



**STAFF REPORT TO THE MARIN COUNTY
PLANNING COMMISSION**

North Coast Land Holdings Master Plan Extension and
Riley Hurd Appeal of a Notice of Preparation of Environmental Impact Report

Recommendation: **1. Conditionally extend the Master Plan**
 2. Deny Appeal and sustain the Agency's
 determination requiring an Environmental
 Impact Report

Hearing Date: **October 30, 2017**

Application No:	P1490	Applicant:	Bruce Jones
Agenda Item:	4.	Owner:	North Coast Land Holdings, LLC
Last Date for Action:	November 27, 2017	Appellant:	Riley Hurd, representing Seminary Neighborhood Association
		Assessor's Parcel No(s):	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
		Property Address:	201 Seminary Drive, Mill Valley
		Project Planner:	Tom Lai
Countywide Plan Designation:		MF-2 (Multiple-Family, Residential, 1-4 units per acre)	
Community Plan Area:		Strawberry	
Zoning District:		RMP-2.47 (Residential Multiple Planned, 2.47 units per acre) with AH (Affordable Housing) Overlay	

PROJECT SUMMARY

The applicant is requesting approval to extend the 1984 Master Plan that covered the former Golden Gate Baptist Theological Seminary property for four additional years (the current Master Plan will expire on January 1, 2018). The extension is requested in order to provide sufficient time for the County to process a proposed application to redevelop the property. The 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 the 1984 Master Plan for campus improvements.

Related to Master Plan extension request is an appeal filed by Riley Hurd, on behalf of the Seminary Neighborhood Association, challenging the County's determination that an Environmental Impact Report is required for the proposed redevelopment of the property with a graduate school campus that would allow up to 1,000 students, in addition to the construction of academic buildings and new 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 project includes amendments to the Strawberry Community Plan to modify language in the Community Plan specifically related to the Seminary site. The modifications include changing the text currently referring to student housing to allow residential units that are not exclusively dedicated to student housing. Pursuant to Section 22.44.020 of the County Code, a Master Plan Amendment is necessary to amend the 1984 Master Plan. The proposed amendment would allow the housing previously approved to be used exclusively by students, staff, and faculty to be redeveloped as housing that would also be available to the general public.
- Pursuant to Section 22.42.020 of the County Code, a Design Review is necessary to allow for the site layout, architectural design, and construction of the new buildings. Pursuant to Section 22.49.010 of the County Code, a Master Use Permit is necessary to allow multiple conditional uses on site in addition to the graduate school, including: (1) on-site property management offices; (2) a pre-school open to the public; and (3) a catering company able to provide service either on or off site. Pursuant to Section 22.84.110 of the County Code, a Vesting Tentative Map is necessary to subdivide Lot 28 of the Seminary Ridge subdivision into six lots. Pursuant to Section 22.62.020 of the County Code, a Tree Removal Permit is necessary to allow the removal of protected trees for development of the project.
- The Community Development Agency Director has referred the Master Plan Extension to the Planning Commission pursuant to Section 22.70.050.B of the County Code.

APPEAL

On ~~October~~ 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. On October 9, 2017, Riley Hurd filed an appeal of the NOP determination on behalf of the Seminary Neighborhood Association. The appeal asserts: (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. (Please refer to Attachment 3.)

PROJECT SETTING

Countywide Plan

Land Use Designation: MF-2 (Multi-Family, Residential, 1-4 units per acre)

Zoning: RMP-2.47 (Residential Multiple Planned, 2.47 units per acre) with AH (Affordable Housing) overlay
Lot size: Approximately 127.3 acres
Adjacent Land Uses: Single- and multiple-family residences, Fire station
Vegetation: Mixed forest (Monterey pine, California live oak, and non-native trees, grasslands, turf, shrubs)
Topography and Slope: Slopes on the site vary between 0% to >40%
Environmental Hazards: The site is within the Wildland and Urban Interface (WUI) fire hazard zone, and approximately 7 miles to 15 miles from the San Andreas, Hayward, and Rodgers Creek Fault Zones, subject to strong ground shaking during a seismic event.

BACKGROUND

The property has been used by the prior property owners, the Golden Gate Theological Baptist Seminary, as a graduate school under a 1953 Use Permit. (See Attachment 8.) 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 family and 36 condominiums (subsequently reduced to 20 single-family attached units) that was approved in 1984. (See Attachments 6 and 7.) The Golden Gate Baptist Theological Seminary submitted an application in January 2011 to subdivide and create 37 new lots that would accommodate a total of 117 residential units, including student apartments, faculty townhomes, and single-family and townhome residences. That application was ultimately withdrawn at the request of the Seminary in March 2014. The current owner (North Coast Land Holdings, LLC) acquired the property in 2014.

The current application was submitted to the Community Development Agency on October 20, 2015, and revised on August 16, 2017. The most notable revisions were to substitute a graduate school for the private high school (Branson) that was originally proposed to occupy the Seminary’s educational facilities, to expand the scope of work to allow a number of existing interim uses including an on-site property management office, pre-school, catering company, and rental of existing residential units to the general public. The County initiated environmental review for the project by notifying the applicant that an Environmental Impact Report will be required for the project in January 2017. The circulation of the Notice of Preparation was delayed until ~~October~~ **September** 2017 to reflect the applicant’s interest in developing an alternative to be submitted for potential evaluation by the EIR. On October 3, 2017, the applicant submitted a request to extend the 1984 Master Plan for four additional years. (See Attachment 5.)

ANALYSIS

1. Master Plan Extension

The Master Plan extension is requested in order to provide sufficient time for the County to process the proposed application to redevelop the property. 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.” Construction of buildings that are approved in the Master Plan vests the rights to those structures. The academic buildings (Student Center, Classroom, Auditorium, Athletic

Center) and the student/faculty/staff housing approved in the Master Plan were not constructed. Therefore, if the Master Plan were not extended, the applicant will lose the right to construct those buildings. The single-family residential and condominium parcels that were created by the 1984 Master Plan have been subdivided from the original Seminary property and developed, thereby vesting that part of the Master Plan. The Master Plan was extended twice, first in 2009 for three years and then again in 2012 for an additional five years. The Master Plan will expire on January 1, 2018.

The ensuing sections analyze three possible options in responding to the applicant's request to extend the 1984 Master Plan. County Counsel has reviewed and concurred with the legal bases for action under any of the three options presented below. Staff recommends that the Planning Commission approve Option B by adopting a resolution (Attachment 1) conditionally approving the Master Plan Extension.

Option A: Approve Extension

Granting the proposed four-year extension would be consistent with past actions by the County. Pursuant to Marin County Code Section 22.70.050.B.2, the review of an extension request takes into consideration whether the applicant has attempted to comply with the conditions of the permit.

Section 22.70.050.B.2 states: "The Director shall determine whether the permit holder has attempted to comply with the conditions of the permit. The burden of proof is on the permittee to establish, with substantial evidence, that the permit should not expire. The Director may instead refer the extension request to the Commission for review."

In granting the two prior Master Plan extension requests, the County acknowledged the property owner's interest by extending the term of the Master Plan in order for proposed Master Plan amendments to be processed. Approval of the extension would maintain the maximum residential density of 304 units that is permitted by the 1984 Master Plan (on the portion of the Master Plan that was previously occupied by the Seminary).

Option B: Conditionally Approve Extension

Under this option, the same general approach taken in Option A above would be taken, however, with one modification. Marin County Code Section 22.70.050 establishes the time limits for permits and procedures for processing extension requests. Section 22.70.050.B.3 allows minor modifications to be made to a project if there has been a change in the factual circumstances surrounding the original approval.

