

**CALIFORNIA COASTAL COMMISSION**

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**F 9b**



Filed: April 8, 1997  
 49th Day: May 27, 1997  
 Staff: Jo Ginsberg  
 Staff Report: April 25, 1997  
 Hearing Date: May 16, 1997  
 Commission Action:

STAFF REPORT: APPEAL

LOCAL GOVERNMENT: Mendocino County

DECISION: Approval with Conditions

APPEAL NO.: **A-1-MEN-97-23**

APPLICANT: **REDWOOD COAST LAND CONSERVANCY**

PROJECT LOCATION: 39170 South Highway One, Gualala, Mendocino County,  
 APN 145-261-11 and 12.

PROJECT DESCRIPTION: Development of public access trail improvements consisting of (1) constructing a five-foot-wide, 300-foot-long vertical access trail (footpath) from Highway One to the blufftop, with an all-weather surface of crushed shale; (2) constructing an approximately 500-foot-long, three- to five-foot-wide lateral access trail, also of crushed shale, along the bluff; (3) installing fencing; (4) constructing a viewpoint; (5) placing benches; (6) landscaping the trail; and (7) placing directional and information signs.

APPELLANT: **John Bower**

AGENT: Richard Henderson

SUBSTANTIVE FILE DOCUMENTS: Mendocino County Local Coastal Program; Mendocino County CDP #22-96; Coastal Permit No. NCR-77-C-115 (Bower); Coastal Permit No. 80-P-75 (Redwood Empire Title Company); Coastal Permit No. 1-86-02 (Miller); Coastal Permit No. 1-88-176 (Humber); Management Plan for Gualala Bluff Trail.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed because the appellant has not raised any substantial issue with the local government's action and its consistency with either the certified LCP or the access policies of Chapter 3 of the Coastal Act.

John Bower, the owner of the northern of the two parcels affected by development of the proposed access trail improvements, APN 145-261-11, is appealing the portion of the access trail improvements approved by Mendocino County that are proposed to be located on APN 145-261-11. On this parcel is sited the Seacliff Inn, which contains 16 inn units on the bluff. First, the appellant contends that because the approved pathway will be located within 10-12 feet of the low-level windowsills in the eight ground-level ocean view lodging units, trail users "will be able to gaze directly into the units thereby destroying the privacy of the units and rendering them practically commercially useless." Second, the appellant contends that the proposed trail on his property is and always will be a "stub trail" to nowhere, as the easement terminates at the north line of his property with no prospect of an extension. He asserts that development of the trail to the south of his property rather than on his property would be more consistent with Coastal Act Section 30214(a)(4) and (b) and with Mendocino County LCP Policies 3.6-10 and 3.6-25 regarding management of public access areas. The appellant further questions whether the public's right of access can be balanced with his private rights in a way that adequately protects both.

The appellant appears primarily to be objecting to the presence of the lateral public access easement in front of his inn units, rather than to the trail improvements approved by the County. Offers to dedicate both vertical and lateral public access were recorded by Mr. Bower in 1977 to fulfill the conditions of a coastal permit granted to him for a land division of his property. Nine years after Mr. Bower recorded the offers to dedicate, Mr. Bower's lessee proposed to locate the inn units at their current location, immediately landward of the 25-foot bluff setback line.

Staff believes the issues of whether the easements should have been sited where they currently exist and whether requiring the offers to dedicate the easements at all was consistent with the Coastal Act were considered and resolved by the Commission at the time the permit for the land division was approved in 1977 with a condition requiring the offers to dedicate the easements.

**A-1-MEN-97-23**  
**REDWOOD COAST LAND CONSERVANCY**  
Page Three

In addition, the applicant for the current trail project, a private nonprofit group, has properly accepted the access easements for management and thus holds the necessary property rights to develop a trail consistent with the easements. The project as approved by the County is designed to minimize impacts to the Seacliff Inn by locating the trail as far away from the inn units within the lateral easement as safely possible, by limiting use of the trail to daylight hours, and by landscaping the trail to provide a privacy buffer. The County has further conditioned the permit to require additional landscaping, to narrow the trail where it passes in front of the inn units, and to sign the trail to request quiet near the inn units. Thus, the project as approved by the County does not raise a substantial issue with the requirements of the LCP and the Coastal Act regarding public access in that the public access trail has been sited and designed to minimize impacts to the adjacent inn.

The Motion to adopt the Staff Recommendation of No Substantial Issue is found on Page 4.

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STAFF NOTE:

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603.)

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission because the proposed public access trail improvements are located between the sea and the first public road paralleling the sea and within 300 feet of the top of the seaward face of a coastal bluff.

**A-1-MEN-97-23**

**REDWOOD COAST LAND CONSERVANCY**

Page Four

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. Since the staff is recommending No Substantial Issue, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission were to conduct a de novo hearing on the permit application, because the proposed development is between the first road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

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I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. Staff recommends a YES vote on the following motion:

MOTION:

I move that the Commission determine that Appeal No. A-1-MEN-97-23 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

To pass the motion, a majority of the Commissioners present is required. Approval of the motion means that the County permit action is final.

II. Findings and Declarations.

The Commission hereby finds and declares:

A. APPELLANT'S CONTENTIONS

The Commission received an appeal of Mendocino County's decision to approve the project from John Bower, the owner of the northern of the two parcels

affected by the project. The project as approved by the County consists of trail improvements within public access easements that have been accepted for management by the applicant, Redwood Coast Land Conservancy. The appellant raises the issue of consistency of the project with the County's LCP access policies, specifically LUP Policies 3.6-10 and 3.6-25, and with the Coastal Act's access policies, specifically Coastal Act Section 30214(a)(4) and (b). The appellant's contentions are summarized below, and the full text of the contentions are also included as Exhibit No. 14.

The appellant's contentions all involve public access, as described below.

1. Public Access.

a. Siting of Public Access Areas.

The appellant contends that the lateral access trail is simply an "out-and-back dead end with no vertical access back to any public road," and that development of the trail to the south of his property rather than on his property would be more consistent with Coastal Act Section 30214(a)(4) and (b) and with Mendocino County LCP Policies 3.6-10 and 3.6-25 regarding management of public access areas.

b. Design of Access Improvements.

The appellant states that the proposed trail improvements will destroy the privacy of the existing Seacliff Inn, which is located approximately 12 feet from the path approved by the County. He contends that trail users will be able to look directly into the windows of the eight ground-level units, rendering them practically commercially useless.

B. LOCAL GOVERNMENT ACTION

The project was approved by the Mendocino County Coastal Permit Administrator on February 27, 1997 with three special conditions (see Exhibits 11, 12, and 13). Special Condition No. 1 requires that prior to issuance of the coastal permit, the applicant shall submit a management plan that has been approved by the Coastal Commission staff, and which has been approved by the Director of Planning and Building Services. Special Condition No. 2 requires that fencing and trail improvements shall be set back a minimum distance of five feet from the bluff edge. Special Condition No. 3 requires that all landscaping be drought tolerant, native vegetation; that landscaping along the easterly side of the access trail also shall be low growing to provide a privacy barrier for adjacent development, while not obstructing existing coastal views from the development; and that a revised landscaping plan incorporating these provisions be submitted to the Coastal Permit Administrator for review and approval prior to issuance of the coastal development permit.

Mr. Bower appealed this approval to the Board of Supervisors. The Board denied the appeal, upholding the action of the Coastal Permit Administrator, but also added two additional Special Conditions to the permit (see Exhibits 9 and 10). The first new special condition requires that the trail behind the Seacliff units narrow in width so that it is just wide enough to accommodate a wheelchair. The second new special condition requires that signs be placed behind the Seacliff Inn units advising pedestrians to be quiet when in that area. The County further found that the project meets the provisions of a Class 4 categorical exemption from CEQA. Notice of the County's final action was received by the Coastal Commission on March 25, 1997, and the project was then appealed to the Coastal Commission in a timely manner on April 8, 1997, within the 10-working day appeal period (see Exhibit No. 14).

C. PROJECT SETTING, DESCRIPTION, AND HISTORY.

1. Project and Site Description.

The subject site consists of two blufftop parcels overlooking the Gualala River, within the town of Gualala. APN 145-261-11, the northerly of the adjacent two parcels, is owned by the appellant, Mr. Bower, and contains the Seacliff Inn, whose construction was approved by the Commission in 1986 (CDP 1-86-02). APN 145-261-12, owned by Baxter, contains the Surf Motel. The appellant is appealing development only on APN 145-26-11, site of the Seacliff Inn.

The project as approved by the County consists of the development of public access trail improvements consisting of (1) constructing a five-foot-wide, 300-foot-long vertical access trail (footpath) from Highway One to the blufftop, with an all-weather surface of crushed shale, through the Surf Motel parking lot; (2) constructing an approximately 500-foot-long, three- to five-foot-wide lateral access trail, also of crushed shale, along the bluff from the Seacliff Center to the south side of the Surf Motel; (3) installing barrier fencing; (4) constructing a viewpoint; (5) placing benches; (6) landscaping and berming the trail; and (7) placing directional and information signs, including a 36" X 24" redwood directional sign on Highway One to identify the vertical access trail, an informational sign at the viewing platform, and signs advising pedestrians to maintain quiet.

The trail is located within a public access easement offered and recorded by John Bower in 1977 as a condition of permit approval of a land division (see Exhibit No. 15), and recently accepted for management by the current applicant, Redwood Coast Land Conservancy. The Redwood Coast Land Conservancy accepted for management access easements on Mr. Bower's property, required to be offered pursuant to Coastal Permit NCR-77-C-115, as well as easements on the property of Redwood Empire Title Company (required by 80-P-75) and Lena

Humber (1-88-176). The proposed project is Phase I of a two-phase trail improvement program, resulting in development of the vertical easement to provide access from Highway One to the bluff, and the development of the northern portion of the lateral access easement, across Mr. Bower's property (APN 145-261-11), which contains the Seacliff Inn, and the adjacent parcel, owned by Baxter (APN 145-261-11), which contains the Surf Motel. The five-foot-wide vertical access trail crosses through the parking lot of the Surf Motel, extending from Highway One to the blufftop. The lateral blufftop footpath is five feet wide, narrowing to three feet wide where it passes behind the Seacliff Inn units, coming within approximately 12 feet of the inn units at its closest point, and within approximately 17 feet at its farthest point. The Seacliff Inn consists of 16 inn units located within four two-story structures along the blufftop (see Exhibit No. 3). The units have large windows and outdoor decks facing the easement area. The applicant has indicated that the southern portion of the lateral access easement area (the portion south of APN 145-261-12) will be developed at some future time (see Exhibit No. 4).

2. Project History.

In 1977 the Commission approved a land division of 4.5 acres into three lots of 1.9, 1.0 and 1.6 acres (Coastal Permit No. NCR-77-C-115, Bower; see Exhibit No. 15). The northernmost of the three lots is APN 145-261-11, now developed with the Seacliff Inn. The middle parcel is APN 145-261-12, developed with the Surf Motel. These two lots constitute the subject property on which the proposed trail improvements are to be constructed. As a condition of the 1977 land division, the Commission required recordation of an offer to dedicate a 25-foot-wide lateral blufftop access easement and a five-foot-wide vertical access easement from Highway One to the mean high water line of the Gualala River, to be accepted for management by a public agency or private association. The applicant, Mr. Bower, recorded these offers to dedicate in 1977. The coastal permit for the land division was subsequently issued.

In 1986, Bud Miller applied for a coastal development permit for the construction of a 32-unit motel, 80-seat restaurant and cocktail lounge, and a septic system on APN 145-26-11, which he was then leasing from the landowner, John Bower. The Commission approved the project with several special conditions (CDP 1-86-02, Miller). The permit was amended seven times, and in about 1988, 16 inn units were constructed on the blufftop, within a foot or so of the existing recorded offer to dedicate a lateral public access easement. At the time CDP 1-86-02 was approved, the Commission did not attach any additional special conditions regarding public access to the permit, finding that the existing recorded offers adequately addressed the issue of providing public access.

It was thus nine years after the offers to dedicate lateral and vertical public access easements were recorded by Mr. Bower against his property that the Seacliff Inn was constructed in close proximity to the existing recorded offer on the blufftop. It should be noted that Mr. Bower was the property owner at the time the inn units were constructed, although the property was leased to Bud Miller. Mr. Miller no longer has a lease on the property, and Mr. Bower owns and operates the Seacliff Inn.

Recently the Redwood Coast Land Conservancy, a private nonprofit group operating out of Gualala, accepted for management several easements offered for public access as a result of coastal permit conditions on several adjacent blufftop parcels along the Gualala River, including the easement located on the appellant's property. In 1994, the Redwood Coast Land Conservancy submitted to the Commission a Management Plan for the Gualala Bluff Trail; the plan was subsequently approved. In 1996, the Redwood Coast Land Conservancy submitted to the County its coastal development permit application for the various accessway improvements along the vertical easement and the northern portion of the lateral easement described previously.

**D. SUBSTANTIAL ISSUE ANALYSIS.**

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

The contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP or with the public access policies of the Coastal Act. However, the Commission finds that these contentions do not raise a substantial issue.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

"With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603."

