



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB No. 19-073**  
**Forest Conservation Plan No. SC1995001**  
**Project Name: Stone Ridge School of the Sacred Heart**  
**Date of Hearing: June 27, 2019**

**JUN 28 2019**

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on May 1, 1994, the Stone Ridge School of the Sacred Heart ("Applicant"), filed an application for administrative approval of a forest conservation plan (for a soccer field) on the campus located at 9101 Rockville Pike (MD 355) at the south east side of its intersection with Cedar Lane ("Subject Property") within the 1990 Bethesda-Chevy Chase Master Plan ("Master Plan") area.

WHEREAS, the Applicant's original forest conservation plan application was designated Forest Conservation Plan No. SC1995001, Stone Ridge School of the Sacred Heart ("Forest Conservation Plan" or "Application"), and was administratively approved on May 23, 1994; and

WHEREAS, on May 30, 1995, the Applicant, filed an application for administrative approval of a revised forest conservation plan (for expanded gymnasium and parking) on the Subject Property; and

WHEREAS, the Applicant's revised forest conservation plan application was designated Forest Conservation Plan No. SC1995001, Stone Ridge School of the Sacred Heart ("Revised Forest Conservation Plan" or "Application"), and was administratively approved on June 5, 1995; and

WHEREAS, on September 4, 2013, the Applicant, filed an application for an administrative approval of the 1st forest conservation plan amendment for an artificial turf field and changes related to a State Highway Administration (SHA) project for Base Realignment and Closure (BRAC) roadway modification project on 355 and Cedar Lane. Among other things, the forest conservation plan amendment required the recordation of certain conservation easements associated with the Subject Property; and

WHEREAS, Applicant's forest conservation plan amendment application was designated Forest Conservation Plan Amendment No. SC1995001, Stone Ridge School

Approved as to  
Legal Sufficiency:

 6/20/19

of the Sacred Heart (“First Amended Forest Conservation Plan” or “Application”) and was administratively approved on May 6, 2014. The associated conservation easements were subsequently granted to the Planning Board as recorded in the land records, in three parts, under Liber 48650 Folio 168, Liber 48650 Folio 149 & Liber 48699 Folio 185; and

WHEREAS, on November 13, 2017, the Applicant, filed an application for approval of a 2nd forest conservation plan amendment for a new building and updated circulation, parking and Stormwater Management (SWM). The Application includes the abandonment of a portion of the conservation easement area and must be acted on by the Planning Board as the grantee of the easement; and

WHEREAS, Applicant’s forest conservation plan application was designated Second Amended Forest Conservation Plan No. SC1995001, Stone Ridge School of the Sacred Heart (“Second Amended Forest Conservation Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board Staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board dated June 17, 2019 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on June 27, 2019, Staff presented the Application to the Planning Board as a consent item for its review and action, at which time the Planning Board voted to approve the Application by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Second Amended Forest Conservation Plan No. SC1995001 on the Subject Property, subject to the following conditions:<sup>1</sup>

1. Prior to any clearing, grading or demolition necessary to construct the project, the Applicant must:
  - a. obtain Planning Department approval of a Certified Final Forest Conservation Plan Amendment.
  - b. provide a financial surety addressing the invasives control, soil decompaction work, supplemental plantings, reforestation, split-rail fence, deer protection and signage. The amount of the bond is to be determined in coordination with DARC Staff.
  
2. Prior to the release of the first building permit, the Applicant must execute a 5-year Maintenance and Management Agreement for the invasive species control

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<sup>1</sup> For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner, or any successor in interest to the terms of this approval.

work, supplemental plantings, and reforestation areas. A copy of the Maintenance and Management Agreement must be kept at the Stone Ridge School of the Sacred Heart and given to the maintenance staff to ensure compliance with conditions of the Forest Conservation Plan Amendment. The work must cover all of the conservation easement settings and the individual areas targeted outside of the easement settings.