Section 22.70.050.B.3 states: "When granting an extension, the Director may make minor modifications to the approved project if it is found that there has been a change in the factual circumstances surrounding the original approval."

The method established in the Development Code for calculating residential density represents a changed circumstance. Marin County Zoning Ordinance Section 22.02.050 which governed the property when it was rezoned in 1984, did not exclude underwater land when calculating the maximum residential density (underwater land was only excluded in calculations to meet minimum lot size requirements). In 2003, the County replaced the Zoning Ordinance with the Development Code (for properties outside the Coastal Zone). Under the Development Code, the term "density" was defined as "the number of dwelling units per acre of lot area" while the definition of lot area was carried forward from the prior Zoning Ordinance to exclude submerged land area. As a result of this change, the area associated with submerged land is no longer counted in the overall density calculation.

The subject property includes 22.5 acres of submerged land, based on Assessor's records. Excluding this acreage from the applicant's estimated lot size of 127.3-acres results in 104.8 acres of dry land area. Based on the RMP-2.47 zoning, the maximum potential residential density under the Master Plan would be 258 units using the current methodology that only counts dry land area (104.8 acres times 2.47 units per acre). There are 211 existing residential units on the property. Using the new method for calculating density will result in a reduction of the maximum residential density on the property by 46 units, from 304 to 258 units. Staff recommends that you approve Option B with a condition of approval that imposes a cap on the maximum potential density based only on the dry land portion of the property. Should your Commission approve the Master Plan extension, the applicant will need to revise the project description.

Option C: Deny Extension

The County may deny the proposed extension recognizing that a significant amount of time (approximately 33 years) has been provided to complete all of the improvements that were contemplated in the 1984 Master Plan, and none of the academic buildings that were approved under the Master Plan were constructed. Expiration of the Master Plan will not affect the educational use of the property which is allowed under the 1953 Use Permit. Pursuant to Marin County Code Section 22.48.050, the Use Permit will expire if the use ceases for a five-year period or greater, unless a Use Permit Renewal is granted. It has been less than five years since the educational use of the property by the Golden Gate Theological Baptist Seminary had ceased.

Expiration of the Master Plan does not prevent the applicant from submitting an application for a new Master Plan. However, the Master Plan's limitation on use of the residential buildings by student, staff, and faculty would no longer apply if the Master Plan expires, and the owner would be able to rent the buildings to the general public. Residential uses are principally permitted under the Residential Multiple Planned zoning district. Although replacement of the existing residential units may qualify for a Master Plan waiver, construction of more than 5 new residential units will require a new Master Plan pursuant to Marin County Code Section 22.44.040.

Secondly, the residential density of the property will need to be re-evaluated should the Master Plan not be extended. Concurrent with the 1984 Master Plan, the maximum residential density of the property was increased from 2.1 units per acre to 2.47 units per acre through a Rezoning action. (Note: The Countywide Plan's Multiple-Family Residential land use designation for the property establishes a residential density range of between 104 and 419 units, based on 104.8 acres of dryland area and a density of between 1 to 4 units per acre.) Since the Rezoning of the property was undertaken ostensibly to ensure that the maximum permitted density reflects the number of units contemplated in the Master Plan, expiration of the Master Plan should trigger a County-initiated Rezoning to consider the appropriate zoning density for the property going forward and to ensure that the maximum residential density is consistent with the existing number of units or the 2.1-units per acre maximum under the prior RMP-2.1 zoning. In addition, any future application to develop the property will be governed by the current requirements from the Development Code, including the inclusion of only dry land area in the calculation of maximum residential density (as discussed in Option B above). The application of the two limiting factors described above would result in a maximum residential density of 220 units (104.8 acres times 2.1 units per acre). There are 211 units on the property currently. Should Option C be approved, the applicant will need to submit a new Master Plan application with a revised project description.

Table 1 below provides a summary of the implications to the maximum residential density associated with each of the three Master Plan Extension options discussed above.

