

RESOLUTION NO. 2017-138
RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
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 referenced in Section 6 above 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 regular meeting of the Board of Supervisors of the County of Marin held on this 12th day of December 2017, by the following vote:

AYES: SUPERVISORS Dennis Rodoni, Katie Rice, Damon Connolly, Kathrin Sears,
Judy Arnold

NOES: NONE

ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK