

California Native Plant Society

Dorothy King Young Chapter · P.O. Box 985 · Point Arena CA 95468

November 16, 2007

County of Mendocino Department of Planning and Building
790 South Franklin Street
Fort Bragg, CA 95437

Attn: Teresa Beddoe, Project Coordinator

Re:: CDP #55-2006 - Bower

Dear Ms. Beddoe:

The Dorothy King Young Chapter (CNPS) offers the following comments for the public record regarding CDP #55-2006.

Comment Framework

CNPS agrees with many local residents that two aspects of this project would benefit the environment and enhance people's appreciation of our coast natural features:

1. Solving the drainage problems on the project site in a way that protects the Gualala Bluff Trail, channels excess water from the bluff edge and keeps contaminants out of the Gualala River Estuary and other sensitive areas.
2. Opening up a view of the ocean in a coastal town where ocean views have long been blocked.

Having stated that, the remaining CNPS comments will focus on aspects of concern to CNPS for their potentially significant impacts that cannot be mitigated to a level of insignificance.

These comments pertain to potential impacts to indigenous plants in terms of: Rare plants, rare vegetation types, locally significant plants, functionality (e.g., erosion control), wetlands, habitat value, and Environmentally Sensitive Habitat Areas.

Botanical Survey

CNPS appreciates the stated intent of BioConsultant personnel to conduct a thorough, floristic, botanical survey of the project site. The survey's format could make it difficult for non-botanists to separate scientific observation from opinion and suggestions.

For clarity, such a document needs two distinct sections: An actual botanical survey followed by an assessment of potential impacts with maps and recommended measures to avoid and/or minimize direct, indirect, and cumulative impacts.

The survey was deficient or lacking in some components of a scientifically sound botanical survey, including a description of methodology and protocols. The survey should also have covered a broader time period – from earliest spring to late summer – in order to identify all plants present or adjacent to the project site.

Please see the CNPS website for a detailed description of the CNPS and CA Department of Fish and Game (DFG) survey protocols:

<http://www.cnps.org/cnps/rareplants/inventory/guidelines.php>

The survey, as submitted, is not sufficient to re-assure the public that impacts to botanical resources have been disclosed, and appropriate mitigations outlined.

Rare Plants: A rare coast morning glory, *Calystegia purpurata ssp. saxicola*, sometimes occurs with a more common taxon, *Calystegia purpurata ssp. purpurata*. It is extremely difficult to distinguish between these subspecies using field characteristics. Since the botanical report contains no discussion of these subtle distinctions or the methods used to obtain positive identification, the public cannot be certain that the rare species is not on the project site.

Wetlands: The documentation does not specify what constituted the biological survey area, but presumably it was all portions of the applican't property that could be potentially impacted by project activities.

The survey area is reported to contain three wetland species: *Oenanthe sarmentosa*, *Carex nudata* and *Potentilla anserina ssp. pacifica*. The Botanical Survey lacks sufficient information about the type of wetland assessment done on the site, leaving open the possibility that these plants might in fact indicate the presence of wetlands.

Rare Plant Communities: Mendocino coastal bluffs support a vegetation alliance of perennials and subshrubs including but not limited to *Erigeron glaucus*, *Iris douglasiana*, *Grindelia stricta*, *Heterotheca villosa*, *Erigeron glaucus*, *Eschscholzia californica*, sometimes *Castilleja* species, *Angelica hendersonii*, *Heracleum lanatum*, *Calamagrostis nutkaensis*, *Festuca rubra* or *Deschampsia caespitosa*. *Eriophyllum stachaedifolium* is often present - arguably a subshrub. *Lupinus littoralis/variicolor* may also be a component. This is a community of low, mounding plants where no species is necessarily dominant.

The California Department of Fish and Game's (DFG) definitions of plant communities from 2003 includes "31.100.00 Northern Coastal Bluff Scrub, and regards this community, as described by Holland, as a special community, such that impacts to it should be considered under the California Environmental Quality Act (CEQA). The California Natural Diversity Database for March 06 lists Northern Coastal Bluff Scrub, G2 S2.2, as a sensitive vegetation type.

A more shrubby community also occurs, comprised of *Baccharis pilularis* (often the low form), *Ceanothus gloriosus*, *Ceanothus griseus*, *Lupinus arboreus* (purple form, intergrades with the low growing lupines cited above), *Gaultheria shallon* and *Garrya elliptica*.