Table 1: Density Implications of Master Plan Extension Options

Options	Maximum Residential Density
Existing	211 units
1. Option A: Approve Extension	304 units
2. Option B: Approve Extension with Condition (Include dryland area only)	258 units
3. Option C: Deny Extension (Rezone and include dryland area only)	220 units

2. Appeal of Decision to Initiate Environmental Review

On ~~October~~ September 29, 2017, the County issued a Notice of Preparation opening up a 30-day period (October 1 to October 31) for the public to comment on the issues to be addressed in the Environmental Impact Report (EIR). On October 9, 2017, Riley Hurd filed an appeal of the NOP determination on behalf of the Seminary Neighborhood Association. This appeal is unusual in that the appellant objects to the preparation of an EIR and asserts, instead, that the county should bypass the environmental review process outright and deny the application. Should the decision to proceed with an EIR stand, the appellant also disagrees that the current project description is of sufficient detail to allow an EIR to be prepared, as discussed further below.

Adequacy of Project Description

The appellant asserts that the project description is incomplete and missing information, such as the specific type of graduate school and the resident mix for the residential component of the project, in order to conduct environmental review. Staff does not necessarily disagree that additional clarifications may be needed or useful; however the California Environmental Quality Act (CEQA) and the County’s Environmental Impact Review Guidelines provide the opportunity for these concerns to be addressed through the scoping process for the EIR.

Section 15060 of the CEQA Guidelines (Preliminary Review) states: “Accepting an application as complete does not limit the authority of the lead agency to require the applicant to submit additional information needed for environmental evaluation of the project. Requiring such additional information after the application is complete does not change the status of the application.” The County’s Environmental Impact Review Guidelines provides the county with the ability to require additional information to clarify, augment, or amplify the project application materials. Marin County Environmental Review Guidelines IV.D.2, Adequacy of Descriptions, further states that, “To be found complete, an application must contain sufficient information to permit a determination of impacts of the project.” Most importantly, “Acceptance of an application as complete does not limit the authority of the County to require additional information needed for environmental evaluation of the project.”

One of the first tasks for the independent EIR consultant chosen to prepare the EIR is to participate in a public scoping meeting and gather comments from the public and other agencies to refine the scope of the EIR before commencing work on the EIR. The EIR consultant will also prepare a data request to the applicant, seeking additional information and clarifications to the project in order to support the

preparation of an EIR Project Description. The data request process is used to resolve any inconsistencies or conflicting information and to request any clarifications that are needed before work on the EIR is initiated. Interested parties will have the opportunity to comment on the project's potential environmental impacts and the scope of the environmental analysis during the Notice of Preparation period and at a public scoping session. (Note: In light of the appeal, the 30-day public review and comment period will be extended to a date following the scoping session in order for a final decision to be rendered on the appeal). The County retains the authority to determine the adequacy of the project description to ensure that it is accurate, stable, and finite. Furthermore, the public has the opportunity to review and comment on the adequacy of the project information and impact analysis at the time a Draft EIR is circulated for public comment, and again at the time the Final EIR and Response to Comments are prepared. One of the goals of CEQA is to provide objective and reliable information on a project's impacts on the environment so that an informed decision can be made. It would be premature for the County to render a decision on the merits of an application without completing this objective review.

Due Process

The appellant requests the County to bypass environmental review and deny the application because it conflicts with the Strawberry Community Plan and 1984 Master Plan, citing that the CEQA Guidelines Section 15270 can be used for projects that are disapproved. Staff disagrees. It is premature at this time to summarily conclude that any conflict with the community plan and master plan shall serve as the basis for denial of the project, especially when the applicant has submitted an application specifically to amend those sections of the community plan and master plan that are in conflict with the proposed project.

