

Dawn Garcia  
Dana Point, CA  
April 20, 2024  
Agenda Item 2, hearing date April 22, 2024  
CDP24-0008

Dear Planning Commission Members, I am opposed to the proposed CDP24-0008 put forward by you the City of Dana Point (the City), to ratify permanent trail hours on the Center for Natural Lands Management (CNLM) Dana Point Preserve. Shouldn't you note on your PHN that the landowner, CNLM, was not consulted on, and does not agree with this proposal?

From my understanding The City is applying to itself for a Coastal Development Permit, without the consent of the owner, CNLM, and further being disingenuous by not providing a copy of the application without CNLM requesting it through the Public Records Act.

The City's proposed action will violate the ability for the CNLM to manage the property for the benefit of animal sensitive species that reside there, the Coastal California Gnatcatcher and Pacific Pocket Mouse. CNLM has proposed hours of operation for the trail that are supported by USFWS, CDFW, and the Coastal Commission that provide an appropriate balance between public access and sensitive species management.

Is anyone on the Council/Commission a biologist with understanding or concern for our very limited coastal sage community? Please allow CNLM to continue their essential work on their property and to implement management decisions they deem necessary, even if it temporarily results in trail closure (if that is what the City is trying to prevent?). The City should make it well known that they are supporting the efforts of CNLM to protect the species on the Dana Point Preserve. Preservation and conservation should be activities that Dana Point is proud of, not to be submissive to visitors who might complain of an infrequent trail closure. There are plenty of places to hike, walk and enjoy nature in Dana Point.

I am completely perplexed as to why the City would proceed this way, but the underhandedness to fast-track this action without the consent of the landowner, makes me believe there must be greed, money, or influential pressure involved somewhere. Ignoring private property rights is not something I want my representatives to be in favor of.

Thank you,

Dawn Garcia MS  
Wildlife Biologist  
Dana Point, CA



U.S. FISH AND WILDLIFE SERVICE  
Carlsbad Fish and Wildlife Office  
2177 Salk Avenue, Suite 250  
Carlsbad, California 92008



CALIFORNIA DEPARTMENT OF  
FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, California 92123

In Reply Refer to:  
2022-0016223-HCP-TA-OR

April 19, 2024  
*Sent Electronically*

Christopher Johnson  
Principal Planner  
City of Dana Point Community Development  
33282 Golden Lantern  
Dana Point, California 92629

Subject: Coastal Development Permit CDP24-0008 Headlands Conservation Park Trail Public Access Hours, City of Dana Point, California

Dear Christopher Johnson:

This letter is provided in response to the proposal by the City of Dana Point (City) to consider a Coastal Development Permit (CDP) application submitted by the City to itself that seeks to formally establish 7 days a week from 7 AM to sunset as the hours of operation for the Headlands Conservation Park Trail.<sup>1</sup> In advance of the City's hearing on the CDP application on April 22, 2024, we, the U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (Department) (jointly, Wildlife Agencies), are providing input regarding fish and wildlife resource considerations relevant to the application. We were involved in the process that established the Headlands Conservation Park through participation of the former landowner of this property in the Orange County Central and Coastal Subregions Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP). We are also identified as third-party beneficiaries to the Conservation Easement that was established "...to ensure the biological values and resources in the Conservation Park continue to exist in perpetuity, and to prevent any use of the Conservation Park that will materially impair or interfere with such values and resources" (CNLM 2005, Conservation Easement Provision 2). Based on our close involvement in establishment of the Conservation Park and our interest in conservation of its resources, particularly including the federally endangered Pacific pocket mouse (*Perognathus longimembris pacificus*; PPM), we are writing to request that the City revise its CDP application to seek a more restricted public access schedule and retain flexibility to adjust the hours of operation for the public access trail over time based on the status of PPM and use of the adaptive management approach that has been adopted to guide management and provide protection for the Conservation Park's sensitive resources.

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<sup>1</sup> In a letter dated April 15, 2024, the City acknowledges that "[u]ltimately, the legislative body making a final decision on the CDP will need to decide if the hours proposed by City Staff in the pending CDP application are consistent with the LCP. The City suspects this body will be the Coastal Commission itself." (p. 3.)

Our interest and involvement in creation of the Headlands Conservation Park stems from the Wildlife Agencies' respective mandates to provide for the conservation of listed and other sensitive species, which led to the creation and adoption of the NCCP/HCP to satisfy requirements of the Federal and California Endangered Species Acts and the California Natural Community Planning Act. Among the sensitive species the NCCP/HCP was established to help protect at the Dana Point Headlands are the PPM, the federally threatened coastal California gnatcatcher (*Poliophtila californica californica*), San Diego desert woodrat (*Neotoma lepida intermedia*), Blochman's dudleya (*Dudleya blochmaniae*) western dichondra (*Dichondra occidentalis*), cliff spurge (*Euphorbia misera*), Palmer's grappling hook (*Harpagonella palmeri*) and prostrate spine-flower (*Chorizanthe procumbens*). Under the NCCP/HCP, PPM was included as an "Identified Species" for which a set of special conditions was applied (NCCP/HCP Implementation Agreement Section 8.3.2, Special Conditions Regarding Certain Species, pp. 83–94) including: creation of an 8 year, 22-acre Temporary Pacific Pocket Mouse Preserve; provision of funding for use in PPM propagation, enhancement, recovery and relocation efforts; and a purchase option to allow the Service to purchase the Temporary Preserve should it determine that translocation or captive breeding of PPM is not feasible and continuance of the Preserve is necessary to ensure the survival and recovery of the species. However, prior to expiration of the temporary preserve period, the Service forfeited its purchase option and the Wildlife Agencies supported approval of the Headlands Development and Conservation Plan (HDCP; Headlands Reserve LLC and City of Dana Point 2004) based on the landowner's commitment to permanently conserve the Temporary Preserve within the Headlands Conservation Park, manage this area for conservation purposes, and provide the Wildlife Agencies the continued ability to help ensure conservation and management of the Dana Point PPM population.

Because the HDCP included a proposal to create a public access trail within the Conservation Park, our support for this proposal was also predicated on a commitment to appropriately design and regulate public access within the Conservation Park to safeguard PPM, including establishment of appropriate daytime hours for public access, restricting dogs from accessing the Conservation Park, and aligning the trail and constructing adequately protective fencing to minimize impacts to PPM and other sensitive species. From our perspective, these commitments were provided through approval of the HDCP, recordation of the Conservation Easement, and adoption of the April 18, 2005, *Habitat Management and Monitoring Plan for Dana Point Headlands Biological Open Space* (HMMP) (URS and CNLM 2005); each of which was prepared with our input.

Importantly, the HMMP lists as one of the principal priorities for the Dana Point Headlands Biological Open Space the "[S]urvival and enhancement of endangered and threatened species" (HMMP p. 2) and states that an adaptive management approach<sup>2</sup> is to be applied to help achieve the goals and objectives of the HMMP and to "...prevent an unbalanced weighting of one goal over another that may jeopardize the success of attaining the latter goal." (HMMP, p. 1).

