

VIA EMAIL

November 30, 2015
215 Ricardo Road
Mill Valley, CA

Isis Spinola-Schwartz, Chair, and Members
Strawberry Design Review Board
c/o Marin County Community Development Agency
Marin Civic Center
San Rafael, CA

Subject: North Coast Land Holdings, LLC
Application to Redevelop the Golden Gate Baptist Theological Seminary

Dear Chair Spinola-Schwartz and Members,

My wife Mary and I have lived in Strawberry since 1976. Both of our daughters attended Strawberry Point School. The Golden Gate Baptist Seminary has been a good neighbor all these years and we are sorry to see it leave. Like others in the community, we hope that the Design Review Board will help see that whatever development replaces the Seminary meets our community's needs and reflects our community's values.

The issue before the Board at present, however, is more focused. Specifically, the Marin County Development Code directs that, when an application for a discretionary permit is filed, the first task of the Community Development Agency is to review the application "for completeness and accuracy of required information before it is accepted as being complete and officially filed." (Marin County Code, Section 22.40.050) This procedure makes sense for your Board as well, and is consistent with the recent transmittal memo from the County referring the North Coast Land Holdings LLC (NCLH) application to you.

The NCLH application, while lengthy, is incomplete in several important ways. In summary:

1. The application does not request an amendment to the Strawberry Community Plan (SCP)
2. The application does not clearly describe the extent of the differences between what the SCP allows, what currently exists, and what NCLH is proposing.
3. The application does not include an application for approval of a Tentative

Subdivision

Map, is vague on the ultimate ownership of the 10 new parcels to be created, and presents inaccurate and misleading information about the density of the principal residential parcel.

4. The Biological Assessment (Exhibit E), completed five years ago, is out of date.

5. The Traffic Study analyses an unrealistic hypothetical future scenario rather than a straightforward projection of the traffic to be generated by the actual proposal. The "Transportation Management Plan," relied on to dramatically reduce traffic impacts is not provided in the application.

Until these missing elements are submitted, and the inaccuracies corrected, it is premature (and, in many cases, impossible) to evaluate the merits of the application in any detail or with any confidence. This letter will, therefore, focus on the ways in which the application is incomplete and what is needed to complete it.

1. The application does not request an amendment to the Strawberry Community Plan

NCLH acknowledges, as it must, that its proposals to (1) convert student housing to market-rate housing and (2) convert a postgraduate seminary to a high-school may be approved *only* "if they are consistent with the Countywide Plan *and* applicable Community Plan." (Application narrative, page 2)

The Marin Countywide Plan makes clear the significance of community plans, such as ours:

"A Community Plan is considered a part of the Marin Countywide Plan and sets forth goals, objectives, policies and programs to address specific issues relevant to that particular community. Where there are differences in the level of specificity between a policy in the Countywide Plan and a policy in the Community Plan, the document with the more specific provision shall prevail." (See Board of Supervisors Resolution 2012-77, amending the Countywide Plan; see also the specific discussion of the Strawberry Community Plan at Marin Countywide Plan page 3-238)

The SCP is very clear on what type and number of housing units may be constructed on the seminary site in addition to the student-faculty housing units existing as of 1982:

"The following development was determined to be the maximum desirable based

on the projected traffic impact and the context of the property within the community:

(1) 24 single family detached residences located on the periphery of the Seminary [Note: these have already been built and sold]

(2) 36 attached units [Note: these were converted to 24 larger units which have all been built and sold]

(3) 90-100 student housing units" (Strawberry Community Plan, page 7)

Yet while having acknowledged that its project must be consistent with the SCP, the applicant never mentions it again, certainly not the explicit text just quoted. This apparent oversight is surprising since, as NCLH's capable lawyers almost certainly know, the County has already--and recently--determined that replacement of student housing by market rate housing requires an amendment to the SCP. In 2011 a developer known as Hart-Marín submitted an application to construct 72 market rate housing units at the Seminary in place of the student housing allowed by the SCP. Hart-Marín did not initially request an amendment to the SCP to accommodate its proposal. The Marin County Community Development Agency found that the application was incomplete for that reason. The County said:

"The entire property is governed by the 1982 amendments to the SCP (SCPA). Accordingly, your current project necessitates applying to amend the SCPA. The current project's potential inconsistencies with the SCPA include (but are not necessarily limited to)...(a) the.....housing units requested are substantially different with respect to use and location from the 90-100 student housing units identified in the SCPA. In particular, the 72 market rate units proposed represent a major shift from the exclusively student and faculty units previously contemplated." (Notice of Project Status #1, April 29, 2011, page 2).