The number of mature silk tassel (*Garrya elliptica*) on the bluff and slope on and around the project site suggests that this shrub is a dominant plant in a distinct, coastal shrub alliance. In fact, the DFG recognizes a *Garrya elliptica*-dominated alliance tentatively classified as G3-S2 (vulnerable globally, imperiled statewide).¹

Whether these vegetation alliances are lumped under the term, "Northern Coastal Scrub" or given separate designations, they are rare on the Mendocino coast, and beyond.² The rarity of these plant communities results from long years of intensive agricultural use on coastal headlands, plus displacement by weeds like ice plant that take over the habitat and can also hasten erosion.

The Botanical Survey's discussion of cumulative impacts to the Northern Coastal Scrub neglected to include recent destruction of mature *Garrya elliptica* plants. The apparently deliberate destruction of these shrubs along the bluff should be included with the cumulative impacts for this project, which threatens to destroy more costal scrub dominated by irreplaceable, mature *Garrya elliptica* shrubs.

ESHAs

The vegetation associations described above, rather than merely providing erosion control for adjacent Environmentally Sensitive Habitat Areas (ESHAs), are themselves ESHAs. They fit the definition because of their rarity, their function as barriers to erosion, and their susceptibility to disturbance and degradation by human activity or developments. Thus, the project, as described, is not just adjacent to one ESHA (the Gualala River Estuary), but has additional ESHAs closer and on the project site.

The applicant and the County of Mendocino have neglected to address the presence of additional ESHAs and potential impacts to them. The impacts would be considerable, given the applicant's intent to add large areas of fill along the bluff edge, above the proposed wall. It would be virtually impossible to restore the lost bluff flora on compacted, alien material hostile to native plants. The fill would, however, favor invasive weeds. The project proposes to remove remaining bluff scrub, including a rare plant community, in a manner that makes mitigation failure very likely.

Proposed Mitigations

Potential Impact 1: Impacts to northern coastal scrub habitat and function

Proposed measures focus mainly on the project's potential to increase invasive weed cover. CNPS believes mitigations must also address the project's potential to further degrade a vegetation assembly that is rare, constitutes an ESHA and performs important soil-retention functions.

Mature coastal shrubs and perennials develop woody, far-reaching root systems that play a major role in anchoring the soil. When these roots penetrate through different soil and rock layers, they can help prevent the sloughing off of the top soil layer.

Newly planted native plants cannot begin to match the soil-retaining properties of mature plants. The very process of planting further destabilizes the soil. Thus, the planting of native plants will not mitigate to a level of insignificance the loss of mature specimens or mature plant communities.

Use of five-gallon or larger size plants will only increase the impacts, since larger planting holes will disturb the soil even further. It is well accepted among native plant horticulturists that plants from one-gallon cans will become established more quickly than larger plants and will outpace specimens planted from larger containers in a few years. This is not a valid mitigation.

CNPS members with experience and training in native plant horticulture see little chance of long-term success for the proposed plantings on a steep, hard-to-access site where watering and weeding would be very difficult to carry out. Nor is there any enforcement or motivation for project proponents to fulfill mitigation obligations for a long enough time period to insure success. Mitigation measures with a high likelihood of failure will not mitigate significant impacts to a level of insignificance

Invasive weed issues: The project site now contains invasive macro-weeds that give the area an unkempt, degraded look. Dried annual weeds also present a fire hazard.

Control measures for invasive plants mentioned in the Botanical Survey are certainly needed, but CNPS has the same misgivings as for the proposed plantings. This is a difficult site to access and weed control requires a long-term commitment of at least five years. The persistence of jubata grass (*Cortaderia jubata*) on the bluff and downslope is a testament to the difficulty of controlling macro-weeds under the challenging conditions of the project site.

There are no enforcement or motivation provisions for the project proponent to follow through on weed control to the extent necessary to insure the success of mitigation measures. There has been

little effective weed control by the project proponent on the site thus far, even in level, accessible areas adjacent to the Bluff Trail. This suggests a lack of commitment to long-term weed control.

The weed control measures suggested would be valid as mitigation **only** if accompanied by some means of insuring follow-through. Is the County willing to require the applicant to post a bond to support long-term weed control?

CNPS believes the non-organic fill proposed for the bluff edge would not be capable of supporting native plants. However, invasive, exotic plants could still grow in the fill, since weeds, by definition, are able to grow in disturbed, compacted nutrient-poor substrates.

Nor does the project documentation make it clear how the existing weed seedbank (hardy, long-lived seeds in untold numbers) would be removed or neutralized in the treated fill.

CNPS notes that it would be unrealistic to expect the necessary weed control to be accomplished through volunteer efforts. Volunteer labor cannot be depended on for such an important project, and is not reliable in a small community with a small pool from which to draw volunteers.

The site presents weed control challenges of a magnitude that guarantees a poor success rate for the weed control measures outlined by the project consultant. However well intentioned, these weed control measures would not be capable of reducing impacts to a level of insignificance.

