

# LAW OFFICE OF MARC CHYTILO

---

ENVIRONMENTAL LAW

2014 MAR 28 AM 11: 55

March 28, 2014

COUNTY OF SANTA BARBARA  
CLERK OF THE  
BOARD OF SUPERVISORS  
*By hand delivery*

County of Santa Barbara  
Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101

RE: Summerland Citizens' Association Appeal of the Beach Club Project, Tuesday April 1  
Agenda Item 8

Dear Chair Lavagnino and Members of the Board of Supervisors,

This office represents appellants Summerland Citizens' Association ("SCA"), Reeve Woolpert, and Tom Evans ("Appellants") in this matter. This letter supplements our 12/16/13 appeal of the Planning Commission's 12/4/13 approval of the Beach Club Lot Split, Gabion Wall and Grading, and New Single Family Residence Project ("Project") and adoption of the Mitigated Negative Declaration ("MND") for the Project, and responds specifically to the Board Letter dated 2/18/14.

The Project parcel is identified on County maps as the location of a proposed trail and a proposed park along the western bank of Toro Creek. The public has historically traversed the "Toro Creek" trail and used the Project parcel for beach access and recreation. Because of a rocky point (*see* Exhibit 1) located between the "Loon Point" trail<sup>1</sup> and the Project site, the "Loon Point" trail does not actually provide access to Loon Point during medium and high tide conditions. Lateral access in the area, including access from down coast, as well as the ability of the public to every use the Toro Creek area shoreline in the future without entering the water to get there will be further diminished by the impacts of sea-level rise. Loon Point and the beaches to the east are popular destinations for surfers and beachgoers, and the current lack of vertical access at Toro Creek creates a safety hazard as people become stranded at high tide with no authorized means to access Padaro Lane or are required to pass over an extensive boulder field beneath high, unstable, erosive bluffs at Loon Point (*see* Exhibit 1.) Accordingly, the County's trail maps identify a trail along Toro Creek *in addition* to the existing "Loon Point" trail.

Several County policies require the dedication of a trail easement as part of this Project. Historic public access along Toro Creek is well documented and has given rise to a public prescriptive right of access, that was substantially reduced by the erection of an apparently unpermitted gate across Toro Creek (*see* Exhibit 3). The increased security presence that is likely to accompany the construction and occupation of new residences on the site by a celebrity and his

---

<sup>1</sup> The "Loon Point" trail easement located to the west of Toro Creek was exacted from a neighboring landowner in 1986 (*see* Exhibit 2), and opened for public use thereafter.

family, will further reduce public access to the shore, and will compromise if not doom any future effort to restore rightful public access along Toro Creek.

Unfortunately, the Planning Commission declined to require dedication of a trail easement as part of the Project. At a minimum the evidence described herein of historic public use gives rise to a fair argument of a potentially significant Project impact, necessitating preparation of a focused EIR. These and other legal flaws in the Planning Commission's approval of the Project are detailed below.

### **1. Existing Apparently Unpermitted Development Not Addressed By Project**

The findings required for the Project CDP include that the subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of Article II, and any applicable violation enforcement fees and processing fees have been paid. (Article II § 35-169.5.1; PC Finding 2.4.2.3.)

There is an existing gate that is partially located on the Project lot crossing Toro Creek adjacent to Padaro Ln. (*See Exhibit 3*), constructed in the late 1980's. It appears that this gate was constructed without required permits.

This apparently unpermitted gate blocked off the historically used public trail down Toro Creek, and interfered with the public's ability to access the coast at this location. (*See Santa Barbara County Coastal Access Implementation Plan, dated March 29, 1991 (Spectra Inc. and EIP Associates), "Historic vertical access along Toro Creek has occurred, but has been recently gated off."*) This issue was not addressed in any of the Project documents, and must be adequately addressed before the Board may lawfully approve the Project.

### **2. The Project Is Inconsistent with Applicable General and Specific Plans**

Pursuant to Government Code § 66474, the Board shall deny approval of a tentative map if it finds that the proposed map is not consistent with applicable general and specific plans. (*See PC Finding 2.2.3.1.*) Moreover, pursuant to Article II § 35-169.4.1 the Board must find that the development conforms to the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan ("CLUP"). (*See PC Findings 2.4.2.1.a and 2.5.2.1.a.*) Additionally, Article II § 35-169.4.2 requires that the Board find that the development complies with the public access and recreation policies of Article II, the Comprehensive Plan, and the CLUP. (*See PC Findings 2.4.3.3 and 2.5.3.3.*) For reasons discussed below and in our appeal letter, the Project fails to comply with applicable policies in the Comprehensive Plan, CLUP, and Summerland Community Plan, precluding the Board from making these required findings.