Similarly, the transformation which NCLH proposes for the educational institution that has been on site for nearly 60 years also requires an amendment to the SCP. The Community Plan's references to the land recently purchased by NCLH makes clear that the Plan contemplates the continued presence of a postgraduate institution. For example, the section dealing with this area is entitled "Golden Gate Baptist Theological Seminary." Existing development is described as "211 residential dwellings for students and faculty. Various buildings utilized for educational and religious purposes." (SCP, page 6) The land use section begins "A combination of student/faculty housing, educational and religious uses and activities were granted by Use Permit in 1953...These uses continue to be appropriate for the property." And, in addition to these specified housing units, the site's remaining development potential was identified as "Some additional development related to the educational and religious use of the Seminary itself."

(SCP, page 7)

The SCP's consistent references to "educational and religious" activities and uses is important because it illustrates the community's, and Board of Supervisors', expectation that a school providing postgraduate level training for the ministry would continue. The SCP's reference to the 1953 Use Permit is instructive. Through that permit the Board of Supervisors authorized "construction of a Theological Seminary and dormitories and other buildings incidental to such use." And the memo from the County Director of Planning to the Board of Supervisors emphasized that neighborhood testimony to the Planning Commission had brought out "that a college community, particularly of a post-graduate nature, was an asset to a neighborhood." (Memo from Mary Summers, Planning Director, to Board of Supervisors dated October 6, 1953).

Bottom line: The SCP allows for the continued presence of a postgraduate institution with a mature student body, many of whom have been married and living on campus while they pursue scholarly training for an honored helping profession. NCLH proposes to replace this institution with a high school whose enrollment will be larger than any ever reached by the Seminary and whose students will commute daily from San Francisco, from the East Bay, and from throughout Marin County. A change this dramatic requires an amendment to the SCP.

NCLH's application appears to ignore two other provisions in the SCP. The first is the Community Plan's strongly expressed preference for detached single family homes.

(See SCP Goals, section on Housing Balance, page 2). The second is the Community Plan's recognition that automobile traffic generated by new development could increase congestion at key intersections while reducing safety and its insistence that the levels of service existing as of 1981 not be permitted to deteriorate. (See SCP Goals, section on Transportation, page 2; see also Transportation Element, pages 18-21)

Insisting that NCLH apply for necessary amendments to the SCP doesn't mean that the Community Plan will not ultimately be amended by the Board of Supervisors to accommodate some, most, or even all of what the applicant seeks. But it does accomplish two very important things. First, it recognizes the continued status of the SCP as the specific policy document governing land use decisions in Strawberry. That vitality was powerfully reaffirmed earlier this year through the community visioning process initiated by Supervisor Kate Sears, conducted by a committee of volunteer residents, and supported by professional planners including staff from the County Community Development Agency. (See *Strawberry Community Vision, March 2015*) And it will ensure that all of the various elements in the application (i.e., Community Plan amendment, Master

Plan, Tentative Subdivision Map, Use Permit, etc) are presented to the Board of Supervisors in a single comprehensive package, for its ultimate decision informed by recommendations from the Community Development Agency staff and the Planning Commission. [NCLH has structured the application in an apparent attempt to distribute decision-making on the multiple components of the application among the Planning Commission and various staff levels and thereby minimize the role of, or possibly evade entirely, the Board of Supervisors. Avoidance of the need to amend the SCP is a key element in that strategy.]

1. The application does not provide sufficient factual information to identify the extent of the differences between what is authorized by the Strawberry Community Plan and what NCLH is requesting

The application is missing data on both historical levels of activity on the Seminary campus and corresponding levels at the projected 1,000 student enrollment. Four areas where more complete information should be provided are:

A. Historical and current student body size, with specific information on separate categories of students, by year from 1984 to present*total number of students enrolled

*number of students physically attending classes on campus on a regular basis

*number of students living on campus

*number of faculty living on campus

*total number of persons living on campus

The data should be authenticated by the President of the Seminary or another responsible officer.

B. The information supplied about on-campus events sponsored by third parties (Exhibit 9) is vague and incomplete. The application should be amended to show, for each year since 1984, the type of event, the sponsor, the approximate number of attendees, and the date (month and year). That list should also be authenticated by the President or other responsible officer of the Seminary.

I. No data is provided on the estimated growth of the student body over time from the opening of the school to its projected ultimate size. This should be supplied, with the number of students (and corresponding number of faculty) at five year intervals. The data should be authenticated by the Head of School or other responsible officer at Branson. The absence of this type of information was one of the reasons that the Hart-Marin application was deemed incomplete. (Notice of Project Status #3, September 12, 2011)

D. The application needs to provide quantitative information about the program of

auxiliary activities and events (athletic, drama, etc) we can expect at the high school once the full desired enrollment is achieved. The information provided (Exhibit 16) is limited to the scale and number of events associated with an enrollment limited to that permitted by the Town of Ross, i.e. 320. The application should be expanded to show the number of participants and spectators at home games, meets, and matches for each sport and level (varsity, JV, etc) at the 1000 student size. If third party use of the auditorium is expected to increase in step with the student body size, its ultimate frequency of usage should also be shown.

