

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19599-A of Georgetown Day School, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 203.1(l) and Subtitle X § 104, to construct a new private school in the R-2, R-3, and MU-4 Zones at premises 4200 Davenport Street N.W. (Squares 1672 and 1673, Lots 4, 14, 804, 812, 815, 824, and 822).

HEARING DATES: October 25 and November 29, 2017¹
DECISION DATE: November 29, 2017

CORRECTED² SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified³, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and/or certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC")

¹ This case was postponed from the public hearing of October 25, 2017, to that of November 29, 2017 at the Applicant's request, which was supported by the ANC. (Exhibits 34 - 36.)

² This corrected order adds back Condition No. 14 from the MOU in the record at Exhibit 60 that was inadvertently left out of the original order as Condition No. 13 in this order and corrects a reference to the DDOT report to Exhibit 45. These corrections were brought to the Board's attention and agreed to by all the parties. These is the only changes to the order.

³ The Applicant clarified in its Statement (Ex. 15) that relief under Subtitle X § 104 for campus plans is also included in the request, though it was not cited on the self-certification form. It has been included in the caption accordingly.

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3E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. The ANC submitted a resolution recommending approval of the application subject to the Applicant's proposed conditions and its MOU with the Applicant submitted to the record at Exhibits 50 and 60. The ANC's resolution indicated that at a regularly scheduled, properly noticed public meeting on November 20, 2017, at which a quorum was present, the ANC voted to support the application so conditioned by a vote of 5-0-0. (Exhibit 49.)

The Office of Planning ("OP") submitted a timely report to the record recommending approval of the application, subject to conditions. OP's report originally indicated that an additional modification of significance to a prior BZA order for the property was needed, but in its testimony, OP noted that it is no longer required. (Exhibit 44.)

DDOT submitted a timely report to the record indicating that it had no objection to the grant of the application subject to conditions. (Exhibit 45.)

Three party status requests were submitted to the record – two in opposition (Exhibits 33 and 42) and one as a proponent (Exhibit 30). The two requests in opposition were withdrawn in advance of the hearing. (Exhibits 56, 57.) The Board granted the party status request of Adam Rubinson, as a Party Proponent.

Seven letters of support (Exhibits 46, 48, 51, 53-55, and 62) and three letters in opposition (Exhibits 31, 37, and 38) were submitted to the record. Testimony in support of the application was given from six students from the Applicant's school as well as from Kamal Ben Ali and Leroy Nesbitt, Jr.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case and pursuant to Subtitle X § 901.2, for a special exception under Subtitle U § 203.1(l) and Subtitle X § 104, to construct a new private school in the R-2, R-3, and MU-4 Zones. No persons or parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 104 and Subtitle U § 203.1(1), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

This application by Georgetown Day School ("GDS"), the Applicant, is for a special exception to consolidate GDS' Lower and Middle School and the existing High School to create a unified campus at 4200 Davenport Street, N.W. (Square 1672, Lots 4, 14, 804, 812, 815; Square 1673,

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Lots 822, 824) (the “subject property”). The existing High School is the subject of approvals contained in BZA Orders No. 14278, 16944, and 17868 (collectively, the “GDS High School Orders”). The existing Lower and Middle School at 4350 MacArthur Boulevard, N.W. is the subject of approvals contained in BZA Orders No. 7451, 7801, 9597, 12599, 14140, and 16166 (collectively, the “GDS Lower/Middle School Orders”).