#### **a. Conflicts with County Trails Policy**

Summerland Community Plan's Trail, Open Space and Vista map (Figure 15; see Exhibit 4) identifies a trail along Toro Creek between Padaro Lane and the beach. There appears to be some confusion, as reflected in the Board Letter, regarding whether this map is a "Parks, Recreation and Trails Map", and whether it was incorporated into the Comprehensive Plan Parks, Recreation and Trails Map for the Summerland Area. After communicating with knowledgeable County staff from both Planning and Development and County Parks<sup>2</sup>, it is clear that SCP Figure 15 is indeed a "Parks, Recreation and Trails Map", and that for all intents and purposes it is regarded as a subset of the Comprehensive Plan PRT-2 map (Exhibit 7). Indeed, the Summerland Community Plan specifically identifies Figure 15 as the "Parks, Recreation and Trails Map" in five different locations (List of Figures, pp. 53, 56, 78, 79.)

Accordingly, at a bare minimum Summerland Community Plan (SCP) Policy PRT-S-2 requires that the Project provide for the Toro Creek trail. Specifically, SCP Policy PRT-S-2 provides:

In compliance with applicable legal requirements, all opportunities for public recreational trails within those general corridors adopted by the Board of Supervisors as part of the Parks,

---

<sup>2</sup> Per personal communication, Reeve Woolpert with Claude Garciacelay: The community recreation and trails map found within the community plans are considered to be a part of the PRT-2 map itself; "a subset of the map." There is a tiered relationship between them. Community plan maps are a component of Comp Plan maps. Trails, etc. outside the boundary of community plan areas are shown on the old original PRT-2 map. "The community plan maps are just as valid."

Santa Barbara County Parks Department letter, Claude Garciacelay, April 22, 1998 (*see* Exhibit 5):

With regard to the trails and trails planning issues within the vicinity of this area [Padaro Lane area trails], the trails map contained within the adopted Summerland Community Plan is our guide for future trails planning and acquisition, provides a framework for funding (when available) based on existing easements and usable segments of trail, and provides us the mechanism to require dedications as part of subdivision and developments.

Per email communication, Reeve Woolpert with David Lackie, February 25, 2014 (*see* Exhibit 6):

Figure 15 in the Summerland Community Plan represents the PRT map adopted for the Summerland Community Plan Area. Existing SCP Policy PRT-S-2 and Action PRT-S-2.2 provide policy guidance to pursue opportunities for public recreational trails and Action PRT-S-2.2 provides specific reference to Figure 15 as the PRT map for Summerland. Proposed trails depicted on the adopted PRT map for Summerland Community Plan (Figure 15) are not reflected on the larger PRT-2 map. This is not uncommon for community plan areas where the PRT maps are more detailed and the information would not translate well at the larger scale regional PRT-2 map.

Recreation and Trails (PRT) maps of the County Comprehensive Plan (and this Community Plan) shall be protected, preserved and provided for during and upon the approval of any development, subdivision and/or permit requiring any discretionary review or approval. (emphasis added).

This policy clearly applies to the Project, given its broad applicability to approval of any development, subdivision and/or discretionary permit.<sup>3</sup>

In addition, because the SCP PRT (Figure 15) map is in fact a subset of Comprehensive Plan PRT-2 map (*see* footnote 2, above and Exhibits 5 and 6), CLUP Policy 7-25 and CZO § 35-63 further provide that the Toro Creek trail be required as a condition of project approval. Specifically, these LCP provisions state:

CLUP Policy 7-25. Easements for trails shall be required as a condition of project approval for that portion of the trail crossing the parcel upon which the project is proposed.

CZO § 35-63. Coastal Trails. Easements for trails shown on the Santa Barbara County Comprehensive Plan Parks, Recreation and Trails (non-motorized) maps, shall be required as a condition of project approval for that portion of the trail crossing the lot upon which the project is proposed.

