive dust emissions are generated by demolition, land clearing, soil exposure, vehicle and equipment travel on unpaved roads, and cut and fill operations. Sensitive receptors such as residences near the Project site as well as workers on-site may be exposed to blowing dust, depending upon prevailing wind conditions. The SCAQMD estimates that each acre of graded surface creates about 26.4 pounds of PM_{10} per workday during the construction phase of the Project and 21.8 pounds of PM_{10} per hour from dirt/debris pushing per dozer. The Project area covers 121 acres; however, only about 80 acres will be disturbed as part of the Project. The entire Project site would not be graded at the same time. It is assumed that up to a maximum of 35 acres of land would be under mass grading on any one day. It is also assumed that four dozers would be used up to eight hours a day each. A maximum of one acre of open stockpiles would occur on the Project site, which will generate 85.6 ppd of PM_{10}. Therefore, a total of 1,707.2 pounds of PM_{10} per day would be generated from soil disturbance without mitigation during peak grading/construction phase. This level of dust emission would exceed the SCAQMD threshold of 150 pounds per day.

Finding: The City hereby finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effects on the environment. However, despite such measures, the impacts will still be above a level of significance. Therefore, the City further finds that there are no additional feasible mitigation measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the FEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations. (Public Resources Code Section 21081(a)(3), CEQA Guidelines § 15091(a)(3)).

Facts in Support of Finding: Implementation of SCAQMD Rules 402 and 403 along with PCs 2-1 and 2-2 will reduce construction related fugitive dust. SCAQMD Rule 402 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off site. These dust suppression techniques are summarized below. In addition, SCAQMD Rule 403 requires that fugitive dust be controlled with best available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. Implementation of these dust suppression techniques as required by the SCAQMD can reduce the fugitive dust generation (and thus the PM_{10} component) by 50% to 75%. Short-term fugitive dust impacts on nearby sensitive receptors also will be reduced through watering of all active portions of the construction site to prevent excessive amounts of dust, limiting on-site vehicle speeds to 15 mph to minimize the dust kicked up by the vehicles, watering or chemically stabilizing all on-site roads, and watering all material excavated or graded to prevent excessive amounts of dust. Moreover, if dust is visibly generated that travels

beyond the site boundaries, clearing, grading, earth moving, or excavation activities that are generating dust shall cease during periods of winds of greater than 25 mph averaged over one hour or during Stage 1 or Stage 2 episodes, and all material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.

Project Conditions: Based upon the analysis presented in Section 4.2.2.2 of the FEIR, which is incorporated herein by reference, PC 2-1 and PC 2-2, in combination with the Mitigation Measures described herein, avoid or substantially lessen the significant environmental effect on air quality, but not to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.2.4.2 of the FEIR, which is incorporated herein by reference, the following Mitigation Measure, in combination with the PDFs and PCs described herein, as well as Mitigation Measure 2.2.B described above are feasible and made binding through the MMRP:

Mitigation Measure 2-2.A: In order to reduce fugitive dust from construction activities, the following shall be implemented by the applicant prior to commencement of grading or demolition and carried out throughout the construction period.

Prior to issuance of grading permits, the applicant shall furnish documentation to the satisfaction of the Director of Public Works, that the following provisions are included on project grading plans or in the Contractor's contract with the developer:

- During clearing, grading, earthmoving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems shall be used to prevent dust from leaving the site and to create a crust after each day's activities cease.

- During construction, water trucks or sprinkler systems shall be used 4 times a day to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning, watering during soil placement, after work is completed for the day, and whenever the wind exceeds 15 mph.

- After excavation is completed, the entire area of disturbed soil shall be treated immediately with soil bonding agents until the area is landscaped, paved, or otherwise developed so that dust generation will not occur.

- Soil stockpiled for more than one week shall be covered, kept moist, or treated with soil binders to prevent dust generation.

- Trucks transporting soil, sand, cut or fill materials and/or construction debris to or from the site shall be tarped from the point of origin.

- Wash mud-covered tires and undercarriages of trucks leaving construction sites.

- Provide for street sweeping, as needed or twice a week at a minimum, on adjacent roadways to remove dirt dropped by construction vehicles or mud that would otherwise be carried off site by trucks departing the Project site.

- If dust is visibly generated that travels beyond the site boundaries during periods of high wind (i.e., greater than 25 mph averaged over one hour), clearing, grading, earth moving, or excavation activities that are generating dust shall cease during periods of high wind.

Reference: FEIR § 4.2.4.2.

7.1.3 Significant Direct Impact: Long-Term Air Pollutant Emissions. The proposed Project will result in significant long-term air pollutant emissions associated with changes in permanent usage of the Project site. Area sources include onsite emissions such as natural gas consumption. Mobile source emissions result from vehicle trips associated with the proposed Project. The HDCP includes proposed residential uses, an inn, visitor/recreation commercial uses, and public open space. These land uses would consume natural gas and have other on-site energy consumption emissions associated with fireplaces and consumer products, as calculated by the URBEMIS7G model. These area sources would generate criteria pollutant emissions. Emissions from on-site area sources alone would exceed the emission threshold for ROC established by the SCAQMD. This would be combined with project mobile emissions. There would be 4,599 daily vehicular trips associated with the proposed Project, as projected in the traffic analysis. Based on the latest URBEMIS7G air quality model, the proposed land uses would generate criteria pollutant emissions. Emissions from project-related mobile sources alone would exceed the operational thresholds for CO, ROC, and NO_X established by the SCAQMD. Emission of PM_{10} would be below SCAQMD thresholds. Based on the continuing reductions in vehicle emissions through improved technology and the replacement of older, polluting vehicles with cleaner burning vehicles, SO_x emissions are anticipated to be below a level of significance. Total project emissions from long-term project operations would be 846 ppd of CO, 226 ppd of ROC, 108 ppd of NOx, and 44 lbs./day of PM_{10}. Emissions of CO, ROC, and NO_X would exceed the SCAQMD threshold for long-term operations.

Finding: The City hereby finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effects on the environment. However, despite such measures, the impacts will still be above a level of significance. Therefore, the City further finds that there are no additional feasible mitigation measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the FEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations. (Public Resources Code Section 21081(a)(3), CEQA Guidelines § 15091(a)(3)).

Facts in Support of Finding: Use of transportation demand measures ("TDM") such as preferential parking for vanpooling/carpooling, subsidy for transit pass or vanpooling/carpooling, flextime work schedule, and bike racks will be incorporated into the design of the Seaside Inn to reduce mobile source (vehicle) emissions. Bike parking areas will be incorporated into the commercial building design prior to issuance of permits to reduce vehicular emissions by allowing people going to the commercial buildings to bike instead of drive. The Project shall provide the backbone infrastructure to allow for the installation of charging units for EV cars and provide optic fiber or other high speed data transmission infrastructure for home offices, to reduce emissions from residential-related vehicular trips. Moreover, all residential units shall be equipped with gas stub out in the fireplace that would provide alternative fuel instead of reliance on burning wood, to significantly reduce emissions. In addition, PDF 2-1 provides a public trail/access system linking all parks and open space that includes pedestrian and bicycle trails. This trail system will also help reduce reliance on automobiles. Implementation of the mitigation measures and PCs would reduce the magnitude of the impacts of ROC, CO and NO_X; however, these impacts would remain significant and unavoidable.

Project Design Features: Based upon the analysis presented in Section 4.2.2.2 of the FEIR, which is incorporated herein by reference, PDF 2-1, in combination with the Mitigation Measures described herein, avoid or substantially lessen the significant environmental effect on air quality, but not to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.2 of the FEIR, which is incorporated herein by reference, the following Mitigation Measures, in combination with the PDF described herein, are feasible and made binding through the MMRP:

Mitigation Measure 2-3.A: In order to reduce mobile source (vehicle) emissions, use of TDM such as preferential parking for vanpooling/carpooling, subsidy for transit pass or vanpooling/carpooling, flextime work schedule, and bike racks shall be incorporated into the design of the Seaside Inn. A TDM plan shall be prepared by the operators of the Seaside Inn and reviewed for implementation prior to issuance of occupancy permits. The Community Development Director shall ensure that such measures are incorporated into the proposed Seaside Inn prior to issuance of building permits.

