

P.O. Box 587  
Gualala, CA 95445  
November 12, 2007

Teresa Beddoe, Project Manager,  
Raymond Hall, Coastal Permit Administrator  
790 South Franklin Street  
Fort Bragg, CA 95437  
Re: Case# CDP #55-2006  
Applicant: Bower LTD Partnership

Dear Ms. Beddoe and Mr. Hall:

I am writing as a concerned citizen who lives in Gualala and is a frequent user of the Gualala Bluff Trail (GBT) and Gualala Point Park. I am also a volunteer for the Redwood Coast Land Conservancy, but am not a director of that organization and am not speaking for them in this letter. I have given thousands of volunteer hours helping to plan and construct the second phase of the GBT. In the process I have had an opportunity to talk with the people who are using the trail and can provide an important perspective because of my experience.

I would first like to comment on the staff report.

**Environmental Determination and need for EIR:**

The staff report states that “the initial study was also completed with a possible ‘Phase 2’ in mind.” A description of the additional development is listed in the staff report but this listing is incomplete. What is not said is that this proposed development is dependent on the applicant being able to change the terms of the easement for the GBT. If the retaining wall is not added, this will not be possible. The drawings of Phase 2 presented to the community and to staff show a “proposed easement”, not the current easement. A building is proposed to be added where the current easement is located and others to areas that would be designated as setbacks or buffer zones where the easement could move in the future. In newspaper articles, radio interviews, and community meetings the applicant has stated that the retaining wall is the key to his development. By proposing a retaining wall that is up to 17 feet west of the current daily bluff the applicant hopes to “create a bluff” and petition the Coastal Commission to move the easement west gaining additional space for development. He then hopes to change the terms of the easement from a floating easement to a fixed one. In a local newspaper he is quoted as saying “the moving bluff trail easement will no longer need to consume Surf Center parking and property. The trail easement will no longer move as the new retaining wall will protect it.”

Deed restrictions for development are now required so retaining walls cannot be added later to protect development. Also, Sec. 20.500.020 on Bluffs in the LCP states:

*New structures shall be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years).*

Applying for the retaining wall first avoids having to add the deed restriction with future development and the need for the proper setbacks for future bluff development.

**Non conformance to the LCP:**

Under section Sec. 20.500.010 of the local coastal plan, a purpose is stated:

*Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

And E) Erosion.

*Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses...In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other significant adverse environmental effects.*

There is minimal existing development on this site and no public beaches needing protection. A dirt area where cars sometimes park is not “development”. The statement in the staff report that the proposed application would protect the “downslope public beach area” is puzzling since the only public beach area is on the other side of the Gualala River at Gualala Point Park, not downslope from the bluff.

Chapter 20.308 definitions of the Mendocino coastal zoning code C (Sec 20.308.030 ) states: *Coastal-Dependent Development or Use” means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.*

Under this definition the only coastal dependent use on this site is the GBT. The staff report includes the unpaved parking area: “The proposed retaining wall is necessary to preserve, to the extent possible the existing unpaved parking area which is accessory to the existing on-site commercial development.” This is not justified by the definition of “coastal dependent use” in the LCP.

In addition no permit was ever issued for this parking area and it is not open to the public (see attachment showing the no trespassing signs that have been posted). The applicant has stated that the parking lot he plans to apply to build in the future on this site will only be available to tenants of the Surf Center and their customers. Members of the public wishing to park in this area to access the GBT will not be permitted to do so. Therefore neither the current unpaved parking area nor the future proposed paved parking area could be considered a coastal dependent use.

The easement for the GBT is a floating easement that allows it to move as necessary if there is erosion. Because bluffs have and continue to erode, a floating easement is preferred to a fixed easement to protect the public’s right to coastal access and to prevent armoring. Adding a retaining wall in order to justify changing the easement to a fixed one would seem to be undermining the very reason for a floating easement. Furthermore, the easement could be

protected with less significant adverse environmental effects. One suggestion cited in the staff report was not considered because “it would not preserve existing parking space on the site and therefore would not meet the needs of the applicant.” This raises the very real question about whether the goal of this application is to protect the GBT and the estuary or whether it is to preserve existing parking spaces and enlarge the number of parking spaces in the future. The November 6, 2007 letter from Mr. Rau supports the latter as the real reason for this application.

The staff report quotes from the botanical survey: “The only possible alternative would be no project.” Engineering and geological reviews by an independent source would be necessary to support this claim. Addressing the drainage so water from the informal parking area and a good part of downtown Gualala did not flow onto the easement, the bluff, and into the estuary would be an alternative that would be extremely helpful. To say that there are only two choices, this application or “no project”, is incorrect. Alternatives are possible if the applicant were willing to consider them.

### **Coastal Commission APN 145-261-05 pending**

The Coastal Commission is still reviewing the application from Bower LTD partnership to replace the retaining wall that failed in February 2006. The retaining wall was mitigation for the Surf Market being built closer to the bluff edge than allowed by permit #80-P-75 thus impacting the lateral accessway. The retaining wall was allowed to protect the easement since it had been limited in the process of development. One of the requirements of the permit was that it be maintained for the life of the development. It was not. Since the Coastal Commission has not yet ruled that the wall can be replaced or agreed to a design to replace it, evaluation of a wall that could connect to it is premature and should wait until a determination has been made about replacing the failed wall.