These LCP provisions also clearly apply to the Project, as all or at least a portion of the Toro Creek trail crosses the parcel on which the Project is proposed. Unlike CLUP Policy 7-2, the above policies *do not* qualify the easement requirement based on unavailability of more suitable public access corridors, the absence of unmitigable adverse impacts on habitat areas, or the absence of adverse effects on property owner privacy. Nonetheless, as discussed above, the existing Loon Point Trail does not allow for access to Loon Point and beaches to the east during medium or high tides, and exposes the public heading east to perilous conditions. The trail easement located 1 mile east of Toro Canyon Creek mentioned in the Negative Declaration has not been accepted by the County, also does not provide access to Loon Point and adjacent beaches during medium and high tides, and presents additional logistical hurdles. With respect to impacts on habitat areas, the Coastal Act

---

<sup>3</sup> The County's failure to require dedication of a trail easement associated with development along the east bank of Toro Creek is not significant, because the environmental setting clearly demonstrates that the western bank is the intended location for the trail. Specifically the western bank is wide, open and rambling, in contrast to the constrained, more developed eastern bank. Moreover, the east side was historically developed and the west side was largely undeveloped. Additionally, the County PRT map identifies only the western bank and the Project lot as the location for a proposed park, further demonstrating the intent to utilize the western bank of Toro Creek and lands to the west for future recreational purposes rather than the eastern bank and neighboring property to the east.

allows uses dependent on sensitive habitat areas, including trails, to be located within such areas. (Coastal Act § 30240 (a)). Additionally, it appears that any adverse impacts could be mitigated to insignificance through proper trail siting and design. With respect to cultural resources, it is worth noting that the instant Project seeks to correct substantial violations that exist on the property, that exposed and damaged cultural resources. It appears that any additional impacts to cultural resources associated with a Toro Creek trail could be mitigated to insignificance. All these issues merit analysis in a focused EIR.

The fact that the Project includes no easement for the Toro Creek trail, demonstrates that the Project fails to conform with SCP Policy PRT-S-2, CLUP Policy 7-25, and CZO § 35-63. Discussed further below, at a minimum, these conflicts constitute substantial evidence supporting a fair argument that the Project may significantly impact the environment, and accordingly that a focused EIR must be prepared. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 930; CEQA Guidelines App. G § IX (b).) Additionally, discussed further below, the fact that the Project will interfere with historic public access along Toro Creek provides a clear nexus and as well as rough proportionality to support the County's exaction of a trail easement pursuant to these policies.

In addition, the County has failed to comply with CLUP Policy 7-1, in failing to investigate, much less protect and defend the public's right to access the beach and ocean. CLUP Policy 7-1 provides as follows:

CLUP Policy 7-1: The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline. At a minimum, County actions shall include:

- a) Initiating legal action to acquire easements to beaches and access corridors for which prescriptive rights exist consistent with the availability of staff and funds.
- b) Accepting offers of dedication which will increase opportunities for public access and recreation consistent with the County's ability to assume liability and maintenance costs.
- c) Actively seeking other public or private agencies to accept offers of dedications, having them assume liability and maintenance responsibilities, and allowing such agencies to initiate legal action to pursue beach access.

California's Constitution declares "access to the navigable waters of this State shall always be attainable for the people thereof" and that no one "shall be permitted to exclude the right of way to such water whenever it is required for any public purpose." (Art. X, § 4.) The California Supreme Court has expressly recognized that the public purposes protected by the Constitution include recreation. (*Gion-Dietz* (1970) 2 Cal. 3d 29, 42.) Rather than take all necessary steps to protect and defend the public's constitutional right to access the ocean at Toro Canyon, which provides the only safe route to Loon Point area beaches east of Loon Point during higher tides, the County turned a blind eye to this issue. Moreover, as explained below, there is substantial evidence not only of historical public use of Toro Creek but also of public prescriptive rights. Accordingly, pursuant to

subsection (a) of CLUP Policy 7-1, the County should initiate legal action to acquire easements that would memorialize the public's right to access the beach, or demonstrate their inability to do so.

In light of the foregoing policy conflicts, the Board cannot make findings for approval required by Government Code § 66474, and Article II §§ 35-169.4.1 and 35-169.4.2.