Mitigation Measure 2-3.B: In order to reduce mobile source emissions for commercial uses, bike parking areas shall be incorporated into the commercial building design prior to issuance of permits.

Mitigation Measure 2-3.C: In order to reduce mobile source emissions from operation of the residential project, the project proponent shall provide the backbone infrastructure to allow for the installation of charging units for EV cars and provide optic fiber or other high speed data transmission infrastructure for home offices. The proponent shall install the infrastructure on a phase by phase basis, prior to issuance of the first Certificate of Occupancy within the affected phase.

Mitigation Measure 2-3.D: In order to reduce long-term air pollutant emissions from residences, all residential units shall be equipped with gas stub out in the fireplace that would provide alternative fuel instead of reliance on burning wood. The Director, Community Development, shall review each residential building permit prior to issuance to ensure that gas stub outs for fireplaces are provided.

Reference: FEIR § 4.2.4.2.

7.1.4 Significant Cumulative Impact: Cumulative Air Quality Impacts. Operational emissions associated with the proposed Project in conjunction with build out of the City's General Plan will result in significant, cumulative air quality impacts within the Basin. The Air Basin is designated as a non-attainment for ozone, PM_{10}, and CO. Operational emissions associated with the Project in conjunction with build out of the City's General Plan would result in significant, cumulative air quality impacts within the Basin. Emission of NO_X from construction of the Project would cumulatively contribute to regional ozone formation. Because the Basin is a non-attainment zone for ozone, this is a significant air quality impact. Both long-term stationary (on-site energy consumption) and mobile (vehicular traffic) sources would contribute to regional criteria pollutant emissions. Because the Basin is a non-attainment zone for ozone and carbon monoxide, these emissions would cumulatively contribute to significant regional air quality impacts.

Finding: The City hereby finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effects on the environment. However, despite such measures, the impacts will still be above a level of significance. Therefore, the City further finds that there are no additional feasible mitigation measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the FEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations. (Public Resources Code Section 21081(a)(3), CEQA Guidelines § 15091(a)(3)).

Facts in Support of Finding: Implementation of PDF 2-1, PCs 2-1 through 2-4, and Mitigation Measures 2-3.A through 2-3.D would reduce the Project's contribution to cumulative CO, ROC, and NO_X impacts; however, these impacts would remain significant and unavoidable. The Air Quality Management Plan and other air quality regulatory tools include many forms of mitigation that together help to improve the air quality in the Basin. However, the Basin still remains a non-attainment zone for these constituents.

Project Design Features and Project Conditions: Based upon the analysis presented in Section 4.2 of the FEIR, which is incorporated herein by reference, PDF 2-1, in combination with PCs 2-1 through 2-4 and Mitigation Measures 2-3.A through 2-3.D

described herein, avoid or substantially lessen the significant environmental effect on cumulative air quality, but not to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.2 of the FEIR, which is incorporated herein by reference, Mitigation Measures 2-2.A through 2-3.D, in combination with the PDFs and PCs described herein, are feasible and made binding through the MMRP. The text of Mitigation Measures 2-3.A through 2-3.D are set forth above.

Reference: FEIR § 4.2.5.

7.2 Noise

7.2.1 Significant Cumulative Impact: Cumulative Noise Impacts. The proposed Project contributes at most only 0.6 dBA to the existing significant cumulative noise impact. However, this contribution is considered significant and unavoidable.

Finding: The City hereby finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effects on the environment. However, despite such measures, the impacts will still be above a level of significance. Therefore, the City further finds that there are no additional feasible mitigation measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the FEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations. (Public Resources Code Section 21081(a)(3), CEQA Guidelines § 15091(a)(3)).

Facts in Support of Finding: The Project would not result in any significant noise impact during short-term construction or long-term operation and use of the Project site, after implementation of the Project Design Feature and PC 10-2 as well as Mitigation Measure 10-1, which by providing mechanical ventilation to homes in which interior noise would exceed 45 dB CNEL with windows open brings project direct noise to a less than significant level. However, the Project would contribute, at most, 0.6 dBA the cumulative noise in the area. However, the typical mitigation measure of sound walls would be infeasible for many of the impacted homes due to the need to maintain driveway access. In addition, the cost of constructing sound walls for homes that do not need to maintain driveway access would be too great to be borne by this one project -- especially given the lack of a reasonable relationship between the magnitude of this project's contribution to the impact and the costs of the mitigation required. As a result, this cumulative impact would remain significant.

Project Design Features and Project Conditions: Based upon the analysis presented in the FEIR, which is incorporated herein by reference, PDF 10-1, in combination with PCs 10-1 and 10-2 and Mitigation Measure 10-1 described herein, avoid or substantially

lessen the significant environmental effect on cumulative noise, but not to below a level of significance.

Mitigation Measures: Based upon the analysis presented in Section 4.10 of the FEIR, which is incorporated herein by reference, Mitigation Measure 10-1, in combination with the PDFs and PCs described herein, is feasible and made binding through the MMRP. The text of Mitigation Measure 10-1 is set forth in Section 6.7.1 above.

Reference: FEIR § 4.10.6.

8. FINDINGS REGARDING GROWTH INDUCEMENT IMPACTS

CEQA Guidelines Section 15126.2(d) requires that an EIR:

"Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment."

As discussed in the FEIR, implementation of the Project will transform approximately half of the 121.3 acre site to a more intensely developed land use. The Project site is in an area that has experienced significant local and regional development. Land surrounding the site is either developed or publicly owned land designated for open space. Utilities to serve the Project will be connected with existing facilities that can accommodate the Project's development, and no significant expansion of capacity or establishment of new sources of service are required to implement the Project. Given the developed nature of the Dana Point area, and the lack of undeveloped parcels nearby, the Project is an infill/redevelopment project that responds to regional development pressures and demands and that will not in and of itself cause a growth inducing impact.

Additional growth can be induced directly in a region through increased demand for goods, services, and housing associated with both housing projects and with the increase in employment as a result of commercial projects. This type of growth is, however, a regional phenomenon resulting from employment, immigration, and tourism. The Project will contribute a minimal increment to this growth. Some sectors of the local economy will find this incremental growth beneficial, as it provides direct revenues to commercial uses and tax revenues through sales, property, and transit occupancy taxes.

Reference: FEIR § 6.3.

9. FINDINGS REGARDING POTENTIAL PROJECT ALTERNATIVES

Because the proposed Project will cause unavoidable significant environmental effects, the City must consider the feasibility of any environmentally superior alternative to the proposed Project, evaluating whether these alternatives could avoid or substantially lessen the unavoidable significant environmental effects while achieving most of the objectives of the proposed Project.

The proposed Project would have potentially significant impacts in the following areas: (1) Air Quality (Direct and Cumulative) and (2) Noise (Cumulative).

In rejecting the alternatives, the City has examined the objectives of the proposed Project and weighed the ability of the various alternatives to meet those objectives. The decisionmakers believe that the proposed Project best meets these objectives with the least environmental impact. The specific objectives associated with the proposed Project are as follows:

General Objectives:

(1) To be consistent with the goals, policies, and objectives of the City's General Plan, as proposed to be amended.

(2) To implement the plans, policies, and programs of Section 4.0, Development Guidelines.

(3) To be consistent with the goals, policies, and objectives of the California Coastal Act through the implementation of the Dana Point Local Coastal Program, as amended to include the HDCP.

Conservation Objectives:

(1) To establish significant public open space, parks, and trails.

(2) To establish, preserve, and protect coastal access and recreation.

(3) To conserve significant natural resources consistent with the Natural Community Conservation Plan/Habitat Conservation Plan.

(4) To mitigate drainage impacts to marine environments adjoining the Project site, including Dana Point Harbor.

