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October 25, 2017

**Via E-Mail Only**

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

**Re: Deny the North Coast Land Holdings Master Plan Extension**

Dear Members of the Planning Commission:

Our office continues to represent the Seminary Neighborhood Association. This letter is regarding the applicant's request to, yet again, extend the 33 year old Master Plan for the property. This request should be denied.

The subject Master Plan was approved for a Seminary, a use that has long since ceased. Furthermore, in the over three decades since the Master Plan's approval, the area surrounding the seminary site has been heavily built out, while traffic patterns have changed for the worse. The Plan no longer fits the context of the community, and the components of the Plan that were never built no longer make sense now that the Seminary is gone, and that Strawberry's infrastructure has been maxed out by subsequent development. It is time for the stale Master Plan to expire, and for a wholesale and holistic fresh look to be taken at the property in order to plot its long-term future.

**Standard of Review**

It's important to note that "**the burden of proof is on the permittee to establish, with substantial evidence, that the permit should not expire.**" (22.70.050(B)(2).) That burden has not been met. In a three paragraph, October 3, 2017 letter, the applicant spends two sentences apparently attempting to meet this burden. Those two sentences are as follows:



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“As the County found in support of its previous extension of the Master Plan, the Master Plan remains consistent with the Countywide Plan and Strawberry Community Plan. Moreover, NCLH has diligently continued efforts, and expended significant resources, to realize the potential for use and development of the Seminary Property allowable under the 1984 Master Plan.”

First, the County’s previous extension was done at an administrative level, with no notice. Second, at the time of that previous extension, the Southern Baptist Convention still owned the property, and the potential to use the site as a seminary still existed. This is no longer the case. Finally, while the Master Plan was consistent with the SCP (they were adopted in conjunction with one another), this consistency is irrelevant due to the fact that the new owner has no intention of executing the Master Plan in its current form, and is instead seeking amendments so major that an entirely new Master Plan is appropriate.

In considering this request, the Planning Commission, “**shall determine whether the permit holder has attempted to comply with the conditions of the permit.**” (22.70.050(B)(2).) Here, it is undisputed that, in the over 30 years since its approval, many major components of the Plan have not been built. The student center, classrooms, auditorium, and athletic center all remain unbuilt. There is simply no way to find that the any reasonable attempt has been made at complying with the permit conditions.

The statement that the applicant “has diligently continued efforts, and expended significant resources, to realize the potential for use and development of the Seminary Property **allowable under the 1984 Master Plan,**” rings hollow when the current application is compared to the Master Plan. Specifically, changes from student housing to market housing, and from a Seminary to a 1,000 student school of unknown type with regional sporting facilities, are hardly “allowable under the 1984 Master Plan.” If these were allowable, an amendment would not be necessary.

Finally, not only has the current owner not complied with the conditions of the Master Plan, **they have actively violated the permit in multiple ways according to the County’s own analysis.** These violations continue today. Attached as **Exhibit A** is an April 10, 2017, letter from the Marin County Code Enforcement Department to the applicant stating that the County has “determined that some of the activities that you are currently engaged in on the Seminary site are unauthorized and unlawful.” The findings on which this determination was based are very important for the Commission to be aware of in its consideration of the Master Plan extension request. The County’s letter states:



“Based on the background and facts in evidence, we have concluded that the following nonresidential activities are unauthorized: (1) North Coast's business offices; (2) the Golden Gate Academy, except to the extent that it enrolls children of Seminarians; (3) All Seasons Catering, except to the extent it serves Seminarians. **In addition, we have determined that renting the residential units to the general public is unauthorized as long as the 1984 Master Plan is in effect because the Master Plan permitted their development specifically for the purpose of providing housing for the students, staff, and faculty of the Seminary.”**

As of today's date, it is our understanding that the unpermitted operation of the business offices, preschool, caterer, and residential rentals are continuing full steam ahead. This is despite the fact that these findings were made by the County over six months ago. It is baffling as to why an applicant seeking a Master Plan extension, where the sole finding for approval is, “whether the permit holder has attempted to comply with the conditions of the permit,” would openly continue such an egregious intensity of unpermitted uses, but one thing is clear: **the conditions of the permit are not being met.** Therefore, per Section 22.70.050(B)(2) of the Code, the application must be denied.