**3. There Is Substantial Evidence of Historic Public Use and Prescriptive Rights along the Toro Creek Trail**

There is ample evidence demonstrating that the public has historically used the Toro Creek trail to access the beach and ocean from Padaro Lane. As the Board Letter makes clear, County Staff assigned to this Project has not done any investigation regarding this historic use. The below evidence of historic public use was not considered in the Negative Declaration or by the Planning Commission, although Appellants did raise the issue and the record before the Planning Commission included testimony of public use of the Toro Creek trail. The below evidence provides an essential nexus and rough proportionality warranting exaction of a trail easement along the western bank of Toro Creek. Moreover, at a minimum this evidence gives rise to a fair argument of potentially significant project impacts that must be analyzed in a focused EIR.

a. Evidence of Historic Public Use in the County Coastal Access Implementation Plan

The Santa Barbara County Coastal Access Implementation Plan, dated March 29, 1991 (Spectra Inc. and EIP Associates) (Exhibit 8) describes the area as follows (on page 32):

The area between Beach Club Road and Loon Point is a popular surfing spot. However, the continuous stretch of beach, residential development and rock seawalls at either end of the cove have significantly limited public access. Surfers were previously able to use vacant lots between Loon Point and Beach Club Road to access the immediately adjacent surfing areas. Vertical access along Toro Canyon Creek has also been used but this has been recently fenced off.

The Plan goes on to describe, parcel by parcel, the local conditions between Loon Point and Serena Cove, noting the difficulty of lateral access and need for vertical access at Toro Creek. Parcel 005-260-009 (the ancestor parcel to the Project parcel, see County Permit History for Parcel 005-260-018), includes the following information:

DESCRIPTION:

Vertical access has also occurred on this parcel along Toro Canyon Creek from Padaro Lane.  
Type of Use - surfing re/pass, jogging  
Possibility of Prescriptive Rights – yes  
Documentation – historic vertical at Toro Creek

ACCESS NEEDS:

Vertical access along Toro Canyon Creek should be considered if it is consistent with protection of creek habitat.

RECOMMENDATION:

Lateral access has been accepted by Santa Barbara County. Historic vertical access along Toro Creek has occurred, but has been recently gated off. Surfing is popular in this stretch of beach from Loon Point to Beach Club Road and Toro Creek provided the only close vertical access for surfers. The County should investigate the prescriptive rights (and acquisition of easement) for this access way since it provides needed access to a popular and established surfing beach.

This information contained in the Santa Barbara County Coastal Access Implementation Plan clearly demonstrates that Toro Creek has been used historically by the public for beach access, and that public prescriptive rights likely exist along this corridor.

b. Declarations of Public Use of the Toro Creek Trail

To further document the historic use of Toro Creek, since filing our appeal to the Board of Supervisors, SCA has undertaken an effort to gather Declarations of Use of Toro Creek. The fifteen declarations collected thus far and attached hereto (*see* Exhibit 9) are the result of a preliminary effort, and represents a small fraction of the actual number of individuals who have used the Toro Creek historically for public recreational and beach access purposes. The declarations gathered thus far document substantial public use of Toro Creek dating from the 1960's to the early 2000's and beyond for beach access and other recreational purposes. This evidence further establishes the existence of historic use of the Toro Creek trail and provides substantial evidence that in fact prescriptive rights of access exist across the Project parcel.

c. The Existence of Public Prescriptive Rights

A common law dedication of private property for public purposes is effectuated by substantial public use for the prescriptive period of five years. (*McKinney v. Ruderman* (1962) 203 Cal.App.3d 109, 115-116; *Biagini v. Beckham* (2008) 163 Cal.App.4<sup>th</sup> 1000, 1009, *Gion-Dietz*, 2 Cal. 3d 29 at 38.) The above evidence demonstrates substantial public use of the Toro Creek trail for over five years, before the apparently unpermitted gate partially interfered with public access. Accordingly, the public has already acquired a public prescriptive right of continued access by implied dedication. (*Id.*) Adjudication of that right must be accomplished by a court of law, however the absence of a court adjudication does not negate the existence of the public right, which must be considered by the Board in several different contexts.

First, pursuant to Government Code § 66474, the Board shall deny approval of a tentative map if it finds that the subdivision or improvements will conflict with easements acquired by the

public at large for access through or use of the property within the proposed subdivision. (See PC Finding 2.2.3.7.) Because the public has acquired an easement for continued public use by dedication, and as discussed below, the Project will conflict with that easement, this provision of the Subdivision Map Act requires that the Board deny the tentative map.

Second, discussed above, the County is bound by CLUP Policy 7-1 to take all necessary steps to protect and defend this public right including by initiating legal action to acquire the easement for which prescriptive rights exist. Unfortunately the County has not fulfilled this obligation.

