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

Re: Addressing Marin County Farm Bureau's unresolved
Local Coastal Program Amendment issues

Dear President Arnold and Honorable Supervisors:

This briefly supplements my January 14 letter indicating that I would later be addressing some unresolved issues that have not been fully addressed by the Board. Since sending that letter I have been provided with, and have reviewed, a copy of the 2/19/13 letter that has now been sent to the Board by the Marin County Farm Bureau. I understand and support many of the points there raised, and have little to add to those MCFB arguments. Since that letter also pertains to a few issues on which I have not been so closely involved as has the Farm Bureau, however, I wish to focus here on two legal issues:

1. Attachment #1 to the 2/19/13 letter appropriately questions the constitutionality of certain conditions sought to be imposed by the County on permit applicants, and seeks simply to remind a reader that the County's legislation needs to the reader of Constitutional protections that are are sometimes overlooked. Boiled down to its basics, the Attachment says: "The County of Marin should carefully respect what the Supreme Court has earlier decided is the law of the United States pertaining to what conditions a permit applicant can be required to agree. To make this entirely clear, the Constitutional rights of an applicant need to be repeatedly referenced and explained in the Marin County Code provisions respecting a planning entitlement application, not only for the benefit of the applicant, but as well for the benefit of any other reader of the application that is filed."

While the Count's Board and staff might be tempted to dismiss such requested reminders of Constitutional limitations as duplicative and unnecessary, they are so close to this subject matter as to perhaps forget that this legislation will in the future be studied and relied upon by persons lacking that factual background. If my above cryptic summary of Attachment #1 is deemed accurate, I urge that Attachment #1's requested wording changes be adopted in their entirety by the Board. (Should County Counsel

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advise the Board that Attachment #1's urgings need some further refinement, however, I volunteer my pro-bono participation in that drafting process.)

2. Proposed aggregate square footage limitations should not be aggregated. The 7,000 SF aggregate density limitation proposed in Policy 5.1.d is substantively the same as the "aggregate cap" concept that was proposed in the Countywide Plan Update – and was at that time determined by the Board to be inappropriate. Nothing has really changed to make what was inappropriate then be now appropriate. Such a simplistic policy seeks to trump the need for -- and the fairness of -- weighing each portion of every development proposal on its own unique merits. That need, however, hasn't gone away. This proposed new policy would replace such measured consideration with an instant, one-size-fits-all downzoning to occur without just compensation for lost property values. I strongly support the Board retain the logic of its earlier dismissal of such a concept.

Yours very truly,
Doug Ferguson
Douglas P. Ferguson

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