

March 16, 2022

VIA IZIS

D.C. Board of Zoning Adjustment  
Office of Zoning  
441 4<sup>th</sup> Street, N.W., Suite 200S  
Washington, DC 20001

Re: **BZA Application No. 20643 – Post-Hearing Submission of The Maret School (“Applicant”)**

Dear Members of the Board:

During the March 9, 2022, Public Hearing in this case members of the Board requested the following information from the Applicant: Response to the March 8, 2022 letter from the Office of the Attorney General (OAG) – including the Zoning Administrator’s e-mail confirmation of the appropriateness of the requested special exception relief and the DC Court of Appeals opinion regarding BZA Application No. 16433; information regarding Maret’s relationship with Moseley Field in NE; a summary of the concessions and proposals made to the application in response to community feedback; an updated Memorandum of Understanding (MOU) with ANC 3/4G – which includes a discussion about the ongoing relationship between Maret and ANC 3/4G after construction of the athletic facilities are completed; and the status of discussions with the owner of the property located at 5931 Utah Avenue, NW.

The Applicant hereby provides the following responses and information to the requests of the Board.

**Response to OAG Letter Dated March 8, 2022 and Appropriateness of the Special Exception Relief Requested for Private School Use**

The Applicant has reviewed OAG’s letter in detail and does not agree with its analysis, conclusions or recommendations.

As a preliminary matter, the Applicant restates and incorporates into this Submission (a) the information that was included in the Statement of the Applicant (Exhibit 17 of the record) and (b) the discussion of “Appropriateness of the Special Exception Relief Requested for Private

School Use” in the Applicant’s Response to Motion to Postpone (dated February 22, 2022; Ex. 203).<sup>1</sup>

1. As noted in testimony at the Public Hearing on March 9, 2022, the Zoning Administrator has confirmed via e-mail that (a) the proposed Athletic Facilities meet the definition of the use “Education, Private” and (b) the appropriate relief for this use would be a special exception. The correspondence is attached to this Submission as Exhibit A.

2. In its letter dated March 8, 2022 (Ex. 268), OAG asserts that “[t]he Off-Campus Athletic Facility does not qualify as a ‘private school’ principal use eligible for a special exception in the R-1-B zone because the Off-Campus Athletic Facility is not located on the same premises as the Maret School’s campus as required by Subtitle B § 203.3.” In essence, OAG first seems to have created its own analytical framework in which the “‘private school’ principal use” consists of some (not defined) set of facilities and/or activities. Then it concludes that athletic facilities, and the activities taking place there, are not included in the set.

*Nothing in the Zoning Regulations supports this assertion.* In fact, the plain language of Subtitle B §203.3 “Education, Private” stands for precisely the opposite. This definition explicitly contemplates that “[private school] uses may include, but are not limited to...**sports facilities.**” (**Emphasis added.**) In that same definition, another included use is described as “accessory play and athletic areas.” It is important to note that the only function of the word “accessory” in this entire definition is to modify “play and athletic areas.” The word “accessory” only could modify other parts of the definition – such as “sports facilities” – if a colon appeared after it. However, the sole colon in this paragraph appears before the word “accessory,” thereby limiting its applicability to just those words found within the same clause (*i.e.*, the words “play and athletic areas”).

3. It should be noted that this Board’s ruling in another case explicitly contradicts OAG’s assertion by establishing a precedent that remains undisturbed to this day. In BZA Application No. 16433, National Cathedral School (NCS) sought a special exception “to allow the construction of a girls’ athletic facility at a private school in an R-1-B District.” The Board wrote that the “use must be characterized as either principal or accessory” and noted “[t]he opposition argues that the proposed athletic facility is neither and that a use variance is required.” The Board rejected this argument, stating:

The Board concludes that the athletic facility is an extension of the principal use. **Athletics is a form of education, and thus the athletic facilities are educational facilities.** It, therefore, follows that the applicant need only meet the standard for a private school special exception. (BZA Order No. 16433 at p. 8; **emphasis added.**)

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<sup>1</sup> In response to the question of Board Member Smith, there is no definition of private school in either the 1958 or 2016 Zoning Regulations.

The Board's approval of the NCS application was appealed, but the DC Court of Appeals (in Case No. 99-AA-1230) upheld the approval on other grounds – and the Court did not address the ruling of the Board that “athletic facilities are educational facilities.” Thus, the ruling in BZA Application No. 16433 remains good precedent, upon which Maret appropriately relied in filing the present application. As requested by the Board, the DC Court of Appeals Decision in Case No. 99-AA-1230 is attached to this Submission as Exhibit B.

4. OAG's assertion contradicts the undisputed factual record in this case that convincingly establishes why the proposed Athletic Facilities are, in fact, educational facilities – no matter how close to, or far from, Maret's Woodley Park campus they are located.

In the Statement of the Applicant (Ex. 17), Maret wrote the following:

***The proposed Athletic Facilities are sports facilities that are an integral component of Maret's educational and academic instruction and mission. Maret students that participate on varsity athletics teams satisfy a portion of their physical education requirement that is necessary to graduate. (Pages 8-9, emphasis added.)***

At the March 9, 2022, hearing, Maret's Head of School, Marjo Talbott, fleshed out this key point in her testimony, stating that:

- These facilities are critically important to our *School's Mission*. In fact, athletics is one of the four essential pillars – along with academics, arts and wellness – that define Maret's educational program.
- True to our Mission, Maret is one of the few independent schools in the DC area that require every student, every year, to participate in some form of physical education. In our Middle and Upper School, our students participate in interscholastic sports, building the physical, emotional and cognitive skills that enable them to become effective team players. It is a requirement for graduation, and many of our alumni attend colleges where their Maret athletic accomplishments helped them in their admission application process.
- Our coaches are an essential part of our faculty, and they teach important skills that transcend athletic competition and last a lifetime. They emphasize our core values that include fair play, self-discipline and cooperation at every grade level. (Testimony of Marjo Talbott – BZA Public Hearing on March 9, 2022<sup>2</sup>.)

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<sup>2</sup> The transcript of this public hearing is not yet available.

The Board has every right to (a) accept as a matter of proven fact that the proposed Athletic Facilities are educational facilities and (b) conclude that, per established precedent, the Applicant need only meet the standards for a private school special exception.

5. OAG asserts that the lack of any “on-site academic instructional element to which the proposed athletic uses will be accessory” prevents the proposed Athletic Facilities from being considered for a special exception as a private school use. This assertion highlights a key fallacy in OAG’s argument, which assumes that “athletic uses” must always be, and be nothing other than, “accessory” to a “‘private school’ principal use.” In fact, every time that Maret students practice or compete on these fields, they will – as the current record amply demonstrates – be engaged in an essential aspect of their Maret education. Maret students learn about the Spanish language, trigonometry, or chemistry in classrooms operated by the School. Similarly, Maret students learn physical fitness, acquire athletic proficiency, and develop the character traits of sportsmanship, teamwork, and perseverance on playing fields operated by the School. Just as a Maret student needs to accumulate a certain number of credits in the classroom to earn a diploma, that student must also meet certain minimum standards of participation in physical fitness and athletics to graduate.

6. Combining the plain meaning of the Zoning Regulations with the undisputed factual record, it is clear that the proposed Athletic Facilities are in fact educational facilities and constitute “[a]n educational, academic, or institutional use with the primary mission of providing education and academic instruction.” Because the Athletic Facilities are consistent with this use definition for “Education, Private” in Subtitle B, §200.2, the only issue associated with their distance from Maret’s existing Woodley Park campus is transportation-related impacts.

As required by the special exception standards, the Applicant has demonstrated that the need to transport students to and from the Athletic Facilities will not create objectionable impacts. This is because any transportation-related impacts will be effectively mitigated through implementation of the Applicant’s Transportation Demand Management plan, which is strengthened by additional conditions proposed by DDOT – all of which Maret has agreed to. This is fully evidenced in the record and confirmed both by DDOT’s report (Ex. 222) and by the testimony of DDOT’s representative at the public hearing on March 9, 2022.

7. Further, any discussion in OAG’s letter of accessory uses, or of the need for accessory uses to be located on the same lot as the principal use, is rendered irrelevant by the conclusion that the Athletic Facilities constitute a principal private school use.

8. The OAG letter also claims that due to the proposed intensity of use of the Athletics Facilities, those facilities should be deemed to be a commercial gymnasium which falls under the use category of Entertainment, Assembly and Performing Arts (EAPA). This is the use category that applies to such non-comparable venues as Nationals Park and the Capitol One Center. The Applicant finds this argument to be completely erroneous and an attempt to frighten the community (and the BZA) about commercial uses that are in no means proposed on the site.

Following an extraordinary process of ANC review and extensive additional engagement between the Applicant and neighbors, the ANC adopted detailed conditions that place strongly protective limits on the use of the property. These conditions – as discussed further below – have been accepted by Maret and incorporated into its Memorandum of Understanding (MOU) with ANC 3/4G. The concerns raised by OAG about the intensity of use of the property are entirely appropriate issues for the BZA to review as part of a special exception application, but those concerns do not change the necessary relief from a special exception to a use variance.

9. OAG is mistaken when it asserts that charging outside groups constitutes a forbidden commercial use. The proposed use of the Athletic Facilities is (a) consistent with private education use and (b) primarily for Maret to support its athletics program. The ability of private schools to lease facilities to third parties is well-established (*e.g.*, see BZA Orders No. 19599-A [Georgetown Day School], 16433 [National Cathedral School], and 16517 and 18465 [St. Patrick's Episcopal Day School]) and common throughout the District. In any case, the primary use of the Athletic Facilities will be by Maret, for Maret athletic teams practicing and playing games. This will be established and monitored by Condition No. 3 of the ANC Resolution (and MOU – discussed below) which states: “The athletic fields are to be used primarily by Maret to support its athletic programs, and any leased use of the fields to youth sports groups or for non-Maret summer camps shall not exceed the time of Maret’s use in any calendar year.”

10. The OAG letter also makes an attempt to apply some of the special exception impact standards for a private school use to this application based largely on incorrect and unsubstantiated assumptions that are clearly refuted in the record. Specifically, the OAG letter references intensity of use issues and noise impacts from the use of fields, and erroneously references the total Maret student population (rather than the anticipated 50-60 students, including students from Maret *and a* visiting school athletic team, that are expected to be using the Athletic Facilities at any one time). OAG’s letter further suggests that third parties would have use of the space “without limits”, even though such limits have clearly been established by the Applicant and are reflected in the ANC 3/4G conditions. The OAG letter also includes proposed conditions of BZA approval. In regard to OAG’s proposed conditions, the Applicant does not support those conditions, having already agreed to abide by the thorough, well-reasoned and fact-supported conditions that have been proposed by ANC 3/4G.

11. Finally, the OAG letter states that OAG is participating in this case because the proposed special exception review and approval of the Athletics Facilities “not only diminishes the public’s faith in the zoning process by confirming that the ‘game is rigged’ but strips the public of the procedural protections they would be entitled to if the Zoning Regulations were properly followed.” Both of these arguments are unfounded and incorrect. First, as noted above, the special exception process allows the public (including nearby property owners, community stakeholders, and the ANC) and the BZA to thoroughly review, analyze and determine whether the proposed Athletic Facilities will create objectionable impacts on adjoining and nearby properties and whether the proposed use is in harmony with the general purpose and intent of the Zoning Regulations. No procedural protections are stripped from the public by reviewing this

application as a special exception case. Quite to the contrary, members of the public have played an active and engaged role in the review of this application, as evidenced by the more than 200 statements in the record from persons in support and persons in opposition to the application.

