



**BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT FOR THE DISTRICT OF COLUMBIA**



FORM 150 – MOTION FORM

**THIS FORM IS FOR PARTIES ONLY. IF YOU ARE NOT A PARTY PLEASE FILE A
FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD.**

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.:

Motion of:

- Applicant
 Petitioner
 Appellant
 Party
 Intervenor
 Other _____

PLEASE TAKE NOTICE, that the undersigned will bring a motion to:

Points and Authorities:

On a separate sheet of 8 1/2" x 11" paper, state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map and where appropriate a concise statement of material facts. If you are requesting the record be reopened, the document(s) that you are requesting the record to be reopened for must be submitted separately from this form. No substantive information should be included on this form (see instructions).

Consent:

Did movant obtain consent for the motion from all affected parties?

- Yes, consent was obtained by all parties
 Consent was obtained by some, but not all parties
 No attempt was made
 Despite diligent efforts consent could not be obtained

Further Explanation: _____

CERTIFICATE OF SERVICE

I hereby certify that on this day of ,

I served a copy of the foregoing Motion to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of Planning

in the above-referenced ZC or BZA case via: Mailed letter
 Hand delivery
 E-Mail
 Other _____

Signature:



Print Name:

Address:

Phone No.:

E-Mail:

D.C. Board of Zoning Adjustment
441 4th Street N.W., Suite 200 South
Washington, D.C. 20001
bzasubmissions@dc.gov

Friends of the Field)	
)	
)	
Party in Opposition,)	
)	
v.)	BZA Case No. 20643
)	
The Maret School)	
)	
Applicant.)	

MOTION TO POSTPONE THE MARCH 9, 2022 BOARD OF ZONING ADJUSTMENT
HEARING

Friends of the Field (“Friends”), a Party in Opposition in Board of Zoning Adjustment (“BZA”) Case Number 20643 (the “Project”), by undersigned counsel and pursuant to 11 Y DCMR § 407, files this Motion to Postpone the Board of Zoning Appeals Hearing for this matter for the reasons set forth below.

All parties have been served pursuant to 11 Y DCMR § 407.3.

Justification for Postponement

From the outset, Friends has been an active and engaged participant in Advisory Neighborhood Commission 3/4G’s (the “ANC”) review of the Project. Friends has participated in every ANC meeting when permitted to do so, as well as in small group discussions. Several members of Friends were selected to join an advisory group (“ECC Field Group”) that has met weekly and has been dedicated to addressing various issues associated with the Project and

developing a construction agreement and a settlement agreement. Friends intends to continue to participate to the greatest degree possible in all of these proceedings as well as the hearing before the BZA, but more time is needed to insure a fair and unbiased hearing.

I. Matters Still Pending That Require Resolution Prior To BZA Consideration

A. Potential Agreement with the Applicant

Several members of Friends are active participants in the ECC Field Group that has met weekly since the Project's initial consideration by the ANC with the goal of resolving a number of issues associated with the Project. The ECC Field Group was convened and is led by the Chairman of the ANC, Randy Speck, and the Single District Member, John Higgins. Among the issues identified by the group are the following: field use by the Applicant and proposed tenants; lighting; noise; traffic impacts; parking; stormwater management; and environmental impacts.

B. Clarification of Zoning Relief Required

The Applicant is requesting special exception relief pursuant to 11 U DCMR § 203.1(m) and 11 C DCMR §710.3 for a private school use in this R-1-B District and parking spaces located in the front yard. The proposed sports facilities and athletic fields stretch to reach this private school use classification. First, the ECC is no longer operational and will only be retaining a portion of the property – separate from the fields. Second, the Maret School, located over three (3) miles away from the subject property, will not conduct any of the principle private school use on site. Subtitle B, Section 200.2(k)(2) lists “accessory play and athletic areas, dormitories, cafeterias, recreational, or sports facilities” as private education uses. The word ‘accessory’ indicates that these uses would be ancillary to the principle use of academic instruction. No such academic instruction will take place on site. As the Board knows, an

“accessory use” is limited to uses ancillary to the primary use, and located on the same lot. (See 11 DCMR § 100.2 and *Citizens Coalition v. Bd. of Zoning Adj.*, 619 A.2d 940 (D.C. 1993).)

