




## Rochambeau, The French International School of Washington, DC – Special Exception Amendment No. S-862-C, Preliminary Forest Conservation Plan

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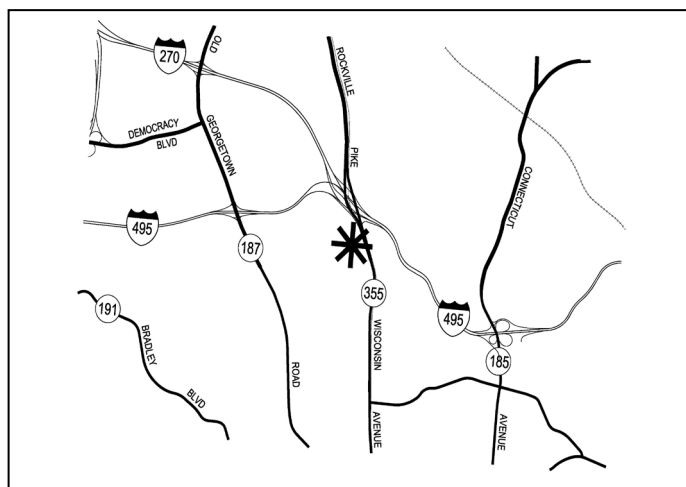
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### Description

Completed: 12.18.20

- **Request:** Preliminary Forest Conservation Plan associated with an amended Special Exception for a private educational institution, to permit up to 700 students in pre-school through fifth grade;
- **Located** at 9650 Rockville Pike;
- 11.20 acres (488,287 square feet) of tract area zoned R-60 in the 1990 *Bethesda Chevy Chase Master Plan*;
- **Petitioner:** Rochambeau, The French International School of Washington, DC;
- **Acceptance Date:** April 26, 2018
- **Review Basis:** Chapter 22A Forest Conservation Law
- **Hearing Examiner Public Hearing:** January 22, 2021 and January 25, 2021



### Summary

- Staff recommends **approval with conditions** of the Preliminary Forest Conservation Plan.
- Preliminary Forest Conservation Plan for a Special Exception Amendment to maintain the “Private Educational Institution” use on the Site and modify operations to allow a private school with a maximum enrollment of 700 students and up to 126 staff. The Applicant proposes to remove some existing structures, renovate the existing office buildings, construct several play areas, and modify the Site to accommodate the Private Educational Institution.
- The Recommendations for Special Exception Amendment Application No. S-862-C are described in a separate report.

## **STAFF RECOMMENDATION**

DownCounty Planning Staff recommends **approval** of the Preliminary Forest Conservation Plan associated with Special Exception Amendment S-862-C **with the following conditions**:

1. At the time of Preliminary Plan submission, the Applicant must:
  - a. Submit a revised invasive species control plan to address/update the extents of invasive species control, the species targeted, alternative methods, and reporting to MNCPPC Forest Conservation Inspectors;
  - b. Update all FCP tables, notes and references to consistently reflect the site area, ROW dedications, forest conservation credit, and required planting;
  - c. Update plan notes for consistency with FCP specifications regarding realignment of the perimeter fence and related tree protection measures;
  - d. Provide updated/enhanced tree protection measures and notes for Tree-63;
  - e. Provide updates, corrections, and clarifications to the plans, details, notes, and specifications in coordination with Staff.
2. Prior to any clearing, grading or demolition on the site, the Applicant must submit and receive approval of a Final Forest Conservation Plan, which must be consistent with the approved Preliminary Forest Conservation Plan and associated conditions.
3. The Applicant must plant the variance tree mitigation plantings on the Subject Property, with a minimum size of 3 caliper inches, totaling at least 145.3 caliper inches as shown on the certified FCP. All onsite trees credited towards variance mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements.
4. Prior to the start of any demolition, clearing, or grading for this development Application, the Applicant must record Category I and Category II Conservation Easements over all areas of forest retention, forest planting and environmental buffers as specified on the Certified Forest Conservation Plan. The easements must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
5. Prior to any demolition, clearing, or grading for this development Application, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank to satisfy the reforestation requirement for a total of 0.83-acres of mitigation credit (or as determined on the certified Final Forest Conservation Plan).



