MARIN COUNTY FARM BUREAU

P.O. Box 219, Pt. Reyes, CA 94956

February 19, 2013

President Judy Arnold and the Marin County Board of Supervisors
Via e-mail c/o Kristin Drumm: kdrumm@marincounty.org

Re: **Farm Bureau's Outstanding Issues**

Dear President Arnold and Honorable Supervisors,

Background
When the LCPA process began several years ago, Marin's farmers and ranchers filled the room at the initial workshops and hearings, and made us aware of a considerable number of policies that were unclear, unfair, and had the potential to damage Marin's agricultural sustainability. However, ranchers and farmers have found it difficult to take time away from their work to continue attending the numerous hearings.

When the process got to your board and Farm Bureau laid out those issues that remained problematic in the Planning Commission Approved Drafts, we realized they were numerous and we understood that you needed to prioritize and address what were seen as the most important issues first. The agriculture community appreciates that you have addressed many of these during your hearings thus far, including eliminating some unnecessary regulatory burdens so that farmers and ranchers will have the flexibility to be economically viable and sustainable, and for relocating the proposed California Coastal Trail off the working ranches and onto Highway 1.

There remain, however, a number of outstanding issues. There is even broader concern as the ranching community begins to realize that an updated Countywide Plan policy (AG-1.g Revise Agricultural Zoning Districts) mandates that Agricultural Production Zoning (APZ), or a similar zoning district, shall apply to lands in the Inland Rural Corridor.
Some of the issues were never addressed during your public hearings, and others were mentioned in staff reports but not resolved to the satisfaction of the ag community. We have broken these into two groups, Unaddressed Issues and Unresolved Issues. We would appreciate your close consideration of each of these issues before you adopt the LCPA. Please also carefully consider Attachment #1, containing our recommendation that could resolve a great many of the existing problems.

Comprehensive discussions on many of these can be found in two of the letters submitted by Marin County Farm Bureau on 9/28/2012 and 3/25/2012. Support for these positions are also included in letters from California Farm Bureau Federation 4/22/2010 and California Cattlemen's Association 10/2/2012.

Issues Not Addressed during the Board of Supervisors' Public Hearings

Unaddressed Issue #1 - Categorical Exclusion Orders

We appreciate that you have recognized that historic and ongoing customary and normal agricultural activities and agricultural accessory structures should not be considered development subject to the Coastal Permit process, (**Program C-AG-2.a Allowed Uses: Use allowed by right. No permit required).** However, although these are currently certified in the Categorical Exclusion Orders (see Categorical Exclusion Orders *PDF*, and Resolutions Amending Unit I and II *PDF)*, they only apply to certain properties. We request that you now specify that the Categorical Exclusion Orders be allowed on ALL C-APZ-zoned parcels in the Coastal Zone, and that for clarity and transparency the Categorical Exclusion Orders be featured somewhere prominently in the Amended LCP, listed for reference in the Code and referenced in the Appendix.

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Unaddressed Issue #2 - The "Constitutionality Clause"

As you will see, many of the unresolved issues relate to internally inconsistent LCPA and Development Code language, and some actually increase the County's exposure to liability for potential takings claims. We will discuss individual problematic policies below, but think it is important to point out that *all* of the problems can be fixed, literally, by the inclusion of a new clause:

Policy XX & Development Code Section XX - Constitutionality of Conditions

Where the County seeks to impose conditions on a property owner's proposed land use, the County bears the burden of demonstrating—on an individualized, case-by-case basis—that the proposed use will create an adverse impact on public access, public infrastructure or other public good. The County must then also demonstrate: (1) a nexus between the impact of the proposed land use and the condition; and (2) proportionality between the impact of the proposed land use and the condition, such that the condition directly mitigates for the adverse impacts of the proposed land use.