The inadequacy of the proposed mitigations is underscored by the fact that if the proposed mitigations fail, the project site will be left worse off than before, with more erosion problems and disturbed areas open to colonization by weeds.

CEQA Considerations

Project Segmentation: CNPS believes that this project's potential impacts to native flora can be identified only by evaluating the project in its entirety, rather than considering its components one at a time.

The project described under CDP 55-2006 involves not just repair and support for existing structures, but is actually part of a larger project for parcel AP#145-261-13. It is also related to another project on AP #145-261-05, currently under review by the CA Coastal Commission.

The applicant has defined two phases for CDP 55-2006, encompassing various activities such as installation of drainage systems, construction of a retaining wall, removal of existing commercial structures, building a paved parking lot and construction of new commercial buildings.

Phase I is being reviewed by the County of Mendocino under two separate permit applications. Phase II does not seem to have any CDP application, yet it includes the parking lot, boundary line adjustment and construction of new commercial buildings. Since these activities affect each other, are related as part of a larger project and may have combined impacts on the environment, they must be evaluated as one project.

CDP 55-2006 is described as necessary to protect coastal-dependent uses, i.e., the Bluff Trail and dirt parking area. This is not valid because the Bluff Trail is on a floating easement that can move as the bluff edge changes, and the dirt parking area will presumably be replaced with a new, paved parking lot sometime in the future. Nor is any parking lot a "coastal-dependent use" since a parking area could be located anywhere.

The proposed retaining wall must be needed to support future structures. It is contrary to the intent and practice of CEQA to construct a massive retaining structure to support future development. Nor is such a wall needed to protect a trail on a moving easement.

CNPS can only conclude that treating the CDP 55-2006 portion of this project as a separate, stand-alone project constitutes piecemealing under CEQA, since it involves a number of reasonably foreseeable impacts that must be considered under the aegis of a single project.

Further, CNPS has seen no information that would justify the County's adoption of a Mitigated Negative Declaration for the activities specified under CDP 55-2006. As explained above, most of the mitigation measures offered are woefully inadequate to mitigate the project's impacts to a level of insignificance.

The applicant clearly intends the proposed retaining wall to support future development. Other proposed activities under this permit application, such as the relocation of a septic system and treatment of stormwater, would be needed only to serve future development.

The adoption of a Mitigated Negative Declaration short-circuits the benefits of CEQA analysis that should be applied to all potential environmental impacts, including those to native flora.

The County Staff Report states that piecemealing concerns are relevant only for an Environmental Impact Report (EIR) or potential EIR. Yet CEQA was never intended to allow lead agencies to sidestep analysis of environmental impacts by arbitrarily adopting Negative Declarations in order to avoid an EIR.

Lead Agency Responsibilities: Under CEQA a lead agency is required to analyze any future phases of a project, since significant or cumulative impacts could occur. There have been a number of successful litigations against lead agencies for adopting Negative Declarations before fully considering a project's potential significant impacts to the environment.

Aesthetics: The huge, concrete retaining wall proposed by the applicant would have a powerful visual impact, especially for visitors to Gualala Point Regional Park and to anyone in a boat or kayak on the Wild and Scenic portion of the Gualala River. CEQA requires that aesthetic impacts be fully considered.

The County Staff Report cites measures to soften the visual impact of the proposed wall, indicating that surface texturing and coloration will somehow camouflage its appearance. However, a continuous concrete structure of this size will have a very artificial look that is totally out of keeping with the natural beauty of the Mendocino coast. CNPS promotes the appreciation of indigenous plants, but they cannot be appreciated in a dead zone where nothing can grow, and any appreciation of them will be dulled by the presence of so much artificiality. A wall of this kind may be suited to an urban environment in Southern California, but it does not belong here.

Nor will attempts to establish native plants mitigate the negative aesthetic impacts of the proposed concrete wall to a level of insignificance. A related recommendation from the Staff Report involves using "native vines" planted at the base of the wall to climb the wall and soften its visual impact. Any vine that could do this would need to have "sucker attachments" like English ivy or Boston ivy. I know of no vine native to Northern California that has such characteristics. This suggestion is simply not valid as mitigation.

There are currently no large, faux-rock retaining walls on the Mendocino coast, nor should there be any. The proposed structure represents an attempt to set the kind of substantial precedent that is discouraged under the California Coastal Act.

Project Alternatives: CEQA requires that all project alternatives be disclosed and discussed. CNPS believes that alternatives with minimal impact on botanical resources are preferable.

The County Staff Report neglected the alternative of removing the previously placed fill from the bluff edge, re-contouring the slope and installing drainage that protects the integrity of the bluff.