As discussed above, the grounds identified in section 30603 for an appeal of a local government action are limited to whether the action taken by the local government conforms to the standards in the LCP and the public access policies found in the Coastal Act. The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission



will hear an appeal unless it "finds that the appeal raises no significant question." (Cal.Code Regs., tit. 14, section 13115(b).) Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents no substantial issue.

1. Public Access.

a. Siting of the Public Access Areas. The appellant contends that the proposed project, as approved by the County, is not consistent with County LUP Policies 3.6-10 and 3.6-25, and with Coastal Act Section 30214(a)(4). He contends that the proposed trail on his property "is and always will be a 'stub trail' to nowhere." He asserts that the easement terminates at the north line of his property at the edge of an older residential area with no prospect of an extension. To the south, however, the easement extends for several hundred feet along the blufftop with the possibility of additional extension. He states that the proposed trail upon his property is simply and out-and-back dead end with no vertical access back to any public road.

The appellant believes that the proposed trail improvements should be relocated to the portion of the easement that is located to the south of his property. He states that development of the trail to the south of the vertical access point would provide the very same blufftop view sites as would the portion of the trail on his property but would avoid any substantial adverse impact on the rights of property owners. He asserts that development of the trail to the south of his property would be "more consistent with Public Resources Code Section 30214(a)(4) and (b) and Mendocino County LCP Plan Policies 3.6-10 and 3.6-25, which generally require an equitable balance between the public right of access and private property rights and the management of access areas so as to protect the privacy of adjacent property owners."

The appellant states that the primary issue on appeal is "whether the public's right of access can be balanced with the private rights of Bower to adequately protect both."

b. Design of the Access Improvements. The appellant asserts that as the proposed trail will be located within 10-12 feet of the view windows in the eight ground level, ocean view lodging units in the Seacliff Inn, and that due to the low level windowsills and the proximity of the

**A-1-MEN-97-23**  
**REDWOOD COAST LAND CONSERVANCY**  
Page Ten

proposed path, trail users will be able to gaze directly into the units thereby destroying the privacy of the units and rendering them practically commercially useless.

Discussion:

LUP Policy 3.6-10 states:

All accessways shall be located and designed to minimize the loss of privacy and other adverse impacts on adjacent residences and other land uses.

LUP Policy 3.6-25 states:

Public access policies shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- topographic and geologic site characteristics;
- capacity of the site to sustain use and at what level of intensity;
- fragility of natural resource areas and proximity to residential uses;
- need to provide for management of the access;
- balance between the rights of individual property owners and the public's constitutional rights of access.

Coastal Act Section 30214(a)(4) and (b) states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right

of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

The appellant believes the proposed project, as approved and conditioned by the County, is not consistent with the above LCP and Coastal Act policies. However, an examination of the facts reveals that the proposed project has been carefully sited and designed in a manner that does not raise a substantial issue of conformance with these policies, or any other access policies contained in the County's certified LCP and in the Coastal Act.

a. Siting of the Public Access Areas.

The appellant's primary objection is that the lateral access easement which was required to be offered on his property 20 years ago as a condition of permit approval for a land division is so close to the inn units. However, the inn units were built on the site nine years after the offer to dedicate the lateral access easement was recorded, with the owner's knowledge that the units were being constructed within a foot or so of the lateral access easement area. Now that the offer has been accepted for management and will be used by the public, the appellant is concerned with the inn units' proximity to the approved footpath. Since the appellant, as landowner, knew that the lateral access easement was located so close to the inn units at the time the inn was constructed, it seems that were this a concern, the units could have been constructed farther away from the easement the appellant had already recorded, rather than constructing them so close to the easement and then, 11 years later, asserting that this proximity renders them "practically commercially useless."

The appellant cites LUP Policy 3.6-25, which concerns the implementation of public access policies. The appellant's dispute about the trail improvements appears to have more to do with his objection to the actual requirement in 1977 for him to record an offer to dedicate a public access easement rather than with the local government action. For example, he states that "the public need for access and blufftop view sites can be provided on the southerly segment of the easement thereby protecting the privacy of adjacent property owners." However, the need for public access at the subject site was determined at the land division stage, 20 years ago, when Mr. Bower obtained his coastal permit, and is not the subject of the current coastal permit approved by the County. Mr. Bower recorded offers to dedicate public access easements as a condition of permit approval in 1977, and enjoyed the benefit of his coastal permit. These easements were included on the County's certified Land Use Maps (see Exhibit No. 16). Now that a nonprofit group has accepted for management the easements recorded 20 years ago and wants to develop them for public use, the appellant is raising objections regarding the

existence of the public accessway, which is not germane to the local government action he is appealing. The action now being appealed is for physical improvements to an already existing public accessway that has been legally accepted for management.

Another point raised by the appellant is that the proposed trail on his property is a "stub trail" to nowhere, an "out-and-back dead end with no vertical access back to any public road." Mr. Bower suggests that it would be more consistent with the public access policies of the LCP and the Coastal Act if the access trail were developed on property to the south of his parcels, where the easement accepted for management by the Redwood Coast Land Conservancy extends for several hundred feet along the blufftop. He states that the very same blufftop view sites would be available on the southern portion of the trail as are available on the portion of the trail on his property. In fact, the trail on Mr. Bower's property is accessible by the vertical trail through the Surf Motel parking lot that is also proposed to be developed by the applicant, and the Redwood Coast Land Conservancy does intend to develop the southern portion of the access easement at some future date in addition to developing the northern portion which crosses the appellant's property, so that there will be a blufftop trail that extends for several hundred feet along the bluff, accessible by a developed vertical access trail (see Exhibit No. 4). Additionally, the views from the appellant's property are not the same views as those available to the south; the appellant's site provides unique, spectacular views of the mouth of the Gualala River, particularly from the viewing area at the northern end of the property.

The appellant further states that "the location of the trail improvements upon the Bower property while a better, alternative site is available, unreasonably favors the public's right of access over individual property rights." What the appellant refers to as a "better, alternative site" is in fact not an alternative site but a site which the Redwood Coast Land Conservancy fully intends to develop in addition to, not instead of, the site on Mr. Bower's property. The intent is to create an alternative route for pedestrians to use to walk along the commercial strip on the west side of Highway One, rather than using Highway One. Eventually the blufftop trail will extend along the entire length of the commercial strip west of Highway One (see Exhibit No. 4).

The accessway located on the appellant's property is designated for public access on the County's certified LUP map (see Exhibit No. 16). Further, there are a number of LCP policies that support the development of public access on the subject property. LUP Policy 3.6-5 discusses the use of nonprofit land trusts to obtain public access on private property. LUP Policy 3.6-22 states that in carrying out the coastal access policies of the Coastal Element, the county or other appropriate designated management agency shall consider and encourage the utilization of innovative access management techniques including

agreements with private organizations which would minimize management costs and encourage the use of volunteer programs. LUP Policy 4-12.13 specifically states that the offer of access by Bower shall be accepted, to provide the potential for completion of a public trail from Central Gualala to the Gualala bridge, and that offers to dedicate easements for public access shall be obtained for those areas shown on the Land Use Plan Maps consistent with Policy 3.6-5. In addition, the draft Gualala Town Plan, currently being processed by the County and not yet part of the certified LCP, includes policies regarding establishment of the Gualala Bluff Trail to be developed within the 25-foot-wide public access easements located along the bluff edge west of Highway One. The plan requires additional offers to dedicate easements for public access to be obtained on blufftop property to provide for the completion of the Gualala Bluff Trail, and encourages public acquisition of the remaining undeveloped blufftop property to provide for additional public access and recreational opportunities, including extension of the Gualala Bluff Trail.

b. Design of the Access Improvements.

In his assertion that the accessway improvements are not consistent with the County's LCP, the appellant cites LUP Policy 3.6-10, which states that all accessways shall be located and designed to minimize the loss of privacy and other adverse impacts on adjacent residences and other land uses. He also cites Coastal Act Section 30214(a)(4), which states that public access policies shall be implemented in a manner that takes into account the need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter. He states that the access trail is located so close to his inn units that it will destroy the privacy of the units.

It should be noted that although the lateral access easement that passes behind the inn units is 25 feet in width, the trail will be only three to five feet wide. The applicant, the Redwood Coast Land Conservancy, sited and designed the trail improvements such that the trail is sited within the easement the maximum safe distance possible from the inn units to protect the privacy of the inn units. In addition, the project includes landscaping and berming that will separate and partially screen the trail from the inn units. And, further, use of the trail is limited to daylight hours, to minimize impacts on the inn. Finally, the applicant's management plan provides for maintenance of the trail including litter pick-up and repairs. The County Coastal Permit Administrator attached special conditions requiring additional landscaping to maximize privacy for the inn units, and the County Board of Supervisors attached two additional special conditions requiring the portion of the trail located behind the inn units to narrow in width so that it is just wide enough to accommodate a wheelchair, and requiring signs to be placed

behind the inn units advising pedestrians to be quiet when in that area, consistent with LUP Policy 3.6-10 and with Coastal Act Section 30214(a)(4) and (b).

Conclusion.

The Commission finds that the access trail improvements approved by the County will be sited and designed to minimize impacts on the privacy of users of the adjacent inn units. The development approved by the County includes only minor alterations to land in an existing accessway; the proposed improvements consist simply of a narrow crushed shale footpath, benches, fencing, landscaping, and signs. The appeal does not concern the project's adverse impact on coastal resources, but, rather, concerns the appellant's objection to a condition placed on his permit 20 years ago which provides for public access. The appeal involves a concern with the design of a particular pathway and its proximity to a particular visitor-serving facility, and raises only issues of local concern with limited precedential value. Therefore, the Commission finds that the appeal raises no substantial issue with respect to conformance of the approved project with either the access policies of the LCP or the Coastal Act.

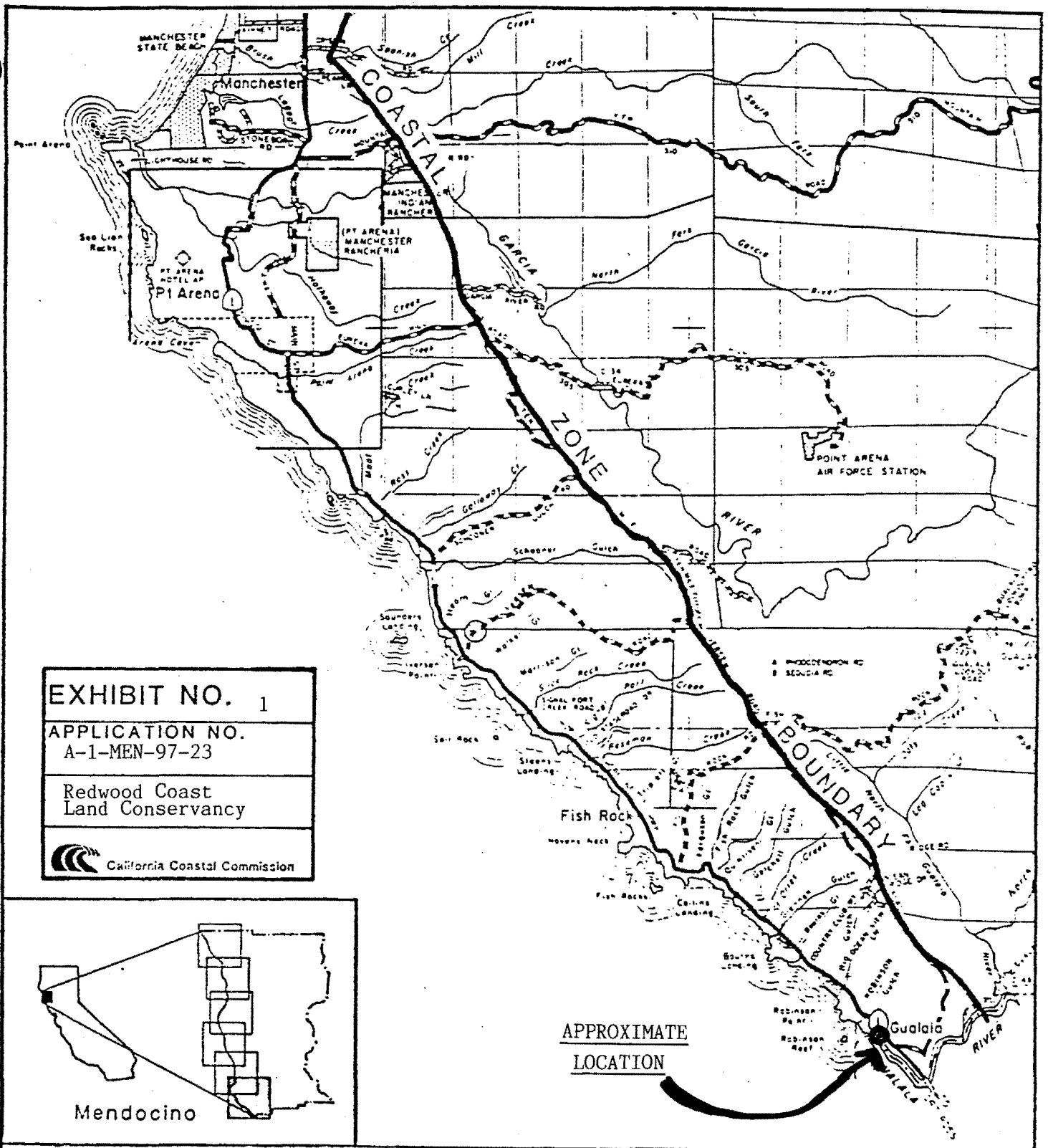
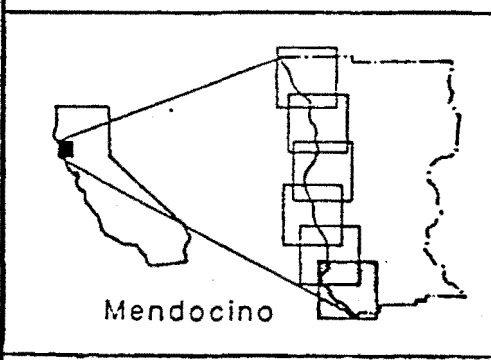