(5) To regulate landform alteration to reduce adverse aesthetic impacts.

(6) To create and preserve public coastal access and view opportunities.

Development Objectives:

(1) To increase public coastal access through an integrated design of parks, open space, trails, and visitor facilities.

(2) To construct public visitor educational facilities that encourage public access and recreational improvements that enhance the open space and coastal experience. The facilities shall create a series of cultural, historical, conservation, and natural interpretive programs.

(3) To provide public trails and greenbelts to link and buffer different land uses.

(4) To ensure adequate vehicle access and circulation, while minimizing traffic impacts to adjacent residential areas.

(5) To provide high quality visitor/recreation commercial and residential land uses.

(6) To increase the acreage devoted to public open space, parks, and sensitive natural resources by designing development areas that incorporate ocean views.

(7) To provide for the early delivery and construction of public facilities as provided for in the HDCP and the Development Agreement.

(8) To create a positive fiscal impact to City revenues.

9.1 Alternatives Withdrawn From Further Consideration. The following alternatives have been previously identified by the City and/or Project applicants/landowners as part of prior environmental evaluations and have been determined to be infeasible because they do not accomplish most of the Project objectives, or avoid or substantially lessen identified significant impacts, or because they are technically infeasible: (1) Off-Site Alternative Locations; (2) Avoid Potentially Hazardous Geological Areas/No Encroachment Into Coastal Sage Scrub Habitat; and (3) No Reliance on Existing or Reconstructed Shoreline Protective Works (Revetment).

9.1.1 Off-Site Alternative Locations

Alternative locations are generally examined when implementation of the project at the proposed site would have significant unavoidable impacts and/or significant but mitigatable impacts, and when such impacts could be reduced or eliminated by relocation of the development. However, this is not a development project in the traditional sense, but a program for development of a particular piece of land with unique features such as coastal bluffs and their associated habitat. No other large, vacant coastal parcel capable of supporting hotel and residential uses exists within the City. Additionally, implementing the proposed Project at another location does not resolve the question of what should occur at the site. Therefore, any discussion of alternative locations would not meet the "rule of reason" addressed in the CEQA Guidelines and was, therefore, not addressed further in the FEIR.

Reference: FEIR § 5.2.

9.1.2 Avoid Potentially Hazardous Geological Areas/No Encroachment Into Coastal Sage Scrub ("CSS") Habitat. The Project site is constrained by subregional drainage patterns and geotechnical factors that influence the form of any development taking place on the site. Planning Area 2, the Strand residential area, consists of an ancient landslide complex with six overlapping landslides. These landslides are similar in structure and composition to those previously existing in the adjacent residential communities of Niguel Shores and Ritz Cove. The overlapping nature of the landslides effectively precludes limited grading operations within Planning Area 2. Additionally, several locations east of the Strand landslide complex consist of undocumented fills associated with prior development on the site. Development of sites outside Planning Area 2 will require that storm drains and subdrains be extended through the Strand

landslide complex. Moreover, Planning Areas 1, 2, and 3 propose to provide significant public beach and coastal access, public parks, public recreational facilities, and emergency vehicle access to Strand Beach, and regional infrastructure facilities associated with storm drain runoff and clean water. None of these amenities or infrastructure improvements can be accomplished, and none of the potential public safety issues can be eliminated under this alternative, which prohibits grading within these potentially hazardous geological areas.

Portions of Planning Areas 1, 2, 4, 5, 6, 7, 8, and 9, and in some cases the majority of those planning areas, consist of CSS, disturbed CSS, maritime succulent scrub, or southern coastal bluff scrub. For purposes of this analysis, these scrub types are collectively referred to as CSS. Rare or sensitive plant or animal species occupy portions of this habitat. Under this alternative, no encroachment into CSS habitat results in an extremely limited development area. There is only one suitable site, comprising approximately 13.7 acres, that is located outside of potentially hazardous geological areas and CSS habitat. This area is located within Planning Area 6. To avoid disturbance of the adjoining CSS habitat areas immediately adjacent to the 13.7 acre development area, fuel modification would have to occur within this limited development area, reducing its effective size by 3.2 acres, or 23 percent. Thus, this alternative results in approximately 11.5 net developable acres within the 121.3 acre Project site. Furthermore, this 11.5 acre net area provides very limited coastal or ocean views. Since under this alternative no grading occurs outside of the 13.7 acre gross area, ocean views can be created only by importing approximately 410,000 c.y. of dirt for each 20 feet of terrace. This requires approximately 20,500 inbound/outbound truck trips from an off-site location. Given these constraints, the development area would be limited, result in new impacts associated with the substantial import of dirt, and experience significant economic impacts, resulting in an infeasible project.

Furthermore, under this alternative, the resulting 13.7 acre gross area falls within two watershed drainage areas, "B" and "F," as identified in Section 4.7, Hydrology. Drainage areas B and F total 55.9 acres (in the existing, undeveloped condition) and generate a peak flow for a ten year storm of 95.7 cfs. Therefore, an extensive storm drain system, including catch basins, a sand filter located in the County parking lot, a split-flow diversion structure, two pipelines, two energy dissipaters, two outlet structures, and an access road to service and maintain these facilities must be built above Strand Beach. Remedial grading of Planning Area 2 for the storm drains and related improvements, including an access road for maintenance of the storm drain facilities, would be required.

The Coastal Act requires that maximum access and recreational opportunities be provided for all people (Section 30210). However, under this alternative, the Project's public parks and open space program would be effectively eliminated. Major portions of the site that are currently fenced, prohibiting public coastal and beach access, would remain as is. The trail system would lose several of the most scenic links, including the bluff top perimeter trail in Harbor Point Park and the Headlands Conservation Park. The trail linkage to Hilltop Park may be feasible in portions of its existing location; however, in some areas the existing trails in the vicinity of the Hilltop are encroaching on the Blochman's dudleya, as shown on Figure 4 of the Biological Resources Report (URS 2001). The 62 public parking spaces proposed along Green Lantern and Scenic Drive could not be provided. Strand Beach would not be dedicated in this alternative since there is no nexus to require its dedication.

The Coastal Act also requires that new development "assure stability and structural integrity, and neither create nor contribute significantly to erosion, geological instability or destruction of the site or surrounding area" (Section 30253). Significant erosion is occurring in locations on site where existing but deteriorating storm drain systems are failing and existing infrastructure is being undermined. Storm flows from developed areas off site exacerbate the erosion contributing to the destruction of the site. To assure structural integrity, all infrastructure associated with any proposed development of the site must both remediate and accommodate the existing and future conditions. Neither is possible under this alternative.

The prohibition from encroachment into CSS habitat also effectively nullifies the terms and conditions of the NCCP/HCP agreements and approvals. It may call into question several legal issues and severely impact the funding and management of the temporary PPM preserve. Ongoing impacts to unprotected resources on site, such as the Blochman's dudleya, from hikers, bikers, and unauthorized off-road vehicles would continue since these areas would not become managed public open space.

This alternative cannot achieve a number of the Project objectives. Development of the 13.7 acres of the Upper Headlands requires a storm drain and water quality system. However, there is no practicable way to implement the required storm drain and water quality system and also avoid the potentially hazardous geological area on site. Thus, the water quality objective of the Project cannot be met. No visitor recreation/commercial uses will be established on site. There will be no early delivery and construction of public park and open space facilities, since virtually no public facilities are included in this alternative, and there is no nexus to require them. Physical constraints on the property make it infeasible to meet the criteria of avoiding potentially hazardous geological areas and CSS habitat while simultaneously providing the requisite public parks, trails, coastal and beach access, streets, and related infrastructure. The 13.7 acre gross development area has little if any opportunity for coastal views, unless a significant amount of earth is imported to create terraces. Without views, the value of the lots will be significantly reduced.

For the above reasons, this alternative has been deemed infeasible and was withdrawn from further consideration in the FEIR.

Reference: FEIR § 5.2.

