

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

**APPLICATION OF  
INSITE REAL ESTATE INVESTMENT  
PROPERTIES L.L.C.  
HEARING DATE: SEPTEMBER 12, 2018**

**BZA APPLICATION NO. 19816  
SQUARE 1299, LOT 959  
ANC 3B**

**STATEMENT OF THE APPLICANT**

**I.  
NATURE OF RELIEF SOUGHT**

This prehearing statement is submitted by InSite Real Estate Investment Properties L.L.C. (the “Applicant”) on behalf of HF CHAMBERS TRUSTEES LOCAL 99 IUOE the owner of the property located at 2461 Wisconsin Avenue, NW (Square 1299, Lot 959) (the “Site”) in support of its application pursuant to 11-X DCMR § 901.2 and 11-U DCMR § 203.1(g) for special exception approval to locate a daytime care use at the Site. The Site is located in the R-12 Zone District. The Applicant is not proposing any new construction on the Property.

**II.  
JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the requested special exception pursuant to Subtitle X § 901.2 of the Zoning Regulations.

**III.**  
**WITNESSES**

1. JR Kyes, on behalf of the Applicant
2. Ed Gebauer, on behalf of the Applicant
3. Preston Brown, on behalf of KinderCare Learning Center
4. Mark Warren, on behalf of KinderCare Learning Center
5. Jami Milanovich, *expert in traffic engineering*, Wells + Associates

**IV.**  
**EXHIBITS IN SUPPORT OF THE APPLICATION**

- Exhibit A: Zoning Map
- Exhibit B: Outlines of Testimony
- Exhibit C: Revised Architectural Drawings (the “Plans”)
- Exhibit D: Pick-Up/Drop Off Procedures Plan
- Exhibit E: Proposed Conditions

**V.**  
**BACKGROUND AND APPLICATION DESCRIPTION**

A. Description of Site and Surrounding Area

The Site consists of Lot 959 in Square 1299, which contains approximately 7,237 square feet of land area (the “Site”). As shown on the Zoning Map attached as Exhibit A, the Site is zoned R-12. Square 1299 is bounded by Calvert Street to the north, Wisconsin Avenue to the west, S Street to the south, and the US Naval Observatory and Dumbarton Oaks Park to the east, all located in the northwest quadrant of the District of Columbia. The Site is located at the corner of Calvert Street and Wisconsin Avenue. Directly to the south of the Site is the Guy Mason Recreation Center.

The Site is presently improved with a building that previously served as the headquarters of the International Union of Operating Engineers. The existing building has a maximum height of 22 feet and contains approximately 12,000 square feet of gross floor area. An existing surface parking lot that contains six parking spaces is located on the eastern portion of the Site.

B. Project Description

As shown on the Plans, attached as Exhibit C, the Applicant proposes to renovate the interior of the existing building to accommodate the proposed daytime care facility. The Applicant is not proposing to increase the existing building's footprint, nor the existing building's height. The only exterior changes proposed are to the building's signage.

The operator of the daytime care facility will be the KinderCare Learning Center ("KinderCare"), which is an operator of child care and early childhood education facilities. KinderCare provides educational programs for children from six weeks to 12 years old. Approximately 200,000 children are enrolled in more than 1,600 early childhood education community centers, over 600 before-and-after school programs, and over 100 employer-sponsored centers in 39 states and the District of Columbia. The daytime care facility on the Site will be licensed through the Office of the State Superintendent of Education ("OSSE"), will serve a maximum of 128 students ages 6 weeks to five years old, and will include a total of 26 staff members.

**VI.**  
**SPECIAL EXCEPTION APPROVAL**

The Applicant requests special exception approval pursuant to 11-X DCMR § 901.2 and 11-U DCMR § 203.1(g) to locate a daytime care facility at the Site. Pursuant to D.C. Code §6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant a special exception where it finds the special exception will be in harmony with the general purpose and intent of the Zone

Plan and will not tend to adversely affect the use of neighboring property, subject in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

As is further discussed below, the project is in harmony with the general purpose and intent of the Zone Plan and will not tend to adversely affect the use of neighboring property, since the Applicant is not changing the footprint or height of the existing building. Moreover, the Applicant is providing adequate facilities for pick-up and drop-off of the day time care facility’s students and for the facility’s employees.