Finally, with or without an adjudicated right, the Negative Declaration must disclose the existence of substantial evidence of historic public use and prescriptive rights to accurately reflect the environmental setting. (See *Citizens' Committee to Save our Village v. Pomona College* (1995) 37 Cal.App.4<sup>th</sup> 1157, 1163-1164, 1167). Moreover, discussed below, the substantial evidence of historic public use and prescriptive rights constitutes substantial evidence supporting a fair argument of potentially significant Project impacts, necessitating preparation of a focused EIR.

#### **4. The Project Will Directly and Indirectly Interfere with Historic Public Access and Public Prescriptive Rights Along Toro Creek**

The Project will subdivide and increase development on the Project site, intensifying development in a relatively undeveloped area of Summerland's coast that is identified as a proposed park on the County's PRT-2 map. Moreover, the Applicant is a celebrity, and plans to reside on the property with his family and young children once the Project residence(s) are constructed. Celebrity property owners are notorious for seeking to exclude the public to preempt access by paparazzi and overzealous fans, and indeed Brad Pitt has vigorously opposed a public trail on land adjacent to his Gaviota Coast parcel for expressly that purpose. Accordingly, heightened security is the reasonably foreseeable consequence of the Project, and will significantly and adversely effect the public's right of continued access down Toro Creek. These circumstances provide both a nexus and rough proportionality to support exaction of a trail down Toro Creek as provided for in the above County policies.

While members of the public do still utilize the Toro Creek trail today, public access along Toro Creek was substantially obstructed by the installation of an apparently unpermitted gate across the Creek near Padaro Lane in around the late 1980's. This gate appears to be located at least partially on the Applicant's property, with the remainder of the gate located on the neighboring parcel to the east, with the posts appearing to be partially within the County right of way. Discussed above, it appears that the gate is unpermitted development and an outstanding violation of the County's LCP and the Coastal Act. If indeed the gate is unpermitted, Appellants intend to file a notice of violation, seeking to have the gate removed. Additionally, or alternatively, Appellants may file a prescriptive rights lawsuit, to adjudicate the public's right to access Toro Creek and reestablish unimpeded access through the creek corridor.



The new development and heightened security that will accompany construction and occupation of the Project residence(s) will chill the public's ability to utilize the Toro Creek corridor for public access.

##### **5. Preparation of an EIR under CEQA's Fair Argument Test**

Pursuant to CEQA's "fair argument" test, an agency is required to prepare an EIR instead of a negative declaration if the record contains substantial evidence supporting a fair argument that the project *may* have a significant effect on the environment. (*League for Protection*, 52 Cal. App. 4<sup>th</sup> at 904.) The "fair argument" test derives from Public Resources Code section 21151, which "creates a low threshold requirement for initial preparation of an EIR and reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted." (*League for Protection*, 52 Cal. App. 4<sup>th</sup> at 904-905.) This test does not require that the evidence received by the agency affirmatively prove that significant environmental impacts *will* occur, only that there is a *reasonably possibility* that they will occur. (*Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 309.) Moreover, "[i]f there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration." (*Id.* at 310 (quoting *Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002).)

In the instant case, substantial evidence supports a fair argument that the Project may significantly impact public access and recreation. One source of this evidence is the above conflicts with County public access and recreation policies. (*See Pocket Protectors*, 124 Cal. App. 4<sup>th</sup> at 930; (conflicts with policies adopted for the purpose of avoiding or mitigating an environmental effect constitutes substantial evidence supporting a fair argument of potentially significant impacts); *see also* CEQA Guidelines App. G § IX (b).) A second source is the Coastal Access Implementation Plan and Declarations of Use of Toro Creek, revealing that historic public access and prescriptive rights exist on the property and may be significantly adversely affected by the Project. (*C.f. Citizens' Committee to Save our Village v. Pomona College*, 37 Cal.App.4<sup>th</sup> at 1163-1164, 1167 (determining that public access and recreation issues were adequately addressed and mitigated in the MND where the MND described how the project was designed to preserve public access and included mitigation measures requiring that pedestrian paths remain open and unobstructed except during construction); *Baldwin v. City of Los Angeles* (1999) 70 Cal.App.4<sup>th</sup> 818, 829 (finding that there was no substantial evidence in the record that the project would have a significant effect on established recreational uses, in part because long use of the property as a park was sufficient to create a prescriptive right for continued public use.) Our appeal letter also describes several visual resource protection policies that the Project fails to comply with, providing substantial evidence supporting a fair argument of significant visual/aesthetic impacts particularly when coupled with the existence of the view corridor discussed in our appeal and below. (*Pocket Protectors*, 124 Cal. App. 4<sup>th</sup> at 930 and CEQA Guidelines App. G § IX (b).)