3. Within 30 days from the approval of the Certified Final Forest Conservation Plan Amendment, the Applicant must record, in the Land Records of Montgomery County, an M-NCPPC approved Certificate of Compliance for an M-NCPPC approved off-site forest bank to satisfy the offsite easement requirements of 0.16 acres of mitigation credit (0.16 acres of planted forest or 0.32 acres of existing forest); OR provide an equivalent payment of fee-in-lieu.
4. Easement Abandonment/Recordation
  - a. The Applicant must record a standard Category I Conservation Easement over Areas B through G identified on the Final Forest Conservation Plan, in addition to the remaining existing forested setting, for a total contiguous easement area of 4.57 acres, or as determined by Staff. Recordation must occur within 60 days of the Certification of the Final Forest Conservation Plan Amendment.
  - b. The Applicant must record a Category II Conservation Easement over Area A identified on the Final Forest Conservation Plan for a total contiguous Category II Conservation Easement area of 0.27 acres, or as determined by Staff. Recordation must occur within 60 days of the Certification of the Final Forest Conservation Plan Amendment.
  - c. The Applicant must submit the abandonment documents for the entire portion of the conservation easement recorded under Liber 48650 Folio 149 (non-standard easement) within 30 days from the recordation of the new easement boundaries and record the abandonment in the Land Records of Montgomery County within 30 days of receipt of the executed abandonment documents.
5. Any easement plantings must occur no later than March 30, 2020. However, Staff may permit a minor portion of the overall plantings to be delayed until the first growing season after completion of the site work that may otherwise conflict with some of the plantings.

6. The Applicant must install conservation easement signposts and sections of split-rail fence concurrent with timing of recordation of the easements to reflect the revised location of the easements.
7. Variance Mitigation Trees:
  - a. The Applicant must mitigate for the loss of tree #189 by providing four native canopy trees which are a minimum of 3" caliper each.
  - b. The Applicant must provide the mitigation for the loss of trees #303 & #304 within and/or as near to their existing setting as reasonably possible (in/along the reconfigured parking lot).
  - c. Mitigation trees must be planted on the Subject Property outside of any right-of-way, or utility easements, including stormwater management easements, and within the first growing season after completion of the reconfigured parking area.
  - d. All variance mitigation tree plantings must consist of native canopy trees. If any credited mitigation tree dies or is otherwise removed, the replacement must consist of a native canopy tree.
8. Plan Revision/Corrections/Updates:

Prior to Certification of the Final Forest Conservation Plan Amendment, the following items must be addressed:

  - a. Update all tables, notes and references to consistently reflect the variance trees which are shown as being impacted by this amendment.
  - b. Consistently show/provide the "mitigation replacement criteria" across the various tables and update any associated notes/references as applicable.
  - c. Remove any remaining "future credited plantings" from the plans. Such credit will no longer carry over to a future approval and new plantings would need to be proposed.
  - d. Correctly/consistently show the trees which are subject to the variance by updating all applicable plan symbols tables and notes. For example, Tree 305 is a 21"/22.5" DBH tree and is not subject to the variance (although the plan symbol, CRZ and overall table reference suggest otherwise).
  - e. Tree 285 was not approved for removal under previous plans and is not recognized as an approved removal by this plan; update notes/symbols accordingly.
  - f. Restore the Note 5 reference which has been cut off of the plan near the north arrow on sheet 1 of 3.
  - g. Delete the *Specimen Tree Replacement Planting Schedule for the 2014 Construction*, from sheet 2 of 3.

- h. Correct the date of the NRI/FSD approval noted near the lower right corner of sheet 1 of 3 and add references to the full list of other plan approvals/revisions.
- i. Update the invasive program specifications to address the mile-a-minute species which was recently observed near tree 282.
- j. Add plan notes indicating that the existing large hedge of barberry (invasive species) located in the LOD for the new building (Student Life Center) shall not be transplanted elsewhere on campus.
- k. Clarify/correct the locations and methods of the removal work for the invasive ailanthus trees.
- l. Add notes to the invasive species control specifications, clarifying that best efforts shall be made to control each of the applicable invasive species per the Maintenance and Management Agreement to be recorded.
- m. Rectify the conflicting notes regarding the quantities of restoration plantings in the table at the lower center of sheet 2 of 3.

9. Environmental Enhancement Work

- a. The Applicant must begin the invasive control work no later than September 15, 2019.
- b. The Applicant must begin the soils decompaction work associated with previous activity within conservation easement areas no later than 1 month after the pre-construction meeting.

10. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.