To our knowledge, your board did not address the Constitutionality Clause during a public hearing. We were told by staff that they did not think it appropriate to include because some of the laws it referenced (such as Nollan and Dolan) might be one day overturned in court, thus invalidating our LCP. This is a flawed argument, as can be seen in our Attachment #1 - "Constitutionality Clause" and Arguments in Support of Its Inclusion, which also includes a comprehensive discussion and the list of Development Code sections that should be referenced with the Constitutionality Clause.

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Unaddressed Issue #3 - Potential Takings Economic Evaluation

Presumably in response to potential takings liability, Staff drafted a new Section 2.70.180, which unfairly requires permit applicants whose land falls within ESHA to provide the County with proprietary, confidential financial and personal information. This fails to account for federal and state constitutionally guaranteed rights to privacy. And, because the Coastal Commission has a history of painting ESHA with an overly broad brush, this Section could apply to a large percentage of applicants. Please see the excellent arguments presented by Pacific Legal Foundation in its 10/1/2012 letter, and delete this requirement.

* * *

Unaddressed Issue #4 - Development Code Tables 5-1.a, b, c and d
(There are a number of different issues herein)

Key to MCFB's Recommendations:
Only the C-APZ-60 column has been edited
Added text = **bold and underlined**
Deleted from original = ~~Strikethrough~~
~~X~~ = Deleted original symbol for Use not allowed (–)
! = New column added at left to indicate where proposed changes made
(No changes recommended for Table 5-1.e)

FARM BUREAU RECOMMENDS:

TABLE 5-1-a - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE-RELATED DISTRICTS

Chg. !	LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
		C-APZ-60 Agricultural Production	**C-ARP** Agricultural Residential Planned	**C-OA** Open Area	
	AGRICULTURE, MARICULTURE				
!	Farmhouse	PP (8)	PP	--	22. 32.025

(8) ~~Only one single-family dwelling per legal lot allowed~~. **Additional single-family dwelling units up to the C-APZ-60 zoning density, without a land division, may be permitted as a Conditional Use (U), when all applicable standards and requirements have been met**. Does not include intergenerational homes or agricultural worker housing. To create additional parcels and additional single-family homes, see also 22.86 (Subdivisions).

- Please note that we have added -60 to the C-APZ zoning designation in all the tables.

- The language in Footnote (8) "Only one single-family dwelling per legal lot allowed…," indicates that people are still confused about the difference between "allowed" and "permitted." Please see the Marin County Local Coastal Program Unit II , page 100, where "One single-family dwelling…" is listed as one of the "b. Permitted uses" in the APZ. If only one single-family dwelling was *allowed*, how would one explain the fact that there are a number of ranches containing more than one house, or that MALT continues to purchase development rights in the Coastal Zone? This language also inadvertently promotes unnecessary subdivision. Please clarify the intent and the law by adding our suggested language.

FARM BUREAU RECOMMENDS:

TABLE 5-1-b ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE - RELATED DISTRICTS (Continued)

Chg. !	LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
		C-APZ-60 Agricultural Production	**C-ARP** Agricultural Residential Planned	**C-OA** Open Area	
	MANUFACTURING AND PROCESSING USES				
!	Cottage industries	**PP** ~~X~~	U	--	22.32.060
!	Hunting and fishing facilities (Private)	**P** ~~U~~			
!	Private residential recreational facilities	**P** ~~U~~			

Discussion:

- Regarding Cottage Industries, it is absurd to not allow someone in a farm family to supplement their income by engaging in any of these enterprises. Because many have to take off-farm jobs because regulations in California make earning a living off the land difficult if not impossible, many agricultural families must find additional means to pay the bills. Governor Brown recently signed into law AB 1616 which makes cottage industries legal. Please update Table 5-1-b and Section 22.32.060 to reflect that this is a Permitted Use for our lands in the C-APZ-60 zone.

- Please see the definitions of Private Recreational Facilities and Rural Recreation, which exclude commercial facilities and public commercial enterprises. A literal interpretation could prevent a farm family from putting a target on a hay bale to use for target practice, placing a hot tub on their back porch, building an indoor lap pool for physical therapy, or erecting a basketball hoop where their kids can play without going through a cumbersome permitting process. These should be Permitted uses.