1. The application package does not appear to include an actual signed application for approval of a Subdivision Map, is vague on the ultimate ownership of the 10 new parcels to be created, and presents inaccurate and misleading information about the actual density of the principal residential parcel

While the narrative describes the anticipated re-subdivision of the site, and some of the “Civil Drawings” show apparent lot lines and 10 separate parcels, it appears that NCLH omitted to file an actual signed application for a Tentative Subdivision Map on the form provided by the County. Also, while Civil Drawing C4.03 shows 10 parcels, the application does not make clear which of the parcels are to be sold off to the school (comprising what is called the “Academic Campus”) and which, other than Lot 10, are to be retained by NCLH for residential development.

What is clear, however, is that the purported 2.47 units per acre density stated in the application is **wrong**. First, It includes approximately 22 acres of underwater land. Under County regulations, land that is below mean high tide (i.e, underwater) cannot be counted in calculating the density of development on actual dry land. Marin County Code Section 22.130.030 excludes from the definition of “Lot area” “any portion of the property located below mean high tide that is subject to tidal action.” The County has already rejected a similar attempt by the Hart-Marin developers to include 22 acres of tideland in its application to develop the Seminary. (Notice of Project Status #2, September 12, 2011, page 8)

Finally, since the property is to be parcelized and ownership divided, density calculations should be done on the basis of the number of residential units on each legal parcel. It is evident that NCLH plans to locate approximately 250 residential units on the new Lot 10, which consists of approximately 33 acres. The resulting actual density is about 8 units per acre. This is well in excess of the 2.47 units per acre permitted by the zoning, requiring either a variance or a change in zoning.

4. The Biological Assessment (Exhibit E) is out of date and incomplete.

The biological assessment was prepared in 2010 for Hart-Marin, a previous applicant and has not been updated. And the deficiencies pointed out by the County at that time have not been corrected. (See Notice of Project Status #1, April 29, 2011, page 3)

The assessment should be redone, preferably during the winter/spring seasons when rare plant species are more likely to be identifiable and with particular attention to the Monarch butterfly, whose endangered status has become more evident in the past five years. Finally, the assessment does not mention either the Blue Heron or the Snowy Egret, two birds that roost nearby and forage in the shoreline waters of Richardson Bay adjacent to the property to be developed (or, in the case of the 22 acres of underwater land, owned by the applicant).

5.The analysis of traffic impacts is deficient

The traffic study, while elaborate, is conceptually flawed. That is, instead of determining the volume and pattern of automobile traffic projected to be generated by NCLH's actual proposal, the study attempts to estimate the traffic patterns of an entirely hypothetical project (the Seminary at "build out") which it then analyzes. In addition, the results of that analysis are then modified to give effect to a "Transportation Management Plan" (TMP), which is not included in the application package. The narrative contains no details about who is to be responsible for implementing the TMP (NCLH? Branson? Both?) nor what the mechanism is for County enforcement of the TMP. If a Use Permit is to be the vehicle for enforcement, the application package should at least contain an actual application for a Use Permit, signed by the applicant, on the County's regular form. I have not been able to find that document in the application package.

Finally, there is no evidence in the public record showing what authority, if any, Mr. Bruce Jones (who signed the application) has to speak for NCLH, to say nothing of the ultimate, currently unknown, owner(s) of the NCLH entity. All we know at this date from the public record is that Mr. Jones is the "agent for service of process" for NCLH, a limited liability company. But that information is helpful only for someone who wants to sue NCLH. It is not clear from readily accessible public records whether NCLH is actually governed by one or more "managers" or by the owners of NCLH. Nor do we know who the manager(s) are or if Mr. Jones is one of them. I certainly don't think that the Design Review Board should have to involve itself in matters of that kind. Instead, the County should insist that the person(s) authorized to make legally enforceable promises on behalf of NCLH be promptly and reliably identified.

Thank for for your attention to this lengthy letter and for your service to the

Strawberry community.

Very truly yours,

Ray McDevitt

cc: Julie Brown, Penna Omega, Barbara Rowe, Joe Sherer
Brian Crawford, Director, Community Development Agency
Jeremy Tejirian, AICP, Senior Planner
Heidi Scoble, AICP, Planner
Supervisor Kate Sears

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