11. The limits of disturbance shown on the sediment and erosion control plan and stormwater management plan must be consistent with the limits of disturbance and the associated tree/forest preservation measures of the Final Forest Conservation Plan. If the limits of disturbance are not consistent, the Applicant will need to revise the sediment and erosion control plan and stormwater management plan.

12. Prior to any land disturbing activities, the Applicant must hold a pre-construction meeting with the M-NCPPC Forest Conservation Inspector.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as provided for the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and the protection of environmentally sensitive features.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The site is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). The Subject Property has previous Forest Conservation approvals as referenced in the Staff Report. As conditioned, the Application continues to meet all of the requirements of Chapter 22A. The Application maximizes reasonable opportunities for the conservation easement settings. For example, the areas nearest to the channelized stream already contain extensive stormwater management facilities and associated stormwater management easements and therefore are not suitable locations for overlapping conservation easements.

The proposal includes the release of 0.53 acres of the existing Category 1 Conservation Easement, which the Applicant will mitigate through various environmental enhancements, including new Category I Conservation Easement areas of approximately 0.33 acres added to create a total contiguous easement area of 4.57 acres. Furthermore, an existing Category II Conservation Easement will be expanded by 0.04 acres for a total contiguous Category II Conservation Easement area of 0.27 acres. Additionally, the Applicant will eliminate any remaining portions of the non-standard easement beyond the areas to be permanently released (approximately 1.68 acres) and replace with a standard Category I Conservation Easement. The applicant will also provide invasive plant control and restoration plantings throughout all the easement settings as needed. Lastly, the applicant will acquire 0.16 acres of mitigation bank credit in an approved forest mitigation bank or provide an equivalent payment of fee-in-lieu.

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

**B. Forest Conservation Variance**

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree’s critical root zone (“CRZ”), requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to thirty-two Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

**Variance Findings** - Based on the review of the variance request and the proposed amended Forest Conservation Plan, the Planning Board makes the following findings:

*1. Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting this variance will not confer a special privilege on the Applicant since the Subject Property is considerably constrained by protected forest and the remaining buildable area is largely interspersed with subject trees and their associated critical root zones. Nearly any notable development of the Property would require impacts and removals. The tree impacts and removals associated with the site are within the buildable area established by the site’s constraints of buffering for the adjacent residential uses, and existing/proposed conservation easements. Therefore, the variance request would be granted to any applicant in a similar situation.

*2. The need for the variance is not based on conditions or circumstances which are the result of the actions by the applicant.*

The variance is based on the need to maintain a viable school facility and provide stormwater management controls for the new construction while

balancing the site constraints, and not based on conditions or circumstances which are the result of actions of the Applicant. The Applicant has designed the school buildings/facilities to minimize tree impacts and forest clearing to the degree possible under the circumstances. The variance can be granted under this condition if the impacts are avoided or minimized and that any necessary mitigation is provided.

*3. The need for the variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the site design and layout of the Subject Property and the impacts are not as a result of land or building use on a neighboring property.

*4. Granting the variance will not violate State water quality standards or cause measurable degradation in water quality.*

The onsite environmental enhancements including the planting, invasive control, and soil decompaction work will improve water infiltration and physically result in “woods in good condition” of which the associated effects are a standard measure for water quality. The stormwater management facilities will also improve the quality over the existing conditions.

Trees 303 and 304 are both in poor condition and growing in a parking lot with little or no stormwater management. The removal of these two subject trees will facilitate the parking lot reconfiguration and associated grading that provides substantial new stormwater management facilities. The reconfigured parking is approximately the same size as the current lot, however significant benefit for water quality will be gained through the new stormwater management facilities, rather than retaining two trees in poor condition, which have limited and diminishing benefits toward water quality (and create a potential liability for the existing structures/parking).

The subject areas are not directly associated with any streams, wetlands or related buffers. The Department of Permitting Services’ review and ultimate approval of the sediment and erosion control and stormwater management plans will ensure that appropriate standards are met. Additionally, the mitigation plantings will contribute to these goals. Therefore, the State water quality standards will not be violated.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is



JUN 28 2019 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Cichy, seconded by Commissioner Fani-González, with Chair Anderson and Commissioners Fani-González and Cichy voting in favor, and Vice Chair Dreyfuss and Commissioner Patterson absent at its regular meeting held on Thursday, June 27, 2019, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board