



COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

December 12, 2017

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Marin County Board of Supervisors
3501 Civic Center Drive
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Re: North Coast Land Holdings Appeals of: (1) Master Plan Extension Denial;
and (2) Suspension of Preparation of Environmental Impact Report for North
Coast Land Holdings Community Plan Amendment, Master Plan
Amendment, Design Review, Master Use Permit, Tentative Map, and Tree
Removal Permit
201 Seminary Drive, Mill Valley

Dear Supervisors:

RECOMMENDATION: On behalf of the Planning Commission, staff recommends your Board: (1) deny the extension of the 1984 Master Plan; and (2) not initiate environmental review on the 2015 Project at this time.

SUMMARY: The property has been used as a graduate school by the prior property owners (Golden Gate Baptist Theological Seminary) under a 1953 Use Permit. In 1984, the County approved a RMP Master Plan ("Master Plan") for various campus buildings along with subdivision of portions of the property to create 24 single-family residential and 36 condominium units. That Master Plan will expire on January 1, 2018. North Coast Land Holdings acquired the property in 2014, and submitted an application to redevelop the property with proposed amendments to the Master Plan, Strawberry Community Plan, and other land use permits in 2015 (Project).

The Project includes construction of the following buildings related to the academic use (graduate school) of the property: a 25,000 square foot Chapel/Auditorium, 20,000 square foot Gymnasium/Health Center, 12,000 square foot Student Center, 12,000 square foot Administration Building addition, and 5,200 square foot maintenance building. Ninety-three new housing units will be constructed on the approximately 127-acre property, and 198 of the existing 211 units of housing will be replaced. Factoring in 13 additional existing, unmodified units, the Project will result in a total of 304 residential units. The applicant is seeking to amend the Master Plan and Strawberry Community Plan to allow use of the residential units by the general public. The applicant also seeks approval of a Master Use Permit to allow use of existing building space by a pre-school, catering company, and the applicant's property management offices. The applicant convened an open house in June 2017 and submitted an alternative to the Project (Alternative) in August 2017 for evaluation in the Environmental Impact Report (EIR) in response to community concerns about the Project. The Alternative eliminates the expansion of the academic buildings and refines the academic use (to include a student/faculty boarding component, an online educational component, and staggered school hours to avoid peak commute periods), adds a senior retirement

community and a new community athletic center, replaces 198 existing units, and adds 93 additional new residential units, resulting in a total of 304 residential units.

The Community Development Agency issued a Notice of Preparation (NOP) of an EIR for the Project in September 2017. That decision was appealed by Riley Hurd, on behalf of the Seminary Neighborhood Association. Shortly after the issuance of the NOP, the applicant submitted an application for a four-year extension to the 1984 Master Plan in order to provide sufficient time for the proposed Project to be processed.

On October 30, 2017, the Planning Commission voted (5-1) not to extend the 1984 Master Plan and (6-0) to partially sustain the Riley Hurd appeal by suspending work on the EIR since the Project is based on the general development parameters under the Master Plan, including an antiquated zoning method for calculating residential density, and the basic project description used to initiate the EIR will no longer be accurate if a new Master Plan application is filed. The applicant has appealed both of those actions.

Master Plan Extension

The appellant asserts that a Master Plan extension is not legally required since the 1984 Master Plan is vested. Vesting generally means the property owner has a right to proceed in accordance with the original approval without regard to a time limit. The Development Code's criterion for vesting contained in Section 22.70.050.B.2 takes into consideration whether the applicant has obtained building and other construction permits and substantially completed the improvements in accordance with the Master Plan. Staff had originally recommended the Planning Commission consider granting a conditional Master Plan extension consistent with the two prior Master Plan extension approvals but with modifications that would utilize the current zoning methodology for calculating residential density (to exclude the 22.5-acre submerged acreage) which would reduce the number housing units for student, staff, and faculty approved in the 1984 Master Plan from 304 to 258 residential units. Currently, there are 211 units on the property.

