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.

> *The APZ zone and the C-APZ zone are not the same. A new "inland" APZ zone would not at all be constrained by the distinct, exacting requirements for protection of agricultural land that are specifically mandated by the Coastal Act in the Coastal Zone and incorporated in the C-APZ zone. Decisions to be made on the APZ zone will be by the Planning Commission and the Board of Supervisors through the open public process, and will not be subject to final authorization by the Coastal Commission as the C-APZ zone is.*

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.

The Coastal Act itself limits the geographic area in which development can be Categorically Excluded. Expanding the geographic scope of the Categorical Exclusions would require an amendment to the Coastal Act. This may be something to take up with the Commission at the upcoming Agriculture workshop.

> ***Section 30610 Developments authorized without permit…***
> *(e) Any category of development, or any category of development within a specifically defined geographic area, that the commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and, where the exclusion precedes certification of the applicable local coastal program, that the exclusion will not impair the ability of local government to prepare a local coastal program…*
>
> ***Section 30610.5 Urban land areas; exclusion from permit provisions; conditions…***
> *(b) Every exclusion granted under subdivision (a) of this section and subdivision of (e) Section 30610 shall be subject to terms and conditions to assure that no significant change in density, height, or nature of uses will occur without further proceedings under this division, and an order granting an exclusion under subdivision (e) of Section 30610, but not under subdivision (a) of this section may be revoked at any time by the commission, if the conditions of exclusion are violated. Tide and submerged land, beaches, and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, and all lands and waters subject to the public trust shall not be excluded under either subdivision (a) of this section or subdivision (e) of Section 30610.*

Staff will certainly feature the Categorical Exclusions in the final document as requested, and as we already committed to do in Program C-AG-2.a.

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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.

County Counsel will address this issue before the Board.

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.

Staff did not say these court cases would be overturned, just that the law may continue to evolve and that the more comprehensive, encompassing language of the Planning Commission approved draft would better accommodate such change.

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FARM BUREAU RECOMMENDS:

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.

County Counsel will address this issue.

* * *

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 existing Code (22.57.030.I), Article V (22.66.040 and Table 5) and the proposed code (22.62.060.B.1 and Table 5.1) all refer to "C-APZ." rather than C-APZ-60. Moreover, the format for other Zoning Districts, in the LCP AND the Countywide Development Code follow this format. It is unclear what this change is intended to do, and what if any benefit it would confer at the cost of widespread inconsistency in the Code format.

- 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

FARM BUREAU RECOMMENDS:

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.

The existing LCP Zoning Code (Title 22I) applies the terms Principal Permitted Uses vs. Conditional Uses (see for example sec. 22.57.032I and .033I). The Amendment adds a Permitted category to the Zoning Code. If the Board desires, we can add additional descriptions to the Introduction of the LCPA.

Ranches with more than one house may been developed before the Coastal Act. MALT purchases development rights to eliminate the potential for subdivision which still exists under the LCP.

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.

  There is a substantial difference from the recently amended provisions for "Cottage Food Operations"(CFOs) and the much broader "Cottage Industries," which includes activities such as furniture making. CFOs are more similar to Home Occupations," which are already provided for in the LCPA. Staff will work to find the most flexible and permissive way to include CFOs in the LCP Amendments.

- 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.

  "Private Residential Recreational Facilities" are allowed as a Conditional Use- just as they are in the current LCP.(These are defined as "privately owned …facilities provided for members or project/neighborhood residents" i.e private clubs.

  "Rural Recreation" includes outdoor archery, pistol, rifle, skeet shooting ranges and clubs;

FARM BUREAU RECOMMENDS:

rodeo facilities, guest ranches; and health resorts… The current LCP allows hunting, fishing and camping as a Conditional Use (U) but does not list these other rural recreation facilities. It is highly unlikely the informal personal uses putting a target on a hay bale for target practice or erecting a basketball hoop could be interpreted as a range, club, guest ranch or resort.

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.