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<sup>2</sup> Adaptive management involves monitoring resource conditions and applying management interventions in an iterative fashion so that the information gained from monitoring improves understanding of how the system works to improve subsequent management decisions and help achieve management objectives.

Included in the HMMP are statements that: (1) “The Habitat Manager [i.e., Center for Natural Lands Management; hereafter CNLM] will be monitoring the consequences of public access and making recommendations to the City...” for management of public access within portions of the Biological Open Space controlled by the City; and (2) “Control of public access to the Headlands Conservation Park will be the responsibility of CNLM in consultation with the City of Dana Point.” (HMMP, p. 20).

While we are not opining on the appropriate legal instrument to establish formal public access hours for the Conservation Park, the intent of the HDCP Coastal Development Permit (CDP) and HMMP is to provide for the conservation of the sensitive resources and species within the Dana Point Headlands Biological Open Space (HDCP Policy 5.20, p.9; HMMP Goal 2, p.2). Also, given the desire to balance the goals of providing for public access while conserving sensitive species and resources, an adaptive management approach was included in the HMMP to enable monitoring of the consequences of public access and to facilitate adjustments, when necessary, that appropriately balance the conservation and public access goals of the CDP. In our involvement in discussions between the City and CNLM and comments on proposed changes to public access policies, our goal has been to ensure effective adaptive management to better understand the impacts to PPM from use of the Conservation Park Trail so that adjustments can be made if necessary to reverse any declining trends in PPM habitat or populations. We are concerned that approval of a CDP application seeking to establish formal public access hours to the Conservation Park trail from 7:00 AM to Sunset, 7 days a week, would severely restrict the ability to study whether trail use factors into the population fluctuations observed within the PPM population at Dana Point and could undermine our ability to ensure that public access is compatible with conservation of PPM within the Conservation Park.

As an endangered species, PPM is one of the most imperiled species in southern California and is threatened with extinction, with just three known extant populations in the wild, including the Dana Point population. Since its rediscovery in 1993, monitoring of the Dana Point population indicates this population has gone through at least two severe population contractions, with just a handful of animals detectable during surveys performed in 2001 and 2002, and again in 2017. Although the population rebounded following each of these population contractions, this characteristic of high interannual population fluctuations combined with the small amount of habitat conserved within the Headlands Conservation Park have been documented to be associated with native rodent population extirpations in fragmented habitat (Bolger *et al.* 1997). As an example, the isolated PPM population documented within San Onofre State Park that was once similarly sized to the current Dana Point population is now believed to be extirpated. Exacerbating the small population risk is a severe loss of genetic variation in the Dana Point population that has resulted from these population bottlenecks, which reduces the ability of the Dana Point population to adaptively evolve in response to a changing environment and makes this population highly vulnerable to a loss of fitness from the mating of closely related individuals (Wilder *et al.* 2020).

Factors that continue to threaten the Dana Point population include the small size of the population, its isolation from other extant populations, edge effects from the surrounding urban environment, the alteration of ecological processes needed to maintain habitat suitability and

impacts from passive recreation within the Conservation Park. Due to the small size of the Dana Point population, even when at peak abundance, this population is vulnerable to extirpation from catastrophes (e.g., disease), random population fluctuations in response to environmental (e.g., drought) and demographic factors (e.g., skewed sex ratios), and loss of genetic variation. Isolation of the Conservation Park also prevents the rescue of this population from recolonization of individuals from other populations. Edge effects have potential to reduce habitat suitability within the Conservation Park due to the increased risk of invasion by non-native species (e.g., Argentine ants and invasive plant species) and surrounding noise and light pollution. Habitat fragmentation alters the frequency of ecological disturbances, such as from fire, that are needed to promote the growth of forbs and maintain a matrix of open coastal sage scrub vegetation and bare ground that is preferred by PPM. Finally, there is a growing body of literature that suggests that even passive non-consumptive recreation like hiking can cause altered spatio-temporal habitat use, decreased survival and reproduction, reduced population abundance, and extirpation of animals from otherwise suitable habitat (see review by Dertien *et al.*, 2021).

Because the amount of habitat available to PPM within the Conservation Park and adjoining City owned open space is limited by the Pacific Ocean and surrounding urban development, long term conservation of the Dana Point population relies on our ability to ameliorate these threats, which currently is limited to our ability to maintain habitat suitability for PPM by controlling invasive species, managing vegetation, and minimizing impacts from public access. Both prior to and following the acquisition of the Conservation Park by CNLM, there has been a continuing effort to manage habitat suitability for PPM within the Conservation Park through the removal of non-native plant species and thinning of mature coastal sage scrub to create patches of bare ground and encourage forb growth to create the habitat conditions favored by PPM. This and the abandonment and restoration of the former roadbed of Marguerite Avenue are thought to have contributed to a dramatic increase in the size of the PPM population by 2009, when a peak abundance of 82 individuals was observed. However, between 2009 and 2017, there was a severe decline in the size of the PPM population, which coincided with drought conditions, the opening of the Conservation Park to public access, and a dramatic increase in the popularity of the Conservation Park Trail. Notably, between 2011 and 2020 the average number of visitors using the trail per day estimated from trail counter data increased from around 350 to 700 visitors per day, with occasional single day use estimates upwards of 2000 visitors. Following the 2017 decline to just 6 observed PPM, CNLM redoubled its effort to manage habitat and in 2020, 4.3 acres of vegetation within the Conservation and Hill Top Parks was managed to create the open habitat conditions preferred by PPM. Coincidentally, CNLM also closed the Conservation Park to public access in 2020 in response to the Covid pandemic. Following this vegetation management and restriction of public access, the PPM population rebounded to an observed 77 individuals.

Just as one cannot solely attribute the decline in the PPM population between 2009 and 2017 to either the drought or the increase in public access due to the confounding of these variables (i.e., both occurred at the same time), it is not possible to attribute the 2020 rebound in the PPM population solely to the effects of habitat management or the restriction of public access. However, it is certainly plausible that all these factors (drought, public access, habitat management) have contributed to the population fluctuations observed.

Christopher Johnson (2022-0016223-HCP-TA-OR)

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Given the continued vulnerability of the Dana Point PPM population to extirpation and the immense and seemingly growing popularity of the Conservation Park Trail, a conservative management strategy is warranted that considers the possibility that public access could be having a detrimental impact on this population. Ideally, to study the impact of public access on PPM, one would implement a replicated study with controls that allows one to isolate public access as a treatment variable. However, the small size of the Dana Point population, configuration of the Conservation Park, and public access goals constrain our ability to perform well-designed replicated studies. Thus, our ability to study the effect of public access on PPM is limited to our ability to perform adaptive management experiments that involve performing management interventions, such as altering hours of public access, and monitoring to determine or infer if there are observable effects to PPM. Certainly, there are other options for managing public access levels within the Conservation Park, such as instituting a quota system, but such an approach is likely to be more difficult to implement, may receive less support from the public, and warrants further evaluation.