The Planning Commission supported their decision by noting that a significant amount of time (approximately 33 years), including two prior Master Plan extensions totaling 8 years, has been provided for all of the improvements to be constructed. With exception to those portions of the Master Plan that were subdivided and separately developed, none of the academic buildings or student/staff/faculty housing that were approved under the Master Plan were constructed. The Planning Commission's decision to deny the Master Plan extension does not affect the educational use of the property under the prior 1953 Use Permit or prevent the applicant from submitting a new Master Plan application. Although the current Strawberry Community Plan policies reflect the 1984 Master Plan which required use of the housing by students, staff, and faculty, neither approval modified the conditions of the 1953 Use Permit. However, without a further extension of the Master Plan, the Master Plan restriction to use of the existing housing by students, staff, and faculty would no longer apply since residential uses are permitted under the Residential Multiple Planned zoning district.

Environmental Review

The appellant asserts that the Planning Commission’s decision to suspend the environmental review process is not consistent with the California Environmental Quality Act (CEQA) and raises substantive and procedural due process concerns, but did not elaborate in detail on this basis of appeal. The Planning Commission concluded that preparation of an EIR for the Project is not possible since the applicant will need to submit a new Master Plan application following expiration of the 1984 Master Plan on January 1, 2018.

Next Steps

Should your Board affirm the Planning Commission’s actions and deny the North Coast Land Holdings appeals, the applicant may resubmit the Project with modifications including, but not necessarily limited to, a new Master Plan application, and staff would continue processing the revised Project. Following review and comment by public agencies, the Strawberry Design Review Board, and interested parties, a new determination on the level of environmental review will be made by the Environmental Coordinator, followed by a new NOP. As the Board of Supervisors is the final decision making body on environmental review determinations and legislative actions, such as a Master Plan, general and/or community plan, and presuming the Environmental Coordinator determines an EIR is required for the revised Project, the Board may direct staff to refer any appeal of the subsequent NOP to the Board for a final determination, consistent with Section X of the County’s Environmental Impact Review Guidelines.

FISCAL/STAFFING IMPACT: None.

REVIEWED BY: (These boxes must be checked)

- | | |
|--|------------------------------|
| <input type="checkbox"/> Department of Finance | <input type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input type="checkbox"/> N/A |

SIGNATURE:

Tom Lai
Assistant Director

- Attachments:
- (1) Proposed Resolution Denying the North Coast Land Holdings Appeal and Denying Extension of the “RMP Master Plan”
 - (2) Proposed Resolution Denying the North Coast Land Holdings Appeal and Suspending the Community Development Agency’s Determination to Prepare an Environmental Impact Report
 - (3) Petition for Appeal (received 11/13/17)
 - (4) Planning Commission Minutes and Resolutions PC17-011 and PC17-012 (10/30/17, 11/13/17)
 - (5) Communications
 - a. California Alliance for Retired Americans Letter (11/30/17)
 - b. Kevin Farnham Email (11/29/17)
 - c. David Collman Email (11/30/17)

- d. Renee Shur Email (11/30/17)
- e. Cathy Nourafshan Email (11/30/17)
- f. Jeanne Rizzo Email (12/1/17)
- g. Michael Halloran Email (12/1/17)
- h. Larry Rose Email (12/1/17)
- i. Roy Benvenuti Email (12/2/17)
- j. Jane Berman Email (12/4/17)
- k. Elizabeth Weisheit Email (12/4/17)
- l. Peggy Keon Email (12/4/17)
- m. Mary Ware Email (12/4/17)
- n. Diane Arnone Email (12/4/17)
- o. Robert Chandler Email (12/4/17)
- p. Ray and Mary McDevitt Letter (12/4/17)
- q. Chuck Ballinger Email (12/5/17)
- r. Tom Yurch Email (12/5/17)
- s. Angela Gott Email (12/5/17)
- t. Richard and Kay Harris Letter, (12/6/17)

In order to conserve resources, the following attachments are only provided to the Board of Supervisors. They are available for public review from the Community Development Agency's webpage for this project located at:

https://www.marincounty.org/depts/cd/divisions/planning/projects/alt-o-strawberry/north-coast-land-holdings-llc_mp_dp_tr_up_15_343_mv