EXHIBIT NO. 1  
 APPLICATION NO.  
 A-1-MEN-97-23  
 Redwood Coast  
 Land Conservancy  
 California Coastal Commission



APPROXIMATE  
 LOCATION

California Coastal Commission

LOCATION MAP



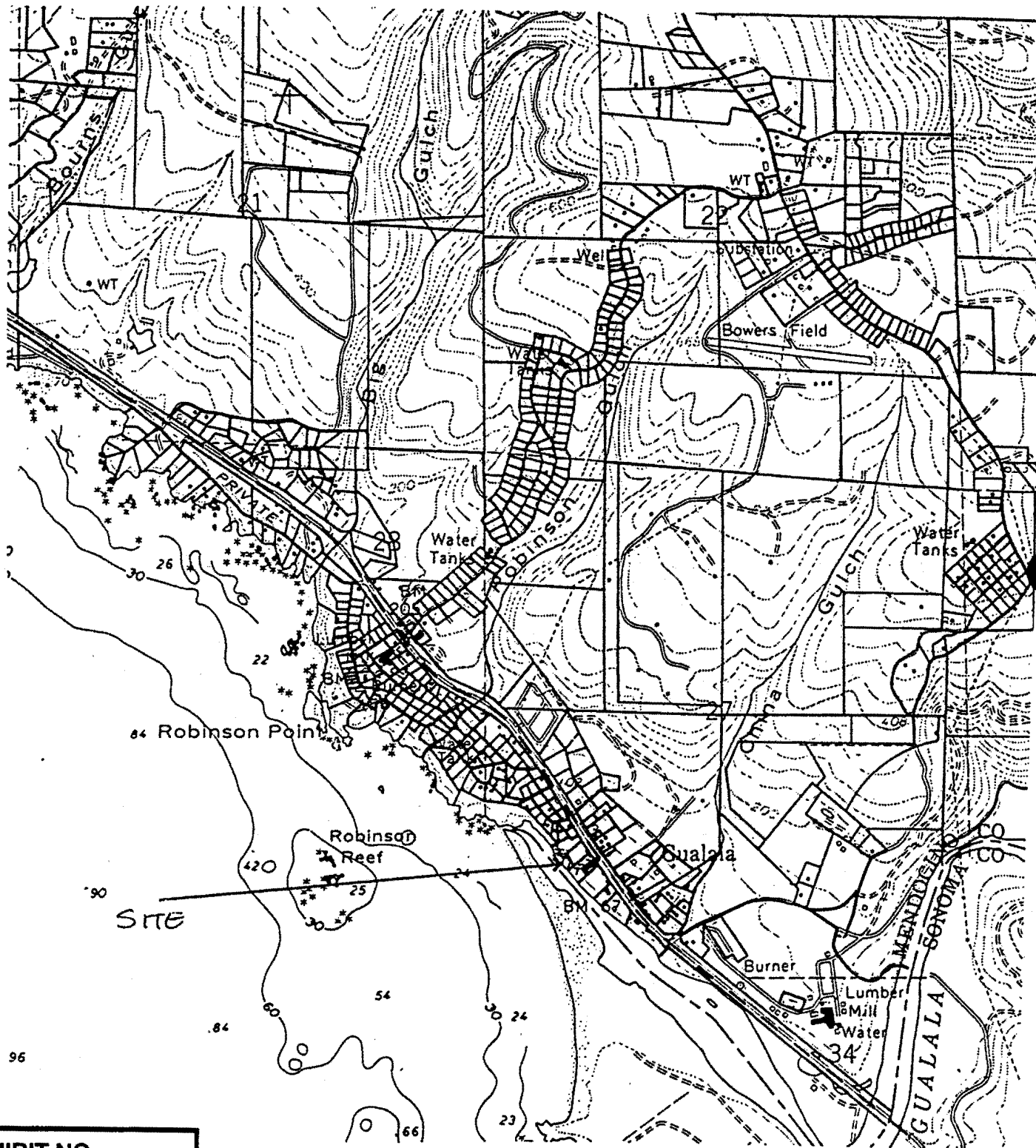


EXHIBIT NO.	2
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Vicinity Map	

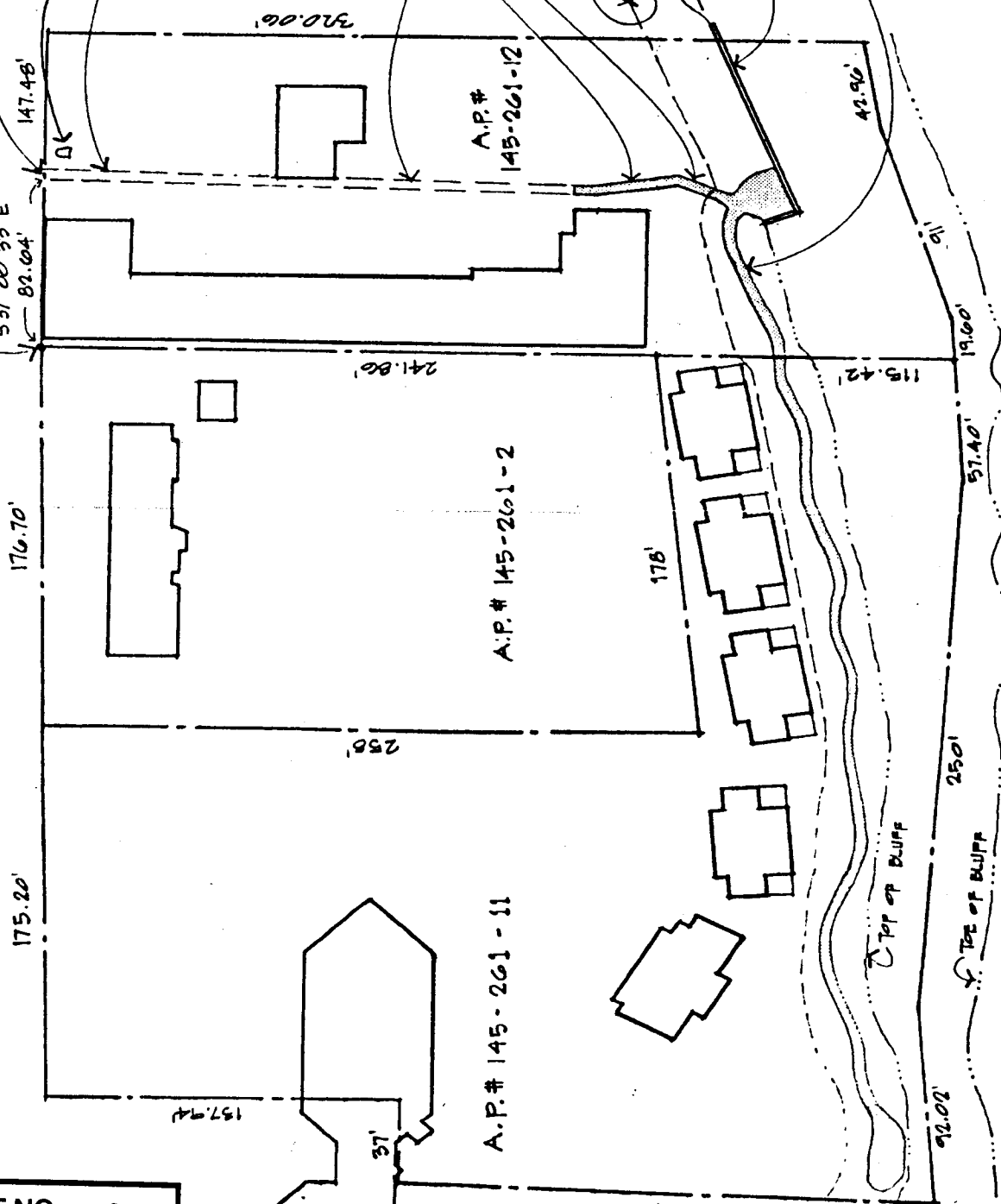
LOCATION MAP



EXHIBIT NO.	3
APPLICATION NO.	A-1-MEN-97-23
	Redwood Coast Land Conservancy
	Site Plan

HIGHWAY ONE

CORNER OF PROPERTY DESCRIBED IN BOOK 172, PAGE 54 OF MENDOCINO COUNTY RECORDS  
POINT OF BEGINNING OF BASEMENT DESCRIPTION  
COASTAL ACCESS SIGN  
5' WIDE BASEMENT ACROSS EXISTING ASPHALT PAVING

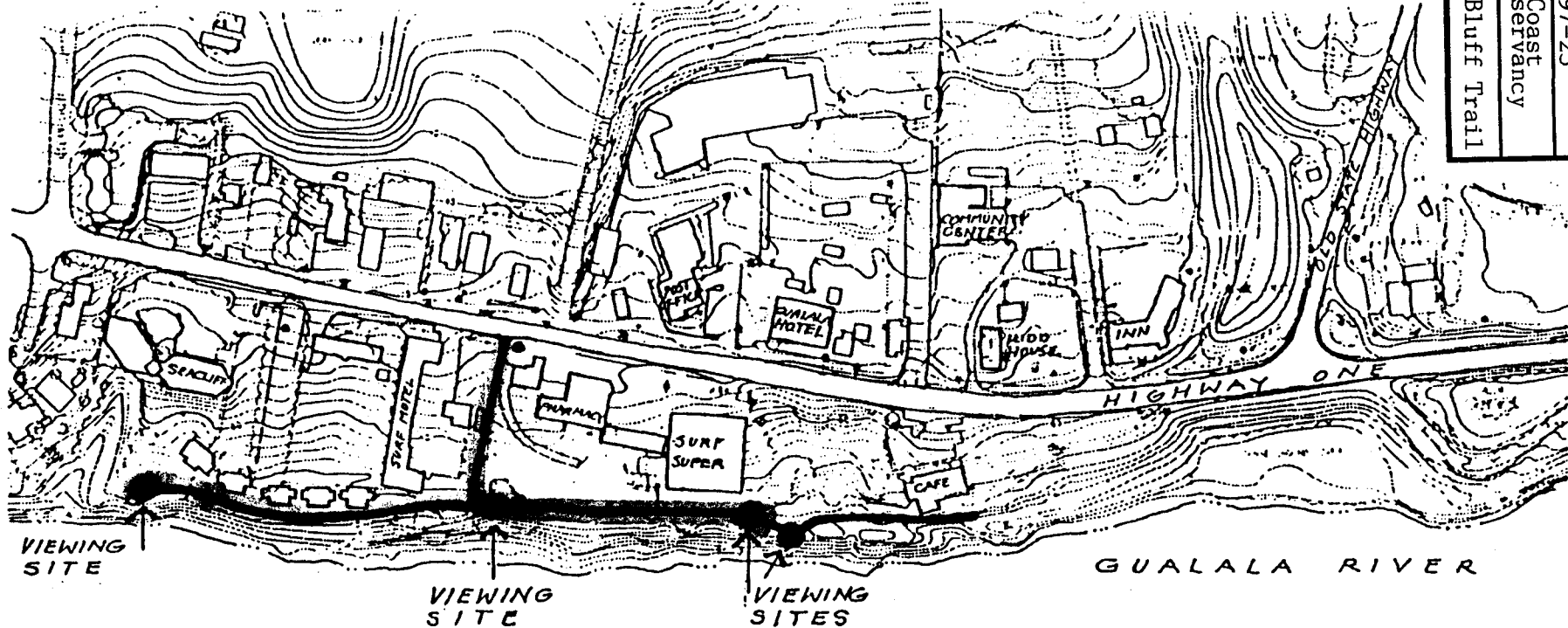


PLOT PLAN  
1" = 50'-0"


GUALALA RIVER

GUALALA BLUFF TRAIL - REDWOOD COAST LAND CONSERVANCY - GUALALA





EXHIBIT NO.	4
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Gualala Bluff Trail	



