

September 1, 2023

**Via E-Mail Only**

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**Re: Square Lake Association (“SLA”) Comments on the Potential Use of the Wilder Forest by the Minnesota Catholic Youth Partnership (“MCYP”)**

Dear May Township Board of Supervisors:

This firm represents SLA, a four-decade-old non-profit organization representing conservation-minded property owners located on Square Lake.<sup>1</sup>

At its September 7, 2023 meeting, SLA understands the Board will discuss MCYP’s proposed use of the Wilder Forest<sup>2</sup> and receive public comments. SLA believes it is premature for the Board to devote its time and resources to analyzing MCYP’s proposed use. It is premature because MCYP has not provided detailed plans that show exactly how it proposes to use the Wilder Forest nor has MCYP submitted a complete permit application for the Town to review. MCYP did submit a conditional use permit application, dated November 21, 2022 (“CUP Application”), but the Town deemed that application incomplete, and MCYP, to SLA’s knowledge, never filed a complete application.

Under these circumstances, the Town should not take any action, formal or informal, until MCYP provides detailed plans. In the Board’s evaluation of any project, full disclosure by the applicant is critical. This is especially true here because it appears MCYP either downplays, or talks up, the scope of its plans, depending on the audience. As recently as last month, MCYP’s President claimed they are “just trying to start up a camp, to upgrade the bathrooms. We’re not thinking that far in the future.”<sup>3</sup> In contrast, in fundraising materials, MCYP describes a two-phased development plan for the Wilder Forest.<sup>4</sup> The two-phased development plan includes building “outdoor high adventure activities,”<sup>5</sup> a “majestic lodge that will house a new and improved cafeteria, chapel and

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<sup>1</sup> For more information regarding the unique attributes of Square Lake and SLA’s mission, SLA refers the Board to Stinson’s November 16, 2022 submission on SLA’s behalf.

<sup>2</sup> The Town defined and identified the Wilder Forest in the Conditional Use Permit Amendment, dated August 28, 2017 (“2017 CUP Amendment”), p. 2.

<sup>3</sup> See [May Township grants cartway to property owners - County Messenger 8-18-2023](#)

<sup>4</sup> See [MCYP Fundraising Flyer - 6-20-23](#)

<sup>5</sup> SLA understands that MCYP will hire a third-party, Damascus, to build and/or operate the high adventure activities.

coffee shop,” and “additional housing for campers and staff.”<sup>6</sup> This development plan, which includes a plan for the present and future, raises more questions than answers regarding the size and scope of the development MCYP desires for the Wilder Forest, and most importantly, the appropriateness for such an operation in the Wilder Forest. The Board, therefore, should direct MCYP to fully disclose detailed plans for how it proposes to develop and use the Wilder Forest, and refrain from further discussions with MCYP until receipt of those plans. The detailed plans should include a 5-year plan, a master plan similar to the existing Master Plan for the Wilder Forest (discussed in detail below) and any preliminary plans or bids for upgrading the Wilder Forest’s septic system to accommodate the modification and intensification in use.

Notwithstanding these deficiencies, because this matter is currently on the agenda for the Board’s September 7 meeting, SLA provides the following comments. In short, before it can do anything to the Wilder Forest, MCYP must obtain Board approvals for, among other things, additional structures and an amendment to the existing conditional use permit.

## II. The Entire CUP.

### A. **MCYP’s new position wrongfully disregards the binding agreements and stipulations the Town and Amherst H. Wilder Foundation memorialized in the Entire CUP.**

The Wilder Forest is subject to the “Entire CUP,” which as defined in the Conditional Use Permit Amendment, dated August 28, 2017, consists of that amendment, the Wilder CUP of 1992 and its 1997 Amendment, and the 2005 CUP.<sup>7</sup> Although it applied for a CUP in November 2022, MCYP now claims it only needs to apply for building permits because:

- The youth camp “can legally operate within the existing conditional use permit (‘CUP’) and Master Plan for Wilder Forest which was adopted at the same time as the CUP.”
- It can “utilize[] the unused and unbuilt square footage identified in the Master Plan for expansion of the meeting house and construction of a new lodge, which is approximately 13,500 square feet” and “will accommodate 250 campers.”<sup>8</sup>

MCYP is simply wrong. MCYP’s position ignores the binding agreements and stipulations the Town and the Amherst H. Wilder Foundation (“Foundation”) memorialized in the Entire CUP.<sup>9</sup> MCYP must abide by these agreements and stipulations “[b]ecause a CUP controls the rights of any owner of land.” *Winczewski v. Becker County Bd. of Comm’rs*, 2017 WL 3863845, at \*4 (Minn. Ct. App. 2017) (citing *Northpointe Plaza v. City of Rochester*, 465 N.W.2d 686, 689 (Minn. 1991)). As discussed below, the Foundation agreed that any new structures and any significant changes in

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<sup>6</sup> See *id.*, p. 6.