  Guest houses are not allowed in the C-APZ in the current certified LCP. They are specifically not considered to be an agricultural use, and are not allowed to be exempted (22.56.050.D.2(I)). If the Board wishes to allow them, it should be as a Conditional Use. This may however complicate the CCC's consideration of intergenerational homes.

- 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.

  The referenced state law provides for second units in Residential zones, but is silent on agricultural zones. A second unit would be similar to the proposed intergenerational unit, but would be more limited in size. It is unlikely that without the restrictions associated with the proposed intergenerational units, the Commission would see them as an allowable use in agricultural zones. Second units are not presently allowed in the C-APZ by the current LCP.

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

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).

These are Conditional Uses in the current LCP. Note that within the Categorical Exclusion area, "Water impoundment projects not to exceed 10 acre feet, in canyons and drainage areas not identified as blue lime streams on USGS 7 1/2 Minute Quad Sheets" are exempt.

- 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.

  Staff agrees. While the current LCP provides for veterinary facilities as a conditional use in the C-APZ, Article V adopted by the Board in 2003 did not include this use in the C-APZ zone, and that is the direction we followed. Staff recommends the Board make this change.

* * *

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]…"

County Counsel to advise.

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.

County Counsel to advise.

…

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.

The Farm Bureau has sought such additional development throughout the LCP process, and the Planning Commission and Board have both considered MCFB's position carefully and sincerely. Recognizing that no more than one house per parcel is allowed under the current LCP without review and approval of a subdivision both bodies found that these provisions would provide significant new flexibility if they win approval from the Coastal Commission, and made the judgment that such a carefully balanced expansion of flexibility for agricultural operations at least has a fighting chance of becoming certified.

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.

This provision is part and parcel of the compromise to allow intergenerational homes, by demonstrating that such homes are bona fide components of a farming operation (the average size of a typical coastal Marin farmhouse is about 2000 sq. feet), rather than a non-agricultural "rural estate" home. This premise also would allow the farm house and first intergenerational home to be a principal permitted use not subject to appeal to the Coastal Commission, providing the operation with more certainty.

These provisions in no way change overall density, but simply provides a more flexible alternative. The LCPA continues to allow one unit per 60 acres under conditions that are similar to the LCP requirement currently in place.

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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.

These provisions simply carry forward the requirements of the existing LCP, and are moreover consistent with Policy AG-1.6 adopted by the Board in the 2007 CWP.

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.

> *The quoted portion of C-AG-7.B.1 merely re-states the comparable section of existing LUP Agricultural policy 5.a (pg.99); it is no change. The other policies provide sufficient discretion to accomplish a good fit between agricultural development and view protection. The exemption of certain agricultural structures from visual policies was brought to the Planning Commission, which decided not to make such special provisions.*

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.

Both these criteria apply in the current LCP, and can be evaluated based on information developed on a case by case basis.
Adding "on a portion" negates the standard, which is intended to address the viability of the ag. operation as a whole (the same consideration that would allow development of additional income producing operations on an ag. parcel).

<u>Unresolved Issue #7 Wetland and stream buffer adjustments</u>

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~~ <u>A Coastal Permit that requires a buffer adjustment</u> <u>may only be considered if it conforms with zoning, and</u>:

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:~~ <u>A Coastal Permit that requires a buffer adjustment may only be considered if it conforms with zoning, and</u>:

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:

<u>Buffer adjustments may be considered for coastal permits if the following criteria are met:</u>
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.

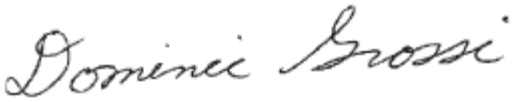
Staff recommends the change as follows: <u>A buffer adjustments may be considered for coastal permits if the following criteria are met:</u>

* * *

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 LCP goes through the Coastal Commission certification

process.



Dominic Grossi
President
Marin County Farm Bureau

Attachments: 1 - "Constitutionality Clause"

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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