# GUALALA BLUFF TRAIL

North 

KEY

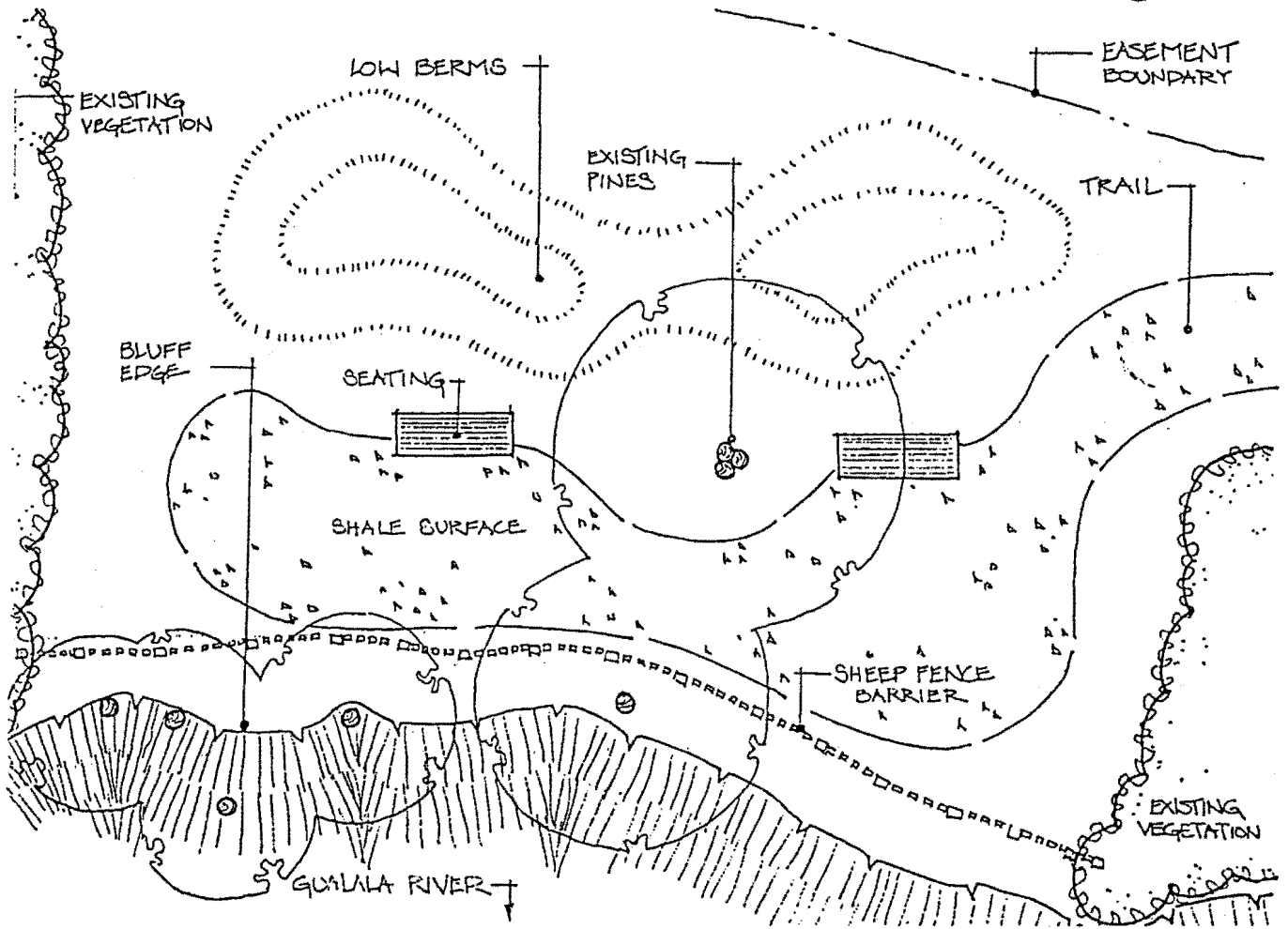
- Coastal Access Sign 
- First Stage 
- Second Stage 
- Third Stage 

REDWOOD COAST LAND CONSERVANCY

P. O. Box 1511 Gualala CA 95445-1511

# NORTH VIEW SITE

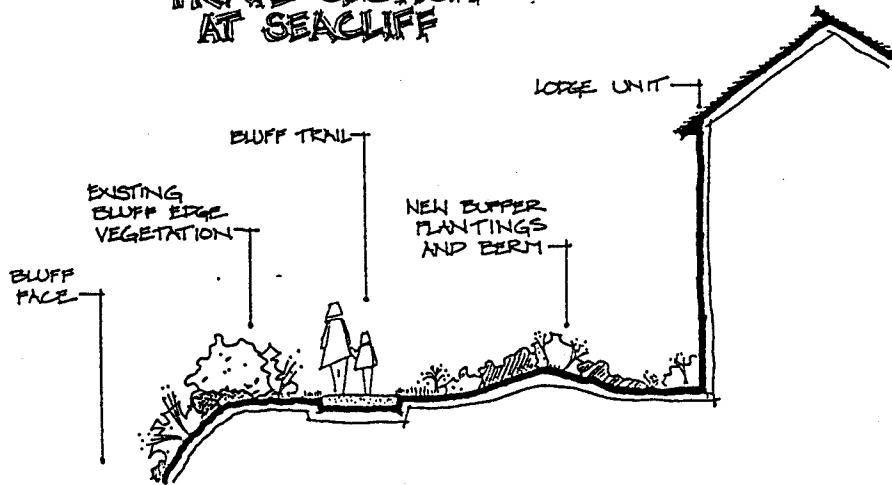
SCALE 1/4" = 1'



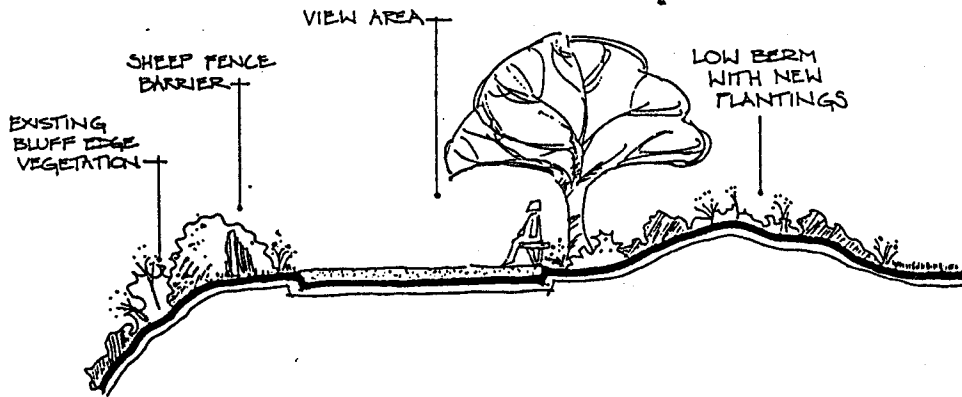
<b>EXHIBIT NO.</b> 5
<b>APPLICATION NO.</b> A-1-MEN-97-23
Redwood Coast Land Conservancy
North View Site

NORTH VIEW SITE

# TRAIL SECTION AT SEACLIFF

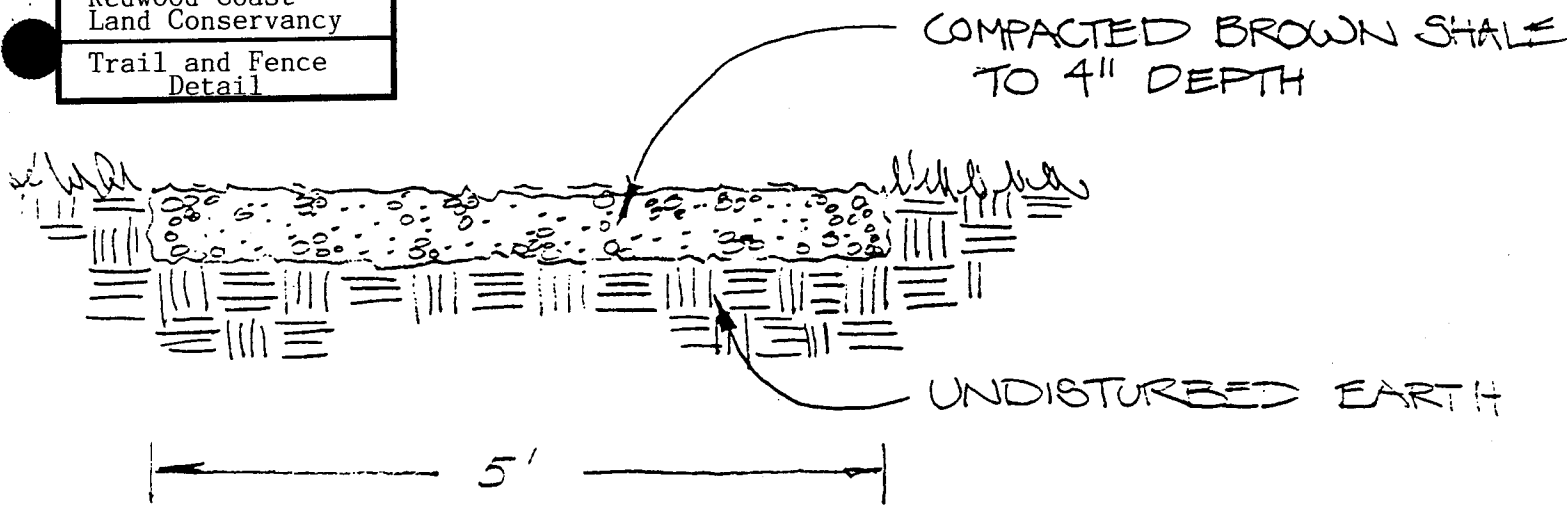


# SECTION OF NORTH VIEW SITE

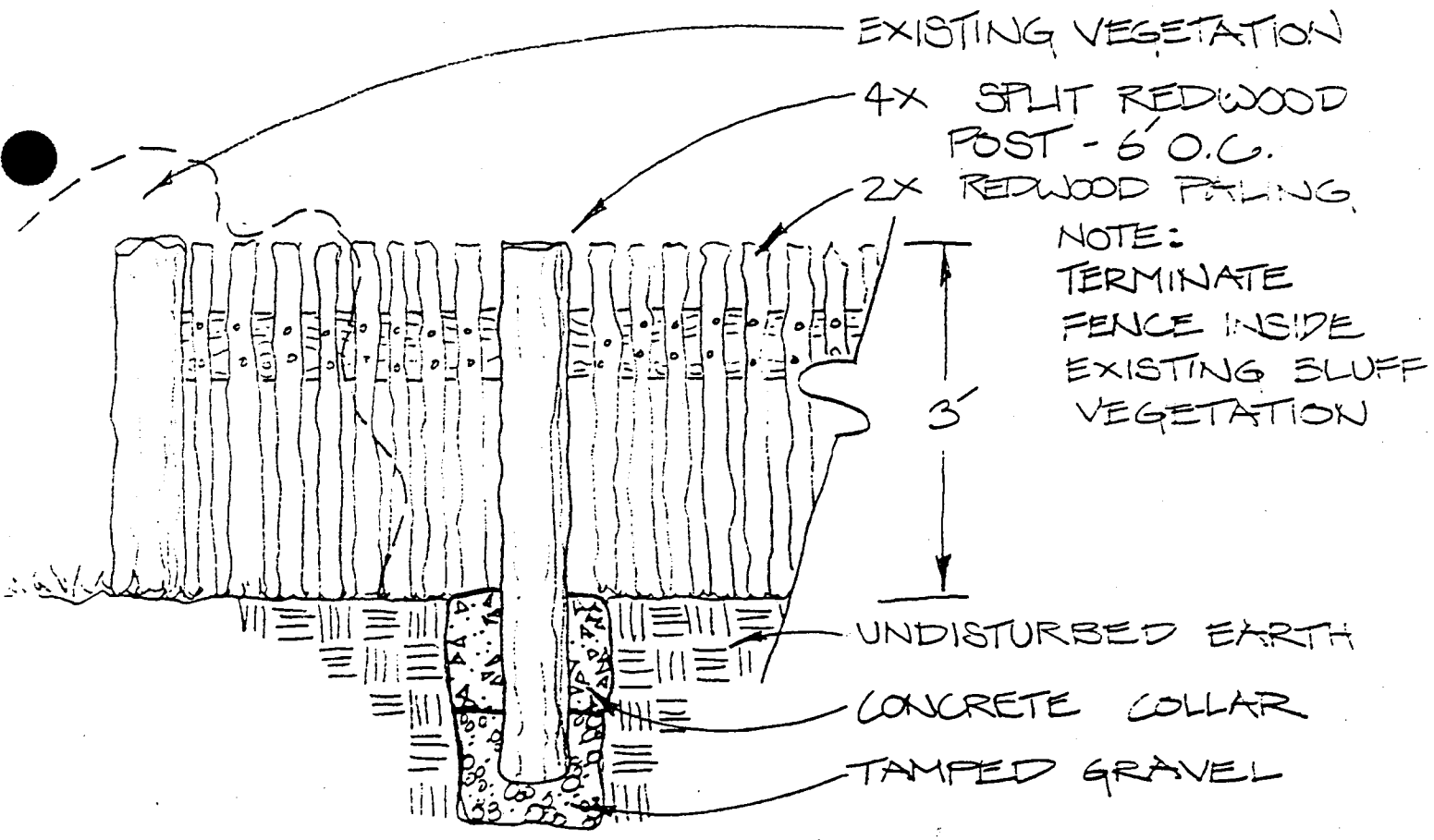


<b>EXHIBIT NO.</b>	6
<b>APPLICATION NO.</b>	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Trail Sections	

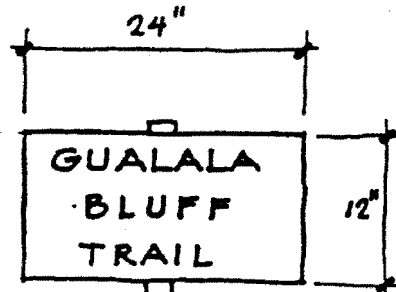
EXHIBIT NO.	7
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Trail and Fence Detail	



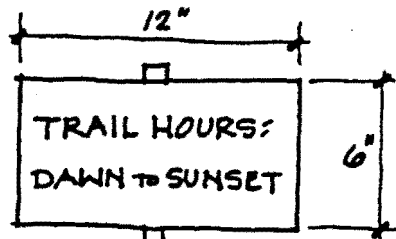
TYPICAL TRAIL SURFACE DETAIL - N.T.S.