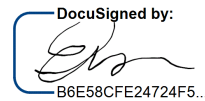
Overall, due to the continued vulnerability of the Dana Point population to extirpation, we recommend that the City retain the flexibility to adjust the hours of operation for the Conservation Park trail over time based on the status of PPM and the adaptive management principles that were adopted to guide management and provide protection for the Conservation Park's sensitive resources. Due to the concern that public access may be detrimentally impacting the Dana Point population, we also recommend studying whether reducing the current public access hours from 7 AM to sunset 7 days a week is likely to have an observable effect on the PPM population. For example, restricting the public from accessing the Conservation Park at least one hour following dawn and one hour prior to dusk, when PPM are most likely to be active, could reduce the potential for direct and indirect impacts of humans on PPM.

We appreciate the opportunity to provide input on the proposal to consider a CDP application that seeks to establish formal hours of operation for the Conservation Park Trail and are available to continue discussing possible strategies for managing public access within the Conservation Park so that it remains compatible with conservation of PPM at the Dana Point Headlands. Should you have questions or wish to pursue such discussions, please contact [William Miller](#)<sup>3</sup> of the Service or [Jennifer Turner](#)<sup>4</sup> of the Department.

Sincerely,

**JONATHAN SNYDER**  
Digitally signed by  
JONATHAN SNYDER  
Date: 2024.04.19  
12:21:11 -07'00'

Jonathan D. Snyder  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

DocuSigned by:  
  
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Erinn Wilson-Olgin  
Regional Manager, South Coast Region  
California Department of Fish and Wildlife

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<sup>3</sup> [william\\_b\\_miller@fws.gov](mailto:william_b_miller@fws.gov).

<sup>4</sup> [Jennifer.turner@wildlife.ca.gov](mailto:Jennifer.turner@wildlife.ca.gov).

**LITERATURE CITED**

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- Wilder, A.P., A.Y. Navarro, S.N.D. King, W.B. Miller, S.M. Thomas, C.C. Steiner, O.A. Ryder, and D.M. Shier. 2020. Fitness costs associated with ancestry to isolated populations of an endangered species. *Conservation Genetics*, unpaginated. <https://doi.org/10.1007/s10592-020-01272-8>.

# **RICHARD ALAN PALMER**

33331 Gelidum Circle

Dana Point, California 92629

Dana Point Planning Commission

(via email)

To Whom it may concern,

I wanted to express my concern over the attempt to limit the hours of access to the Headlands Preserve Trail. Many citizens, myself included, enjoy hiking this trail at various hours and on various days. The access to the trail should not be limited or restricted solely because of an isolated occurrence of sighting a pocket mouse. It is absolutely absurd to restrict access to citizens to this wonderful trail to the proposed hours. I strongly believe the hours of 7AM to Sunset 7 days a week should be established as the schedule for trail access.

Yours truly,

A handwritten signature in black ink, appearing to read "Richard A. Palmer". The signature is fluid and cursive, with the first name "Richard" being the most prominent part.

Richard A. Palmer



April 20, 2024

Mary Opel, Chair  
Planning Commission  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629

Re: Coastal Development Permit CDP24-0008 Headlands Conservation Park Trail –  
Public Access Hours (Hearing Date, April 22, 2024) – **OPPOSE**

Dear Chair Opel and Commission Members:

For over two decades, the City of Dana Point (City) has overstepped its jurisdiction and failed to comply with Coastal Act Policies as well as other protective policies that are in place to protect and preserve the finite natural resources at the Headlands. This latest overreach to issue a CDP to change the public hours of the park trail is yet another example of the City's blatant disregard and disrespect for proper process.

Given the many years I personally invested in protecting and preserving the natural resources at the Headlands during the pre/post development phase, I **strongly oppose** the proposed action that disregards the original protections put into place by the California Coastal Commission (CCC) that the Center for Natural Lands Management (CNLM) has been attempting to implement. Why must the City constantly battle with the CCC and challenge the management of one of the finest land stewards available to us in Southern California? What is your burning desire to constantly create adversity?

It is also unclear as to why the City feels justified in elevating recreational use above the protection and preservation of the natural resources in this special area. Once again the City is blatantly ignoring the conditions of the LCP and CDP as set forward by the CCC. These conditions are very clear in their direction that any use of this area must work in concert with the fragile pocket mouse, gnatcatcher, and multiple rare plants. Many environmental organizations attended numerous meetings and diligently worked with the City, developer, and CCC on developing protections that would exist in perpetuity. These City/developer meetings were very difficult and contentious, but the conditions were set forward for protection and preservation and agreed upon by all. There are no special exceptions – the conditions are the conditions. However, the City has time and time again blatantly overstepped its bounds for the last two decades.

In the December 14, 2023 letter from Andrew Willis, CCC Enforcement Staff Counsel, he very clearly communicated and reiterated to the City how public access should be managed in order to protect the endangered and threatened species in this area. His letter also includes mention of the May 15, 2023 joint letter from United States Fish and Wildlife and California Department of Fish and Wildlife that supports CNLM's proposed trail hours to better protect the Pacific Pocket Mouse. Here is an excerpt on the next page from this joint letter that the City has chosen to ignore.

For instance, the resources agencies state that “As relayed in our prior comment letter, the status of each of the extant PPM populations warrants a conservative management approach to safeguard them from extirpation, especially at Dana Point, which supports the smallest and most vulnerable PPM population to environmental, demographic and genetic threats. Because public access is one of the few threats to the Dana Point population that can be effectively managed and could appreciably influence the size of the Dana Point population, we continue to support the proposal to more closely monitor and manage public access as a component of the adaptive management plan for the Preserve.”

We know that you are aware that CNLM and all of our state and federal agencies are recommending very careful evaluation of any increase in recreational use. We strongly support the outstanding work of CNLM and applaud their strength in holding the line on the protection and preservation of the endangered and threatened species at the Headlands. This holding the line has come at great cost to CNLM, and as stated earlier, it is unclear why the City feels it must constantly overstep its bounds and behave in such an adversarial manner.

The City understands fully that the CDP application they are attempting to approve represents an expansion of use that will create greater impacts to the endangered and threatened species in this area, and specifically the Pacific Pocket Mouse. Why you are doing this continues to be my question since you are fully aware of the consequences. What is your motivation to be so adversarial?

If you are so bound and determined to take the lead on something, why not do something positive, like constructing the hostel that was included in the original CDP. The concept was revisited by the City a few years ago, but instead of moving forward with something positive, the City insists on dwelling on the negative. Instead of building two hotels in the harbor, move forward with the hostel and do away with the segregated properties planned for the harbor.