### **Disturbance to the Gualala Bluff Trail**

More than 100 volunteers have contributed to the development of the GBT. Monitors walk the trail twice a week picking up garbage. Others have put in 2 to 3 hours every week for several years constructing the second phase of the trail. A picture of the GBT graced the cover of the recent Community Action Plan to illustrate the town of Gualala. More and more people are discovering and using the trail. I talk to them weekly when I am working on the trail and they are uniformly thrilled with what has been created. Visitors tell me that they often walk on the trail several times a day when they are in the area and how much they love the views of the estuary, the ocean, and the wildlife. Locals who work in the area tell me they often come to the Bluff Trail to have lunch or walk on it to get to another part of town. People who live here bring families and friends who are visiting to show them the trail and to provide them with the best view in town. It is an area where people gather to see changes to the Gualala River in winter, to look at ocean waves, to watch otters and to birdwatch. So many people have commented on how much better it looks on the Bower property where the trail amenities have been added, especially the boulders and native plants. It has softened and improved the look of the area.

One of the goals of the Gualala Town Plan is to create a walkable community and the GBT is currently the best, if not the only, portion of the downtown area that has been created for people to walk. It is also part of the California Coastal Trail and completion of this trail is one of the big goals of the Coastal Commission.

Adding a retaining wall would shut the trail down for a significant period. The timetable submitted by the engineer for adding the proposed 105-foot replacement wall was five months. Adding a 285-foot wall would be expected to take longer. Since this section of the trail is in the middle and at the present time access to the trail is north of this area, all of the trail south would be closed to the public. In the process of adding a wall the new trail amenities would be dismantled. There are no conditions added to the permit for restoration of the trail and no guarantees that it would be restored quickly. If the applicant was required to restore the trail and waited until he could get a Coastal Commission verdict on whether the trail could be moved and the terms of the easement changed, restoration of the trail could take a very long time. I disagree with the staff report conclusion that impacts to the trail would be “less than significant”.

### **Aesthetics of the wall**

The current view from the Gualala Point Park and the Gualala River would change with the addition of the proposed retaining wall from a green, vegetated bluff to an armed fortress. In addition, even if only a block or two of the concrete retaining wall would be visible from the trail in some spots, this wall would not be consistent with the current look of the trail which is meandering and bordered by native vegetation and sheep fencing. The trail as designed fits the wishes of the community for development not to look industrial, but to retain the rural look that those of us who live here love. Instead of making our town more attractive for the people who visit and those who live here, adding the wall would have the opposite result. It certainly would not improve the views from the GBT and a blufftop trail is all about the view.

### **Loss of Vegetation:**

This application would disturb a large area of the bluff including some old established native vegetation. Reestablishing this vegetation would be extremely difficult since plants would be added below the retaining wall where there would be no easy access for watering and weeding which is always necessary in the first years to establish new plantings. The experience of the volunteers for the Redwood Coast Land Conservancy and the managers of the Surf Motel has been that establishing vegetation on the slope of the bluff is very difficult. Adjacent to the first phase of the GBT on the applicant’s property is an ever-increasing amount of Jubata Grass. Removing Jubata Grass on a bluff is very challenging. Spraying with herbicide over an estuary is not permitted. It is risky to the bluff (and the people who might attempt it) to try to dig it out. It is feared that the disturbance of the soil by adding a retaining wall would cause the spread of this invasive exotic to this new area below the wall.

### **In conclusion:**

Approving this application would result in a long closure of the GBT, would disturb native vegetation and would add a wall that would have serious negative aesthetic impacts to views from the GBT, the Gualala River and Gualala Point Park. The retaining wall appears to be a necessary component of the planned future development and therefore should be considered as part of that development, not separate from it. This would appear to justify an EIR.

This application is inconsistent with Sec. 20.500.010 of the local coastal plan. Instead of protecting the GBT, the only possible reason the retaining wall could be permitted, this

application appears to be the first step in an attempt to diminish the GBT's easement. Other less environmentally and aesthetically damaging alternatives would provide better protection.

The applicant's family was required to offer to dedicate 25 feet on this property to provide an easement for the access and use of the public for a blufftop trail. They have had the benefit of more than 25 years of this offer. Development of this access has taken more than this amount of time as first a group needed to be formed to accept the OTDs, then studies needed to be done and funding obtained before the necessary permits could be obtained to build the trail. Further delays occurred when the applicant sued the California Coastal Commission and the Redwood Coast Land Conservancy to stop the addition of the second phase of the trail. The failure of the retaining wall that was not properly maintained by the applicant's family and is waiting for a decision by the Coastal Commission on the replacement has halted the completion of the last portion of the trail. Approving the extended retaining wall would add additional unacceptable delays to the completion of this important asset to the people who live and visit Gualala.

Opening up the views that were lost to the public when the applicant's family developed their property and redevelopment are good goals. These goals are still possible. If providing a large parking lot for customers of the Surf Center is the goal, perhaps some of the buildings on this parcel need to be relocated to another parcel leaving more room for parking. The planned future development on this parcel should be revised so goals can be achieved within the limits of the existing public access easement.

It is my great hope that one day the applicant will choose to embrace the easement and the GBT and incorporate it into his plans instead of trying to make it go away. This would mean that he would have to scale down the size of his future development on this parcel. The applicant is fortunate to own other parcels in town suitable for development. Hopefully revised plans would include improving the drainage and treating the runoff that impacts the trail, the bluff, and the estuary.

This application should be denied for the reasons listed above and the accompanying negative declaration be withdrawn.

Sincerely,

Mary Sue Ittner

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Enclosure

cc. Bob Merrill  
David Colfax

Enclosure from MS Ittner – Sign at entrance to Surf Center rear parking area.