The Applicant finds OAG's argument that they are participating in this case in order to make sure that the public feels the zoning process is "not rigged" to be perplexing, as the OAG's participation in this case raises serious issues and concerns. In testimony at the public hearing Counsel for the Friends of the Field noted that they initiated contact with OAG to participate in this case. In response to a question from the participating Zoning Commission Chair, ANC 3/4G Chair Speck noted that OAG did not reach out to the ANC to see if the ANC felt their participation was needed. In addition, the OAG did not reach out to Applicant's Counsel to raise their concerns with regard to the requested relief. Instead of taking a collaborative posture, OAG submitted a 6-page, single-spaced letter into the record on the eve of the public hearing. These actions by the OAG, choosing to participate in a Contested Case at the request of a Party Opponent and not the elected ANC (whose opinion is provided "great weight"), in a purely adversarial manner, do not appear to be actions that are taken "in the public interest". The truly negative precedent that may arise from this case is the manner in which OAG decided to participate in this case.

For all of the reasons given above, the Applicant respectfully asks the Board to rule that the requested special exception relief for a private school use is appropriate.

#### **Information Regarding Maret's Relationship with Moseley Field**

Attached to this post-hearing submission is a letter from Gerard Hall, Founder of DC Knights Youth Sports, former director of baseball operations for the Woodridge Warriors, and field maintenance coordinator of Taft Field. (See Exhibit C). This letter highlights the Maret School's contributions to the development of Taft Field (Dwight Moseley Field Complex) during the period from 1998-2004. This letter highlights the following contributions that were made by Maret to the Dwight Moseley Field Complex:

- Construction of a batting cage;
- Donation of two tractors;
- Guidance on proper use of field maintenance equipment;
- Provided professional grade infield diamond mix on an annual basis;
- Purchased a storage shed to house field maintenance and baseball related equipment; and
- Provided a financial contribution to build a playground for community youth, and the Maret baseball team helped construct the playground equipment.

Mr. Hall's letter concludes with the following statement: "We're indebted for their [Maret's] generosity in our time of need and forever grateful for their support. Although they ventured

into a new field partnership. They will always be welcomed and part of the Woodridge Warriors family and community.”<sup>3</sup>

### **Summary of the Concessions and Proposals Made to the Application in Response to Community Feedback**

During testimony at the March 9, 2022 public hearing, Trey Holloway (Assistant Head: Finance & Operations of the Maret School) presented testimony and PowerPoint slides which depicted and described the proposals and changes that have been made to the application in response to community feedback. Those PowerPoint slides are attached as Exhibit D.

### **Updated Memorandum of Understanding (MOU) with ANC 3/4G**

In response to the comments of Board Member Smith, the Applicant and ANC 3/4G have entered into a MOU which evidences the agreement of both the Applicant and ANC 3/4G to abide by the conditions that were included in ANC 3/4G's resolution in support of this application (Ex. 233). That MOU includes a new condition that Maret present an annual report to ANC 3/4G that provides details regarding the operations of the Athletics Facilities over the prior year and provides the public an opportunity to provide comment. Maret will provide these annual reports to ANC 3/4G for a period of ten years. On March 14, 2022, ANC 3/4G adopted a resolution to execute the MOU. A copy of the fully executed MOU is attached as Exhibit E.

### **Status of Discussions with the Owner of the Property Located at 5931 Utah Avenue, NW**

Over the past several months, Maret's project team and representatives from ECC have been in frequent and ongoing discussions with Meredith Rathbone and Stephen Bocanegra, the residents of 5931 Utah Avenue, NW and have agreed to make numerous changes to the proposed Athletics Facilities to address their concerns. Ms. Rathbone and Mr. Bocanegra's home is adjacent to the existing Media Center Building, the smallest of the four buildings located on the ECC campus. The Media Center Building is included in the premises to be leased by Maret and will be accessible from the proposed baseball diamond and multi-purpose field.

In response to Chairman Hill's request for a status of the discussions with Ms. Rathbone and Mr. Bocanegra, a chronology of key correspondence between the parties is included in Exhibit F. The Applicant has agreed to the following measures to mitigate potential impacts associated with its proposed Athletic Facilities in response to concerns raised by Ms. Rathbone and Mr. Bocanegra:

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<sup>3</sup> This "good neighbor" policy of Maret is also reflected in the following letters of support already submitted in the record: Peter Hakim, Woodley Park neighbor (Ex. 122); Rittenhouse neighbors letter (Ex. 194); Mike DiMarco, Horizons Greater Washington (Ex. 123); and Carl Ehrlich, Flagstar Football (Ex. 232).

- Plant additional trees, hedges and bushes to prevent or otherwise discourage people from accessing and/or loitering in spaces near the Media Center Building – both between the Media Center Building and the property line of 5931 Utah Avenue, NW and between the Media Center Building and the multi-purpose field.
- Continue to work with Ms. Rathbone and Mr. Bocanegra and other neighbors and the ANC regarding the type, number, and maturity of the trees to be planted in connection with the project.
- Install a fence along the walkway between the ECC and the west side of the Media Center Building that wraps around the existing Media Center Building entrance vestibule and ends at the edge of the vestibule, limiting access to the lawn between the vestibule and the existing brick tunnel only to ECC students and staff and not to any field users.
- Replace the fence along the property line of 5931 Utah Avenue, NW, from the alley extending parallel to the Media Center Building to the point of the outer corner of the entrance vestibule, with a solid fence to enhance visual screening and noise mitigation.
- Install a fence 6' in height with a locked gate between the east side of the Media Center Building and the above-mentioned new solid fence along the 5931 Utah Avenue, NW property line to prevent unauthorized access to the space adjacent the Media Center Building that is near 5931 Utah Avenue, NW.
- Increase the height of the gate at the end of the Utah Avenue alley to 6' in height and ensure that it is locked when it is not in use by ECC or Maret for maintenance purposes or for emergency vehicles.
- Ensure that any security lights used on the property Maret is leasing from ECC will be low-glare and low-wattage so as to avoid light pollution at night.
- Provide access to the Media Center Building from the existing doors on the southwest (ECC-facing) side entrance vestibule and, subject to DC fire and safety codes, convert the existing doors on the west (Utah Avenue-facing) side of the entrance vestibule to emergency egress only.
- Explore the use of quiet-close doors.
- Relocate the dumpster from its originally-proposed location near the Utah Avenue alley to the parking lot.

There is only one remaining issue between Ms. Rathbone/Mr. Bocanegra and Maret. Maret proposes to continue to utilize an existing entrance into the Media Center Building and Ms. Rathbone and Mr. Bocanegra want that entrance to be closed and moved elsewhere. Maret believes that the actions noted above effectively and appropriately mitigate any objectionable impacts that the continued use of the Media Center Building will have on the Rathbone/Bocanegra property.



**Conclusion**

The Applicant has satisfied all of the relevant standards for special exception relief for the proposed Athletic Facilities and principal private school use. The Applicant looks forward to the Board's deliberations on this application at the March 30, 2022 Public Meeting.

Sincerely,

/s/  
Paul Tummonds

**Certificate of Service**

The undersigned hereby certifies that copies of the Applicant's Post-Hearing Submission were delivered by electronic mail to the following addresses on March 16, 2022:

Jennifer Steingasser  
Karen Thomas  
Office of Planning  
[Jennifer.Steingasser@dc.gov](mailto:Jennifer.Steingasser@dc.gov)  
[Karen.Thomas@dc.gov](mailto:Karen.Thomas@dc.gov)

Aaron Zimmerman  
District Department of Transportation  
[Aaron.Zimmerman@dc.gov](mailto:Aaron.Zimmerman@dc.gov)

ANC 3/4 G  
[3G@anc.dc.gov](mailto:3G@anc.dc.gov)

John K. Higgins – ANC 3/4G02  
[3G05@anc.dc.gov](mailto:3G05@anc.dc.gov)

Randy Speck - Chair, ANC 3/4G  
[3G03@anc.dc.gov](mailto:3G03@anc.dc.gov)

Ed Donohue, Esq.  
c/o Friends of the Field  
[edonohue@DTM.law](mailto:edonohue@DTM.law)

\_\_\_\_\_/s/  
Paul A. Tummonds, Jr.

# EXHIBIT A

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**From:** LeGrant, Matt (DCRA) <[matthew.legrant@dc.gov](mailto:matthew.legrant@dc.gov)>  
**Sent:** Tuesday, March 8, 2022 4:07 PM  
**To:** Tummonds, Paul <[PTummonds@goulstonstorrs.com](mailto:PTummonds@goulstonstorrs.com)>  
**Cc:** Thomas, Karen (OP) <[karen.thomas@dc.gov](mailto:karen.thomas@dc.gov)>; Lawson, Joel (OP) <[joel.lawson@dc.gov](mailto:joel.lawson@dc.gov)>  
**Subject:** RE: (BZA Application No. 20643) - Request for a Meeting - Proposed BZA Application for Private School Use - Portion of the Property Located at 5901 Utah Avenue, NW

Paul Tummonds,

Thank you for this background. I agree that the proposed athletic facilities meet the definition of "Education, Private" (Subtitle B Section 200.2(k)); therefore, the appropriate relief for this use would be a Special Exception under Section U-203.1(m).

I have cc' ed Karen Thomas and Joel Lawson, of the Office of Planning, for their information.

**Matthew Le Grant**

Zoning Administrator  
Office of the Zoning Administrator  
Dept of Consumer and Regulatory Affairs  
1100 4<sup>th</sup> St SW - Washington, DC 20024  
[www.dkra.dc.gov](http://www.dkra.dc.gov)  
Phone: Desk 202 442-4652 – Mobile 202-497-1742

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**From:** Tummonds, Paul <[PTummonds@goulstonstorrs.com](mailto:PTummonds@goulstonstorrs.com)>  
**Sent:** Tuesday, March 8, 2022 10:59 AM  
**To:** LeGrant, Matt (DCRA) <[matthew.legrant@dc.gov](mailto:matthew.legrant@dc.gov)>  
**Subject:** (BZA Application No. 20643) - Request for a Meeting - Proposed BZA Application for Private School Use - Portion of the Property Located at 5901 Utah Avenue, NW

**CAUTION:** This email originated from outside of the DC Government. Do not click on links or open attachments unless you recognize the sender and know that the content is safe. If you believe that this email is suspicious, please forward to [phishing@dc.gov](mailto:phishing@dc.gov) for additional analysis by OCTO Security Operations Center (SOC).

Matt – You may remember that we met on October 1, 2021 to discuss the proposed application that ultimately became BZA Application No. 20643.

The issue of whether the proposed athletic facilities can be deemed to be a principal private school use and therefore appropriate for special exception relief has been raised as an issue before the BZA (which is having its hearing on this case tomorrow). While I did not seek a written confirmation of the results of our 10/1/21 meeting, we did agree that the proposed athletic facilities met the definition of "Education, Private" (Subtitle B Section 200.2(k)).

I expect that you may be asked to weigh in on this issue. I have attached the following information to give you a complete picture of the issues that have been raised:

- 1) Applicant's response to Friends of Field Motion to Postpone, dated 2/22/22 (see pages 2-3);
- 2) Friends of the Field Supplemental Statement in Opposition, dated 3/7/22; and
- 3) OAG letter in opposition, dated 3/8/22.

Please feel free to give me a call if you have any questions or comments.

Thanks.

Paul.

**Paul Tummonds**  
(202) 721-1157

***goulston & storrs***

# EXHIBIT B

753 A.2d 984  
District of Columbia Court of Appeals.

NATIONAL CATHEDRAL  
NEIGHBORHOOD  
ASSOCIATION, et al., Petitioners,  
v.  
DISTRICT OF COLUMBIA BOARD OF  
ZONING ADJUSTMENT, Respondent.  
Protestant Episcopal Cathedral  
Foundation, Intervenor.