Additionally, “[i]f the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.) Here, the Negative Declaration overlooked two key elements of the environmental setting that should have been used to establish the baseline from which the Project’s impacts were assessed. First, the Negative Declaration failed to disclose that the Project site is the location of a proposed park, designated on the County’s PRT-2 map. The property’s designation as a proposed park provides additional substantial evidence regarding the Project’s impacts to public access and recreation. Second, the Negative Declaration failed to disclose the fact that a view corridor exists across the property, as described in the Summerland Community Plan (Summerland Community Plan p. 137, “[f]rom the Padaro Lane area, a view corridor exists of the foothills to the north and of the ocean and Loon Point to the south and west”), and accordingly did not evaluate whether development proposed on the property may further compromise this view corridor by the obstruction and degradation of remaining views of the ocean across the property.<sup>4</sup> The various observations from Summerland residents regarding the value of this view corridor and the view obstruction and degradation that may be caused by the Project constitutes substantial evidence supporting a fair argument of potentially significant visual impacts. (*Ocean View Estates Homeowners Ass’n Inc. v. Montecito Water District* (2004) 116 Cal.App.4th 396, 402 (relevant personal observations of area residents on nontechnical subjects such as visual impacts found to constitute substantial evidence supporting a fair argument.)

Finally, the above defects in the environmental setting/baseline with respect to the park designation and view corridor, as well as the failure to recognize substantial evidence of historic public use and prescriptive rights across the property, provide an independent basis for the legal inadequacy of the MND. (*See San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722 (determining that inadequate consideration and documentation of existing environmental conditions rendered it impossible for the EIR to accurately assess the impacts of the project); *see also Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4<sup>th</sup> 99 (invalidating an EIR due to inadequacies in the environmental setting/baseline).

For the foregoing reasons, a focused EIR is required and the Board will violate CEQA if it adopts the MND.

## **6. Conclusion**

Described above, the Project violates numerous County policies, precluding the Board from making required findings of approval. The MND’s failure to include adequate baseline information regarding historic public use and prescriptive rights, and the existence of a proposed park designation and view corridor on the Project site, render the MND’s impact analysis inadequate. Finally there is

---

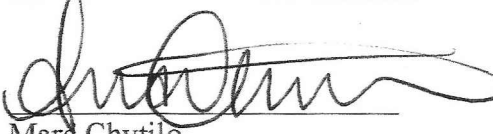
<sup>4</sup> Note, a view corridor was required across the adjacent parcel to the west.

substantial evidence in the record that the Project may significantly impact the environment. For all these reasons, the Board may not lawfully approve this Project.

We respectfully request that the Board direct Staff to commence preparation of a focused EIR that accurately characterizes the environmental setting, evaluates the Project's impacts to public access and recreation, visual resources, and land use impacts associated with conflicts with applicable policies against that environmental setting, and includes mitigation measures including dedication of a trail easement down Toro Creek to address any identified significant effects of the Project.

Sincerely,

LAW OFFICE OF MARC CHYTILO



Marc Chytilo  
Ana Citrin  
For Summerland Citizens Association

Exhibits:

- Exhibit 1: Photo of rocky point between Loon Point Trail and Loon Point (credit: Reeve Woolpert)
- Exhibit 2: Irrevocable Offer to Dedicate Easement – Loon Point Trail
- Exhibit 3: Photos and map of gate across Toro Creek
- Exhibit 4: Summerland Community Plan's Trail, Open Space and Vista map
- Exhibit 5: Santa Barbara County Parks Department letter, Claude Garciacelay, April 22, 1998
- Exhibit 6: Email communication, Reeve Woolpert with David Lackie, February 25, 2014
- Exhibit 7: Comprehensive Plan PRT-2 Map (cropped to show relevant area in more detail)
- Exhibit 8: The Santa Barbara County Coastal Access Implementation Plan, March 29, 1991  
(Spectra Inc. and EIP Associates)
- Exhibit 9: Declarations of Public Use of the Toro Creek Trail