Please reconsider your actions and allow the proper procedure to unfold and allow for the greatest protection and preservation possible at the Headlands. This should not end up in yet another protracted and expensive fight over policy and procedure, and certainly should not be another waste of public resources on the part of the City. Many of us have had our day in court with the City, and enough is enough. Comply with the policies that allow CNLM to do their job, and take to heart the letters from the multiple agencies that are attempting to work amicably with you.

Thank you for considering these comments.

Sincerely,

A handwritten signature in cursive script that reads "Kenny Elias". The signature is written in dark ink and is positioned below the word "Sincerely,".

Coastal Advocate

Attachment: December 15, 2023 letter from Andrew Willis, CCC

Copy: California Coastal Commission:  
Kate Huckelbridge  
Lisa Haage  
Andrew Willis  
Karl Schwing  
US Fish and Wildlife Service  
Scott Sobiech  
Jonathan Snyder  
Carol Roberts  
California Department of Fish and Wildlife  
Erinn Wilson  
Melanie Burlaza  
Emily Gray

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
301 E. Ocean Blvd., Suite 3000  
Long Beach, CA 90802-4302  
(562) 590-5071

**SENT VIA REGULAR MAIL AND EMAIL**

December 14, 2023

Brenda Wisneski  
City of Dana Point  
Director of Community Development  
33282 Golden Lantern  
Dana Point, CA 92629-1805

**Re: Headlands Conservation Park Trail Hours**

Dear Ms. Wisneski:

We received a copy of your letter to Center for Natural Lands Management (“CNLM”) on August 1, 2023, which, amongst other things, suggests that the City of Dana Point is responsible for setting hours for the blufftop trail in the Headlands Conservation Park, which is a position that is not supported by the Commission-certified Local Coastal Program for the City of Dana Point, as described below. Regardless, we are not aware of the City taking action to authorize the trail hours that it has sought in litigation with CNLM<sup>1</sup> – hours that we believe constitute an ongoing inconsistency with the Local Coastal Program.

We understand the importance of public access generally and work to protect it statewide. However, we are also concerned that the City’s insistence upon these hours is endangering the existence of the federally threatened Pacific Pocket Mouse, a small population of which is supported by the Headlands Conservation Park. Managing public use of the Headlands Conservation Park in a way that minimizes impacts on this threatened species is critical to the survival of this species, which is just another piece in protecting the ecosystem and its critical functions. As the United States Fish and Wildlife Service and California Department of Fish and Wildlife put it in their joint March 23, 2022 to CNLM, “Due to the small size and sensitivity of the PPM population, during development of the HDCP and HMMP we emphasized that it would be critical to design and regulate public use to safeguard PPM and other sensitive flora and fauna within the Preserve.”

In order to protect the Pacific Pocket Mouse and undo the inconsistency with the Local Coastal Program with respect to trail hours described herein, we are asking the City to forego its insistence on maintaining the existing hours of operation and process CNLM’s request to establish hours of operation through an amendment to the Headlands Conservation Park management plan or a coastal development permit, as CNLM has requested to do. We are hopeful that such a compromise will allow for both public access and the survival of a threatened species.

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<sup>1</sup> See, for instance, page 9 of the City’s Cross-Complaint for Civil Fines and Injunctive Relief for Violation of the Coastal Act, which says, in part, that “The City responded on or about June 19, 2020, again requesting the Nature Trail be returned to normal operating hours and advised CNLM of the City’s successful management of its other, opened trails at the Headlands, pointing out COVID had not been a challenge related to such trails.”

### **City Trail Hours are Detrimental to PPM and Inconsistent with the LCP**

The Local Coastal Program requires that trail hours must be found to be consistent with policies of the Local Coastal Program. Table 3.4.5 (Headlands Conservation Park) of the Local Coastal Program describes the balanced approach to access and protecting habitat that must occur at the Headlands Conservation Park. It states, in part, that:

The Headlands Conservation Park includes a limited bluff top trail, spectacular views of the ocean, and limited visitor access to the coastline and natural environment...

Balancing the desire for limited public access and views along the perimeter, this planning area also is designed to protect a number of sensitive flora and fauna, including the Pacific pocket mouse. As a result, and to protect this natural resource area from overuse, only limited portions of the area will accommodate passive uses, such as the bluff top trails, security fencing, overlooks, seating, and signage. The bluff top trail shall be sited to avoid and setback at least 25 feet from coastal bluff scrub in the vicinity of the bluff edge. The receiving agency or nonprofit entity will establish hours of operation for the bluff top trail.

With specific regard to how public access and habitat protection will be balanced with respect to trail hours, Section 4.5.1 of the Local Coastal Program states, in part:

The bluff-top trail in the Headlands Conservation Park shall be accessible to the public year-round, except for any specific period determined by the resources agencies to protect on site resources. The recipient public agency or non-profit entity will determine hours of daily operation.

As is evident from the joint May 15, 2023 letter from the resources agencies, United States Fish and Wildlife Service and California Department of Fish and Wildlife, the resources agencies share the concern here and support CNLM's proposed trail hours to better protect the Pacific Pocket Mouse. For instance, the resources agencies state that "As relayed in our prior comment letter, the status of each of the extant PPM populations warrants a conservative management approach to safeguard them from extirpation, especially at Dana Point, which supports the smallest and most vulnerable PPM population to environmental, demographic and genetic threats. Because public access is one of the few threats to the Dana Point population that can be effectively managed and could appreciably influence the size of the Dana Point population, we continue to support the proposal to more closely monitor and manage public access as a component of the adaptive management plan for the Preserve."

The City's trail hours are inconsistent with this recommendation by the resources agencies to regulate trail use to better protect the pocket mouse, and thus are inconsistent with the Local Coastal Program.

### **Authorize Hours of Operation through a CDP**

As noted in previous correspondence, the Headlands project coastal development permit, CDP No. 04-23, does not authorize specific hours of operation for the trail. Therefore, a coastal development

permit is required to authorize hours of operation for the bluff top trail. This may occur through review and approval of the compliance documents for the existing Headlands coastal development permit, e.g. the Habitat Management and Monitoring Plan, or a new coastal development permit. Regarding the former option, Condition No. 38 of CDP No. 04-23 requires submittal of a habitat management plan (i.e. the Habitat Management and Monitoring Plan), and the preliminary drafts of the Habitat Management and Monitoring Plan HMP do contemplate trail hours. This is consistent with the Dana Point Municipal Code's requirements for management plans, see Section 9.27.030(a)(4)(H), which says:

(H) Management Plan (Minimum Requirements). A management plan may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site. Examples include access in areas of sensitive habitats, agricultural resources, or significant hazards, or adjoining residential neighborhoods or military security areas. The plan shall be prepared by the accepting agency and approved by the City of Dana Point prior to the opening of the access to public use. Where applicable, the plan should specify management controls on time and intensity of use, standards for privacy buffers, and requirements for maintenance of aesthetic values through such measures as litter control.