### **Master Plan History**

The Master Plan was developed and approved in conjunction with an amendment to the SCP. The SCP amendment permitted the Seminary to sell off certain home sites in order finance upgrades to the campus and finish the build out of the Master Plan. The sale of the private home sites occurred, the campus upgrades and build-out did not.

NCLH now wishes to amend the Master Plan in ways not permitted or contemplated by the SCP, which the Master Plan was designed to be consistent with. The requested amendments are in no way minor, and aren't really an amendment. This is actually an application for a new master plan, masquerading as an attempt to fit the old Master Plan.

All of this begs the question of why would an applicant want to continue resurrecting a Master Plan for a use they no longer wish to pursue? The answer is found in staff's report to the Commission for this matter. Specifically, when considered in isolation, the Master Plan appears to allow for more development than the base zoning for the property would permit. This includes, more density, more school square footage, and more uses than would ever be approved for the site under the County's current base regulations. The reason the Master Plan was approved in light of this apparent disparity is that the residential and school uses for the site were jointly used in such a way that the traffic and



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other impacts were greatly minimized. The residential units were for student and faculty housing, and the campus was steps away. In other words, it was a generally self-contained operation. It appears the new owner is seeking to capitalize on the numerics of the Master Plan, while ignoring the circumstances and justifications upon which that entitlement was granted. Extending the Master Plan only prolongs this specious argument.

### **Conclusion**

We would request that you deny the request to extend the Master Plan. This will assist in bringing to an end the false narrative of “master plan compliance,” and will help foster a climate in which a durable new master plan can be crafted in conjunction with a community-driven SCP update.

Thank you.

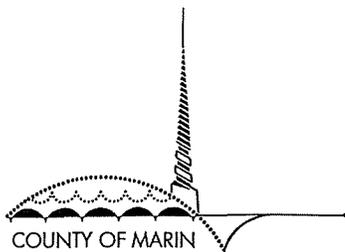
Very Truly Yours,

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

Riley F. Hurd III

CC: Seminary Neighborhood Association  
Strawberry Community Association  
Supervisor Kathrin Sears  
Brian Crawford  
Tom Lai  
Dan Sicular

# **EXHIBIT A**



COMMUNITY DEVELOPMENT AGENCY  
CODE ENFORCEMENT

April 10, 2017

North Coast Land Holdings LLC  
Bruce W. Jones, Agent for Service  
2350 Kerner Blvd, Suite 360  
San Rafael, CA 94901

Re: Golden Gate Baptist Seminary – Complaint  
201 Seminary Drive, Mill Valley  
Assessor Parcel Number 043-261-25

Dear Mr. Jones:

On September 7, 2016, the Community Development Agency informed you that we had received a formal complaint alleging that the activities on the Seminary property are in violation of codes and conditions because (1) the sports field is being used for athletics unrelated to the Seminary; (2) administrative spaces are being rented and used for events and meetings not related to the Seminary; and (3) housing on the site is being offered for rent to the general public rather than being limited to Seminary students, staff, and faculty.

We are in receipt of your letter of October 28, 2016 in which you inform staff that North Coast Land Holdings LLC leases portions of the property to Golden Gate Baptist Theological Seminary and others, along with the enclosed letters from various organizations involved with activities on the site. The activities include allowing local groups to use the sports fields, All Season's Catering offering commercial catering services, administrative office space being used by North Coast and being used for other commercial purposes. Your October 28, 2016 letter also informs us that Golden Gate Baptist Theological Seminary has a current enrollment of approximately 80 students and 10 faculty and staff members. Out of 211 existing housing units that are offered and available to students and faculty, approximately 50 units are currently occupied by students, faculty, members of the community that are not students or faculty but are affiliated with the Golden Gate Baptist Theological Seminary. The remaining units are being offered to the general public for rent and/or as a donation. We are also in receipt of the letter of March 14, 2017 from Gary Groat, Vice President of the Seminary, which outlines past practices and activities at the Seminary site. I inspected the site on December 6, 2016 and have carefully reviewed the permit history for the site.