FARM BUREAU RECOMMENDS:

TABLE 5-1-c ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE - RELATED DISTRICTS (Continued)

Chg. !	LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
		C-APZ-60 Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
	RESIDENTIAL USES				
!	Guest houses	**P(6,10)** ~~X~~	P(6)	P(6)	22.32.090
!	Residential second units	**P(6, 10) X**	P(10)	--	22.32.140 22.32.115
!	Tennis and other recreational uses, private	**P U**	U	U	22.32.130

Discussion:

- Guest houses are allowed in every other zoning district. It is not only discriminatory and a violation of equal protection, but also insulting to assume that farmers and ranchers won't ever have out-of-town guests for whom they want to provide overnight accommodations from time to time without impacting the family's private space.

- Regarding Second Units: The state encourages development of second units to increase the availability of low income housing by reducing government regulation. Second-unit law applies to localities in the Coastal Zone so Marin's LCP cannot make an exclusion for the C-APZ-60 zone. According to Government Code 65852.2(j), second-unit law shall not supersede, alter or lessen the effect or application of the California Coastal Act (Division 20 of the Public Resources Code), except that local governments shall not be required to hold public hearings for coastal development permit (CDP) applications for second-units. As stated in correspondence, dated January 13, 2003 from the California Coastal Commission to all coastal communities, local governments in the coastal zone should amend their Local Coastal Program (LCP) to not require a public hearing in the consideration of second-unit applications. Further, local appeals should be handled in an administrative manner. Source: B1866, Government Code Section 65852.2 State Second Unit Law http://www.hcd.ca.gov/hpd/hpd_memo_ab1866.pdf.

- Please see our discussion of Private Residential Recreational Facilities in Manufacturing and Processing Uses from Table 5-1-b above.

FARM BUREAU RECOMMENDS:

TABLE 5-1-d ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE – RELATED DISTRICTS (Continued)

Chg. !	LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
		C-APZ-60 Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
	RESOURCE, OPEN SPACE USES				
!	Water conservation dams and ponds	**P(10)** ~~U~~	P	P	
!	Veterinary clinics and animal hospitals	**U** ~~X~~	U	--	

Discussion:

Water conservation dams and ponds for agricultural use are necessary for agriculture production and, in addition, their presence offers habitat to native and endangered animals. They should be Permitted Uses (P).

- What better place for veterinary clinic or animal hospital than within an agricultural zone? Those concerned with animal welfare should support a local vet clinic. Large animal vets are few and far between, and allowing the building of vet facilities will help to encourage location of vets within the area. This would also help to minimize travel time between ranch/farm, reducing the carbon footprint and likely decreasing the time that an animal might be in pain. It should be allowed with the proper Use Permit.

* * *

Unresolved Issues Already Addressed but Without Satisfactory Resolution

Unresolved Issue #1 - Conservation Easements and Covenants Not to Divide Should Not Be Required as Conditions for Permit Approval

C-AG-7.B.3

During the planning commission hearings, Farm Bureau and its attorneys unsuccessfully tried to make a case for substituting the word "may" for "shall" in the agricultural easement requirement language.

What we did succeed in doing, though, was raising the awareness of the planning commission to the potential takings implications of this policy. The language that the Marin Planning Commission ended up approving, however, begins with a clause that is both misleading and untrue:

"*Consistent with state and federal laws*, a permanent agricultural conservation easement… shall be required…"

Neither state nor federal law requires a conservation easement over lands used for non-agricultural development, land divisions, or multiple residential projects. This poorly-written phrase implies that they do. This policy can be corrected and clarified simply by adding the word, "*Where*" before the word consistent…, or using language similar to that in C-PA-2: "*Where a nexus exists between impacts of proposed development and provision of* [an easement]…"