The Habitat Management and Monitoring Plan thus could be an option for CNLM to set hours of operation, as approved by the City, wildlife agencies, and the Coastal Commission.

### **CNLM Sets the Hours of Operation**

The Local Coastal Program identifies CNLM, which is the recipient of fee title to the Headlands Conservation Park, as the entity that sets the trail hours. Table 3.4.5 (Headlands Conservation Park) of the Local Coastal Program says in part that "The receiving agency or non-profit entity will establish hours of operation for the bluff top trail." Table 4.5.1 (Headlands Conservation Park (27.9 Acres) Public Access Program Guidelines) says in part that "The recipient public agency or non-profit entity will determine hours of daily operation."

The Habitat Management and Monitoring Plan, which was prepared by CNLM and a City-hired consulting firm, also designates CNLM as the entity that sets the trail hours. As a preliminary matter, the Habitat Management and Monitoring Plan identifies CNLM as the habitat manager: "Headlands Reserve LLC has entered into an agreement with the Steele Foundation to ensure the perpetual management of the Biological Open Space of the Conservation Park. In turn, the Steele Foundation has selected CNLM as the habitat manager for the Headlands Conservation Park." The Habitat Management and Monitoring Plan then identifies the habitat manager as the entity that controls public access: "The Habitat Manager will be monitoring the consequences of this public access, and making recommendations to the City, which will be responsible for controlling public access for all areas other than the Headlands Conservation Park. Control of public access to the Headlands Conservation Park will be the responsibility of CNLM in consultation with the City of Dana Point. Hours of operation for the Headlands Conservation Park and other areas of Biological Open Space will be 7:00 am to sunset." As noted on numerous occasions in correspondence regarding this matter, CNLM has indeed monitored the consequences of public access and is recommending trail hours to help protect the Pacific Pocket Mouse.

Despite the provisions quoted above, I understand that it is your position that the receiving entity that sets the trail hours is the City. This position is apparently based upon a sentence in the Local Coastal Program, in Section 5.5B, which says in part that “Times of access to the bluff top trail will be determined by the receiving public agency”. Since this sentence refers only to a “public agency”, which CNLM is not, it is your position then that the receiving entity must be the City, and the item being received is the conservation easement over the Headlands Conservation Park, and not the park itself. Notably, recipient is not defined in the section that you cite, or elsewhere in the Local Coastal Program, to refer to the recipient of the conservation easement. In the section that you cite, there is no mention of the conservation easement at all.

Your position does not account for all of the other iterations of this same sentence in the Local Coastal Program, which are quoted herein, that include reference to a public agency *and* a non-profit entity, e.g. CNLM. In fact, in the same section that you cite as evidence for your position, the next paragraph after the sentence that you quote reads as follows:

The Headlands Conservation Park also requires a long-term management program to conserve and enhance the sensitive plants and species. An endowment or annual budget will be established by the recipient public or non-profit agency to ensure the long term maintenance and operations of the Headlands Conservation Park.

That sentence that you rely on is clearly an aberration since in each other instance of the analogous sentence in the Local Coastal Program, it refers to both a receiving public agency or non-profit entity.

### **Conservation Easement does not Transfer Authority to Set the Trail Hours to the City**

The conservation easement over the Headlands Conservation Park is not identified by the Local Coastal Program or the Headlands Coastal Development Permit, which govern development at the Headlands Conservation Park, as a mechanism to set trail hours, nor does the easement purport to set trail hours, and thus the easement cannot confer to the City the authority to set trail hours. In fact, the easement references the Habitat Management and Monitoring Plan (referred to as the “Restoration/Revegetation Plans” in the easement) as the document that specifically regulates access to the Headlands Conservation Park. See Section 5.2(d) of the easement, which identifies the following uses as prohibited uses: “Recreational activities, including but not limited to, walking, hiking, bicycling, horseback riding, or fishing (except as described in Section 5.2(d) or unless specifically provided for in the Restoration/Revegetation Plans).” [underlining added for emphasis]

As described above, the Habitat Management and Monitoring Plan identifies CNLM as the entity that sets the trail hours.

### **Conclusion**

We would appreciate your cooperation and assistance in resolving this matter consistent with applicable law, and to assist us in the delicate balance and protection of this critical ecosystem. CNLM has been attempting to establish trail hours that are consistent with the Local Coastal Program since, to our knowledge, at least January 2022, and the City has rejected CNLM’s attempts

Headlands Conservation Park

December 14, 2023

Page 5 of 5

to modify trail hours through an amendment to the Habitat Management and Monitoring Program. If the City will not allow hours to be established that are consistent with the Local Coastal Program through the HMMP process, we suggest that the City process an application for CNLM's proposed hours through the CDP process. We would appreciate it if you would indicate the City's agreement to engage in the HMMP process or accept a CDP application within 15 days of the receipt of this letter so that Commission staff can consider its options to ensure trail hours that are protective of an endangered species, and consistent with the Local Coastal Program, are established in a timely manner. Thank you very much for your time and attention and I look forward to hearing from you.

Sincerely,



Andrew Willis  
Enforcement Staff Counsel

cc: Deborah Rogers, CNLM  
Jonathan D. Snyder, USFWS  
David A. Mayer, CDFW  
Lisa Haage, Chief of Enforcement, CCC  
Karl Schwing, Deputy Director, CCC



**From:** [Christopher Johnson](#)  
**To:** [Martha Ochoa](#)  
**Subject:** FW: April 22, 2024 Mtg- Comments on Item #2:CDP 24-0008 to establish hours of public access for the Headlands Conservation park trail system  
**Date:** Monday, April 22, 2024 9:17:06 AM  
**Attachments:** [image001.png](#)

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Chris Johnson  
Principal Planner

CITY OF DANA POINT  
Community Development  
33282 Golden Lantern  
Dana Point, CA 92629  
phone (949) 248-3570  
cjohnson@danapoint.org  
[www.danapoint.org](http://www.danapoint.org)



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**From:** Dave Erickson <daveerickson84@gmail.com>  
**Sent:** Sunday, April 21, 2024 12:44 PM  
**To:** Christopher Johnson <CJohnson@DANAPOINT.ORG>; Brenda Wisneski <BWisneski@DanaPoint.org>; Mary Opel <MOpel@DanaPoint.org>; Eric Nelson <ENelson@DanaPoint.org>; Luke Boughen <LBoughen@danapoint.org>; Ashok Dhingra <adhingra@danapoint.org>; Deana Christakes <dchristakes@danapoint.org>  
**Subject:** April 22, 2024 Mtg- Comments on Item #2:CDP 24-0008 to establish hours of public access for the Headlands Conservation park trail system

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Representatives

The City of Dana Point has absolutely no right whatsoever to control the management of the Center for Natural Lands Management (CNLM) Dana Point Headlands Preserve (Preserve). Not only is it unAmerican and against the Constitution of the United States for a City to try to take over the rights of another's property ownership, but the increased demands of public recreation on this site have threatened to

destroy an endangered species, the Pacific pocket mouse (PPM). It is incredulous that the City is applying to itself for a permit to permanently set the trail hours at 7 days a week, 7 am to sunset, ON A PROPERTY THAT THEY DO NOT OWN. Not only is this action contrary to the Coastal Act of 1972, but this action fails to take into account an appropriate balance between public access and protection of natural resources and removes CNLM's ability to manage the natural resources at the Preserve, as CNLM is required to do. In addition, CNLM has proposed modified trail hours to CA Department of Fish and Wildlife, US Fish and Wildlife Service, CA Coastal Conservancy and the City through an update to the Habitat Management Plan that takes into consideration balancing public access and conservation and they have received comments and support from all listed except from the City.