<sup>7</sup> See 2017 Conditional Use Permit Amendment (“2017 CUP”), p. 3, § 1. SLA will refer to the Wilder CUP of 1992 as the “1992 CUP;” the 1997 Amendment as the “1997 CUP;” and the 2005 CUP for MFA as the “2005 CUP.”

<sup>8</sup> See MCYP’s June 15, 2023 letter to Town Board of Supervisors.

<sup>9</sup> The Foundation signed each CUP, confirming its consent to each agreement and stipulation memorialized therein. See 1992 CUP, p. 8 (“We accept the conditions of this permit.”) and p. 9 (signature); 1997 CUP, p. 3 (signature); 2005 CUP, p. 2 (“[I]t is agreed by and between the parties hereto as follows”), p. 6 (signature); 2017 CUP, p. 3 (“[I]t is agreed by and between the parties hereto as follows”), p. 11 (signature).

the plans for, or in the use of, the Wilder Forest require Town approval and an amendment to the Entire CUP.

In evaluating how the Entire CUP applies to the proposed use, the Board must keep in mind that the Foundation agreed “[i]n the event of any conflict between terms of these components [of the Entire CUP], the more restrictive provision shall apply.” 2017 CUP, p. 1 at § 1.

**B. Two of the Key CUP Stipulations.**

**STIPULATION NO. 1.** “No additional structures<sup>10</sup> or shelters shall be erected in the Wilder Forest without consent of the Town.” 2005 CUP, p. 3 at § 9. The Wilder Forest means “1,124 acres of land located with the Town.” *Id.*, p. 1.

**Analysis:** SLA believes this is the most restrictive stipulation on erecting additional structures in the Wilder Forest. It is unambiguous and requires no further analysis. MCYP, therefore, cannot utilize the unused and unbuilt square footage identified in the Master Plan without the Town’s approval.

**STIPULATION NO. 2.** “Any significant change in plans or use (i.e., additional structures, modification or intensification of plans as approved) would require an amended [conditional use] permit and would require a public hearing and submittal of additional plans and information.” 1992 CUP, p. 3 at § 1(i).<sup>11</sup>

**Analysis:** As established below, this Stipulation clearly applies because MCYP’s potential use of the Wilder Forest and plans for different and new structures represent a significant change from the Master Plan. As a result, MCYP must apply for an amended conditional use permit. Importantly, with respect to such an application, the Town’s Code provides that an “amended conditional use permit may be administered in a manner similar to that required for a new conditional use permit.” Town Code, § 704.

The Youth Camp MCYP Proposes Represents a Significant Change. Based on the information known to date, MCYP’s proposed use of the Wilder Forest constitutes a significant change, *i.e.* a modification or intensification of the use of the Wilder Forest.

First, MCYP’s plan to use the Wilder Forest for only a youth camp is a modification to the Foundation’s Master Plan and an intensification of the use described therein, either of which requires an application for an amendment to the Entire CUP. The Master Plan placed a special emphasis on providing persons of all ages with access to the Wilder Forest and making the Wilder Forest available for a diverse type of uses, not just a youth camp.<sup>12</sup> As part of its mission, the Master Plan specifically states that the Foundation will “[f]acilitate the use of the Wilder Forest by nonprofit groups . . . with special emphasis given to organizations . . . serving communities of color, elderly,” and by “organizations and public agencies for conferences, retreats, workshops, training

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<sup>10</sup> The Town Code defines “structure” as “[a]ny construction consisting of one or more parts joined or erected in a definite form and having a temporary or permanent location on the ground;” and “Building” as “[a]ny structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure any person, animal of any kind. When any portion therefore is completely separated from every other part thereof by six or more feet, each portion of such building shall be deemed as a separate building.” Town Code, § 702.01(17); (196).

<sup>11</sup> The Foundation and the Town included an almost identical Stipulation in Section 19(e) of the 2017 CUP.