9.1.3 No Reliance on Existing or Reconstructed Shoreline Protective Works (Revetment). In the 1950s, a shoreline protective structure consisting of a 2,240 linear foot revetment was constructed to protect the developed area adjacent to Strand Beach. This development included a 90 unit mobile home park with man-made slopes and terraces, roads, infrastructure, community facilities, and related amenities. This alternative would involve development of the site with removal of the revetment, rather than its reconstruction as recommended by the Project's geotechnical engineer and its marine processes engineer.

Although the mobile home park is no longer operational, all of the structural improvements associated with the park remain. This includes several community and recreational buildings, parking lots, foundation pads, streets, retaining walls, septic systems, water lines, storm drains, tennis courts, utilities, fencing, landscaping, and the slopes and terraces. The existing revetment protects these improvements from wave attack that would otherwise result in severe erosion. Severe erosion would not only undermine these improvements resulting in public safety issues, but would also undermine the adjoining public walkway, emergency access ramp, and the County storm drain located immediately adjacent to the Project's northern boundary.

As discussed in more detail in AMEC's letter of September 13, 2001, significant erosion of the toe of the terraced slope could lead to geological instability and precipitate movement of the landslides. This raises issues of public safety and runs counter to Coastal Act Section 30253, which requires new development to minimize risks to life and property, assure stability and structural integrity, and neither create nor contribute significantly to erosion, geological instability, or destruction of the site or surrounding area.

Several of the watersheds on site and off site drain to Strand Beach through the landslide complex. To prevent further erosion from occurring in areas where dilapidated storm drains are failing, new storm drain systems must be constructed. These systems will require catch basins, diversion structures, storm drain outlets, energy dissipation structures, water quality facilities and related improvements. Subdrains will also have to be installed to control the level of groundwater in the Strand area. Installation of the storm drain and subdrains requires remediation of the landslide complex. Inherent in the remediation design is the placement of a compacted fill slope similar to the slope that abuts the beach today. This compacted fill will counterbalance and stabilize the site. The toe of this slope and the slope itself must be protected from coastal erosion. The storm drain outlets, energy dissipation structures, subdrains, and related storm drain improvements and water quality facilities necessary to serve all upgradient areas on site and off site must be protected from being undermined through wave induced erosion. Moreover, the coastal accessways proposed by the Project, the existing coastal access/emergency access ramp, and the County storm drain immediately north of the Project site are subject to wave attack and erosion should the existing revetment be removed or not reconstructed.

Analysis of this alternative by the Project geotechnical engineer, AMEC, and the Project coastal engineer, Noble and Associates, concludes that reconstruction of the existing revetment is necessary to minimize public safety concerns, assure stability and structural integrity of the site, and prevent the creation of, or significant contribution to, erosion and geological instability.

Moreover, Scott Jenkins, Ph.D., has reviewed the AMEC and Noble analysis and provides this conclusion:

Removal of the existing revetment would be a high risk project alternative that offers benefits of little consequence. There is no doubt of the Noble Report conclusion that removal of the existing revetment would result in wave-induced undercutting of the lower terrace slopes in the Strand project area. Geotechnical analysis by AMEC (2001) indicates that these slopes are part of an ancient landslide complex, and that such undercutting by waves would lead to bottom up

wasting of the slopes and terrace above the beach. Such an outcome would endanger people on the beach as well as upset private and public infrastructure in areas both inside and outside the Project boundaries. The Strand Beach is not a sand-starved beach and consequently there is no apparent need to provide additional sediment to this beach by way of slope/terrace retreat. Furthermore, because the landslide deposits will be eventually rendered unstable by removal the revetment, it does not seem possible to manage that slope/terrace retreat in a safe manner (Jenkins 2001). For the above reasons, this alternative has been deemed infeasible and was withdrawn from further consideration in the FEIR.

Reference: FEIR § 5.2.

9.2 Alternatives Considered and Evaluated in the FEIR

9.2.1 Alternative 1 - No Project/No Build Alternative. Consistent with Section 15126.6 of the CEQA Guidelines, the No Project/No Build Alternative is the existing condition of the Project site at the time the NOP was published. Currently, the Project site is primarily vacant with an abandoned mobile home site, nursery, and commercial storage operations. Fencing and overgrown vegetation exclude coastal access or public view opportunities.

Finding: The City finds that specific economic, legal, social, technological, or other considerations make the No Project/No Build Alternative infeasible. (Public Resources Code Section 21081(a)(3), CEQA Guidelines § 15091(a)(3)).

Facts in Support of Finding: The No Project/No Build Alternative would not meet any of the Project objectives, including establishing, preserving and protecting coastal access and recreation, providing high quality visitor recreation/commercial or improvements to drainage through the site, which currently produces sediment and pollutants (detailed in Section 4.8, Water Quality). Impacts resulting from this alternative include the following: water quality and erosion concerns would remain, producing sediment and pollutant discharges from the site and urbanized areas that drain through the property (see Existing Setting, Sections 4.7 and 4.8). The blighted and dilapidated condition of the site would remain. Potentially unstable geological conditions will remain. The revetment would remain susceptible to damage and dislodge, resulting from a moderate to severe storm event. This could lead to erosion, geological instability, and structural damage to on-site and off-site structural improvements. Impacts to natural resources associated with edge effects and trespassers will continue unabated. This alternative would realistically be only an interim use of the site. The City's General Plan designates the site for development of residential, visitor/recreation commercial, and recreation/open space. All coastal areas will remain fenced off. No public open space and no dedication of Strand Beach will occur. The landowner may withdraw from participation in the NCCP resulting in the termination of the temporary pocket mouse preserve. The public will continue to encroach upon sensitive vegetation where the existing trails traverse CSS and Blochman's dudleya. This alternative is not financially feasible to implement.

Reference: FEIR § 5.5.

9.2.2 Alternative 2 - No Project/Reuse of Existing On-Site Land Uses Alternative. Consistent with Section 15126.6 of the CEQA Guidelines, this alternative is the redevelopment of the Project site with a 90 unit mobile home site, nursery, and commercial storage operation similar to what was previously constructed on the site. The remaining portions of the Project site would remain undeveloped.

Finding: The City finds that specific economic, legal, social, technological, or other considerations make the No Project/Reuse of Existing On-Site Land Uses Alternative infeasible. (Public Resources Code Section 21081(a)(3), CEQA Guidelines § 15091(a)(3)).

Facts in Support of Finding: This alternative would not meet any of the General Objectives or the Development Objectives. This alternative would only partially meet Conservation Objective 5. The remaining conservation objectives would not be met as this alternative does not propose public open space, parks, or trails, or coastal access and view opportunities. Existing public coastal access will remain adjacent to the Project site but will not be improved. This alternative would realistically be only an interim use of the site. The City's General Plan designates the site for development. Development of the site as a mobile home park and nursery/storage area is uneconomical, given the value of the land and cost of development. No high quality visitor/recreation commercial uses are provided in this alternative, nor would there be any significant recreational uses, as prioritized in the Coastal Act. The City desires to obtain permanent protection of the coastal bluffs and natural resources on site and provide visitor serving uses on the site, consistent with the Coastal Act policies. This alternative would result in impacts similar to the proposed Project for aesthetics, cultural resources, geology, hazardous materials, and coastal processes. It would result in incrementally fewer impacts to air quality, biological resources, noise, public services, traffic, utilities, and marine biological resources compared to the proposed Project. However, this alternative is less compatible with surrounding land uses and would not create aesthetic benefits as the proposed Project would. This alternative would not provide any betterment to hydrology and water quality issues for Dana Point Harbor. In addition, it would not integrate any public open space and parks, conservation areas, public trails, or public recreational facilities, as would the proposed project. Few of the Project objectives would be met with this alternative. This Project is not financially feasible to implement.

Reference: FEIR § 5.6.