Following the effective date of this Order, the GDS High School Orders and GDS Lower/Middle School Orders will all remain effective. The GDS Lower/Middle School Orders are unaffected by this Order and the Conditions hereof. However, because the new Lower/Middle School and the existing High School will ultimately function on the campus as a single school, for administrative ease, the conditions of the existing High School will no longer apply once the new Lower/Middle School opens pursuant to this Order and the Conditions hereof. That is, upon the effectiveness of the Conditions hereof (i) such Conditions shall govern the approvals granted in this Order and the GDS High School Orders, and (ii) all conditions to the GDS High School Orders shall be deemed superseded and replaced by the Conditions of this Order.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 58A1-58A2 AND WITH THE FOLLOWING CONDITIONS:**

Enrollment and Faculty/Staff Caps

1. This Order authorizes and shall apply to the use of the Campus for grades Pre-K through 12 and shall upon effectiveness supersede and replace all conditions of existing orders applicable to the High School.
2. The Conditions of this Order shall become effective only upon the commencement of operation of the Lower/Middle School building on the Campus. Notwithstanding the foregoing, any Condition hereof applicable to the construction of such building shall become effective upon the commencement of construction of such building.
3. Upon the issuance of a Certificate of Occupancy for the Lower/Middle School building, the maximum enrollment shall be 1,075 students in the aggregate for the Campus. An increase to 1200 shall be permitted subject to Condition 12(a).
4. Upon the issuance of a Certificate of Occupancy for the Lower/Middle School building, the maximum number of full-time equivalent faculty and staff shall be 220 in the aggregate for the entire Campus. An increase to 260 shall be permitted subject to Condition 12(a).

Reporting and Community Engagement

5. At the beginning of each school year, but in no event later than November 15th of any calendar year that the monitoring and reporting requirements herein are in effect, the School shall provide to ANC 3E and to the District Department of Transportation (“DDOT”) documentary evidence sufficient to demonstrate the total enrollment of students in Pre-K through Grade 12 at the Campus and compliance with the terms of this Agreement, including the Transportation Management Plan (“TMP”) referenced herein. For avoidance of doubt, “documentary evidence sufficient to demonstrate the total enrollment of students” shall mean a copy of the student phonebook for the applicable school year, or access to an online databases of student phone numbers and addresses to which students are provided, or evidence of similar scope and for avoidance of doubt shall not be a mere report or declaration of compliance. The annual reporting on the TMP shall provide, among other things: (1) the number of carpool exceptions that were granted and for what reason, (2) the number of students and staff who paid the parking penalty, and (3) the modal split among students and staff.

Transportation, Access, and TMP

6. All vehicular traffic entering the Campus shall be limited to the Davenport Street and River Road entrances (with the exception of deliveries to the Lower/Middle School, which will enter via the Public Alley on Ellicott Street). All vehicular traffic exiting the Campus shall be limited to the River Road, Davenport Street, and Ellicott Street egress points. All pre-K through Second Grade traffic will egress to Ellicott Street. All other Lower/Middle School traffic shall have the option of egressing from the Campus via either River Road or Ellicott Street. Pedestrian and bicycle access to and egress from the Campus shall be on 42nd Street, 43rd Street, River Road or Davenport Street only. Pedestrian and bicycle access to and egress from 43rd Street shall be permitted only subject to Condition 10.
7. Vehicular traffic exiting the Campus from the alley onto Ellicott Street shall be permitted to make only a right turn during morning drop-off and afternoon pick-up periods.
8. No passenger vehicle pick-up and drop-off of students shall occur on the streets or alleys immediately adjacent to the Campus (i.e., Ellicott Street, NW, 42nd Street, NW, Chesapeake Street, NW, River Road, NW, 43rd Place, NW, and 43rd Street, NW and their adjacent alleys). During drop-off and pick-up, caregivers shall not park on such neighborhood streets to wait or walk their student(s) to the Campus. Pick-up and drop-off of students by School-chartered bus(es) shall be permitted on 42nd Street.
9. The Campus shall continue to provide one vehicular emergency access point along 43rd Street, which access point shall be at all times secured (i.e., closed) by a locked gate (the “Vehicular 43rd Street Gate”), provided such gate shall be operable and open only for use and as needed by emergency vehicles. The 43rd Street neighbors will be consulted about the design of any replacement gate.

