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May 15, 2015

**Via E-Mail Only**

Marin County Planning Commission  
County of Marin  
3501 Civic Center Drive, Room #308  
San Rafael, CA 94903

**Re: Removal of the Affordable Housing Combining District from the Seminary Property**

Dear Members of the Planning Commission:

Our office continues to represent the Seminary Neighborhood Association in connection with land use issues on and around the Seminary Property. While the Commission should, at a minimum, reduce the density from 30 to 20 units per acre on the 2 acres at the Seminary Property, the purpose of this letter is to request that the Commission remove the Seminary Property from the Affordable Housing Combining District entirely. This request is made for the following reasons:

1. The Seminary Property is no longer an identified site in the County's Housing Element.
2. Inclusion of the Seminary Property in the AH District is not needed for Housing Element certification by the State.
3. Inclusion of the Seminary Property in the AH District is not needed to permit "clustered" development.

**The Seminary Property is no longer an identified site**

The most compelling reason that the Seminary Property should not remain in the AH District is that the Property is no longer an identified site in the County's Housing Element ("HE"). It is important to remember that the entire "default density" concept is merely an available shortcut to ensure that HCD counts a particular number of units on an **identified site** in the HE. Interestingly missing from a number of the County's



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discussions on previous HE's was the fact that default densities are actually not required for sites to be counted, and that other options exist for identified sites to count (such as a site-specific analysis). However, because the Seminary Property has been removed from the HE as an identified site, there is absolutely no need for the Property to remain at any particular density, default or otherwise, because the site counts for zero RHNA units in the County's current HE. The entire purpose of default densities is to be able to easily count the units assigned. Furthermore, an honest reading of the administrative record from the creation of the AH zone makes it clear that the zone was intended only for identified sites in the HE.

### **Keeping the Seminary Property in the AH District is not needed for Housing Element Certification**

In the last cycle, the County elected to identify two-times the required number of RHNA units in the HE. Of this 100% buffer, the Seminary Property accounts for none of the counted units. Therefore, removal of the Property from the AH District will not implicate certification. The March 20, 2015, letter from HCD certifying the HE references the "No Net Loss Law," which requires the County to maintain adequate sites at appropriate densities throughout the cycle. Importantly, this law applies only to identified sites, thereby leaving the County free to change zoning on non-identified sites, like the Seminary Property.

### **Inclusion of the Seminary Property in the AH District is not needed to permit "clustered" development**

The Seminary Property is zoned "Residential, Multiple Planned," a designation that requires a Master Plan for multifamily development. (22.10.020.) One of the primary purposes of Master Plans is to "**promote clustering of structures** to preserve open land areas and avoid environmentally sensitive areas." (22.44.010(C).) **Simply put, the AH District is not needed to permit clustering at the Seminary Property, because clustering is already allowed.**

### **Conclusion**

We have written to this Commission multiple times in the past explaining why the Seminary Property is not an appropriate site for high density affordable housing. The removal of the Property from the list of identified sites by the Board of Supervisors indicates their implicit agreement with our position. At this point, there is no reason,



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state-mandated or otherwise, to keep the Seminary Property in the AH District, and we would ask that you remove the overlay entirely.

Thank you for your attention to this important matter.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'Riley F. Hurd III'. The signature is written in a cursive, flowing style.

Riley F. Hurd III

CC: Seminary Neighborhood Association  
Scott Hochstrasser  
Supervisor Kathrin Sears  
Brian Crawford  
Leelee Thomas