This investigation relates solely to violations of Marin County Code Title 22 (Development Code) and to conditions imposed by past discretionary approvals issued pursuant to Development Code requirements. Any inconsistencies, actual or implied, between the activities on the site and the governing planning policies contained in the Countywide Plan or Strawberry Community Plan are not subject to code enforcement, although they will be evaluated as part of the applications you currently have on file with the Planning Division.

We have determined that some of the activities that you are currently engaged in on the Seminary site are unauthorized and unlawful, as discussed in further detail below.

## BACKGROUND

The Countywide Plan Designation for the Seminary property is Multiple Family (MF 2). Consistent with this Countywide Plan designation, the property is currently zoned Residential Multiple Family Planned (RMP), with various uses designated as principally permitted, conditionally permitted, or prohibited as set forth in Table 2-4 of Development Code section 22.10.030.

A comprehensive Property Information Packet was previously prepared for the property and an evaluation of the permit history was conducted by Planning staff, as outlined in the Planning Division's letter to Gary Groat dated June 23<sup>rd</sup>, 2014.

As described in the Planning Division's letter, the Seminary was first granted a Use Permit in 1953 (attachment 26 of the Property Information Packet). The 1953 Use Permit related to both the development and the operation of the Seminary. The property was at that time zoned R-1 (Residential Single Family), which allowed a school as a conditionally permitted use. As was customary at that time, the Use Permit encapsulated a description of the proposal and a rationale for approval as a record of the proceedings. There were six items noted in the Use Permit decision, quoted directly below:

1. The 130 acres will be developed in general, as shown on the plan for land use, in such a manner so as to make a self-contained unit, with major residential streets of the Strawberry Point neighborhood going by the development rather than through it.
2. A buffer of recreational open land of varying width will surround the entire holding, and adequate lands will be available for recreation of the student body and the parking of automobiles.
3. The student body will consist of around 1,000 students, about 60% of those students will be married and the Seminary will provide apartments on their land for these students, and a pre-school nursery for the children of these families. Dormitories will be provided for the unmarried students.
4. It was brought out by those in favor that a college community, particularly of a post-graduate nature, was an asset to a neighborhood and that its general effect was to increase surrounding property values.
5. It was also brought out that the Seminary will of necessity have to contract with local districts in order to secure service and that in so doing, they would be paying their way for their fair share of the expenses of the local service districts.
6. It was felt that to assure a well coordinated plan, the County should review a development plan which would show the location of buildings proposed for construction and uses of land.

The Use Permit decision was issued with the condition that the County review and approve a Development Plan before construction of the Seminary.

Only one of the items was specifically related to a restriction on the operations of the Seminary. Item three indicates fairly clearly that the student body would be limited to around 1,000 students. It also suggests that the Seminary expected to provide sufficient housing on-site for all the students at that time, but to date we have not found any explicit stipulation that students could not live off-site and commute to campus.

The other items relate more closely to the development of the property. These items are based on the general layout of the campus that was proposed by the applicant, which included the approach of having public roads go around the campus rather than through it, and stipulated that the County would need to review and approve a more detailed Development Plan before construction could begin. Following the approval of the Use Permit in 1953, the Seminary completed a "Campus Plan" in 1955, which appears to have been used as a basis for planning applications to the County. Attachment 30 of the Property Information Packet may represent this "Campus Plan", but the County record is not completely clear in that regard.

The permit record indicates that an issue arose regarding the cost and alignment of public roads subsequent to the 1953 Use Permit. Apparently, there was an initial assumption on the part of the County that a public road would go around the campus on Seminary property and be paid for by the Seminary. The Seminary sought to change the 1953 Use Permit with respect to the alignment and funding for a public road. As discussed in the "Compilation of minutes and Staff Reports" (attachment 29 of the Property Information Packet) and the "Excerpt from Minutes, meeting held July 15, 1958" attachment 23 of the Property Information Packet), the Seminary requested that the Planning Commission "permit the construction of buildings without the necessity of constructing West Strawberry Drive around the western periphery of their campus". This issue was resolved in July 1959 when the Board of Supervisors approved an "Improvement Plan Agreement Under Conditional Use Permit", which allowed the Seminary to occupy the site based on an assurance that they would complete the road by 1961 and provide a performance security of \$97,500. This decision by the Board related only to the physical development, and included no change to the student population or other operational restrictions imposed by the 1953 Use Permit.

