

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of
The Maret School

BZA Case No. 20643

ANC 3/4G's Response to the Friends of the Field's Motion to
Reopen the Record and Stay the Final Decision and Order

ANC 3/4G (hereinafter, the Commission), a party to this proceeding, opposes the Friends of the Field's (FoF's) February 23, 2023, renewed motion to stay the final decision and order. On April 6, 2022, the Board voted 4-0-1 to approve the Maret School's application to build a sports field on the leased vacant property behind the Episcopal Center for Children, thereby permitting the school to resume operations. On that same day, FoF moved to stay the decision, which the Board promptly denied. The Board found that the motion was "prematurely filed" because "the decision will not become final until a written order is issued. Until then, there is nothing for the Board to stay."

The Board has not yet issued a written order, so FoF's renewed motion to stay continues to be premature. FoF's justification is based entirely on its interpretation of an opinion letter from the Office of the Attorney General (OAG). The OAG responded to ANC 3/4G's request to clarify the status of the settlement agreement negotiated between the Commission and Maret that — at the Board's express request — was incorporated into a Memorandum of Understanding (MOU). FoF has provided the OAG's letter for the

record so that the Board may consider it in its written order. There is no reason to stay the order because the Board has all that it needs in the record to finalize its April 6, 2022, decision approving the application.

The Commission does not oppose FoF's request to reopen the record for the sole purpose of including the OAG's letter. The Commission takes issue, however, with FoF's misinterpretation of that letter. The ANC/Maret MOU is expressly a settlement agreement voluntarily entered into as part of this administrative proceeding. The Board will determine what portions of the MOU it will incorporate in its written order, and once incorporated, the MOU will be enforceable by the Board.¹ The Commission and Maret, acting in good faith, have already begun implementing the MOU and the task force has been reporting the results to the community. The Commission — consistent with the OAG's letter — has clarified the role of the Commission-appointed task force in monitoring Maret's compliance with the MOU.²

While FoF sought additional provisions, the agreed upon conditions in the MOU will benefit the entire ANC community as well as neighbors who live closest to the ECC. Without the MOU and the task force, Maret would have no constraints and the

¹ All of the substantive provisions in the MOU — including those relating to how construction will be conducted — should be included in the Board's order because they will help prevent adverse impacts on the neighboring property, thereby meeting the standard for a special exception. DCMR § 11-X901.

² ANC 3/4G Resolution Supporting Clarification to the Attachments to the Resolution Regarding Proposed Maret School Sports Field, BZA Case No. 20643, Adopted on February 28, 2022, January 23, 2023.

community would have no leverage. Maret has agreed to abide by the terms of the MOU regardless of its enforceability, and the Commission will continue to monitor compliance through its task force and report any deviations to the community and relevant District agency. Thus, the MOU will continue to provide the anticipated benefits that were the basis for the Commission's agreement.

Submitted on March 1, 2023, on behalf of the Commission by

A handwritten signature in black ink that reads "Lisa R. Gore". The signature is written in a cursive style with a horizontal line underneath it.

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CERTIFICATE OF SERVICE

I certify that on March 1, 2023, I sent a copy of “ANC 3/4G’s Response to Friends of the Field’s Motion to Reopen the Record and Stay the Final Decision and Order” to counsel for the Applicant, Paul Tummonds, via electronic mail at ptummonds@goulstonstorrs.com, to counsel for Friends of the Field, Ed Donahue, via electronic mail at edonohue@DTM.law, and to the Office of Planning, via electronic email to Jennifer.steingasser@dc.gov.



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