10. A new sidewalk shall be constructed as shown on the Final Plans to allow for a gated pedestrian connection (the “Pedestrian 43rd Street Gate”) to the Campus at the southern end of 43rd Street, which has no outlet. The Pedestrian 43rd Street Gate shall be constructed at the terminus of 43rd Street and shall be open only on school days and only between the hours of 7:00 AM and 4:00 PM for the purpose of allowing pedestrian access to and from the Campus. At all other times, the Pedestrian 43rd Street Gate shall be locked. The Pedestrian 43rd Street Gate shall not be used for vehicular drop-offs of students or staff on 43rd Street or Ellicott Street (any such drop-off being a “Prohibited Drop-Off”). In the event that there is a Prohibited Drop-Off, DDOT shall be notified with information regarding the date and time so that DDOT can devise an Operations Plan to prevent future drop-offs. In the event that there are more than three Prohibited Drop-Offs during the first year of the operation of the consolidated Campus, the School shall notify DDOT with information regarding the date and time of such Prohibited Drop-Offs. Upon such notification, the School shall secure the Pedestrian 43rd Street Gate at all times.
11. The TMP instituted pursuant to previous Orders for the High School is hereby replaced with the following Conditions, which shall be applicable to the entire Campus upon the effectiveness of these Conditions and which the School shall fully implement and comply with as set forth in the Transportation Demand Management, Operations Management and Monitoring Subparts of the TMP contained in Exhibit 61 of the record. The School shall be responsible for implementing the full TMP including, without limitation, the following provisions.
 - a. The School shall in any year that the monitoring and reporting requirements herein are in effect and in accordance with and subject to the terms of the TMP, hold quarterly meetings with the ANC and other community members to garner feedback on traffic and parking related issues.
 - b. The School shall engage a transportation engineer to undertake monitoring of vehicular access to the Campus to ensure compliance with the AM Peak Hour and PM School Peak Hour Trip Thresholds (as such terms are defined in the TMP). The established AM and PM Peak Hour Trip Thresholds shall be a goal for Years 1-4 and a binding cap thereafter (where “Year 1” is defined as the first school year commencing upon the initial opening of the new Lower/Middle School). Commencing Year 1 and continuing through Year 4, the School shall arrange to monitor compliance with the AM and PM School Peak Hour Trip Thresholds one (1) time each school year, during the fall semester of each school year, provided that in the event the School fails to stay below the applicable Trip Thresholds, the School shall arrange to monitor compliance with the Trip Thresholds again in the spring semester of that same school year. If the School fails to meet its Trip Thresholds upon such second monitoring during this period, it shall work with DDOT and the ANC to identify remedial revisions to the TMP necessary to promote compliance and shall implement such measures. Commencing in Year 5 through Year 17, the School shall arrange to monitor compliance with the Trip

Thresholds triennially in the fall semester (i.e., four times between Year 5 and Year 17) provided that in the event the School fails to stay below the applicable Trip Thresholds, the School shall arrange to monitor compliance with the Trip Thresholds again in the spring semester of such year, and the School shall thereafter resume annual monitoring until such time as the annual monitoring study demonstrates that the School has met the Trip Thresholds for two consecutive years. At such time, triennial monitoring shall resume until Year 17 or until such time as two consecutive triennial studies demonstrate compliance, whichever is later.