No. 99-AA-1230.

|  
Argued May 2, 2000.

|  
Decided May 10, 2000 \*.

### Synopsis

Neighborhood association and other sought review of a decision of the board of zoning adjustment (BZA) granting private school's application for a special exception permitting construction of a new athletic facility. The Court of Appeals held that: (1) nothing in the size or mass of predominantly underground athletic facility precluded the BZA from concluding that use of the structure was an accessory use of the school, satisfying the requirements for special exception; (2) facility also met the "same lot" test for an accessory use; and (3) there was sufficient evidence that proposed design would minimize impact on surrounding residential neighborhood.

Affirmed.

West Headnotes (8)

[1] **Zoning and Planning** 🔑 Accessory  
Buildings

Nothing in the size or mass of proposed new athletic facility for private school precluded the board of zoning adjustment from concluding that use of the structure was an accessory use of the school, satisfying the requirements for a special

exception, where only 4,360 of the total 83,160 square feet comprising the structure would be built above ground. D.C.Mun.Reg. title 11, § 199.

[2] **Zoning and Planning** 🔑 Grounds for grant or denial in general

In evaluating requests for special exceptions, the board of zoning adjustment is limited to a determination whether the exception sought meets the requirements of the particular regulation on which the application is based.

1 Cases that cite this headnote

[3] **Zoning and Planning** 🔑 Right to variance or exception, and discretion

**Zoning and Planning** 🔑 Presumptions and burden of proof

The applicant for a special exception has the burden of showing that the proposal complies with the regulation, but once that showing has been made, the board of zoning adjustment ordinarily must grant the application.

[4] **Zoning and Planning** 🔑 Substantial evidence in general

Court of Appeals must uphold decisions made by the board of zoning adjustment if they rationally flow from findings of fact supported by substantial evidence in the record as a whole, even though the court might have reached another result.

2 Cases that cite this headnote

[5] **Zoning and Planning** 🔑 Accessory Buildings

Athletic facilities, and the buildings housing them, are an adjunct to the educational mission of a school, for purposes zoning requirements. D.C.Mun.Reg. title 11, § 199.

**[6] Zoning and Planning** 🔑 Accessory Buildings

Nothing in the zoning regulation governing special exceptions implies that a facility loses its character as an accessory use when it reaches a certain size. D.C.Mun.Reg. title 11, § 199.

**[7] Zoning and Planning** 🔑 Accessory Buildings

Proposed new athletic facility for private school met the “same lot” test for an accessory use, satisfying the requirements for a special exception, where one school building was located on the same lot as proposed facility, and two other buildings in school complex were situated directly across the street. D.C.Mun.Reg. title 11, § 199.

**[8] Zoning and Planning** 🔑 Schools and education

There was sufficient evidence that proposed design of predominantly underground athletic facility for private school would minimize noise and visual exposure in surrounding residential neighborhood and further goal of maximizing the amount of open space on site to support decision of board of zoning adjustment (BZA) to grant special exception for an accessory use; there was evidence of sizeable setbacks on three sides of structure and berm and landscaping would serve and visual buffer on fourth side, and BZA made approval contingent on compliance with written agreements with citizens' groups addressing issues of noise, traffic, and visual impact.

<sup>1</sup> Cases that cite this headnote

**Attorneys and Law Firms**

\*985 Thomas E. Dernoga, with whom Alan Gourley, Washington, DC, was on the brief, for petitioners.

Wayne S. Quin, with whom Paul J. Kiernan and Sarah E. Shaw, Washington, DC, were on the brief, for intervenors.

\*986 Robert R. Rigsby, Interim Corporation Counsel, and Charles L. Reischel, Deputy Corporation Counsel, filed a statement in lieu of brief for respondent.

Before FARRELL and REID, Associate Judges, and PRYOR, Senior Judge.

**Opinion**

PER CURIAM:

Petitioners seek reversal of a decision of the Board of Zoning Adjustment (BZA or the Board) granting intervenors' application for a special exception permitting construction of a new athletic facility for the use of the National Cathedral School (the School). Petitioners make an array of arguments, including that the BZA erroneously found the proposed facility to be either (a) an extension of the principal use or (b) an accessory use of the School, failed to consider the cumulative impact not just of the sports facility but of all the uses of intervenors' property—including the new facility—on the surrounding neighborhood, and failed to reconcile the proposed construction with the requirements of the Comprehensive Plan. Finding none of these arguments a sufficient basis for reversal of the BZA's decision, we affirm.

[1] [2] [3] [4] [5] [6] [7] Petitioners acknowledge both the BZA's limited role with respect to the grant or denial of a special exception<sup>1</sup> and this court's limited role in reviewing the Board's decision.<sup>2</sup> The BZA found that the proposed facility met the requirements of a special exception. See *Citizens Coalition v. District of Columbia Bd. of Zoning Adjustment*, 619 A.2d 940, 947–48 (D.C.1993). Specifically, the BZA found that the facility constitutes either an extension of the principal use of the school or an “accessory use.” Because the Board's finding that it is an accessory use is sustainable, we need not consider whether the facility is reasonably characterized as an extension of the principle use. Petitioners argue that because of the size and mass of the proposed structure it cannot reasonably be termed “incidental to and subordinate to the principle use,” 11 DCMR § 199 (defining “accessory use”). We disagree. Functionally there is no question that athletic facilities, and the buildings housing them, are an adjunct to the educational mission of a school. Cf. 11 DCMR § 199 (defining “public school”). Nor does anything in the regulation imply that a facility loses that



character when it reaches a certain size. In any case, the BZA made no finding that the proposed structure is too large for its intended purposes. The Board found that only 4,360 of the total 83,160 square feet comprising the structure would be built above ground, and that the height of the building is well within the regulatory limit. See 11 DCMR § 400.1. Nothing in the size or mass required the Board to conclude that use of the proposed structure could not be considered accessory.<sup>3</sup>

**\*987 [8]** This court has also stated that “ ‘the degree of impact upon the surrounding residential neighborhood is the most reasonable test of the appropriateness of an accessory use.’ ” *Citizens Coalition*, 619 A.2d at 952 (citation omitted). The BZA found that the proposed facility, to be built largely underground, has been designed to “minimize noise and visual exposure,” and specifically that “the height of the wall and athletic facility will not have adverse impacts on properties to the north, across Woodley Road, while open space at the location ... will be in harmony with such properties.” Although petitioners dispute these findings, we are unable to say that they lack substantial support in the record.<sup>4</sup> The BZA expressly made its approval contingent on intervenors’ compliance with written usage agreements between intervenors, the ANC, and the Cleveland Park Citizens Association (CPCA) designed “to address the issues of noise, traffic, the visual impact of the facility, and construction.”

Nor are we persuaded by petitioners’ argument that the BZA viewed the proposed construction in artificial isolation,

without considering the cumulative impact of (for example) traffic generated by the National Cathedral site overall. Assuming that the Board was required to take into account existing deficiencies in parking availability on the site, it nevertheless could fairly conclude—as it did—that the proposed facility would not add to the effects of that shortage.<sup>5</sup> A project otherwise justified could not be held hostage, as it were, to existing traffic problems caused by the attraction of the Cathedral site generally.

Finally, although the BZA is required to “look to the District elements [of the Comprehensive Plan] for general policy guidance” in passing upon applications, 10 DCMR § 112, nothing in those elements is inconsistent with the Board’s reasoned approval of the proposed facility. The National Cathedral is, indeed, to “be protected from nearby dense development that would despoil its setting.” 10 DCMR § 1400.2(c)(2). Testimony before the BZA permitted it fairly to conclude that the design of the predominantly underground facility will further the goal of maximizing the amount of open space on the Cathedral site.

We have considered petitioner’s remaining arguments and reject them as well.

*Affirmed.*

#### All Citations

753 A.2d 984

#### Footnotes

- <sup>\*</sup> This appeal was originally decided by an unpublished Memorandum Opinion and Judgment. The opinion is now being published at the direction of the court.
- <sup>1</sup> In evaluating requests for special exceptions, the Board “is limited to a determination whether the exception sought meets the requirements” of the particular regulation on which the application is based. The applicant has the burden of showing that the proposal complies with the regulation; but once that showing has been made, “the Board ordinarily must grant [the] application.”  
*French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1032–33 (D.C.1995) (citations omitted).
- <sup>2</sup> “We must uphold decisions made by the BZA if they rationally flow from findings of fact supported by substantial evidence in the record as a whole.” *Draude v. District of Columbia Bd. of Zoning Adjustment*, 582 A.2d 949, 953 (D.C.1990) (citations omitted). That is so “even though we might have reached another result.” *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C.1973).
- <sup>3</sup> The BZA could also properly find that the building met the “same lot” test for an accessory use. See 11 DCMR § 199. In contrast to the separate locations involved in *Hilton Hotels Corp. v. District of Columbia Bd. of Zoning Adjustment*, 363 A.2d 670 (D.C.1976), here the Upper School is located on the same lot as the proposed facility, and the Lower and Middle Schools are situated directly across the street.
- <sup>4</sup> The Board found, for example, that the proposed height of the wall had been reduced to address concerns of ANC3C. The Board also found that there would be sizeable set backs on three sides of the structure. Evidence further allowed

a finding that, while on the fourth (or Woodley Road) side the set back would be much shorter, a berm and landscaping would serve as a visual buffer.

5 The Board found that the proposed construction would add 53 parking spaces to the 85 already on the site, and that existing traffic patterns were to be altered “to alleviate present and future traffic congestion.” The agreements with the ANC and the CPCA were likewise intended to achieve partial amelioration of traffic problems.

From our repeated references to the ANC agreement, it goes without saying, that we reject petitioners' argument that the Board failed to give “great weight” to the ANC's recommendations. Subject to compliance with the agreements, the ANC in fact approved construction of the facility, as had the Office of Planning.

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# EXHIBIT C



## DC Knights Youth Sports

*3253 Stanton Rd SE*

*Washington, DC 20020*

*[www.dcknightsyouthsports.org](http://www.dcknightsyouthsports.org)*

To Whom It may Concern:

I am writing this letter of support to highlight Maret School contributions to the development of Taft Field (Dwight Moseley Field Complex) during the period of 1998 – 2004. My name is Gerard Hall, I served as Woodridge Warriors Director, Baseball Operations and field maintenance coordinator of Taft Field. One of two three field complex in the city at that time.

Maret's Athletic Director Liz Hall, Director of Grounds Jon Young, and Varsity Baseball coach Antoine Williams were the driving force in the development and revival of Taft Field becoming the premier baseball/softball complex in the city and Woodridge community beacon.

Maret contributions are as follows; built a much needed batting cage, at that time one of the few fields that had a batting cage, donated two tractors, provided guidance how to properly use the field maintenance equipment to ensure field integrity, provided professional grade infield diamond mix on an annual basis, purchased a storage shed to house field maintenance equipment and other baseball related equipment. It is still in use today. Provided financial contribution to build a much needed playground for the community youths. Their baseball team volunteered in the construction and assembling the playground equipment. The partnership was a tremendous boost for Woodridge Warriors and the community. Their contributions resulted in many tournaments and clinics being hosted do to the amenities provided by Maret School.

We're indebted for their generosity in our time of need and forever grateful for their support. Although they ventured into a new field partnership. They will always be welcomed and part of the Woodridge Warriors family and community. If you have additional questions regarding this matter please feel free to reach me via email or cell phone at 202-494-7743.