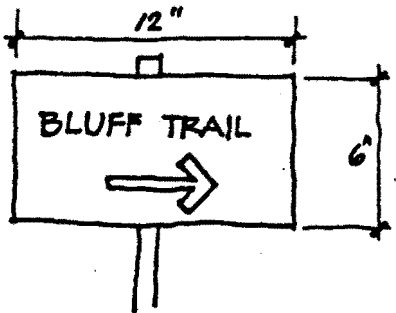
TYPICAL SHEEP FENCE DETAIL - N.T.S.



ONE SIGN @  
HIGHWAY ONE  
LATERAL ACCESS



TWO SIGNS,  
ONE AT EACH  
LODGING  
FENCE LINE



ONE SIGN @  
SURF MOTEL  
VIEW POINT



STENCIL ON  
PAVING @  
25' INTERVALS  
THROUGH SURF  
MOTEL PARKING

## SIGNAGE

NATURAL REDWOOD 1x BOARDS  
WITH ROUTED LETTERS PAINTED WHITE  
ON 2x2 REDWOOD POST APPROX.  
3' HEIGHT. FROM GRADE.

EXHIBIT NO. 8
APPLICATION NO. A-1-MEN-97-23
Redwood Coast Land Conservancy
Signage

**BOARD OF SUPERVISORS  
ACTION AGENDA SUMMARY - PLANNING MATTERS**

**TO:** BOARD OF SUPERVISORS

**DATE SUBMITTED:** 3/14/97

**FROM:** PLANNING & BUILDING SERVICES

**REPLY NECESSARY:** YES  NO

**INFORMATION ONLY:** YES  NO

**AGENDA DATE:** March 24, 1997

**AGENDA #:** \_\_\_\_\_

**AGENDA TITLE:** CDP 22-96 - Redwood Coast Land Conservancy

**BRIEF SUMMARY:** An appeal has been filed to the approval of CDP 22-96. The project is the physical construction of Phase I of the Gualala blufftop trail, a pedestrian accessway in the town of Gualala. The appellant owns the property on which the easement is located.

**PREVIOUS ACTION:** The Coastal Permit Administrator on February 27, 1997, approved CDP 22-96.

**STAFF RECOMMENDATION:** That the Board of Supervisors uphold the action of the Coastal Permit Administrator thereby denying the appeal and allowing the approval of CDP 22-96 to stand.

**RECOMMENDED MOTION:** The Board of Supervisors hereby upholds the action of the Coastal Permit Administrator, denies the appeal and thereby allows to stand the approval of CDP 22-96 subject to the conditions established at the February 27 hearing.

**ALTERNATIVE MOTION:** The Board of Supervisors overturns the action of the Coastal Permit Administrator, approves the appeal and thereby denies CDP 22-96.

**RESOURCE PERSON:** Falleri  TO BE PRESENT  ON CALL PHONE EXT: 4281

**BOARD ACTION** \_\_\_\_\_ **DATE OF ACTION** \_\_\_\_\_

- 1)  Approved  Approved as Revised
- 2)  Denied
- 3)  Referred to \_\_\_\_\_ Committee; Calendared for Board Agenda \_\_\_\_\_
- 4)  Referred to Dept. for additional info. CAO to clarify by memo \_\_\_\_\_
- 5)  Other \_\_\_\_\_

<b>EXHIBIT NO.</b> 9
<b>APPLICATION NO.</b> A-1-MEN-97-23
Redwood Coast Land Conservancy
Mend.Co. Board Action Summary

2/3501

8. #CDP 22-96 RI WOOD COAST LAND CONSERVANCY DISTRICT  
BOWER (APPELLANT) - APPEAL

LOCATION: W of Hwy One, along the ocean bluff at 39170 S Hwy One, Gualala;  
APN's 145-261-11 and 145-261-12. REQUEST: Installation of a public access trail  
consisting of a 300' vertical access from Hwy One to the blufftop, and approx 500'  
lateral access along the bluff; installation of fencing, placement of benches for a view  
area and placement of directional signs.

Planning and Building Services Director Ray Hall presented the staff report and briefly  
reviewed the action taken by the Coastal Permit Administrator on February 27, 1997.  
Correspondence was routed to the Board.

BOARD OF SUPERVISORS PLANNING MATTERS - MARCH 24, 1997 Page 128

Richard Henderson, attorney for the appellant, stated that his client is objecting to a  
portion of the trail that interferes with his property. Mr. Henderson reviewed taking  
issues as they relate to the Nolan and Dolan cases.

Shirley Eberly, owner, gave a history of the trail and its purpose. Doug Hammerstrom,  
owner, discussed the access and answered questions of the Board.

THE PUBLIC HEARING WAS OPENED and the following spoke: Jim McCummings and  
Rick Sanwerer. THE PUBLIC HEARING WAS CLOSED.

Rick Henderson and Doug Hammerstrom responded to comments of the public and  
made closing remarks.

Upon motion by Supervisor Campbell, seconded by Supervisor Shoemaker, and carried  
unanimously; IT IS ORDERED that the Board of Supervisors hereby upholds the action  
of the Coastal Development Permit Administrator, denies the appeal and thereby  
allows to stand the approval of CDP 22-96 subject to the conditions established at the  
February 27, 1997, hearing, with the following added Special Conditions:

- 3. Said walkway behind SeaCliff Inn units will narrow in width to accommodate  
a wheelchair; and
- 4. Signs shall be placed behind the SeaCliff Inn units advising pedestrians to be  
quiet when in that area.

THERE BEING NOTHING FURTHER TO COME BEFORE THE BOARD, THE MEETING  
ADJOURNED AT 2:38 P.M. TO CLOSED SESSION.

<b>EXHIBIT NO.</b> 10
<b>APPLICATION NO.</b> A-I-MEN-97-23
Redwood Coast Land Conservancy
Mend. Co. Board Minutes



COASTAL PERMIT ADMINISTRATOR ACTION SHEET

Case Number: CDP #22-96      Hearing Date: 2/27/97

Applicant: Redwood Coast Land Conservancy

ENVIRONMENTAL CONSIDERATIONS:

Categorically Exempt  
 Negative Declaration  
 EIR

ACTION:

Approved  
 Denied  
 Continued \_\_\_\_\_

FINDINGS:

Per staff report  
 Modifications and/or additions --

See memorandum dated 2/27/97

CONDITIONS:

Per staff report  
 Modifications and/or additions --

Per staff report; also amend Condition #2 to correct typographical error to read "trail" not "trial".

Add Special Condition #3 regarding landscaping contained in a memorandum dated 2/27/97 from Gary Berrigan to Raymond Hall.


  
Signed \_\_\_\_\_ Coastal Permit Administrator

EXHIBIT NO. 11
APPLICATION NO. A-I-MEN-97-23
Redwood Coast Land Conservancy
Mend.Co. CPA Action Sheet

MENDOCINO COUNTY

MEMORANDUM

DATE: 2/27/97

TO: Raymond Hall, Coastal Permit Administrator  
FROM: Gary Berrigan, Supervising Planner  
RE: Revised Findings and Recommended Landscaping Condition  
for CDP #22-96 (Redwood Coast Land Conservancy)

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.532 and 20.536 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project, and adopt the following findings and conditions:

FINDINGS:

- (1) The proposed development is in conformity with the certified Local Coastal Program in that the project opens a portion of the Gualala bluff area to public pedestrian access as required by Policies 3.6-9; 3.6-22; 3.6-26; and 4.12-18 of the Coastal Element. As conditioned, the project would conform with Section 20.528.045 of the Coastal Zoning Code. As described in the file record, the project also conforms with Policy 3.6-14 of the Coastal Element regarding geologic and blufftop hazards issues.
- (2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities in that the vertical accessway abuts State Highway One and installation of improvements such as benches, fencing and landscaping will provide sufficient facilities for the nature of the use.
- (3) The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district in that the Commercial zoning district provides for a wide range of commercial and visitor serving use types, and the proposed development will serve existing users of the commercial district.
- (4) The proposed development would not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act if constructed in compliance with the conditions of approval. Adequate setbacks from the bluff top have been provided, and the project meets the provisions of a Class 4 categorical exemption from CEQA as provided by Section 15304 of the California Code of Regulations.
- (5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource in that the project consists of minor surface work, and it is conditioned to protect these resources by Standard Condition #8.
- (6) Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development. The project is designed to provide passive recreational use for existing visitors and residents to Gualala. It is not a destination type of proposal which would require special public support services beyond those that exist in the area or to the site.

EXHIBIT NO. 12

APPLICATION NO.

A-1-MEN-97-23

Redwood Coast  
Land Conservancy

Mend.Co. CDP #22-96  
Revised Findings

- (7) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.

Section 30212(a) of the Coastal Act requires that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects. The Coastal Commission granted a coastal development permit (NCR-77-C-115: Bower) for a minor land division, finding that the recordation of a vertical and lateral access easement would be required in order for the land division to meet the requirements of the public access policies of the Coastal Act. The easements were recorded and the land division was finalized. Subsequent development occurred on parcels which contained the access easements. Additional access easements were not required of these developments, including the Sea Cliff Inn, because the easements were recorded. The County's LCP was ultimately adopted, and it included these easements on the Land Use Maps, and included specific policies calling for the acceptance and opening of the accessways (Coastal Element Policies 3.6-9; 3.6-22; 3.6-26; 4.12-18). The project implements the public access provisions of the Coastal Act and the County's LCP. The project also fulfills the findings and conditions of approval of prior coastal development permits which authorized increased development of the project site, if public access was provided to and along the shoreline.

Recommended Special Condition #3:

3. All landscaping shall be drought tolerant, native vegetation. Landscaping along the easterly side of the access trail also shall be low growing. The purpose of the low growing, easterly landscaping shall be to provide a privacy barrier for adjacent development, but not to obstruct existing coastal views from the development. A revised landscaping plan shall be submitted to the Coastal Permit Administrator for review and approval prior to issuance of the coastal development permit.

EXHIBIT NO.	12
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Mend.Co. CDP #22-96 Revised Findings	

OWNER: Redwood Coast Land Conservancy  
PO Box 1511  
Gualala, CA 95445

REQUEST: Installation of a public access trail consisting of a 300 foot vertical access from Highway One to the blufftop, and an approximately 500 foot lateral access along the bluff; installation of fencing, placement of benches for a view area, and placement of directional signs.

LOCATION: W of Highway One along the ocean bluff at 39170 South Highway One, Gualala (APN's 145-261-11;-12)

APPEALABLE AREA: Yes

PERMIT TYPE: Standard

TOTAL ACREAGE: 15,000 +- square feet

ZONING: Commercial

ADJACENT ZONING: North: C  
East: C  
South: C  
West: OS

GENERAL PLAN: Commercial

EXISTING USES: Commercial

SURROUNDING LAND USES: Commercial

SUPERVISORIAL DISTRICT: 5

GOVT CODE 65950 DATE: August 9, 1997

ENVIRONMENTAL DETERMINATION: Categorically exempt, Class 4

OTHER RELATED APPLICATIONS: NCR-77-C-115 for a minor land division required the applicant to offer for dedication both a vertical and lateral public access easement.

**PROJECT DESCRIPTION:** The Redwood Coast Land Conservancy, a local non-profit organization, has accepted lateral and vertical public access easements along the bluffs in the commercial area of Gualala. The Conservancy, with this application, proposes to open and improve Phase I of a three phase trail improvement program.

The Phase I portion of the trail includes placement of approximately 500 feet of trail surface, construction of a viewpoint, landscaping, barrier fencing, benches, designation of the vertical access from Highway 1, and installation of signs. Approximately 200 feet of the vertical trail is presently asphalt, and extends through an existing parking lot. The new trail will be a footpath with an all-weather surface of crushed shale. The trail will be no wider than five feet to allow two persons to walk side by side, and will be for pedestrians only. It will not accommodate bicycles, skateboards, roller blades, et. According to the applicant, a similar trail surface has worked well in the The Sea Ranch for persons in wheel chairs and persons who have difficulty walking.

The trail location has been designed to maximize the privacy of users of the adjacent Seacliff Inn. (The Seacliff Inn was permitted and constructed approximately seven years after the easements were recorded.) The trail will

be located in the portion of the easement farthest from the buildings and will be screened from the buildings with landscaping. In addition, the trail will be closed from dusk to dawn.

**LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION:** The proposed project is consistent with the applicable goals and policies of the Local Coastal Program as described below.