<sup>12</sup> See Master Plan – Wilder Forest (“Master Plan”), p. 15-16.

programs and other activities.”<sup>13</sup> MCYP’s proposed use represents a significant departure from the mission described in the Master Plan by limiting access to the Wilder Forest and by focusing the use entirely on a youth camp.

Second, MCYP’s proposed use would also constitute an intensification. The intensification is reflected in the number of overnight campers and the activities planned for the Wilder Forest. MCYP plans to host at least 250 middle school campers a week during the summer,<sup>14</sup> but believes the number will easily grow to 500 per week.<sup>15</sup> Either number<sup>16</sup> would represent a significant change from the overnight capacity identified in the Master Plan, which included only 102 overnight camp participants in year-round facilities, plus an additional 46 persons staying overnight during the summer at outdoor camping sites. Master Plan, p. 3. As to the activities, SLA recommends that the Board review an approximately six-minute video of representative activities from another Damascus location: [Montage of Doom](#). To be clear, the issue is not whether these activities are appropriate for youth camps in general; the issue is whether these activities reflect an intensification in use. Based on the information received to date, they clearly do.

Similarly, in order to sustain Wilder Forest’s “natural environment and to enhance and sustain its natural resources for the benefit of future generations,” the Foundation recommended “adher[ing] strictly to Wilder Forest’s internal management guidelines, including recommended carrying capacities of designated management zones, as established in 1980, and reported in Appendix C [sic]<sup>17</sup> of the 1991 Master Plan.” Addendum to May 1991 Master Plan (“Master Plan Addendum”), p. 4 at ¶ 3. MCYP has not provided sufficient detail as to whether its proposed use of the Wilder Forest would constitute a modification or intensification of the Management Area Guidelines, but it appears certain that it does.

For any one of the above-reasons, MCYP’s proposed use represents a significant change from the Foundation’s use of the Wilder Forest. A use that is exclusively a youth camp, with more campers and more overnight stays is a significant change from the Master Plan that placed “special emphasis” on facilitating access to the Wilder Forest for persons of all ages and to organizations for a variety of uses, not only a camp.

MCYP’s Plans for New and Different Buildings Represents a Significant Change. MCYP’s plans for new buildings also require Town approval under Stipulation No. 2 because the plans constitute a significant change (i.e., modification or intensification) from the Master Plan. Again, MCYP asserts it has the right “to utilize the unused and unbuilt square footage identified in the Master Plan for expansion of the meeting house and construction of a new lodge, which is approximately 13,500 square feet.”<sup>18</sup> MCYP’s proposed “new lodge,” however, is not a lodge. Rather, it would be an “activity building” for 250 campers.”<sup>19</sup>

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<sup>13</sup> *Id.*, p. 15.

<sup>14</sup> MCYP’s June 15, 2023 letter to the Board refers to “250 campers.”

<sup>15</sup> May Town Official Board Minutes, September 9, 2022.

<sup>16</sup> The actual number may be higher as MCYP’s partner, Damascus, previously declared that “The goal is to buy about 200 acres on a usable lake this year within a two-hour drive of the Twin Cities and **build a 25,000-square-foot lodge that holds 1,000 people, cabins for 350-400 people and a retreat center.**” [Extreme Faith Camp part of extremely big plans - 05-20-2021](#) – The Catholic Spirit (emphasis added).

<sup>17</sup> Appendix D, not C, to the Master Plan contains the “Management Guidelines, Wilder Forest.”

<sup>18</sup> See MCYP’s June 15, 2023 letter to Town Board of Supervisors.

<sup>19</sup> See *id.*

There is a “New Lodge” discussed in the Master Plan, but it is nothing like the activity building. The Foundation’s lodge was to be an 8,175 square foot “retreat lodge for 24 persons” and “designed primarily for adult use.” Master Plan, p. 28 and Project Data. An activity building for 250 to 500 youth campers is an obvious modification and intensification of the plan for a 24-person lodge, designed primarily for adult use.

### **III. Conclusion.**

Under the Entire CUP, MCYP cannot construct any additional structures in the Wilder Forest, nor can it modify or intensify use of the Wilder Forest, without first submitting an application to amend the Entire CUP, and subsequent Town approval of the same. Any contrary procedure would violate the clear terms of the Entire CUP. The Board should therefore refrain from taking any further action until it receives a complete application from MCYP for an amendment to the Entire CUP. The Board can then administer that application as provided for in the Town’s Code.

Sincerely,

**Stinson LLP**



Timothy Kelley

cc: Bobbi Hummel, Town Clerk/Treasurer (via U.S. Mail and E-Mail)  
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