9.2.3 Alternative 3 – Reduced Intensity Alternative. This alternative assumes development of the proposed Project site with the same uses in the same configuration but with a 40 percent reduction for certain uses. Therefore, Alternative 3 proposes 75 residential lots, 24,000 sf of visitor/residential commercial at PCH and "A" Street, and a 39 room inn and associated amenities within the same development envelopes as the proposed Project. The open space and park/recreation areas would be designated the same as the proposed Project but would not be dedicated/transferred to the public and constructed by the developer beyond that required by the

City's General Plan, as is the case with the proposed Project. The parks and open space will have to be acquired and constructed by the City or other public agency.

Finding: The City finds that specific economic, legal, social, technological, or other considerations make the Reduced Intensity Alternative infeasible. (Public Resources Code Section 21081(a)(3), CEQA Guidelines § 15091(a)(3)).

Facts in Support of Finding: This alternative would be consistent with some of the General Objectives. This alternative would not meet most of the Conservation and Development Objectives. Parks and trail systems could be planned now. However, implementation of the parks and trails would be subject to the availability of public funding to acquire the park sites and install the park improvements. Early delivery and construction of public facilities would not occur. A 40 percent reduction in the number of homes and commercial development would result in a significant, commensurate reduction in project revenues. This would result in a similar reduction in fiscal revenues to the City. This alternative would result in impacts similar to the Project in aesthetics, biological resources, cultural resources, geology, hazardous materials, hydrology, water quality, land use, noise, coastal processes, and marine biological resources. There would be a significant reduction in recreation facilities with this alternative compared to the proposed Project. The alternative would result in incrementally fewer impacts to public services, traffic, noise, and utilities. Long-term cumulative impacts to off-site residences will remain under Alternative 3. Long-term air quality impacts for CO would be reduced to a level below the SCAQMD threshold criteria; however, the exceedance for ROC and NO_x would continue to be significant. Except for CO air quality impacts, this alternative would not sufficiently reduce project impacts to lower any of the significant project impacts to less than significant. Most of the Project objectives would not be met with the alternative. This alternative is considered superior to the proposed Project because it reduces significant impacts to CO air quality conditions. This alternative is not financially feasible to implement.

Reference: FEIR § 5.7.

9.2.4 Alternative 4 - No Project/Existing General Plan Alternative. This alternative allows for construction of between 261 and 522 dwelling units and 12.8 acres of visitor serving commercial and 55 acres of open space, consistent with the City's General Plan.

Finding: The City finds that specific economic, legal, social, technological, or other considerations make the No Project/Existing General Plan Alternative infeasible. (Public Resources Code Section 21081(a)(3), CEQA Guidelines § 15091(a)(3)).

Facts in Support of Finding: This alternative would meet most of the Project objectives. However, Conservation Objective No. 5 concerning aesthetic impacts resulting from landform alteration and Development Objective No. 4 concerning minimization of traffic impacts to residential neighborhoods would likely not be met given the much greater intensity of development proposed. A 400 room hotel would be

constructed overlooking Dana Point Harbor. This alternative would result in similar impacts to cultural resources, geology and soils, hazardous materials, hydrology, land use, and coastal processes. This alternative would result in greater impacts to aesthetics, air quality, biological resources, noise, public services, traffic, utility and service systems, marine biological resources, and water quality. This alternative also does not integrate the same extent of recreational open space and amenities as the proposed Project. This alternative is financially feasible to implement.

Reference: FEIR § 5.8.

10. FINDINGS REGARDING THE MITIGATION MONITORING AND REPORTING PROGRAM

Section 21081.6 of the Public Resources Code requires that when making findings required by Section 21081(a) of the Public Resources Code, the Lead Agency approving a project shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval, in order to ensure compliance with project implementation and to mitigate or avoid significant effects on the environment. The City hereby finds that:

(1) A Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the Project, and the mitigation measures therein are made a condition of Project approval. The MMRP is incorporated herein by reference and is considered part of the record of proceedings for the proposed Project.

(2) The MMRP designates responsibility and anticipated timing for the implementation of mitigation. The City will serve as the overall MMRP Coordinator.

(3) The MMRP prepared for the Project has been adopted concurrently with these Findings. The MMRP meets the requirements of Section 21081.6 of the Public Resources Code. The City will use the MMRP to track compliance with Project mitigation measures. The MMRP will remain available for public review during the compliance period.

11. OTHER FINDINGS

The City hereby finds as follows:

(1) The foregoing statements are true and correct;

(2) The City is the "Lead Agency" for the Project evaluated in the FEIR and independently reviewed and analyzed the Draft EIR and FEIR for the Project;

(3) The NOP of the Draft EIR was circulated for public review. It requested that responsible agencies respond as to the scope and content of the environmental information germane to that agency's specific responsibilities;

(4) The public review period for the Draft EIR was for 45 days between October 5, 2001 and November 19, 2001. The Draft EIR and appendices were available for public review

during that time. A Notice of Completion and 15 copies of the Draft EIR were sent to the State Clearinghouse, and copies of the Draft EIR were also mailed directly to Responsible and Trustee Agencies, and notices of availability of the Draft EIR were published in the local newspaper on October 11, 2001, and were posted both at the Project boundaries and at points readily visible to the public and mailed to 263 private citizens and groups that had requested to be notified of the availability of the Draft EIR. The Draft EIR was available for review at City Hall, 33282 Golden Lantern, Dana Point, CA 92629 and at the Dana Point Library, 33841 Niguel Road, Monarch Beach, CA 92629.

(5) The Draft EIR and FEIR were completed in compliance with CEQA;

(6) The FEIR reflects the City's independent judgment;

(7) The City evaluated comments on environmental issues received from persons who reviewed the Draft EIR. In accordance with CEQA, the City prepared written responses describing the disposition of significant environmental issues raised. The FEIR provides adequate, good faith and reasoned responses to the comments. The City reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information to the Draft EIR regarding adverse environmental impacts. The City has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings, concerning the environmental impacts identified and analyzed in the FEIR;

(8) The City finds that the FEIR provides objective information to assist the decision-makers and the public at large in their consideration of the environmental consequences of the Project. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the Draft EIR. The FEIR was prepared after the review period and responds to comments made during the public review period;

(9) The FEIR evaluated the following direct and cumulative impacts: (1) aesthetics; (2) air quality; (3) terrestrial biological resources; (4) cultural and paleontological resources; (5) geology and soils; (6) hazardous materials; (7) hydrology; (8) water quality; (9) land use; (10) noise; (11) public services; (12) recreation; (13) transportation/traffic; (14) utilities; (15) marine biological resources; and (16) coastal processes. Additionally, the FEIR considered, in separate sections, significant irreversible environmental changes and growth inducing impacts of the Project, as well as a reasonable range of Project alternatives. All of the significant environmental impacts of the Project were identified in the FEIR;

(10) CEQA requires the lead agency approving a project to adopt a MMRP for the changes to the project that it has adopted or made a condition of project approval in order to ensure compliance with project implementation. The MMRP included in the FEIR as certified by the City serves that function. The MMRP includes all of the mitigation measures

identified in the FEIR and has been designed to ensure compliance during implementation of the Project. In accordance with CEQA, the MMRP provides the steps necessary to ensure that the mitigation measures are fully enforceable;

(11) The MMRP designates responsibility and anticipated timing for the implementation of mitigation; the City will serve as the MMRP Coordinator;

(12) In determining whether the Project may have a significant impact on the environment, and in adopting these Findings pursuant to Section 21081 of CEQA, the City has complied with CEQA Sections 21081.5 and 21082.2;

(13) The impacts of the Project have been analyzed to the extent feasible at the time of certification of the FEIR;

(14) The City made no decisions related to approval of the Project prior to the initial recommendation for certification of the FEIR by the Planning Commission. The City also did not commit to a definite course of action with respect to the Project prior to the initial recommendation for certification of the FEIR by the Planning Commission;

(15) Copies of all the documents incorporated by reference in the FEIR are and have been available upon request at all times at the offices of the City Community Development Department, the custodians of record for such documents or other materials;

(16) Textual refinements and Errata were compiled and presented to the decision-makers for review and consideration. The City staff has made every effort to notify the decision-makers and the interested public/agencies of each textual change in the various documents associated with the review of the Project. These textual refinements arose for a variety of reasons. First, it is inevitable that draft documents will contain errors and will require clarifications and corrections. Second, textual clarifications were necessitated in order to describe refinements suggested as part of the public participation process.