*Figure 1: Subject Site – Bounded by Rockville Pike to the east, residential communities to the north, south, and west*

### **Environmental Guidelines**

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved for the Subject Property on March 19, 2018. The Subject Property is located within the Lower Rock Creek watershed, a Use I watershed<sup>1</sup>. The Property contains mature trees subject to the Variance provision of the Forest Conservation Law, including specimen trees which measure 30-inches or greater in diameter-at-breast height (DBH). The Site is bordered on three sides by residential developments buffered by moderate to steep slopes and mature trees. In total, the Subject Property contains 36 specimen trees, which are 30" or greater in Diameter-at-breast-height (DBH), and 35 significant trees, which are at least 24" DBH but less than 30" DBH. Additionally, there are numerous specimen and significant trees outside of the subject property but within the 100' study area. The Site also houses two County champion trees as verified in March 2018 by the Forestry Board as well as two former County champions which changed status due to larger examples having been found elsewhere in the County. There are no state champion trees in the vicinity.

The Site is bordered to the east by Rockville Pike (MD-355) and a row of trees and shrubs which serve to buffer the existing building from the major roadway. There are no known rare, threatened, or endangered species on site; there are no 100-year floodplains, highly erodible or otherwise sensitive soils, stream buffers or wetlands on site. Other than the watershed itself and mature specimen/champion trees, there are generally no

<sup>1</sup> WATER CONTACT RECREATION, PROTECTION OF AQUATIC LIFE. Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply; and industrial water supply.



environmentally sensitive resources associated with the Subject Property nor any historic features, or known rare, threatened, or endangered species onsite.



*Figure 2: Enlarged Aerial View – Subject property with interior open space and mature trees throughout*

#### *Forest Conservation*

There is no forest on-site, however this Application is subject to Chapter 22A Forest Conservation Law and has included a Preliminary/Final Forest Conservation Plan with this Application. Although this plan was submitted as a Preliminary/Final Forest Conservation Plan, Staff is conducting this review solely as a Preliminary Forest Conservation Plan review (the Final Forest Conservation Plan will be submitted in conjunction with the Preliminary Plan). The submitted worksheet calculates an Afforestation Requirement of 1.66-acres; as conditioned, this requirement will be further clarified within the worksheet notes. The Applicant proposes to meet this requirement through a combination of Category I Conservation Easement (0.51-acres), Category II Conservation Easement (0.32-acres) as well as purchasing credits from an off-site forest bank (approx. 0.83 acres). Although the Applicant proposes 1.62-acres of Category II Conservation Easement, per Forest Conservation Regulations 22A.00.01.08(G)(5)(b)(v), only twenty percent of the overall afforestation requirement may come from this source; thus, the Applicant has agreed that 0.32-acres, or twenty percent of the proposed 1.62-acres, will contribute to afforestation requirements. The remaining non-credited Category II Conservation Easement area will serve to further buffer neighboring properties and maintain existing compatibility. Additionally, the Applicant has proposed an invasive species management program which will, among other things, remove vines that would otherwise adversely impact the mature trees. As conditioned, the details of this invasive species management program will be further refined at time of Preliminary Plan submission.

The Applicant proposes a Category I Conservation Easement at the central, southern portion of the Property while the Category II Conservation Easements will be located at the eastern and western areas of the Property. In coordination with Staff, the Applicant has proposed easement boundary locations that serve to maximize protection of mature trees, including the two County champion trees, and provide permanent buffering between the Subject Property and neighboring uses. Additionally, variance mitigation plantings, as a result of removals of

subject trees as detailed below, totaling at least 145.3 caliper inches, consisting of trees at least 3" in caliper will be placed throughout the Site as shown on the submitted Preliminary Forest Conservation Plan (Attachment A). Both the easement and mitigation plantings will be placed to maintain existing lawn areas and open space.

Although the Applicant proposes to retain much of the existing building currently onsite, the work associated with providing ADA access, stormwater management, athletic fields, and building modifications will result in impacts to and removals of specimen trees, triggering the need for a Variance Request.

#### Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a historic structure; are designated as national, state, or county champion trees; are at least 75% of the diameter of the current State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The subject Application includes disturbance of trees that are  $\geq 30$ " DBH, therefore a variance is required. The Applicant submitted a revised variance request on December 15, 2020 (Attachment B) for the impacts to eleven subject trees and the removal of 15 subject trees that are considered high-priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

**Table 1: Trees to be Impacted but Retained**

TREE #	TYPE	DBH	CRZ Impact (%)	CONDITION	PROPOSED STATUS
6	Purple Beech	*64.6"	16.0%	Good	<b>SAVE</b>
7	White Pine	37.2"	8.0%	Good	<b>SAVE</b>
9	Sugar Maple	**48.0"	7.6%	Very Poor	<b>SAVE</b>
17	Black Walnut	30.2"	28.1%	Fair-Good	<b>SAVE</b>
20	White Pine	33.0"	57.8%	Fair	<b>SAVE</b>
59	Mulberry	35.1"	30.6%	Poor	<b>SAVE</b>
63	White Pine	28.0"	17.3%	Good	<b>SAVE</b>
64	White Pine	36.8"	17.3%	Good	<b>SAVE</b>
65	Deodar Cedar	**30.2"	37.5%	Good	<b>SAVE</b>
67	Willow Oak	30.1"	13.0%	Good	<b>SAVE</b>
79	Silver Maple	53.1"	16.0%	Fair	<b>SAVE</b>