**Public Access:** The proposed improvements would open a portion of the Gualala bluff area to public pedestrian access. Phase I of the proposed trail is identified on the County Land Use Maps, and Policy 3.6-9 of the Coastal Element requires access easements for all areas designated on the land use maps. The Phase I vertical and lateral access trails were required by the Coastal Commission when it approved a minor subdivision (NCR-77-C-115: Bower). Policy 4.12-18 of the Coastal Element states that the "Offer of access by Bower shall be accepted; to provide the potential for completion of a public trail from Central Gualala to Gualala Bridge...[sic]"

Policy 3.6-22 of the Coastal Element provides:

"In carrying out the coastal access policies of this Coastal Element, the county or other appropriate designated management agency shall consider and encourage the utilization of innovative access management techniques including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs."

Opening the accessway by a local non-profit would be consistent with these policies of the Coastal Element, and would achieve their implementation.

Policy 3.6-26 of the Coastal Element provides that:

"Prior to the opening, advertising or use of any accessway, the responsible individuals or agency shall prepare a management plan for that accessway, which is acceptable to the County of Mendocino, sufficient to protect the natural resources and maintain the property."

Section 20.528.045 of the Coastal Zoning Code provides that:

"No accessway shall be opened for public use until an Accessway Management Plan has been prepared by the managing agency and accepted by the Director. At a minimum, the Plan shall:

- (A) Provide for a design which avoids or mitigates any public safety hazards and any adverse impacts on agricultural operations or identified coastal resources;
- (B) Set forth the agency(ies) responsible for operating, maintaining and assuming liability for the accessway;
- (C) Set forth any other known provisions such as facilities to be provided, signing, use restrictions and special design and monitoring requirements; and
- (D) Set forth provisions for protecting the accessway from vandalism and/or improper use (e.g. guarded gate, security patrol, hours of operation or period/seasons of closure and fees, if any)."

The applicant prepared and submitted an Accessway Management Plan to the Planning Director, and it is being reviewed. The Coastal Commission staff has stated that the Management Plan submitted to the County differs from the Plan approved by the Commission, and that the Conservancy needs to amend the approved Plan. Special Condition #1 will require that the Management Plan be approved by the Coastal Commission and Planning Director prior to issuance of the coastal permit.

EXHIBIT NO. 13
APPLICATION NO. A-1-MEN-97-23
Redwood Coast Land Conservancy
Mend.Co. CDP #22-96 Staff Report

EXHIBIT NO. 13

APPLICATION NO.

A-1-MEN-97-23

Redwood Coast  
Land Conservancy

Mend. Co. CDP #22-96  
Staff Report

F REPORT FOR COASTAL DEVELOPMENT  
HARD PERMIT

CDP #22-96  
February 27, 1997  
CPA-3

Policy 3.6-14 states, in relevant part, that:

"...All accessways shall be designed and constructed to safety standards adequate for their intended use. Hazardous blufftops shall be marked or, if lateral access use is intended, shall have a cable or other clear barrier marking the trail or limit of safe approach to the bluff edge..."

The site and proposed improvements were reviewed by Moffatt and Nichol Engineers. The review by the consulting engineer stated that:

"The Phase I site is relatively flat and open, without significant design challenges observed.

"Surface grades in the Phase I area indicate runoff is generally toward the bluff. In the northern portion, the grade also slopes slightly toward the north, where a natural drainage swale exists. In the southern portion, the grade slopes toward the south. The existing grades are relatively flat in the trail easement, with a slight adverse grade (away from the bluff edge) immediately adjacent to the bluff. Some ponding of runoff probably occurs. The proposed trail will consist of compacted shale flush with existing grade, and be set back from the bluff edge. The trail is therefore not expected to affect site drainage significantly.

"The bluff is about 50 feet above the east bank of the Gualala River, which flows north behind a beach berm forming the west bank. The bluff is probably subject to erosion during high river flows, and waves impacting the base during storms and large swells. Surface and ground water drainage may also cause erosion. In the absence of other data or study, it is therefore assumed that the bluff will erode in the future, resulting in a landward migration of the crest. A trail flush with existing grade and set back from the bluff edge is not expected to affect the erosion process. The roots of existing vegetation probably mitigate the rate of erosion caused by drainage, wind, etc. Landscaping should be designed to mitigate erosion and not accelerate it. For example, any irrigation should be minimized, and a low volume drip system is preferable to higher volume methods. Fence posts and benches should be set back from the bluff edge, and installed without causing cracking of the soil. A minimum set back distance of five (5) feet from the bluff edge is recommended for fences and the trail.

"Signs of recent bluff erosion were observed at the north end, where a group of small trees exist, and a view site is proposed. Some recently cut vegetation was observed on the bluff face, which may have contributed to the accelerated erosion in this area. A fence will be constructed between the view site and the bluff, with benches set back from the bluff edge. Assuming that the fence installation does not adversely affect soils, that vegetation is maintained or enhanced along the bluff edge for erosion control, and that irrigation is controlled, it is unlikely that trail and view site construction would accelerate bluff erosion in the area."

Consistent with Policy 3.6-14, the proposed fencing will provide an adequate safety barrier, and the proposed improvements will be set back a sufficient distance to assure bluff top stability as required by Coastal Element Hazards policies.

Natural Resources: No natural resources would be affected by the proposed improvements. County planning maps identify resources along the Gualala River, but all proposed improvements would be above the river and setback from the bluff top.

Archaeological/Cultural Resources: There are no known archaeological or paleontological resources on the project site or in the immediate vicinity. Standard Condition #8 advises the applicant or the County's "discovery clause" which establishes procedures to follow in the event that archaeological or cultural resources are uncovered during site preparation and construction activities.

Zoning Requirements: The project complies with all zoning requirements of Title 20 - Division II of the Mendocino County Code.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.532 and 20.536 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project, and adopt the following findings and conditions:

FINDINGS:

- (1) The proposed development is in conformity with the certified Local Coastal Program; and
- (2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
- (3) The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
- (4) The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
- (5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
- (6) Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
- (7) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.

STANDARD CONDITIONS:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and or use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20, Division II of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. That this permit be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division.

EXHIBIT NO. 13
APPLICATION NO. A-1-MEN-97-23
Redwood Coast Land Conservancy
Mend.Co. CDP #22-96 Staff Report

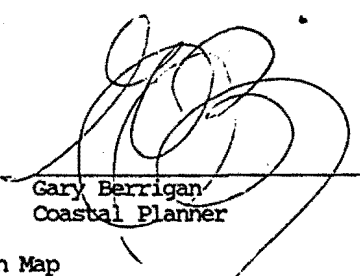
6. This permit shall be subject to revocation or modification upon a finding of any one (1) or more of the following:
  - a. That such permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which such permit was granted have been violated.
  - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety or as to be a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one (1) or more condition to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

SPECIAL CONDITIONS:

1. Prior to the issuance of the Coastal Development Permit, the applicant shall submit a management plan which has been approved by the Coastal Commission staff, and which has been approved by the Director of Planning and Building Services.
2. Fencing and trail improvements shall be set back a minimum distance of five feet from the bluff edge.

Staff Report Prepared By:

Date: 2-14-97

  
\_\_\_\_\_  
Gary Berrigan  
Coastal Planner

Attachments: Exhibit A - Location Map  
Exhibit B - Site Plan  
Exhibit C - North View Site  
Exhibit D - Trail Sections  
Exhibit E - Fencing and Surface Detail  
Exhibit F - Signs

Appeal Period: 10 days  
Appeal Fee: \$635

EXHIBIT NO. 13
APPLICATION NO. A-1-MEN-97-23
Redwood Coast Land Conservancy
Mend.Co. CDP #22-96 Staff Report



17-MEN-97-016

**NOTICE OF APPEAL  
TO CALIFORNIA COASTAL COMMISSION**

John J. Bower hereby appeals to the California Coastal Commission the March 24, 1979 decision by the Mendocino County Board of Supervisors to approve the application for the issuance of Coastal Development Permit #22-96.

**Appellant:** John J. Bower  
P.O. Box 1000  
Gualala, CA 95445

**Project Proponent:** Redwood Coast Land Conservancy  
P.O. Box 1511  
Gualala, CA 95445

**Project Description:**

The development of a public access trail with the downtown commercial area of Gualala, Mendocino County. The proposed route includes a 300' vertical access from Highway One to the bluff top and a lateral bluff top trail approximately 500' in length located partially (110'.) upon APN 145-261-12 and partially (400'.) upon APN 145-261-11, all owned by appellant Bower. Trail improvements include surfacing, signing and benches. A plot plan of the proposed project is attached hereto as Exhibit A. The proposed project is located between the sea and the first public road (Highway One).

**Grounds for Appeal:**

John J. Bower appeals only that portion of the proposed improvements that are proposed to be located upon his property (APN 145-261-11). The proposed trail on the Bower property will be located within 10'-12' of the view windows in the eight ground level, ocean view lodging units in Bower's "Seacliff" lodge. Due to the low level windowsills (approximately 36" high) and the proximity to the proposed path, trail users will be able to gaze directly into the units thereby destroying the privacy of the units and rendering them practically commercially useless.

The proposed trail on the Bower property is and always will be a "stub trail" to nowhere. The easement terminates at the north line of the Bower property at the edge of an older residential area with no prospect of an extension. To the south, however, the easement extends for several hundred feet along the bluff top with the possibility of additional extension(s). The proposed trail upon the Bower property

<b>EXHIBIT NO.</b>	14
<b>APPLICATION NO.</b>	A-1-MEN-97-23
	Redwood Coast Land Conservancy
	Appeal

simply an out-and-back dead end with no vertical access back to any public road.

Due to the topography, location of structures and nature of development along the easement to the south of the vertical access (APN 145-261-12), a similar trail to the south would not adversely impact any commercial users as it does the Seacliff lodge units. If the trail were developed to the south of the Bower property rather than on the Bower property the trail would provide viewing and recreational opportunities no less enjoyable than the proposed Bower segment of the trail but would clearly avoid the severe adverse impact upon the established commercial use.

Development of the trail to the south of rather than upon the Bower property would be more consistent with Public Resources Code §30214(a)(4) and (b) and Mendocino County Local Coastal Plan Policies (3.6-10 and 3.6-25) which generally require an equitable balancing between the public right of access and private property rights and the management of access areas "so as to protect the privacy of adjacent property owners." (See Exhibit B.) The trail to the south could be developed within existing easements and managed in such a way so as not to unreasonably interfere with any of the existing commercial uses upon those properties located to the south and east of the vertical access.

**Significant Question:**

The primary purpose of the development of the trail segment on the Bower property is to provide bluff top viewing sites. The trail segment cannot provide access to any other properties as the easement terminates at the northerly end of the Bower property and does not and cannot provide pedestrian access to any public road. The primary issue on appeal is whether the public's right of access can be balanced with the private rights of Bower to adequately protect both. The development of the trail to the south of the vertical access point would provide the very same bluff top view sites as would the Bower segment but would avoid any substantial adverse impact upon the rights of the owners of underlying commercial properties. This development to the south of the vertical access point would be more consistent with the various factors set forth in PRC §30214 and the Mendocino County LCP, Policies 3.6-10 and 3.6-25. The location of the trail improvements upon the Bower property while a better, alternative site is available, unreasonably favors the public's right of access over individual property rights. The public need for access and bluff top view sites can be provided on the southerly segment of the easement thereby protecting the privacy of adjacent property owners.

EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Appeal	

**Interested Parties:**

The names and mailing addresses of all persons and/or entities whom the appellant knows to have an interest in the project or who submitted comments at the hearing are as follows:

Doug Hammerstrom  
Ms. Eberly  
Redwood Coast Land Conservancy  
P.O. Box 1511  
Gualala, CA 95445