(17) The responses to the comments on the Draft EIR, which are contained in the FEIR, clarify and amplify the analysis in the Draft EIR.

(18) Having reviewed the information contained in the Draft EIR and FEIR and in the administrative record, as well as the requirements of CEQA and the State CEQA Guidelines regarding recirculation of Draft EIRs, and having analyzed the changes in the Draft EIR which have occurred since the close of the public review period, including those changes as set forth in the Final Environmental Impact Report Volume III: Responses to Comments, Errata, and Additional Information, the City finds that the information included in the Errata does not constitute substantial new information that requires recirculation of the Draft EIR under CEQA Guidelines Section 15088.5. The changes to the Draft EIR in the Errata do not constitute significant new information because (i) no new significant environmental impact would result from the Project or from a new mitigation measure; (ii) there is no substantial increase in the severity of an environmental impact that would result because mitigation measures have been adopted

that reduce the identified significant impacts to a level of insignificance; (iii) no feasible project alternative or mitigation measure considerably different from others previously analyzed has been proposed or identified that would clearly lessen the significant environmental impacts of the Project; and (iv) the Draft EIR is not fundamentally or basically inadequate or conclusory in nature such that meaningful public review and comment were precluded. Instead, new information added to the EIR through the Errata merely clarifies or amplifies or makes insignificant modifications to the already adequate Draft EIR.

(19) Having received, reviewed and considered all information and documents in the FEIR, as well as all other information in the record of proceedings on this matter, these Findings are hereby adopted by the City in its capacity as the CEQA Lead Agency. These Findings set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the Project.

12. STATEMENT OF OVERRIDING CONSIDERATIONS

The CEQA and the State CEQA Guidelines provide the following:

(a) CEQA requires the decision making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The City, pursuant to State CEQA Guidelines Section 15093, has balanced the benefits of the Project against the following unavoidable impacts for which no feasible mitigation measures exist to reduce the impact to below a level of significance:

(1) Direct air quality impacts (short-term exhaust emissions, short-term fugitive dust emissions, and long-term air pollutant emissions);

(2) Cumulative air quality impacts; and

(3) Cumulative noise impacts.

The City has adopted all feasible mitigation measures with respect to these impacts. The City also has examined a range of alternatives, none of which both meet most of the development objectives and is environmentally preferable to the Project.

Accordingly, the City adopts the following Statement of Overriding Considerations based on information in Final EIR No. 2001071015 and on other information in the record. The City, pursuant to the CEQA Guidelines, after balancing the specific economic, legal, social, technological, and other benefits of the Project against the unavoidable environmental effects which remain significant and after all feasible mitigation measures and alterations have been incorporated into the Project, and after the Project alternatives that will lessen or avoid such significant impacts have been rejected as infeasible, determines that the unavoidable adverse environmental effects are acceptable due to the following specific considerations, each of which individually is sufficient to outweigh the unavoidable, adverse environmental impacts of the Project:

- Development of the Project, including the Seaside Inn and retail establishments, will increase employment opportunities within the City and the region and will promote the attainment of the City's job/housing balance objectives. Such jobs will provide needed employment opportunities and will promote growth, personal income, and economic improvement within the region. Development of the Project will result in years of employment for construction and associated fields of work including engineering and design professionals.

- The Project will provide 65 high quality, new hotel rooms in the Project area, increasing the number and type of hotel accommodations available to serve the business and tourist industry and helping to promote to the continued economic growth in the City.

- Project residents, guests, and visitors will frequent the public amenities and retail businesses located in and out of the Project area. This increased business will translate into increased sales revenues for the benefit of the community. The Project also will generate additional annual transient occupancy tax revenues and increased property tax revenues to the City.

- The Project's inclusion of a variety of land uses, including residential, commercial, recreational and open space, all in proximity to the other, will help promote a sense of community and economic efficiency. The Project will provide 125 high quality residential homes. Increasing the number of residences available in the City is vital to meet the demands of projected growth in the City. The Project's provision of a broad spectrum of housing opportunities also benefits the City's job/housing balance.

- Project development will be implemented through comprehensive design guidelines that will ensure complimentary, high-quality architecture and landscaping elements within the master-planned community. Build out under these guidelines and the Project's

Development Agreement will provide the City with the ability to guide long-term development of the area in a cohesive and organized fashion.

- The Headlands landowners are a participating landowner in the NCCP/HCP for "contributing significant land and/or funding toward implementation of the reserve system and adaptive management program." As a result, the Headlands Project site has been issued a Section 10(a) Endangered Species Incidental Take Permit. The Project establishes a standard in excess of the requirements, setting aside 24.2 acres as the Headlands Conservation Park. This open space specifically provides for the long-term preservation and management of habitat for sensitive species, including the PPM, three California gnatcatcher territories, and other flora and fauna. No development is allowed within this area, except a perimeter trail and ancillary improvements designed to provide coastal access. In addition to sensitive habitat being preserved in the Headlands Conservation Park, up to 9.9 acres of scrub habitat will be revegetated in disturbed areas of the site.

- The Headlands Conservation Park will be administered in the form of an endowed, non-profit trust in conjunction with the Trust for Public Land, the Center for Natural Lands Management, the United States Fish & Wildlife Service, and the California Department of Fish and Game. The recording of easements, deed restrictions, and additional measures will ensure that the Headlands Conservation Park remains permanently designated as conservation open space. The nonprofit trust will retain an experienced natural resource manager to oversee the operation of the preserve. Moreover, an endowment for the Headlands Conservation Park (as budgeted by the Center for Natural Lands Management) shall be provided to fund the park's perpetual protection, long-term maintenance, and management.

- The Project assists in the implementation of the Central Coastal Orange County Natural Communities Conservation Plan/Habitat Conservation Plan, which has established a 37,000 acre Habitat Reserve System that protects more than 18,800 acres of CSS, 7,300 acres of chaparral, 6,100 acres of grasslands, 1,800 acres of riparian, 950 acres of woodland, 200 acres of forest habitat, and significant portions of six other habitat types now existing within the subregion. The NCCP/HCP also contains and preserves 381 coastal California gnatcatcher sites and 674 coastal cactus wren sites. Moreover, the NCCP/HCP includes 10,960 acres in the coastal zone, of which, approximately 5,670 acres are CSS. A non-wasting adaptive management endowment of approximately $11 million was also established for the NCCP/HCP. The Project provides for a monetary endowment that will ensure adaptive management techniques are applied to the Headlands Conservation Park for the benefit of certain on site native species. The Headlands Project site Participating Landowner shall pay a total of $500,000 to the Nature Reserve of Orange County (NCCP/HCP Endowment Fund). The payments will be made as annual installments of $100,000 for five years, with the first payment due within seven days of the issuance of a grading permit for the Project site. The remaining four payments will be made annually on the anniversary of the first payment.

- The Project will provide significant land use and recreational benefits to the region through the improvement and transfer of 62 acres of convenient public parks and open space, public trails, walkways, bikeways, overlooks, and coastal access (including the dedication of Strand Beach as a public beach) and five public visitor recreation facilities, all of which will be created in the initial stage of Project development and prior to issuance of the first occupancy permit for residential or commercial.

- The Project provides significant opportunities to increase coastal access, public recreation, and ocean and bluff top viewing opportunities in the Project area, as well as improved public parking and street access for beach use, new public viewpoints, and improved public facilities within parks:

- The Project's Strand Vista Park will be the gateway for two new beach access ways: Central Strand Beach Access and the South Strand Beach Access. The new Central Strand Beach access includes a 50 foot wide landscaped overlook to the beach with viewpoint seating. In addition, overlooks and a restroom/shower facility above Strand Beach will be provided as part of the Project. Several view opportunities/overlooks will be available along these access ways.