- (6) Planning Commission Staff Report and Memoranda (10/26/17, 10/27/17, 10/30/17, 11/8/17)
- (7) Memorandum regarding Additional Planning Commission Communications (11/3/17)

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. _____

A RESOLUTION DENYING THE NORTH COAST LAND HOLDINGS APPEAL AND DENYING EXTENSION OF THE "RMP MASTER PLAN"

201 SEMINARY DRIVE, MILL VALLEY

ASSESSOR'S PARCELS: 043-261-25; 043-261-26; 043-262-03, 043-262-06; 043-401-05; 043-401-10; 043-401-16; 043-402-03; 043-402-06

SECTION I: FINDINGS

1. WHEREAS, Bruce Jones submitted a Master Plan extension request, on behalf of the North Coast Land Holdings, LLC, to extend the RMP Master Plan for the property previously owned by the Golden Gate Theological Baptist Seminary ("Seminary") for four additional years. The subject property has been used by the Seminary as a graduate school under a 1953 Use Permit. Since the Seminary campus opened in 1959, it has received a variety of land use approvals, including Design Review for various campus buildings and most notably, a "RMP Master Plan" (Master Plan) for campus improvements and subdivision to create 24 single-family lots and 36 condominiums (subsequently reduced to 20 single-family attached units) that was approved in 1984. The 1984 Master Plan approved a construction phasing schedule for the new buildings associated with the Seminary that would be completed by January 1, 2010. Exhibit "B" of the Master Plan (Page 31) states: "If a subsequent application for any portion of the Master Plan is filed with the County prior to expiration of the Master Plan, then the Master Plan shall be deemed vested and the entirety of the Master Plan shall not expire until the end of the anticipated Phasing Period, January 1, 2010." The academic buildings (Student Center, Classroom, Auditorium, Athletic Center) and the student/faculty/staff housing approved in the Master Plan were not constructed. Two subsequent extensions to the Master Plan were approved, extending the Master Plan to January 1, 2018. The property is located at 201 Seminary Drive, Mill Valley, and is further identified as Assessor's Parcels 043-261-25; 043-261-26; 043-262-03, 043-262-06; 043-401-05; 043-401-10; 043-401-16; 043-402-03; and 043-402-06.

2. WHEREAS, the action on an extension request is discretionary in nature. Pursuant to Marin County Code Section 22.70.050, the Community Development Agency Director referred the Master Plan extension request to the Planning Commission.

3. WHEREAS, the Marin County Planning Commission held a duly noticed public hearing on October 30, 2017, and after hearing testimony in favor of, and in opposition to, the request, decided to deny the proposed Master Plan extension. The Planning Commission ratified a resolution reflecting their action on November 13, 2017.

4. WHEREAS, on November 13, 2017, Bruce Jones filed an appeal of the Planning Commission's action, on behalf of North Coast Land Holdings, LLC.

5. WHEREAS the Marin County Board of Supervisors held a duly noticed public hearing on December 12, 2017 to consider the North Coast Land Holdings appeal and Master Plan extension, and to hear testimony in favor of, and in opposition to, the request.

6. WHEREAS, the Community Development Agency has provided public notice identifying the applicant/appellant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 600 feet of the subject property, and project applicant/appellant.

7. WHEREAS, the Master Plan extension request is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15162 of the CEQA Guidelines.

8. WHEREAS, Marin County Code Section 22.70.050.B.2 states the appropriateness of a Master Plan extension request shall take into account whether the permit holder has attempted to comply with the conditions of the permit. Marin County Code Section 22.70.050.A further states that the permit shall not be deemed vested until the permit holder has actually obtained a Building Permit or other construction permit and has substantially completed the improvements in accordance with the approved permits. Approved in 1984, the RMP Master Plan granted conceptual approval to the prior owner of the property (Golden Gate Baptist Theological Seminary) of a student center, classroom addition, chapel/auditorium, gymnasium/health center, maintenance building, and daycare center, conversion of 60 dormitory rooms into 49 studio rooms, and construction of 104 student apartment units for a net increase of 93 residential units (for students, staff, and faculty) on the property.