The Applicant has candidly admitted that the Project contemplates athletic facilities¹. The Applicant intends to actively promote the use of the athletic facilities to users other than itself and has issued a number of schedules for leased use of the athletic complex. President of the Applicant’s Board of Trustees specifically noted the need for such “recreational facilities” in the District in an email dated February 3, 2022.² This ‘recreational facilities’ use, as defined by the Zoning Regulations, is not permitted by special exception, but rather would require a use variance.

C. Items Requested From Applicant

On December 31, 2021, Friends submitted a list of 11 items for the ANC to request from the Applicant. The ANC pared that list down to five (5) items and still the response from the Applicant fell short. Among the most critical of the items requested for any meaningful review of the Project are:

1. Redacted copy of the lease agreement between the ECC and the Applicant;
2. Draft of the sublease intended to be executed with area youth sports organizations; and
3. Stormwater management measures.

D. Pending Complaint Before the D.C. Board of Ethics & Government Accountability

On Wednesday, February 16, 2022, Friends, by and through undersigned counsel, submitted a formal complaint (the “Complaint”) with the D.C. Board of Ethics and Government Accountability (“BEGA”) based on the improper actions of the ANC.

¹ See Statement of the Applicant – Exhibit 5

² See email dated 2/3/22 – Exhibit 133

The Complaint is a result of repeated attempts by Friends to have the ANC correct the course of proceedings. The following actions by the ANC form the basis for the Complaint:

- I. Chair Speck's engagement with the Applicant prior to formal submission and his redline and guidance on the Applicant's Pre-hearing Statement prior to its submission;
- II. Chair Speck's failure to disclose that he is a former Maret parent;
- III. The Commission's failure to intervene when the Applicant used intimidation tactics to discourage neighbors from opposing the Applicant's proposal (see letter dated 1/19/22);
- IV. The Commission's exclusion of Friends from an on-site meeting at the fields; and
- V. The Commission's failure to apprise the neighborhood of the application for a curb cut and commercial entrance that would serve the Project (see letter dated 1/21/22).

Conclusion

Given the cloud on the procedure leading up to the ANC's recommendation to the BZA and the resulting and now pending BEGA Complaint, the outstanding materials still needed for review and the fact that the Applicant may not be seeking the correct form of relief, Friends is requesting a postponement to insure that the interests of most impacted members of the community are protected. With less than one (1) month until the scheduled BZA hearing, there is simply not enough time for (1) resolution on the BEGA Complaint; (2) the materials to be obtained and thoroughly reviewed by all parties; (3) a determination to be made on the correct form of relief.

Moreover, there is no urgency to the case being heard in March. The Applicant has a long-standing agreement for use of the Jelleff Fields for its varsity and junior varsity athletics

through 2029. The Applicant has not voiced any urgency in its many presentations to Friends, the ANC or the neighbors. The urgency, to the extent there is any, appears to lie with the ANC. Friends has asked numerous times for the ANC to defer decision on agenda items such as the proposed Commercial Driveway Application submitted by the Applicant (Public Space Committee Permit Application No. 383995) which the ANC rushed to consider on February 14, 2022 over the written objection of more than 50 opponents.

For the above-stated reasons, Friends respectfully requests that the Board grant its Motion to Postpone the March 9, 2022 Hearing.

Submitted on February 17, 2022 by:



Edward L. Donohue (D.C. Bar No. 412301)
For Friends of the Field, Party in Opposition

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CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2022, I sent a copy of the **MOTION TO POSTPONE THE MARCH 9, 2022 BOARD OF ZONING ADJUSTMENT HEARING** to counsel for the Applicant, Paul Tummonds, via electronic mail to ptummonds@goulstonstorrs.com, to ANC 3/ 4G Chair Randy Speck, via electronic mail to 3G03@anc.dc.gov, and to the Office of Planning, via electronic mail to jennifer.steingasser@dc.gov.



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