- The Project will create Hilltop Park and Greenbelt Linkage, which includes the highest point of elevation within the Project site. The "hilltop" is 288 feet and provides 360° views of the surrounding city, harbor, and ocean. The natural resource value will be protected by signage and fencing if necessary, and native plants will be used.

- The Project will provide Harbor Point Park, located on the eastern side of the Project site above Dana Point Harbor. The Park includes a 4.3 acre active use area designated as Recreation Open Space and a 6.1-acre site designated as Conservation Open Space. The Harbor Point Park provides harbor and ocean views, which will be made accessible to the public. Plans for the Recreation Open Space portion of the Harbor View Park include three visitor centers: a nature interpretive center, a cultural/arts center, and a maritime historical center (lighthouse). In addition, the park design includes an outdoor veterans' memorial in a native grass meadow setting.

- The Project will add visitor-serving recreation and retail facilities, a feature of the Project that will benefit both residents and visitors through new services and retail opportunities. Four of the visitor-serving facilities provide educational and interpretive activities, and are to be 2,000 square feet in size with the exception of the Strand Beach Park restroom/shower facilities. The proposed facilities are the Maritime Historical Visitor Center, which will house historic exhibitions related to the California coast and the early history of the region, with an adjacent Veterans' Memorial; the Nature Interpretive Visitor Center, which will house natural resource educational materials, exhibits, tours, and management activities for the adjacent Headlands Conservation Park; the Cultural Arts Visitor Center, which will display exhibits including California crafts, readings, art, and instructional and performing activities; the Conservation Visitor Center, which will be for educational programs related to the various conservation and restoration Projects that have occurred along the California coast; and the Strand Beach Park Restrooms,

which will consist of restroom and outdoor shower facilities located in the North Strand Beach Access immediately adjacent to Strand Beach Park.

- The Project includes extensive measures to provide public and area user environmental education and information, with the Nature Interpretive Visitor Center and the Conservation Visitor Center as the central focus of this effort, and additional facilities in Harbor Point Park and along the access paths to Strand Beach. Signs and educational materials would be designed to inform residents about the sensitivity of the marine refuges and the grunion spawning areas, to discourage continual intrusion, and to remind visitors about the Fish and Game regulations concerning protection of the species. In addition to information regarding the tidepools and the California grunion, the materials would include information on potential impacts from direct, artificial light, excessive noise, and trash on the marine environment. The Project proponent will participate in funding the development/distribution of a beach/ecology information sheet/booklet for distribution to all guests at the Seaside Inn and visitors to the visitor centers. The text/format will be developed in cooperation with the County of Orange, Harbors, Beaches and Parks. The Project proponent will also develop displays and signs for both the Seaside Inn area and the Strand Beach access areas related to the designation and purpose of the marine refuges and the sensitive marine life communities that occur there.

- The Project complements and implements the City General Plan Urban Design Element, creating a site design and ambience that reflects the natural setting of the property. The parks, open space, architectural, and landscape architectural elements are unified by a series of monuments, signage, building materials, and images that evoke a natural, timeless atmosphere, while allowing reasonable flexibility in design, creating a community that displays a strong sense of place.

- The Project through its public trails, beach access, view overlooks, landscaping, site entries, theme walls, and public view fencing will offer a safe, inviting, and aesthetically pleasing public coastal access to the beach, ocean, and coastal bluff. The Project's public recreational facilities, including public viewing overlooks at key locations and street furniture and public art, will attract visitors to the coast, open space and parks.

- The Project's public trail/access system will be more than three miles in length, and will link the parks, schools, residential neighborhood, active recreation, view overlooks and native open space. The trails will maximize public coastal access and view opportunities and provide a comprehensive system that serves the Project site, the harbor, and the Pacific Ocean, while reducing reliance on automobiles. The on-site trails will link to off-site regional trail segments, including the Class I bike lane on PCH. A series of 20 view overlooks will be incorporated into the trail system. The trails may be paved or improved with other surfaces or materials. Trail easements will be publicly owned and maintained. This trail system will provide opportunities for hiking and help reduce the dependency on automobiles by providing an alternative means of access.

- The Project replaces land uses that were formerly designated for commercial resort visitor facilities and residential uses with a qualitative park experience that appeals to a wide spectrum of regional coastal visitors. Visitors will be able to move from park to park via the integrated trails, while enjoying a number of different recreational and educational facilities. The conversion to parks and open space was accomplished, in part, by designing the Project areas designated for development to include ocean views, which raises economic value while decreasing the necessary density and total developable acreage.

- The Project will make improvements to drainage that flows to Dana Point Harbor by constructing curbs and gutters, catch basins in Scenic Drive and the Street of the Green Lantern, and a new storm drain pipe that will connect drainage from these areas to new junction structure and inlet to an existing 18 inch corrugated pipe located approximately 400 feet east of Scenic Drive. Also, the Project establishes programs for maintenance, cleaning, and upkeep of public storm drain structures, public streets, and parking areas to be implemented by the City and/or the homeowners' association.

- The Project will incorporate water conservation measures such as low flush toilets, low-flow faucets, water conserving dishwashers, maintenance of supply line water pressure at 50 psi or less by means of pressure reducing valves, use of reclaimed water, if available, for common area irrigation purposes, and efficient irrigation systems to minimize runoff and evaporation.

- The Project will convert underutilized property, including the former mobile home park and portions of Strand Beach, into a high quality use that will be compatible with the surrounding area and include superior quality development. The proposed superior quality development will, in turn, increase the value of surrounding property and generally enhance the regional atmosphere.

- The HDCP Circulation Plan consists of an on-site circulation system that provides public access, including numerous on-site pedestrian and bicycle access points, to the shoreline from the nearest public roadway. The Circulation Plan provides numerous opportunities for direct coastal access, and connects to multiple off-site roads, bikeways, and trails.

RESOLUTION NO. 02-01-22-05

RESOLUTION NO. 02-01-22- 05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CERTIFYING FINAL PROJECT ENVIRONMENTAL IMPACT REPORT SC 2001071015 AND ADOPTION OF A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM AS THE SUPPORTING ENVIRONMENTAL DOCUMENTATION FOR GENERAL PLAN AMENDMENT GPA 01-01, ZONE TEXT AMENDMENT ZTA 01-02, ZONE CHANGE ZC 01-01, PLANNED DEVELOPMENT DISTRICT PDD 01-01, LOCAL COASTAL PROGRAM AMENDMENT LCPA 01-02 AND DEVELOPMENT AGREEMENT DA 01-01.

Applicant: Headlands Reserve, LLC
File No.: FF# 0630-30/FEIR SC#2001071015

WHEREAS, Headlands Reserve, LLC has submitted a proposed project for approval of the Headlands Development and Conservation Plan (HDCP). The HDCP consists of separate applications for approval of a General Plan Amendment (GPA 01-02), Zone Text Amendment (ZTA 01-02), Zone Change (ZC 01-01), Planned Development District (PDD 01-01), Development Guidelines for Planned Development District (PDD 01-01), Local Coastal Program Amendment (LCPA 01-02) and Development Agreement (DA 01-01).