On March 13, 1984, the Board of Supervisors adopted Ordinance 2819 approving a Master Plan for the Seminary property (attachment 2 of the Property Information Packet). The Master Plan stated that future development would need to comply with Exhibit A, which was a conceptual site plan laying out the future development of the property, and Exhibit B, which set forth a set of design guidelines for various components of the project in a narrative that was also reflected in the text of the conditions of Master Plan approval. In addition, Condition 19 of the Master Plan approval stated: "With the approval of this Master Plan, the previously approved 1959 Campus Plan Use Permit shall become null and void and be of no further effect or benefit." This condition refers to the Board's 1959 approval of the "Improvement Plan Agreement Under Conditional Use Permit", which was related to the road alignments shown in the Campus Plan that was completed in 1955.

Master Plan Exhibit B contains a discussion of vested rights, indicating that the Seminary was not relinquishing any rights granted by the 1953 Use Permit, but also indicating they were willing to be flexible to satisfy concerns of the local community and County. Exhibit B explained that the impetus for the Master Plan was that the number of students and their housing needs had changed from what was originally envisioned, including the fact that a significant number of students preferred to live off campus. This is reflected by the proposed reduction in the number of on-site housing units for the Seminary from 354 student/faculty apartments that were planned in 1955 to 304 student/faculty apartments as part of the 1984 Master Plan. Neither the Master

Plan conditions nor the Exhibits to the Master Plan contained any text or other indication that the student population was being revised; just that their housing needs had evolved. Further, Master Plan Condition 19 related solely to a change to the Use Permit's requirements for the development of public roads, not to the student population or operations of the Seminary. The Master Plan clearly allows the construction of housing for students, faculty, and staff of the Seminary on campus, but not for the general public.

The Community Service section of the Master Plan (beginning on page nine of the Mater Plan Exhibit), acknowledged that the Seminary had made campus facilities and activities available to the community for many years. These included the following: Athletic Field; Jogging Paths; Auditorium; Cafeteria; Library; and Employment. As is evident from the description in the Master Plan, a wide variety of uses occurred on the campus, including child care for the Seminarians, team sports on the athletic field, community music and theatre performances, public lectures, community organization meetings such as the Rotary Club meetings, and a library open to the public. While it is not clear how long some of these activities were occurring on the campus, it is clear that the Master Plan acknowledged the owner's intention to continue them. Therefore, we recognize these uses as legal non-conforming, provided they are not expanded beyond what was recognized in the Master Plan.

## **FINDINGS**

Based on the background and facts in evidence, we have concluded that the following non-residential activities are unauthorized: (1) North Coast's business offices; (2) the Golden Gate Academy, except to the extent that it enrolls children of Seminarians; (3) All Seasons Catering, except to the extent it serves Seminarians. In addition, we have determined that renting the residential units to the general public is unauthorized as long as the 1984 Master Plan is in effect because the Master Plan permitted their development specifically for the purpose of providing housing for the students, staff, and faculty of the Seminary.

## **CONCLUSION**

If it is your intention to pursue legalizing the unauthorized activities, please revise your current planning applications to include these uses for consideration. Please note that baseline determinations for environmental review do not include the effects of unauthorized uses on a property.

You may contact me at [cstanley@marincounty.org](mailto:cstanley@marincounty.org) or (415) 473-7875.

Sincerely,



Cristy Stanley  
Supervising Code Compliance Specialist

CC: North Coast Land Holdings LLC  
Andres Orphanopoulos  
2350 Kerner Blvd, Suite 360  
San Rafael, CA 94901 (Proof)

Brian Crawford, Community Development Agency Director (Via Email)  
Jeremy Tejirian, Community Development Agency Planning Manager (Via Email)