- c. Beginning in Year 5, in the event the School fails to comply with the applicable Trip Caps (as such term is defined in the TMP), the School shall require the requisite number of students to comply with the Trip Cap to take three-person carpools and/or ride the bus to School, adding such buses and/or bus routes as necessary to comply with the Trip Cap. The School shall work with DDOT and the ANC to identify which of the foregoing remedial revisions to the TMP will be used to ensure compliance. Students and parents who fail to comply with the carpooling, parking, busing (if mandated) and/or pick-up and drop-off requirements of the TMP shall be subject to an escalating set of penalties (leading ultimately to student expulsion after the sixth offense). In the event of a violation of the Trip Cap, the Department of Consumer and Regulatory Affairs (“DCRA”) will institute enforcement proceedings against the School using any or all of the enforcement measures that are legally available.
12. In connection with implementing the full TMP including, without limitation, the following provisions, the School shall:
- a. Permit no more 595 AM peak hour vehicle trips during the AM peak hour, no more than 465 PM peak hour vehicle trips during the PM school peak hour, and no more than 265 for the PM peak, as verified by traffic monitoring to be conducted at the School’s expense, as outlined pursuant to the Conditions hereof and as more fully set forth in the TMP. In Years 1 through 4, the AM and PM Peak Hour Trip Thresholds shall be a goal, which the School shall strive to achieve. Beginning in Year 5, the Trip Thresholds shall serve as a binding cap. Upon the School’s achievement of an AM Trip Cap of 595, a PM School Peak Hour Trip Threshold of 465, and the PM Peak Hour Trip Threshold of 265, and provided the School has satisfied all monitoring and reporting requirements with respect thereto for two consecutive school years, then the aggregate student enrollment limit hereunder shall automatically increase from 1075 to 1125 students and the limit on the aggregate number full-time equivalent faculty/staff shall automatically increase from 220 to 240 faculty/staff. Thereafter, provided the School has achieved the AM Trip Cap of 595, the PM School Peak Hour Trip Threshold of 465, and the PM Peak Hour Trip Threshold of 265, and satisfied all monitoring and reporting requirements with respect thereto for two additional

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consecutive school years, then the aggregate student enrollment limit shall automatically further increase to 1200 students and the limit on the aggregate number full-time equivalent faculty/staff shall automatically further increase to 260 faculty/staff. If the School does not satisfy the Trip Cap or Trip Threshold conditions in this subparagraph, it shall not be entitled to any automatic increase in its enrollment.

- b. Meet no less than quarterly with the ANC to ensure any traffic concerns by either party can be addressed in a timely manner;
- c. Hire a Metropolitan Police Officer (a Traffic Control Officer or “TCO”) to control traffic at the intersection of Ellicott Street and the Public Alley, consistent with the Metropolitan Police Department and/or DDOT regulations, during the Lower/Middle School’s pick-up and drop-off periods. The School shall instruct the TCO that the intended purpose of such officer is to require that all traffic exiting the Campus via the Public Alley during drop-off/pick-up turns only right onto Ellicott Street, and not to stop traffic along on Ellicott Street for long periods of time to facilitate egress from the school.
- d. Deploy School staff along the perimeter of the Campus to ensure that Ellicott Street, 42nd Street, 43rd Street, 43rd Place, River Road, and Chesapeake Street are not used for vehicular drop-off/pick-up or temporary parking and to otherwise enforce the TMP;
- e. Encourage the use of public transportation by the faculty, staff, and students who are old enough to use public transit and instruct eligible students to obtain a DC One Card (and the School shall assist with sign-ups for the DC One Card) and establish a “transit buddy” program to match older students with younger students taking transit;
- f. Provide up to \$100.00 monthly in SmarTrip subsidies to Virginia and Maryland financial aid students;
- g. Provide \$135.00 monthly in SmarTrip Cards for faculty/staff who take transit to School;
- h. Operate a minimum of three (3) full-sized buses or such larger number of smaller buses as is necessary to accommodate the same or more students as three full-sized buses, which buses shall pick-up students at School-designated off-Campus locations in the morning, which buses shall also be available for use by faculty and staff;