Lena Humber  
The Breakers  
39300 S. Hwy. One  
Gualala, CA 95445

Jim Latter  
Cypress Properties  
39120 S. Hwy. One  
Gualala, CA 95445

Dated: April 7, 1997

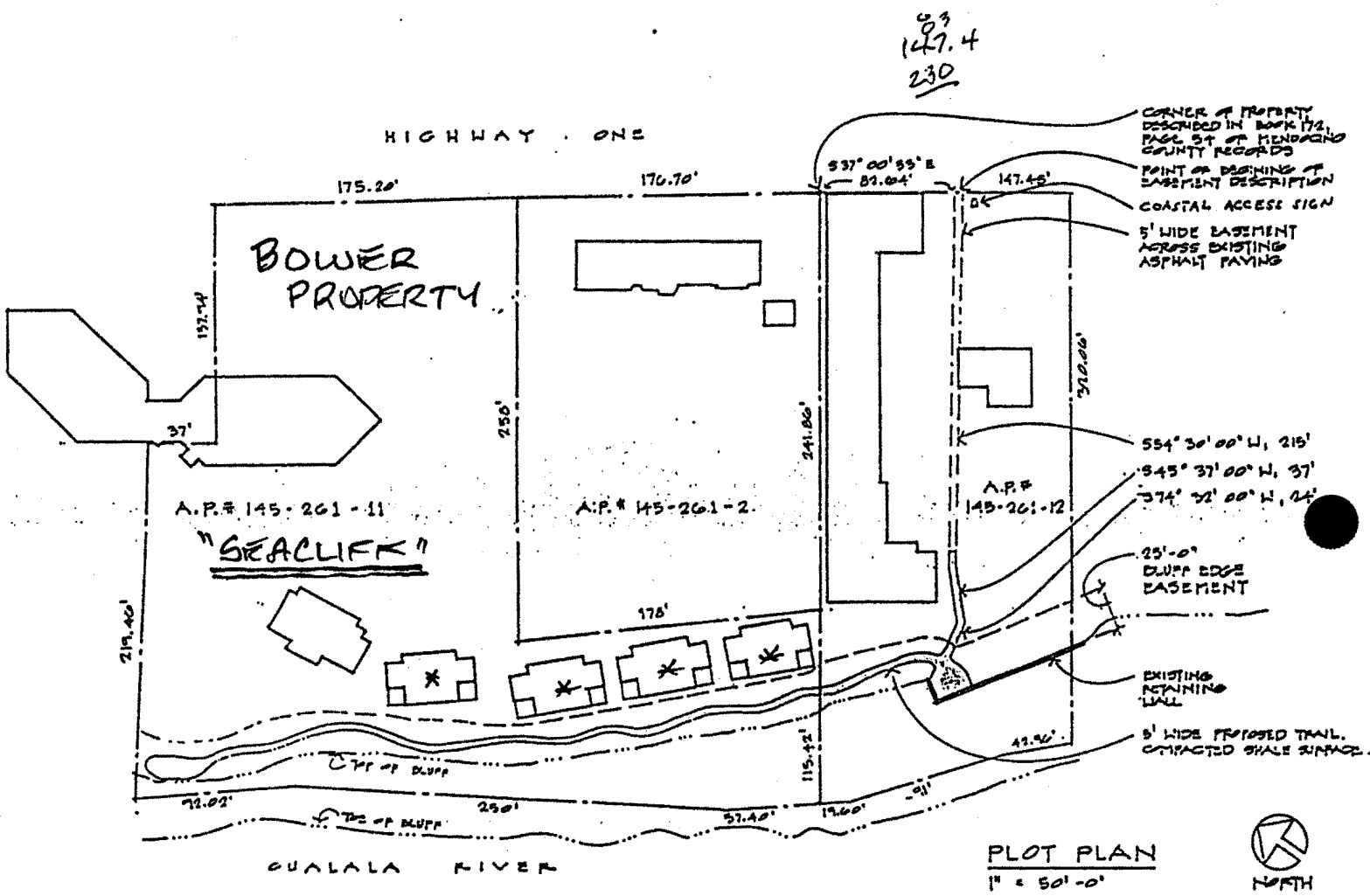


Richard J. Henderson, Attorney for  
John J. Bower, Appellant

EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-97-23
	Redwood Coast Land Conservancy
	Appeal

EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-97-23
	Redwood Coast Land Conservancy
	Appeal

CDP #22-96  
February 27, 1997  
CPA-7



GUALALA BLUFF TRAIL - REDWOOD COAST LAND CONSERVANCY - GUALALA

\* SEACLIFF LODGE UNITS

§ 30214. Implementation of public access policies

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

LOCAL COASTAL PLAN - POLICIES

3.6-10 All accessways shall be located and designed to minimize the loss of privacy or other adverse impacts on adjacent residences and other land uses.

3.6-25 Public access policies shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- topographic and geologic site characteristics;
- capacity of the site to sustain use and at what level of intensity;
- fragility of natural resource areas and proximity to residential uses;
- need to provide for management of the access;
- balance between the rights of individual property owners and the public's constitutional rights of access;

EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-97-23
	Redwood Coast Land Conservancy
	Appeal

**EXHIBIT B**

## CALIFORNIA COASTAL COMMISSION

NORTH COAST REGION

1656 UNION STREET, ROOM 150

P.O. BOX 4946

EUREKA, CALIFORNIA 95501

(707) 443-1623

EXHIBIT NO. 15

APPLICATION NO.  
A-1-MEN-97-23Redwood Coast  
Land ConservancyCoastal Permit No.  
NCR-77-C-115APPLICATION SUMMARY AND STAFF RECOMMENDATION

Application No. NCR-77-C-115  
(Name) Bower  
Date Filed:

PERMIT John Bower  
APPLICANT: P.O. Box 1000  
Gualala, CA 95445

Agent: Joseph Scherf  
P.O. Box 275  
Ukiah, CA 95482

DEVELOPMENT 39140 Highway One, Gualala (Exhibit A).  
LOCATION:

DEVELOPMENT Division of a 4.5 acre into 3 parcels of 1.9, 1.0, and 1.6 acres  
DESCRIPTION: (Exhibit B).

STAFF NOTES:1. Site Description:

The project site is a flat, open, partially developed 4.5 acre parcel west of Highway One and fronting the Gualala River in central Gualala. The northern end of the project site is open, grassy, and undeveloped. A motel, grocery, offices, and other stores are located on the southern portion of the lot. The western portion of the lot, once the bed for a logging railroad, meets the Gualala River in stony bluffs ten to twenty feet above the tide line. A small trail descends the bluff to the beach and has been used by motel guests, local residents, and fisherman to gain access to the tidelands below. To the southeast lies the Gualala River beach in Sonoma County.

2. Project History:

The project site is designated recreation-residential in the Mendocino County General Plan and is zoned C-35. The project has been approved by Mendocino County. There are no previous Regional Commission actions regarding this site.

3. Coastal Issues:A. Public Access:

Public Resources Code 30211 and 30212 require that public rights to access be protected and that new development provide public access to and along the coast.

EXHIBIT NO.	15
APPLICATION NO.	A-1-MEN-97-23
	Redwood Coast Land Conservancy
	CDP NCR-77-C-115

ued

- 2 -

NCR-77-C-115  
Bower

Conditions are proposed to protect historic access from Highway One to the Gualala River and to provide lateral access along the bluffs overlooking Gualala River.

B. Coastal Recreation:

Public Resources Code 30221 and 30222 require that oceanfront land suitable for recreation use and visitor-serving facilities shall be reserved for such uses. Conditions are proposed to the reserve recreational options on undeveloped portions of the parcel.

C. Marine Environment and Land Resources:

The marine environment and land resources will not be affected. The project involves no new development activities or changes in current uses.

D. Development:

The development is in central Gualala with water and electric services available nearby. The project as conditioned will preserve existing open space between Highway One and the sea. A geologic report filed with this application states that bluff erosion along the river front is less than one foot a year. With reasonable setbacks on any future developments, the project site will not be subject to geologic hazard.

E. Industrial Development:

Industrial development is not at issue.

F. Alternatives:

A no project alternative would maintain existing land uses, and has no advantages over the project as proposed.

G. Local Coastal Program:

The project as conditioned will enhance Mendocino County's ability to prepare its local coastal program as no new projects will be undertaken under the permit and existing open space will be reserved until certification of the local coastal program.

STAFF RECOMMENDATION:

The Staff recommends that the Commission adopt the following resolution:

I. Approval:

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that, as conditioned it is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976; that it will not prejudice the ability of the local government having

EXHIBIT NO. 15

APPLICATION NO.  
A-1-MEN-97-23

Redwood Coast  
Land Conservancy

Coastal Permit No.  
NCR-77-C-115

ued

- 3 -

NCR-77-C-115  
Bower

jurisdiction over the area to prepare a local coastal program in conformity to the provisions of Chapter 3 of the Act; and that it will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

## II. Conditions:

1. Prior to the issuance of this permit, the applicant shall record a waiver, in a form approved by the Executive Director, of all claim against the public for future liability or damage from geologic hazard related to this permit.
2. Prior to the issuance of this permit, the applicant and all persons with an interest in the applicant's parcel shall execute and record a document, the form and content of which have been approved by the Executive Director of the Regional Commission, confirming the existence of an irrevocable right of public access from Highway One to the mean high water line of the Gualala River, running in the traveled way generally as described in Exhibit C of this summary, and agreeing that neither the applicant nor his successor in interest shall impede said public access.
3. Prior to the issuance of this permit, the applicant and all persons with an interest in the applicant's parcel shall execute and record a document, the form and content of which have been approved by the Executive Director of the Regional Commission, offering to dedicate to the public, the right of access across a strip 25 feet in width adjacent to and landward of the bluff edge along the ocean side of the applicant's lot, running generally as described in Exhibit C of this summary. The applicant shall be required prior to the issuance of this permit to provide the Regional Commission with a title report and guarantee in favor of the Regional Commission listing all parties who are necessary to execute the dedication for it to be effective. The offer to dedicate shall be irrevocable for a period of 25 years and shall run with the land, binding successors and assigns of the applicant. Only a public agency or a private association agreeing to accept responsibility pursuant to Public Resources Code Section 30212 for maintenance and liability of the accessway shall accept the offer. The applicant shall agree to dedicate such interest in the land as required by the public agency or private association that accepts the dedication, except that the public use of the land may be limited to pedestrian travel, viewing, and coastal trail access. Access by the public shall not be permitted until the provisions of Public Resources Code Section 30212 regarding liability and maintenance are fulfilled and an access program including the possible acceptance of the area offered in dedication pursuant to this condition has been included in a certified local coastal program for the area. If, upon certification, the local coastal program does not contain an access program including the possible acceptance of the applicant's offer to dedication, the Executive Director of the Regional Commission or its successor shall, pursuant to request by the applicant, execute in a form proper for recordation a document releasing applicant from any further obligation under this offer.

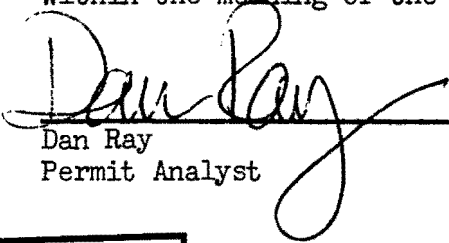


4. Prior to the issuance of this permit the applicant and all persons with an interest in the applicant's parcel, shall execute and record memorandum of understanding, the form and content of which have been approved by the Executive Director of the Regional Commission, agreeing that no application for a coastal development permit shall be submitted or filed and no development within the meaning of the California Coastal Act shall be undertaken on Parcel 1 to be created by this division prior to the certification of Mendocino County's local coastal program, or July 1, 1980, whichever comes first. The memorandum of understanding shall be irrevocable and shall run with the land, binding successors and assigns of the applicant.

III. Findings and Declarations:

The Commission finds and declares:

1. That the public has aquired through use the right of access across this parcel to the Gualala River, and that this development, as conditioned, will not interfere with such access, in conformance with Public Resources Code 30211.
2. That the development, as conditioned, provides adequate public access along the coast, in conformance with Public Resources Code 30212.
3. That portions of the development site are suitable for recreation and that the development as conditioned reserves the recreational potential of this site, in conformance with Public Resources Code 30221.
4. That the project will not affect land or marine resources, in that no new uses or activities will be created by this permit.
5. That the project is within an existing center of development with adequate public services, in conformance with Public Resources Code 30250.
6. That the project will not prejudice the ability of Mendocino County to prepare its local coastal program, as the development creates no new uses or activities.
7. That the project will not have a significant impact upon the environment within the meaning of the California Environmental Quality Act.

  
 Dan Ray  
 Permit Analyst


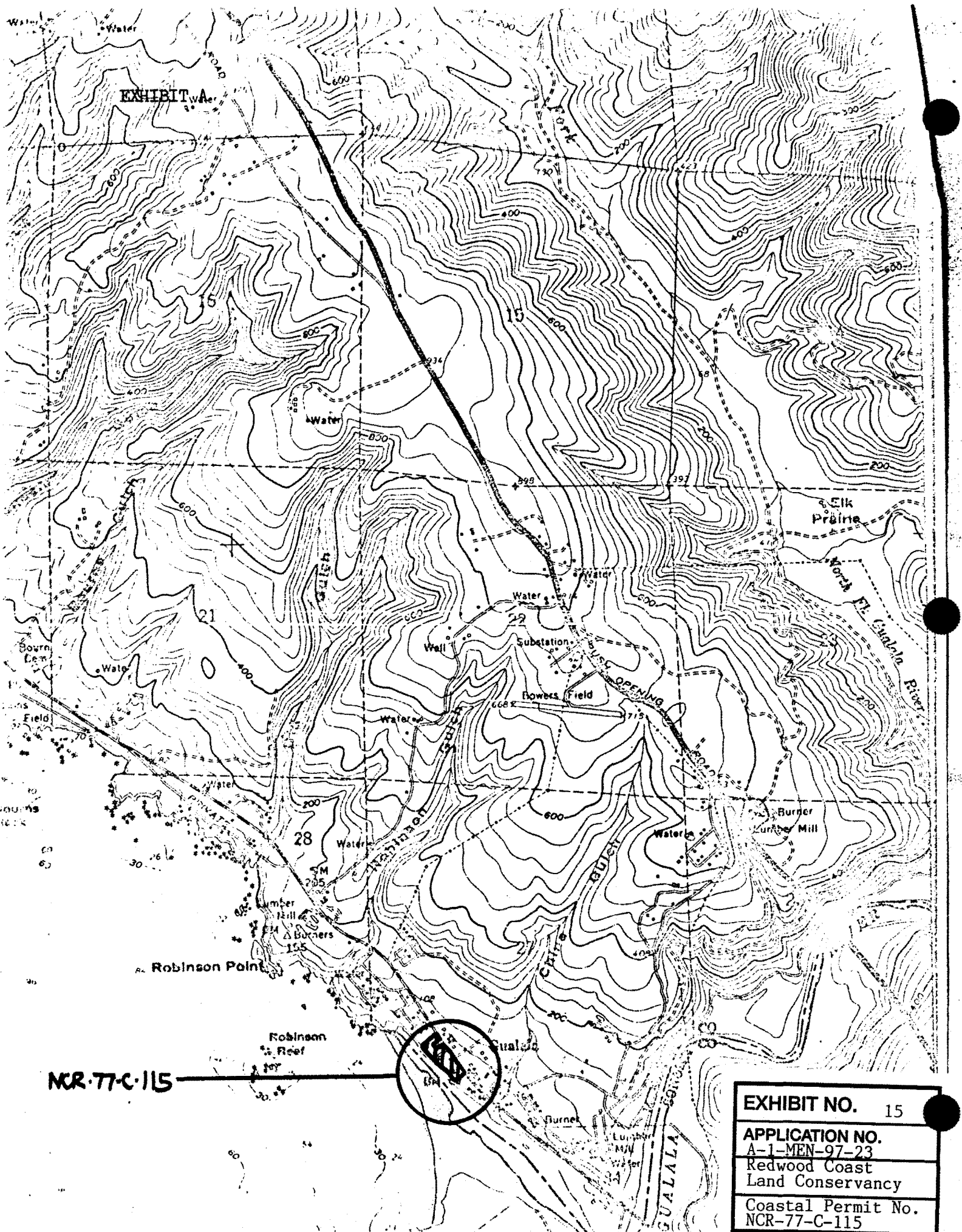
CONCUR:   
 RICHARD G. RAYBURN  
 Executive Director