The City of Dana Point is significantly benefiting financially from the stewardship of the Preserve by CNLM. After enjoying a beautiful walk along the bluff and witnessing the majesty of the Preserve, tens of thousands of visitors spend time and money in Dana Point shops, restaurants, and hotels. These dollars go directly to supporting local communities and have a direct impact on the economy of Dana Point. The City should be working to improve biodiversity with CNLM at the Preserve, rather than seeking to destroy the Preserve and its endangered inhabitants. In June 2023, a dead PPM was found on the trail in a shoe footprint and a necropsy concluded the cause of death was trauma, likely from a hiker using the trail. If the City persists in keeping the trail open 7 days a week, 7am to sunset, more PPM are going to die and the City of Dana Point will be at fault.

In conclusion, those City officials who have brought this devastation to the Preserve should be fired and relieved of their duties forever, as they are not fit to serve in the Public's interest.

Sincerely

Dave Erickson

**From:** [Christopher Johnson](#)  
**To:** [Martha Ochoa](#)  
**Subject:** FW: Notice of Public Hearing CDP24-0008 Headlands Conservation Park Trail Public Access Hours  
**Date:** Monday, April 22, 2024 9:17:19 AM  
**Attachments:** [image002.png](#)

---

Chris Johnson  
Principal Planner

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33282 Golden Lantern  
Dana Point, CA 92629  
phone (949) 248-3570  
cjohnson@danapoint.org  
[www.danapoint.org](http://www.danapoint.org)



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**From:** Malko, Cynthia <cynthia.malko@ocparks.com>  
**Sent:** Monday, April 22, 2024 8:00 AM  
**To:** Christopher Johnson <CJohnson@DANAPOINT.ORG>  
**Cc:** Kurnow, Brian <Brian.Kurnow@ocparks.com>; Naegele, Jennifer <Jennifer.Naegele@ocparks.com>  
**Subject:** RE: Notice of Public Hearing CDP24-0008 Headlands Conservation Park Trail Public Access Hours

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Chris,

Is the item being continued to a date certain? It appears the staff report has not been published yet. Please let us know. Thanks,

Best,

**Cynthia Malko**



Entitlement Project Manager  
**Office:** (949) 923-3796 **Cell:** (714) 227-6720  
13042 Old Myford Road, Irvine, CA 92602

---

**From:** Malko, Cynthia  
**Sent:** Wednesday, April 17, 2024 12:54 PM  
**To:** Christopher Johnson <[CJohnson@DANAPOINT.ORG](mailto:CJohnson@DANAPOINT.ORG)>  
**Cc:** Kurnow, Brian <[brian.kurnow@ocparks.com](mailto:brian.kurnow@ocparks.com)>; Naegele, Jennifer <[jennifer.naegele@ocparks.com](mailto:jennifer.naegele@ocparks.com)>  
**Subject:** RE: Notice of Public Hearing CDP24-0008 Headlands Conservation Park Trail Public Access Hours

Thank you, Chris. Could we request that the staff report link be shared with my team cc'd here once it is available?

Best,



**Cynthia Malko**  
Entitlement Project Manager  
**Office:** (949) 923-3796 **Cell:** (714) 227-6720  
13042 Old Myford Road, Irvine, CA 92602

---

**From:** Christopher Johnson <[CJohnson@DANAPOINT.ORG](mailto:CJohnson@DANAPOINT.ORG)>  
**Sent:** Wednesday, April 17, 2024 9:37 AM  
**To:** Malko, Cynthia <[cynthia.malko@ocparks.com](mailto:cynthia.malko@ocparks.com)>  
**Cc:** Kurnow, Brian <[Brian.Kurnow@ocparks.com](mailto:Brian.Kurnow@ocparks.com)>; Naegele, Jennifer <[Jennifer.Naegele@ocparks.com](mailto:Jennifer.Naegele@ocparks.com)>  
**Subject:** RE: Notice of Public Hearing CDP24-0008 Headlands Conservation Park Trail Public Access Hours

**Attention:** This email originated from outside the County of Orange. Use caution when opening attachments or links.

Good morning, Cynthia.

The intent of the CDP, for which the city is the applicant, is to officially establish hours already existing at the site (i.e. 7:00 a.m. to sunset, seven days a week throughout the year). These hours have long existed at the site and any modifications to them require a CDP. The third-party overseeing the management of the site modified the hours during COVID and is proposing to keep them modified without the processing/approval of a

CDP.

The specifics of why they are proposing this change will be detailed in the staff report that will be posted by the end of the day Thursday 4/18.

Thank you,  
Chris

Chris Johnson  
Principal Planner

CITY OF DANA POINT  
Community Development  
33282 Golden Lantern  
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phone (949) 248-3570  
[cjohnson@danapoint.org](mailto:cjohnson@danapoint.org)  
[www.danapoint.org](http://www.danapoint.org)



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**From:** Malko, Cynthia <[cynthia.malko@ocparks.com](mailto:cynthia.malko@ocparks.com)>  
**Sent:** Wednesday, April 17, 2024 8:53 AM  
**To:** Christopher Johnson <[CJohnson@DANAPPOINT.ORG](mailto:CJohnson@DANAPPOINT.ORG)>  
**Cc:** Kurnow, Brian <[Brian.Kurnow@ocparks.com](mailto:Brian.Kurnow@ocparks.com)>; Naegele, Jennifer <[Jennifer.Naegele@ocparks.com](mailto:Jennifer.Naegele@ocparks.com)>  
**Subject:** RE: Notice of Public Hearing CDP24-0008 Headlands Conservation Park Trail Public Access Hours

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Chris,

Could you please clarify what the proposed hours will be as part of this request? Additionally, is the Conservation Easement holder requesting reduced hours for protection of the endangered Pacific pocket mouse?

We echo concerns from the conservation easement holder regarding the protection of this species.