The need for additional, fill-created land is not justified by the unpaved, private parking lot on the site. This lot is the only other “structure” or “development” other than the Bluff Trail. There is no documentation to justify use of fill to create more space to satisfy the applicant’s unspecified “needs.” It is not clear why native flora should be sacrificed for undisclosed, future needs.

The Report also omitted thorough discussion of other retaining methods. The Staff Report contained no peer review or independent professional analysis of the conclusions of the applicant’s engineer, nor any alternative slope treatments from independent professionals.

It appears these other alternatives were ignored because they were perceived as not being suitable for future, undisclosed development that has yet to be analyzed.

Mendocino County Local Coastal Plan Issues

The language of Section 20.500.010 is meant to prevent activities that would “contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas” and “the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.”

However, the proposed retaining wall is not needed to prevent erosion of the naturally occurring coastal soils, which appear to be quite stable on the project site. Instead, the wall is meant to shore up an area of non-compacted fill that is reported to have been put in place illegally.

The fill has already altered the natural landforms on the bluff, so according to the county’s code language, corrective action would involve removing the fill, re-contouring the bluff and taking other measures to return the site to its former, natural state.

Section 10.500.020 specifies that neither “structures altering natural shoreline process or retaining walls” will be permitted unless needed for the protection of existing development, public beaches or coastal dependent uses. The proposed wall would “protect” no public beach, and the only existing structure is the coastal trail, which does not need and would be harmed by the wall.

The proposed wall would be a massive structure, necessitating major disturbance of the bluff area. The weight of heavy equipment and large amounts of fill material, the vibration of digging and drilling, exposure of fresh mineral substrate could destabilize the bluff. Further, long-term destabilization could be caused by the weight of the proposed concrete structure, and build up of ground water behind it. Expected rise in ocean levels due to global climate change can also be expected to threaten the structural integrity of the proposed wall.

Neither the project documentation or the county’s Staff Report deals adequately with these serious concerns. An EIR would bring such issues to light, subjecting them to full analysis.

Impacts to the Gualala Bluff Trail

CNPS has a history of supporting the Gualala Bluff Trail project of the Redwood Coast Land Conservancy (RCLC), which initiated the trail project in good faith, as a public benefit on a legal easement. The trail can help people appreciate our native flora (as well as providing coastal views and walking opportunities). However, the trail cannot perform that function if:

1. It is overrun with invasive weeds that the property owner either cannot or will not control;
2. It is relegated to a narrow area surrounded by development, with no room to revegetate with local native plants
3. It is pushed far out onto the bluff edge on fill where native plants cannot grow and there is danger of the trail being lost if the retaining structure fails.

The easement held by RCLC for the trail is a floating easement, intended to protect the public's right of access and obviate the need for armoring. The project applicant has stated that the retaining wall is intended to change RCLC's easement to a fixed easement. While that change might benefit the applicant by facilitating future, as yet undisclosed and unanalyzed development, CNPS believes it would be detrimental to RCLC and the Bluff Trail.

This project would impose hardships on RCLC including: Potential loss of trail amenities such as room for plantings and benches; further loss of existing mature vegetation that enhances the trail and prevents erosion; loss of new plantings; ongoing weed problems with a project approved by the lead agency, leaving no recourse for RCLC to obtain landowner cooperation in weed control.

Indeed, project documentation fails to specify the new location of the easement, should it become fixed, rather than floating. No direction is provided for how this issue would be decided. It is unfair to the members and supporters of RCLC for such critical issues to be left unresolved.

CNPS believes this project, as proposed, will severely impact the ability of the Gualala Bluff Trail to fulfill its native plant-related purposes.

Conclusions

When a project has the potential for significant environmental impacts, an Environmental Impact Report under the California Environmental Quality Act is required. This project's potential for significant impacts make a Mitigated Negative Declaration inappropriate, since it is clear that the proposed mitigations will not reduce significant impacts to a level of insignificance. The applicant appears to be "piecemealing" this project, contrary to CEQA. Finally, the project also conflicts with Mendocino County's Local Coastal Plan and the California Coastal Act.

CNPS recommends that CDP 55-2006 be denied and that the County of Mendocino withdraw the associated Mitigated Negative Declaration.

Sincerely,

Lori Hubbart, Chapter President
California Native Plant Society, Dorothy King Young Chapter

CC: Raymond Hall
Planning Director, County of Mendocino

Robert Merrill
California Coastal Commission

¹ Diana Hickson, Senior Botanist and Biogeographer, with the Vegetation. Classification and Mapping Program, CA Dept. of Fish and Game, Sacramento – personal communication.

² Teresa Sholars, Biology / Environmental Science / Agriculture Science Coordinator at College of the Redwoods, Research Associate at Jepson Herbarium –U.C. Berkeley: personal communication