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- i. Require that cars dropping off students on Campus in the morning drop-off have at least two students per vehicle, with the following exceptions not to be subject to such carpooling requirement:
 - i. Students in Pre-K through 1st grade,
 - ii. Students in the “Early Grasshopper” program,
 - iii. Student drivers who may not lawfully carry passengers, and
 - iv. Students who demonstrate a hardship, to be evaluated by the School on a case-by-case basis and at all times subject to the Trip Caps, which evaluation may consider, without limitation, special transportation needs, lack of access to other transportation facilities, or distance from the Campus;
- j. Not permit any students to drive a vehicle to the Campus unless there is an on-Campus parking space for that vehicle;
- k. Ensure that at the beginning of each school year, all students have registered their vehicle(s) with the School;
- l. Strictly prohibit students and staff from parking on the residential streets surrounding the Campus;
- m. Provide discounted parking pricing for student drivers and faculty/staff who carpool. The parking fee will be reduced by one third ($\frac{1}{3}$) for each additional student beyond the driver (drivers with three additional student passengers will park for free);
- n. Set the price for parking on Campus at substantially increased rates for students who drive to Campus from a residence within one (1) mile of Campus or within one (1) mile of a Red Line Metrorail station, subject to a discounted parking rates of one third ($\frac{1}{3}$) the premium amount for student drivers who carpool;
- o. Train school employees at the beginning of each year to implement and enforce the TMP;
- p. Instruct parents not to park on, or queue on, public streets adjacent to the Campus, including Chesapeake Street, 42nd Street, Ellicott Street, 43rd Street, 43rd Place, and River Road, to wait for their children at school drop-off or pick-up times;
- q. Continue to provide traffic control personnel on Campus during drop-off and pick-up times to facilitate on-Campus traffic flow and enforce drop-off and pick-up procedures;

- r. Facilitate the foregoing carpooling requirements by establishing an online system to help parents identify other families along their travel route by distributing information regarding the location of other families in the area to parents at the start of each school year;
 - s. Distribute a policy manual to all families prior to the start of the school year that explains all relevant policies and procedures regarding parking, pick-up, drop-off and penalties for non-compliance, which information shall also be posted on the School's website;
 - t. Incorporate the relevant provisions of the TMP into the enrollment contract between the School and parents, by which the parents shall agree to be bound by its fines and punishments; and
 - u. During any period of time when the existing Campus parking spaces are reduced (e.g., during construction), provide the same number of parking spaces elsewhere and shall fully enforce the School's existing parking restrictions.
13. The School shall instruct parents, caregivers, and staff who drive to use the entrance and exit that requires the least driving through the neighborhood around the Campus. Additionally, the School will, as part of its enrollment contract, instruct parents, caregivers, or staff not to use 43rd Place N.W., Ellicott Street, N.W., or Fessenden Street, N.W., between River Road and Wisconsin Avenue, to reach the School for pick-up or drop-off, whether on the way to or returning from the school, and will similarly instruct parents, caregivers, or staff not to use of Chesapeake Street, N.W. when traveling between River Road and 42nd Street, N.W. In addition to incorporating this restriction into its enrollment contract in writing, this instruction will be given orally at School orientation. The parties acknowledge that the School, unlike some universities but like most secondary schools, does not have its own police force and cannot independently enforce this restriction. Nevertheless, School personnel who become aware of such use shall advise the offending driver of the School's policy, and if the School becomes aware of repeat violations by offending drivers, said drivers shall be subject to disciplinary action.
14. The surface parking areas of the Campus shall be secured by a chain gate, cable, or similar device during all hours that such area is not in use. When the parking area is open during non-school hours, the School shall provide security to prevent unauthorized parking.
15. The Campus parking garages shall be available for use only by authorized users of the Campus during all hours that the School is open. The School shall have security personnel on duty at the School to monitor the garages at all hours that the garages are open. The garages shall be secured during all hours not in use.