9. WHEREAS, two extensions of the Master Plan had been granted for a total of eight additional years past the original expiration date of January 1, 2010. Approximately 33 years has transpired since the original Master Plan was approved, and none of the Master Plan improvements associated with the prior Seminary have been constructed. Instead, both the prior and current property owners have requested extensions of the Master Plan in order to pursue plans that would entail modifications to the Master Plan.

10. WHEREAS, the Marin County Board of Supervisors finds that the following bases of appeal lack merit.

- A. The appellant asserts that the Planning Commission's action to deny the Master Plan extension was arbitrary, capricious, lacked evidentiary support, and contradicted requirements of Marin County Code Sections 22.44.050 and 22.70.050.

Response: Marin County Code Section 22.44.050 established time limits for Master Plans and their relationship to subsequent approvals, such as a Precise Development Plan and tentative subdivision map. Although this section was eliminated as part of the Development Code amendments approved in March 2017 (in favor of the requirements contained in Chapter 22.70 that apply to all discretionary permits), even had the Planning Commission agreed to the applicability of Section 22.44.050, the appellant's claim (that the standards in Section 22.44.050 should apply because the Master Plan was vested) still lacks merit because of the specific way that the term of the 1984 Master Plan was established.

The 1984 Master Plan approved a construction phasing schedule for the new buildings associated with the Seminary that would be completed by January 1, 2010. Exhibit "B" of the Master Plan (Page 31) states: "If a subsequent application for any portion of the Master Plan is filed with the County prior to expiration of the Master Plan, then the Master Plan shall be deemed vested and the entirety of the Master Plan shall not expire until the end of the anticipated Phasing Period, January 1, 2010." While a subdivision

map was filed and approved by the County, the language in the Master Plan is very clear in that it will expire on January 1, 2010. In this case, the specific nature of the language governing vesting contained in the Master Plan approval controls.

The Planning Commission correctly applied the vesting standards contained in Section 22.70.050 in that a permit is not vested until the applicant has obtained a Building Permit or other construction permit and substantially completed improvements in accordance with the permits. The County does not dispute the vested rights under the Master Plan for the single-family detached and attached units that were created and built. However, because none of the academic or student/faculty/staff units on the Seminary's portion of the Master Plan was built, the applicant does not have a valid claim to vested rights to those uses and structures.

- B. Notwithstanding the above, the appellant further asserts that the 1984 Master Plan was already vested, and that the appellant believes no extension is legally required.

Response: For the reasons cited above, the applicant does not have a vested right to the unbuilt portions of a Master Plan that was approved almost 34 years ago. Actions taken by the prior owner and the applicant seeking to extend the Master Plan and the County's actions approving two of those Master Plan extension requests (extending the Master Plan in 2009 for three years and again in 2012 for five years) do not support the appellant's contention that an extension is not required.

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED, the Marin County Board of Supervisors hereby denies the North Coastal Land Holdings, LLC appeal and the proposed RMP Master Plan extension.

SECTION III: VOTE

PASSED AND ADOPTED at a regularly-scheduled meeting of the Marin County Board of Supervisors held on this 12th day of December, 2017 by the following vote:

AYES:

NOES:

ABSENT:

JUDY ARNOLD, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

Attest:

Matthew Hymel
Clerk to the Board of Supervisors

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. _____

**A RESOLUTION DENYING THE NORTH COAST LAND HOLDINGS APPEAL AND
SUSPENDING THE COMMUNITY DEVELOPMENT AGENCY'S DETERMINATION TO
PREPARE AN ENVIRONMENTAL IMPACT REPORT
201 SEMINARY DRIVE, MILL VALLEY**

**ASSESSOR'S PARCELS: 043-261-25; 043-261-26; 043-262-03, 043-262-06; 043-401-05;
043-401-10; 043-401-16; 043-402-03; 043-402-06**