The underlying nature of the proposed uses (educational and residential) are consistent with the Countywide Plan, the RMP-2.47 zoning, and the 1953 Use Permit. The environmental review process is intended to identify the potential environmental consequences (such as traffic impacts) associated with the project so that an informed decision can be made by the County's decisionmakers. There is no impact to the appellant with regard to expense and time, since the applicant assumes responsibility for all of the costs associated with preparing the EIR as well as the additional time. The appellant claims that the scope, intensity, and impact of the project demonstrates that it cannot be approved, but has not substantiated any of these claims beyond the inference that there will be impacts to traffic (from the school and the removal of restrictions to occupancy of the housing by students, faculty and staff, and to community character from development of multi-family residential homes). Staff acknowledges there is considerable community opposition to the project. However controversy alone does not give the County sufficient grounds to deny an application.

Alleged Violation of 1953 Use Permit

The appellant asserts that the only educational use allowed on the property under the 1953 Use Permit is a "theological seminary and dormitories and other buildings incidental to such use." This comment side steps the interrelationship between the 1953 Use Permit and the 1984 Master Plan. The educational use and uses accessory to the educational use are authorized by the Use Permit, while the 1984 Master Plan authorized the buildings and improvements that house those uses. The distinction between the 1953 Use Permit and the 1984 Master Plan is reflected by the way the County processed the Master Plan. The Master Plan did not replace, limit, or change the owner's vested rights under the original Use Permit. The Master Plan only clarified that use of the housing component shall be by students, staff, and faculty. Furthermore, there is lack of a legal basis to deny the project based on the appellant's inference that the educational use has to be based in religion (the appeal makes a number of references to a theological seminary) as opposed to the underlying educational land use. Finally, the appellant questioned the

purpose and scope of the “new” Use Permit when what is proposed is a Master Use Permit to allow multiple conditional uses (1) on-site property management offices; (2) a pre-school; and (3) a catering company) which does not seek to replace or modify the existing 1953 Use Permit.

RECOMMENDATION

Staff recommends the Planning Commission review the administrative record, conduct a public hearing, and take the following two actions:

1. Adopt the proposed resolution conditionally extending the Master Plan; and
2. Adopt the proposed resolution denying the Riley Hurd Appeal and Sustaining the Community Development Agency’s determination to prepare an Environmental Impact Report.

Attachments:

1. Recommended resolution conditionally extending the “RMP Master Plan”
2. Recommended resolution denying the Riley Hurd Appeal and Sustaining the Community Development Agency’s determination to prepare an Environmental Impact Report
3. Petition for Appeal, (10/9/17)
4. Updated Project Description
5. Master Plan Extension Request, (10/3/17)
6. Ordinances 2818 and 2819
7. 1984 Master Plan Exhibit B
8. 1953 Use Permit
9. Master Plan Extension Determination, (3/7/12)
10. Strawberry Design Review Board Meeting Minutes, (10/2/17)
11. Public Comments
 - a. Josh Andresen Email (9/26/17)
 - b. Kay Moore Harris Email, (9/28/17)
 - c. Richard Harris Email, (9/28/17)
 - d. Robert Martyn Email, (10/1/17)
 - e. Rubin Glickman Letter, (10/6/17)
 - f. Alex Kypriadis Letter, (10/7/17)
 - g. Edward Koplowitz Letter, (10/18/17)
 - h. Ray McDevitt Letter, (10/18/17)
 - i. Ray and Mary McDevitt Letter, (10/18/17)
12. Site and Campus Development plans
(Complete application plans and studies are available online from the Project Page https://www.marincounty.org/depts/cd/divisions/planning/projects/alto-strawberry/north-coast-land-holdings-llc_mp_dp_tr_up_15_343_mv)

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

**A RESOLUTION CONDITIONALLY EXTENDING 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. 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 has 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 to consider the merits of the Master Plan extension request, and to hear testimony in favor of, and in opposition to, the request.
4. 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.
5. 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.

6. WHEREAS, the Marin County Planning Commission finds that the current property owner has pursued development of the property, as evidenced by the pending Master Plan amendment application.