Secondly, requiring the execution of a covenant not to divide in the same way eliminates valuable development potential and could also be construed as a taking without just compensation. It also hamstrings a farmer who may need to obtain financing and is forced to encumber his entire property, rather than a portion of it. This would result in jeopardizing the very land that the LCPA and CCC seek to preserve. Flexibility must be maintained. LCPA should avoid policies that micromanage. We are not advocating for non-agricultural development or subdivisions, only that the development potential be justly compensated as guaranteed by our Constitution. In the LUP's Introduction, which references Coastal Act Section 30010, the County acknowledges that it cannot "grant or deny a permit in a manner that would take or damage private property for public use, without the payment of just compensation." The draft policy language of C-AG-7.B.3 violates Coastal Act Section 30010 and our Constitution.

Please see our comprehensive discussion in our first endnote.[i] Please also see supportive arguments on page 3 of California Farm Bureau Federation's 4/22/2010 letter.

The California Coastal Commission continues its unsound propensity to unlawfully demand easements in exchange for permit approvals, and they are consistently stricken down in courts, in lawsuits that unnecessarily drain taxpayer dollars. CCC staff continues to insist upon easement dedications from applicants going through the Coastal Permit process. Clear and unequivocal language could put an end to these illegal and costly processes.

The most preferable option to create fair and legal policies with internal consistency and clarity is to incorporate the Constitutionality Clause and reference this policy and related Development Codes with it.

...

Unresolved Issue #2 - Intergenerational Housing Should Include More Than Two Homes

C-AG-5 allows for up to two Intergenerational Homes**.** We appreciate that County planners recognize the need for intergenerational housing as a principally permitted use (PP) in addition to the main Farmhouse. But limiting development to only two intergenerational homes is prejudicial against larger farm families, many of whom have been stewards of the land for generations. Limiting their economic viability further, if even one additional home was needed for that larger family, they would then be forced to dedicate a conservation easement and trigger a covenant not to divide, which would not only eliminate all development rights but eliminate the family's ability to grow in the future. Conservation easement and covenants not to divide are encumbrances that reduce the value of lands. Development rights have value to both the

government (in the form of taxes) and landowners (as proven by MALT purchases over the last 27 years). Development rights must be purchased, not taken. It's important to point out that most, if not all development proposals must go through a number of permitting processes. By allowing additional homes, it is not as if farmers and ranchers will have free development reign. This development would still need to be approved by the appropriate local agency prior to the CCC. These regulations don't exist in a vacuum. Please also see comments from CCA in the corresponding endnote.[ii]

Farm Bureau Recommends: Allow two intergenerational homes as a Principally Permitted Use (PP). Delete requirement for Use Permit (U) on a second intergenerational home. Allow additional intergenerational homes, beyond the first two, with a Use Permit (U), up to the zoning density.
The corresponding Development Codes, including 22.32.024, should also be modified accordingly.

Unresolved Issue #3 - The Aggregate Cap is Inconsistent with the Zoning
C-AG-9.3 restricts the aggregate square footage of all intergenerational residences 7,000 to square feet.

To suggest that the aggregate residential development on a subject legal lot shall not exceed 7,000 square feet is preposterous. The "aggregate cap" was removed by the Supervisors during the Countywide Plan update when the board acknowledged that it would change existing zoning without due process. To allow the same total square footage on a 60 acre parcel as you do a 1,300 acre parcel illegally changes the zoning of each ranch to a different density. This cap would also trigger a conservation easement and a covenant not to divide if the addition of one more home for a family member who wanted to get involved in the operation would exceed the 7,000 square feet limit. Again, it is important to point out that regardless of square foot cap, the home(s) would have to go through a local permitting process in order to be built. This process is the appropriate time for local agencies to use best judgment and discretion in permitting. A blanket ban on aggregate size exceeding 7,000 square feet is unjustifiable. Please also see supportive arguments on page 5 of California Farm Bureau Federation's 4/22/2010 letter.

Please delete #3 entirely. Related language in Development Code Section 22.62.060 should also be revised or deleted accordingly.

* * *

Unresolved Issue #4 - Restrictions Denying Use of 95% of Gross Acreage Without Compensation
C-AG-7.B.1 mandates that all non-agricultural development be grouped in a total of no more than 5% of the gross acreage. First and foremost, such a limitation might legally be construed as a taking, since the policy makes no mention of compensating a landowner for the 95% of that land where no development would be allowed. Compare this percentage with thresholds in Williamson Act or conservation organization policies. If the infrastructure supports the feasibility of the operation it should be allowed. Additionally, there are variations of what is compatible with ag (e.g. supporting infrastructure, water development infrastructure, worker

housing, etc.) When you start adding all the ranch roads existing and proposed, their cumulative square footage could be quite sizable.

Ag roads should be deleted from this policy. Without the construction of roads, you will still have landowners traveling over their property with quads and other vehicles. Having ranch roads serves to encourage travel on a segment of the property as opposed to taking various routes each time travel is required, thereby minimizing the environmental impact.

Septic leach fields must be placed where the land perks, so should not be required to be incorporated into groups. Similarly, it would be impractical or impossible to "group" power line easements and utility lines. Please make an exclusion for them.

Please also see supporting arguments from CCA's letter.[iii]

This questionably-legal policy is best resolved by incorporating reference to the Constitutionality Clause.

Unresolved Issue #5 - Restrictions to "Protect" Visual Resources

C-AG-7.B.1 mandates that all non-agricultural development not result in impacts including "significant natural visual qualities of the site" and "designated scenic protection area[s]."
C-DES-2 Protection of Visual Resources Ensure appropriate siting and design of structures to prevent obstruction of significant views, including views both to and along the coast as seen from public viewing areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, and coastal streams and waters used for recreational purposes.
C-DES-3 Protection of Ridgeline Views requires that new development proposed on or near visually prominent ridgelines to be grouped below the ridgeline on the least visually prominent portion of the site.

Discussion:
We object to the notion that views of our agricultural lands somehow belong to others. The Courts have rejected the argument that the Coastal Act allows the Commission to completely ban any development that in any way impacts any view in the coastal zone.

The Court pointedly explained:
"[T]he Legislature [never] intended that permits be denied for all projects which infringed in any way, no matter how minimal, on any view, no matter how limited, for anyone, from any vantage point, no matter the proximity of unlimited and expansive views" *(Farr vs. the California Coastal Commission*).

There's a potential problem with restrictions on development on the tops of hills, spurs and ridgelines, which are often the best places to locate certain agricultural accessory structures because of their visibility from the rest of the ranch and/or their exposure to certain weather elements. For instance, a hay barn along the top of a ridgeline is a more preferable location for drying out baled hay than in a lower, less ventilated area. An 18 foot height limit would also compromise the usefulness of such a building. Viewsheds that are being protected are created by the stewardship of the landowner, who should be allowed the flexibility to construct structures

that are compatible with the agriculture operation. Please make an exception for agricultural accessory structures.

Please also see supportive arguments on page 2 of California Farm Bureau Federation's 4/22/2010 letter, and those by CCA in the related endnote.[iv]

Please make it clear in these policies and corresponding Development Code sections that the public is not entitled to prevent any development simply because they may not wish to look at it.

Unresolved Issue #6 - Internally Inconsistent Language in C-AG-7

Development Standards for the Agricultural Production Zone (C-APZ) Lands.

A. Standards for Non-Agricultural Uses:

4. Proposed development shall only be approved after making the following findings:

a. The development is necessary because agricultural use ~~of~~ on a portion the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.

b. The proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.

Discussion:

How is it possible to prove a. that "agricultural use of the property would no longer be feasible," and also b. that "the proposed development will not conflict with the continuation or initiation of agricultural uses…"? The statement would be clarified by adding the words "on a portion" in front of the words "the property" in 4a. This would also make 4a. more consistent with the second sentence which reads "The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land…" We have inserted and highlighted the proposed change above to help make this clearer.