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16. Students parking cars on Campus shall stay on Campus during the hours that classes are in session except for trips off-Campus for the following purposes: (a) work or internship related activities; (b) community service events; (c) school or extracurricular-related activities; or (d) approved leave.
17. The School shall use all reasonable and diligent efforts to cause DDOT and the Public Space Committee (“PSC”) to permit the closure to vehicular traffic of the 42nd Street, NW “slip lane” and to allow such slip lane to be returned to a sodded state or to such other finished material as is mutually agreeable to the School and the ANC, in the reasonable determination of each. In the event that the ANC does not support an alternative surface treatment, grass shall be required, subject to DDOT and PSC approval. The final surface treatment of such slip lane post-closure shall be subject to DDOT and PSC approval and DDOT’s or the PSC’s failure to consent to a landscaped or sodded condition shall not constitute a default of the School hereunder. The Parties agree that subject to the foregoing, the closure of the slip lane must occur prior to issuance of the certificate of occupancy for the Lower/Middle School. Determination of the final surface material, and the installation of the final surface material in the closed slip lane must be completed within one year of the issuance of the certificate of occupancy for the Lower/Middle School.
18. The School, at its expense, shall install or cause to be installed a traffic signal at the intersection of Chesapeake Street, N.W. and Wisconsin Avenue, N.W., subject to DDOT’s review and approval and shall use reasonable efforts to obtain such approval prior to the issuance of the certificate of occupancy for the Lower/Middle School.

Summer Usage of Campus Facilities including Enrollment Increases

19. The School shall not be restricted from offering or authorizing use of the Campus for summer programs outside of the regular school year, provided that it meets the same Trip Thresholds that apply during the school year. To ensure same, the School agrees to the following: (a) that except as provided herein, the School shall allow no more than five hundred (500) students and staff (the term “students” shall encompass all participants in summer programming of any kind, including camps), cumulatively, to be on Campus on any day during such summer programs; (b) the School shall conduct monitoring during the summer for two consecutive years, which monitoring shall occur on the day when the maximum number of students and staff that summer are expected to be present; and which monitoring shall be of the same scope and thoroughness as monitoring conducted during the school year, and the peak hours selected for monitoring shall be the actual peak summer hours. If the School does not exceed the Trip Thresholds for two consecutive summers of monitoring, it may cease monitoring. In the event the School fails to stay below the applicable Trip Thresholds, the School shall arrange to monitor compliance with the Trip Thresholds again during the summer of the following year. The School shall continue annual monitoring until such time as the annual monitoring study demonstrates that the School has met the Trip Thresholds for two consecutive years. Once the School has two successful consecutive years of satisfying the applicable Trip

Thresholds, up to 50 additional students, resulting in a total of 550 students and staff, may be added if such additional students are required to arrive by bus or public transit. If at any time that traffic is not subject to monitoring, there is a shift or change in programming that is likely to substantially increase traffic demand during any peak hour, the School shall consult with the ANC and DDOT before implementing such change to determine whether additional monitoring is required. If both the ANC and DDOT concur that additional monitoring is desirable, the School shall institute said monitoring. If the School seeks to increase enrollment beyond 550 (500 plus 50 additional by bus or transit), the School shall consult with the ANC before implementing that change to determine whether the ANC will require additional monitoring, and shall abide by the ANC's decision.

20. If the School does not meet its summer Trip Thresholds, it shall work with DDOT and the ANC to identify remedial revisions to the TMP necessary to promote compliance and shall implement such measures. If the School fails to meet applicable Trip Thresholds for two consecutive years during Years 1 through 4, the School shall thereafter reduce the total number of students and staff permitted on campus during all days during the summer by a number sufficient to ensure it meets its Trip Thresholds.

Building Plans

21. The improvements constructed on the Campus shall be in conformance with the Final Plans, subject to any required subsequent District agencies approvals.
22. The School shall design the Lower/Middle School to meet the certification requirements at the Gold level under the LEED 2009 rating system. In connection with that commitment, the Lower/Middle School building shall contain motion-sensitive lighting in the classrooms and function rooms in order to reduce the potential for light pollution and shall contain emergency lighting as required.

Campus Use, Noise and Lighting

23. All extracurricular or inter-scholastic activities held on the Campus shall be concluded by 11:30 p.m. This time limit does not apply to periodic (i.e., once or twice yearly) "lock-ins", where students from a single grade sleep over at the school.
24. All interscholastic athletic events utilizing the Campus athletic field(s) shall be scheduled to conclude no later than 7:30 p.m. In situations where an event goes into overtime, is subject to weather delays, or is subject to other conditions that force the event past 7:30 p.m., the event must be concluded no later than 8:00 p.m. No use of outdoor playing fields, playgrounds, outdoor recreational facilities, and green space shall be permitted after sundown.
25. There shall be no artificial lighting of the athletic field(s), playgrounds, outdoor recreation facilities, or green space that is directed at any of the nearby residences,

provided such prohibition shall not be understood to preclude any code-required lighting (such as path lighting) from being installed.

