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October 1, 2020

Via Hand Delivery

Board of Supervisors
c/o Community Development Agency
County of Marin
3501 Civic Center Drive, Suite #308
San Rafael, CA 94903

Re: North Coast Land Holdings Community Plan Amendment/Master Plan/Design Review/Master Use Permit/Tentative Map/Tree Removal Permit on the former Golden Gate Baptist Seminary property (P1490)

APPEAL OF DECISION TO COMMENCE ENVIRONMENTAL REVIEW

Dear Members of the Board of Supervisors:

Our office continues to represent the Seminary Neighborhood Association in connection with North Coast Land Holdings' proposal to redevelop the old Seminary site. This letter sets forth the bases for our appeal of the County's decision to commence environmental review of this project.

EXECUTIVE SUMMARY:

The crux of this appeal is that the project description proposed for the EIR is woefully inadequate because it does not include the new 1,000 student college being sought by the applicant. Failure to analyze this massive, and central, component of the project will result in a deficient and meaningless EIR that does not inform your Board of the true impacts of this project. The EIR should not be permitted to proceed until the details of the college are made a part of the project description.

Assertions that there is "no change" being proposed to the academic use are contradicted by the application itself, which seeks to amend the Strawberry Community Plan to allow a 1,000 student "college/university," instead of a self-contained seminary. These are two *very* different things.



I. BACKGROUND

This project and property has such a lengthy past of community compromise and County review, that a full recitation of the history is not possible in the context of this appeal. Accordingly, the currently relevant background is set forth below.

A. Two Years of Community Compromise

In 2017, your Board was presented with an appeal of a Notice of Preparation of an EIR similar to this one. At the time, NCLH had submitted the most extreme and intensive proposal ever made for the Seminary site, which had galvanized Strawberry residents to take action in the form of unprecedented participation in the public process over the prior years. The outcome of your appeal hearing was to suspend the environmental review, and to require the applicant to submit a new master plan for the property. Perhaps as important as the outcome of the hearing, was the direction your Board gave the applicant, the staff, and the community -- to come out of their corners and "**Get Real!**"

This direction was not taken lightly. Over the past two years, there has been an unprecedented attempt by members of the Strawberry community to engage with North Coast Land Holdings in an effort to bring forward a workable project. The community's willingness to accept sizable amounts of housing, a significant percentage of low-income units, a robust senior facility, and a tailored educational use, was truly the antithesis of NIMBYism.

After these intense community efforts and extreme levels of compromise, for NCLH to return with an even more intense plan, felt like a slap in the face of the community members who volunteered hundreds of hours towards what they thought was a good faith discussion with the applicant. This was **not** "getting real."

B. The "New" Project

The newly submitted iteration of the project is more intense than the one previously deemed unapprovable by the SDRB and the County's Planning Commission. The current proposal seeks:

- 336 new residential units for rental to the general public
- A "college/university" with 1,000 students (but with no further information)
- A 267,000 square foot residential care facility with 150 units
- A 41,000 square foot school administration building



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- A 17,000 square foot fitness center
- A 3,000 square foot preschool

What the proposal **doesn't seek**, is an amendment to the 1953 CUP that approved only a Seminary. Instead, the applicant brashly asserts that the 1953 CUP for the property -- "broadly allows for a college/university campus with a maximum student population of approximately 1,000 students." Rather than go into detail about how this statement could be found misleading, it is easiest to simply let the language of the 1953 CUP speak for itself:

USE PERMIT

Under the provisions of Section 20 of Ord. No. 264, the Zoning Ordinance of the County of Marin, State of California.

A USE PERMIT is hereby granted authorizing Edward D. Landels (Name of person) to permit the construction of a Theological Seminary and dormitories and ~~and~~ other buildings incidental to such use, subject to the attached condition. (Use of land, building or structure proposed to be conducted) dition.

The CUP limits the entire property, and all the uses thereon. It is exceedingly clear when it notes that the housing and other buildings were required to be "incidental" to the educational use. The minutes from the meeting where the CUP was approved are also exceedingly clear: **the seminary use was only acceptable because of its "self-contained nature."** Also, the fact that it was a post-graduate institution made it an asset to the area. A school without these characteristics generates significantly more vehicle trips, noise, and other impacts, at a level far greater than the self-contained post-graduate institution contemplated in 1953.

There **must** be a new CUP in order to transform the housing currently required to be incidental to the academic use into market-rate housing. There also **must** be a new CUP to change the school into a 1,000 student commuter college as opposed to a self-contained seminary. The failure to update the CUP adds to the deficiency of the project description for the EIR.

C. Strawberry Design Review Board Recommendation

Shortly after the submittal of the new application, it was referred to the Strawberry Design Review Board for input. In October of 2016, in conjunction with the last application, the SDRB had found the following:



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“After extensive community input on multiple hearings, with hundreds of Strawberry residents, **the proposed development does not conform to the original Use Permit or the Strawberry Community Plan and its proposed amendments are not acceptable.**”

Accordingly, this time around the SDRB asked the applicant - what’s changed??