Unresolved Issue #7 Wetland and stream buffer adjustments

C-BIO-20 Wetland Buffer Adjustments and Exceptions.

~~1. Consider granting adjustments and exceptions to the wetland buffer width standard identified in Policy C-BIO-19 in certain limited circumstances for projects that are implemented in the least environmentally damaging manner, as follows~~ A Coastal Permit that requires a buffer adjustment may only be considered if it conforms with zoning, and:

C-BIO-25 Stream Buffer Adjustments and Exceptions.

1~~. Consider granting adjustments and exceptions to the coastal stream buffer standards in policy CBIO-24 in certain limited circumstances for projects that are undertaken in the least environmentally damaging manner. An adjustment or exception may be granted in any of the following circumstances:~~ A Coastal Permit that requires a buffer adjustment may only be considered if it conforms with zoning, and:

Your board had asked staff to come back with cleaner language regarding the buffer adjustments at the January 15th hearing. They replaced the language with the above underlined language.

This is extremely problematic; since no coastal permit "requires" a buffer adjustment, there would be no possibility of ever obtaining an adjustment. We believe that staff intended for adjustments to be possible but the language now prevents that. Farm Bureau would like to suggest the following language:

Buffer adjustments may be considered for coastal permits if the following criteria are met: Then a list of the criteria would be listed as it already is. Please don't forget our opposition to the 50 foot minimum. If the site assessment shows that a lesser minimum is necessary, that should be allowed.

* * *

With apologies for the length of this comprehensive request, please recognize that each of these issues is important to the agriculture community.

We thank you for your consideration, and for recognizing that the Coastal Act gives you the authority over, and the autonomy from, the Coastal Commission, when determining the precise content of our LCP. You know better than any state agency how much Marin's agriculture benefits the County, economically, culturally and environmentally. Thank you for continuing to support this in the future as the LCPA goes through the Coastal Commission certification process.

Dominic Grossi

Dominic Grossi
President
Marin County Farm Bureau

Attachments: 1 - "Constitutionality Clause"

Cc:
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Endnotes

[i] **Conservation Easement Requirement Language and Covenants Not to Divide**
The language "consistent with state and federal laws" is ambiguous and subject to misinterpretation. There are two major issues here. First, requiring a conservation easement (CE) without showing that it's proportionate and that a nexus exists, or paying just compensation for valuable lost development

potential, is not only illegal but devalues the land, impacting a rancher's ability to get loans, build infrastructure and increase economic viability, or even sell the land.

Secondly, requiring the execution of a covenant not to divide in the same way eliminates valuable development potential and could also be construed as a taking without just compensation. It also hamstrings a farmer who may need to obtain financing and is forced to encumber his entire property, rather than a portion of it. We are not advocating for non-agricultural development or subdivisions, only that the development potential be justly compensated as guaranteed by our Constitution. In the LUP's Introduction, which references Coastal Act Section 30010, the County acknowledges that it cannot "grant or deny a permit in a manner that would take or damage private property for public use, without the payment of just compensation." The draft policy language of C-AG-7.B.3, violates Coastal Act Section 30010 and our Constitution.

A mandatory one-size-fits-all CE limits the property owner's rights not only on development but certain ag activities. This should be a choice to participate—otherwise property owner commitment to adhering to, or even understanding CE requirements, can be an issue and can ultimately result in violations. In Sonoma County, no CE is entered into unless there is a willing seller. Ultimately, willing participation equals higher CE compliance, which results in a successful land protection program for the Marin Agricultural Land Trust and the County.

Also, in deliberations during the public processes, many people advocated for using the word "may" instead of the word "shall," including then MALT Executive Director Bob Berner in his item 4 on page 1 of his 7/27/2009 letter to the Planning Commission. The policy should allow for using a Williamson Act Contract to promote long-term preservation, as it does in C-AG-9.

Please also see Policy C-PA-2 for alternative language.