Sincerely,

  
Gerard Hall, Founder

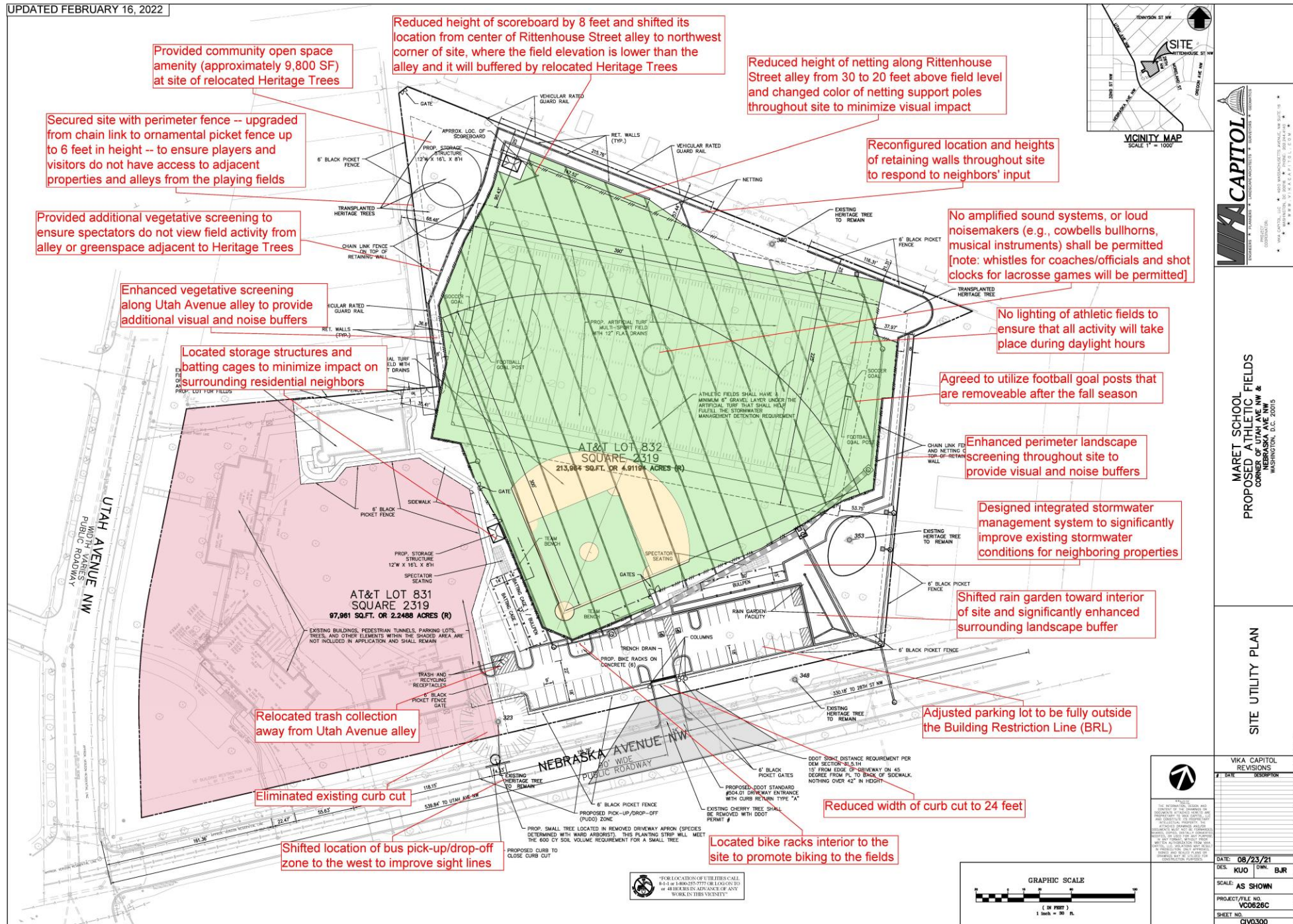
DC Knights Youth Sports

# EXHIBIT D

## PRESENTATION OVERVIEW

- Our Purpose, Objective and Commitment (Marjo Talbott | Maret Head of School)
- Collaborative Community Engagement (M. Talbott)
- Overview of Proposal, Including Updates Made in Response to Neighborhood Input (Trey Holloway | Maret Assistant Head: Finance & Administration)
- Transportation and Parking Considerations (Jami Milanovich | Wells + Associates)
- Proposed Conditions of Approval (T. Holloway)
- Conclusion





## OVERVIEW OF UPDATES IN RESPONSE TO NEIGHBORHOOD INPUT

### SITE DESIGN AND STORMWATER MANAGEMENT

- Trash collection moved away from Utah Avenue alley to location near parking lot and center of site, away from neighboring properties
- Locations and heights of retaining walls reconfigured to respond to neighbors' input
- Scoreboard location shifted from center of Rittenhouse Street alley to northwest corner of site, buffered by relocated heritage trees, and height lowered by 8'
- Storage structures and batting cages located to minimize impact on surrounding neighbors
- Rain garden shifted toward interior of site
- Perimeter landscape buffer enhanced
- Football goal posts will be removed after the fall season
- Neighborhood open space amenity at site of relocated Heritage Trees



## OVERVIEW OF UPDATES IN RESPONSE TO NEIGHBORHOOD INPUT

### **TRANSPORTATION, PARKING, AND SITE SERVICING**

- Bike racks site at interior of the site to promote biking to the athletic fields
- Curb cut on Nebraska closely studied and reduced to 24'
- Eliminated curb cut adjacent to parking lot
- Adopted policies to promote non-auto travel, updated Operations Management Plan, and proposed infrastructure Improvements

### **FACILITY USE**

- No amplified sound systems or loud noisemakers
- No lights other than security lighting
- Reduced hours of proposed use by youth sports groups

# EXHIBIT E

**MEMORANDUM OF UNDERSTANDING REGARDING  
BOARD OF ZONING ADJUSTMENT APPLICATION NO. 20643**

This Memorandum of Understanding Regarding Board of Zoning Adjustment (“BZA”) Application No. 20643 (the “MOU”) is agreed upon as of this 15<sup>th</sup> day of March, 2022, by and between The Maret School (“Maret”) and Advisory Neighborhood Commission (“ANC”) 3/4G, a District of Columbia governmental entity.

**UNDERSTANDING OF THE PARTIES**

**WHEREAS**, Maret filed an application with the BZA (BZA Application No. 20643) for special exception relief for a principal private school use and to locate parking spaces in the front yard adjacent to Nebraska Avenue, NW (the “Athletics Facilities Project”) on a portion of the property with an address of 5901 Utah Avenue, NW at Lot 832 in Square 2319 (the “Property”);

**WHEREAS**, the Property is located within the boundaries of ANC 3/4G, and the District of Columbia Zoning Regulations authorizes the ANC to appear as a party in proceedings before the BZA;

**WHEREAS**, on February 28, 2022, ANC 3/4G adopted a unanimous resolution in support of BZA Application No. 20643 so long as the BZA incorporates conditions that were included in the ANC’s resolution (the entire ANC 3/4G resolution is Exhibit 233 of BZA Application No. 20643) into the written order approving BZA Application No. 20643;

**WHEREAS**, at the BZA Public Hearing on March 9, 2022, Maret testified that it has agreed to all of the conditions included in the ANC resolution;

**WHEREAS**, at the BZA Public Hearing on March 9, 2022, the BZA requested that Maret and ANC 3/4G enter into a Memorandum of Understanding which details the ANC’s conditions for supporting BZA Application No. 20643 and Maret’s acceptance of those conditions regarding the development, construction, and operation of the Athletics Facilities Project proposed in BZA Application No. 20643; and

**WHEREAS**, Maret and ANC 3/4G have entered into this MOU in response to the request of the BZA.

**NOW THEREFORE**, for good and valuable consideration the adequacy of which is hereby acknowledged, Maret and ANC 3/4G agree as follows:

1. **Compliance with Plans/Materials Approved by the BZA**

- a. Maret shall construct the Athletic Facilities Project in conformance with all plans and materials approved by the BZA in BZA Application No. 20643 (as depicted in Exhibits 15A1 and 15A2, as amended and updated in Exhibits 184C1-184C10

of the record in the case), including the location, specifications, and design of the multi-purpose athletic field, baseball diamond, bullpens, batting cages, rain gardens, parking spaces, trash collection receptacles, scoreboard, goal posts, fences, sidewalks, storage sheds, protective netting, bleachers, shot clocks, retaining walls, and stormwater management facilities. Maret shall obtain all relevant D.C. agency permits and clearances in a timely manner and conform to all permit conditions.

- b. Goal posts shall be removable and shall only be in place from August until Maret's last football game of the season. Maret may store the goal posts on site but will make reasonable efforts to ensure that such storage is accomplished in a manner to minimize intrusion to adjacent properties.
- c. Maret shall construct a security fence around the perimeter of the property and shall prohibit players and spectators from accessing the adjacent alleys or properties from the playing fields. Security fencing shall also protect the property as much as reasonably possible from intruders and discourage any impermissible use of the playing fields. Maret shall consult with the residents abutting the property about the material for the security fence.
- d. The protective netting shall be no taller than 30 feet, measured from the finished grade adjacent to its immediate location, and shall be reduced to lower levels wherever possible based on field experience and observation.
- e. Maret shall plant, maintain, and replace (as necessary) the landscaping shown on pages 10 and 11 of Exhibit 15A1 and as amended and updated in Exhibits 184C1-184C10 in the record of BZA Application No. 20643. Landscaping shall use mature shrubs and trees where reasonable and appropriate and after consultation with nearby residents to provide a visual and sound buffer from adjacent residences by the time the fields begin to be used. To the extent reasonably possible, Maret shall select landscaping items in consultation with neighbors and shall seek to use landscaping items that positively contribute to environmental objectives (e.g., including native plant species such as those identified on page 11 in Exhibit 15A1).
- f. Maret shall abide by the terms of the Tree Relocation Plan approved by the BZA in BZA Application No. 20643 (as depicted in Exhibit 184C7 of the record in the case) except to the extent that, after consultation with ANC 3/4G, such plan is modified and approved by DDOT's Urban Forestry Division. Heritage trees will be retained to the extent reasonably possible. No construction shall be allowed under the drip line of heritage trees unless expressly permitted by the Urban Forestry Division.

- g. Maret has designed the Athletic Facilities Project to mitigate stormwater runoff from a 25-year storm, which exceeds the regulatory requirement for a design to mitigate stormwater runoff from a 15-year storm. Maret shall consult with ANC 3/4G and coordinate its stormwater management plan with the District Department of Energy and Environment (“DOEE”). The Athletics Facilities Project shall comply with all relevant DOEE stormwater management regulations (enumerated in Chapter 5 of Title 21 of the District of Columbia Municipal Regulations) and shall satisfy the requirements of the District’s Municipal Separate Storm Sewer System (“MS4”) permit issued by the U.S. Environmental Protection Agency under the Clean Water Act. Maret shall conform to requirements for stormwater reports to DOEE, if any, and shall provide ANC 3/4G with copies of such reports. Absent any DOEE reporting requirements, Maret shall report annually to ANC 3/4G on the operation of the stormwater system for ten years and will continue to maintain the stormwater system in accordance with DOEE requirements so long as the field continues to be used primarily as a private school athletic field.
- h. The turf field shall use natural-based infill such as engineered wood particles, “SafeShell,” or similar products rather than rubber-based products and shall be installed in conformity with best practices regarding permeability and hydrology impacts. Non-playing field areas shall, to the extent reasonably possible, use natural grass and/or vegetation. Maret shall not use crumb rubber infill, which the District Department of General Services no longer permits for District-owned fields. Maret shall observe “best practices” regarding the composition and installation of the field, including consideration of chemical and bacterial factors.
- i. Maret shall install the height and type of perimeter fencing reflected in the 3D model and the 21-day pre-hearing submission.
- j. Maret shall use moveable bleachers at the multipurpose field, and they shall be positioned, to the extent reasonably possible, to minimize noise for adjacent residents. No bleacher set shall exceed 6 tiers. Spectators shall be encouraged to sit in the bleachers and discouraged from standing on the sidelines.
- k. Maret shall, where appropriate, use permeable materials for sidewalks and the parking lot wherever reasonably possible.
- l. Maret shall present an annual report at a regularly scheduled ANC 3/4G Public Meeting that provides details regarding the operations of the athletics facilities over the prior year and provides the public an opportunity to provide comment. Maret shall provide the first annual report, one year after use of the athletics facilities has commenced and will provide the annual reports for ten years.