Best,



**Cynthia Malko**

Entitlement Project Manager

**Office:** (949) 923-3796 **Cell:** (714) 227-6720

13042 Old Myford Road, Irvine, CA 92602

---

**From:** Christopher Johnson <[CJohnson@DANAPOINT.ORG](mailto:CJohnson@DANAPOINT.ORG)>

**Sent:** Tuesday, April 9, 2024 8:16 AM

**To:** Malko, Cynthia <[cynthia.malko@ocparks.com](mailto:cynthia.malko@ocparks.com)>

**Subject:** RE: Notice of Public Hearing CDP24-0008 Headlands Conservation Park Trail Public Access Hours

**Attention:** This email originated from outside the County of Orange. Use caution when opening attachments or links.

Good morning, Cynthia.

A CDP is being pursued by the city to officially establish the hours for the trail which are from 7:00 a.m. to sunset, seven days a week throughout the year. This is what the current hours are; however, the conservation easement holder is wanting a reduction from this.

Thanks,  
Chris

CITY OF DANA POINT  
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33282 Golden Lantern  
Dana Point, CA 92629  
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[cjohnson@danapoint.org](mailto:cjohnson@danapoint.org)  
[www.danapoint.org](http://www.danapoint.org)



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**From:** Malko, Cynthia <[cynthia.malko@ocparks.com](mailto:cynthia.malko@ocparks.com)>

**Sent:** Tuesday, April 9, 2024 7:52 AM

**To:** Christopher Johnson <[CJohnson@DANAPOINT.ORG](mailto:CJohnson@DANAPOINT.ORG)>

**Subject:** Notice of Public Hearing CDP24-0008 Headlands Conservation Park Trail Public Access Hours

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Chris,

We received the public notice regarding this CDP. Could you clarify what public access hours are being proposed and if they differ from what is currently in place? Thanks,

Best,



**Cynthia Malko**

Entitlement Project Manager

**Office:** (949) 923-3796    **Cell:** (714) 227-6720

13042 Old Myford Road, Irvine, CA 92602

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
301 E. Ocean Blvd., Suite 3000  
Long Beach, CA 90802-4302  
(562) 590-5071

**SENT VIA REGULAR MAIL AND EMAIL**

April 22, 2024

Planning Commission  
City of Dana Point  
c/o Chris Johnson  
Principal Planner  
33282 Golden Lantern, Suite 209  
Dana Point, CA 92629

**Re: Item 2, April 22, 2024. Headlands Conservation Park Trail Hours**

Dear Members of the Planning Commission:

Commission staff received notice on April 16, 2024 of the City of Dana Point Planning Commission's scheduled April 22, 2024 hearing on the consideration of a coastal development permit to authorize public trail hours at the Headlands Conservation Park. The hearing notice does not identify the specific hours being considered, nor was a staff report describing the proposal available to Commission staff prior to finalizing this letter. However, an April 15, 2024 letter from the City Attorney to Commission staff indicates that the proposed hours of operation in the coastal development permit application are sunrise to sunset. Commission staff have both substantive and procedural concerns with the coastal development permit application, which, because of time constraints, are only briefly described below, but Commission staff have addressed these issues in more detail in previous correspondence to the City, and we will elaborate on these concerns as this permit application proceeds through the permit and, potentially, the permit appeal process.

Initially though, we note that we understand the importance of public access and indeed protection of public access is a prominent hallmark of the Commission's work statewide. We are concerned though that the City's proposed hours, and the resultant facilitation of human disturbance of the federally threatened Pacific Pocket Mouse, a small population of which is supported by the Headlands Conservation Park, are endangering the existence of the pocket mouse. Managing public use of the Headlands Conservation Park in a way that minimizes impacts to this threatened species is critical to its survival, which is just another piece in protecting the ecosystem and its critical functions. The wildlife agencies (United States Fish and Wildlife Service and California Department of Fish and Wildlife) submitted a comment letter on April 19, 2024 which included the following recommendation:

"We are writing to request that the City revise its CDP application to seek a more restricted public access schedule and retain flexibility to adjust the hours of operation for the public access trail over time based on the status of PPM and use of the adaptive management approach that has been adopted to guide management and provide protection for the Conservation Park's sensitive resources."



Therefore, we urge the City to consider CNLM's and the wildlife agencies' requests to establish hours of operation that are protective of the Pacific Pocket Mouse through an amendment to the Headlands Conservation Park management plan or a coastal development permit. For reference, these hours of operation were proposed by CNLM in the 2023 Habitat Management Plan for Public Access for the Dana Point Preserve, which was sent by CNLM to the City, Commission, and the wildlife agencies for their review on March 14, 2023 pursuant to Special Condition No. 38 of the Headlands Coastal Development Permit (CDP 04-23). As is evident from the joint May 15, 2023 letter from the wildlife agencies, they support CNLM's proposal for trail hours that better protect the Pacific Pocket Mouse. For instance, the resources agencies state that "As relayed in our prior comment letter, the status of each of the extant PPM populations warrants a conservative management approach to safeguard them from extirpation, especially at Dana Point, which supports the smallest and most vulnerable PPM population to environmental, demographic and genetic threats. Because public access is one of the few threats to the Dana Point population that can be effectively managed and could appreciably influence the size of the Dana Point population, we continue to support the proposal to more closely monitor and manage public access as a component of the adaptive management plan for the Preserve." Moreover, the April 19, 2024 comment letter from the wildlife agencies states as follows:

"Due to the concern that public access may be detrimentally impacting the Dana Point population, we also recommend studying whether reducing the current public access hours from 7 AM to sunset 7 days a week is likely to have an observable effect on the PPM population. For example, restricting the public from accessing the Conservation Park at least one hour following dawn and one hour prior to dusk, when PPM are most likely to be active, could reduce the potential for direct and indirect impacts of humans on PPM."

### **Proposed Hours are Inconsistent with the LCP**

Table 3.4.5 (Headlands Conservation Park) of the Commission-certified Local Coastal Program describes the balanced approach to access and protecting habitat that must occur at the Headlands Conservation Park. It states, in part, that:

The Headlands Conservation Park includes a limited bluff top trail, spectacular views of the ocean, and limited visitor access to the coastline and natural environment...

Balancing the desire for limited public access and views along the perimeter, this planning area also is designed to protect a number of sensitive flora and fauna, including the Pacific pocket mouse. As a result, and to protect this natural resource area from overuse, only limited portions of the area will accommodate passive uses, such as the bluff top trails, security fencing, overlooks, seating, and signage. The bluff top trail shall be sited to avoid and setback at least 25 feet from coastal bluff scrub in

the vicinity of the bluff edge. The receiving agency or nonprofit entity will establish hours of operation for the bluff top trail.

With specific regard to how public access and habitat protection will be balanced with respect to trail hours, Section 4.5.1 of the Local Coastal Program states, in part:

The bluff-top trail in the Headlands Conservation Park shall be accessible to the public year-round, except for any specific period determined by the resources agencies to protect on site resources. The recipient public agency or non-profit entity will determine hours of daily operation.

The City's proposed trail hours are inconsistent with the recommendation of the resources agencies to regulate trail use to better protect the pocket mouse, and thus are inconsistent with the Local Coastal Program.