Here is a related excerpt from California Cattlemen's Association's (CCA's) 10/2/2012 letter supporting our argument:

"The language of section three is misleading and untrue. Neither state nor federal law requires a conservation easement over lands used for non-agricultural development. This language completely mischaracterizes the Supreme Court decision in *Nollan v. California Coastal Commission* 483 U.S. 825 (1987), which states that a nexus must exist between the proposed project and the requirement for the easement. It is required by law that either the landowner must be a willing volunteer in the establishment of the easement, or the state or county must take the property and reimburse the land owner via eminent domain, otherwise, the condition of an easement in exchange for a permit would classify as an illegal taking. The language above does not reflect this critical component, and CCA advises that it be changed to do so.

In addition to the egregious interpretation of the requirements of easements, this policy also prohibits farmers and ranchers from dividing their land should they need to do so for financial reasons. If this option is off the table, landowners may be either forced to sell all of their property, or be subject to restrictive uses of an easement. The Board may wish to consider that should agricultural lands be subject to an easement, the county will no longer receive property taxes. It would behoove the Board to consider whether or not it is wise to implement a policy which will certainly reduce revenues to the County."

[ii] **Intergenerational Housing**. Excerpt from CCA 10/2/2012 letter: CCA appreciates the acknowledgement by staff that agriculture in Marin County is composed almost wholly of family farms. Unlike other occupations, farming and ranching require generations of investment of both time and money, and to continue the work done by parents, children and grandchildren frequently step in to support the aging generation. In order to support the continuation and succession of family farms and ranches, the Planning Commission- recommended LCPA includes a provision to allow up to two "intergeneration homes" on agricultural properties in the Coastal Agricultural Production Zone (C-APZ). While CCA supports the concept of intergenerational housing allowances, we believe that limiting the number of homes to two, prohibits and discourages multiple generations from continuing to tend to the land. If the homes can be built in a manner that both provides for the continued stewardship of the land, while maintaining habitat and open space, then the homes should be permitted. These decisions should not be arbitrarily set as blanket rules, but instead, should allow for flexibility within local government policy making.

[iii] **Restrictions Denying Use of 95% Without Compensation** Excerpt from CCA's 10/2/2012 letter: While this language was likely mistakenly written in its current form, CCA would like to call the members' attention to the fact that this policy encourages agricultural facilities to be built in a location which avoids agricultural lands. Clearly, it is impossible to avoid agricultural land on a parcel that is zoned as such. CCA recommends that this language be changed to reflect a more coherent policy. CCA also would like to remind the Board that as most of this land is private property, should a landowner wish to disturb his productive land and forego some of his profit for the building of an agriculturally related structure, he should be allowed to do so. It seems to be a common notion amongst many of the staff that the farm or ranch owner will not do what is best for the continued production of his land. If it is more efficient and effective to build an agricultural structure near the area on which agricultural production occurs, the landowner should have the ability to do so. The alternatives to this policy may be that a rancher builds a barn five miles from his most frequently used pasture, and as a result of policy restriction, is forced to drive hay back and forth from the barn to the pasture as opposed to having built the structure in a location which was most beneficial for his use.

[iv] **Scenic Resource Protection** Excerpt from CCA's 10/2/2012 letter: Here again, the Board must determine whether or not they want to protect agriculture and open space, as the language severely hampers farmers and ranchers from a variety of practices that are necessary to ensure the continuation of their operations. It is not always reasonable that new structures be made near existing roads, and in fact, this may frequently be deleterious to agriculture. Those raising livestock want to ensure that their animals are away from the road, and thus, this provision ensures that the construction of any related facilities would be untenable. Additionally, the language states that "…development shall be sited to minimize impacts on scenic resources…" This is a catch-22. Firstly, who determines scenic resources? Secondly, should a landowner be prohibited from erecting a facility which would allow his continued participation in agriculture, then that very view shed which is being " protected" will be ultimately diminished by the landowner's inability to continue farming and ranching and providing coveted open space.