WHEREAS, the HDCP project is for a General Plan Amendment to amend the General Plan Land Use Element, Urban Design Element, Circulation Element, Public Safety Element, Conservation/Open Space Element, and Public Facilities/Growth Management Element; for a Zone Text Amendment to amend the Zoning Code to establish Planned Development Districts as a permitted land use; for a Zone Change to designate the Headlands as a Planned Development District; for establishment of a Planned Development District for the Headlands; for a Development Agreement between the City and Headlands Reserve, LLC; and for submittal of said applications as a Local Coastal Program Amendment for approval and certification by the California Coastal Commission; and

WHEREAS, an initial study was prepared for the HDCP and the City determined that an Environmental Impact Report was required to address significant potential environmental impacts; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), California Public Resources Code sections 21000 *et seq.*, the State CEQA Guidelines, 14 C.C.R. section 15000 *et seq*, and the City's local CEQA Guidelines, the City has prepared a Final Environmental

Impact Report, State Clearinghouse No. 2001071015, (the "Final Project EIR"), a full, true and correct copy of which is on file with the City Clerk of the City of Dana Point; and,

WHEREAS, on December 5, 2001, the Planning Commission of the City of Dana Point held a duly noticed public hearing to consider the Headlands Development and Conservation Plan (HDCP) and Final Project EIR and continued the consideration of the HDCP and Final Project EIR until the meeting of December 12, 2001. On December 12, 2001 the Planning Commission adopted Resolutions to forward a recommendation for approval to the City Council for the HDCP, including specifically, the Final Project EIR through Resolution No. 01-12-12-73; and

WHEREAS, on January 8, 2002, the City Council conducted a duly noticed public hearing concerning the HDCP and, specifically, the Final Project EIR, and the item was continued as a closed public hearing to January 22, 2002; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to proposed General Plan Amendment GPA 01-02, Zone Text Amendment ZTA 01-02, Zone Change ZC 01-01, Planned Development District PDD 01-01, Development Guidelines for Planned Development District PDD 01-01, Local Coastal Program Amendment LCPA 01-02, and Development Agreement DA 01-01, including potential environmental impacts addressed in the Final Project EIR; and

WHEREAS, the City Council has prior to its approval of the HDCP, received, reviewed and considered Final Project EIR as the supporting environmental documentation for General Plan Amendment GPA 01-02, Zone Text Amendment ZTA 01-02, Zone Change ZC 01-01, Planned Development District PDD 01-01, Development Guidelines for Planned Development District PDD 01-01, Local Coastal Program Amendment LCPA 01-02, and Development Agreement DA 01-01; and

WHEREAS, in accordance with Section 15093 of the California Environmental Quality Act, the City Council has balanced the economic and social benefits of the proposed project against the unavoidable environmental impacts, and prepared a Statement of Overriding Considerations, attached as Exhibit "A" to this Resolution and incorporated herein by this reference, stating the acceptability of those impacts in light of the benefits of the project; and

WHEREAS, the City Council hereby finds and determines that the potential environmental effects of the project, including those raised in comments in the Final Project EIR, have been considered and recognized by the City, and

has prepared Findings of Fact, attached as Exhibit "A" to this Resolution and incorporated herein by this reference; and

WHEREAS, the Final Project EIR reflects the City of Dana Point's independent judgment and analysis; and

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

Section 1. That the above recitations are true and correct;

Section 2. The City Council hereby certifies that the Final Project EIR as the supporting environmental documentation for General Plan Amendment GPA 01-02, Zone Text Amendment ZTA 01-02, Zone Change ZC 01-01, Planned Development District PDD 01-01, Development Guidelines for Planned Development District PDD 01-01, Local Coastal Program Amendment LCPA 01-02, and Development Agreement DA 01-01 is adequate, complete and in full conformance with the requirements of CEQA, the State CEQA Guidelines and the City CEQA Guidelines and hereby adopts:

A. The Statement of Findings and Facts in Support of Findings, Statement of Overriding Considerations attached hereto as Exhibit "A"; and,

B. The Mitigation Monitoring and Reporting Program included within the Final Project EIR;

Section 3. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Dana Point, California, held on this 22nd day of January, 2002.

Joe Snyder
JOE SNYDER, MAYOR

ATTEST:

Cathy Catlett
CATHY CATLETT, INTERIM CITY CLERK

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

I, Cathy Catlett, Interim City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 02-01-22-_05_ adopted by the City Council of the City of Dana Point at a regular meeting thereof, held on the 22nd day of January, 2002, by the following vote:

AYES:	**Council Members Kaufman, Ossenmacher and Rayfield, Mayor Pro Tem McGuire, and Mayor Snyder**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

Cathy Catlett
CATHY CATLETT, INTERIM CITY CLERK

EXHIBIT A
AS REFERRED TO IN RESOLUTION NO. 02-01-22-05
IS ON FILE BOTH IN THE CITY CLERK'S DEPARTMENT AND IN THE ARCHIVAL COPY OF THE CITY'S RECORDS

NOTICE OF DETERMINATION

NOTICE OF DETERMINATION

RECEIVED BY LSA, INC JAN 31 2002

To: X Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

X EIR Clerk
Orange County Clerk/Recorder
12 Civic Center Plaza, Room 106
Santa Ana, CA 92701

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

POSTED
JAN 24 2002
GARY L. GRANVILLE, Clerk-Recorder
By RS DEPUTY

FILED
JAN 24 2002
GARY L. GRANVILLE, Clerk-Recorder
By RS DEPUTY

Subject:
Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Project Title:
The Headlands Development and Conservation Plan

2001071015	Mr. Edward M. Knight, Community Development Director	(949) 248-3567
State Clearinghouse Number	Lead Agency Contact Person	Area Code/Telephone/ Extension

Project Location:
The project site is located at Pacific Coast Highway and Street of the Green Lantern in Dana Point, California.

Project Description:
The Headlands Development and Conservation Plan (HDCP) proposes development of 125 single family residential lots, a maximum 110,750 s.f. of Visitor/Recreational Commercial land uses composed of a 65 room inn, and a 40,000 sq. ft. commercial site, at the corner of Green Lantern and Pacific Coast Highway. Other components of the project include 30.3 acres of Conservation Open Space that have public safety constraints, environmental resources, and/or scenic value, and 31.7 acres of recreation open space that include a trail system, public parks, a public beach, and a series of public recreation visitor facilities. On-site circulation and parking are provided for these uses. Vehicular access will occur through a new intersection at Pacific Coast Highway, an extension at Selva Road and Cove Road, and an extension of Street of the Green Lantern.

This is to advise that the City of Dana Point has approved the above described project on
✔ Lead Agency ☐ Responsible Agency

January 22, 2002 and has made the following determinations regarding the above described project:
(Date)

1. The project [✔ will ☐ will not] have a significant effect on the environment.
2. ✔ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
   ☐ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [✔ were ☐ were not] made a condition of the approval of the project.
4. A Statement of Overriding Considerations [✔ was ☐ was not] adopted for this project.

This is to certify that the Final Environmental Impact Report with comments and responses and record of project approval is available to the General Public at:

City of Dana Point City Hall, Community Development Department, 33282 Golden Lantern, Dana Point, CA 92629

Edward M. Knight 1/23/02 Director of Comm. Dev.
Signature (Public Agency) *Date*

Date received for filing at OPR:

Recorded in Official Records, County of Orange
Gary Granville, Clerk-Recorder
893.00
200285000071 09:02am 01/24/02
170 52 Z02 Z01
850.00 43.00 0.00 0.00 0.00 0.00 0.00 0.00

STATE OF CALIFORNIA - THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME
ENVIRONMENTAL FILING FEE CASH RECEIPT
DFG 753.5a (6-01)

211643

Lead Agency: City of Dana Point Date: 11/24/02

County / State Agency of Filing: O.C. Clerk-Recorder Document No.: 2002000850074

Project Title: The Headlands Development Conservation Plan

Project Applicant Name: Headlands Reserve LLC Phone Number: 949 248-3567

Project Applicant Address: 24849 Del Prado Dana Point CA 92629

Project Applicant *(check appropriate box)*: Local Public Agency ☐ School District ☐ Other Special District ☐

State Agency ☐ Private Entity ☒

CHECK APPLICABLE FEES:

(—) ~~Environmental~~ Impact Report	$850.00	$	850.00
( ) Negative Declaration	$1,250.00	$	
( ) Application Fee Water Diversion *(State Water Resources Control Board Only)*	$850.00	$	
( ) Projects Subject to Certified Regulatory Programs	$850.00	$	
(—) County Administrative Fee	~~$25.00~~	$	43.00
( ) Project that is exempt from fees			
	TOTAL RECEIVED	$	893.00

Signature and title of person receiving payment: Rose M. Strand

WHITE-PROJECT APPLICANT YELLOW-DFG/FASB PINK-LEAD AGENCY GOLDENROD-STATE AGENCY OF FILING