Upon hearing that the project was more intense, and that the college use was not going to be analyzed, the SDRB made the following unanimous recommendation to your Board:

“**Recommendation:** After extensive community input on multiple hearings, with hundreds of Strawberry residents, the proposed development AGAIN does not conform to the original Use Permit, or the Strawberry Community Plan, and its proposed amendments are not acceptable. Therefore the Strawberry Design Review Board recommends:

Deny the proposed amendments to the Strawberry Community Plan, Master Plan Amendment, Precise Development Plan, Use Permit, Vesting Tentative Map, and Tree Removal Permit **and do NOT proceed** with the Environmental Impact Report for this project.

This recommendation is based on our findings that the application (1) is incomplete, (2) does not address the graduate institution activities, (3) even with the proposed amendments it is inconsistent with the Strawberry Community Plan, (4) is even more intensive than the previously proposed plan that was denied, and (5) does not respond to the direction from the Board of Supervisors.

The proposed project is not stable, finite, accurate, nor sufficient as required to proceed, and the proposed project is lacking operational characteristics for the 1,000 person graduate institution, among many other deficiencies.”

(Draft SDRB Minutes, September 21, 2020, all emphasis in original.)

This recommendation made perfect sense. After clearly telling the applicant their proposal was too intense, and did not conform to nearly a single portion of the SCP, the applicant came back with a more intense project that conformed even less, while also hiding the ball on the educational use. Again, this was **not** “getting real.”



D. The County Issues a Notice of Preparation Anyway

What happened next is perhaps more offensive than NCLH walking out of the community process and submitting their more intense application. Just three days after the unambiguous recommendation from the SDRB to not proceed with an EIR, the County issued a Notice of Preparation of EIR. The message was clear: **the County didn't care about the SDRB's input**, or the unanimous community opposition underpinning the SDRB recommendation. The entire SDRB hearing process was an exercise in futility that was always going to be promptly ignored by County staff if it did not suggest moving forward. The exact reasons for this disregard are unknown, but it is our hope that the Board, as elected representatives of the community, will take the SDRB recommendation more seriously.

E. The Deficient Project Description

The project description proposed for the EIR is as follows:

“North Coast Land Holdings, LLC has submitted an application for development on the former Golden Gate Baptist Seminary property on the Strawberry Peninsula in Mill Valley. The proposed project includes a residential care facility for senior citizens and would replace a majority of the existing residential housing, as well as provide new residential housing. In addition, a pre-school and fitness center that would both be open to the public are proposed. Twenty percent of the proposed units would be reserved as below market rate housing. More than 75 percent of the 127-acre campus would be preserved as open space, athletic fields, paths and plazas. No change to the scope of the existing use permit for higher educational use is being proposed.”

(Source: <https://www.marincounty.org/depts/cd/divisions/environmental-review/current-eir-projects/north-coast-land-holdings-llc>)

That's it. **The description makes no mention of the proposed “college/university” with 1,000 students proposed to be inserted into the Community Plan.** Instead, the very misleading statement is made that “no change” is proposed to the scope of the existing CUP. Even the briefest read of the existing CUP reveals its true nature, and that it only permitted a self-contained Seminary use. However, the proposed community plan amendment, in and of itself, requires the college use to be considered by the EIR:



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LAND USE – A ~~combination of student/faculty housing, educational and religious uses and activities~~ college/university use with a student population of approximately 1,000 ~~were~~ was granted for this property by Use Permit in 1953 overlaid on the site's base zoning of RMP 2.47. Extensive facilities including housing, administrative and

Clearly the applicants seek to change the SCP's treatment of the property from "student/faculty housing, educational and religious uses and activities," to a "college/university use with a student population of approximately 1,000." **The effect of this change must be analyzed.** This is particularly true given that the rest of the application seeks to decouple what was approved only as student housing from the academic use:

in a Master Plan because it is now subject to a Planned District classification. In general, it is recommended that ~~Seminary religious,~~ educational buildings, and uses and ~~student~~ housing be located on the central portion of the property. The areas located at the

This single strikethrough edit of the SCP seeks to unwind the entire concept approved for the property based on decades of community and County input.

The EIR project description needs to reflect the entirety of the project, and not obscure a major component from review.

II. LEGAL BASES FOR APPEAL

This appeal is brought pursuant to two primary sections of the County's regulations. The first is Section X of the County's 1994 Environmental Impact Review Guidelines ("EIR Guidelines"), which permits appeals of actions by the County's Environmental Coordinator. Here, the decision to commence environmental review is the decision being appealed.