SECTION I: FINDINGS

1. WHEREAS, Bruce Jones, on behalf of North Coast Land Holdings, LLC, submitted an application for the proposed redevelopment of the project site with a graduate school campus that would allow up to 1,000 students, in addition to the construction of academic buildings and residential units. Proposed construction includes a 25,000 square foot Chapel/Auditorium, 20,000 square foot Gymnasium/Health Center, 12,000 square foot Student Center, 12,000 square foot addition to, and interior remodeling of, the Administration Building (resulting in a 63,200 square foot building), 5,200 square foot maintenance building (replacing a 2,200 square foot maintenance building), and interior remodeling of the Library and Cafeteria. In addition, 93 new housing units will be constructed, and 198 of the existing 211 units of housing will be replaced, resulting in a total of 304 residential units on the property. The applicant also seeks approval to continue the following nonpermitted uses on the property: (1) on-site property management offices; (2) a pre-school; (3) a catering company; and (4) renting out of residential units to the general public. Existing community use of the campus for social, civic, and athletic events will be continued. The proposed Vesting Tentative Map includes a resubdivision of a portion of the map entitled "Map of Seminary Ridge- Phase 1," filed in book 20 of maps page 84, Marin County Records, including subdividing Lot 28 into seven lots ranging in size from 0.72 to 32.02 acres. The applicant reserves the right to seek a 35% density bonus as allowed by State law with concessions that allow for a residential density that is above the low end of the general plan's density range. The property is located at 201 Seminary Drive, Mill Valley, further identified as Assessor's Parcels 043-261-25; 043-261-26; 043-262-03, 043-262-06; 043-401-05; 043-401-10; 043-401-16; 043-402-03; and 043-402-06.

2. WHEREAS, on September 29, 2017, the Community Development Agency issued a Notice of Preparation (NOP) indicating that an Environmental Impact Report (EIR) will be required for the project and opening a 30-day-public review and comment period (October 1 to October 31) on the scope of issues that are to be addressed in the EIR.

3. WHEREAS, on October 9, 2017, Riley Hurd filed a timely appeal of the NOP determination on behalf of the Seminary Neighborhood Association. The appeal asserts that: (1) the application is incomplete and insufficient in order for the County to prepare an EIR; and (2) the project should be denied because it is inconsistent with the Strawberry Community Plan, the Master Plan, and the 1953 Use Permit.

4. WHEREAS, the Marin County Planning Commission held a duly noticed public hearing on October 30, 2017, and after hearing testimony in favor of, and in opposition to, the appeal, decided to partially sustain the Riley Hurd Appeal by suspending the Community Development

Agency's determination to prepare an Environmental Impact Report. The Planning Commission ratified a resolution reflection their action on November 13, 2017.

5. WHEREAS, on November 13, 2017, Bruce Jones filed an appeal of the Planning Commission's action, on behalf of North Coast Land Holdings, LLC.

6. WHEREAS the Marin County Board of Supervisors held a duly noticed public hearing on December 12, 2017 to consider the appeal, and to hear testimony in favor of, and in opposition to, the request.

7. WHEREAS, the Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 600 feet of the subject property, and project applicants.

8. WHEREAS, the determination that an Environmental Impact Report is required for the proposed project is consistent with the requirements of the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

9. WHEREAS, the Marin County Board of Supervisors disagrees with the appellant's assertion that the Planning Commission's action to suspend the environmental review process creates substantive and procedural due process concerns. After deliberating carefully on the merits of a concurrent request submitted by the appellant to extend a 1984 Master Plan and denying that request, the Planning Commission determined that any further work to prepare an Environmental Impact Report for the current proposed project (which is predicated on the basic framework of the 1984 Master Plan) is moot since the applicant will need to submit a new Master Plan in order for the County to conduct any additional analysis of both the revised project and potential environmental impacts associated with it. This in effect suspends the County's actions to initiate environmental review on the existing project.

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED, the Marin County Board of Supervisors hereby denies the North Coast Land Holdings Appeal and sustains the Planning Commission's action by suspending the preparation of an Environmental Impact Report for the project.

SECTION III: VOTE

PASSED AND ADOPTED at a special meeting of the Board of Supervisors of the County of Marin held on this 12th day of December, 2017 by the following vote:

AYES:

NOES:

ABSENT:

JUDY ARNOLD, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

Attest:

Matthew Hymel
Clerk to the Board of Supervisors