

CALIFORNIA COASTAL COMMISSION

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February 8, 2008

Julie Price, Environmental Planner
Rau and Associates Inc.
P.O. Box M
Ukiah, CA 95482

SUBJECT: CDP #55-2006 (Bower Limited Partnership)

Dear Ms. Price:

We have reviewed the letter regarding the above-referenced project you sent on behalf of your client, Bower Limited Partnership (applicant), to Teresa Spade, project coordinator at Mendocino County Planning and Building Services, dated January 25, 2008, a copy of which was received in our office on February 1, 2008.

The County approved CDP #55-2006 for the construction of a 285-foot-long, concrete block retaining wall and drainage improvements on the subject property, 39200 South Highway One, Gualala (APN 145-261-13). We understand that the County's approval of CDP #55-2006 has been appealed to the Board of Supervisors and a hearing on the appeal is scheduled for February 26, 2008.

In your letter to Ms. Spade dated January 25, 2008, you indicate that an alternative to the concrete block retaining wall has been developed and involves a vegetated earthen retention system known as "Geoweb." According to your letter, this Geoweb design would provide slope stabilization without the use of concrete and would allow for vegetation to grow on the face of the structure, thereby minimizing visual impacts and reducing the overall project footprint and area of disturbance.

The Geoweb alternative appears to be a more aesthetically pleasing design over the originally proposed concrete block wall and we appreciate the applicant's efforts to address the visual concerns expressed by members of the community. However, like the original project design that has been appealed to the Board of Supervisors, the proposed project alternative does not address the underlying concerns with the project's consistency with the Mendocino County LCP that were originally expressed in a letter from Commission staff to the County dated January 8, 2007 regarding whether a retaining wall is even permissible at the site. Specifically, Commission staff continues to believe that the proposed bluff retaining wall on APN 145-261-13 is, in part, inconsistent with LUP Policy 3.4-12 and Coastal Zoning Code Section 20.500.020(E)(1) regarding

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limitations on the development of seawalls, revetments, and retaining walls for reasons discussed below.

LUP Policy 3.4-12 and Coastal Zoning Code Section 20.500.020(E)(1) set forth limitations on shoreline protection structures and state:

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 or public beaches or coastal dependent uses. Allowed developments shall be processed as conditional uses, following full environmental geologic and engineering review. This review shall include site-specific information pertaining to seasonal storms, tidal surges, tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. 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 adverse environmental effects. The design and construction of allowed protective structures shall respect natural landforms, shall provide for lateral beach access, and shall minimize visual impacts through all available means.
(emphasis added)

It has not been demonstrated that the proposed retaining wall is “*necessary for the protection of existing development*” as required by the LCP provisions cited above. With the exception of an underground septic system that is proposed to be relocated, and a public access easement that can be moved inland if necessary, the closest existing development at the site is located more than 100 feet from the bluff edge at its westernmost point; a distance that clearly does not necessitate a need for protection from erosion. Furthermore, information contained in the geotechnical report seems to indicate that, with the exception of the noted small debris flows, the subject bluff is relatively stable and is not now being threatened by active erosion or bluff retreat.

The retaining wall has been characterized by the applicant and by the County as being necessary to (1) protect the recently constructed Gualala Bluff Trail, and (2) protect the area for parking to serve commercial development.

First, regarding protection of the trail, the lateral access easement at the subject site (required pursuant to Coastal Commission CDP No. NCR-77-C-115) is described as “*A pedestrian easement across a strip 25 feet in width adjacent to and landward of the bluff edge along the ocean side of the following described real property [APN 145-261-13]...*” This easement is, in essence, a “floating” easement in that as the bluff edge retreats landward over time, the 25-foot-wide easement moves landward accordingly. Thus, the proposed retaining wall is not necessary to protect the trail easement from erosion, as the ambulatory nature of the easement itself establishes a mechanism for protection of the trail.

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Second, regarding protection of the area for parking, we understand that the applicant is developing plans for the future redevelopment of the commercial use of the site (APN 145-261-13) and that maximizing the amount of area available for parking is of particular concern. The proposed retaining wall has been characterized in large part as a means of “fixing” the bluff edge at a definitive point, thus preventing the trail easement from ever moving inland, as described above, and encroaching into an area of the site that the applicant wishes to utilize for parking associated with the *future* redevelopment of the site. Although portions of the area appear to be used for parking, parking near the bluff edge is not an *authorized* use of the site and thus, does not constitute “existing development” as contemplated by LUP Policy 3.4-12 and Coastal Zoning Code Section 20.500.020(E)(1). Moreover, the LCP clearly does not allow the construction of seawalls/retaining walls to facilitate future parking for commercial development. Therefore, we urge the applicant to take this into account while developing plans for the siting and design of the future redevelopment of the site. For example, existing site limitations may necessitate the scaling down the proposed square footage of future commercial buildings.