7. WHEREAS, Marin County Code Section 22.70.050 establishes the time limits for permits and procedures for time extensions. Section 22.70.050.B.3 allows minor modifications to be made to a project if there has been a change in the factual circumstances surrounding the original approval. The method established in the Development Code for calculating residential density represents a changed circumstance. Marin County Zoning Ordinance Section 22.02.050 which governed the property when it was rezoned in 1984, did not exclude underwater land when calculating the maximum residential density (underwater land was only excluded in calculations to meet minimum lot size requirements). In 2003, the County replaced the Zoning Ordinance with the Development Code (for properties outside the Coastal Zone). Under the Development Code, the term “density” was defined as “the number of dwelling units per acre of lot area” while the definition of lot area was carried forward from the prior Zoning Ordinance to exclude submerged land area. As a result of this change, the area associated with submerged land is no longer counted in the overall density calculation. The subject property includes 22.5 acres of submerged land, based on Assessor’s records. Excluding this acreage from the applicant’s estimated lot size of 127.3-acres results in 104.8 acres of dry land area. Based on the RMP-2.47 zoning, the maximum potential residential density under the Master Plan would be 258 units using the current methodology that only counts dry land area (104.8 acres times 2.47 units per acre).

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED, the Marin County Planning Commission hereby extends the RMP Master Plan for four additional years, with the following conditions of approval:

1. Unless amended, the RMP Master Plan shall expire on January 1, 2022 if Design Review/Building Permit and foundation inspection approvals have not been obtained for the unbuilt buildings approved by the RMP Master Plan.
2. The calculation of the maximum residential density under the RMP Master Plan and for all subsequent land use permits shall include only the dryland portion of the property.

SECTION III: APPEAL RIGHTS

NOW, THEREFORE, BE IT RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$1,200.00 filing fee must be submitted in the Community Development Agency, Planning Division, Suite 308, Civic Center, San Rafael, within eight business days of the date of this decision, November 13, 2017.

SECTION IV: VOTE

PASSED AND ADOPTED at a special meeting of the Planning Commission of the County of Marin held on this 30th day of October, 2017 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

JOHN ELLER, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

ANA HILDA MOSHER
Planning Commission Recording Secretary

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

**A RESOLUTION DENYING THE RILEY HURD APPEAL AND SUSTAINING 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 ~~October~~ 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 to consider the merits of the appeal, and to hear testimony in favor of, and

in opposition to, the Community Development Agency's determination to prepare an Environmental Impact Report.

5. 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.

6. 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.

7. WHEREAS, the appellant asserts that the project description is incomplete and missing information, such as the specific type of graduate school and the resident mix for the residential component of the project, in order to conduct environmental review. The California Environmental Quality Act (CEQA) and the County's Environmental Impact Review Guidelines provide the opportunity for these concerns to be addressed through the scoping process for the EIR.

Section 15060 of the CEQA Guidelines (Preliminary Review) states: "Accepting an application as complete does not limit the authority of the lead agency to require the applicant to submit additional information needed for environmental evaluation of the project. Requiring such additional information after the application is complete does not change the status of the application." The County's Environmental Impact Review Guidelines provides the county with the ability to require additional information to clarify, augment, or amplify the project application materials. Marin County Environmental Review Guidelines IV.D.2, Adequacy of Descriptions, further states that, "To be found complete, an application must contain sufficient information to permit a determination of impacts of the project." Most importantly, "Acceptance of an application as complete does not limit the authority of the County to require additional information needed for environmental evaluation of the project."