EXHIBIT NO.	15
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Coastal Permit No. NCR-77-C-115	

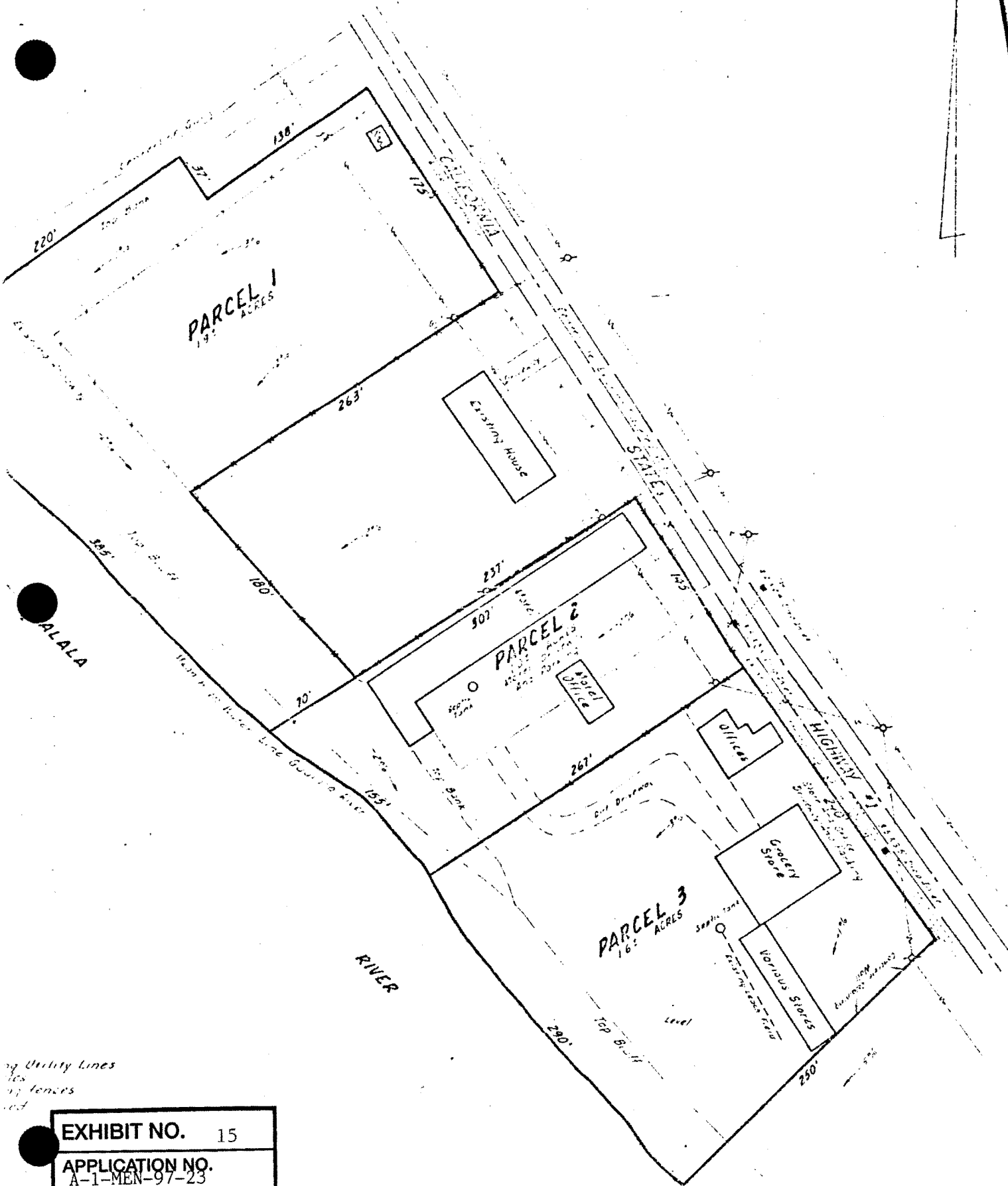
EXHIBIT NO. 15



NCR-77-C-115

EXHIBIT NO.	15
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Coastal Permit No. NCR-77-C-115	

EXHIBIT B



Utility Lines  
 Fences  
 Top Bank

EXHIBIT NO.	15
APPLICATION NO.	A-1-MEN-97-23
	Redwood Coast Land Conservancy
Coastal Permit No.	NCR-77-C-115



EXHIBIT NO. 15

APPLICATION NO.

A-1-MEN-97-23

Redwood Coast  
Land Conservancy

Coastal Permit No.  
NCR-77-C-115

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- 2 -

NCR-77-C-115  
Bower

Conditions are proposed to protect historic access from Highway One to the Gualala River and to provide lateral access along the bluffs overlooking Gualala River.

B. Coastal Recreation:

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C. Marine Environment and Land Resources:

The marine environment and land resources will not be affected. The project involves no new development activities or changes in current uses.

D. Development:

The development is in central Gualala with water and electric services available nearby. The project as conditioned will preserve existing open space between Highway One and the sea. A geologic report filed with this application states that bluff erosion along the river front is less than one foot a year. With reasonable setbacks on any future developments, the project site will not be subject to geologic hazard.

E. Industrial Development:

Industrial development is not at issue.

F. Alternatives:

A no project alternative would maintain existing land uses, and has no advantages over the project as proposed.

G. Local Coastal Program:

The project as conditioned will enhance Mendocino County's ability to prepare its local coastal program as no new projects will be undertaken under the permit and existing open space will be reserved until certification of the local coastal program.

STAFF RECOMMENDATION:

The Staff recommends that the Commission adopt the following resolution:

I. Approval:

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that, as conditioned it is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976; that it will not prejudice the ability of the local government having



# REDWOOD COAST LAND CONSERVANCY

P.O. BOX 1511 • GUALALA, CALIFORNIA 95445-1511

April 23, 1997

California Coastal Commission

RE: Gualala Bluff Trail - CDP #22-96

Dear Commission Member

Redwood Coast Land Conservancy (RCLC) is a locally-based land trust which will build and maintain the Gualala Bluff Trail. The RCLC is a California non-profit corporation governed by a volunteer Board of Directors. Easements acquired by the Coastal Commission in which the trail will be located have been transferred to the RCLC.

We would like to comment on two issues raised in the appeal.

Purpose of Trail - The appeal states that the primary purpose of the trail is to provide bluff top viewing sites. This is only one of the trail's functions. The trail also provides a public walkway linking Gualala commercial properties and tourist accommodations as an alternative to walking or driving on Highway One.

The attached letter from the Gualala Municipal Advisory Council (GMAC) states that the trail is an integral part of the Gualala Town & Area Plan and a vital link in achieving the Plan's goal of a pedestrian oriented commercial center. The Town Plan also includes future trail segments which will link the downtown area to both river and ocean natural areas.

Privacy - In our meetings with the managers of Seacliff Inn and Surf Motel, we discussed the need to protect privacy of guests. The trail has been designed to maximize the privacy of persons using the adjacent Seacliff Inn.

The trail will be located in the portion of the easement farthest from the buildings (a minimum distance of 15 - 17 feet, not 10 - 12 feet as stated in the appeal). Low-growing plants on the easterly side of the trail will provide a barrier between the trail and the buildings without blocking ocean views.



EXHIBIT NO.	17
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Correspondence	

EXHIBIT NO.	17
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	

We have also limited the hours of operation for the trail from sunrise to sunset to avoid use of the trail when it would have the most impact on Seacliff guest privacy. Signs will be posted on the trail to notify users of the hours.

In addition, the County added requirements that the trail be narrowed in the section by the Inn and signs requesting quiet be posted to minimize noise from trail users.

During the Board of Supervisors hearing, Mr. Bower's attorney brought up several additional issues related to our project. None of these issues were cited in the appeal, but may be raised at your meeting. We would like to comment on some of these issues.

Insurance - The RCLC holds a commercial insurance policy with coverages for general and automobile liability with an aggregate limit of \$2 million. All owners of property underlying the easements are covered by umbrella liability coverage in the amount of \$5 million and are designated as additional insured entities.

Statutes also exist limiting the liability of landowners who provide access for recreational use. AB2291 has added to this protection, provisions for payment of attorneys' fees for landowners who prevail in court over someone who claims injury on a recreational trail.

We would also like to point out that user safety was a prime factor in the design of the trail. Its construction will greatly improve the safety of persons accessing the bluff in this area by eliminating existing hazardous conditions which encourage access right up to the bluff edge.

Parking - The trail is designed to serve persons already in Gualala. A 500 foot long trail is unlikely to serve as a destination which generates additional vehicular traffic.

Environmental Impacts - The trail design has been reviewed by Moffatt & Nichol Engineers. They analyzed both drainage and erosion impacts of trail construction and specified setbacks for the trail and associated fences.

Trail Maintenance - The RCLC is an all volunteer organization with no paid staff. Therefore, maintenance of the trail will be carried out by a volunteer committee. The committee will clean up any litter that is left along the trail, monitor the condition of the trail, and make necessary repairs as soon as possible.

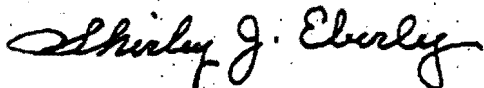
While a volunteer group does not sound like a reliable and enduring source of maintenance labor, the southern Mendocino and northern Sonoma coast has a tradition of volunteers providing services provided by government elsewhere. There are many examples in our community of long-standing volunteer efforts.



The Redwood Coast Land Conservancy has been working on this project since 1993. The Conservancy has obtained the trail easements, met with landowners, held public workshops, designed the trail, and raised construction funds. We ask your support in denying the appeal so we can build the Phase I portion of this trail which enjoys wide-spread public support as shown by the attached letter from GMAC.

Thank you for your consideration of our project.

Sincerely



Shirley J. Eberly  
President of the Board of Directors

EXHIBIT NO.

17

APPLICATION NO.

A-1-MEN-97-23

Redwood Coast  
Land Conservancy

Correspondence



# GUALALA MUNICIPAL ADVISORY COUNCIL

POST OFFICE BOX 67, GUALALA, CALIFORNIA 95445

Date: March 13, 1996

To: The Trust for Public Land

From: Gualala Municipal Advisory Council  
PO Box 67  
Gualala, CA 95445

Re: Gualala Bluff Trail/ Redwood Coast Land Conservancy

The Gualala Municipal Advisory Council (GMAC) is a County appointed Council whose mandate is (1) to review and make recommendations regarding development applications affecting the GMAC jurisdiction, and (2) to update the Local Coastal Plan with the proposed Gualala Town and Area Plan.

At the GMAC general meeting on September 8, 1993, the council acted to support the Gualala Bluff Trail as proposed by the Redwood Coast Land Conservancy and to provide a letter of support toward their future development activities. The Gualala Bluff Trail is a designated Public Coastal Access Trail on the current Mendocino County Land Use maps. In GMAC's community survey and workshops the Bluff Trail and its access to coastal views have been overwhelmingly supported. The Bluff Trail has been included as an integral part of the pedestrian walkway circulation concept included in the proposed Gualala Town & Area Plan.

A primary goal of the Plan is to provide for pedestrian oriented commercial center for Gualala. The Gualala Bluff Trail is a vital link in achieving this goal. Gualala has no existing pedestrian walks or trails in the commercial area. The Bluff Trail would provide a link between visitor accommodations and retail shopping complexes other than driving or walking on the Highway One shoulder.

The Bluff Trail will also provide an attractive Coastal Access for the many visitors who come to the Gualala area on a year round basis. The Council unanimously supports the development of the Gualala Bluff Trail

Sincerely,

Mike Henderson

Chair, Gualala Municipal Advisory Council

EXHIBIT NO.	17
APPLICATION NO.	A-1-MEN-97-23
Redwood Coast Land Conservancy	
Correspondence	