2. Lighting, Scoreboard and Noise Abatement

- a. With the exception of down-lit security lighting necessary to provide a safe environment at the Athletic Facilities Project, Maret shall not propose, nor shall it allow, the installation or use of lights to illuminate the multi-purpose athletic field or the baseball diamond. The fields shall not be used at any time after dusk.
- b. The down-lit security lighting shall be limited to the parking lot area. The lights shall be no higher than 12 feet and shall be fully down-lit with minimal BUG (backlight, uplight, glare) ratings commensurate with the surrounding ambient conditions. Lights shall use a combination of photocell and timer so that they are on only when dark and go off no later than 9:00 p.m. The lighting levels and color should be no greater than recommended IES (Illumination Engineering Society) standards for similar facilities. Maret shall consult with ANC 3/4G before finalizing the lighting purchase. Security motion lights shall be permitted on the Media Center building and storage structures.
- c. The proposed scoreboard shall be limited to a height of no more than 20 feet, measured from the finished grade adjacent to its immediate location.
- d. No use of any amplified sound shall be permitted at any time at the Athletic Facilities Project. Two shot clock horns, to be used only during lacrosse games (and not during practices or at any other times), may be installed at the multi-purpose athletic field in the locations identified in Exhibits 184C1-184C10 of the record in the case. Maret shall not permit school bands to perform at games.
- e. No use of bullhorns, cowbells, musical instruments, or other similar devices by spectators or event participants shall be permitted. Whistles may be used by coaches and game officials in a manner that is regular and customary for athletic practices and games.

3. Use of and Access to the Athletic Facilities Project

- a. The athletic fields are to be used primarily by Maret to support its athletic programs, and any leased use of the fields to youth sports groups or for non-Maret summer camps shall not exceed the time of Maret's use in any calendar year. Maret shall only be permitted to lease the fields to youth sports organizations based in the District of Columbia and may charge a reasonable fee for use of the fields (reasonableness to be determined by reference to fees charged for field use by DPR and other public (e.g., Coolidge and Wilson High Schools) and private schools (e.g., Sidwell Friends and Georgetown Day School) in the District). For any leased use of the fields, the total number of players and coaches shall not exceed 60 at any time, with the exception of summer camps during which the

total number of participants and staff shall not exceed 75 in any session, with at least 30 minutes between sessions.

- b. Use of the Athletic Facilities Project by Maret and its lessees shall not exceed the hours as set forth below except as recommended by ANC 3/4G and Maret and modified by the BZA:

i. Pre-Season (mid to late August):

- Monday: 8:00 a.m. to 6:00 p.m.
- Tuesday: 8:00 a.m. to 6:00 p.m.
- Wednesday: 8:00 a.m. to 6:00 p.m.
- Thursday: 8:00 a.m. to 6:00 p.m.
- Friday: 8:00 a.m. to 6:00 p.m.
- Saturday: No Use Scheduled by Maret or its Lessees
- Sunday: No Use Scheduled by Maret or its Lessees
- Any District of Columbia holiday: No Use Scheduled by Maret or its Lessees

ii. Fall Season (September through November):

- Monday: 3:00 p.m. to 6:00 p.m. (Maret Use) and 6:00 p.m. to 7:00 p.m. (Youth Sports Organizations)
- Tuesday: 3:00 p.m. to 6:00 p.m. (Maret Use) and 6:00 p.m. to 7:00 p.m. (Youth Sports Organizations)
- Wednesday: 2:00 p.m. to 6:00 p.m. (Maret Use) and 6:00 p.m. to 7:00 p.m. (Youth Sports Organizations)
- Thursday: 3:00 p.m. to 6:00 p.m. (Maret Use) and 6:00 p.m. to 7:00 p.m. (Youth Sports Organizations)
- Friday: 3:00 p.m. to 7:00 p.m. (Maret Use)
- Saturday: 10:00 a.m. to 5:00 p.m. (Maret or Youth Sports Organizations)
- Sunday: 11:00 a.m. to 3:30 p.m. (Youth Sports Organizations)

- Any District of Columbia holiday: No Use Scheduled by Maret or its Lessees
- iii. Winter Season (December to President's Day):
- Monday: 4:00 p.m. to 5:30 p.m. (Youth Sports Organizations)
  - Tuesday: 4:00 p.m. to 5:30 p.m. (Youth Sports Organizations)
  - Wednesday: 4:00 p.m. to 5:30 p.m. (Youth Sports Organizations)
  - Thursday: 4:00 p.m. to 5:30 p.m. (Youth Sports Organizations)
  - Friday: 4:00 p.m. to 5:30 p.m. (Youth Sports Organizations)
  - Saturday: No Use Scheduled by Maret or its Lessees
  - Sunday: No Use Scheduled by Maret or its Lessees
  - December 24 through January 2 and any District of Columbia holiday: No Use Scheduled by Maret or its Lessees
- iv. Spring Season (after President's Day to mid-June)
- Monday: 3:00 p.m. to 6:00 p.m. (Maret Use) and 6:00 p.m. to 7:00 p.m. (Youth Sports Organizations)
  - Tuesday: 3:00 p.m. to 6:00 p.m. (Maret Use) and 6:00 p.m. to 7:00 p.m. (Youth Sports Organizations)
  - Wednesday: 2:00 p.m. to 6:00 p.m. (Maret Use) and 6:00 p.m. to 7:00 p.m. (Youth Sports Organizations)
  - Thursday: 3:00 p.m. to 6:00 p.m. (Maret Use) and 6:00 p.m. to 7:00 p.m. (Youth Sports Organizations)
  - Friday: 3:00 p.m. to 7:00 p.m. (Maret Use)
  - Saturday: 10:00 a.m. to 5:00 p.m. (Maret or Youth Sports Organizations)
  - Sunday: 11:00 a.m. to 3:30 p.m. (Youth Sports Organizations)
  - Any District of Columbia holiday: No Use Scheduled by Maret or its Lessees
- v. Summer Season (Mid-June through Mid-August):



- Monday: 9:00 a.m. to 3:00 p.m. (Youth Sports Camps)
  - Tuesday: 9:00 a.m. to 3:00 p.m. (Youth Sports Camps)
  - Wednesday: 9:00 a.m. to 3:00 p.m. (Youth Sports Camps)
  - Thursday: 9:00 a.m. to 3:00 p.m. (Youth Sports Camps)
  - Friday: 9:00 a.m. to 3:00 p.m. (Youth Sports Camps)
  - Saturday: 10:00 a.m. to 5:00 p.m. (Youth Sports Organizations)
  - Sunday: No Use Scheduled by Maret or its Lessees
  - July 4: No Use Scheduled by Maret or its Lessees
- b. Maret shall permit access to the Athletic Facilities Project for community use, which shall include use by residents of the surrounding neighborhood for general recreational activities, but not structured team sports (e.g., team practices or games not otherwise scheduled through Maret) during the following hours:
- i. Pre-Season (mid to late August):
    - Monday: 6:00 p.m. to dusk
    - Tuesday: 6:00 p.m. to dusk
    - Wednesday: 6:00 p.m. to dusk
    - Thursday: 6:00 p.m. to dusk
    - Friday: 6:00 p.m. to dusk
    - Saturday: 8:00 a.m. to dusk
    - Sunday: 8:00 a.m. to dusk
  - ii. Fall Season (September through November):
    - Saturday: 8:00 a.m. to 10:00 a.m. and 5:00 p.m. to dusk
    - Sunday: 8:00 a.m. to 10:00 a.m. and 3:00 p.m. to dusk
  - iii. Winter Season (December through February):
    - Saturday: 8:00 a.m. to dusk

- Sunday: 8:00 a.m. to dusk
- iv. Spring Season (March through June):
  - Saturday: 8:00 a.m. -10:00 a.m. and 5:00 p.m. to dusk
  - Sunday: 8:00 a.m. - 10:00 a.m. and 3:00 p.m. to dusk
- v. Summer Season (July through Mid-August):
  - Monday: 6:00 p.m. to dusk
  - Tuesday: 6:00 p.m. to dusk
  - Wednesday: 6:00 p.m. to dusk
  - Thursday: 6:00 p.m. to dusk
  - Friday: 6:00 p.m. to dusk
  - Saturday: 8:00 a.m. to dusk
  - Sunday: 8:00 a.m. to dusk

Maret shall regularly monitor the community use during the permitted hours to ensure that the fields are not being used by organized adult teams from outside the community and shall advise ANC 3/4G and the BZA of any additional steps that may be necessary to ensure that the fields are used for the intended community purpose.

- c. Maret shall make the Athletic Facilities Project available for scheduled use by children attending ECC and District of Columbia Public School (DCPS) traditional and charter schools on weekdays during the academic school year between the hours of 9:00 a.m. and 3:00 p.m. on Monday, Tuesday, Thursday and Friday and between the hours of 9:00 a.m. and 2:00 p.m. on Wednesday. Maret shall limit any fees charged for such use by DCPS traditional and charter school students to the rates charged for athletic field use by DPR.
- d. Maret shall post on its website for the Athletic Facilities Project the hours of seasonal uses of the athletic field by Maret or others as set forth in these conditions and will provide a link to Maret's athletic schedule. Neighbors should be able to go to this source to see what activities are authorized at any time.
- e. Maret may submit a proposal to ANC 3/4G and the BZA to modify the approved hours of use set forth in this Condition #3, not earlier than three (3) years from the date of the issuance of the written Order in BZA Application No. 20643.

Similarly, ANC 3/4G may submit a proposal to Maret and the BZA to modify the approved hours of use set forth in this Condition #3, not earlier than three (3) years from the date of the issuance of the written order in BZA Application No. 20643.

- f. On weekdays during the academic year, the parking lot and field gates identified in Exhibits 184C1-184C10 of the record in the case shall be open and/or unlocked during daylight hours to allow access to authorized users. During periods when the Athletic Facilities Project is not scheduled for use, Maret may secure the parking lot and/or field gates. Community members shall be provided with a means to access the field (e.g., by a gate code) in the event the field gate is locked during a period of time when community use is permitted (i.e., for “pickup” games or community events). During all times of the year, the parking lot and field gates shall be locked from dusk until dawn.
- g. Maret shall retain and exercise the right to request that anyone using the field, the field house, or the parking lot leave the property based on their disorderly conduct.
- h. Maret shall negotiate with DPR to end its agreement for use of the Jelleff field at 3265 S Street, NW — including both Maret’s obligations for maintenance of the field and Maret’s preferential use of the field — effective when the Athletic Facilities Project is complete and operational. Maret shall report to ANC 3/4G and ANC 2E on its efforts to negotiate an expeditious end to the Jelleff field agreement with DPR.

4. Transportation and Parking

- a. Maret shall construct approximately 48 parking spaces as part of the Athletic Facilities Project in conformance with the plans and materials approved in BZA Application No. 20643 and as depicted in Exhibits 184C1-184C10 of the record in the case.
- b. Maret shall abide by the terms of the Transportation Demand Management Plan approved in BZA Application No. 20643 as detailed in Exhibits 97A1 and 97A2 of the record in the case, including:
  - i. Provide a minimum of six short-term bicycle racks (12 spaces) on the site.
  - ii. Subject to DDOT approval, designate a bus drop-off/pick-up zone on Nebraska Avenue, as identified on the site plan included in Pre-hearing Statement (Ex. [184C2](#)). Parked buses and cars must have their engines turned off (i.e., no idling).