26. No exterior building lights shall be directed toward the existing residences along 43rd Street, N.W.
27. The loudspeaker (i.e., audio) and bell systems within the Campus shall not be audible in the neighborhood except for standard emergency alarm systems. There shall be no permanent outdoor audio system of any kind except those required by law or for safety.
28. Temporary outdoor audio systems (apart from a loudspeaker, bell system, and alarm system) at the Campus shall be allowed only during school hours for special school events, and not more than three times a year.
29. Rooftop mechanical equipment on the new Lower/Middle School building will be designed to comply with the D.C. Noise Regulations.

Community Uses of the Campus

30. The School shall make available the following amenities on the Campus for use by approved community activities, subject to the following restrictions and subject to other reasonable posted rules and regulations:
 - a. Exterior fields:
 - i. During daylight hours only;
 - ii. When the fields are not being used by the School;
 - iii. By making a reservation with the School's space-use coordinator;
 - iv. After signing an appropriate liability waiver;
 - v. After providing the proper liability insurance certificate(s);
 - vi. By paying a reasonable fee (reasonableness to be determined by reference to fees charged for field use by DC Department of Parks and Recreation ("DPR") and other private schools in DC)) for administrative, security and maintenance costs associated with such use, requiring provision of a certificate of insurance, requiring liability waivers, and setting parameters on the types of uses allowed on the fields (e.g., no dogs or wheeled toys, etc.), provided such parameters shall not prohibit any sport permitted on fields maintained and/or programmed by DPR;
 - vii. With the understanding that users of the fields are liable for any damage to school property and fully responsible for any injuries;

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- viii. Expecting that the user is not using the space for profit; and
- ix. No dogs (or any other animals) allowed.
- b. Exterior playground:
 - i. When the playground is not being used by the School;
 - ii. During daylight hours only;
 - iii. With the understanding that users of the playground are liable for any damage to school property and fully responsible for any injuries; and
 - iv. No dogs (or any other animals) allowed. The School shall have the right from time to time to establish and post reasonable and customary rules and regulations governing community use of the play area and to close the play area on a temporary basis from time to time for maintenance, cleaning, or repairs.
- c. Lower/Middle School and High School classrooms;
 - i. Only upon reservation confirmed by the School;
 - ii. When the classrooms are not being used by the School;
 - iii. After signing an appropriate liability waiver;
 - iv. Only if a School security guard is available and shall be subject to such reasonable requirements as the School may impose, including, without limitation: charging a reasonable fee for a security guard as well as any administrative and maintenance costs associated with such use, requiring provision of a certificate of insurance, requiring liability waivers and setting parameters on the types of uses allowed in the classrooms.

Open Space

- 31. The southeast portion of the Campus south of the existing High School (i.e., located at the northwest corner of the intersection of 42nd and Chesapeake Streets), which is currently landscaped shall be maintained as open space. No parking shall be permitted on this portion of the Campus.
- 32. As a condition of securing a building permit for the Lower/Middle School building, the School shall place into an escrow account funds in the amount of \$20,000.00 for DDOT to use toward the construction of a sidewalk on the west side of 43rd Street, NW between the Campus and Ellicott Street, NW. This condition shall be deemed satisfied when the funds are placed in escrow. If the sidewalk has not been constructed within two years of

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the issuance of the certificate of occupancy for the school, then the funds shall be released back to the School from escrow.

VOTE: 4-0-1 (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Peter A. Shapiro, to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. BYRDIN
Director, Office of Zoning

FINAL DATE OF ORDER: December 11, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART

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THERE TO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.