### **City Lacks the Authority to Set Trail Hours**

From a procedural standpoint, as was expressed in our December 14, 2023 letter, Commission staff are unaware of any authority of the City's to set the hours of operation of the public trail at the Headlands Conservation Park, which is owned and managed by the CNLM. A requirement of a coastal development permit application pursuant to Section 13053.5(b) of the Commission's regulations is that the applicant provide evidence of legal interest in the property, in part to demonstrate the applicant's authority to carry out any work required as a condition of the permit. We understand that the City holds a conservation easement over the Headlands Conservation Park, however, the easement does not purport to set trail hours, and thus the easement cannot confer the authority to set trail hours to the City.

We are open to receiving information from the City that demonstrates its authority to implement a permit for trail operation, and this information will be a requirement of Commission staff's review of the permit, if it is appealed to the Commission. In addition, also pursuant to Section 13053.5(b), as the owner of the underlying property, CNLM must be notified in writing of the permit application and must be invited by the City to join as a co-applicant.

In previous correspondence we have asked the City to accept a CDP application from CNLM, as the entity that owns and manages the Headlands Conservation Park, for CNLM's proposed trail hours or engage with CNLM, the Commission, and the wildlife agencies to set the hours through finalization of the Headlands Conservation management plan, which is a requirement of the existing Headlands CDP.

We again request that the City consider CNLM's proposed trail hours through an amendment to the Headlands Conservation Park management plan or a coastal development permit. As a procedural matter, for the reason noted above regarding the City's lack of authority to implement the proposed trail hours, the subject proposed coastal development permit application should be withdrawn by the City, and the City should

instead process CNLM's request for its proposed hours. If the City intends to proceed with the subject proposed coastal development permit application, we urge the Planning Commission to deny the application as inconsistent with the Local Coastal Program or appropriately condition the application to establish hours of operation that balance public access and protection of the Pacific Pocket Mouse, as requested by CNLM and the wildlife agencies and is required by the Local Coastal Program, and to adopt an adaptive management approach to trail operations that includes periodic consideration of trail hours to best protect the pocket mouse, other protected wildlife species, and public access. Thank you for considering this letter, Commission staff looks forward to working with all of the interested parties to establish trail operations that are consistent with the public access and habitat protection policies of the Local Coastal Program and the Coastal Act.

Sincerely,

DocuSigned by:

*Amrita Spencer*

D781AF30CE0C4F5...

Amrita Spencer

District Supervisor

cc: Lisa Haage, Chief of Enforcement, CCC  
Karl Schwing, Deputy Director, CCC  
Andrew Willis, Enforcement Staff Counsel, CCC

Dawn Garcia  
Dana Point, CA  
April 20, 2024  
Agenda Item 2, hearing date April 22, 2024  
CDP24-0008

Dear Planning Commission Members, I am opposed to the proposed CDP24-0008 put forward by you the City of Dana Point (the City), to ratify permanent trail hours on the Center for Natural Lands Management (CNLM) Dana Point Preserve. Shouldn't you note on your PHN that the landowner, CNLM, was not consulted on, and does not agree with this proposal?

From my understanding The City is applying to itself for a Coastal Development Permit, without the consent of the owner, CNLM, and further being disingenuous by not providing a copy of the application without CNLM requesting it through the Public Records Act.

The City's proposed action will violate the ability for the CNLM to manage the property for the benefit of animal sensitive species that reside there, the Coastal California Gnatcatcher and Pacific Pocket Mouse. CNLM has proposed hours of operation for the trail that are supported by USFWS, CDFW, and the Coastal Commission that provide an appropriate balance between public access and sensitive species management.

Is anyone on the Council/Commission a biologist with understanding or concern for our very limited coastal sage community? Please allow CNLM to continue their essential work on their property and to implement management decisions they deem necessary, even if it temporarily results in trail closure (if that is what the City is trying to prevent?). The City should make it well known that they are supporting the efforts of CNLM to protect the species on the Dana Point Preserve. Preservation and conservation should be activities that Dana Point is proud of, not to be submissive to visitors who might complain of an infrequent trail closure. There are plenty of places to hike, walk and enjoy nature in Dana Point.

I am completely perplexed as to why the City would proceed this way, but the underhandedness to fast-track this action without the consent of the landowner, makes me believe there must be greed, money, or influential pressure involved somewhere. Ignoring private property rights is not something I want my representatives to be in favor of.

Thank you,

Dawn Garcia MS  
Wildlife Biologist  
Dana Point, CA



Post Office Box 9256  
Newport Beach, CA 92658  
[www.FHBP.org](http://www.FHBP.org)

April 18, 2024

Mary Opel, Chair  
Planning Commission  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629

Re: Coastal Development Permit CDP24-0008 Headlands Conservation Park Trail –  
Public Access Hours (Hearing Date, April 22, 2024) – **OPPOSE**

Dear Chair Opel and Commission Members:

Friends of Harbors, Beaches and Parks (FHBP) is an Orange County nonprofit organization working to protect natural lands, waterways, and beaches. We formed in 1997, bringing together a unified voice for conservation and community groups working on local environmental and park issues. In addition to our Green Vision Coalition of some 80 conservation and community groups, FHBP has more than 5,000 individual members who support our regional work.

FHBP opposes the proposed action that appears to disregard the original protections put into place by the California Coastal Commission (CCC) that Center for Natural Lands Management (CNLM) has been attempting to implement.

While recreational use was anticipated and approved “as conditioned” by the CCC, it is important to comply with the conditions set forward by the CCC which directs that any use work in concert with the fragile pocket mouse, gnatcatcher and multiple rare plants in this area. Many environmental organizations worked with the City, developer, and CCC on ensuring this would happen in perpetuity – without exception.

We know that you are aware that the land manager and all of our state and federal agencies are recommending very careful evaluation of any increase in recreational use.

We strongly support the outstanding work of CNLM and applaud their strength in holding the line on the protection and preservation of the endangered and threatened species at the Headlands.

We also know that you are in receipt of the CCC's December 14, 2023 letter that very clearly states that CNLM will set the hours of use through the Coastal Development Permit (CDP) process, and not the City. Why the City has chosen to attempt to do an end run on CNLM is unclear, but we are confident the City does in fact understand what the process should be. We also know that the City understands fully that this application is an expansion of use that will create greater impacts to the endangered and threatened species in this area, and specifically the mice.

Please reconsider and allow the proper procedure to unfold and allow for the greatest protection and preservation possible at the Headlands. This should not end up in yet another protracted fight over policy and procedure, and certainly should not be another waste of public resources on the part of the City of Dana Point.

Thank you for considering these comments.

Sincerely,

A handwritten signature in blue ink that reads "Jack Eidt". The signature is fluid and cursive, with a large loop at the end of the last name.

Jack Eidt  
Board Member  
Friends of Harbors Beaches and Parks

Copy: California Coastal Commission  
US Fish and Wildlife Service  
California Department of Fish and Wildlife