- iii. Implement the following policies to reduce single-occupancy vehicle trips to Athletic Facilities Project:
- During the school year, Maret shall require all Maret team members and most coaches to travel to and from the Athletic Facilities Project by bus for practices, except team members who live in the neighborhood who may bike or walk to practice, team members who use Metrobus, and up to five coaches who may drive to/from the Athletic Facilities Project.
  - During the school year, Maret shall require all Maret and visiting team members and most coaches to travel to and from the Athletic Facilities Project by bus for games, except team members who live in the neighborhood who may bike or walk to practice, team members who use Metrobus, and up to five coaches who may drive to/from the Athletic Facilities Project. Team members whose parents or guardians attended the game may leave the Athletic Facilities Project with their parents or guardians.
  - During the pre-season, Maret shall require team members and coaches to travel to the Athletic Facilities Project by bus, except team members who live in the neighborhood who may bike or walk to practice, team members who use Metrobus, and up to 12 team members and five coaches for the morning session and up to 12 team members and five coaches for the afternoon session who may drive to/from the Athletic Facilities Project for both the morning and afternoon practice sessions.
  - Maret shall encourage visitors to the Athletic Facilities Project to use the nearby Metrobus M4, E4, or E6 lines (and any additional bus lines), providing connectivity to the Tenleytown and Friendship Heights Metrorail Stations.
  - Maret shall monitor lessees' use of single-occupancy vehicle trips to the Athletic Facilities Project and report to ANC 3/4G and DDOT in the Fall and Spring seasons in the first year of operation and bi-annually thereafter. The monitoring study shall consist of weekday PM and Saturday peak hour vehicle counts to determine the number of vehicle trips generated by the facility when lessees use the fields. If the trip generation for the facility is higher than the peak hour trip generation identified in Table 6 on p. 20 of the January 2022 CTR, Maret shall propose steps that can be taken to reduce the number of such trips. Bi-annual monitoring shall be conducted until such time as the monitoring study reveals that the weekday PM and Saturday peak hour trip generation is at or below the trip generation identified in the

CTR for two years. At such time, the monitoring may cease if peak volumes are consistent with the CTR projections.

- In order to minimize the number of vehicles picking up or dropping off at any one time, Maret shall not schedule nor shall it permit its lessees to schedule games with less than 30 minutes between the end of one game and the scheduled beginning of the second game.
  - In order to reduce the amount of total traffic on Maret game days, Maret shall work with St. John's College High School to avoid scheduling home games at the same times.
- vi. Maret shall provide flaggers in the parking lot to direct traffic to available parking lot spaces during games and practices in which the parking lot is expected to be at or near capacity. Maret shall also request and pay for traffic control officers to direct traffic into and out of the parking lot during events for which more than 75 spectators are anticipated to arrive at the athletic fields by car.
- vii. Once each fall and spring for the first three years of the athletic fields' use, when the parking lot is at or near capacity, Maret shall survey street parking availability on nearby streets (comparable to the On Street Parking Assessment in the Comprehensive Transportation Review (CTR), Ex. 97A1 at pages 17-18) and report the results of the survey to ANC 3/4G. If the survey shows that parking occupancy exceeds 70% of the available street spaces, Maret will propose steps that can be taken to reduce the number of vehicles parked on nearby streets when the parking lot is at or near capacity.
- viii. Through signage or another appropriate means, Maret shall notify those who attend events at the Athletic Facilities Project that they may not park illegally as indicated by DDOT signage on any nearby street. When notified of illegally parked vehicles on nearby streets, Maret shall take prompt and reasonable action to find the vehicle owner and request that the vehicle be moved.
- ix. Maret shall not permit trash and recycling pickup during the following hours:
- Between 9:00 p.m. and 7:00 a.m. in accordance with DCMR 20-2806;
  - During the school year, from 3:00 p.m. to 5:00 p.m. on weekdays;
  - During the summer, before 9:00 a.m. or after 3:00 p.m. on weekdays; and

- Anytime on Saturdays or Sundays.
- x. Maret shall work with ANC 3/4G to advocate with DDOT for traffic control and traffic mitigation measures on Nebraska Avenue, Utah Avenue, and at the intersection of Military Road and 27th Street.
- xi. Pedestrians and vehicles shall not have access to the field from the Rittenhouse Street or Utah Avenue alleys, and the spectators may not use the alleys during games or practices.
- xii. Maret shall create a community area at the intersection of the Rittenhouse Street and Utah Avenue alleys that will be open to the public. Maret shall enhance the landscape buffering between this area and the field to prevent spectators from watching games on the athletic fields from the community area.
- xiii. Maret shall advise spectators that alcohol is not permitted on the field.
- xiv. The parking lot and field house will be locked except during the period starting 30 minutes before scheduled use of the field and 30 minutes after scheduled use of the Field. The parking lot may be unlocked when in use by Maret or ECC staff. Maret is responsible for ensuring that the field and field house are vacant before the parking lot gate is locked.
- xv. Activities at the field shall be conducted so that they do not impede access by emergency vehicles to and from the Knollwood Life Plan Community on Oregon Avenue, NW. At least one traffic lane shall be made accessible when such emergency vehicles approach the site by use of a flag person or other means.
- xvi. Maret shall comply with all of the conditions that DDOT recommends in its February 25, 2022 memorandum to the BZA ([Ex. 222](#), pages 2-4).

5. Communications During Construction Activity and Management of Construction-Related Impacts.

- a. Pre-construction period
  - i. Site management and contact: Prior to construction, Maret and the General Contractor shall designate a Maret Project Manager (or, in the Project Manager's absence, an alternate) as the single point of contact who will be responsible for receiving, addressing, and resolving any questions, concerns, complaints, or suggestions from the ANC, or from the

community. The Maret Project Manager will keep a log of outstanding questions or issues that have been raised by the ANC or the community to identify their status, estimated dates for resolution, and resolution. This log will be available for review by the ANC. The General Contractor will have an employee who is familiar with these Conditions on the site whenever any construction activities are ongoing. Current contact information for the Maret Project Manager will be published on the Maret Athletics Facilities Project Webpage and on gates providing access to the construction site.

- ii. Communications: Maret shall establish a page on its website devoted to communications related to the Athletics Facilities Project, and it will keep this webpage (“Athletics Facilities Project Webpage”) current with information that includes: (i) a calendar that identifies all scheduled meetings or events and key construction or pre-construction activities related to the Athletics Facilities Project; (ii) a milestone schedule for the Athletics Facilities Project showing key start and completion dates; and (iii) the date(s) that DDOT or DCRA has approved for any after-hours work (if applicable).
- iii. Home Damage Impact: At least 90 days before the planned start of construction, Maret and the General Contractor will distribute flyers or otherwise communicate with all homes located within 200 feet on the approximate start date.
  - (A) At least 90 days prior to construction, Maret and the General Contractor will offer to conduct a survey of homes at the locations identified below as Designated Survey Homes, in order to provide a pre-construction baseline for any potential damage, including a crack assessment, within this area that might be caused by construction-related activities of the project. Activities include but are not limited to digging and leveling, movement of equipment, tree removal and replacement, and vibration from jackhammers. (There will be no blasting during construction without notice to ANC 3/4G and the neighbors within 200 feet of the site.) The cost for conducting these surveys for any homeowner within the designated group who agrees to a survey shall be borne entirely by Maret. A copy of any survey conducted will be provided to the relevant homeowner at the homeowner’s request.
  - (B) The Designated Survey Homes shall include: (1) all the houses on 28th Street, NW, west side, contiguous to the ECC property; (2) all the houses on Nebraska Avenue, NW on the field side, on the same

block as the field, and (3) all the houses on Utah Avenue, NW and Rittenhouse Street, NW that are adjacent to the alleys that abut the ECC property.

- (C) At the completion of construction, residents in the Designated Survey Homes may submit to Maret any evidence of damage (including damage from stormwater) that they reasonably believe was caused by the construction. After comparing the pre-construction survey to any evidence of damage, Maret shall contract and pay for repairs of construction damage (including damage from stormwater). If needed, Maret shall pay for cleaning windows of construction dust for the Designated Survey Homes.
- iv. Construction Traffic Control: Prior to the start of construction, Maret and the General Contractor will prepare a proposed plan for managing the construction traffic into and out of the site — the Construction Traffic Plan or CTP. The goal of the CTP shall be to minimize the impact on streets in the surrounding neighborhood and minimize any objectionable effects to the extent reasonably possible. Components of the CTP are:
  - (A) Routes: Construction-related vehicles shall include heavy trucks (including concrete and flatbed trucks), passenger vehicles, pick-up trucks, self-propelled construction equipment, skips, and dumpsters.
    - (i) All construction related vehicles — with the limited exception, where necessary, for vehicles that require access from the alley to work on the perimeter landscape buffer, retaining walls, and heritage trees — shall only enter and exit the property from Nebraska Avenue NW. Construction access to the site shall be up Oregon Avenue, NW to Nebraska Avenue, NW (or Oregon Avenue, NW to Rittenhouse Street, NW to Nebraska Avenue, NW depending on the Oregon Avenue, NW construction). Exiting vehicles turn right to Nebraska Avenue, NW and make a left onto Utah Avenue, NW to Military Road, NW. Construction vehicles shall not queue on the street and shall be turned off if not being actively used on site. At no time during the construction period shall heavy equipment be allowed on or through the alleys, including for the purposes of construction



operations and storage. If reasonably necessary, Maret shall provide flag persons to ensure that no construction vehicles use the alleys. Construction vehicles shall park on the field, not on neighborhood streets or alleys.

- (ii) Except as provided in paragraph (ii) above, at no time during the construction period shall heavy equipment be allowed on or through the alleys, including for the purposes of construction operations and storage. If reasonably necessary, Maret shall provide flag persons to ensure that no construction vehicles use the alleys.
  - (iii) Construction activities at the field shall be conducted so that they do not impede access by emergency vehicles to and from the Knollwood Life Plan Community on Oregon Avenue, NW. At least one traffic lane shall be made accessible when such emergency vehicles approach the site by use of a flag person or other means.
- (B) Staging: Maret shall identify authorized off-site truck staging areas and those areas that are expressly prohibited for truck staging, and Maret shall notify DDOT and ANC 3/4G regarding truck or equipment staging areas and prohibitions against construction traffic in the neighborhood streets surrounding the site as shall be identified in the Construction Management Plan. No staging shall be permitted on residential streets.
- (C) Hours: Maret shall specify actions that the General Contractor will take to prohibit construction traffic (including hauling or replacing dumpsters) into or out of the site Monday through Friday before 7:00 am or after 5:00 pm, Saturdays before 9:00 am and after 5:00 pm, or at any time on Sundays for the duration of construction. Nevertheless, the General Contractor shall be permitted to seek permission from DDOT or DCRA for certain highly limited activities outside of these hours.
- (D) Clean ups: Maret shall ensure that the General Contractor utilize controls including but not limited to tarps and other

covers and tie-downs to control dust generation or slippage of materials from truck movement on roadways to and from the site. Maret shall ensure that contractor follow procedures to promptly clean up any spills or slippages on roadways from vehicles associated with the project.