\* = County champion tree

\*\* = Within 75% of County champion tree

**Table 2: Trees to be Removed**

TREE #	TYPE	DBH	CRZ Impact (%)	CONDITION	PROPOSED STATUS
1	Red Maple	43.5"	100%	Good	<b>REMOVE</b>
2	English Elm	58.7"	100%	Good	<b>REMOVE</b>
16	Silver Maple	35.0"	100%	Good	<b>REMOVE</b>
22	Red Cedar	36.0"	100%	Poor	<b>REMOVE</b>
24	Southern Magnolia	30.3"	100%	Good	<b>REMOVE</b>
27	Purple Beech	**47.0"	100%	Poor	<b>REMOVE</b>
38	Eastern Hemlock	**42.7"	100%	Fair-Good	<b>REMOVE</b>
41	Littleleaf Linden	32.0"	100%	Fair	<b>REMOVE</b>
46	Eastern Hemlock	31.3"	100%	Good	<b>REMOVE</b>
49	White Pine	31.9"	100%	Poor	<b>REMOVE</b>
52	Red Oak	34.8	100%	Good	<b>REMOVE</b>
54	Red Maple	**53.8"	100%	Poor	<b>REMOVE</b>
55	White Pine	35.2"	100%	Fair	<b>REMOVE</b>
58	Post Oak	**34.0"	100%	Good-Fair	<b>REMOVE</b>
62	White Pine	35.0"	100%	Fair	<b>REMOVE</b>

\*\* = Within 75% of County champion tree

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. In addition to the required findings outlined numerically below, Staff has determined that the Applicant has demonstrated that enforcement of the variance provision would result in an unwarranted hardship due to the unique circumstances which lead to the composition of the Site.

The existing Site, originally a residential estate, was redeveloped in multiple phases over many years but has generally retained a central campus-like setting that extends from Rockville Pike to the original home (the Beaumont House) located near the western property line. The establishment of this central campus setting allowed for the survival of several now large trees associated with the original home as well as newer trees associated with previous development phases. As a result, the site now has a higher proportion of large trees than typically found in a site of similar density.

The Applicant proposes to retain the general site layout in order to help minimize the impact to subject trees. This will be accomplished by utilizing existing structures where possible and constructing new facilities within the footprint of existing structures or currently paved areas. In order to efficiently utilize existing structures and meet development standards, the Applicant must make changes to vehicle circulation and improve site access to be compliant with ADA regulations. Additionally, the Site will need to be improved to meet current stormwater management requirements. In all, these construction efforts will require the impact to and removal of trees subject to the variance provision in the Chapter 22A Forest Conservation Law.

Following collaboration with Staff, the Applicant revised a previous variance request and reduced proposed impacts/removals to subject trees. Additionally, limited work within the critical root zones of trees will be

performed by hand tools when possible to facilitate the removal and replacement of a fence which currently conflicts with the proposed easement boundaries. The route for delivery of and removal of materials will follow a path where the root zone is protected from compaction.

#### Unwarranted Hardship for Variance Trees

Per Section 22A-21, a variance may only be granted if the Director or Planning Board as applicable, finds that leaving the requested trees in an undisturbed state will result in unwarranted hardship. Staff has determined that the Applicant has shown that enforcement of the Law for the designated trees would result in an unwarranted hardship for the following reasons: Not granting the variance would severely limit the site's buildable area, due to the extensive cover of the critical root zones of subject trees throughout the property.



Figure 2: PFCP showing impacted variance trees;

#### Variance Findings

Staff has made the following determination based on the required findings for granting of the requested variance:

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

The subject property is currently developed with a Private Educational Institution use. Site improvements proposed through the Special Exception Modification would allow the Subject Property to comply with current standards including ADA, stormwater management, building codes, and generally reorient the Site from its former tenant, FASEB, to the anticipated future user, the French International School. Given that the Site is considerably populated by mature trees, the 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 Applicant's proposal to reuse structures where possible and construction within the footprint of existing buildings and currently paved areas greatly reduces the impacts that would otherwise occur if the Applicant proposed



demolition of the existing building and construction of a completely new building and infrastructure without regard to current site layout. Further, the Applicant's proposal will maintain the presence of open space and mature trees, much of which is proposed to be protected in conservation easements, in order to buffer the Site from the surrounding residential areas as well as Rockville Pike (MD-355). This approach is in line with language in the Master Plan regarding maintaining compatibility with the surrounding community. Although the existing FASEB will change uses, the French International School will serve as a similar long-term, stable community resource. Therefore, the variance request would be granted to any applicant in a similar situation, assuming all other criteria are met, particularly since reasonable preservation measures and other environmental enhancements have been incorporated into the application.