The second legal basis for this appeal is Section 22.114.020(B)(3) of the County Code, which permits appeals of project approvals, project denials, "**or determinations regarding compliance with environmental review requirements**, pursuant to the California Environmental Quality Act and the County Environmental Impact Review Guidelines." The decision being appealed here also fits within this category of appealable determinations.



III. MERITS OF THE APPEAL

This appeal is based on one major contention: the description of the project is missing critical information required to conduct a meaningful environmental review. Specifically, failure to analyze the college use would violate the law in regards to CEQA project descriptions.

Numerous cases have repeated the general principle that **an accurate, stable, and finite project description is the indispensable prerequisite to an informative and legally sufficient EIR.** (*County of Inyo v City of Los Angeles* (1977) 71 CA3d 185; 14 Cal Code Regs, Section 15124.)

CEQA Guidelines § 15378(a) defines the term “project” expansively as, “the whole of an action, which has the potential for resulting in either a direct or indirect physical change in the environment.” Changing from a Seminary with on-campus housing to a 1,000 student college with zero proposed on-campus housing will absolutely result in direct and indirect physical changes in the environment. Where will these students and faculty live? How will they get there?

CEQA Guidelines § 15379(c) goes on to state that that **the term “project” refers to “the underlying activity being approved by one or more agencies.”** Here, the County is being asked to approve a Community Plan amendment that drastically changes the intensity, impact, and use of the educational component of the Seminary Property. Piled on top of that change is all-new unrelated housing, an all-new large senior care facility, and a number of other new significant uses. The “project,” rather obviously includes the change in the school use. To ignore it completely is not only illegal, but downright perplexing.

Using ITE and SANDAG trip estimates, the proposed project, inclusive of the school, would generate approximately **6,200 vehicle trips per day**. Of the 6,200 trips, 2,400 would be from the new college. **Just based on traffic alone, excluding the school from review misses almost 40% of the project.** For comparison, there were 1,470 daily trips counted for a full week in March 2010 on all five driveways that served the Golden Gate Baptist Theological Seminary when it was in operation.

It is surprising an NOP was issued with the school use missing completely from the project description. The entire purpose of CEQA is to provide information to decision makers about environmental impacts of proposed projects. That purpose will be completely stymied if a third of the project is simply ignored. Furthermore, the EIR will then be subject to legal challenge due to the inadequate project description.



IV. MERITS OF THE PROJECT

The merits of the project are relevant to merits of the appeal because CEQA Guidelines § 15270 states that CEQA does not apply to projects a public agency is going to disapprove. Subsection (b) of this Guideline explains its rationale by noting that it, “is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.”

The current application continues to be so inconsistent with County policies, particularly the SCP, that we feel it will not, and cannot, be approved. Critical Community Plan language is proposed to simply be deleted. The remainder of the Community Plan, including language related to housing and capacity, is untouched, thereby resulting in a wholly inconsistent document.

Today’s situation was predicted by the County’s Planning Commission all the way back in 2011. On December 19, 2011, the previous owner of the Seminary property brought forward an application for a significant amount of housing at the site. The minutes summarizing the outcome of that meeting are incredibly instructive, while also showing just how little progress there has been in regards to crafting a compliant application. Specifically, the minutes from that meeting state:

“The Commission expressed concerns about the proposed project, **including non-compliance with the SCP and the lack of community-based involvement in the process; the proposed change of use by exchanging unbuilt student housing for market rate homes; and development proposed on lands designated for open space.**”

The minutes went on to note

“At the request of the Seminary President, the Commission decided to not address the issue and indicated that the project **should not go forward to the environmental review process until the SCP has been updated.** The Commission encouraged the applicant to work with the community to assess what changes should be made.”

It’s beyond disappointing that a genuine update of the community’s plan never occurred and we find ourselves back at square one. We feel there is ample grounds for the County to simply bypass environmental review and deny the project. However, should the EIR process move forward, it absolutely **must** look at the entirety of the proposal, including the college. It also **must** analyze a new CUP that actually covers the use proposed, as opposed to a 67 year old document approving a different use.



V. CONCLUSION

The project description is not “stable, finite, accurate, and sufficient,” due to the exclusion of the educational component from the detailed portion of the application. While an SCP amendment is sought to pave the way for a “college/university” with 1,000 students, zero details are provided about this use. What type of school will it be? What are its operational characteristics? How many students will live on site? How many faculty and staff will there be? What is the event schedule? These kinds of details are necessary for any type of meaningful environmental review.

If the applicant refuses to have the college analyzed, or if the Board can see the project would never be approved, then we would request that the EIR be skipped and the project denied. Otherwise, we ask that you grant this appeal, and direct the EIR move forward only with a project description that includes the new college, and a CUP application seeking the same.

Thank you.

Very Truly Yours,

A handwritten signature in blue ink that reads "Riley F. Hurd III". The signature is written in a cursive style.

Riley F. Hurd III

CC: Seminary Neighborhood Association
Strawberry Community Association
Supervisor Kathrin Sears
Tom Lai