- v. Construction Parking: Prior to the start of construction, Maret and the General Contractor will prepare a plan to accommodate parking and transportation during construction for the construction workers – i.e., the Construction Parking Plan (CPP). At a minimum, the plan will include:
  - (A) Identification of permitted off-site parking for use during construction by workers at any time during construction when they are unable to be accommodated on the site, but no construction worker parking on residential streets shall be permitted;
  - (B) Provision of common vehicle (bus, van) to transport workers from any off-site parking location to and from the site;
  - (C) A plan for communicating the off-site parking requirements to construction workers, and
  - (D) A penalty plan for violations of this policy, including the amounts of penalty, the responsible party, and the recipient of penalty payments. The CPP will be published on the Athletic Facilities Project Website and up-dated as necessary by the General Contractor and Maret.
- vi. Communication: The Construction Traffic Plan will be published on the Athletics Facilities Project Webpage and updated as necessary by the General Contractor and Maret.
- vii. Site Preparation Elements: Prior to the start of construction, Maret and the General Contractor shall prepare a plan to minimize construction noise, vibrations, odors, dust, dirt, liquid spills or leaks, fumes, effluents, floodlights, rats and other pests, and other potential disruption or effects from the Athletic Facilities Project (the “Construction Management Plan”). This plan will include, at a minimum, actions that will be taken to:
  - (A) minimize airborne dust or dirt during construction;

- (B) limit smoking or break areas to designated areas on site that are located no closer than 25 feet from the property line shared with the 28<sup>th</sup> Street, NW neighbors;
- (C) require construction workers to refrain from consuming food on nearby residential streets and to consume food inside the construction fence, and construction workers shall also remove all food trash daily. Any food trucks serving the workers shall be parked off street on the site and not on the surrounding streets.
- (D) prohibit construction workers from using alcohol or drugs on the site; and
- (E) control and mitigate stormwater runoff during the construction period.

viii. Management and Community Relations

- (A) ANC 3/4G shall create a Maret Project Task Force. Beginning two months before any construction begins and continuing through two months after construction is completed, Maret and/or the General Contractor will meet monthly (or as often as the Task Force determines is necessary, but not more than two times per month) with a Task Force composed of three to five ANC commissioners or Commission appointed designees. The Task Force members will be selected by ANC 3/4G, and their names and contact information will be posted on ANC 3/4G's website ([anc3g.org](http://anc3g.org)). Maret, the General Contractor, and the Episcopal Children's Center may be represented at all Task Force meetings as ex-officio members and will report on the status of construction, the upcoming construction schedule, and any problems or concerns that residents have raised.
- (B) The Task Force shall provide a written framework to Maret and the General Contractor in a timely fashion before construction begins outlining the Task Force objectives and monitoring functions. Adoption of the framework by the Task Force will be by a simple majority. The minority may request that alternative views be distributed to Maret and the General Contractor. After presentation of the framework to Maret and the General Contractor, all parties shall agree to mutually acceptable terms that shall constitute the final construction framework.

- (C) All construction activities on the ECC/Maret property shall be undertaken in a manner that is consistent with all conditions of the BZA Order (including the language in this Condition #5) approving the Application and all related permits, amendments, or agreements with applicable regulatory agencies. ANC agreements and/or resolutions may be incorporated by reference in BZA orders or included separately among the relevant parties.
- (D) Maret and the General Contractor may at any time make reasonable modifications to their construction activities, after consulting with the Task Force so long as the modifications are consistent with the BZA's Order. The Task Force, Maret, and the General Contractor will make reasonable efforts to address and resolve any questions or issues that are raised with regard to a particular element of construction activity on the ECC/Maret property.
- (E) Notification: Maret shall publish the requirements of this Condition #5 on the Athletic Facilities Project Website and update it as necessary. Maret will require that its General Contractor include provisions in all subcontracts that will require that the subcontractor adhere to the provisions of this Condition #5. Nevertheless, Maret and the General Contractor will remain responsible for ensuring that work on the Athletic Facilities Project is undertaken in accordance with all requirements of these Conditions.

b. Construction Period

- i. Hours: Normal construction hours shall be between 7:00 a.m. and 5:00 p.m. Monday through Friday, and between 9:00 a.m. and 5:00 p.m. on Saturday. In the event that an emergency threatens the life and safety of workers, or others in the community, construction may occur during other hours or on other days so long as the ANC is given reasonable notice. Reasonable notice shall be considered an email to the Single Member District Commissioner and ANC Chair and is not required to be given before the start of the emergency work if there is inadequate time to do so.
- ii. Perimeter Elements
  - (A) Alleys: The actual alleys behind the houses on Utah Avenue, NW and Rittenhouse Street, NW themselves, shall be repaired by the contractor should they be damaged during construction.

Restoration of the alleys should be to a pre-construction level at the direction and satisfaction of DDOT.

- (B) Other structures: All the garages and driveways on the Utah Avenue, NW and Rittenhouse Street, NW alleys shall be restored to pre-construction status should they be damaged from “sinking” or cracking due to subsidence or other causes related to digging and earth removal nearby the alleys. All the fences separating the above stated homes (or alleys) from the ECC site shall be replaced in-kind if damaged due to construction. Where necessary, Maret and the General Contractor shall erect and maintain a high-quality construction fence along the perimeter of the site. All the contiguous properties landscaping shall be maintained and protected. All vegetation and trees on neighboring properties near the property line are to have proper tree and root ball protection to the extent they are impacted by the construction of the project.

iii. On-site elements

- (A) Construction facilities: Construction offices shall be located on the construction site. Construction trailers and latrines will not be positioned within 25’ of the property line. Construction offices, latrines, material dumps, or project-related vehicles of any kind will be screened to minimize any visual impacts.
- (B) Trash and debris: Maret and the General Contractor shall remove rubbish and construction debris as necessary during the normal construction work day and shall inspect the site daily for compliance. Maret shall publish to the Athletic Facilities Project Website complete contact information for a point of contact (which may be the designated Project Manager), whom neighbors can contact to report rubbish or construction debris outside of the construction site.
- (C) Notification: Maret and the General Contractor shall erect reasonable signage throughout the Athletic Facilities Project site to advise subcontractors and construction workers of the requirements of these Conditions.

6. Dispute Resolution

- A. Any person claiming that Maret or Maret’s contractors has violated any of these conditions may submit a complaint to the Task Force. The Task Force will attempt

to resolve the dispute informally. The Task Force may impose reasonable fines and/or require performance of the obligations imposed by these conditions. The total amount of fines will be capped at \$25,000.

- B. If the dispute cannot be resolved by the Task Force, the claimant or Maret may seek arbitration by an independent arbitrator selected by the Task Force and accepted by Maret. The arbitrator may issue a final and binding decision on all issues submitted. The arbitrator may require performance of obligations imposed by the MOU, impose reasonable fines for its violation, and to determine the allocation of arbitration costs and fees.
- C. If the Task Force or arbitrator imposes a fine, the Task Force shall decide which charitable organization based in the District of Columbia shall receive the amount of the fine.

7. Duration and Counterparts

- A. This MOU shall remain in effect at all times during which Maret or any of Maret's successors or assignees uses the Athletic Facilities Project. It may not be altered or amended except by a BZA order.
- B. If Maret terminates its lease with ECC or does not renew its lease for the full 50 years, ECC shall assume Maret's obligations under these conditions so long as the field continues to be used primarily as a private school athletic field. If the ECC sells the property or transfers the lease to any other entity, the new property owner or lessee shall assume the obligations under these conditions so long as the field continues to be used primarily as a private school athletic field. These obligations may not be altered or amended except by a BZA order.
- C. This MOU may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile, electronic, or scanned signatures shall constitute originals.

**SIGNATURES ON FOLLOWING PAGES**

**SIGNATURE PAGE**

**IN WITNESS WHEREOF**, the parties hereto have hereby duly executed and delivered this MOU as of the date first above written.

**MARET**

The Maret School

By: Marjo Talbott  
Name: Marjo Talbott  
Title: Head of School

**ANC**

Advisory Neighborhood Commission 3/4G

By: Randy Speck  
Name: Randy Speck  
Title: Chairman

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<sup>1</sup> Authorized at ANC 3/4G's duly noticed March 14, 2022 public meeting by a vote of 6 to 0 (a quorum being 4).

# EXHIBIT F



**EXHIBIT F:**  
**STATUS OF DISCUSSIONS AND AGREEMENT WITH RATHBONE/BOCANEGRA**

In response to Chairman Hill's request for a status of the discussions and agreement with Meredith Rathbone and Stephen Bocanegra, a chronology of key contacts and correspondence between the Applicant and Ms. Rathbone and Mr. Bocanegra follows:

- Summer 2021 through January 2022: Marty Sullivan, the attorney for Ms. Rathbone and Mr. Bocanegra, engaged in conversations with Maret counsel Paul Tummonds regarding Ms. Rathbone and Mr. Bocanegra's proposal to close the public alley behind their property as well as the area that is shared along the lot line with ECC.
- Mid-October 2021: Maret team connected with Ms. Rathbone to make arrangements for a small group meeting with Utah Avenue neighbors to discuss the Maret proposal.
- October 21, 2021: Ms. Rathbone and Mr. Bocanegra signed an initial letter prepared by ECC neighbors indicating concerns about the Maret proposal.
- October 24 - 28, 2021: Ms. Rathbone and the Maret project team coordinated a meeting at their home to understand Ms. Rathbone and Mr. Bocanegra's specific concerns.
- November 2, 2021: Maret team met with Ms. Rathbone and Mr. Bocanegra at their home to walk their property and understand their specific concerns about the project, including noise, use of the field, and trash removal. Ms. Rathbone and Mr. Bocanegra also shared that they were pursuing an effort to close the alley between their house and ECC and also behind their house and their desire to have the underlying property added to their lot.
- November 2, 2021: Ms. Rathbone and Mr. Bocanegra participated in small group discussion with Maret team and other Utah Street residents to discuss the project.
- November 16, 2021: Ms. Rathbone and Mr. Bocanegra participated in an online community meeting convened by Maret to review neighborhood feedback and discuss the project timeline and next steps.
- November/December 2021: Maret made changes to its initial proposal in response to concerns raised by Ms. Rathbone and Mr. Bocanegra and other neighborhood residents, including relocating the dumpster from its originally proposed location near the Utah Avenue alley to the parking lot.
- December 15, 2021: Ms. Rathbone and Mr. Bocanegra participated in an online community meeting convened by Maret to review an updated proposal specifically including changes made in response to community input and feedback.
- January 10, 2022: Ms. Rathbone and Mr. Bocanegra participated in discussion regarding the project with the Maret project team at a regularly scheduled ANC3/4G meeting and shared their concerns about the project.
- January 11, 2022: Ms. Rathbone e-mailed Maret requesting a meeting with Maret team to follow up on issues raised during the January 10, 2022 ANC 3/4G meeting. Maret suggested that this meeting include ECC since they were the adjoining property owners with respect to the alley closure Ms. Rathbone and Mr. Bocanegra were seeking.
- January 13, 2022: Maret team and Stephanie Nash (ECC President and CEO) and Bill Simmons (ECC Board Chair) met with Ms. Rathbone and Mr. Bocanegra at their home to walk their property and understand their specific concerns as well as their desire to close the paper alley between their house and ECC and have the underlying property added to their lot. Following this meeting, the ECC board voted to approve allowing Ms. Rathbone and Mr.

Bocanegra to have the entirety of the alleys they requested to be closed (although traditional practice would be for the property owner on each side of a closed alley to receive half of the closed alley area).

