

February 14, 2008

County of Mendocino  
Board of Supervisors  
501 Low Gap Road, Room 1090  
Ukiah, CA 95482

**RE: Appeal CDP #55-2006, DENY**

Dear Supervisors,

I write this letter on behalf of Environmental Commons and the many members of the public whose interests it represents. **Environmental Commons is requesting denial of CDP 55-2006 as the project continues to inadequately assess cumulative impacts, growth inducement, and fails to meet the requirements of Mendocino County's Local Coastal Program. The most controversial aspects of the CDP – the retaining wall—is not necessary.**

**Background**

Environmental Commons sought denial of the original CDP 55-2006 for failing to meet the requirements of the California Environmental Quality Act (CEQA) and the Local Coastal Program. We held that the original project's CEQA analysis was deficient for failing to adequately consider aesthetics, cumulative impacts, and growth inducement. Additionally, the project violates the goals and policies of the Local Coastal Program (LCP). Since the CPA hearing and approval of November 19, 2007, the applicant has altered the project significantly. While the new project proposal greatly reduces the aesthetic environmental impacts, the project continues to inadequately assess cumulative impacts, growth inducement, and fails to meet the requirements of the LCP.

The original project was described as “construction of a 285±-foot long concrete block retaining wall to connect to a proposed 105±-foot long retaining wall on the adjacent lot to the south (APN 145- 261-05 – Coastal Commission jurisdiction). Associated drainage improvements include the installation of 414± length feet of drainpipe, a storm drain manhole, and a six-foot stormwater treatment structure, and relocation and upgrade of underground septic systems.” The stated goals of the concrete retaining structure are to control erosion.

In large part due to the aesthetic concerns aired by many members of the Gualala community, the applicant is proposing to replace the concrete block wall with a product called Geoweb® -- a frictional interlocking system of fine-density polyethylene cells. The project still includes drainage and septic improvements.

Environmental Commons is extremely pleased that the applicant has sought a more aesthetically pleasing retention structure that allows vegetation to grow in and around the material. There has been quite a bit of local concern regarding the attractiveness of a 285' concrete wall that would be seen from the Gualala Point Park, the Gualala Beach, and the Gualala River. If a soil retention structure is deemed necessary, the Geoweb® is a far better alternative.

However, the project continues to have fundamental issues and questions that need to be resolved prior to approval. **Specifically, Environmental Commons requests the Board of Supervisors address the stated goals of the most controversial aspect of the project – the retaining structure. Is the goal to reduce erosion? If so, the Geoweb will not control the erosion. Are the project's objectives to gain developable land west of the current coastal bluff edge by creating a new bluff face? If so, we request the Board address the legalities involved with destroying a stable bluff face, creating more usable land west of the bluff edge, and needing a retaining structure to secure it. Additionally, We also request you correct the deficiencies in the CEQA Initial Study as well as address the violations of the LCP.**

### **CEQA Cumulative Impacts/ Project Segmentation**

CDP 55-2006 is one element of a much larger redevelopment project involving two parcels. The parcel on which CDP 55-2006 occurs is within Mendocino County jurisdiction while the parcel to the south is within the jurisdiction of the California Coastal Commission. On the subject parcel alone, three permits applications will ultimately be reviewed. In September 2007, the applicant received a permit to demolish the existing buildings on the parcel. CDP 55-2006 requests a permit for drainage improvements, septic upgrades, and a 285' retaining structure. In the near future, the applicant will also be submitting a permit application for development of a paved parking lot, construction of 7000 square feet of retail/office space, and a boundary line adjustment.

CEQA requires that all aspects of a project be included in one environmental review so the agency can consider the overall cumulative environmental impacts of the whole of the project. Segmenting larger projects into smaller pieces is prohibited and fails to meet CEQA's core purposes of impact evaluation and mitigation as well as full disclosure to foster informed public decision-making. The courts have repeatedly rejected the approach of separating project activities for independent CEQA review and required them to be reviewed together where, for example, the second activity is a reasonably foreseeable consequence of the first activity (Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263 [118 Cal. Rptr. 249, 529 P.2d 1017]); or both activities are integral parts of the same project (No Oil, Inc. v. City of Los Angeles (1987) 196 Cal. App. 3d 223 [242 Cal. Rptr. 37]).