One of the first tasks for the independent EIR consultant chosen to prepare the EIR is to participate in a public scoping meeting and gather comments from the public and other agencies to refine the scope of the EIR before commencing work on the EIR. The EIR consultant will also prepare a data request to the applicant, seeking additional information and clarifications to the project in order to support the preparation of an EIR Project Description. The data request process is used to resolve any inconsistencies or conflicting information and to request any clarifications that are needed before work on the EIR is initiated. Interested parties will have the opportunity to comment on the project's potential environmental impacts and the scope of the environmental analysis during the Notice of Preparation period and at a public scoping session. The County retains the authority to determine the adequacy of the project description to ensure that it is accurate, stable, and finite. Furthermore, the public has the opportunity to review and comment on the adequacy of the project information and impact analysis at the time a Draft EIR is circulated for public comment, and again at the time the Final EIR and Response to Comments are prepared. One of the goals of CEQA is to provide objective and reliable information on a project's impacts on the environment so that an informed decision can be made. It would be premature for the County to render a decision on the merits of an application without completing this objective review. Therefore, this basis for of appeal cannot be supported.

8. WHEREAS, the appellant requests the County to bypass environmental review and deny the application because it conflicts with the Strawberry Community Plan and 1984 Master Plan, citing that the CEQA Guidelines Section 15270 can be used for projects that are disapproved. It is premature at this time to summarily conclude that any conflict with the community plan and master plan shall serve as the basis for denial of the project, especially when the applicant has submitted an application specifically to amend those sections of the community plan and master plan that are in conflict with the proposed project.

The underlying nature of the proposed uses (educational and residential) are consistent with the Countywide Plan, the RMP-2.47 zoning, and the 1953 Use Permit. The environmental review process is intended to identify the potential environmental consequences (such as traffic impacts) associated with the project so that an informed decision can be made by the County's decision makers. There is no impact to the appellant with regard to expense and time, since the applicant assumes responsibility for all of the costs associated with preparing the EIR as well as the additional time. The appellant claims that the scope, intensity, and impact of the project demonstrates that it cannot be approved, but has not substantiated any of these claims beyond the inference that there will be impacts to traffic (from the school and the removal of restrictions to occupancy of the housing by students, faculty and staff, and to community character from development of multi-family residential homes). Where there is considerable community opposition to the project. However controversy alone does not give the County sufficient grounds to deny an application. Therefore, this basis for of appeal cannot be supported.

9. WHEREAS, the appellant asserts that the only educational use allowed on the property under the 1953 Use Permit is a "theological seminary and dormitories and other buildings incidental to such use." This comment side steps the interrelationship between the 1953 Use Permit and the 1984 Master Plan. The educational use and uses accessory to the educational use are authorized by the Use Permit, while the 1984 Master Plan authorized the buildings and improvements that house those uses. The distinction between the 1953 Use Permit and the 1984 Master Plan is reflected by the way the County processed the Master Plan. The Master Plan did not replace, limit, or change the owner's vested rights under the original Use Permit. The Master Plan only clarified that use of the housing component shall be by students, staff, and faculty. Furthermore, there is lack of a legal basis to deny the project based on the appellant's inference that the educational use has to be based in religion (the appeal makes a number of references to a theological seminary) as opposed to the underlying educational land use. Finally, the appellant questioned the purpose and scope of the "new" Use Permit when what is proposed is a Master Use Permit to allow multiple conditional uses (1) on-site property management offices; (2) a pre-school; and (3) a catering company) which does not seek to replace or modify the existing 1953 Use Permit.

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED, the Marin County Planning Commission hereby denies the Riley Hurd Appeal and sustains the Community Development Agency's determination to prepare an Environmental Impact Report.

SECTION III: APPEAL RIGHTS

NOW, THEREFORE, BE IT RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$1,200.00 filing fee must be submitted

in the Community Development Agency, Planning Division, Suite 308, Civic Center, San Rafael, within eight business days of the date of this decision, November 13, 2017.

SECTION IV: VOTE

PASSED AND ADOPTED at a special meeting of the Planning Commission of the County of Marin held on this 30th day of October, 2017 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

JOHN ELLER, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

ANA HILDA MOSHER
Planning Commission Recording Secretary