- January 26, 2022: Ms. Rathbone and Mr. Bocanegra attended an “office hours” session convened by Maret to review the digital model of the project.
- February 3, 2022: Ms. Rathbone and Mr. Bocanegra attended an “office hours” session convened by Maret to review the digital model of the project. During this session, Ms. Rathbone and Mr. Bocanegra commented on additional areas of concern for them, including landscape screening, fence locations and materials, and the location of the access to the existing Media Center Building which is adjacent to their home.
- February 11, 2022: Ms. Rathbone and Mr. Bocanegra e-mailed a letter to Maret outlining their remaining concerns about the project, including noise mitigation and screening, site access and security, and access to the existing Media Center Building
- February 20, 2022: Maret received a follow up e-mail from Ms. Rathbone clarifying points raised in the February 11, 2022 letter.
- February 23, 2022: Maret responded to all of the issues identified in their February 11, 2022 letter and February 20, 2022 email. As detailed in this letter (see pages F-4 through F-8 of this Exhibit), Maret affirmatively agreed to each of the requests made by Ms. Rathbone and Mr. Bocanegra regarding noise mitigation, screening, site access, and security issues. With respect to access to the existing Media Center Building, Ms. Rathbone and Mr. Bocanegra requested that Maret not use the existing entrance to the building, but construct a new entrance on the southwest side of the building (on the same side of the building as the existing entrance, but closer to the proposed playing fields). In response to Ms. Rathbone and Mr. Bocanegra’s request, the Maret team carefully reconsidered building access. Maret agreed to limit access to the Media Center Building to the existing doors on the southwest side of the entrance vestibule furthest from Ms. Rathbone and Mr. Bocanegra’s home, and further agreed, subject to DC fire and safety codes, to convert the additional set of existing doors on the west (Utah Avenue side) of the entrance vestibule closest to Ms. Rathbone and Mr. Bocanegra’s home as emergency egress only. Maret also agreed to explore the use of quiet-close doors in response to Ms. Rathbone and Mr. Bocanegra’s request.
- March 8, 2022: Ms. Rathbone and Mr. Bocanegra e-mailed a letter to Maret acknowledging that Maret had addressed many of their concerns, but indicated, consistent with Ms. Rathbone’s testimony at the March 9, 2022 BZA hearing the next day, that they were not satisfied with Maret’s proposed solution with respect to access to the Media Center Building and restated their request that Maret construct a new building entrance on the same side of the building as the existing entrance, but closer to the proposed athletic fields.

In summary, the Applicant has agreed to the following measures to mitigate potential impacts associated with its proposed athletic fields in response to concerns raised by Ms. Rathbone and Mr. Bocanegra:

- Plant additional trees, hedges and bushes to prevent or otherwise discourage people from accessing and/or loitering in spaces near the Media Center Building – both between the Media Center Building and the property line of 5931 Utah Avenue, NW and between the Media Center Building and the multi-purpose field.
- Continue to work with Ms. Rathbone and Mr. Bocanegra and other neighbors and the ANC

regarding the type, number, and maturity of the trees to be planted in connection with the project.

- Install a fence along the walkway between the ECC and the west side of the Media Center that wraps around the existing Media Center Building entrance vestibule and ends at the edge of the vestibule, limiting access to the lawn between the vestibule and the existing brick tunnel only to ECC students and staff and not to any field users.
- Replace the fence along the property line of 5931 Utah Avenue, NW, from the alley extending parallel to the Media Center Building to the point of the outer corner of the entrance vestibule, with a solid fence to enhance visual screening and noise mitigation.
- Install a fence 6' in height with a locked gate between the east side of the Media Center Building and the above-mentioned new solid fence along the 5931 Utah Avenue, NW property line to prevent unauthorized access to the space adjacent the Media Center Building that is near 5931 Utah Avenue, NW.
- Increase the height of the gate at the end of the Utah Avenue alley to 6' in height and ensure that it is locked when it is not in use by ECC or Maret for maintenance purposes or for emergency vehicles.
- Ensure that any security lights used on the property Maret is leasing from ECC will be low-glare and low-wattage so as to avoid light pollution at night.
- Provide access to the Media Center Building from the existing doors on the southwest (ECC-facing) side entrance vestibule and, subject to DC fire and safety codes, convert the existing doors on the west (Utah Avenue-facing) side of the entrance vestibule to emergency egress only.
- Explore the use of quiet-close doors.
- Relocate the dumpster from its originally-proposed location right near the Utah Avenue alley to the parking lot.



February 23, 2022

Meredith Rathbone and Stephen Bocanegra  
5931 Utah Avenue NW  
Washington, DC 20015  
*Via email:* [meredith.rathbone@gmail.com](mailto:meredith.rathbone@gmail.com); [slbocanegra@gmail.com](mailto:slbocanegra@gmail.com)

Dear Meredith and Stephen,

Thank you very much for your continued communication and efforts to work together with our team in connection with the proposed ECC | Maret partnership. We have reviewed your February 11, 2022 letter and your follow-up e-mail from Sunday February 20, 2022. Our response is organized to address the following key issues discussed in your correspondence and our discussions over the past several weeks. Responses to your specific questions and requests are identified in **bold text**.

1. 3D Model

We appreciate that you have found the 3D model to be a helpful tool to visualize the site in the context of the surrounding community. As you noted, the model was designed to focus on the proposed site improvements, and while efforts were made to illustrate the general scale of adjacent homes, the model does not depict each home with complete specificity. We acknowledge that the footprint of your home has changed from the information upon which the model was based, but in light of many discussions and visits to your home, in addition to the helpful graphics you provided in your February 20 e-mail, our team has a clear understanding of the potential impacts that you have detailed in our conversations and your letter.

2. Hours of Use

Your February 11, 2022 letter makes several references to “proposed 7-day-per-week usage throughout much of the year by Maret and its third-party sub-lessees.” To confirm, the fields are only proposed to be used 7 days per week during the spring and fall seasons (approximately 6 months per year), and use of the fields by Maret and youth sports groups is expected to be only 36% of daytime hours.

With respect to use of the Media Center Building, we do not anticipate extensive use of the facility by parties other than Maret. In fact, other than occasional use of the restrooms, third-party lessees will not have access to the Media Center building except in case of emergency or severe weather conditions. Such limited use by other parties does not warrant construction of an additional restroom building near the parking lot or elsewhere on the site. Nonetheless, we have made focused efforts to respond to your request to keep players and spectators from straying into areas of the ECC property around the Media Center Building that are near your house, as detailed more fully in item 3 below.

3. Noise Mitigation and Screening Strategies

To address your desire for Maret to employ mechanisms to prevent people from congregating in areas within close proximity to your property, **Maret will plant additional trees, hedges and bushes to prevent or otherwise discourage people from accessing and/or loitering in spaces near the Media Center Building – both between the Media Center Building and the property line of your house and between the Media Center Building and the multi-purpose field.** Consistent with your request, **we will continue to collaborate with you and other neighbors and the ANC regarding the type, number, and maturity of the trees to be planted in connection with the project.**

In addition, in consultation with ECC, Maret will fence the area on the west side (ECC) and north (Utah Street) side of the Media Center Building to ensure that users associated with the field cannot access the portion of the ECC site that is most readily visible from your home. Specifically, **the fence along the walkway between the ECC and the west side of the Media Center will wrap around the existing Media Center Building entrance vestibule and end at the edge of the vestibule, limiting access to the lawn between the vestibule and the existing brick tunnel to ECC students and staff only; that area will not be accessible to individuals associated with use of the athletic fields.**

To further enhance visual screening and provide noise mitigation, **Maret will agree to replace the fence along your property line, from the alley extending parallel to the Media Center Building to the point of the outer corner of the entrance vestibule, with a solid fence. Maret will also install a fence 6' in height with a locked gate between the east (closest to your property) side of the Media Center Building and the above-mentioned new solid fence along your property line to prevent unauthorized access to the space adjacent the Media Center Building that is near your property.**

4. Site Access and Security

As we have discussed with you and other members of the community, the field will be accessed by players and spectators only through the parking lot area on Nebraska Avenue and not via the surrounding alleys. **However, to ensure that visitors do not enter the field from the surrounding alleys, and in response to your request, we have increased the height of the gate at the end of the Utah Avenue alley to 6' in height. The gate will be locked when it is not in use by Maret or ECC for maintenance-related purposes or for emergency vehicles.**

As noted in your letter, and as we have confirmed in discussions with you and other members of the community, **any security lights used on the property Maret is leasing from ECC will be low-glare and low-wattage so as to avoid light pollution at night. Furthermore, we are planning to use only motion-sensor lights in the vicinity of the Media Center Building to further limit any impacts associated with the security lighting.**

Also as noted in your letter and depicted in our site plan, **we have relocated the dumpster from its originally-proposed location right near the Utah Avenue alley to the parking lot.**

5. Media Center Building Access

We understand that the location of the entry of the existing Media Center building is an issue that is of specific interest to you, and we have worked since our first discussion to address your concerns. Based on our initial discussions, we understood that creating a new entrance to the Media Center Building on the south (field facing) side of the building was a concern for you – and that you would prefer the entrance to be on the west (ECC) facing side of the Media Center Building. In light of your comments at our February 3, 2022 office hours discussion and as detailed in your February 11, 2022 letter, we understand that you also have concerns about continued use of the existing building entrance vestibule on the northwest corner of the Media Center Building. Accordingly, our team has again reviewed and evaluated access to the building carefully. In an effort to keep activity to the west (ECC) side of the Media Center Building and away from your home, **access to the building will limited to the existing doors on the west side of the Media Center Building entrance vestibule and Maret will, subject to DC fire and safety codes, convert the other set of existing doors on the north (Utah Avenue) side of the entrance vestibule as emergency egress only.** Furthermore, in response to the request noted in your February 11, 2022 letter, **Maret will explore the use of quiet-close doors.**

In summary, Maret has agreed to the following modifications to our proposal in response to your concerns:

- Plant additional trees, hedges, and bushes to prevent or otherwise discourage people from accessing and/or loitering in spaces near the Media Center Building – both between the Media Center Building and the property line of your house and between the Media Center Building and the multi-purpose field.
- Continue to work with you and other neighbors and the ANC regarding the type, number, and maturity of the trees to be planted in connection with the project.
- Install a fence along the walkway between the ECC and the west side of the Media Center that wraps around the existing Media Center Building entrance vestibule and ends at the edge of the vestibule, limiting access to the lawn between the vestibule and the existing brick tunnel only to ECC students and staff and not to any field users.
- Replace the fence along your property line, from the alley extending parallel to the Media Center Building to the point of the outer corner of the entrance vestibule, with a solid fence to enhance visual screening and noise mitigation.
- Install a fence 6' in height with a locked gate between the east side of the Media Center Building and the above-mentioned new solid fence along your property line to prevent unauthorized access to the space adjacent the Media Center Building that is near your property.
- Increase the height of the gate at the end of the Utah Avenue alley to 6' in height and ensure that it is locked when it is not in use by ECC or Maret for maintenance purposes or for emergency vehicles.
- Ensure that any security lights used on the property Maret is leasing from ECC will be low-glare and low-wattage so as to avoid light pollution at night.

- Provide access to the Media Center Building from the existing doors on the west side of the entrance vestibule and, subject to DC fire and safety codes, convert the existing doors on the north side of the entrance vestibule to emergency egress only.
- Explore the use of quiet-close doors.
- Relocate the dumpster from its originally-proposed location right near the Utah Avenue alley to the parking lot.

Thank you again for your continued engagement with our team on these issues throughout the planning and review process. We hope that these responses clarify our position with respect to the specific issues and concerns that you have raised, and clearly set forth the steps that we will make to mitigate potential impacts of the project on your property.

We look forward to continuing to work together to ensure that the proposed athletic fields at ECC become a true neighborhood asset, while respecting the concerns and interests of our new neighbors in the surrounding residential community.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marjo Talbott".

Marjo Talbott  
Head of School

cc: John Higgins [3G02@anc.dc.gov](mailto:3G02@anc.dc.gov)  
Peter Gosselin [peter.gosselin@anc.dc.gov](mailto:peter.gosselin@anc.dc.gov)