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April 19, 2011

Sandy Stilwell, Chairwoman  
Captiva Community Panel  
P.O. Box 72  
Captiva, FL 33924

Re: Workshop

Dear Ms. Stilwell:

Thank you for your letter of April 13. The workshop described in the letter should provide an excellent opportunity for all Captivans to obtain a better understanding of the practical implications of the Panel's height proposal. As a result, the CCA will encourage its members to attend and to participate in whatever manner they see fit. However, no individual member of the CCA will have the authority to bind the organization at the workshop, and if my client decides to reconsider its position on the height limit in light of the information provided by the staff, it will do so at a later date in accordance with the procedures set out in its governing documents.

The meeting has been called on extremely short notice, and was scheduled without consulting the CCA or its members. As a result, we cannot guarantee that a large number of CCA members will be able to attend.

From my review of the CD of the Panel's April 12 meeting, it appears that some Panel members believe that the CCA, and its individual members, can somehow be barred from effectively participating in the public review of the Panel's Lee Plan and LDC amendments unless they speak at the workshop. Please be advised that my clients have a right under the First Amendment and Florida law to contact their public representatives, County staff, and other Captivans without any preconditions set by the Panel, and that they will continue to exercise those rights regardless of the opinions of the Panel.

I will not be attending the workshop, largely because, based on the tenor of the discussion at the April 12 meeting, I have no confidence that some Panel members will treat me or the CCA with any degree of respect and civility. I am, however, attaching my written comments on the May 17, 2010 draft, which is the last version of the LDC amendment that has been provided to me.

These comments are consistent with the CCA's previous written opinions on the questions raised in the survey. If a new draft is generated between the present date and the workshop, it should be circulated for further public review and comment a reasonable time prior to any final action by the Panel.

Sincerely,

A handwritten signature in black ink that reads "Matt Uhle". The signature is written in a cursive, slightly slanted style.

Matthew D. Uhle

Cc: Paul Garvey  
Matt Noble

To: Captiva Community Panel  
From: Matt Uhle  
Date: April 19, 2011  
Re: Draft LDC Amendments

The following is a list of my concerns with the May 17, 2010 draft of the LDC amendments. It does not address the height limits, which are covered in the attached March 28 letter to Matt Noble. I also support most of the comments made by the staff on December 27, 2010; references to them are largely omitted from this memo:

1. Section 33-511: I agree with the staff's position on the removal of subsection (B). The regulation should be written to be clear without adding this statement of intent.
2. Section 33-512: Technically, the section also applies to uses and activities which are not "development," as that term is defined in the LDC.
3. Section 33-513: This section is not completely accurate. To the extent that the Captiva regulations encompass issues that are not covered by the Administrative Interpretation (e.g., signage), they should govern activity at SSP.
4. Section 33-522(A): This language is premature in light of evolving positions at the state and county levels. In addition, to tie the inspection requirement to conveyances in the LDC is inconsistent with Florida case law limiting local government authority in this field, does not provide buyers and sellers with adequate notice of the requirement (does the average buyer or seller read the LDC?), will require local resources for enforcement which may well not exist, and creates legal obligations without an obvious remedy.
5. Section 33-531: The zoning district does not belong in Chapter 33, as noted by the staff. My client has previously noted its opposition to any liberalization of the rental rules.
6. Section 33-532: See attached letter to Matt Noble.
7. Signage sections, in general: The existing Captiva sign ordinance is obsolete; however, most of the problems with Captiva signage revolve around enforcement, not the regulations themselves. If the Panel wants to make changes to fix the regulations, it would make more sense to start with the general sign ordinance, and then to make minor changes to address items that are specific to Captiva (e.g., identification signs), then to do what is being proposed here. For example, the general sign ordinance prohibits roof signs, but the Captiva ordinance permits them. The amendment itself says that the more restrictive provision control. What is the point of that?
8. Section 33-559: If "the effective date of this ordinance" is the date of adoption of the new Chapter 33 regulations, then all illegal signs that are not specifically listed as "prohibited signs" become nonconforming and can remain, which is not appropriate.