Pursuant to 11-U DCMR § 203.1(g) of the Zoning Regulations, a daytime care use is permitted in the R-12 Zone District provided the requirements of 11-U DCMR § 203.1(g) et. seq. are met.

(a) *Subsection 203.1(g)(1) - The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance;*

Pursuant to 11-C DCMR § 701.2, the Applicant is required to provide six parking spaces for the daytime care facility on the Site. The Site includes a surface parking lot that has six parking spaces. The parking spaces will be used for pick-up and drop-off. Attached as Exhibit D is a pick-

up and drop-off procedure plan for the proposed facility, which will ensure that the pick-up/drop-off for the daytime care use operates in an orderly, efficient, and safe manner.

In order to encourage KinderCare's employees to utilize public transit, KinderCare will provide its employees with a transit subsidy in the amount of \$25 per paycheck in order to encourage the employees to take public transportation. Based on KinderCare's other facilities in the District that offer a similar transit subsidy, it is anticipated that a majority of the facility's employees will utilize public transportation. Other than KinderCare's Director, KinderCare employees will not be allowed to utilize the on-site parking spaces.

The Applicant is working with representatives from the Department of Parks and Recreation ("DPR") on a fee-based permit for the use of two parking spaces at the Guy Mason Rec Center for pick-up and drop-off spaces during peak hours. The Applicant is also working with the District Department of Transportation ("DDOT") to designate three on-street parking spaces on Calvert Street (including two new parking spaces resulting from the narrowing of the existing curb cut) as short-term parking spaces. The Applicant provided a copy of its Comprehensive Transportation Report ("CTR") to the record on August 13, 2018, in accordance with 11-Y DCMR § 300.14. A list of proposed conditions is also included as Exhibit E.

*(b) Subsection 203.1(g)(2) - Any off-site play area shall be located so as not to endanger individuals traveling between the play area and the center or facility;*

No off-site play area is proposed for the daytime care facility.

*(c) Subsection 203.1(g)(3) - The Board of Zoning Adjustment may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties;*

The Site is located to the north of the Guy Mason Recreation Center, which includes large fields and open space. The Site is screened from the recreation center via large trees and thus the

building and surface parking lot are marginally visible from the recreation center. In addition, the Applicant is not proposing to change the footprint or the height of the existing building. The only change to the exterior building is the proposed signage. As shown on the Site Plan included on Sheet AS-1.0 of the Plans, the Applicant will screen the surface parking lot with 42-inch tall hedges in accordance with the screening requirements of the Zoning Regulations.

*(d) Subsection 203.1(g)(4) - More than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.*

There are no child/elderly development centers or adult treatment facilities located within Square 1299, nor within 1,000 feet of the Site.

## **VII.** **COMMUNITY SUPPORT**

On May 7, 2018, the Applicant met with representatives of ANC 3B, including the single member district representative for the Site, Jackie Blumenthal, to discuss the project. The Applicant presented this application to ANC 3B at its June 14, 2018, public meeting and ANC 3B voted unanimously to support the project. See Exhibit 13 of the record. The Applicant is also pleased to have the support of single member district representative Malia Brink (ANC 3C-08), the single member district representative for the properties to the north of the Site. See Exhibit 31 of the record. Moreover, the Condominium Board of the condominium to the north of the Site has also submitted a letter of support to the record. See Exhibit 32 of the record.

**VIII.**  
**CONCLUSION**

For the reasons stated above, the Applicant has demonstrated that its request is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception approval under 11-X DCMR § 901.2 and 11-U DCMR § 203.1(g).of the Zoning Regulations. Accordingly, the Applicant respectfully request the Board to approve the application.

Respectfully submitted,

HOLLAND & KNIGHT LLP



By: \_\_\_\_\_

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