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Board of Supervisors
County of Santa Barbara
105 E. Anapamu St.
Santa Barbara, CA. 93101

By FAX 568-2249 and e mail

April 5, 2010

Re: **Proposed Coastal Commission Modifications to LUDC**

Dear Chair Wolf and Honorable Board Members:

I represent El Capitan Canyon Resort and Campground, which operates pursuant to a Conditional Use Permit in an AG-II Zone District, and is located partially in the Coastal Zone. As other members of the public, the owners of El Capitan Canyon have had one working day to absorb a 339 page Coastal Commission staff report, to determine whether and to what extent their substantive rights might be affected by the proposed modifications to the submitted LUDC. Through no fault of County staff, the public has not had adequate time to identify questions and concerns, let alone to have them addressed. Therefore, we are requesting that your Board request that the Coastal Commission continue its April hearing on the above LCP amendments to enable local public review of the proposed modifications.

The Land Use Development Code was represented to the public as a 'reformatting' project (the Zoning Ordinance Reformatting Project, or "ZORP"), which would reorganize the zoning ordinance and reconcile inconsistencies but would not alter any substantive or procedural rights of property owners or the public. Because of its non-substantive purpose, and unlike the typical LCP amendment, **the County never provided notice to the public or property owners that the ZORP could result in substantive changes, nor did it conduct public hearings on such changes.**

The Coastal Act specifically prohibits the Coastal Commission from diminishing the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan. Cal Pub. Res. Code § 30512.2. The Commission, in approving or disapproving an LCP does not create or originate any land use rules and regulations. It can approve or disapprove *but it cannot itself draft any part of the coastal plan.* See, *Yost v. Thomas*, (1984) 36 Cal.3d 561,572, italics added. We are concerned that these proposed modifications could constitute unauthorized substantive revisions which have not undergone local public review.

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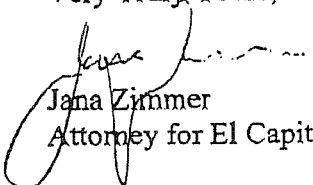
El Capitan Canyon spent several years in a permit review process to obtain a revised CUP, unanimously approved by the Board of Supervisors in 2004, which it is in the process of implementing, among other things, through coastal development permits for placement of its entitlements. While many of the changes may be innocuous, or even beneficial, my clients have no timely means of identifying how or whether their substantive rights to implement their CUP could be impaired by acceptance of these modifications to the ordinance.

At a minimum, the Board and the public need to consider the following:

1. To what extent do the proposed modifications expand or restrict the Commission's jurisdiction to hear appeals of permits approved by the County?
2. To what extent do the proposed modifications render existing structures and uses nonconforming, or otherwise impair the implementation of existing permits?
3. To what extent do the proposed modifications alter the substantive findings and the process required for a permit or a permit amendment?

We request that any future hearing on this matter include a staff report with a matrix and full explanation of all of the changes proposed by Commission staff, as well as a report from County Counsel as to whether these proposals inappropriately diminish the authority of local government.

Very Truly Yours,


Jana Zimmer
Attorney for El Capitan Canyon, LLC