*2. Is not based on conditions or circumstances which are the result of the actions by the applicant.*

As stated above, the requested variance and associated tree impacts are due to the programmatic concerns related to the improvement of the site circulation and stormwater management while minimizing new structures and impervious surfaces where possible. The variance request submitted by the Applicant reflects efforts to lessen overall site impacts and retain mature trees which provide environmental benefits and buffering from adjacent uses. Without this approach in the proposed design and redevelopment of the site, far greater subject tree impacts would be expected. Therefore, this variance request is not based on circumstances which are the result of actions by the Applicant, and the variance can be granted under this condition provided that the impacts are avoided/minimized, and any necessary mitigation requirements are fulfilled.

*3. 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 proposed site design and layout on the Subject Property and not as a result of land or building use on a neighboring property.

*4. Will not violate State water quality standards or cause measurable degradation in water quality.*

The subject property is not directly associated with any streams, wetlands or related buffers. The Site is, however, currently developed with multiple buildings and supporting infrastructure such as sidewalks and parking lots. The existing properties are 42% covered in impervious surface with little stormwater management onsite and most runoff is untreated. There are presently no environmental site design stormwater management practices onsite. The existing stormwater management is limited to a structural underground facility within the front parking lot. This facility would not be acceptable to Montgomery County Department of Permitting Services current stormwater regulations. The future DPS review and ultimate approval of the sediment and erosion control and storm water management plans will ensure that appropriate standards are met.

The proposed development is similarly impervious at 47% but will fully comply with current state and county water quality standards by meeting full environmental site design requirements. There is not expected to be degradation in water quality as this site will improve water quality through the implementation of several stormwater best management practices designed using ESD criteria per the Maryland Stormwater Design Manual and the Montgomery County Stormwater Regulations. The stormwater management design aims to replicate the natural hydrology of the site by utilizing eight small-scale bioretention facilities and infiltration under the synthetic turf field. Further, the proposed soil restoration techniques and tree plantings specified will help maximize the permeability of the soil, serving to further reduce runoff. The sizable forest conservation easements and the replanting of mitigation trees will also help water quality goals by providing shading and water retention and uptake. Therefore, the Application will ultimately result in an improvement of water quality, rather than cause measurable degradation in water quality or violate State water quality standards.



#### Mitigation for Trees Subject to the Variance Provisions

There are 15 subject trees proposed for removal in association with this Application. Planting mitigation for the removal should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. As a result of the proposed removal of 15 subject trees, for a total of 581.2" DBH removed, mitigation in the form of at least 145.3 caliper inches is required and recommended as a condition of approval. The Applicant currently proposes 148 caliper inches of variance mitigation planting towards this requirement, which Staff fully supports.

#### County Arborist's Recommendations

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The Applicant's revised request was forwarded to the County Arborist on December 15, 2020. Any response received will be presented at the time of Planning Board Hearing.

#### Staff Recommendation on the Variance

As a result of the above findings, Staff recommends approval of the Applicant's request for a variance from the Forest Conservation Law to impact, but retain, ten subject trees associated with the application and to remove 15 subject trees.

#### Stormwater Management (SWM)

The Project must comply with the requirements of Chapter 19 of the Montgomery County Code. There are currently limited stormwater management facilities located on the Property which would not meet the requirements of Chapter 19. As such, the Applicant will utilize Environmental Site Design ("ESD") to the Maximum Extent Practicable to significantly improve the onsite treatment of stormwater runoff. A stormwater management concept was approved by MCDPS on October 22, 2020. Stormwater management treatment will be provided on site through micro-bioretenement planters and infiltration/permeable paving under a proposed turf field.

#### **Conclusion**

Staff recommends approval of the Preliminary Forest Conservation Plan, with conditions as enumerated in the Staff Report. Staff also recommends approval of the variance request as submitted on December 15, 2020 and described in this report.

#### **ATTACHMENTS**

Attachment A: Preliminary Forest Conservation Plan

Attachment B: Applicant's variance request letter