In the case of CDP 55-2006, not only are various aspects of the whole project separated, but also the intended end use of the retaining structure has not been adequately evaluated. Further, the infrastructure components (stormwater treatment and septic system relocation/ upgrade) are included in this project, but the development projects they are intended to serve have been omitted. **Given the integral nature of permit requests for the parcel in question, Environmental Commons requests CDP 55-2006 be denied and the whole project be**

**submitted and environmentally reviewed in one permit application as required by CEQA.**

### **CEQA/ Growth Inducement**

The Initial Study conducted for CDP 55-2006 failed to address growth inducement as required by CEQA. CEQA Guidelines Section 15126.2(d) states projects that remove obstacles to development are considered growth inducing, and secondary effects of that induced growth must be considered in the CEQA analysis.

The question lies in which obstacles are being removed? If the retaining wall is permitted and built, it would create more developable land for the applicant by gaining land west of the current bluff edge. The current obstacle to development includes the 25' public access trail and easement, which was required as a condition of the permit to build the presently located Surf Supermarket. By gaining land by pushing the bluff edge west, the applicant is provided greater commercial development, as the owner would be allowed to move into the current public trail easement to add additional parking spaces and/or offices. **Environmental Commons requests the County address the growth inducement aspects of the project as a whole as required by CEQA.**

### **Local Coastal Program 3.4 -12, MCCZC Sec. 20.500.020 & Alternatives**

The LCP specifically disallows retaining walls “unless judged necessary for the protection of existing development, public beaches or coastal dependent uses.” The Mendocino County Coastal Zoning Code 20.500.020 (e)(4) specifically states that within the Gualala Town Plan a special condition be attached to all coastal permits for bluff top residential or commercial development, requiring recordation of a deed restriction that states that landowner (b) not construct any bluff or shoreline protective devices to protect the subject permitted residence, guest cottage, garage, septic system, or other improvements in the event that these structures are subject to damage, or other natural hazards in the future.

While we recognize that the County considers the dirt parking lot “existing development” (a point of disagreement), we would argue that a retaining wall or structure is not necessary for its protection. According to the applicant’s agent, the bluff face is stable. It is the erosion resulting from the un-compacted and un-engineered dirt fill parking lot that needs to be stabilized. The LCP requires that “no feasible less environmentally damaging alternative is available” prior to constructing a bluff face retaining structure. Less harmful alternatives are available and should be considered:

1. The subject parcel east of the trail easement could simply be re-graded to achieve improved surface drainage for the site. Collection of the surface runoff could be directed to a discharge location that won’t erode the bluff fill. If necessary, an intercept drain (or “French drain”) could be built along the easterly line of the trail easement to prevent surface runoff from saturating or eroding the bluff fill. This option both saves the existing coastal bluff face as well as the already constructed Bluff Trail.
2. Another option would be for the applicant to consider relocating the proposed 7000 square feet of office space to another of his undeveloped parcels within the Gualala Town

Plan Area or downsizing this aspect of the development. This would allow for additional parking without destroying the bluff trail improvements and the bluff face.

**Essentially Environmental Commons believes that a 285' retaining wall is not necessary for protecting the dirt parking lot. We urge the Board of Supervisors to fully examine the less environmentally damaging and available alternatives.**

### **Conclusion**

Of chief concern is that the applicant is attempting to conform the parcel to his development, instead of better suiting his development to the land. In light of the coastal bluff's stability as well as the completed nature of the bluff trail, Environmental Commons would like to see every effort made to protect our natural and public resources.

Many aspects of the redevelopment project are laudable. Environmental Commons is theoretically in favor of opening up the views to the ocean, controlling erosion via proper drainage, and developing a paved parking. We simply do not believe that the project should be segmented into various permit applications thus avoiding a CEQA cumulative impacts analysis and circumventing the LCP restriction on bluff face retaining structures.

Environmental Commons respectfully requests CDP 55-2006 be denied and accompanying mitigated negative declaration withdrawn. We encourage the Board of Supervisors to recommend that the whole of the project be reviewed through one permit application as required by CEQA. Not only will this allow for a more comprehensive environmental analysis, but also it allow for better compliance with Mendocino's Local Coastal policies.

Sincerely,



Britt Bailey, Executive Director