Development on APN 145-261-05

As described in our letter to the County dated January 8, 2007, and as you are aware, a coastal development permit amendment application has been submitted to the Coastal Commission for related portions of the proposed project subject to the Commission’s jurisdiction (CDP Application No. 1-83-270-A1). This pending coastal permit amendment application requests authorization to (1) replace a 70-foot-long wood retaining wall with a concrete block retaining wall (which, as proposed, would extend across APN 145-261-05 and APN 145-261-13 as described above), and (2) install drainage improvements at 39250 South Highway One.

Staff notes that the circumstances surrounding the retaining wall on APN 145-261-05 differ from the proposed retaining wall on APN 145-261-13 in that the original wood retaining wall on APN 145-261-05 (i.e., behind the Surf Supermarket) was originally approved by the Commission to resolve a violation of the Coastal Act. Specifically, the Commission approved CDP 80-P-75 for the construction of the supermarket with conditions requiring, in part, a lateral access easement along the bluff edge of the property. The approved supermarket building and the CDP specified that the building would be set back 35 feet at its northwest corner and 55 feet at its southwest corner from the bluff edge. However, the building was constructed so that the southwest corner is set back only 24 feet from the bluff edge and the constructed building was therefore placed directly within the area offered for public access along the bluff constituting a violation of CDP 80-P-75.

In an effort to resolve the permit violation, the retaining wall that is the subject of the permit amendment application submitted to the Coastal Commission was originally approved by the Commission to protect the development approved under CDP No. 80-P-

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75 and to protect the 25-foot-wide dedicated lateral public accessway along the edge of the bluff. The original project approved a 120-foot-long wood retaining wall west of the market along the edge of the bluff. The portion of the proposed project subject to review by the Commission is intended, in part, to comply with Special Condition No. 1 of the original permit (CDP No. 1-83-270) that requires the retaining wall to be maintained for the life of the development on the site.

Commission staff is continuing to review amendment application No. 1-83-270-A1 and has not yet formulated a recommendation to the Commission. The applicant may wish to consider amending the project description for the pending permit amendment application to incorporate the "Geoweb" design (and/or the alternative discussed below) to replace the failed wood retaining wall behind the supermarket. This would require an appropriate engineering plan to ensure the "Geoweb" would terminate behind the supermarket in a manner that would not cause or contribute to bluff erosion.

Project Alternatives

Commission staff further notes that even if a retaining wall were considered permissible at the site pursuant to LUP Policy 3.4-12 and Coastal Zoning Code Section 20.500.020(E)(1), these policies further require a determination that "*no feasible less environmentally damaging alternative is available.*"

You have indicated that at least one alternative to constructing the proposed retaining wall exists and would involve removing the non-engineered fill that may be contributing to the risk of erosion along the top of the bluff, and re-compacting these areas consistent with engineering standards. We encourage the applicant to pursue this alternative to the proposed retaining wall as a potentially feasible approach to resolving the isolated debris flows and rills of concern in a more scale-appropriate manner that could more likely be found consistent with the LCP.

Lastly, we also understand that drainage has been problematic at the site due to a variety of factors. Commission staff notes that installation of appropriate drainage improvements are not dependent on the construction of a retaining wall and should be planned and engineered accordingly.

In summary, other than the portion of the failed retaining wall required to be maintained pursuant to CDP No. 1-83-270, there is no evidence to suggest that the proposed extension of the retaining wall across the entirety of APNs 145-261-05 and -13 is necessary to protect existing development. Commission staff therefore believes the proposed retaining wall on APN 145-261-13 is inconsistent with LUP Policy 3.4-12 and Coastal Zoning Code Section 20.500.020(E)(1).

It is further noted that any coastal development permit granted by the County for development at the subject site would be appealable to the Coastal Commission.

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Please feel free to contact me if you have any questions.

Sincerely,

Tiffany S. Tauber
Coastal Planner

cc: Teresa Spade, Mendocino County Planning & Building Services
John Bower, Bower Limited Partnership
Nancy Cave, Coastal Commission Enforcement Supervisor